

## **RE-RELEASE**

This draft legislation is re-released in order to correct an error in the draft legislation released for comment on 19 February 2009. See clause x15(2) in relation to the effective date.

This draft legislation is hereby published for comment. The draft legislation gives effect to rates, thresholds and urgent matters presented by the Minister of Finance in the 2009 National Budget as tabled in Parliament earlier this year.

The National Treasury invites members of the public to submit comments on the draft legislation by not later than 19 March 2009 to:

Ms Nomfanelo Mpotulo:

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# DRAFT

REPUBLIC OF SOUTH AFRICA

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## **TAXATION LAWS AMENDMENT BILL**

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*(As introduced in the National Assembly (proposed section 77))*

*(The English text is the official text of the Bill)*

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(MINISTER OF FINANCE)

19 February 2009

Website release of rates, thresholds  
and urgent matters

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## GENERAL EXPLANATORY NOTE:

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

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

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## BILL

To—

- amend the Income Tax Act, 1962, so as to fix the rates of normal tax and amend monetary amounts; to effect textual and consequential amendments;
- amend the Customs and Excise Act, 1964, so as to amend the air passenger tax; to amend rates of duty in Schedule No. 1;
- amend the Value-Added Tax Act, 1991, so as to amend monetary amounts;
- amend the Pension Funds Act, 1956, so as to correct a reference;
- amend the Mineral and Petroleum Resources Royalty Act, 2008, so as to amend effective dates;
- amend the Mineral and Petroleum Resources Royalty (Administration) Act, 2008, so as to amend effective dates;
- amend the Revenue Laws Amendment Act, 2008, so as to amend an effective date;
- introduce measures relating to sharing of general fuel levy revenue; and to provide for matters connected therewith.

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

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

**x1.** (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, 7, 8 and 10 of Appendix I to this Act.

(2) The rate of tax fixed by Parliament in terms of section 48B(1) of the Income Tax Act, 1962, is set out in paragraph 9 of Appendix I to this Act.

(3) 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.

(4) 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, bears the meaning so assigned unless the context otherwise indicates.

(5) Subject to subsection (6), the rates of tax referred to in subsection (1) and the amounts referred to in subsection (3) apply in respect of—

- (a) any person (other than a company or a trust other than a special trust) for the year of assessment commencing on or after 1 March 2009;
- (b) any company (other than an employment company as defined in section 12E of the Income Tax Act, 1962, or a personal service provider as defined in paragraph 1 of the Fourth Schedule to that Act) for any year of assessment ending during the period of 12 months ending on 31 March 2010;

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- (c) any trust (other than a special trust or a personal service provider as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, that constitutes a trust) for any year of assessment ending on 28 February 2010;
- (d) any employment company as defined in section 12E of the Income Tax Act, 1962, for any year of assessment commencing before 1 March 2009 and ending during the period of 12 months ending on 31 March 2010; and
- (e) any personal service provider as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, for any year of assessment commencing on or after 1 March 2009.

(6) The rate of tax referred to in subsection (2) applies in respect of the taxable turnover of a person that was a registered micro business as defined in paragraph 1 of the Sixth Schedule to the Income Tax Act, 1962, in respect of any year of assessment commencing on or after 1 March 2009.

**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**

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13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2001, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002, section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, section 3 of Act 16 of 2004, section 3 of Act 32 of 2004, section 3 of Act 32 of 2005, section 19 of Act 9 of 2006, section 3 of Act 20 of 2006, section 3 of Act 8 of 2007, section 5 of Act 35 of 2007, section 2 of Act 3 of 2008 and section 4 of Act 60 of 2008

x2. Section 1 of the Income Tax Act, 1962, is hereby amended—

(a) by the insertion after the definition of “low-cost residential unit” of the following definition:

“ ‘**lump sum benefit**’ means a retirement fund lump sum benefit or retirement fund lump sum withdrawal benefit;”;

(b) by the substitution in the definition of “pension fund” for subparagraphs (i) and (ii) of paragraph (a) of the following subparagraphs:

“(i) any [**superannuation,**] pension, provident or dependants’ fund or pension scheme established by law; [**or**]

(ii) any [**superannuation,**] pension, provident or dependants’ fund or pension scheme established for the benefit of the employees of any municipality or of any local authority (as defined in the definition of ‘local authority’ in this section [**1**] prior to the coming into operation of section 3(1)(h) of the Revenue Laws Amendment Act, 2006 (Act No. 20 of 2006), that was established prior to the date that section so came into operation); or”;

(c) by the substitution in the definition of “pension preservation fund” for subparagraph (iv) of paragraph (a) of the proviso of the following subparagraph:

“(iv) [**a person**] persons who [**has**] have elected to transfer [**an amount**] to that fund amounts awarded to [**that person**] those persons in terms of [**a**] any court order contemplated in section 7(8) of the Divorce Act, 1979 (Act No. 70 of 1979), from [**a**] any pension fund or

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pension preservation fund for the benefit of **[that person]** those persons;”;

- (d) by the substitution in the definition of “pension preservation fund” for subparagraph (ii) of paragraph (b) of the proviso of the following subparagraph:

“(ii) a pension fund, pension preservation fund, provident fund or provident preservation fund **[or retirement annuity fund]** of which such member’s former spouse is or was previously a member and such payment or transfer was made pursuant to an election by such member in terms of section 37D(4)(b)(ii) of the Pension Funds Act, 1956 (Act No. 24 of 1956);”;

- (e) by the substitution in the definition of “pension preservation fund” for paragraph (c) of the proviso of the following paragraph:

“(c) with the exception of amounts transferred to any other pension fund, pension preservation fund or retirement annuity fund, not more than one amount contemplated in paragraph 2(b) of the Second Schedule is allowed to be paid to the member during the period of membership of the fund or any other pension preservation fund: Provided that this paragraph applies separately to each payment or transfer to the fund contemplated in paragraph (b);”;

- (f) by the substitution in the definition of “provident preservation fund” for subparagraph (ii) of paragraph (b) of the proviso of the following subparagraph:

“(ii) a **[pension fund, pension preservation fund,]** provident fund~~[,]~~ or provident preservation fund **[or retirement annuity fund]** of which such member’s former spouse is or was previously a member and such payment or transfer was made pursuant to an election by such member in terms of section 37D(4)(b)(ii) of the Pension Funds Act, 1956 (Act No. 24 of 1956);”;

- (g) by the substitution in the definition of “provident preservation fund” for paragraph (c) of the proviso of the following paragraph:

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- “(c) with the exception of amounts transferred to any other provident fund, provident preservation fund, pension fund, pension preservation fund or retirement annuity fund, not more than one amount contemplated in paragraph 2(b) of the Second Schedule is allowed to be paid to the member during the period of membership of the fund or any other provident preservation fund: Provided that this paragraph applies separately to each payment or transfer to the fund contemplated in paragraph (b); and”;
- (h) by the substitution for the definition of “retirement date” of the following definition:

“ ‘**retirement date**’ means the date on which a member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, in terms of the rules of that fund, becomes entitled to an annuity or a lump sum benefit contemplated in **[paragrah]** paragraph 2(a) of the Second Schedule on or subsequent to death or attaining normal retirement age;”.

**Amendment of section 7 of Act 58 of 1962, as amended by section 5 of Act 90 of 1962, section 8 of Act 88 of 1965, section 5 of Act 55 of 1966, section 7 of Act 94 of 1983, section 2 of Act 30 of 1984, section 5 of Act 90 of 1988, section 5 of Act 70 of 1989, section 4 of Act 101 of 1990, section 7 of Act 129 of 1991, section 5 of Act 141 of 1992, section 6 of Act 21 of 1995, section 23 of Act 30 of 1998, section 13 of Act 53 of 1999, section 5 of Act 59 of 2000, section 10 of Act 74 of 2002, section 17 of Act 45 of 2003, section 5 of Act 32 of 2004, section 9 of Act 31 of 2005, section 8 of Act 35 of 2007, section 4 of Act 3 of 2008 and section 8 of Act 60 of 2008**

**x3.** Section 7 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (11) of the following subsection:

“(11) Any deduction from the minimum individual reserve of a person in terms of—

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(a) section 37D(1)(d)(iA) of the Pension Funds Act, 1956 (Act No. 24 of 1956); and  
(b) section 37D(1)(d)(ii) of the Pension Funds Act, 1956 (Act No. 24 of 1956), to the extent that the deduction is a result of a deduction contemplated in paragraph (a),  
shall be deemed for purposes of this Act to be income accrued to that person on the date of the deduction.”.

**Amendment of section 9 of Act 58 of 1962, as amended by section 7 of Act 90 of 1962, section 6 of Act 72 of 1963, section 7 of Act 90 of 1964, section 9 of Act 95 of 1967, section 12 of Act 89 of 1969, section 6 of Act 65 of 1973, section 9 of Act 85 of 1974, section 8 of Act 103 of 1976, section 9 of Act 121 of 1984, section 5 of Act 96 of 1985, section 6 of Act 65 of 1986, section 2 of Act 108 of 1986, section 7 of Act 85 of 1987, section 36 of Act 9 of 1989, section 10 of Act 129 of 1991, section 7 of Act 141 of 1992, section 5 of Act 113 of 1993, section 3 of Act 140 of 1993, section 7 of Act 21 of 1994, section 9 of Act 21 of 1995, section 7 of Act 28 of 1997, section 25 of Act 30 of 1998, section 15 of Act 53 of 1999, section 7 of Act 59 of 2000, section 12 of Act 74 of 2002, section 20 of Act 45 of 2003, section 11 of Act 32 of 2004, section 13 of Act 31 of 2005 and section 8 of Act 20 of 2006**

**x4.** Section 9 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (g) of the following paragraph:

- “(g) any pension, lump sum benefit contemplated in the Second Schedule or annuity granted to such person, wheresoever payment of that pension, lump sum benefit or annuity is made and wheresoever the funds from which payment is made are situate—
- (i) by the Government, any provincial administration, or by any municipality in the Republic; or
  - (ii) by any person, whether residing or carrying on business in the Republic or not, if the services in respect of which that pension,

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lump sum benefit or annuity was granted were performed within the Republic for at least two years during the ten years immediately preceding the date from which the pension, lump sum benefit or annuity first became due: Provided that if the pension, lump sum benefit or annuity was granted in respect of services which were rendered partly within and partly outside the Republic, only so much of such pension, lump sum benefit or annuity as bears to the amount of such pension, lump sum benefit or annuity the same ratio as the period during which the services were rendered in the Republic bears to the total period during which the services were rendered, shall be deemed to be derived from a source within the Republic: Provided further that any services rendered in the territory of the former Republic of Transkei, Bophuthatswana, Venda or Ciskei shall be deemed to have been rendered within the Republic;”.

## **Amendment of section 12I of Act 58 of 1962, as inserted by section 26 of Act 60 of 2008**

x5. Section 12I of the Income Tax Act, 1962, is hereby amended by the deletion in subsection (7)(b) of subparagraph (i).

**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**

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**Act 53 of 1999, section 26 of Act 59 of 2000, section 19 of Act 30 of 2002, section 25 of Act 31 of 2005, sections 2 and 17 of Act 8 of 2007, section 30 of Act 35 of 2007 and section 33 of Act 60 of 2008**

- x6.** (1) Section 18 of the Income Tax Act, 1962, is hereby amended—
- (a) by the deletion in subsection (2)(c) of the proviso to subparagraph (i); and
  - (b) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:  
“For purposes of this section, any amount contemplated in subsection (1), which has been paid or contributed by—”.
- (2) Subsection (1) comes into operation on 1 March 2010.

**Amendment of section 30A of Act 58 of 1962, as inserted by section 25 of Act 20 of 2006 and amended by section 26 of Act 8 of 2007 and section 42 of Act 60 of 2008**

- x7.** Section 30A of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (4) of the following subsection:
- “(4) Where a club applies for approval before the later of **[31 March 2009]** 30 September 2010 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)(k) of the Revenue Laws Amendment Act, 2006, with retrospective effect.”.

**Amendment of paragraph 1 of 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,**

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**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, section 43 of Act 32 of 2004, section 46 of Act 8 of 2007, section 61 of Act 35 of 2007, section 36 of Act 3 of 2008 and section 58 of Act 60 of 2008**

**x8.** (1) Paragraph 1 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the deletion in the definition of “formula B” of paragraph (b).

(2) Subsection (1) is deemed to have come into operation on 1 March 2009.

**Amendment of paragraph 2 of Second Schedule to Act 58 of 1962, as amended by section 42 of Act 28 of 1997, section 48 of Act 30 of 1998, section 47 of Act 8 of 2007, section 62 of Act 35 of 2007, section 37 of Act 3 of 2008 and section 59 of Act 60 of 2008**

**x9.** (1) 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 section 9(1)(g) and 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 1 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 or her retirement or death, less the deductions permitted under the provisions of paragraph 5; and

(b) the aggregate of—

(iA) any amount deducted from the minimum individual reserve of the person during that year in terms of section 37D(1)(d) of the Pension Funds Act, 1956 (Act No. 24 of 1956), by way of a lump sum benefit, which amount must be deemed to have been received or accrued on the date of the deduction by or to—

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(AA) the member, if the amount is an amount referred to in section 37D(1)(d)(i) and (ii) (to the extent that it refers to an amount payable in terms of a divorce order as contemplated in subparagraph (i)) of the Pension Funds Act, 1956, and the divorce order was granted before 13 September 2007; or

(BB) the person to whom the amount was assigned, if the amount is an amount referred to in section 37D(1)(d)(i) and (ii) (to the extent that it refers to an amount payable in terms of a divorce order as contemplated in subparagraph (i)) of the Pension Funds Act, 1956, and the divorce order was granted on or after 13 September 2007;

(iB) any amount that is transferred during that year for the benefit of the person to any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund from any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund of which the person is or was previously a member, which amount is deemed to have accrued to the person on the date of transfer; and

(ii) any amount, other than any amount contemplated in subparagraph (a) and items (iA) and (iB), received by or accrued to such person during that year by way of a lump sum benefit from or in consequence of membership or past membership of any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund,

less the deductions permitted under the provisions of paragraph 6.”

(2) Subsection (1) is deemed to have come into operation on 1 March 2009 and applies in respect of—

- (a) paragraph 2(a) of the Second Schedule to the Income Tax Act, 1962, to receipts and accruals on or after that date;
- (b) paragraph 2(b)(iA) of the Second Schedule to the Income Tax Act, 1962, to amounts deducted on or after that date;

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- (c) paragraph 2(b)(iB) of the Second Schedule to the Income Tax Act, 1962, to amounts transferred on or after that date; and
- (d) paragraph 2(b)(ii) of the Second Schedule to the Income Tax Act, 1962, to receipts and accruals on or after that date.

**Amendment of paragraph 2B of Second Schedule to Act 58 of 1962, as inserted by section 42 of Act 53 of 1999 and amended by section 64 of Act 60 of 2001, section 45 of Act 32 of 2004, section 63 of Act 35 of 2007, section 38 of Act 3 of 2008 and section 60 of Act 60 of 2008**

**x10.** (1) Paragraph 2B of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the words preceding the proviso of the following words:

“For the purposes of paragraphs 2 and 2A, where a court has made an order that any part of the pension interest of a member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund shall be paid to the former spouse of that member, as provided for in the Divorce Act, 1979 (Act No. 70 of 1979), the amount of that part is, to the extent that that amount is not **[deemed to have been received by or to have accrued to a person other than the member in terms of paragraph 2(b)]** deducted from the minimum individual reserve of that member in terms of section 37D(1)(d) of the Pension Funds Act, 1956 (Act No. 24 of 1956), deemed to be an amount that accrues to that member on the date on which the pension interest, of which that amount forms part, accrues to that member”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2009.

**Amendment of paragraph 3 of Second Schedule to Act 58 of 1962, as amended by section 47 of Act 94 of 1983, section 50 of Act 30 of 1998, section 50 of Act 8 of 2007, section 40 Act 3 of 2008 and section 62 of Act 60 of 2008**

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**x11.** (1) Paragraph 3 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (ii) of the proviso of the following paragraph:

“(ii) where any annuity (including a living annuity) which becomes payable on or in consequence of or following upon the death of a member or past member of any such fund has been commuted for a lump sum, such lump sum shall for the purposes of this paragraph be deemed to be a lump sum benefit which has become recoverable in consequence of or following upon the death of such member or past member;”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2009.

**Amendment of paragraph 4 of Second Schedule to Act 58 of 1962, as amended by section 20 of act 72 of 1963, section 24 of Act 90 of 1964, section 36 of Act 21 of 1995, section 41 of Act 3 of 2008 and section 63 of Act 60 of 2008**

**x12.** (1) Paragraph 4 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (4) of the following subparagraph:

“(4) If a person is awarded an amount in terms of an order of divorce granted before 13 September 2007, that amount shall be deemed to have accrued to **[that person]** the member on the date on which that person makes an election contemplated in section 37D(4)(b)(ii) of the Pension Funds Act, 1956 (Act No. 24 of 1956), or on the date the amount is payable in terms of section 37D(4)(b)(iv) of that Act, to the extent that the amount is payable by a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund.”.

(2) Subsection (1) is deemed to have come into operation on 1 November 2008 and applies in respect of an amount awarded on or after that date.

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**Amendment of paragraph 6 of Second Schedule to Act 58 of 1962, as substituted by section 26 of Act 90 of 1964 and amended by section 18 of Act 104 of 1979, section 5 of Act 30 of 1984, section 32 of Act 141 of 1992, section 51 of Act 30 of 1998, section 38 of Act 20 of 2006, section 52 of Act 8 of 2007, section 42 of Act 3 of 2008 and section 64 of Act 60 of 2008**

**x13.** (1) Paragraph 6 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the words preceding the proviso of the following words:

“The deduction to be allowed in determining the amount required to be included in the taxpayer’s gross income for a year of assessment **[in terms]** for purposes of paragraph **[2(b)(iA) and (ii)]** 2(b) is **[the sum of the following amounts—**

- (a)]** so much of the lump sum benefit **[as is derived by the taxpayer]** contemplated in paragraph 2(b) from a—
- (i) pension fund as is paid for the benefit of the taxpayer into any **[other]** pension fund, pension preservation fund or retirement annuity fund;
  - (ii) pension preservation fund as is paid for the benefit of the taxpayer into any **[other]** pension preservation fund;
  - (iii) provident fund as is paid for the benefit of the taxpayer into any pension fund, provident fund, provident preservation fund or retirement annuity fund;
  - (iv) provident preservation fund as is paid for the benefit of the taxpayer into any **[other]** provident preservation fund; and
  - (v) retirement annuity fund as is paid for the **[member’s]** benefit of the taxpayer into any **[other]** retirement annuity fund;
- [(aA) any amount received by or accrued to the taxpayer as contemplated in paragraph 2(b)(iA) of this Schedule as is paid or transferred for the benefit of the taxpayer into any pension**

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fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;

- (b) so much of the excess of the aggregate value of the lump sum benefits in question so derived by the taxpayer from all the funds over the sum of the amounts allowed to be deducted by the taxpayer under the preceding items as does not exceed the amount of R22 500 reduced by any amount previously deducted in terms of this paragraph on or after 1 March 2009]”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2009 and applies in respect of an amount paid on or after that date.

**Amendment of paragraph 1 of 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, section 39 of Act 20 of 2006, section 54 of Act 8 of 2007, section 64 of Act 35 of 2007, section 43 of Act 3 of 2008 and section 66 of Act 60 of 2008**

**x14.** Paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the insertion in the definition of “remuneration” of the following paragraph:

“(f) Any deduction from the minimum individual reserve of a person in terms of—

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- (i) section 37D(1)(d)(iA) of the Pension Funds Act, 1956 (Act No. 24 of 1956); and
- (ii) section 37D(1)(d)(ii) of the Pension Funds Act, 1956 (Act No. 24 of 1956), to the extent that the deduction is a result of a deduction contemplated in paragraph (a)."

## **Amendment of paragraph 12A of 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**

**x15.** (1) Paragraph 12A of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—

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

“(1) The cash equivalent of the value of the taxable benefit contemplated in paragraph 2(i) is **[so much of]** the amount of any contribution or payment made by the employer during the year of assessment, directly or indirectly, to any medical scheme registered under the Medical Schemes Act, 1998 (Act No. 131 of 1998), for the benefit of any employee or dependants, as defined in that Act, of that employee[, **as exceeds—**

- (a) **R570 for each month in that year for which those contributions were made solely with respect to the benefits of that employee;**
- (b) **R1 140 for each month in that year for which those contributions were made with respect to the benefits of that employee and one dependant; or**
- (c) **where those contributions are made with respect to the benefits of that employee and more than one dependant, the amount referred to in item (b) in respect of the employee and one dependant plus R345 for every additional dependant for each month in that year for which those contributions were made].”;**  
and

(b) by the deletion in subparagraph (5) of item (d).

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(2) Subsection (1) comes into operation on 1 March 2010 and applies in respect of years of assessment commencing on or after that date.

## **Amendment of paragraph 45 of Eighth Schedule to Act 58 of 1962, as amended by section 33 of Act 9 of 2006 and section 2 of Act 8 of 2007**

**x16.** (1) Paragraph 45 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (1) of the following subparagraph:

“(1) Subject to subparagraphs (2) and (3), a natural person or a special trust must, when determining an aggregate capital gain or aggregate capital loss, disregard—

(a) so much of a capital gain or capital loss determined in respect of the disposal of the primary residence of that person or that special trust as does not exceed R1 500 000; or

(b) a capital gain or capital loss determined in respect of the disposal of the primary residence of that person or that special trust if the proceeds from the disposal of that primary residence do not exceed R2 000 000.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2009 and applies in respect of years of assessment commencing on or after that date.

## **Amendment of section 47B of Act 91 of 1964, as inserted by section 59 of Act 30 of 2000 and amended by section 40 of Act 12 of 2003 and section 13 of Act 9 of 2005**

**x17.** (1) Section 47B of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (2)(b)(i) for the words preceding the proviso of the following words:

“The tax shall be charged at the rate of **[R120]** R150 on the carriage of each chargeable passenger departing on a flight”.

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(2) Subsection (1) comes into operation on 1 October 2009 and applies in respect of the carriage of a chargeable passenger on any flight which commences on or after that date, if the ticket of that passenger in respect of that flight was purchased and issued after the date of promulgation of this Act.

**Amendment of Schedule No. 1 to 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, section 36 of Act 9 of 2006, section 76 of Act 8 of 2007 and section 66 of Act 3 of 2008**

**x18.** (1) Schedule No. 1 to the Customs and Excise Act, 1964, is hereby amended as set out in Appendix II to this Act.

(2) For the purposes of Appendix II to this Act any word or expression to which a meaning has been assigned in the Customs and Excise Act, 1964, bears the meaning so assigned unless the context otherwise indicates.

(3) Subject to section 58(1) of the Customs and Excise Act, 1964, subsection (1) is deemed to have come into operation on 11 February 2009.

**Amendment of certain amounts for purposes of Act 89 of 1991**

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**x19.** (1) The Value-Added Tax Act, 1991, is hereby amended by the substitution for each monetary amount in the provisions specified in the second column of the table in Appendix III to this Act of the monetary amount in the third column opposite the relevant provision.

(2) For the purposes of Appendix III to this Act any word or expression to which a meaning has been assigned in the Value-Added Tax Act, 1991, bears the meaning so assigned unless the context otherwise indicates.

(3) Subsection (1) is deemed to have come into operation on 1 March 2009 and applies in respect of any tax period commencing on or after that date.

**Amendment of section 23 of Act 89 of 1991, as amended by section 20 of Act 20 of 1994, section 37 of Act 27 of 1997, section 92 of Act 53 of 1999, section 178 of Act 45 of 2003, section 9 of Act 10 of 2005, section 36 of Act 32 of 2005, section 14 of Act 10 of 2006, section 24 of Act 4 of 2008 and section 113 of Act 60 of 2008**

**x20.** (1) Section 23 of the Value-Added Tax Act, 1991, is hereby amended—

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

“and the total value of taxable supplies made by that person in the course of carrying on all enterprises in the preceding period of 12 months has exceeded **[R20 000]** R50 000; or”; and

(b) by the substitution in subsection (3) for paragraphs (c) and (d) of the following paragraphs:

“(c) that person intends to carry on any enterprise from a specified date, where that enterprise will be supplied to him as a going concern and the total value of taxable supplies made by the supplier of the going concern from carrying on that enterprise or part of the enterprise which will be supplied has exceeded **[R20 000]** R50 000 in the preceding period of 12 months; or

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- (d) that person is continuously and regularly carrying on an activity which, in consequence of the nature of that activity, can reasonably be expected to result in taxable supplies being made for a consideration only after a period of time and where the total value of taxable supplies to be made can reasonably be expected to exceed **[R20 000]** R50 000 in a period of 12 months.”

(2) Subsection (1) comes into operation on 1 March 2010 and applies in respect of any tax period commencing on or after that date.

**Amendment of section 37D of Act 24 of 1956, as inserted by section 14 of Act 94 of 1977 and amended by section 14 of Act 80 of 1978, section 4 of Act 65 of 2001, section 4 of Act 35 of 2007, section 16 of Act 22 of 2008 and section 3 of Act 60 of 2008**

**x21.** (1) Section 37D of the Pension Funds Act, 1956, is hereby amended by the substitution in subsection (4)(a) for subparagraph (ii) of the following subparagraph:

- “(ii) must be deducted on the date on which an election is made or, if no election is made within the period referred to in paragraph **[(b)(i)]** (b)(ii), the date on which that period expires; and”.

(2) Subsection (1) is deemed to have come into operation on 1 November 2008.

**Amendment of section 18 of Act 28 of 2008**

**x22.** Section 18 of the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) This Act comes into operation—  
(a) in respect of section 1 and subsection (1), on 1 November 2009;

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- (b) in respect of sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16 and 17, subsection (2)(b) and Schedules 1 and 2, on 1 March 2010 and applies in respect of a mineral resource transferred on or after that date; and
- (c) in respect of sections 13 and 14, on 1 November 2009 and applies in respect of a mineral resource transferred on or after 1 March 2010.”.

## **Amendment of section 2 of Act 29 of 2008**

**x23.** Section 2 of the Mineral and Petroleum Resources Royalty (Administration) Act, 2008, is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) A person that qualifies for registration as mentioned in subsection (1)—
- (a) on 1 November 2009—
- (i) may apply to register with the Commissioner on or after 1 November 2009; and
- (ii) must apply to register with the Commissioner by 31 January 2010; or
- (b) after 1 November 2009 must apply to register with the Commissioner within 60 days after the day on which that person qualifies for registration.”.

## **Amendment of section 21 of Act 29 of 2008**

**x24.** The Mineral and Petroleum Resources Royalty (Administration) Act, 2008, is hereby amended by the substitution for section 21 of the following section:

- “21. (1) This Act is called the Mineral and Petroleum Resources Royalty (Administration) Act, 2008.
- (2) This Act comes into operation—

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- (a) in respect of sections 1, 2, 3, 4, 7, 17, 18 and 20 on 1 November 2009;  
and  
(b) in respect of sections 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 19 on 1  
March 2010.”.

## **Amendment of section 59 of Act 60 of 2008**

**x25.** Section 59 of the Revenue Laws Amendment Act, 2008, is hereby amended by the insertion of the following subsection:

“(4) Subsection (1)(b), to the extent that it inserts item (iB) into paragraph 2(b) of the Second Schedule to the Income Tax Act, 1962, is deemed to have come into operation on 1 August 2008 and applies in respect of any lump sum benefit transferred on or after that date.”.

## **Special measures relating to sharing of fuel levy revenue**

**x26.** (1) Special measures relating to the sharing of fuel levy revenue are set out in Schedule 1 to this Act.

(2) Subsection (1) and Schedule 1 are deemed to have come into operation on 1 April 2009.

## **Short title and commencement**

**x27.** (1) This Act is called the Taxation Laws Amendment Act, 2009.

(2) Except insofar as otherwise provided for in this Act or the context otherwise indicates, 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 2010.

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## SCHEDULE 1

(Section x26)

### SPECIAL MEASURES RELATING TO SHARING OF GENERAL FUEL LEVY REVENUE

#### Definitions

1. For the purposes of this Schedule, unless the context otherwise indicates—

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**financial year**” means a year starting 1 April and ending 31 March;

“**general fuel levy**” means the fuel levy contemplated in section 1 of the Customs and Excise Act, 1964 (Act No. 91 of 1964), and Part 5A of Schedule No. 1 to that Act, but does not include the Road Accident Fund levy and any rebates, drawbacks and refunds of duty;

“**fuel sales**” means the litres of fuel sold in respect of which a general fuel levy was paid;

“**metropolitan municipality**” means a metropolitan municipality as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**Minister**” means the Minister of Finance;

“**municipality**” means a municipality as described in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“**National Revenue Fund**” means the National Revenue Fund mentioned in section 213 of the Constitution.

#### General fuel levy revenue is direct charge

2. An amount equal to a fixed percentage of revenue raised from the collection of the general fuel levy is a direct charge against the National Revenue Fund for the credit of the metropolitan municipalities.

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## **Allocation to which metropolitan municipality is entitled**

3. (1) (a) The percentage contemplated in paragraph 2 is fixed at 23 per cent.

(b) The Minister may annually revise the percentage specified in item (a) and must publish the revised percentage by notice in the *Gazette*.

(2) (a) The Minister must for each financial year determine an allocation to be made to each metropolitan municipality from the amount contemplated in paragraph 2.

(b) The Minister must publish the allocation contemplated in item (a) on or before 28 February or the date on which he or she tables the annual budget in Parliament, whichever is the later date, by notice in the *Gazette*.

## **Power to make regulations**

4. The Minister may make regulations regarding any matter that may facilitate the implementation and administration of this Schedule.

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## Appendix I

(Section x1)

### PART I

#### RATES OF NORMAL TAX AND REBATES

1. The rate of tax referred to in section x1(1) of this Act to be levied in respect of the taxable income (excluding any retirement fund lump sum benefit or retirement fund lump sum withdrawal benefit) of any natural person, deceased estate, insolvent estate or special trust (other than a public benefit organisation or recreational club referred to in paragraph 7) in respect of any year of assessment commencing on or after 1 March 2009 is set out in the table below:

<b>Taxable income</b>	<b>Rate of tax</b>
Not exceeding R132 000	18 per cent of the taxable income
Exceeding R132 000 but not exceeding R210 000	R23 760 plus 25 per cent of amount by which taxable income exceeds R132 000
Exceeding R210 000 but not exceeding R290 000	R43 260 plus 30 per cent of amount by which taxable income exceeds R210 000
Exceeding R290 000 but not exceeding R410 000	R67 260 plus 35 per cent of amount by which taxable income exceeds R290 000
Exceeding R410 000 but not exceeding R525 000	R109 260 plus 38 per cent of amount by which taxable income exceeds R410 000
Exceeds R525 000	R152 960 plus 40 per cent of amount by which taxable income exceeds R525 000

- 2.

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<b>Description</b>	<b>Reference to Income Tax Act, 1962</b>	<b>Amount</b>
Primary rebate	Section 6(2)(a)	R9 756
Secondary rebate	Section 6(2)(b)	R5 400

3. The rate of tax referred to in section x1(1) of this Act to be levied in respect of the taxable income of a trust (other than a special trust or a public benefit organisation referred to in paragraph 7) in respect of any year of assessment ending on 28 February 2010 is 40 per cent.
4. The rate of tax referred to in section x1(1) of this Act to be levied in respect of the taxable income of a company (other than a public benefit organisation or recreational club referred to in paragraph 7 or a small business corporation referred to in paragraph 8) in respect of any year of assessment ending during the period of 12 months ending on 31 March 2010 is, subject to the provisions of paragraph 13, as follows:
- (a) 28 per cent of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d), (e) and (f) or in paragraphs 5 and 6) 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, 35 per cent;
- (b) in respect 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:

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$$y = 34 - \frac{170}{x}$$

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:

$$y = 43 - \frac{215}{x}$$

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);

- (c) in respect 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 28 per cent, 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;
- (d) in respect of the taxable income derived by any company from carrying on long-term insurance business in respect of its—

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- (i) individual policyholder fund, 30 per cent; and
    - (ii) company policyholder fund and corporate fund, 28 per cent;
  - (e) in respect of the taxable income (excluding taxable income referred to in subparagraphs (b), (c), (d) and (f)) derived by a company which is not a resident, 33 per cent; and
  - (f) in respect of the taxable income derived by a qualifying company contemplated in section 37H of the Income Tax Act, 1962, subject to the provisions of the said section, zero per cent.
5. The rate of tax referred to in section x1(1) of this Act to be levied in respect of the taxable income of any employment company as defined in section 12E of the Income Tax Act, 1962, in respect of any year of assessment commencing before 1 March 2009 and ending during the period of 12 months ending on 31 March 2010 is 33 per cent.
6. The rate of tax referred to in section x1(1) of this Act to be levied in respect of the taxable income of any personal service provider as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, in respect of any year of assessment commencing on or after 1 March 2009 is 33 per cent.
7. The rate of tax referred to in section x1(1) of this Act to be levied in respect of the 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, or any recreational club that has been approved by the Commissioner in terms of section 30A(2) of that Act is 28 per cent—
- (a) in the case of an organisation or club that is a company, in respect of any year of assessment ending during the period of 12 months ending on 31 March 2010;
  - (b) in the case of an organisation that is a trust, in respect of any year of assessment ending on 28 February 2010; or

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(c) in the case of an organisation or club that is not a company or trust, in respect of the year of assessment commencing on or after 1 March 2009.

8. The rate of tax referred to in section x1(1) of this Act to be levied 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 period of 12 months ending on 31 March 2010 is, subject to the provisions of paragraph 14, set out in the table below:

<b>Taxable income</b>	<b>Rate of tax</b>
Not exceeding R54 200	0 per cent of taxable income
Exceeding R54 200 but not exceeding R300 000	10 per cent of amount by which taxable income exceeds R54 200
Exceeding R300 000	R24 580 plus 28 per cent of amount by which taxable income exceeds R300 000

9. The rate of tax referred to in section x1(2) of this Act to be levied in respect of the taxable turnover of a person that is a registered micro business as defined in paragraph 1 of the Sixth Schedule to the Income Tax Act, 1962, in respect of any year of assessment commencing on or after 1 March 2009 is set out in the table below:

<b>Taxable turnover</b>	<b>Rate of tax</b>
Not exceeding R100 000	0 per cent of taxable turnover
Exceeding R100 000 but not exceeding R300 000	1 per cent of amount by which taxable turnover exceeds R100 000
Exceeding R300 000 but not exceeding R500 000	R2 000 plus 3 per cent of amount by which taxable turnover exceeds

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	R300 000
Exceeding R500 000 but not exceeding R750 000	R8 000 plus 5 per cent of amount by which taxable turnover exceeds R500 000
Exceeding R750 000	R20 500 plus 7 per cent of amount by which taxable turnover exceeds R750 000

10.(a)(i) If a retirement fund lump sum withdrawal benefit accrues to a person in any year of assessment commencing on or after 1 March 2009, the rate of tax referred to in section x1(1) of this Act to be levied on that person in respect of taxable income comprising the aggregate of—

- (aa) that retirement fund lump sum withdrawal benefit; and
- (bb) retirement fund lump sum withdrawal benefits and retirement fund lump sum benefits received by or accrued to that person prior to the accrual of the retirement fund lump sum withdrawal benefit contemplated in item (aa),

is set out in the table below:

<b>Taxable income from lump sum benefits</b>	<b>Rate of tax</b>
Not exceeding R22 500	0 per cent of taxable income
Exceeding R22 500 but not exceeding R600 000	18 per cent of taxable income exceeding R22 500
Exceeding R600 000 but not exceeding R900 000	R103 950 plus 27 per cent of taxable income exceeding R600 000
Exceeding R900 000	R184 950 plus 36 per cent of taxable income exceeding R900 000

- (ii) The amount of tax levied in terms of item (i) must be reduced by an amount equal to the tax that would be leviable on the person in

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terms of that item in respect of taxable income comprising the aggregate of—

(aa) retirement fund lump sum withdrawal benefits; and

(bb) retirement fund lump sum benefits,

received by or accrued to that person prior to the accrual of the retirement fund lump sum withdrawal benefit contemplated in item (i)(aa).

(b)(i) If a retirement fund lump sum benefit accrues to a person in any year of assessment commencing on or after 1 March 2009, the rate of tax referred to in section x1(1) of this Act to be levied on that person in respect of taxable income comprising the aggregate of—

(aa) that retirement fund lump sum benefit; and

(bb) retirement fund lump sum withdrawal benefits and retirement fund lump sum benefits received by or accrued to that person prior to the accrual of the retirement fund lump sum benefit contemplated in item (aa),

is set out in the table below:

<b>Taxable income from lump sum benefits</b>	<b>Rate of tax</b>
Not exceeding R300 000	0 per cent of taxable income
Exceeding R300 000 but not exceeding R600 000	R0 plus 18 per cent of taxable income exceeding R300 000
Exceeding R600 000 but not exceeding R900 000	R54 000 plus 27 per cent of taxable income exceeding R600 000
Exceeding R900 000	R135 000 plus 36 per cent of taxable income exceeding R900 000

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- (ii) The amount of tax levied in terms of item (i) must be reduced by an amount equal to the tax that would be leviable on the person in terms of that item in respect of taxable income comprising the aggregate of—

  - (aa) retirement fund lump sum withdrawal benefits; and
  - (bb) retirement fund lump sum benefits,

received by or accrued to that person prior to the accrual of the retirement fund lump sum benefit contemplated in item (i)(aa).
  
- 11.** The rates of tax set out in paragraphs 1, 3, 4, 5, 6, 7, 8 and 10 are the rates required to be fixed by Parliament in accordance with the provisions of section 5(2) of the Income Tax Act, 1962.
  
- 12.** The rate of tax set out in paragraph 9 is the rate required to be fixed by Parliament in accordance with the provisions of section 48B(1) of the Income Tax Act, 1962.
  
- 13.** For the purposes of this Appendix, income derived from mining for gold includes 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

#### 14. General savings thresholds

<b>Description</b> <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	<b>Reference to Income Tax Act, 1962</b>	<b>Monetary amount</b>
<b>Broad-based employee share schemes</b>		
Maximum exemption for shares received by an employee in terms of a broad-based employee share plan	Definition of “ <b>qualifying equity share</b> ” in section 8B(3)	R50 000
Maximum deduction for shares issued by an employer in terms of a broad-based employee share plan	The proviso to section 11(A)	R10 000
<b>Exemption for interest and certain dividends</b>		
Exemption for foreign dividends and interest from a source outside the Republic which are not otherwise exempt	Section 10(1)(i)(xv)(aa)	R3 500
In respect of persons 65 years or older, exemption for interest from a source within the Republic and dividends (other than foreign dividends) which are not otherwise exempt	Section 10(1)(i)(xv)(bb)(A)	R30 000
In respect of persons younger than 65 years, exemption for interest from a source within the Republic and dividends (other than foreign dividends) which are not otherwise exempt	Section 10(1)(i)(xv)(bb)(B)	R21 000
<b>Annual donations tax exemption</b>		
Exemption for donations made	Section 56(2)(a) and the	R10 000

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by entities	proviso thereto	
Exemption for donations made by individuals	Section 56(2)(b)	R100 000
<b>Capital gains exclusions</b>		
Annual exclusion for individuals and special trusts	Paragraph 5(1) of Eighth Schedule	R17 500
Exclusion on death	Paragraph 5(2) of Eighth Schedule	R120 000
Exclusion in respect of disposal of primary residence (based on amount of capital gain or loss on disposal)	Paragraph 45(1)(a) of Eighth Schedule	R1,5 million
Exclusion in respect of disposal of primary residence (based on amount of proceeds on disposal)	Paragraph 45(1)(b) of Eighth Schedule	R2 million
Maximum market value of all assets allowed within definition of small business on disposal when person over 55	Definition of “ <b>small business</b> ” in paragraph 57(1) of Eighth Schedule	R5 million
Exclusion amount on disposal of small business when person over 55	Paragraph 57(3) of Eighth Schedule	R750 000

## 15. Retirement savings thresholds

<b>Description</b> <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	<b>Reference to Income Tax Act, 1962</b>	<b>Monetary amount</b>
<b>Deductible retirement fund contributions</b>		
Pension fund monetary ceiling for contributions	Proviso to section 11(k)(i)	R1 750
Pension fund monetary ceiling for arrear contributions	Paragraph (aa) of proviso to section 11(k)(ii)	R1 800
Retirement annuity fund monetary ceiling for contributions (if also a member of a pension fund)	Section 11(n)(aa)(B)	R3 500
Retirement annuity fund monetary ceiling for contributions (if not a member of a pension fund)	Section 11(n)(aa)(C)	R1 750
Retirement annuity fund monetary ceiling for arrear	Section 11(n)(bb)	R1 800

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contributions		
<b>Permissible lump sum withdrawals upon retirement</b>		
Pension fund monetary amount for permissible lump sum withdrawals	Paragraph (ii)(dd) of proviso to paragraph (c) of definition of “ <b>pension fund</b> ” in section 1	R50 000
Retirement annuity fund monetary amount for permissible lump sum withdrawals	Paragraph (b)(ii) of proviso to definition of “ <b>retirement annuity fund</b> ” in section 1	R50 000

## 16. Deductible business expenses for individuals

<b>Description</b> <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	<b>Reference to Income Tax Act, 1962</b>	<b>Monetary amounts</b>
<b>Car allowance</b>		
Ceiling on vehicle cost	Section 8(1)(b)(iiiA)(bb)(A)	R400 000
Ceiling on debt relating to vehicle cost	Section 8(1)(b)(iiiA)(bb)(B)	R400 000

## 17. Employment related fringe benefits

<b>Description</b> <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	<b>Reference to Income Tax Act, 1962</b>	<b>Monetary amounts</b>
<b>Exempt scholarships and bursaries</b>		
Annual ceiling for employees	Paragraph (ii)(aa) of proviso to section 10(1)(q)	R100 000
Annual ceiling for employee relatives	Paragraph (ii)(bb) of proviso to section 10(1)(q)	R10 000
<b>Exempt termination benefits</b>	Section 10(1)(x)	R30 000
<b>Medical scheme contributions</b>		
Monthly ceiling for schemes with one beneficiary	Section 18(2)(c)(i)(aa) and paragraph 12A(1)(a) of Seventh Schedule	R625

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Monthly ceiling for schemes with two beneficiaries	Section 18(2)(c)(i)(bb) and paragraph 12A(1)(b) of Seventh Schedule	R1 250
Additional monthly ceiling for each additional beneficiary	Section 18(2)(c)(i)(cc) and paragraph 12A(1)(c) of Seventh Schedule	R380
<b>Awards for bravery and long service</b>	Paragraphs (a) and (b) of further proviso to paragraph 5(2) of Seventh Schedule	R5 000
<b>Employee accommodation</b>	Paragraph 9(3)(a)(ii) of Seventh Schedule	R54 200
<b>Accommodation for expatriate employees</b>	Paragraph 9(7B)(ii) of Seventh Schedule	R25 000
<b>Exemption for <i>de minimis</i> employee loans</b>	Paragraph 11(4)(a) of Seventh Schedule	R3 000
<b>Additional employer deductions for learnerships</b>		
Monetary ceiling of additional deduction for the employer when entering into a learnership agreement with an existing employee	Section 12H(2)(a)(i)(bb)	R20 000
Monetary ceiling of additional deduction for the employer when entering into a learnership agreement with a new employee	Section 12H(2)(a)(ii)(bb)	R30 000
Monetary ceiling of additional deduction for the employer in the case of completing a learnership agreement (all employees)	Section 12H(2)(b)(i)(bb)	R30 000
Monetary ceiling of additional deduction for the employer when entering into a learnership agreement with an existing employee with a disability	Section 12H(2A)(a)(i)(bb)	R40 000
Monetary ceiling of additional deduction for	Section 12H(2A)(a)(ii)(bb)	R50 000

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the employer when entering into a learnership agreement with a new employee with a disability		
Monetary ceiling of additional deduction for the employer in the case of completing a learnership agreement with an employee with a disability	Section 12H(2A)(b)(i)(bb)	R50 000

## 18. Depreciation

<b>Description</b> <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	<b>Reference to Income Tax Act, 1962</b>	<b>Monetary amounts</b>
<b>Small-scale intellectual property</b>	Paragraph (aa) of proviso to section 11(gC)	R5 000
<b>Urban Development Zone incentive</b>	Section 13quat(10A)	R5 million

## 19. Miscellaneous

<b>Description</b> <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	<b>Reference to Income Tax Act, 1962</b>	<b>Monetary amounts</b>
<b>Low-cost housing</b>		
Maximum cost of residential unit where that residential unit is an apartment in a building	Paragraph (a) of definition of “ <b>low-cost residential unit</b> ” in section 1	R250 000
Maximum cost of residential unit where that residential unit is a building	Paragraph (b) of definition of “ <b>low-cost residential unit</b> ” in section 1	R200 000
<b>Industrial policy projects</b>		
Maximum additional investment allowance in the case of greenfield projects with preferred	Section 12l(3)(a)	R900 million

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status		
Maximum additional investment allowance in the case of other greenfield projects	Section 12I(3)(a)	R550 million
Maximum additional investment allowance in the case of brownfield projects with preferred status	Section 12I(3)(b)	R550 million
Maximum additional investment allowance in the case of other brownfield projects	Section 12I(3)(b)	R350 million
Maximum additional training allowance (per employee)	Section 12I(5)(a)	R36 000
Maximum additional training allowance in the case of industrial policy projects with preferred status	Section 12I(5)(b)(i)	R30 million
Maximum additional training allowance in the case of other industrial policy projects	Section 12I(5)(b)(ii)	R20 million
Minimum cost of manufacturing assets for greenfield projects	Section 12I(7)(a)(i)(aa)	R200 million
Amounts to be taken into account in determining whether an industrial project constitutes a brownfield project		
	Section 12I(7)(a)(i)(bb)(A)	R30 million
	Section 12I(7)(a)(i)(bb)(B)	R200 million
<b>Venture capital companies</b>		
Annual deduction limit (natural persons)	Section 12J(3)	R750 000
Lifetime deduction limit (natural persons)	Section 12J(3)	R2.25 million
Investment threshold (in respect of the acquisition)	Section 12J(5)(e)(i)	R150 million

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of qualifying shares in a junior mining company)		
Investment threshold (in respect of the acquisition of qualifying shares in companies other than junior mining companies)	Section 12J(5)(e)(i)	R30 million
At least 10 per cent of the expenditure incurred by a venture capital company must be incurred in respect of qualifying shares in companies with assets with a book value not exceeding the amount indicated	Section 12J(5)(e)(ii)	R5 million
At least 80 per cent of the expenditure incurred by a venture capital company must be incurred in respect of qualifying shares in companies with assets with a book value not exceeding the amount indicated	Section 12J(5)(e)(iii)	R10 million
Where a venture capital company incurs expenditure in respect of the acquisition of qualifying shares in a junior mining company, the book value of the assets held by that company must not exceed the amount indicated	Section 12J(5)(e)(iii)	R100 million
<b>Presumptive turnover tax</b>		
A person qualifies as a micro business for a year of assessment where the qualifying turnover of that person for that year does not exceed the amount indicated	Paragraph 2(1) of Sixth Schedule	R1 million
Maximum of total receipts	Paragraph 3(e) of Sixth	R1.5 million

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from disposal of immovable property and assets of a capital nature by micro business	Schedule	
Minimum value of individual assets and liabilities in respect of which a micro business is required to retain records	Paragraphs 14(c) and (d) of Sixth Schedule	R10 000
<b>Public benefit organisations</b>		
PBO trading income exemption	Section 10(1)(cN)(ii)(dd)(ii)	R150 000
Deduction of donations to transfrontier parks	Section 18A(1C)(a)(ii)	R1 million
Housing provided by a PBO: maximum monthly income of beneficiary household	Paragraph 3(a) of Part I of Ninth Schedule and paragraph 5(a) of Part II of Ninth Schedule	R7 500
<b>Recreational clubs</b> Club trading income exemption	Section 10(1)(cO)(iv)(bb)	R100 000
<b>Prepaid expenses</b> Maximum amount of deferral	Paragraph (bb) of proviso to section 23H(1)	R80 000
<b>Small business corporations</b> Maximum gross income	Section 12E(4)(a)(i)	R14 million
<b>Housing associations</b> Investment income exemption	Section 10(1)(e)	R50 000

## 20. Administration

<b>Description</b> <i>(The contents of this column are solely for convenience and shall be of no force or effect)</i>	<b>Reference to Income Tax Act, 1962</b>	<b>Monetary amounts</b>
<b>Investment income exempt from provisional tax</b>		
In the case of natural persons below age 65	Paragraph 18(1)(c)(ii) of Fourth Schedule	R20 000
In the case of natural persons over age 65	Paragraph 18(1)(d)(i) of Fourth Schedule	R120 000

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<b>S.I.T.E. threshold</b>	Items (a) and (b) of paragraph 11B(2) and items (a), (b)(ii) and (b)(iii) of paragraph 11B(3) of Fourth Schedule	R60 000
<b>Threshold in respect of automatic appeal to High Court</b>	Section 83(4B)(a)	R50 million

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## Appendix II

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

(Section x18)

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 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 beer as defined in Additional Note 1 to Chapter 22	7.82 c/l	7.82 c/l
.20		Other	R46.41 /l of absolute alcohol	R46.41 /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	R6.16 /l	R6.16 /l
.04		Unfortified wine	R1.98 /l	R1.98 /l
.06		Fortified wine	R3.72 /l	R3.72 /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 beer as defined in Additional Note 1 to Chapter 22	7.82 c/l	7.82 c/l
.15		Other fermented beverages, unfortified	R2.33 /l	R2.33 /l
.17		Other fermented beverages, fortified	R4.73 /l	R4.73 /l
.22		Mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	R2.33 /l	R2.33 /l
.90		Other	R4.73 /l	R4.73 /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		

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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:		
.10		Wine spirits, manufactured by the distillation of wine	R77.67 /l of absolute alcohol	R77.67 /l of absolute alcohol
.15		Spirits, manufactured by the distillation of any sugar cane product	R77.67 /l of absolute alcohol	R77.67 /l of absolute alcohol
.25		Spirits, manufactured by the distillation of any grain product	R77.67 /l of absolute alcohol	R77.67 /l of absolute alcohol
.29		Other spirits	R77.67 /l of absolute alcohol	R77.67 /l of absolute alcohol
.40		Liqueurs and other spirituous beverages	R77.67 /l of absolute alcohol	R77.67 /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	R1 951.43 /kg net	R1 951.43 /kg net
.20		Cigarettes, of tobacco or of tobacco substitutes	R3.85 /10 cigarettes	R3.85 /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	R183.04 /kg	R183.04 /kg
.20		Pipe tobacco and substitutes thereof	R100.10 /kg net	R100.10 /kg net

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## Appendix III

### VALUE-ADDED TAX MONETARY THRESHOLDS SUBJECT TO PERIODIC LEGISLATIVE CHANGE

(Section x19)

<b>Description</b> <i>(The contents of this column are solely for convenience and are of no force or effect)</i>	<b>Reference to Value-Added Tax Act, 1991</b>	<b>Monetary amount</b>
<b>Registration</b>		
- Compulsory	Section 23(1)(a)	R1 million
- Voluntary	Section 23(3)(b), (c) and (d)	R20 000
- Commercial accommodation	Paragraph (a) of definition of 'commercial accommodation' in section 1	R60 000
- Payments basis of VAT registration	Section 15(2)(b)(i)	R2,5 million
- Exception to payments basis : in respect of supplies of goods or services made by a vendor	Section 15(2A)	R100 000
<b>Tax invoices</b>		
- Abridged tax invoice	Section 20(5)	R3 000
- No tax invoice required	Section 20(6)	R50
<b>Tax periods</b>		
- Category C (monthly) submission of VAT 201 return	Section 27(3)(a)(i)	R30 million
- Category D (6-monthly) submission of VAT 201 return	Section 27(4)(c)(i)	R1,5 million
- Category F (4-monthly) submission of VAT 201 return	Section 27(4B)(a)(i)	R1,5 million