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The draft Taxation Laws Amendment Bill, 2008, is hereby published for comment. This Bill, together with the draft Taxation Laws Second Amendment Bill, 2008, and the Revenue Laws Amendment Bills, 2008 which should be promulgated later this year, will give effect to the tax proposals presented by the Minister of Finance in the 2008 National Budget as tabled in Parliament.

The National Treasury will brief the Parliamentary Committee on Finance on this Bill on 4 March, 2008, and the Committee will hold public hearings on this Bill on 5 March 2008.

Members of the public are invited to submit comments on this Bill to:

Jeanne Viljoen:

jeanne.viljoen@treasury.gov.za

Members of the public may also submit comments directly to the Parliamentary Committee on Finance.

It will not be possible to respond to all comments but National Treasury will acknowledge receipt of all comments.

Once the comments have been considered and the Committee hearings finalised the Bill will be submitted to Parliament for tabling and formal consideration.

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REPUBLIC OF SOUTH AFRICA

**TAXATION LAWS
AMENDMENT BILL**

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

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

(MINISTER OF FINANCE)

[B – 2008]

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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.

BILL

To amend the—

- **Income Tax Act, 1962, so as to fix the rates of normal tax; to amend certain definitions; to delete certain obsolete definitions; to delete certain obsolete provisions; to remove certain exemptions; to extend a date; to delete certain obsolete references; to effect textual and consequential amendments;**
- **Customs and Excise Act, 1964, so as to amend rates of duty in Schedule No. 1;**
- **Value-Added Tax Act, 1991, so as to raise a threshold; to remove a provision relating to refunds;**
- **Collective Investment Schemes Control Act, 2002, so as to effect a textual correction;**
- **Revenue Laws Amendment Act, 2006, so as to amend provisions with regard to the 2010 FIFA World Cup;**
- **Securities Transfer Tax Administration Act, 2007, so as to adjust a compliance period;**
- **Revenue Laws Amendment Act, 2007, so as to amend effective dates; to effect textual amendments;**

and to provide for matters connected therewith.

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

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

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

- (a) by the substitution for the amounts in section 6(2)(a) and (b) respectively of the amounts in the third column opposite the relevant section in the table in paragraph 2 of Appendix I to this Act;
- (b) by the substitution for the amount in paragraph (b) of the definition of “formula B” in paragraph 1 of the Second Schedule of the amount in the third column of the table in paragraph 8 of Appendix I to this Act; and
- (c) by the substitution for each monetary amount in the provisions specified in the second column of the tables in Part II of Appendix I to this Act of the monetary amount in the third column opposite the relevant provision.

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

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

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

- (a) any person (other than a company) for the year of assessment ending on 28 February 2009; and
- (b) any company for any year of assessment ending during the period of 12 months ending on 31 March 2009.

(6) The Value-Added Tax Act, 1991 (Act No.89 of 1991) is hereby amended by the substitution for each monetary amount in the provisions specified in the second column of the tables in Appendix III to this Act of the monetary amount in the third column opposite the relevant provision.

(7) Paragraphs (b) and (c) of subsection (2) are deemed to have come into operation on 1 March 2008 and apply in respect of a year of assessment commencing on or after that date.

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(8) Subsection (6) comes into operation on 1 July 2008 and applies in respect of any tax period commencing on or after that date.

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R780 of 14 April 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2000, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002, section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, 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 and section 5 of Act 35 of 2007

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

- (a) by the deletion of the definition of “building society”;
- (b) by the substitution for the definition of “child” of the following definition:
 - “ ‘**child**’, in relation to any person, includes any person adopted by him or her—
 - (a) under [the provision of the Adoption of Children Act, 1923 (Act. No. 25 of 1923), or Children’s Act, 1937 (Act No. 31 of 1937), or the Children’s Act, 1960 (Act No. 33 of 1960)] a law of the Republic; or

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- (b) under the law of any country other than the Republic, provided the adopted person is under such law accorded the status of a legitimate child of the adoptive parent and the adoption was made at a time when the adoptive parent was ordinarily resident in such country;”;
- (c) by the deletion of the definition of “date of deep level production”;
- (d) by the deletion of the word “and” in the definition of “dividend” at the end of paragraph (b);
- (e) by the insertion in the definition of “dividend” after paragraph (b) of the following paragraph:
- “(c) any reduction of the profits of a company as a result of—
- (i) the reduction of the capital of that company;
- (ii) the acquisition, cancellation or redemption of shares issued by that company; or
- (iii) the company acquiring its own shares by means of a distribution from any other company,
- as were available for distribution to shareholders; and”;
- (f) by the deletion in the definition of “dividend” of paragraph (cA);
- (g) by the insertion in the definition of “dividend” after paragraph (c) of the following paragraph:
- “(cB) any reduction of the profits of a company, as were available for distribution to shareholders, if—
- (i) that company holds shares in any other company which is a shareholder in relation to the company holding the shares; and
- (ii) that other company cancels those shares.”;
- (h) by the substitution in the definition of “dividend” for the words preceding subparagraph (aa) of paragraph (iii) of the first proviso of the following words:
- “if, in the event of any subsequent partial reduction of the capital of a company or subsequent partial cancellation, redemption or acquisition of shares issued by that company, any cash or any asset is given to a shareholder and the cash or asset (or a portion thereof) represents a return of share capital or share premium, the amount of share capital or share premium so returned—”;
- (i) by the substitution in the definition of “dividend” for paragraph (iiiA) of the first proviso of the following paragraph:

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- “(iiiA) in the event of the reduction [**or redemption**] of the share capital or share premium of a company or the cancellation, redemption or acquisition of shares issued by that company, in relation to a class of shareholders, that company must be deemed to have distributed profits to the shareholders in that class to the extent that the share capital and share premium [that must be apportioned to any class of shares shall not exceed] so reduced or redeemed exceeds the [consideration given in respect of the issue of that class of shares] share capital and share premium contributed by that class of shareholder;”;
- (j) by the deletion of the definition of “entertainment expenditure”;
- (k) by the substitution in the definition of “gross income” for paragraph (e) of the following paragraph:
“(e) a retirement fund lump sum benefit and retirement fund lump sum withdrawal benefit;”;
- (l) by the substitution in the definition of “gross income” for paragraph (eB) of the following paragraph:
“(eB) any actuarial surplus that may be used for a purpose contemplated in section 15E(1)(f) or (g) of the Pension Funds Act, 1956 (Act No. 24 of 1956), if the use of that surplus for that purpose was approved by the board as contemplated in section 15E of that Act;”;
- (m) by the insertion after the definition of “listed company” of the following definitions:
“**‘living annuity’** means a right of a member or former member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, or his or her dependant or nominee, to an annuity purchased from or provided by a living annuity provider on or after the retirement date of that member or former member in respect of which—
(a) the value of the living annuity is determined solely by reference to the value of assets which are specified in the annuity agreement and are held by or on behalf of the living annuity provider for purposes of the living annuity;
(b) the annuity is determined in accordance with a method or formula prescribed by the Minister;

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- (c) the value of the assets contemplated in paragraph (a) may be paid in the form of a lump sum if the value of those assets is at any time less than an amount prescribed by the Minister;
- (d) the amount of the living annuity is not guaranteed by the living annuity provider; and
- (e) on the death of the member or former member, the value of the assets referred to in paragraph (a) may be paid to a dependant or nominee of the member or former member as an annuity (including a living annuity) or lump sum, or, in the absence of a dependant or nominee, to the deceased's estate as a lump sum;

'living annuity provider' means—

- (a) a bank as defined in the Banks Act, 1990 (Act No. 94 of 1990);
 - (b) a collective investment scheme as defined in the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);
 - (c) a long-term insurer as defined in the Long-Term insurance Act, 1998 (Act No. 52 of 1998);
 - (d) a pension fund organisation as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956); or
 - (e) the national sphere of government.”;
- (n) by the deletion of the definition of “married woman”;
 - (o) by the deletion of the definition of “mutual building society”;
 - (p) by the insertion after the definition of “nominal value” of the following definition:

“normal retirement age’ means—

- (a) in the case of a member of a pension fund or provident fund, the date on which the member becomes entitled to retire from employment for reasons other than sickness, accident, injury or incapacity through infirmity of mind or body;
- (b) in the case of a member of a retirement annuity fund, a pension preservation fund or a provident preservation fund, the date on which the member attains 55 years of age; or
- (c) in the case of a member of any fund contemplated in this definition, the date on which that member becomes permanently incapable of carrying on his or her occupation due to sickness, accident, injury or incapacity through infirmity of mind or body.”;

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- (q) by the deletion of the definition of “other deep level gold mine”;
- (r) by the substitution in the definition of “pension fund” for subparagraphs (dd) and (ee) of paragraph (ii) of the proviso to paragraph (c) of the following subparagraphs:

“(dd) that not more than one-third of the total value of the retirement interest on the retirement date [annuity or annuities to which any employee becomes entitled,] may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R50 000;

(ee) that a partner of a partnership must for purposes of the rules be regarded as an employee of the partnership; and”;

- (s) by the deletion in the definition of “pension fund” of subparagraph (gg) of paragraph (ii) of the proviso to paragraph (c);
- (t) by the insertion after the definition of “pension fund” of the following definition:
““pension preservation fund’ means a pension fund organisation which is registered under the Pensions Funds Act, 1956 (Act No. 24 of 1956), and which is approved by the Commissioner in respect of the year of assessment in question: Provided that the Commissioner may approve a fund subject to such limitations and conditions as the Commissioner may determine, and shall not approve a fund in respect of any year of assessment unless the Commissioner is satisfied in respect of that year of assessment that the rules of the fund provide that—

(a) membership of the fund consists of—

(i) former members of a pension fund or another pension preservation fund, whose membership of that fund has terminated due to—

(aa) resignation, retrenchment or dismissal from employment and who elected to have their retirement fund lump sum withdrawal benefit transferred to this pension preservation fund;

(bb) the winding up of that fund; or

(cc) a transfer of business from one employer to another in terms of section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995), and the employment of the employee with the

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transferor employer is transferred to the transferee employer;

(ii) former members of another pension preservation fund who elected to have their retirement fund lump sum withdrawal benefits transferred to this pension preservation fund and who made this election while they were members of that other fund;

(iii) former members of a pension fund or nominees or dependants of that former member in respect of whom a benefit is due by that fund that has not been paid within 24 months of the due date; or

(iv) a person who has elected to become a member of the fund in terms of the rules of the fund, upon the transfer of an amount for the benefit of that person from a pension fund or pension preservation fund in terms of a court order contemplated in section 7(8) of the Divorce Act, 1979 (Act No. 70 of 1979);

(b) contributions to the fund are limited to any retirement fund lump sum withdrawal benefit of that member or any unclaimed benefit as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), that is paid to the fund by a pension fund or any other pension preservation fund of which such member or the member's former spouse was previously a member;

(c) not more than one retirement fund lump sum withdrawal benefit (excluding payments contemplated in paragraph 2(b)(i) of the Second Schedule and amounts transferred to any other pension preservation fund as contemplated in paragraph (b)) is allowed during the period of membership of the fund;

(d) a member, other than a member contemplated in paragraph (a)(iii) of this proviso, will become entitled to a benefit on his or her retirement date; and

(e) not more than one-third of the total value of the retirement interest on the retirement date may be commuted for a single payment and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R50 000;";

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- (u) by the substitution in the definition of “provident fund” for paragraph (b) of the proviso of the following paragraph:

“(b) that the rules of the fund contain provisions similar in all respects to those required to be contained in the rules of a pension fund in terms of subparagraphs (aa), (bb), (cc), (ee) and (ff) of paragraph (ii) of the proviso to paragraph (c) of the definition of ‘pension fund’; and”;

- (v) by the insertion after the definition of “provident fund” of the following definition:

“‘**provident preservation fund**’ means a pension fund organisation which is registered under the Pension Funds Act, 1956 (Act No. 24 of 1956), and which is approved by the Commissioner in respect of the year of assessment in question: Provided that the Commissioner may approve a fund subject to such limitations and conditions as the Commissioner may determine, and shall not approve a fund in respect of any year of assessment unless the Commissioner is satisfied in respect of that year of assessment that the rules of the fund provide that—

(a) membership of the fund consists of—

- (i) former members of a provident fund or another provident preservation fund whose membership of that fund has terminated due to—

(aa) resignation, retrenchment or dismissal from employment and who elected to have their retirement fund lump sum withdrawal benefit transferred to this provident preservation fund;

(bb) the winding up of that fund; or

(cc) a transfer of business from one employer to another in terms of section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995), and the employment of the employee with the transferor employer is transferred to the transferee employer;

- (ii) former members of another pension preservation fund who elected to have their retirement fund lump sum withdrawal benefits transferred to this pension preservation fund and who made this election while they were members of that other fund;

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- (iii) former members of a provident fund or nominees or dependants of that former member in respect of whom a benefit became due but that benefit has not been paid within 24 months of the due date; or
- (iv) a person who has elected to become a member of the fund in terms of the rules of the fund, upon the transfer of an amount for the benefit of that person from a provident fund or provident preservation fund in terms of a court order contemplated in section 7(8) of the Divorce Act, 1979 (Act No. 70 of 1979);
- (b) contributions to the fund are limited to retirement fund lump sum withdrawal benefits of that member or any unclaimed benefit as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), paid by a provident fund or any other provident preservation fund of which the member or the member's former spouse was previously a member;
- (c) not more than one retirement fund lump sum withdrawal benefit (excluding payments contemplated in paragraph 2(b)(i) of the Second Schedule and amounts transferred to any other provident preservation fund as contemplated in paragraph (b)) is allowed during the period of membership of the fund; and
- (d) a member, other than a member contemplated in paragraph (a)(iii) of this proviso, will become entitled to a benefit on his or her retirement date;"
- (w) by the substitution in the definition of "retirement annuity fund" for subparagraph (ii) of paragraph (b) of the proviso of the following subparagraph:
- "(ii) that not more than one-third of the total value of the retirement interest on the retirement date [**any annuities to which any person becomes entitled,**] may be commuted for a single payment and that the remainder must be taken in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R50 000;"
- (x) by the deletion in the definition of "retirement annuity fund" of subparagraph (iii) and (iv) of paragraph (b) of the proviso;

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- (y) by the substitution in the definition of “retirement annuity fund” for subparagraph (v) of paragraph (b) of the proviso of the following subparagraph:

“(v) that no member shall become entitled to the payment of any annuity or retirement fund lump sum benefit before reaching normal retirement age;”;

- (z) by the deletion in the definition of “retirement annuity fund” of subparagraphs (vi) and (vii) of paragraph (b) of the proviso;

- (zA) by the substitution in the definition of “retirement annuity fund” for subparagraphs (x) and (xi) of paragraph (b) of the proviso of the following subparagraphs:

“(x) that a member who discontinues his or her contributions prematurely shall be entitled to—

(aa) an annuity or a retirement fund lump sum benefit (payable on or from the date that would have been his or her retirement date);

(bb) be reinstated as a full member under conditions prescribed in the rules of the fund;

(cc) the payment of a retirement fund lump sum withdrawal benefit where that member’s interest in the fund is less than an amount determined by the Minister by notice in the Government Gazette from time to time; or

(dd) the payment of a retirement fund lump sum withdrawal benefit where that member officially emigrated from the Republic for exchange control purposes as determined by the South African Reserve Bank;

(xi) that upon the winding up of the fund a member’s withdrawal interest therein must—

(aa) where the member received an annuity from the fund on the date upon which the fund is wound up, be used to purchase an annuity (including a living annuity); or

(bb) in any other case, be paid for the member’s benefit into another approved retirement annuity fund;”;

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- (zB) by the insertion after the definition of “retirement annuity fund” 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 retirement fund lump sum benefit on or subsequent to attaining normal retirement age or death;”;

- (zC) by the substitution in the definition of “retirement-funding employment” for paragraph (b) of the following paragraph:

“(b) in relation to a partner in a partnership who was an employee of the partnership and who on becoming a partner retained membership of the pension fund of the partnership as if he or she had not ceased to be an employee, as respects the part of the partner’s income from the partnership in the form of the partner’s share of profits as does not exceed an amount equal to the partner’s pensionable emoluments during the 12 months which ended on the day on which the partner ceased to be an employee;”;

- (zD) by the substitution for the definition of “retirement fund lump sum benefit” of the following definitions:

“**retirement fund lump sum benefit**’ means [the] an amount determined in terms of paragraph (2)(a) of the Second Schedule in respect of a year of assessment[, **after taking into account the provisions of paragraph 2A, 2B and 2C of that Schedule**];

“**retirement fund lump sum withdrawal benefit**’ means an amount determined in terms of paragraph 2(b) of the Second Schedule;”;

- (zE) by the insertion after the definition of “retirement fund lump sum benefit” of the following definition:

“**retirement interest**’ means a member’s share of the value of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as determined in terms of the rules of the fund immediately prior to the date on which the member becomes entitled to a benefit from that fund upon his or her retirement date;”;

- (zF) by the substitution for the definition of “tax” of the following definition:

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“**tax**’ or ‘**the tax**’ or ‘**taxation**’ means any levy **[or]**, tax or administrative penalty leviable under this Act and for the purposes of Part IV of Chapter III includes any levy or tax leviable under any previous Income Tax Act;” and
(zG) by the insertion after the definition of “water services provider” of the following definition:

“**withdrawal interest**’ means the value of the member’s share of the pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund value, as determined in terms of the rules of the fund, immediately prior to the date on which the member becomes entitled to a benefit from that fund because of an event other than the member attaining normal retirement age, as determined by the rules of the fund;”.

(2) Paragraphs (d), (e), (f), (h) and (i) of subsection (1) are deemed to have come into operation on 1 October 2007 and apply in respect of an amount distributed on or after that date.

Amendment of section 5 of Act 58 of 1962, as substituted by section 2 of Act 6 of 1963, section 5 of Act 88 of 1971, section 5 of Act 90 of 1972, section 5 of Act 65 of 1973, section 5 of Act 103 of 1976, section 3 of Act 104 of 1980, section 4 of Act 96 of 1981, section 4 of Act 91 of 1982, section 3 of Act 94 of 1983, section 3 of Act 121 of 1984, section 5 of Act 21 of 1994, section 4 of Act 21 of 1995 and section 7 of Act 5 of 2001

3. Section 5 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (10)(f) for subparagraph (ii) of the following subparagraph:

“(ii) any amount contemplated in paragraph 2(b) of the Second Schedule which was included in the taxpayer’s income for the year; and”.

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 and section 8 of Act 35 of 2007

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

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

“Income shall be deemed to have been received by the parent of any minor child or stepchild, if by reason of any donation, settlement or other disposition made by that parent of that child—”; and

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

“(4) Any income received by or accrued to or in favour of any minor child or stepchild of any person, by reason of any donation, settlement or other disposition made by any other person, shall be deemed to be the income of the parent of **[such minor]** that child, if such parent or his or her spouse has made a donation, settlement or other disposition or given some other consideration in favour directly or indirectly of the said other person or his or her family.”.

Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act, section 5 of Act 101 of 1990, section 9 of Act 129 of 1991, section 6 of Act 141 of 1992, section 4 of Act 113 of 1993, section 6 of Act 21 of 1994, section 8 of Act 21 of 1995, section 6 of Act 36 of 1996, section 6 of Act 28 of 1997, section 24 of Act 30 of 1998, section 14 of Act 53 of 1999, section 17 of Act 30 of 2000, section 6 of Act 59 of 2000, section 7 of Act 19 of 2001, section 21 of Act 60 of 2001, section 12 of Act 30 of 2002, section 11 of Act 74 of 2002, section 18 of Act 45 of 2003, section 6 of Act 32 of 2004, section 4 of Act 9 of 2005, section 21 of Act 9 of 2006, section 5 of Act 20 of 2006, section 6 of Act 8 of 2007 and section 9 of Act 35 of 2007

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5. (1) Section 8 of the Income Tax Act, 1962, is hereby amended—

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

“There shall be included in the taxpayer’s income all amounts allowed to be deducted or set off under the provisions of sections 11 to 20, inclusive, section 24D, section 24F, section 24G, section 24I, section 24J **[and]**, section 27(2)(b) **[and (d)]** and section 37B(2) of this Act, except section 11(k), (p) and (q), section 11D(1), section 11~~quin~~, section 12(2) or section 12(2) as applied by section 13(8), or section 13~~bis~~(7), or section 15(a), or section 15A, or under the corresponding provisions of any previous Income Tax Act, whether in the current or any previous year of assessment which have been recovered or recouped during the current year of assessment”;

(b) by the deletion in subsection (4) of paragraphs (b), (c), (d) and (dA); and

(c) by the substitution for subsection (4A) of the following subsection:

“(4A) The provisions of subsection (4)(a), (e), (f) or (k) shall not apply in respect of any amount which is deemed to have been allowed as a deduction in terms of subparagraph (ix) of the proviso to section 11(e), **[section 11 (o) (bb),]** section 12B(4B), section 12C(A), section 12D(3A), section 12DA(4), section 12F(3A), section 13(1A), section 13~~bis~~(3A) **[or]**, section 13~~ter~~(6A), section 13~~quin~~ or section 37B(4).”.

(2) Subsection (1)(a) is deemed to have come into operation on 1 January 2008 and applies in respect of a year of assessment ending on or after that date.

(3) Subsection (1)(c), to the extent that it relates to section 12DA, section 12F or section 37B, is deemed to have come into operation on 1 January 2008 and applies in respect of a year of assessment ending on or after that date.

(4) Subsection (1)(c), to the extent that it relates to section 13~~quin~~, is deemed to have come into operation on 1 April 2007.

Amendment of section 9A of Act 58 of 1962, as inserted by section 8 of Act 85 of 1987, amended by section 8 of Act 141 of 1992, section 8 of Act 21 of 1994, section 8 of Act 28 of 1997, section 8 of Act 59 of 2000 and section 13 of Act 74 of 2002 and substituted by section 12 of Act 35 of 2007

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

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

“(2) The amount or portion which **[is allowed to be deducted]** may not be remitted during the year of assessment contemplated in subsection (1) shall be deemed to be an amount received by or accrued to the person contemplated in that subsection in the following year of assessment.”; and

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

“(4) The amount or portion which may not be remitted during the year of assessment contemplated in subsection (3) shall**[, to the extent that that amount or portion does not exceed the deduction allowed in terms of that subsection,]** be deemed to be an amount received by or accrued to the controlled foreign company contemplated in that subsection in the following year of assessment.”.

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

Amendment of section 9C of Act 58 of 1962, as inserted by section 14 of Act 35 of 2007

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

(a) by the substitution in subsection (1) for the definition of “qualifying share” of the following definition:

“ ‘**qualifying share**’, in relation to any taxpayer, means an equity share as defined in section 44, which has been disposed of by the taxpayer or which is treated as having been disposed of by the taxpayer in terms of paragraph 12 of the Eighth Schedule, if the taxpayer immediately prior to such disposal had been the owner of that share for a continuous period of at least three years**[: Provided that the]** excluding a share which at any time during that period was—

(a) **[is not]** a share in a share block company as defined in section 1 of the Share Blocks Control Act, 1980 (Act No. 59 of 1980);

(b) **[is not]** a share in a company which**[, at any time during that period of three years,]** was not a resident, **[unless it was at that time]** other than a company as contemplated in paragraph (a) of the definition of ‘**listed company**’; or

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- (c) **[is not]** a hybrid equity instrument as defined in section 8E.”;
- (b) by the substitution for subsection (2) of the following subsection:
- “(2) Any amount received by or accrued to a taxpayer **[as a result of the disposal by that taxpayer of]** in respect of a qualifying share shall be deemed to be of a capital nature.”; and
- (c) by the substitution for subsection (3) of the following subsection:
- “(3) The provisions of this section shall not apply to any qualifying share if at the time of the disposal of that share the taxpayer was a connected person in relation to the company that issued that share and—
- (a) more than 50 per cent of the market value of the equity shares, as defined in section 44, of that company was attributable directly or indirectly to immovable property **[held by that company at the time of the disposal]** other than—
- (i) immovable property held directly or indirectly by a person that is not a connected person to the taxpayer; **[and] or**
- (ii) immovable property held directly or indirectly for a continuous period of more than three years immediately prior to that disposal; or”;
- (b) that company acquired any asset during the period of three years immediately prior to that disposal and amounts were paid or payable by any person **[during that period]** to any person other than that company for the use of that asset while it was held by that company during that period.”.

(2) Subsection (1) is deemed to have come into operation on 1 October 2007 and applies in respect of a disposal on or after that date.

Amendment of section 9D of Act 58 of 1962, as inserted by section 9 of Act 28 of 1997, amended by section 28 of Act 30 of 1998, section 17 of Act 53 of 1999, section 19 of Act 30 of 2000, section 10 of Act 59 of 2000, section 9 of Act 5 of 2001, section 22 of Act 60 of 2001, section 14 of Act 74 of 2002, section 22 of Act 45 of 2003, section 13 of Act 32 of 2004, section 14 of Act 31 of 2005, section 9 of Act 20 of 2006, section 9 of Act 8 of 2007 and section 15 of Act 35 of 2007

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8. Section 9D of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (9) for the words in paragraph (fA) that precede the proviso of the following words:

“is attributable to—

(i) any interest, royalties, rental or income of a similar nature which is paid or payable or deemed to be paid or payable to that company by any other controlled foreign company (including any similar amount adjusted in terms of section 31);

(ii) any exchange difference determined in terms of section 24I in respect of any exchange item to which that company and any other controlled foreign company are parties;

(iii) any exchange difference in respect of any forward exchange contract or foreign currency option contract entered into to hedge the exchange item referred to in subparagraph (i); or

(iv) the reduction or discharge by any other controlled foreign company of a debt owed by that company to that other controlled foreign company for no consideration or for consideration less than the amount by which the face value of the debt has been so reduced or discharged,

where that controlled foreign company and that other controlled foreign company form part of the same group of companies”;

(b) by the addition in subsection (9) of the word “or” at the end of paragraph (fA);
and

(c) by the deletion in subsection (9) of the word “or” at the end of paragraph (fB).

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of

Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998, section 18 of Act 53 of 1999, section 21 of Act 30 of 2000, section 13 of Act 59 of 2000, sections 9 and 78 of Act 19 of 2001, section 26 of Act 60 of 2001, section 13 of Act 30 of 2002, section 18 of Act 74 of 2002, section 36 of Act 12 of 2003, section 26 of Act 45 of 2003, section 8 of Act 16 of 2004, section 14 of Act 32 of 2004, section 5 of Act 9 of 2005, section 16 of Act 31 of 2005, section 23 of Act 9 of 2006, section 10 of Act 20 of 2006, section 10 of Act 8 of 2007 and section 16 of Act 35 of 2007

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

- (a) by the deletion in subsection (1) of paragraph (cM);
- (b) by the substitution in subsection (1)(d) for subparagraph (i) of the following subparagraph:
 - “(i) pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, or a fund registered as a beneficiary fund under section 4 of the Pension Funds Act, 1956 (Act No. 24 of 1956).”;
- (c) by the substitution in subsection (1)(e) for the words preceding subparagraph (i) of the following words:
 - “any levy and any investment income as defined in section 12E to the extent that the investment income does not exceed R50 000, received by or accrued to—”;
- (d) by the substitution in subsection (1)(k)(ii) for item (bb) of the following item:
 - “(bb) to the extent that the foreign dividend relates to any amount which was declared by a listed company which complies with paragraphs (a) and (b) of the definition of ‘listed company’ in section 1 **[and more than 10 per cent of the equity share capital in that listed company is at the time of the declaration of that foreign dividend held collectively by residents]**.”;

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- (e) by the substitution in subsection (1)(k)(ii)(*dd*) for the words preceding the proviso of the following words:

“[where] if that person ([in the case of a company,] whether alone or together with any other company [in] forming part of the same group of companies as that person) holds at least 20 per cent of the total equity share capital and voting rights in the company declaring the dividend, or 20 per cent of the total member’s interest and voting rights in the co-operative declaring the dividend if that co-operative is established in terms of the laws of any country other than the Republic”;

- (f) by the substitution in subsection (1)(k)(ii)(*dd*) for paragraph (A) of the proviso of the following paragraph:

“(A) in determining the total equity share capital or member’s interest [of a company], there shall not be taken into account any share which would have constituted a hybrid equity instrument, as contemplated in section 8E, but for the three year period requirement contained in that section;”;
and

- (g) by the deletion in subsection (1) of paragraph (*nH*).

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1968, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994, section 12 of Act 21 of 1995, section 9 of Act 36 of 1996, section 12 of Act 28 of 1997, section 30 of Act 30 of 1998, section 20 of Act 53 of 1999, section 22 of Act 30 of 2000, section 15 of Act 59 of 2000,

section 10 of Act 19 of 2001, section 27 of Act 60 of 2001, section 14 of Act 30 of 2002, section 19 of Act 74 of 2002, section 27 of Act 45 of 2003, section 9 of Act 16 of 2004, section 16 of Act 32 of 2004, section 6 of Act 9 of 2005, section 18 of Act 31 of 2005, section 11 of Act 20 of 2006, section 11 of Act 8 of 2007 and section 17 of Act 35 of 2007

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

(a) by the substitution in paragraph (e) for the words preceding the proviso of the following words:

“save as provided in paragraph 12(2) of the First Schedule, such sum as the Commissioner may think just and reasonable as representing the amount by which the value of any machinery, plant, implements, utensils and articles (other than machinery, plant, implements, utensils and articles in respect of which a deduction may be granted under section 12B, 12C ~~[or], 12DA, 12E or 37B~~) owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement contemplated in paragraph (a) of the definition of ‘instalment credit agreement’ in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), and used by the taxpayer for the purpose of his or her trade has been diminished by reason of wear and tear or depreciation during the year of assessment”;

(b) by the substitution in paragraph (k) for subparagraph (i) of the following subparagraph:

“(i) any sum contributed during the year of assessment to any pension fund by way of current contribution by a person who holds any office or employment: Provided that a partner in a partnership must for purposes of this subparagraph be deemed to be an employee of the partnership: Provided further that the total deduction to be allowed in respect of contributions by such person to any one or more pension fund or funds shall not in the year of assessment exceed the greater of R1 750 or 7,5 per cent of the remuneration (being the income or part thereof referred to in the definition of ‘retirement-funding employment’ in section 1) derived by such person during such year in respect of his or her retirement-funding employment.”;

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- (c) by the substitution in paragraph (l) for paragraph (v) of the proviso of the following paragraph:

“(v) a partner in a partnership must for purposes of this paragraph be deemed to be an employee of the partnership.”; and

- (d) by the substitution in paragraph (n)(aa) for item (A) of the following item:

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

(2) Subsection (1)(a) is deemed to have come into operation on 1 January 2008 and applies in respect of a year of assessment ending on or after that date.

Amendment of section 11D of Act 58 of 1962, as inserted by section 13 of Act 20 of 2006 and amended by section 13 of Act 8 of 2007, section 3 of Act 9 of 2007 and section 19 of Act 35 of 2007

11. Section 11D of the Income Tax Act, 1962, is hereby amended—

- (a) by the addition in subsection (2) of the word “and” at the end of paragraph (b);
(b) by the deletion in subsection (2) of the word “and” at the end of paragraph (c);
(c) by the deletion in subsection (2) of paragraph (d): and
(d) by the substitution for subsection (7) of the following subsection:

“(7) Where any amount (other than a government grant) is received by[,]
or accrues to[,], a taxpayer to fund expenditure that is otherwise eligible for deduction under subsection (1), the deduction for that expenditure shall be limited to 100 per cent in lieu of 150 per cent to the extent of that amount, unless that amount is not deductible by any other person in terms of this Act.”.

Amendment of section 12D of Act 58 of 1962

12. Section 12D of the Income Tax Act, 1962, is hereby amended—

- (a) by the insertion in subsection (1) after paragraph (a) of the definition of “affected asset” of the following paragraph:

“(aA) a pipeline for the transportation of water used by power stations in the process of generating electricity.”; and

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

“(b) 5 per cent of the cost incurred in respect of any asset contemplated in paragraph (aA), (b), (c) or (d) of the definition of affected asset.”.

Amendment of section 12E of Act 58 of 1962, as amended by section 12 of Act 19 of 2001, section 17 of Act 30 of 2002, section 21 of Act 74 of 2002, section 31 of Act 45 of 2003, section 37 of Act 12 of 2003, section 9 of Act 9 of 2005, section 21 of Act 31 of 2005, section 14 of Act 20 of 2006, section 24 of Act 9 of 2006, section 15 of Act 8 of 2007 and section 25 of Act 35 of 2007

13. Section 12E of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1A) of the following subsection:

“(1A) Subject to subsection (1), where any machinery, plant, implement, utensil, article, aircraft or ship in respect of which a deduction is allowed under section 11(e) (‘the asset’) is acquired by a small business corporation under an agreement formally and finally signed by every party to the agreement on or after 1 April 2005 the amount allowed to be deducted in respect of the asset must, at the election of the small business corporation, and subject to the provisions of that section, be either—

- (a) the amount allowed in terms of that section; or
(b) an amount equal to 50 per cent of the cost of the asset in the year of assessment during which it was first brought into use, 30 per cent in the first succeeding year and 20 per cent in the second succeeding year.”.

Amendment of section 14 of Act 58 of 1962, as amended by section 13 of Act 90 of 1962, substituted by section 19 of Act 55 of 1966, amended by section 17 of Act 85 of 1974, section 12 of Act 103 of 1976, section 11 of Act 104 of 1979,

section 10 of Act 65 of 1986, section 14 of Act 21 of 1995, section 14 of Act 28 of 1997 and section 23 of Act 59 of 2000

14. Section 14 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1)(a) for subparagraph (ii) of the following subparagraph:

- “(ii) the aggregate of all the allowances made to any person in respect of any ship under this paragraph, paragraph (b) of this subsection and section 11(e) or the corresponding provisions of any previous Income Tax Act shall not exceed the cost to such person of such ship or, if such ship was acquired by such person to replace a ship and the cost of the ship so acquired has in terms of the definition of ‘adjustable cost’ or ‘adjustable cost price’ in subsection (2) been reduced by an amount which **[has]** had not in terms of section 8(4)(d) been included in the income of the taxpayer for **[the current or]** any previous year of assessment, the adjustable cost to such person of the ship so acquired;”.

Amendment of section 20 of Act 58 of 1962, as amended by section 13 of Act 90 of 1964, section 18 of Act 88 of 1965, section 13 of Act 76 of 1968, section 18 of Act 89 of 1969, section 8 of Act 101 of 1978, section 18 of Act 94 of 1983, section 16 of Act 113 of 1993, section 15 of Act 65 of 1973, section 15 of Act 28 of 1997, section 19 of Act 101 of 1990, section 17 of Act 21 of 1995, section 26 of Act 30 of 2000, section 27 of Act 59 of 2000, section 23 of Act 74 of 2002, section 35 of Act 45 of 2003, section 19 of Act 8 of 2007 and section 32 of Act 35 of 2007

15. (1) Section 20 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for paragraphs (b) and (c) respectively of the proviso of the following paragraphs:

“(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; or

- (c) that is a retirement fund lump sum benefit included in taxable income, any—
 - (i) balance of assessed loss;
 - (ii) 'assessed loss' as defined in subsection (2) incurred in such year before taking into account that retirement fund lump sum benefit[,

in carrying on any trade outside the Republic;]"; and

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

“(2) For the purposes of this section “**assessed loss**” means any amount by which the deductions admissible under **[section] sections 11 and 37B(2)** exceeded the income in respect of which they are so admissible.”.

(2) Subsection (1) is deemed to have come into operation on 1 January 2008 and applies in respect of a year of assessment ending on or after that date.

Amendment of section 22 of Act 58 of 1962, as amended by section 8 of Act 6 of 1963, section 14 of Act 90 of 1964, section 21 of Act 89 of 1969, section 23 of Act 85 of 1974, section 20 of Act 69 of 1975, section 15 of Act 103 of 1976, section 20 of Act 94 of 1983, section 19 of Act 121 of 1984, section 14 of Act 65 of 1986, section 5 of Act 108 of 1986, section 21 of Act 101 of 1990, section 22 of Act 129 of 1991, section 17 of Act 113 of 1993, section 1 of Act 168 of 1993, section 19 of Act 21 of 1995, section 12 of Act 36 of 1996, section 25 of Act 53 of 1999, section 27 of Act 30 of 2000, section 12 of Act 5 of 2001, section 24 of Act 74 of 2002 and section 37 of Act 45 of 2003

16. Section 22 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (6) for paragraph (b) of the following paragraph:

- “(b) where accounts are accepted under section 66(13A) or (13C) to a date agreed to by the Commissioner, a reference to the beginning or end, as the case may be, of the period covered by the accounts.”.

Amendment of section 23A of Act 58 of 1962, as inserted by section 21 of Act 121 of 1984, amended by section 13 of Act 96 of 1985, section 15 of Act 65 of 1986, section 12 of Act 70 of 1989, section 22 of Act 101 of 1990, section 24 of

Act 129 of 1991, section 34 of Act 30 of 1998, section 32 of Act 60 of 2001 and section 33 of Act 35 of 2007

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

(a) by the substitution in subsection (1) for the definition of “rental income” of the following definition:

“ ‘rental income’ means income derived by way of rent from the letting of **[movable property or any machinery or plant]** any affected asset in respect of which an allowance has been granted to the lessor under section 11(e), 12, 12B **[or]**, 12C, 12DA or 37B(2)(a), whether in the current or any previous year of assessment.”; and

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

“(2) Notwithstanding the provisions of sections 11(e) and (o), 12B, 12C **[and]**, 12DA, 14bis and 37B(2)(a), the sum of the deductions which may be allowed to any taxpayer in any year of assessment under those provisions in respect of any affected assets let by him shall not exceed the taxable income (as determined before making the said deductions) derived by him during such year from rental income.”.

(2) Subsection (1) is deemed to have come into operation and applies in respect of a year of assessment ending on or after that date.

Amendment of section 23D of Act 58 of 1962, as inserted by section 19 of Act 113 of 1993 and amended by section 10 of Act 140 of 1993, section 20 of Act 21 of 1995, section 29 of Act 31 of 2005, section 21 of Act 8 of 2007 and section 34 of Act 35 of 2007

18. (1) Section 23D of the Income Tax Act, 1962, is hereby amended by the substitution for subsections (2) and (2A) respectively of the following subsections:

“(2) Where any depreciable asset which is let or licensed by a taxpayer to a lessee or licensee was held within a period of two years preceding the commencement of the lease or licence—

(a) by the lessee or licensee, or by a sublessee or sublicensee in relation to the asset (being a person to whom the right of use of such asset has

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been granted by a lessee or licensee or by any person to whom the right of use of the asset had previously been granted); or
(b) by a person who was at any time during that period a connected person in relation to the lessee, licensee, sublessee or sublicensee,
the cost or value of the depreciable asset for the purpose of this section and any deduction or allowance claimed by the taxpayer in respect of the asset shall not exceed the amount determined in accordance with subsection (2A).

(2A) The amount to be determined for purposes of subsection (2) is the sum of—

- (a) the cost of the asset to the most recent lessee, licensee, sublessee, sublicensee or connected person contemplated in subsection (2) that previously held that asset, less the sum of—
- (i) all deductions which have been allowed to the lessee, licensee, sublessee, sublicensee or connected person in respect of the asset;
and
 - (ii) all deductions that are deemed to have been allowed to the lessee, licensee, sublessee, sublicensee or connected person in respect of the asset in terms of section 11(e)(ix), 12B(4B), 12C(4A), 12D(3A), 12DA(4), 12F(3A), 13(1A), 13bis(3A), 13ter(6A), 13quin(3) or 37B(4);
- (b) any amount contemplated in paragraph (n) of the definition of 'gross income' in section 1 that is required to be included in the income of the lessee, licensee, sublessee, sublicensee or connected person that arises as a result of the disposal of the asset; and
- (c) the applicable percentage in paragraph 10 of the Eighth Schedule, of the capital gain of the lessee, licensee, sublessor, sublicensee or connected person that arises as a result of the disposal."

(2) Subsection (1) is deemed to have come into operation on 1 January 2008 and applies in respect of a year of assessment ending on or after that date.

Amendment of section 23H of Act 58 of 1962, as inserted by section 31 of Act 30 of 2000 and amended by section 29 of Act 59 of 2000, section 34 of Act 60 of 2001 and section 36 of Act 35 of 2007

19. Section 23H of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
“(a) which is allowable as a deduction in terms of the provisions of section 11(a), (c) or (d), section 11A, section 11D(1), or section 28(2)(a) [**and (c)**]; and”; and
- (b) by the substitution in subsection (1) for paragraph (cc) of the proviso of the following paragraph:
“(cc) to any expenditure to which the provisions of section [**24I, 24J,**] 24K or 24L apply; or”.

Insertion of section 23K into Act 58 of 1962

20. The Income Tax Act, 1962, is hereby amended by the insertion after section 23J of the following section:

“Limitation of expenditure incurred in respect of equity shares previously held by certain connected persons

23K. (1) For purposes of this section ‘equity share’ means an equity share as contemplated in section 44.

(2) If an equity share acquired by a taxpayer was held within a period of two years preceding the acquisition by a person who was a connected person in relation to the taxpayer at any time during that period, and any amount received by or accrued to the connected person in respect of the disposal of the share at any time during that period would not have constituted income of the connected person, the expenditure incurred in respect of the share by the taxpayer shall not for purposes of this Act exceed an amount determined in accordance with subsection (3).

(3) The amount to be determined for purposes of subsection (2) is the sum of—

- (a) the cost of the equity share to the first person contemplated in subsection (2) that previously held that share less the sum of all deductions that have been allowed to that person in respect of the share;
- (b) any amount contemplated in paragraph (n) of the definition of “gross income” in section 1 that is required to be included in the income of any

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- person contemplated in subsection (2) that arises as a result of the disposal of the share by any such person; and
- (c) the applicable percentage in paragraph 10 of the Eighth Schedule, of the capital gain of any person contemplated in subsection (2) that arises as a result of the disposal of the share by any such person.”.

Amendment of section 24I of Act 58 of 1962, as inserted by section 21 of Act 90 of 1988 and amended by section 21 of Act 113 of 1993, section 11 of Act 140 of 1993, section 18 of Act 21 of 1994, section 13 of Act 36 of 1996, section 18 of Act 28 of 1997, section 35 of Act 30 of 1998, section 26 of Act 53 of 1999, section 31 of Act 59 of 2000, section 36 of Act 60 of 2001, section 27 of Act 74 of 2002, section 42 of Act 45 of 2003, section 23 of Act 32 of 2004, section 33 of Act 31 of 2005, section 26 of Act 9 of 2006, section 19 of Act 20 of 2006, section 23 of Act 8 of 2007 and section 40 of Act 35 of 2007

- 21.** Section 24I of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (3) for paragraph (c) of the following paragraph:
- “(c) any discount which accrued to such person or any premium incurred by such person in respect of any forward exchange contract”; and
- (b) by the deletion of subsection (5).

Amendment of section 30 of Act 58 of 1962, as inserted by section 30 of Act 53 of 1999 and amended by section 36 of Act 59 of 2000, section 15 of Act 5 of 2001, section 15 of Act 19 of 2001, section 39 of Act 60 of 2001, section 30 of Act 74 of 2002, section 16 of Act 16 of 2004, section 24 of Act 20 of 2006, section 25 of Act 8 of 2007 and section 43 of Act 35 of 2007

- 22.** Section 30 of the Income Tax Act, 1962, is hereby amended—
- (a) by the deletion in subsection (3)(b) of the proviso to subparagraph (i); and
- (b) by the substitution in subsection (3)(b)(iii) for item (aa) of the following item:
- “(aa) any **[similar]** public benefit organisation which has been approved in terms of this section;”.

Amendment of section 41 of Act 58 of 1962, as inserted by section 44 of Act 60 of 2001, substituted by section 34 of Act 74 of 2002 and amended by section 49 of Act 45 of 2003, section 32 of Act 32 of 2004, section 37 of Act 31 of 2005, section 28 of Act 20 of 2006, section 32 of Act 8 of 2007 and section 52 of Act 35 of 2007

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

- (a) by the substitution in subsection (1) for the words preceding paragraph (i) of the proviso to the definition of “foreign financial instrument holding company” of the following words:
- “: Provided that in determining whether more than the prescribed proportion of the assets of the company and all influenced companies consist of financial instruments[.]—”;
- (b) by the substitution in subsection (1) for subparagraph (aa) of paragraph (i) of the proviso to the definition of “group of companies” of the following subparagraph:
- “(aa) that company is a company contemplated in paragraph **[(b),]** (c), (d) or (e) of the definition of ‘company’;”;
- (c) by the deletion in subsection (1) of the word “and” at the end of paragraph (i)(dd) of the proviso to the definition of “group of companies”;
- (d) by the addition in subsection (1) to paragraph (i) of the proviso to the definition of “group of companies” of the following subparagraph:
- “(ee) (A) that company is a company contemplated in paragraph (b) of the definition of ‘company’;
(B) that company has its place of effective management in the Republic; and
(C) the memorandum of that company is not registered in terms of section 322 of the Companies Act, 1973 (Act No. 61 of 1973); and”;
- (e) by the deletion in subsection (1) of the definition of “qualifying interest”.

(2) Paragraphs (a) and (e) of subsection (1) are deemed to have come into operation on 1 January 2007 and apply in respect of a transaction entered into on or after that date.

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(3) Paragraphs (b), (c) and (d) of subsection (1), to the extent that they apply for purposes of—

- (a) the definition of “dividend” in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), are deemed to have come into operation on 1 October 2007 and apply in respect of any amount distributed on or after that date;
- (b) Part III of Chapter II of that Act, come into operation on 1 January 2009;
- (c) Part VII of Chapter II of that Act, are deemed to have come into operation on 1 October 2007 and apply in respect of any dividend declared on or after that date; and
- (d) paragraph 12 of the Eighth Schedule to that Act, are deemed to have come into operation on 1 October 2007 and apply in respect of any disposal on or after that date.

Amendment of section 42 of Act 58 of 1962, as amended by section 21 of Act 88 of 1965, section 17 of Act 95 of 1967, section 29 of Act 89 of 1969, section 19 of Act 52 of 1970, section 23 of Act 88 of 1971, section 18 of Act 90 of 1972, section 22 of Act 65 of 1973, section 32 of Act 85 of 1974, section 22 of Act 69 of 1975, section 18 of Act 103 of 1976, section 19 of Act 113 of 1977, section 20 of Act 91 of 1982, section 28 of Act 94 of 1983, section 31 of Act 129 of 1991, section 27 of Act 141 of 1992, section 23 of Act 21 of 1994, section 25 of Act 21 of 1995, section 44 of Act 60 of 2001, section 34 of Act 74 of 2002, section 50 of Act 45 of 2003, section 33 of Act 32 of 2004, section 38 of Act 31 of 2005, section 29 of Act 20 of 2006, section 34 of Act 8 of 2007 and section 53 of Act 35 of 2007

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

- (a) by the substitution for the heading of the following heading:

“[Company formations] Asset-for-share transactions”;
- (b) by the substitution in subsection (1) for subparagraph (bb) of paragraph (a) of the definition of “asset-for-share transaction” of the following subparagraph:

“(bb) is a natural person who will be engaged on a full-time basis in the business of that company, or a controlled group company in relation to that company, of rendering **[any] a** service;”;

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- (c) by the substitution in subsection (1) for the definition of “equity share” of the following definition:

“ ‘**equity share**’ means an equity share as **[defined]** contemplated in section 44; and”;

- (d) by the substitution in subsection (1) for the definition of “qualifying interest” of the following definition:

“ ‘**qualifying interest**’ of a person means—

(a) an equity share held by that person in a company which is a listed company or will become a listed company within 12 months after the transaction as a result of which that person holds that share;

(b) an equity share held by that person in a company which is a company contemplated in paragraph (e)(i) of the definition of ‘company’ in section 1 or will become such a company within 12 months after the transaction as a result of which that person holds that share;

(c) equity shares held by that person in a company that constitute at least 20 per cent of the equity shares and voting rights of a company; or

(d) an equity share held by that person in a company which forms part of the same group of companies as that person.”;

- (e) by the substitution in subsection (2) for paragraph (bA) of the following paragraph:

“(bA) that company must, where that company is a listed company and the asset was acquired by that company from any person who does not hold more than **[25]** 20 per cent of the equity share capital of that company after the asset-for-share transaction, be deemed to have acquired the asset at a cost equal to the market value of the asset; and”;

- (f) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:

“Where a person disposed of any asset in terms of an asset-for-share transaction and that person ceases to hold a qualifying interest in that company, as contemplated in **[paragraph (b)]** paragraphs (c) and (d) of the definition of ‘qualifying interest’, within a period of 18 months after the date of the disposal of that asset (whether or not by way of the disposal of **[any]** shares in that company), or ceases within that period to be engaged

on a full-time basis in the business of the company, or controlled group company in relation to that company, of rendering the service contemplated in subsection (1)(a)(ii)(bb), that person **[must]** is for purposes of subsection (5), section 22 or the Eighth Schedule **[be]** deemed to have—”.

(2) Subsection (1) is deemed to have come into operation on 1 January 2007 and applies in respect of a transaction entered into on or after that date.

Amendment of section 44 of Act 58 of 1962, as inserted by section 44 of Act 60 of 2001, amended by section 34 of Act 74 of 2002, section 52 of Act 45 of 2003, section 40 of Act 31 of 2005, section 34 of Act 8 of 2007 and section 55 of Act 35 of 2007

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

(a) by the substitution in subsection (1) for the definition of “qualifying interest” of the following definition:

“‘qualifying interest’ of a person means—

(a) an equity share held by that person in a company which is a listed company or will become a listed company within 12 months after the transaction as a result of which that person holds that share;

(b) an equity share held by that person in a company which is a company contemplated in paragraph (e)(i) of the definition of ‘company’ in section 1 or will become such a company within 12 months after the transaction as a result of which that person holds that share; or

(c) equity shares held by that person in a company that constitute at least 20 per cent of the equity shares and voting rights of a company.”; and

(b) by the substitution in subsection (14) for paragraph (b) of the following paragraphs:

“(b) the resultant company is a company contemplated in paragraph (c)[,] or (d) [or (e)(i)] of the definition of ‘company’;

(bA) the resultant company is a company contemplated in paragraph (e)(i) of the definition of ‘company’ and the amalgamated company is not a company contemplated in that paragraph.”.

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(2) Subsection (1) is deemed to have come into operation on 1 January 2007 and applies in respect of a transaction entered into on or after that date.

Amendment of section 45 of Act 58 of 1962, as amended by section 24 of Act 55 of 1966, section 18 of Act 95 of 1967, section 25 of Act 21 of 1995, section 44 of Act 60 of 2001, section 34 of Act 74 of 2002, section 53 of Act 45 of 2003, section 35 of Act 32 of 2004, section 41 of Act 31 of 2005, section 35 of Act 8 of 2007 and section 56 of Act 35 of 2007

26. (1) Section 45 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the definition of “intra-group transaction” of the following paragraph:

“(a) in terms of which any asset is disposed of by one company (hereinafter referred to as the “transferor company”) to another company [**which is a resident**] (hereinafter referred to as the “transferee company”) for no consideration, or in exchange for a debt instrument issued by the transferee company, and both companies form part of the same group of companies as at the end of the day of that transaction;”;

(b) by the insertion after subsection (3) of the following subsection:

“(3A) If a transferor company disposes of an asset to a transferee company in terms of an intra-group transaction in exchange for the issue of a debt instrument, the transferor company is deemed to have acquired the debt instrument for a cost equal to the lesser of—

(a) the market value of the asset at the time of the disposal; or

(b) (i) if the asset disposed of is a capital asset, any expenditure in respect of the asset incurred by the transferor company that is allowable in terms of paragraph 20 of the Eighth Schedule and to have incurred that cost at the date of incurral by the transferor company of the expenditure; or

(ii) if the asset is so disposed of as trading stock, the amount taken into account in respect of the asset in terms of section 11(a) or 22(1) or (2).

which cost must, if the debt instrument is acquired as—

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- (aa) a capital asset, be treated as expenditure actually incurred and paid by the transferor company in respect of the debt instrument for purposes of paragraph 20 of the Eighth Schedule; and
- (bb) trading stock, be treated as the amount taken into account by the transferor company in respect of the debt instrument for purposes of section 11(a) or 22(1) or (2).”; and
- (c) by the insertion after subsection (4) of the following subsection:
- “(4A) Subsection (4) does not apply in respect of a company which ceases to form part of a group of companies by reason of the definition of ‘group of companies’ coming into operation, unless the company ceases to form part of a group of companies on or after 20 February 2008 for any other reason.”.
- (2) Subsection (1)(c) comes into operation on 1 January 2009.

Amendment of section 46 of Act 58 of 1962, as amended by section 25 of Act 21 of 1995, section 44 of Act 60 of 2001, section 34 of Act 74 of 2002, section 54 of Act 45 of 2003, section 36 of Act 32 of 2004, section 42 of Act 31 of 2005, section 36 of Act 8 of 2007 and section 57 of Act 35 of 2007

27. (1) Section 46 of the Income Tax Act, 1962, is hereby amended by the deletion in subsection (1) of the definition of “equity share”.

(2) Subsection (1) is deemed to have come into operation on 1 January 2008 and applies in respect of a transaction entered into on or after that date.

Amendment of section 47 of Act 58 of 1962, as amended by section 25 of Act 21 of 1995, section 34 of Act 74 of 2002, section 55 of Act 45 of 2003, section 37 of Act 32 of 2004, section 43 of Act 31 of 2005, section 31 of Act 20 of 2006 and section 37 of Act 8 of 2007

28. Section 47 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for subsection (5) of the following subsection:
- “(5) Where—

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- (a) a holding company disposes of any equity share in a liquidating company as a result of the liquidation, winding up or deregistration of that liquidating company; or
- (b) in anticipation of or in the course of the liquidation, winding up or deregistration of a liquidating company, a capital distribution of cash or an asset *in specie* by that company is received by or accrues to a holding company,
- the holding company must disregard that disposal or distribution for purposes of determining its taxable income, assessed loss, aggregate capital gain or aggregate capital loss.”; and
- (b) by the substitution in subsection (6)(c) for subparagraph (i) of the following subparagraph:
- “(i) has not, within a period of **[six] 18** months after the date of the liquidation distribution, or such further period as the Commissioner may allow, taken the steps contemplated in section 41(4) to liquidate, wind up or deregister; or”.

Amendment of section 64B of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967, amended by section 35 of Act 89 of 1969, section 20 of Act 52 of 1970, section 19 of Act 90 of 1972, section 41 of Act 85 of 1974, section 33 of Act 94 of 1983, section 7 of Act 108 of 1986, section 32 of Act 90 of 1988, section 34 of Act 113 of 1993, section 34 of Act 113 of 1993, section 12 of Act 140 of 1993, section 24 of Act 21 of 1994, section 29 of Act 21 of 1995, section 21 of Act 36 of 1996, section 13 of Act 46 of 1996, section 25 of Act 28 of 1997, section 35 of Act 53 of 1999, section 39 of Act 30 of 2000, section 42 of Act 59 of 2000, section 18 of Act 5 of 2001, section 48 of Act 60 of 2001, section 36 of Act 74 of 2002, section 58 of Act 45 of 2003, section 40 of Act 32 of 2004, section 47 of Act 31 of 2005, section 32 of Act 20 of 2006, section 39 of Act 8 of 2007 and section 85 of Act 35 of 2007

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

- (a) by the substitution for the proviso to subsection (5)(f) of the following proviso:
- “: Provided that this exemption shall not apply to the extent to which that dividend consists of any shares in that shareholder: Provided further that the

provisions of this paragraph do not apply in respect of a dividend declared by a controlling group company to a controlled group company”;

- (b) by the deletion in subsection (5) of paragraph (g);
- (c) by the deletion in subsection (5)(j) of the word “and” at the end of the paragraph; and
- (d) by the deletion of subsections (15), (16) and (17).

(2) Paragraphs (b), (c) and (d) of subsection (1) come into operation on 1 January 2010 and apply in respect of a dividend declared on or after that date.

Amendment of section 64C of Act 58 of 1962, as added by section 20 of Act 95 of 1967, amended by section 15 of Act 76 of 1968, section 36 of Act 89 of 1969, section 21 of Act 52 of 1970, section 26 of Act 88 of 1971, section 20 of Act 90 of 1972, section 42 of Act 85 of 1974, section 22 of Act 113 of 1977, section 14 of Act 104 of 1979, section 22 of Act 104 of 1980, section 24 of Act 96 of 1981, section 21 of Act 91 of 1982, section 34 of Act 94 of 1983, section 29 of Act 121 of 1984, section 18 of Act 65 of 1986, section 8 of Act 108 of 1986, section 22 of Act 85 of 1987, section 33 of Act 90 of 1988, section 34 of Act 113 of 1993, section 13 of Act 140 of 1993, section 25 of Act 21 of 1994, section 30 of Act 21 of 1995, section 22 of Act 36 of 1996, section 40 of Act 30 of 1998, section 36 of Act 53 of 1999, section 40 of Act 30 of 2000, section 43 of Act 59 of 2000, section 37 of Act 74 of 2002, section 38 of Act 12 of 2003, section 59 of Act 45 of 2003, section 41 of Act 32 of 2004, section 48 of Act 31 of 2005 and section 60 of Act 35 of 2007

30. (1) Section 64C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4) for paragraph (k) of the following paragraph:

“(k) to any amount contemplated in subsection (2)(a), (b), (c), (d) or (g) distributed, transferred, released, relieved, paid, settled, used, applied, granted or made available for the benefit of—

- (i) a shareholder forming part of the same group of companies as the company that is deemed to have declared the dividend; or
- (ii) a connected person in relation to a shareholder if the connected person and the shareholder form part of the same group of

companies as the company that is deemed to have declared the dividend,

and the deemed dividend is taken into account in the determination of the profits of the shareholder or connected person, as the case may be, to the extent that the company which is deemed to have declared the dividend has reduced its profits as a result of the dividend; and”.

(2) Subsection (1) is deemed to have come into operation on 1 October 2007 and applies in respect of an amount distributed, transferred, released, relieved, paid, settled, used, applied, granted or made available on or after that date.

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, 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 and section 61 of Act 35 of 2007

31. Paragraph 1 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in the definition of “formula B” for the words preceding paragraph (a) of the following words:

“**formula B**’, in relation to a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund means the formula—

$$Z = C + E - D$$

in which formula—”;

(b) by the substitution in the definition of “formula B” for the proviso in paragraph (d) of the following proviso:

“: Provided that for the purposes of this definition the surrender value of any policy of insurance ceded or otherwise made over to the taxpayer by any

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pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund and ceded or otherwise made over by the taxpayer to any other such fund, or any amount paid by the taxpayer into the latter fund in lieu of or as representing such surrender value or a portion thereof, shall be deemed to be an amount paid into the latter fund by the former fund for the benefit of the taxpayer”;

- (c) by the substitution for the definition of “lump sum benefit” of the following definition:

“ **‘lump sum benefit’** includes any amount determined **[by]** in respect of the commutation of an annuity or portion of an annuity and any fixed or ascertainable amount (other than an annuity) payable by or provided in consequence of membership or past membership of **[any fund referred to in paragraph (e) of the definition of ‘gross income’ in section one of this Act]** a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund whether in one amount or in instalments;” and

- (d) by the substitution for the definition of “retire” of the following definition:

“ **‘retire’**, in relation to a member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, means to become entitled to an annuity or a retirement fund lump sum benefit as contemplated in the definition of ‘retirement date’;”.

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 and section 62 of Act 35 of 2007

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

- (a) by the addition at the end of subparagraph (a) of the word “and”; and
(b) by the substitution for subparagraphs (b) and (c) of the following subparagraph:

“(b) the aggregate of—

- (i) the amounts 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), which aggregate amount must

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be deemed to be a retirement fund lump sum withdrawal benefit received by or accrued to the person on the date of the deduction: Provided that so much of any tax payable as is due to the inclusion in the income of such person of any amount contemplated in this paragraph pursuant to any order contemplated in section 7(8) of the Divorce Act, 1979 (Act No. 70 of 1979), may, to the extent that the tax is attributable to an amount contemplated in section 37D(1)(d)(i) of the Pension Funds Act, 1956 (Act No. 24 of 1956), be recovered by such person from the person to whom or in whose favour the amount is paid or payable;

(ii) the aggregate of any other amounts received by or accrued to such person during that year by way of lump sum benefits 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 of this Schedule.”.

(2) Subsection (1) is deemed to have come into operation on 13 September 2007 and applies in respect of a lump sum benefit accrued 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, amended by section 64 of Act 60 of 2001, section 45 of Act 32 of 2004 and section 63 of Act 35 of 2007

33. 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 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”.

Amendment of paragraph 2C of Second Schedule to Act 58 of 1962, as inserted by section 49 of Act 8 of 2007

34. The Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph 2C of the following paragraph:

“2C. Any lump sum benefit, or part thereof, received or accrued to a person subsequent to the **[relevant]** person’s retirement or death, or withdrawal or resignation from any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund or the winding up of any such fund, and in consequence of or following upon an event contemplated by the rules of the pension fund, provident fund or retirement annuity fund or **[in consequence of]** the approval of a scheme in terms of section 15B of the Pensions Funds Act, 1956 (Act No. 24 of 1956), or regulation 5.3(1)(b) of the Regulations under the Long-Term Insurance Act, 1998 (Act No. 52 of 1998), shall not **[be included in]** constitute gross income **[pursuant to paragraph (e) of the definition of ‘gross income’ in section 1]** of that person.”.

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 and section 50 of Act 8 of 2007

35. Paragraph 3 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:

“Any lump sum benefit which becomes recoverable in consequence of or following upon the death of a member or past member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund shall be deemed to be a lump sum benefit which accrued to such member or past member immediately prior to his or her death”.

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 and section 36 of Act 21 of 1995

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36. Paragraph 4 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

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

“(1) If in terms of the rules of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund any lump sum benefit arising out of a member’s withdrawal or resignation is payable at a fixed or ascertainable future date, such benefit shall be deemed to have accrued to such member on that date or on the date of his or her death, whichever is earlier, and shall be assessed to tax in respect of the year of assessment during which such benefit is deemed to accrue as though it were a lump sum benefit derived by him or her upon his or her withdrawal or resignation from the fund or upon his or her retirement or immediately prior to his or her death, as the case may be.”;

(b) by the substitution in subparagraph (2) for the words preceding the proviso of the following words:

“If upon a member’s withdrawal or resignation from or the winding up of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund on or after the fifteenth day of March, 1961, a policy of insurance is ceded or otherwise made over to or in favour of such member before the date of promulgation of the Income Tax Act, 1964, any lump sum due in respect of such policy upon its maturity or surrender before such date shall be deemed to be a lump sum benefit accruing to such member from a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, as the case may be, on the date of such maturity or surrender, or, if such member dies before such last-mentioned date, on the date of his or her death, and shall be assessed to tax in respect of the year of assessment during which such benefit is deemed to accrue as though it were a lump sum benefit derived by him or her upon his or her withdrawal or resignation from the fund or upon his or her retirement or immediately prior to his or her death, as the case may be”; and

(c) by the substitution for subparagraph (2)*bis* of the following subparagraph:

“(2)*bis* If a policy of insurance is ceded or otherwise made over to or in favour of a member of a pension fund, pension preservation fund, provident

fund, provident preservation fund or retirement annuity fund by the fund in question on or after the date of commencement of the Income Tax Act, 1964, the surrender value of such policy shall, provided such member retired or ceased to be a member of such fund on or after the fifteenth day of March, 1961, be deemed for the purposes of this Schedule to be a lump sum benefit accruing to such member from such fund on the date of such cession or making over.”.

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

37. Paragraph 6 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

(a) 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 of paragraph 2(b) is the sum of the following amounts—

(a) so much of the lump sum benefit as is derived by the taxpayer 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 into any other retirement annuity fund;

(b) so much of the excess of the aggregate value of the lump sum benefits so derived by the taxpayer from all the funds over the sum of the amounts

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allowed to be deducted by the taxpayer under item (a) as does not exceed R1 800”;

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

“in respect of any lump sum benefits so derived by the taxpayer from any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund the sum of the deductions under this paragraph shall not be less than the lesser of either—”; and

- (c) by the substitution in the proviso for item (A) of paragraph (i)(bb) of the following item:

“(A) the taxpayer’s own contributions to such fund, including so much of any amounts paid into such fund for his or her benefit by any other pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as represented his or her own contributions to such other fund and any amount so transferred as a result of an election made in terms of section 37D(1)(e)(iii) of the Pension Funds Act, 1956 (Act No. 24 of 1956); and”.

Amendment of paragraph 11B of Fourth Schedule

38. Paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (4) of the following subparagraph:

“(4) Where—

(a) the taxpayer is entitled to—

- (i) a deduction under section 11(k) or (n) of this Act in respect of any contribution to a pension fund or retirement annuity fund or a deduction in respect of any premium paid in terms of an insurance policy contemplated in paragraph 2(4), which has not been taken into account by his or her employer in the determination of the balance contemplated in the definition of ‘net remuneration’ in subparagraph (1); or
- (ii) a deduction under section 18 of this Act.

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and the taxpayer's taxable income derived otherwise than from net remuneration cannot be reduced by the full amount of any such deduction; or

(b) the taxpayer's net remuneration for the year of assessment is less than the annual equivalent.

the Commissioner shall on application made by the taxpayer amend—

(A) the determination of the amount of any net remuneration derived by the taxpayer; and

(B) the amount of Standard Income Tax on Employees payable by the taxpayer in respect of such net remuneration.”.

Amendment of paragraph 19 of Fourth Schedule to Act 58 of 1962, as amended by section 28 of Act 88 of 1965, section 46 of Act 89 of 1969, section 43 of Act 88 of 1971, section 50 of Act 85 of 1974, section 49 of Act 94 of 1983, section 52 of Act 101 of 1990, section 44 of Act 21 of 1995, section 37 of Act 5 of 2001, section 87 of Act 45 of 2003 and section 54 of Act 31 of 2005

39. (1) Paragraph 19 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the deletion in subparagraph (1)(d)(i) of the word “and” after item (aa);
- (b) by the substitution in subparagraph (1)(d)(i) for the word “or” at the end of item (bb) of the word “and”; and
- (c) by the addition to subparagraph (1)(d)(i) of the following subsubitem:
“(cc) any amount contemplated in paragraph (e) of the definition of ‘gross income’; or”.

(2) Subsection (1) is deemed to have come into operation on 1 October 2007.

Amendment of paragraph 9 of Seventh Schedule to Act 58 of 1962, as amended by section 31 of Act 96 of 1985, section 34 of Act 65 of 1986, section 29 of Act 85 of 1987, section 59 of Act 101 of 1990, section 53 of Act 113 of 1993, section 33 of Act 21 of 1994, section 51 of Act 28 of 1997, section 55 of Act 30 of 1998, section 55 of Act 30 of 2000, section 57 of Act 31 of 2005, section 29 of Act 9 of 2006 and section 68 of Act 35 of 2007

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40. (1) Paragraph 9 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1) for the words preceding paragraph (a) of the definition of “remuneration” of the following words:

“ **‘remuneration’**, in relation to any employee, means the aggregate of the amounts of remuneration (as determined in accordance with the definition of ‘remuneration’ in paragraph 1 of the Fourth Schedule but excluding any amounts referred to in paragraph ~~[(c)]~~ (cA) and including any amounts referred to in paragraph (vii) of that definition) which have been derived by him from his employer and any companies and funds which are associated institutions in relation to the employer, but excluding—”; and

(b) by the substitution for subparagraph (7A) of the following subparagraphs:

“(7A) Subject to subparagraph (7B), no rental value shall be placed under this paragraph on any accommodation provided by an employer to an employee away from such employee’s usual place of residence outside the Republic—

(a) for a period not exceeding 2 years from the date of arrival of that employee in the Republic, for the purposes of performing the duties of his or her employment; or

(b) if that accommodation is provided to that employee during the year of assessment and that employee is physically present within the Republic for a period of less than 90 days in that year.

(7B) The provisions of subparagraph (7A) do not apply—

(i) if that employee was present in the Republic for a period exceeding 30 days during the period of 12 months immediately preceding the date of arrival referred to in subparagraph (7A); or

(ii) to the extent the cash equivalent of the value of the taxable benefit derived from the occupation of the residential accommodation exceeds an amount equal to the lesser of—

(A) 25 per cent of the employee’s remuneration for the period during which subparagraph (7A) applies; or

(B) an amount equal to R25 000 multiplied by the number of months during which subparagraph (7A) applies.”.

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

(3) Subsection (1)(b) comes into operation on 1 January 2009 and applies in respect of a year of assessment ending on or after that date.

Amendment of paragraph 1 of Eighth Schedule to Act 58 of 1962, as amended by section 65 of Act 60 of 2001, section 63 of Act 74 of 2002, section 90 of Act 45 of 2003, section 25 of Act 16 of 2004, section 51 of Act 32 of 2004 and section 63 of Act 31 of 2005

41. Paragraph 1 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the deletion of the definition of “**aggregate capital gain**”;
- (b) by the deletion of the definition of “**aggregate capital loss**”; and
- (c) by the deletion of the definition of “**taxable capital gain**”.

Amendment of paragraph 12 of Eighth Schedule to Act 58 of 1962, as amended by section 72 of Act 60 of 2001, section 68 of Act 74 of 2002, section 93 of Act 45 of 2003, section 56 of Act 32 of 2004, section 67 of Act 31 of 2005 and section 71 of Act 35 of 2007

42. Paragraph 12 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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

“(1) Where an event described in subparagraph (2) occurs, a person **[will]** must, subject to paragraph 24, be treated for the purposes of this Schedule as having disposed of an asset described in that subparagraph for an amount received or accrued equal to the market value of the asset at the time of the event and to have immediately reacquired the asset at an expenditure equal to that market value, which expenditure must be treated as an amount of expenditure actually incurred and paid for the purposes of paragraph 20(1)(a).”;
- (b) by the substitution in subparagraph (2)(a) for the words preceding subitem (i) of the following words:

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- “a person who commences or ceases to be a resident or a controlled foreign company, in respect of all assets of that person other than—”;
- (c) by the deletion of subparagraph (4);
- (d) by the substitution in subparagraph (5)(a)(bb) for the words after item (B) of the following words:
“and these transactions were part of a scheme to avoid any tax otherwise imposed by virtue of this **[subparagraph] Act**; or”;
- (e) by the substitution in subparagraph (5)(a)(cc) for item (B) of the following item:
“(B) these transactions are part of a scheme to avoid any tax otherwise imposed by virtue of this **[subparagraph] Act**.”; and
- (f) by the substitution in subparagraph (5)(c) for subitem (i) of the following subitem:
“(i) has not within **[six] 18** months of that reduction or discharge, or such further period as the Commissioner may allow, taken such steps as contemplated in section 41(4) to liquidate, wind up, deregister or finally terminate its corporate existence;”.

Amendment of paragraph 20 of Eighth Schedule to Act 58 of 1962, as amended by section 26 of Act 19 of 2001, section 75 of Act 60 of 2001, section 71 of Act 74 of 2002, section 95 of Act 45 of 2003, section 58 of Act 32 of 2004, section 68 of Act 31 of 2005, section 45 of Act 20 of 2006, section 60 of Act 8 of 2007 and section 73 of Act 35 of 2007

43. Paragraph 20 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1)(h) for subitem (iii) of the following subitem:

- “(iii)(aa) a right in a controlled foreign company held directly by a resident, an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph **[(10)] 10** of that company and of any other controlled foreign company in which that controlled foreign company and that resident directly or indirectly have an interest, which was included in the income

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of that resident in terms of section 9D during any year of assessment, less the amount of any foreign dividend distributed by that company to that resident during any year of assessment which was exempt from tax in terms of section 10(1)(k)(ii)(cc); or

- (bb) a right in a controlled foreign company held directly by another controlled foreign company, an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph 10) of that **[first mentioned]** first-mentioned controlled foreign company and of any other controlled foreign company in which both the **[first]** first- and **[second mentioned]** second-mentioned controlled foreign companies directly or indirectly have an interest, which **[was]** during any year of assessment would have been included in the income of **[a resident]** that second-mentioned controlled foreign company in terms of section 9D had it been a resident **[in relation to both companies in terms of section 9D]**, less the amount of any foreign dividend distributed by that **[first mentioned]** first-mentioned controlled foreign company to the **[second mentioned]** second-mentioned controlled foreign company if that dividend **[was]** would have been exempt from tax in terms of section 10(1)(k)(ii)(cc) had that second-mentioned controlled foreign company been a resident;".

Amendment of paragraph 42 of Eighth Schedule to Act 58 of 1962, as amended by section 90 of Act 60 of 2001, section 74 of Act 31 of 2005 and section 74 of Act 35 of 2007

44. Paragraph 42 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1)(b) for the words preceding subitem (i) of the following words:

“the person who acquired the financial instrument of the same kind and of the same or equivalent quality must be treated as having acquired that financial instrument **[on the date on which the person who disposed of the financial instrument acquired the financial instrument that was disposed of]** at a cost equal to the total of—”.

Amendment of paragraph 64B of the Eighth Schedule to Act 58 of 1962, as inserted by section 105 of Act 45 of 2003, amended by section 79 of Act of Act 31 of 2005, section 35 of Act 9 of 2006, section 65 of Act 8 of 2007 and section 77 of Act 35 of 2007

45. (1) Paragraph 64B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (2)(a) for the words preceding subparagraph (i) of the following words:

“that person (**[in the case of a company,]** whether alone or together with any other **[company in]** person forming part of the same group of companies as that **[company]** person) immediately before that disposal—”;

(b) by the substitution in subparagraph (2)(a) for subparagraph (i) of the following subparagraph:

“(i) held at least 20 per cent of the equity share capital and voting rights in that foreign company; and”;

(c) by the substitution in subparagraph (2) for item (b) of the following item:

“(b) that interest is disposed of—

- (i) to a person that is not a resident nor a controlled foreign company;
- (ii) in the circumstances contemplated in paragraph 12(2)(a) as a result of a disposal to a person contemplated in subitem (i); or
- (iii) by a person to a controlled foreign company in relation to that person or to any other controlled foreign company that forms part of the same group of companies as that person.”;

(d) by the deletion in subparagraph (3) of items (a) and (b);

(e) by the substitution in subparagraph (3)(c) for subitem (i) of the following subitem:

“(i) disposed of that equity share capital for no consideration or for consideration which does not reflect an arm’s length price, other than a distribution contemplated in subitem (ii) or a disposal contemplated in subparagraph (2)(b)(ii)”;

(f) by the substitution in subparagraph (3) for item (d) of the following item:

“(d) that person, or if that person forms part of a group of companies as defined in section 41, together with any other person forming part of

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that group, ceased in terms of any transaction, operation or scheme of which the disposal of the equity share capital forms part, to hold at least 20 per cent of the participation rights, as contemplated in paragraph (a) of the definition of 'participation rights' in section 9D(1), in that foreign company;"; and

(g) by the substitution in subparagraph (5) for the words preceding the proviso of the following words:

"A person must disregard any capital gain or capital loss determined in respect of any capital distribution contemplated in paragraph 67A, 76, 76A or 77, received by or accrued to that person from a 'foreign company' as defined in section 9D where that person (**[in the case of a company,]** whether alone or together with any other [company in] person forming part of the same group of companies as that person) holds at least 20 per cent of the total equity share capital and voting rights in that company".

(2) Subsection (1)(g) is deemed to have come into operation on 1 October 2007 and applies to a distribution made on or after that date.

Amendment of paragraph 67A of Eighth Schedule to Act 58 of 1962, as inserted by section 105 of Act 60 of 2001, and amended by section 93 of Act 74 of 2002, section 109 of Act 45 of 2003 and section 81 of Act 35 of 2007

46. Paragraph 67A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the heading of the following heading:

"Capital gains and capital losses in respect of interests in collective investment schemes in [property] securities".

Amendment of paragraph 74 of Eighth Schedule to Act 58 of 1962, as amended by section 106 of Act 60 of 2001, section 95 of Act 74 of 2002, section 113 of Act 45 of 2003 and section 83 of Act 35 of 2007

47. (1) Paragraph 74 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the definition of "distribution" of the following definition:

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“distribution’ means any transfer of cash or assets by a company to a shareholder in relation to a share held by that shareholder, including any issue of shares or debt in that company (or any option thereto), regardless of whether that transfer constitutes a dividend, excluding any capitalisation shares awarded to the shareholder as part of the equity share capital of the company;”.

(2) Subsection (1) is deemed to have come into operation on 1 October 2001 and applies in respect of a disposal on or after that date.

Amendment of paragraph 76 of Eighth Schedule to Act 58 of 1962, as amended by section 107 of Act 60 of 2001, section 96 of Act 74 of 2002, section 115 of Act 45 of 2003, section 30 of Act 16 of 2004, section 81 of Act 31 of 2005 and section 84 of Act 35 of 2007

48. (1) Paragraph 76 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the deletion in subparagraph (1) of the word “and” at the end of item (a);
- (b) by the addition in subparagraph (1) of the word “and” at the end of item (b); and
- (c) by the addition in subparagraph (1) after item (b) of the following item:

“(c) on or after 1 October 2007, treat the amount of that cash or the market value of that asset *in specie* as proceeds when that share is partly disposed of in terms of paragraph 76A.”.

(2) Subsection (1) is deemed to have come into operation on 1 October 2007.

Amendment of paragraph 76A of Eighth Schedule to Act 58 of 1962, as inserted by section 85 of Act 35 of 2007

49. (1) Paragraph 76A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for the heading of the following heading:
“**[Disposal and part-disposal]** Part-disposal of shares”;
- (b) by the substitution in subparagraph (1) for item (b) of the following item:

“(b) in any other case, on the date of receipt or accrual of a capital distribution of cash or an asset *in specie* (other than a share distributed in terms of an unbundling transaction contemplated in

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section 46(1)) received by or accrued to that shareholder on or after 1 October 2007.”; and

(c) by the substitution for subparagraph (2) of the following subparagraph:

“(2) If paragraph 76(2) applies and the base cost of those shares is a negative amount **[on 31 December 2010]** at the end of 30 June 2011—

(a) that shareholder must be treated as having a capital gain on 30 June 2011 equal to that negative amount **[on 1 July 2011]**; and

(b) the base cost of those shares **[on 31 December 2010]** at the end of 30 June 2011 must be treated as nil.”.

(2) Subsection (1) is deemed to have come into operation on 1 October 2007.

Amendment of paragraph 80 of Eighth Schedule to Act 58 of 1962, as amended by section 108 of Act 60 of 2001 and section 58 of Act 20 of 2006

50. Paragraph 80 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3)(a) for subitems (i) and (ii) of the following subitems:

“(i) a capital gain of that trust **[determined in any previous year of assessment during which that resident had a contingent right to that capital]**; or

(ii) any amount which would have constituted a capital gain of that trust had that trust been a resident; **[and]** determined in any previous year of assessment during which that resident had a contingent right to that capital; and”.

Amendment of paragraph 4 of Part I of Ninth Schedule to Act 58 of 1962, as amended by section 82 of Act 31 of 2005

51. Part I of the Ninth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in paragraph 4 for subparagraph (d) of the following subparagraph:

“(d) ‘Further education and training’ provided by a **[‘public further education and training institution’ as defined in the Further Education and Training Act, 1998 (Act No. 98 of 1998)]** ‘public college’ or ‘private

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college' as defined in the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006), which is registered in terms of that Act."

Amendment of paragraph 3 of Part II of Ninth Schedule to Act 58 of 1962, as amended by section 129 of Act 45 of 2003 and section 84 of Act 31 of 2005

52. Part II of the Ninth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in paragraph 3 for subparagraph (d) of the following subparagraph:

“(d) ‘Further education and training’ provided by a [**public further education and training institution’ as defined in the Further Education and Training Act, 1998 (Act No. 98 of 1998)] public college’ or ‘private college’ as defined in the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006), which is registered in terms of that Act.”**

Amendment of paragraph 1 of Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006 and amended by section 70 of Act 8 of 2007

53. (1) Paragraph 1 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in the definition of “refining” for subparagraph (a) of the following subparagraph:

“(a) any such activity which constitutes—
(i) the separation of oil and gas condensates;
(ii) the drying of gas; or
(iii) the removal of non-hydrocarbon constituents,
as a process integral to the production of oil and gas from a well and preliminary to the further refining of such separated condensates, oil, gas or dry gas, as the case may be, at another facility; or”.

(2) Subsection (1) is deemed to have come into operation on 2 November 2006 and applies in respect of a year of assessment ending on or after that date.

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 15 of Act 9 of 2005; section 36 of Act 9 of 2006 and section 76 of Act 8 of 2007

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

(2) Subject to section 58(1) of the Customs and Excise Act, 1964, subsection (1) is deemed to have come into operation on 21 February 2008.

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

55. (1) Every amendment to or withdrawal from or insertion in Schedules Nos. 1 to 6, and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56 or 75(15) of that Act during the calendar year ending on 31 December 2007 shall not lapse by virtue of section 48(6), 49, 56(3) or 75(16) of that Act.

(2) The amendment of Parts 1, 2, 3, 5A and 5B of Schedule No. 1, Schedule No. 4, Schedule No. 5 and Schedule No. 6 to the Customs and Excise Act, 1964, made respectively under sections 48 and 75(15) of that Act by Government Notices R....., R....., R....., R..... and R..... of 31 March 2008, in respect of the said Parts 1, 2, 3, 5A and 5B of Schedule No. 1, Schedule No. 4, Schedule No. 5 and Schedule No. 6 shall not lapse by virtue of the provisions of section 48(6) or 75(16) of that Act.

Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, paragraph 1 of Government Notice 2695 of 8 November 1991,

section 12 of Act 136 of 1992, section 1 of Act 61 of 1993, section 22 of Act 97 of 1993, section 9 of Act 20 of 1994, section 18 of Act 37 of 1996, section 23 of Act 27 of 1997, section 34 of Act 34 of 1997, section 81 of Act 53 of 1999, section 76 of Act 30 of 2000, section 64 of Act 59 of 2000, section 65 of Act 19 of 2001, section 148 of Act 60 of 2001, section 114 of Act 74 of 2002, section 47 of Act 12 of 2003, section 164 of Act 45 of 2003, section 43 of Act 16 of 2004, section 92 of Act 32 of 2004, section 8 of Act 10 of 2005, section 101 of Act 31 of 2005, section 40 of Act 9 of 2006, section 77 of Act 20 of 2006, section 81 of Act 8 of 2007 and section 104 of Act 35 of 2007

56. (1) Section 1 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in the definition of “commercial accommodation” for paragraph (a) of the following paragraph:

“(a) lodging or board and lodging, together with domestic goods and services, in any house, flat, apartment, room, hotel, motel, inn, guest house, boarding house, residential establishment, holiday accommodation unit, chalet, tent, caravan, camping site, houseboat, or similar establishment, which is regularly or systematically supplied and where the total annual receipts from the supply thereof exceeds R60 000 in a period of 12 months or is reasonably expected to exceed **[R60 000]** that amount in a period of 12 months, but excluding a dwelling supplied in terms of an agreement for the letting and hiring thereof;”.

(2) Subsection (1) comes into operation on 1 July 2008 and applies in respect of any tax period commencing on or after that date.

Amendment of section 99 of Act 45 of 2002, as amended by section 110 of Act 35 of 2007

57. (1) Section 99 of the Collective Investment Schemes Control Act, 2002, is hereby amended by the substitution for subsection (7) of the following subsection:

“(7) No registration or other fees are payable in respect of any endorsement or entry made in terms of subsection (5), and no **[other]** fees are payable in respect of the issue of a substituting participatory interest or the transfer of assets as a

result of any amalgamation, cession, transfer or take-over in terms of this section.”.

(2) Subsection (1) comes into operation on 1 July 2008.

Amendment of Schedule 1 to Act 20 of 2006

58. (1) Schedule 1 to the Revenue Laws Amendment Act, 2006, is hereby amended—

(a) by the substitution in paragraph 1(1) for the definition of “FIFA Designated Service Provider” of the following definition:

“ **‘FIFA Designated Service Provider’** means with respect to the *Championship*—

(a) the officially appointed sole service provider rendering the ticketing, on-site information technology and accommodation solutions; **[and]**

(b) any officially appointed service provider providing signage; and

(c) the *Host Broadcaster*”;

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

“(2) Any reference in this Schedule to a specific entity, means that entity so specified and includes any affiliated entity—

(a) in which that **[specified]** specific entity holds directly or indirectly at least a 20 per cent interest;

(b) which holds directly or indirectly at least a 20 per cent interest in that specific entity; and

(c) in which the affiliated entity contemplated in item (b) holds directly or indirectly at least a 20 per cent interest,

if the activities or services rendered by the affiliated entity are directly connected to the *Championship*.”;

(c) by the substitution in paragraph 5(1) for item (b) of the following item:

“(b) must comply with the provisions of the Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002), and the Skills Development Levies Act, 1999 (Act No. 9 of 1999), to the extent that those Acts apply in respect of any employees of that entity who are residents of the Republic.”;

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- (d) by the substitution in paragraph 7(2) for item (a) of the following item:
“(a) **[paragraph]** subject to item (e), paragraphs (a), (b) and (c) of the definition of ‘Championship site’ during the Championship duration;”;
- (e) by the addition to paragraph 7(2) of the following item:
“(e) paragraph (c) of the definition of ‘Championship site’, where FIFA and the Commissioner have agreed in terms of that paragraph that it will be an additional area or facility used for an official event, during such period as may be agreed between the parties.”;
- (f) by the addition to paragraph 7 of the following subparagraph:
“(4) The payment of amounts which relate to the Championship between the entities contemplated in paragraph 6 are not subject to the withholding taxes in terms of section 35 or 35A of the Income Tax Act, 1962.”; and
- (g) by the addition to Part III of the following paragraph:
“**Registration of entity as employer for purposes of certain taxes**
8A. (1) An entity contemplated in paragraph 6—
(a) is not required, in terms paragraph 10 of the Fourth Schedule to the Income Tax Act, 1962—
(i) to register with the Commissioner as an employer in terms of that Schedule if the entity only employs persons whose receipts and accruals are excluded from ‘gross income’ as defined in section 1 of the Income Tax Act, 1962; or
(ii) to deduct or withhold any employees’ tax in terms of that Schedule from its employees whose receipts and accruals are excluded from ‘gross income’ as defined in section 1 of the Income Tax Act, 1962; and
(b) must comply with the provisions of the Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002), and the Skills Development Levies Act, 1999 (Act No. 9 of 1999), to the extent that those Acts apply in respect of any employees of that entity who are residents of the Republic.”.
- (2) Subsection (1) is deemed to have come into operation on 1 April 2006 and applies in respect of years of assessment that end on or after 1 January 2007.

Amendment of section 11 of Act 15 of 2007

59. Section 11(1)(b) of the Diamond Export Levy Act, 2007, is hereby amended by the substitution for item (i) of the following item:

“(i) all amounts received or accrued during that assessment period by that producer in respect of all unpolished diamonds delivered to premises within the Republic (other than **[unpolished diamonds]** an amount equal to the value described in subparagraph (ii)); and”.

Amendment of section 14 of Act 15 of 2007

60. The Diamond Export Levy Act, 2007, is hereby amended by the substitution for section 14 of the following section:

“14. (1) For purposes of satisfying the exemption requirements under sections 7, 8 or 9 (as the case may be) in respect of the initial assessment period after the date this Act comes into operation, a producer takes into account all gross sales during—

(a) the entire initial assessment period (in the case of a producer described in section 7, whether or not that producer holds an exemption from section 48A of the Diamonds Act, 1986 (Act No. 56 of 1986), pursuant to section 74 of that Act that covers the entire initial assessment period); and

(b) the six calendar months immediately preceding the initial assessment period,

as described in section 11.

(2) Notwithstanding subsection (1), a producer described in section 7 that at the ending date of its initial assessment period does not hold an exemption from section 48A of the Diamonds Act, 1986 (Act No. 56 of 1986), pursuant to section 74 of that Act that covers the entire initial assessment period is subject to the levy in respect of all of its unpolished diamonds under the cover of a bill of entry for export delivered during that initial assessment period.

(3) An agreement contemplated in section 31(14) of the Diamonds Amendment Act, 2005 (Act No. 29 of 2005), entered into between the Board as defined in section 1 of the Diamonds Act, 1986 (Act No. 56 of 1986), and a producer described under section 7 terminates and is of no further force and effect with effect from the date this Act comes into operation.

(4) For purposes of this section, ‘initial assessment period’ means the first assessment period after the date on which this Act comes into operation.’.

Amendment of section 8 of Act 25 of 2007

61. Section 8 of the Securities Transfer Tax Act, 2007, is hereby amended by the substitution in subsection (1)(a)(vi) for item A of the following item:

“(A) in subparagraphs (i) to (v) regardless of whether or not an election has been made for the **[purposes]** provisions of the relevant section to apply;”.

Amendment of section 52 of Act 35 of 2007

62. (1) Section 52 of the Revenue Laws Amendment Act, 2007, is hereby amended—

(a) by the substitution in subsection (4) for paragraphs (b) and (c) respectively of the following paragraphs:

“(b) Part III of Chapter II of that Act, comes into operation on 1 January 2009;

(c) Part VII of Chapter II of that Act, is deemed to have come into operation on 1 October 2007 and shall apply in respect of any dividend declared on or after that date; and”;

(b) by the substitution for subsection (5) of the following subsection:

“(5) Subsection (1)(d) is deemed to have come into operation on **[30 October]** 1 January 2007 and shall apply in respect of any transaction entered into on or after that date.”.

(2) Subsection (1) is deemed to have come into operation on 8 January 2008.

Amendment of section 54 of Act 35 of 2007

63. (1) The Revenue Laws Amendment Act, 2007, is hereby amended by the addition to section 54 of the following subsection:

“(3) Notwithstanding subsection (2), any transaction entered into during the period beginning on 1 January 2007 and ending on 7 January 2008 that would have been a share-for-share transaction as defined in section 43 of the Income

Tax Act, 1962, had that section not been repealed by this section, is deemed to be an asset-for-share transaction as defined in section 42 of that Act.”.

(2) Subsection (1) is deemed to have come into operation on 1 January 2007.

Short title and commencement

64. (1) This Act is called the Taxation Laws Amendment Act, 2008.

(2) Except insofar as otherwise provided for in this Act or the context indicates otherwise, the amendments effected to the Income Tax Act, 1962, by this Act shall for the purposes of assessments in respect of normal tax under the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2009.

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Appendix I

(Section 1)

PART I

RATES OF NORMAL TAX AND REBATES

1. The rate of tax referred to in section 1(1) of this Act to be levied in respect of the taxable income (excluding any retirement fund lump sum benefit) of any natural person or special trust (other than a public benefit organisation or recreational club referred to in paragraph 5) in respect of any year of assessment ending on 28 February 2009 is set out in the table below:

Taxable Income	Rate of Tax
Not exceeding R122 000	18 per cent of the taxable income
Exceeding R122 000 but not exceeding R195 000	R21 960 plus 25 per cent of the amount by which the taxable income exceeds R122 000
Exceeding R195 000 but not exceeding R270 000	R40 210 plus 30 per cent of the amount by which the taxable income exceeds R195 000
Exceeding R270 000 but not exceeding R380 000	R62 710 plus 35 per cent of the amount by which the taxable income exceeds R270 000
Exceeding R380 000 but not exceeding R490 000	R101 210 plus 38 per cent of the amount by which the taxable income exceeds R380 000
Exceeds R490 000	R143 010 plus 40 per cent of the amount by which the taxable income exceeds R490 000

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Description	Reference to the Income Tax Act, 1962	Amount
Primary rebate	Section 6(2)(a)	R8 280
Secondary rebate	Section 6(2)(b)	R5 040

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3. The rate of tax referred to in section 1(1) of this Act to be levied in respect of the taxable income of any trust (other than a special trust or a public benefit organisation or recreational club referred to in paragraph 5) in respect of any year of assessment ending on 28 February 2009 is 40 per cent.
4. The rate of tax referred to in section 1(1) of this Act to be levied in respect of the taxable income of companies (other than a public benefit organisation or recreational club referred to in paragraph 5 or a small business corporation referred to in paragraph 6) in respect of any year of assessment ending during the twelve month period ending on 31 March 2009, is, subject to the provisions of paragraph 10, as follows:
- (a) 28 per cent of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f) and (g)) or, in the case of such a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 35 per cent;
- (b) in respect of the taxable income of any employment company as defined in section 12E of the Income Tax Act, 1962, 33 per cent;
- (c) 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:
- $$y = 34 - \frac{170}{x}$$
- 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:
- $$y = 43 - \frac{215}{x}$$

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- in which formulae y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion, but before the set-off of any assessed loss or deduction which is not attributable to the mining for gold from the said mine) bears to the income so derived (with the said exclusion);
- (d) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of “gross income” in section 1 of the Income Tax Act, 1962, a rate equal to the average rate of normal tax or 28 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from mining for gold on any gold mine for the period from which that company commenced its gold mining operations on that gold mine to the end of the period assessed, by the number of Rands contained in the said aggregate taxable income;
- (e) on each rand of the taxable income derived by any company from carrying on long-term insurance business in respect of—
- (i) its individual policyholder fund, 30 per cent; and
 - (ii) its company policyholder fund and corporate fund, 28 per cent;
- (f) on each rand of the taxable income (excluding taxable income referred to in paragraphs (b), (c), (d), (e), and (g)) derived by a company which is not a resident, 33 per cent;
- (g) on each rand 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:

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

5. The rate of tax referred to in section 1(1) of this Act to be levied in respect of each rand 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 (Act No. 58 of 1962), or any recreational club that has been approved by the Commissioner in terms of section 30A(2) of that Act is, in the case of an organisation or club that is a company, in respect of any year of assessment ending during the twelve month period ending on 31 March 2009 or, in the case of an organisation or club that constitutes a person other than a company, in respect of any year of assessment ending during the twelve month period ending on 29 February 2008, 28 cents.
6. The rate of tax referred to in section 1(1) of this Act in respect of the taxable income of any company which qualifies as a small business corporation as defined in section 12E of the Income Tax Act, 1962, in respect of any year of assessment ending during the twelve month period ending on 31 March 2009 is, subject to the provisions of paragraph 10, set out in the table below:

Taxable Income	Rate of Tax
Not exceeding R46 000	0 per cent of taxable income
Exceeding R46 000 but not exceeding R300 000	10 per cent of the amount by which the taxable income exceeds R46 000
Exceeding R300 000	R25 400 plus 28 per cent of the amount by which the taxable income exceeds R300 000

7. Subject to subparagraph (b), the rate of tax referred to in section 1(1) of this Act to be levied on a person in respect of any year of assessment ending on 28 February 2009 in respect of taxable income comprising of any retirement fund lump sum benefit accrued to that person in that year or any previous year is set out in subparagraph (a) below:

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(a)

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

(b) The rate of tax set out in subparagraph (a) must be reduced by the rate of tax levied on the person in respect of taxable income comprising of any retirement fund lump sum benefit in respect of any previous year of assessment.

8.

Description	Reference to the Income Tax Act, 1962	Amount
Tax free portion of lump sum benefit	Paragraph (b) of the definition of “ formula B ” in paragraph 1 of the Second Schedule	R300 000

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

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

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Part II
INCOME TAX MONETARY THRESHOLDS SUBJECT TO PERIODIC
LEGISLATIVE CHANGE

11. General savings thresholds

Description <i>(The contents of this column are solely for convenience and are of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount
Broad-based employee share schemes: Employees can receive tax-exempt shares if the shares are part of a broad-based employee share plan. Companies can also deduct shares issued under the plan.		
Maximum exemption for shares received by employees	The definition of “ qualifying equity share ” in section 8B(3)	R9 000
Maximum deduction for shares issued by the employer	The proviso to section 11(A)	R3 000
Exemption for interest and certain dividends:		
Exemption for domestic interest and otherwise taxable domestic collective scheme dividends in respect of persons younger than 65 years	Section 10(1)(j)(xv)(bb)(B)	R19 000
Exemption for passive portfolio savings in respect of persons 65 years or older	Section 10(1)(j)(xv)(bb)(A)	R27 500
Maximum application of the above exemption for foreign interest and otherwise taxable dividends	Section 10(1)(j)(xv)(aa)	R3 200
Annual donations tax exemption:		
Exemption for donations made by entities	Section 56(2)(a) and the proviso thereto	R10 000
Exemption for donations made by individuals	Section 56(2)(b)	R100 000
Capital gains exclusions:		
Annual exclusion for individuals and special trusts	Paragraph 5(1) of Eighth Schedule	R16 000
Exclusion for the disposal of a primary residence	Paragraph 45(1) of Eighth Schedule	R1,5 million
Maximum market value of all assets allowed within the small business definition on disposal when person over 55	Definition of “ small business ” 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
Exclusion on death	Paragraph 5(2) of Eighth Schedule	R120 000

12. Retirement savings thresholds

Description <i>(The contents of this column are solely for convenience and are of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount
Deductible retirement fund contributions: Pension fund and retirement annuity fund members may deduct their contributions subject to certain percentage or monetary ceilings (the latter of which are provided below).		
Pension fund monetary ceiling for contributions	The proviso to section 11(k)(i)	R1 750
Pension fund monetary ceiling for arrears	Paragraph (aa) of the proviso to section	R1 800

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contributions	11(k)(ii)	
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 contributions	Section 11(n)(bb)	R1 800
Permissible lump sum withdrawals upon retirement: Pension fund and retirement annuity fund members may withdraw lump sums upon retirement.		
Pension fund monetary amount for permissible lump sum withdrawals	Paragraph (ii)(dd) of the proviso to paragraph (c) of the definition of "pension fund" in section 1	R50 000
Retirement annuity fund monetary amount for permissible lump sum withdrawals	Paragraph (b)(ii) of the proviso to the definition of "retirement annuity fund" in section 1	R50 000

13. Deductible business expenses for individuals

Description <i>(The contents of this column are solely for convenience and are of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount
Car allowance: Individuals receive an annual vehicle allowance to defray business travel expenses, including deemed depreciation on the vehicle.		
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

14. Employment-related fringe benefits

Description <i>(The contents of this column are solely for convenience and are of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount
Exempt scholarships and bursaries: Employers can provide exempt scholarships and bursaries to employees and their relatives, subject to annual monetary ceilings.		
Annual ceiling for employees	Paragraph (ii)(aa) of the proviso to section 10(1)(g)	R100 000
Annual ceiling for employee relatives	Paragraph (ii)(bb) of the proviso to section 10(1)(g)	R10 000
Exempt termination benefits: Employees of age 55 or older receive exemption for payments related to employment termination subject to a monetary ceiling.	Section 10(1)(x)	R30 000
Medical scheme contributions: Medical scheme contributions are tax deductible if the individual pays (and tax-free if the employer pays) subject to monthly ceilings.		
Monthly ceiling for schemes with one beneficiary	Section 18(2)(c)(i)(aa) and paragraph 12A(1)(a) of Seventh Schedule	R570
Monthly ceiling for schemes with two beneficiaries	Section 18(2)(c)(i)(bb) and paragraph 12A(1)(b) of Seventh Schedule	R1 140
Additional monthly ceiling for each additional beneficiary	Section 18(2)(c)(i)(cc) and paragraph 12A(1)(c) of Seventh Schedule	R345
Awards for bravery and long service: The deemed values of bravery and long service awards are reduced by the monetary amount indicated.	Paragraphs (a) and (b) of the further proviso to paragraph 5(2) of Seventh Schedule	R5 000

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Employee accommodation: Employee accommodation is taxed by means of a formula if the employer owns the accommodation, but no tax is payable if the employee earns less than the amount indicated.	Paragraph 9(3)(a)(ii) of Seventh Schedule	R46 000
Accommodation for expatriate employees: The value of accommodation provided to expatriate employees is taxable to the extent that it exceeds the amount indicated	Paragraph 9(7B)(ii)(B) of Seventh Schedule	R25 000
Exemption for de minimis employee loans: Employee loans below the amount indicated are not deemed to have any value as a fringe benefit	Paragraph 11(4)(a) of Seventh Schedule	R3 000
Employer deductions for employee housing: Expenses incurred for providing employee housing is limited to the ceiling indicated (per dwelling).	Paragraph (ii) of the proviso to section 11(f)	R15 000
Additional employer deductions for learnerships: Employers receive additional deductions for learnerships depending on the circumstances.		
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)(ii)	R30 000
Monetary ceiling of additional deduction for the employer when entering into a learnership agreement with an existing disabled employee	Section 12H(2A)(a)(i)(bb)	R40 000
Monetary ceiling of additional deduction for the employer when entering into a learnership agreement with a new disabled employee	Section 12H(2A)(a)(ii)(bb)	R50 000
Monetary ceiling of additional deduction for the employer in the case of completing learnership agreements with disabled employees	Section 12H(2A)(b)(ii)	R50 000

15. Depreciation

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

16. Miscellaneous

Description <i>(The contents of this column are solely</i>	Reference to the Income Tax Act, 1962	Monetary amount
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<i>for convenience and are of no force or effect)</i>		
Public benefit organisations:		
PBO trading income is exempt up to the greater of 5 per cent of total receipts and accruals or the amount indicated.	Section 10(1)(cN)(ii)(dd)(ii)	R100 000
Donations to transfrontier parks are deductible if the donation equals or exceeds the amount indicated.	Section 18A(1C)(a)(ii)	R1 million
PBOs providing housing are exempt if beneficiaries are households with a monthly income of the stated amount or less.	Paragraph 3(a) of Part I of Ninth Schedule and paragraph 5(a) of Part II of Ninth Schedule	R7 000
Recreational clubs: Club trading income is exempt up to the greater of 5 per cent of total receipts and accruals or the amount indicated.	Section 10(1)(cO)(iv)(bb)	R50 000
Farming:		
Farmer deductions for employee housing: Ceiling for expenses incurred by farmers to provide employee housing (per employee)	Paragraph 12(5) of First Schedule	R15 000
Prepaid expenses: Limit of prepaid expenses that will not be deferred until delivery of goods, services or benefits	Paragraph (bb) of the proviso to section 23H(1)	R80 000
Small business corporations: Corporations qualify for tax incentives if gross income does not exceed the amount referred to.	Section 12E(4)(a)(i)	R14 million
Housing associations: Housing association investment income is exempt up to the amount indicated	Section 10(1)(e)	R50 000

17. Administration

Description <i>(The contents of this column are solely for convenience and are of no force or effect)</i>	Reference to the Income Tax Act, 1962	Monetary amount
Investment income exempt from provisional tax: If a natural person solely generates income from interest, dividends and real estate rentals, the income amount indicated is exempt from provisional tax.		
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	R80 000
S.I.T.E. threshold: Tax on employment income is subject to the S.I.T.E. (Standard Income Tax on Employees) system up to the amount indicated.	Items (a) and (b) of paragraph 11B(2) and items (a), (b)(ii) and (b)(iii) of paragraph 11B(3) of Fourth Schedule	R60 000
Automatic appeal to the High Court: The full bench of the High Court has automatic jurisdiction to appeals if the disputed amount exceeds the amount indicated	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 49)

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	R42.38 /l of absolute alcohol	R42.38 /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	R5.63 /l	R5.63 /l
.04		Unfortified wine	R1.84 /l	R1.84 /l
.06		Fortified wine	R3.40 /l	R3.40 /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	R2.12 /l	R2.12 /l
.17		Other fermented beverages, fortified	R4.32 /l	R4.32 /l
.22		Mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	R2.12 /l	R2.12 /l
.90		Other	R4.32 /l	R4.32 /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	R67.72 /l of absolute alcohol	R67.72 /l of absolute alcohol

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Tariff Item	Tariff heading	Description	Rate of duty	
			Excise	Customs
.15		Spirits, manufactured by the distillation of any sugar cane product	R67.72 /l of absolute alcohol	R67.72 /l of absolute alcohol
.25		Spirits, manufactured by the distillation of any grain product	R67.72 /l of absolute alcohol	R67.72 /l of absolute alcohol
.29		Other spirits	R67.72 /l of absolute alcohol	R67.72 /l of absolute alcohol
.40		Liqueurs and other spirituous beverages	R67.72 /l of absolute alcohol	R67.72 /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 726.92 /kg net	R1 726.92 /kg net
.20		Cigarettes, of tobacco or of tobacco substitutes	R3.41 /10 cigarettes	R3.41 /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	R173.49 /kg	R173.49 /kg
.20		Pipe tobacco and substitutes thereof	R92.15 /kg net	R92.15 /kg net

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Appendix III

VALUE-ADDED TAX MONETARY THRESHOLDS SUBJECT TO PERIODIC LEGISLATIVE CHANGE

(Section 1)

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