

REPUBLIC OF SOUTH AFRICA

**TAXATION LAWS AMENDMENT
BILL**

DRAFT

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

(MINISTER OF FINANCE)

[B - 2002]

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...

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

Repeal of section 60 of Act 27 of 1943

1. (1) Section 60 of the Insurance Act, 1943, is hereby repealed.
- (2) Subsection (1) shall be deemed to have come into operation on 1 January 2002 and shall apply in respect of premiums paid on or after that date.

Amendment of section 2 of Act 40 of 1949

2. (1) Section 2 of the Transfer Duty Act, 1949 is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

- “(b) subject to the provisions of subsection (5)—
- (i) **[1] 0** per cent of so much of the said value or the said amount, as the case may be, as does not exceed **[R 70 000]** R 100 000;
 - (ii) 5 per cent of so much of the said value or the said amount, as the case may be, as exceeds **[R 70 000]** R100 000 but does not exceed **[R250 000]** R300 000; and
 - (iii) 8 per cent of so much of the said value or the said amount, as the case may be, as exceeds **[R250 000]** R 300 000, if the person by whom the property is acquired or in whose favour or for whose benefit the said interest or restriction is renounced is a natural person.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2002 and shall apply in respect of any acquisition of property or renunciation of an interest in or restriction upon the use or disposal of property on or after that date.

Amendment of section 9 of Act 40 of 1949

3. Section 9 of the Transfer Duty Act, 1949, is hereby amended—

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

“(c)(i) a public benefit organisation which is exempt from tax in terms of section 10(1)(cN) of the Income Tax Act, 1962 (Act 58 of 1962); or
(ii) any institution, board or body, which is exempt from tax in terms of section 10(1)(cA)(i) of that Act, which has as its sole or principal object the carrying on of any public benefit activity contemplated in section 30 of that Act,

in respect of property acquired by such public benefit organisation, institution, board or body, the whole, or substantially the whole, of which will be used for the purposes of one or more public benefit activity

carried on by such public benefit organisation, institution, board or body, as the case may be: Provided that if any such property or any portion thereof is subsequent to the acquisition thereof used for some purpose other than exclusively **[for religious, charitable or educational purposes]** in carrying on any public benefit activities, duty shall become payable in respect of the acquisition of that property or that portion thereof, and the date upon which that property or that portion thereof was first used for that other purpose shall for the purposes of section 3(1) and section 4 be deemed to be the date of acquisition thereof;”;
and

(b) by the deletion of subsections (11), (12), (12A), (12B) and (12C).

(2)(a) Subsection (1)(a) shall be deemed to have come into operation on 15 July 2001 and shall apply in respect of any acquisition of property on or after that date.

(b) Subsection (1)(b) shall be deemed to have come into operation on 1 March 2002 and shall apply in respect of any acquisition of property on or after that date.

Amendment of section 4 of Act 45 of 1955

4. (1) Section 4 of the Estate Duty Act, 1955, is hereby amended—

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

“the value of any property included in the estate which has not been allowed as a deduction under any other provision of this section which accrues or accrued by way of bequest to—”;

(b) by the insertion after subparagraph (i) of paragraph (h) of the following subparagraph:

“(iA) any institution, board or body, which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act, 1962 (Act No. 58 of

1962) , which has as its sole or principal object the carrying on of any public benefit activity contemplated in section 30 of that Act; or”.

(2) Subsection (1) shall be deemed to have come into operation on 15 July 2001 and shall apply in respect of the estate of any person who died on or after that date.

Amendment of section 4A of Act 45 of 1955

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

(2) Subsection (1) shall be deemed to have come into operation on 1 March 2002, and shall apply in respect of the estate of any person who dies on or after that date.

Insertion of section 9B in Act 45 of 1955

6. The following section is hereby inserted in the Estate Duty Act, 1955, after section 9A:

“Reduced assessments

9B.(1) The Commissioner may, notwithstanding the fact that no objection has been lodged or appeal noted in terms of the provisions of section 24 of this Act, reduce an assessment—

- (a) to rectify any processing error made in issuing that assessment; or
- (b) where the Commissioner is satisfied that in issuing that assessment—

- (i) any amount which was taken into account in determining the liability for estate duty, should not have been taken into account; or
- (ii) any amount which should have been taken into account in determining the liability for estate duty, was not so taken into account:

Provided that such assessment in which the amount should or should not have been taken into account as contemplated in subparagraph (i) or (ii), as the case may be, was issued by the Commissioner based on information provided in the return submitted by the executor.

- (2) The Commissioner shall not reduce an assessment under subsection (1)—
 - (a) after the expiration of three years from the date of the assessment contemplated in subsection (1); or
 - (b) if the amount was assessed in an assessment accepted by the executor and which was made in accordance with the practice generally prevailing at the date of that assessment.”.

Amendment of section 25A of Act 45 of 1955

7. Section 25A of the Estate Duty Act, 1955, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If it is proved to the satisfaction of the Commissioner that any amount of duty paid by an executor in respect of an estate was in excess of the amount **[properly chargeable]** assessed under this Act, the **[Commissioner may]** amount of any duty overpaid shall, subject to the provisions of subsection (3), **[authorise a refund]** be refundable to such executor **[of any duty overpaid: Provided that an amount paid in respect of an assessment accepted by the executor and which was**

made in accordance with any practice generally prevailing at the date of that assessment, shall be deemed to have be properly chargeable].”.

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

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

- (a) the taxable income of any person (other than a company or a person in respect of who paragraph (b) applies) for the year of assessment ending on 28 February 2003;
- (b) the taxable income of any person contemplated in section 5(1)(b) of that Act for the period of eight months ending on 28 February 2003; and
- (c) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 2003,

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

Amendment of section 1 of Act 58 of 1962

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

- (a) by the deletion of subparagraphs (iii), (iv), (v) and (vi) of paragraph (c) of the definition of “gross income”;
- (b) by the substitution for the definition of “special trust” of the following definition:

“‘special trust’ means a trust created—

- (a) solely for the benefit of a person who suffers from—
 - (i) any ‘mental illness’ as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973); or
 - (ii) any serious physical disability,

where such illness or disability incapacitates such person from earning sufficient income for the maintenance of such person, or from managing his or her own financial affairs: Provided that where the person for whose benefit the trust was so created dies, such trust shall be deemed not to be a special trust in respect of years of assessment ending on or after the date of such person's death; or

(b) by or in terms of the will of a deceased person, solely for the benefit of beneficiaries who are relatives in relation to that deceased person and who are alive on the date of death of that deceased person (including any beneficiary who has been conceived but not yet born on that date), where the youngest of those beneficiaries is on the last day of the year of assessment of that trust under the age of 21 years."; and

(c) by the substitution for the definition of "year of assessment" of the following definition:

"year of assessment" means any year or other period in respect of which any tax or duty leviable under this Act is chargeable, and any reference in this Act **[or any other Income Tax Act]** to any year of assessment ending the last or the twenty-eighth or the twenty-ninth day of February shall, unless the context otherwise indicates, in the case of a company be construed^{3/4}

(a) in the case of a company, as a reference to any financial year of that company ending during the calendar year in question **[and**

(b) in the case of any person (other than a company) whose year of assessment ends on the thirtieth day of June of the calendar year in question, as a reference to such year of assessment]."

Amendment of section 5 of Act 58 of 1962

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

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

“(b) any person **[who on the twenty-eighth day of February, 1963, carried] carrying** on farming, fishing or diamond digging operations **[and who under the provisions of subparagraph (2) of paragraph 18 of the Fourth Schedule made an election not to be a provisional taxpayer^{3/4}**

(i) during the year of assessment ended the thirtieth day of June, 1963, and each succeeding year of assessment during which such election remains in force; and

(ii) during the period of eight months ending the last day of February immediately succeeding the last year of assessment referred to in subparagraph (i) during which any such election which has lapsed was in force; and

(iii) during the year of assessment commencing immediately after the said last day of February, and each succeeding year of assessment;]

whose last year of assessment ended on 30 June 2002, during the period of eight months ending the last day of February 2003;”; and

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

“(c) any person (other than a person **[referred to in] in respect of whom** paragraph (b) applies or a company) **[in respect of^{3/4}**

(i) the period of eight months ended the twenty-eighth day of February, 1963;

(ii)] during the year of assessment ended the last day of February **[1964, and each succeeding year of assessment]** each year; and”.

(2) Subsection (1)(b) and (c) shall be deemed to have come into operation on 1 March 2002 and shall apply in respect of any year of assessment commencing on or after that date.

Amendment of section 6 of Act 58 of 1962

11. Section 6 of the Income Tax Act, 1962, is hereby amended by the substitution in paragraph (a) of subsection (2) for the expression “R4 140” of the expression “R4 860”.

Amendment of section 8 of Act 58 of 1962

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

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

“(a)(i) There shall be included in the taxable income of any person (hereinafter referred to as the ‘recipient’) for any year of assessment any amount which has been paid or granted during that year by his or her principal as an allowance or advance, excluding any portion of any allowance or advance actually expended by that recipient—

(aa) on travelling on business, as contemplated in paragraph (b);

(bb) on any accommodation, meals and other incidental costs, as contemplated in paragraph (c), while such recipient is by reason of the duties of his or her office or employment obliged to spend at least one night away from his or her usual place of residence in the Republic; or

- (cc) by reason of the duties attendant upon his or her office, as contemplated in paragraph (d).
- (ii) The provisions of paragraph (a)(i) shall not apply in respect of any amount paid or granted by a principal in reimbursement of, or as an advance for, any expenditure in respect of entertainment or in respect of accommodation, meals and other incidental costs contemplated in paragraph (a)(i)(bb), incurred or to be incurred by the recipient—
- (aa) on the instruction of his or her principal in the furtherance of the trade of such principal; and
- (bb) where that recipient must produce proof to the principal that such expenditure was wholly incurred as aforesaid and must account to that principal for that expenditure.
- (iii) For the purposes of this paragraph, 'principal' in relation to a recipient includes his or her employer or the authority, company, body or other organisation in relation to which any office is held, or any associated institution, as defined in the Seventh Schedule in relation to such employer, authority, company, body or organisation.”;
- (b) by the substitution in subsection (1) for the words of paragraph (b) preceding subparagraph (i) of the following words:
“For the purposes of paragraph (a)(i)(aa)”;
- (c) by the substitution of paragraph (c) of subsection (1) of the following paragraph:
“(c) A recipient shall, for the purposes of paragraph (a)(i)(bb), be deemed to have expended,—
- (i) where he or she can prove to the Commissioner the amount of the expenses incurred in respect of accommodation, meals or other incidental costs, the amount so actually incurred but limited to the amount of that allowance or advance; or
- (ii) where he or she cannot prove to the Commissioner the amount of the expenses incurred in respect of meals and other incidental

costs, for each day or part of a day in the period during which he or she is absent from his or her usual place of residence—

(aa) where such accommodation is in the Republic, an amount calculated at the rate of R65 per day, or part of a day, in respect of meals and other incidental costs; or

(bb) where such accommodation is outside the Republic, such amount as the Commissioner may allow in respect of meals and other incidental costs.”;

(d) by the deletion in subsection (1) of subparagraph (iv) of paragraph (d);

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

“(g) Where, during any year of assessment, any person contemplated in paragraph (e) has held a public office for less than 12 months, **[the amount of R2 500 referred to in the proviso to paragraph (d)(iv) and]** the amount determined in terms of paragraph (f), shall be reduced to an amount which bears to the relevant amount, the same ratio as the number of months (in the determination of which a part of a month shall be reckoned as a full month), for which the office was held bears to 12 months.”.

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

Amendment of section 10 of Act 58 of 1962

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

(a) by the substitution for subparagraph (xv) of paragraph (i) of subsection (1) of the following subparagraph:

“(xv) in the case of any taxpayer who is a natural person—

(aa) so much of the aggregate of any foreign dividends contemplated in section 9E and interest received by or

accrued to him or her from a source outside the Republic, which are not otherwise exempt from tax, as does not during the year of assessment exceed R1 000: Provided that the amount of the exemption in terms of this item shall—

(A) first apply in respect of any such foreign dividends; and

(B) in so far as such amount exceeds the amount of such foreign dividends, apply in respect of any such interest; and

(bb) so much of the aggregate of any interest received by or accrued to him or her from a source in the Republic and any dividends (other than foreign dividends contemplated in section 9E), which are not otherwise exempt from tax, as does not during the year of assessment exceed—

(A) in the case of any person who was or, had he or she lived would have been, at least 65 years of age on the last day of the year of assessment, the amount of R10 000, or

(B) in any other case, the amount of R6 000, reduced by the amount of any exemption allowable in terms of item (aa).”;

(b) by the substitution for paragraph (mB) of subsection (1) of the following paragraph:

“(mB) any benefit or allowance payable in terms of the Unemployment Insurance Act, **[1966 (Act No. 30 of 1966)]** 2001 (Act No. 63 of 2001).”;

(c) by the substitution in paragraph (ii) of the proviso to paragraph (q) of subsection (1) for the expression “R50 000” of the expression “R60 000”; and

(d) by the substitution in paragraph (iii) of the proviso to paragraph (q) of subsection (1) for the expression “R1 600” of the expression “R2 000”.

(2)(a) Subsection (1)(b) shall be deemed to have come into operation on 1 April 2002.

(b) Subsection (1)(c) and (d) shall be deemed to have come into operation on 1 March 2002 and shall apply in respect of any *bona fide* scholarship or bursary granted on or after that date.

Amendment of section 11 of Act 58 of 1962

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

(a) by the substitution in paragraph (aa) of the proviso to paragraph (gA) for the expression “R3 000” of the expression “R5 000”;

(b) by the substitution for paragraph (ii) of the proviso to paragraph (u) of the following paragraph:

“(ii) no deduction shall be made under this paragraph in respect of any such expenditure as is incurred in connection with any employment or office in respect of which the taxpayer derives remuneration as defined in paragraph 1 of the Fourth Schedule **[or any amount referred to in paragraph (vii) of that definition, unless^{3/4}**

(aa) the Commissioner is satisfied that such employment or office is of such a nature that the taxpayer’s duties regularly and necessarily involve incurring such expenditure; and

(bb) the taxpayer receives in respect of such expenditure a reimbursive allowance which is included in his gross income under the provisions of paragraph (iii) of the proviso to paragraph (c) of the definition of “gross income” in section 1]”; and

(c) by the deletion of subparagraphs (iii) and (iv) of paragraph (u).

(2) Subsection (1) shall be deemed to have come into operation on 1 March 2002 and shall apply in respect of any expenditure incurred on or after that date.

Amendment of section 12C of Act 58 of 1962

15. Section 12C of the Income Tax Act, 1962, is hereby amended by the addition to the proviso to subsection (1) of the following paragraph:

“(c) any new and unused machinery or plant referred to in paragraph (a) of this subsection, is or was—

(i) acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement during the period commencing on 1 March 2002 and ending on 28 February 2005; and

(ii) brought into use by the taxpayer during that period in a process of manufacture or process which in the opinion of the Commissioner is of a similar nature, carried on by that taxpayer in the course of its business (other than banking, financial services, insurance or rental business),

the deduction under this section shall be increased to 40 per cent of the cost of such machinery or plant in respect of the year of assessment during which the plant or machinery was or is so brought into use for the first time and shall be 20 per cent in each of the three immediately succeeding years of assessment.”.

Amendment of section 12D of Act 58 of 1962

16. (1) Section 12D of the Income Tax Act, 1962, is hereby amended by the substitution for the proviso to subsection (2) following proviso:

“Provided that such transportation or transmission is not carried on by that taxpayer in the course of carrying on any banking, financial services, insurance or rental business.”.

(2) Subsection (1) shall come into operation on ... and shall apply in respect of any affected asset contracted for on or after that date.

Amendment of section 12E of Act 58 of 1962

17. (1) Section 12E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4) for the expression “R1 million” wherever it appears in subparagraph (i) of paragraph (a) of the expression “R3 million”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2002 and shall apply in respect of any year of assessment ending on or after that date.

Insertion of section 12H in Act 58 of 1962

18. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 12G:

“Deduction in respect of learnership agreements

12H. (1) For purposes of this section—
'employer' means—

- (a) in the case where a group of employers is party to a registered learnership agreement, the employer which is identified in that agreement as the lead employer; or
- (b) in any other case, the employer which is party to a registered learnership agreement;

'learner' means—

- (a) a learner which is party to a registered learnership agreement; or

(b) an apprentice in a contract of apprenticeship contemplated in paragraph (b) of the definition of 'learnership agreement';

'Learnership Regulations, 2001' means the Regulations concerning the Registration of Intended Learnerships and Learnership Agreements (Government Notice No. R. 330 published in *Gazette* No. 22197 of 3 April 2001), made by the Minister of Labour in terms of section 36, read with sections 16(d) and 17(3) and (6) of the Skills Development Act, 1998;

'level of the National Qualifications Framework' means a level of the National Qualifications Framework, which comprises at least 120 credits, as contemplated in the regulations made in terms of the South African Qualifications Authority Act, published under Government Notice No. R. 452 in *Gazette* No. 18787 of 28 March 1998;

'National Qualifications Framework' means the National Qualifications Framework for the registration of national standards and qualifications, as contemplated in the South African Qualifications Authority Act;

'registered learnership agreement' means—

(a) a learnership agreement entered into between a learner and an employer before 1 October 2006, which has been registered with a SETA, as contemplated in section 17(3) of the Skills Development Act, 1998; or

(b) a contract of apprenticeship registered with the Department of Labour in terms of section 18 of the Manpower Training Act, 1981 (Act No. 56 of 1981);

'SETA' means a sector education and training authority established in terms of the Skills Development Act, 1998;

'Skills Development Act, 1998' means the Skills Development Act, 1998 (Act No. 97 of 1998); and

'South African Qualifications Authority Act' means the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995).

(2) Subject to subsection (3), there shall be allowed to be deducted from the income derived during any year of assessment by any employer from carrying on any trade, an allowance equal to R25 000 in respect of—

- (a) any registered learnership agreement entered into by that employer with any learner during that year in the course of that trade;
- (b) the completion by a learner during that year of any level of the National Qualifications Framework contemplated in any registered learnership agreement entered into by that employer with that learner during that year or any previous year of assessment in the course of that trade; or
- (c) the commencement by any learner during that year of a further level of the National Qualifications Framework in terms of a registered learnership agreement after completion of any level by that learner in terms of that agreement, as contemplated in paragraph (b).

(3) No deduction shall be made by an employer under this section, unless that employer has provided to the Commissioner—

- (a) the name of the SETA with which the learnership agreement is registered;
- (b) the title and code of the learnership allocated and issued by the Director-General, Department of Labour in terms of regulation 2(3) of the Learnership Regulations, 2001;
- (c) the full names and identification number of the learner contemplated in the registered learnership agreement; and
- (d) proof that the employer has complied with all the requirements of the Skills Development Levies Act, 1999 (Act No. 9 of 1999).

(4) The provisions of this section shall not apply—

- (a) in respect of the substitution of any employer which is party to an existing registered learnership agreement by any other employer, as contemplated in regulation 5(1) of the Learnership Regulations, 2001;

- (b) where an employer enters into a registered learnership agreement with a learner as a result of the substitution of an existing registered learnership agreement, as contemplated in regulation 5(2) of the Learnership Regulations, 2001; or
- (c) where an employer enters into a registered learnership agreement with a learner in respect of a level of the National Qualifications Framework, where a deduction is or was allowable to that employer during any year of assessment in respect of any other registered learnership agreement entered into by that employer with that learner in respect of the same level of the National Qualifications Framework.

(5) Where—

- (a) in the determination of the taxable income of an employer for any year of assessment an amount is or was allowed as a deduction in respect of any registered learnership agreement entered into by that employer with any learner, as contemplated in subsection (2)(a); and
- (b) that registered learnership agreement is terminated as contemplated in regulation 6 of the Learnership Regulations, 2001, within a period of six months after that agreement takes effect, that amount so allowed as a deduction shall, for the purposes of section 8(4)(a), be deemed to have been recovered or recouped by that employer.”.

(2) Subsection (1) shall be deemed to have come into operation on 1 October 2001, and shall apply in respect of—

- (a) any registered learnership agreement entered into on or after that date;
- (b) the completion by a learner on or after that date of any level of the National Qualifications Framework in terms of a registered learnership agreement; or

- (c) the commencement by any learner on or after that date of any further level of the National Qualifications Framework in terms of a registered learnership agreement.”.

Amendment of section 18 of Act 58 of 1962

19. Section 18 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for paragraph (c) of the following paragraph:

- “(c) in any other case, so much of the sum of such amounts as exceeds **[the greater of R1 000 or]** 5 per cent of the taxpayer’s taxable income as determined before granting an allowance under this section.”.

Amendment of section 18A of Act 58 of 1962

20. Section 18A of the Income Tax Act, 1962, is hereby amended—

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

“which—

- (a) carries on in the Republic any public benefit activity **[which is determined by the Minister by notice in the Gazette for the purposes of this section, a copy of which shall be laid upon the table in Parliament]** contemplated in Part II of the Ninth Schedule, or any other activity determined from time to time by the Minister by notice in the *Gazette* for the purposes of this section;
and

- (b) complies with any additional requirements, if any, prescribed by the Minister in terms of subsection (1A);”;

- (b) by the insertion after subsection (1) of the following subsections:

“(1A) The Minister may, by way of regulation in the *Gazette*, prescribe additional requirements with which a public benefit organisation carrying on any specific public benefit activity identified by the Minister in the regulations, must comply before a deduction of any donation made to that public benefit organisation shall be allowed under subsection (1).

(1B) Any activity determined by the Minister in terms of subsection (1)(a) must be tabled in Parliament for incorporation into this Act within a period of 12 months after the date of publication by the Minister of that activity in the *Gazette*;

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

“(5) If the Commissioner has reasonable grounds for believing that—

(a) any person who is in a fiduciary capacity responsible for the management or control of the income or assets of any public benefit organisation, institution, board or body, has with intent—

(i) in any material way failed to ensure that the objects for which the public benefit organisation, institution, board or body was established are carried out or has expended moneys belonging to the public benefit organisation, institution, board or body for the purposes not covered by such objects; or

(ii) issued or allowed a receipt to be issued to any taxpayer for the purposes of this section in respect of any fees or other emoluments payable to such organisation, institution, board or body by such taxpayer; or

(b) any regulating or co-ordinating body of a group of public benefit organisations, contemplated in section 30(3A) or subsection (6), has in any material way failed to exercise control over any public benefit organisation, institution, board or body in the group in order to ensure that it complies with the provisions of this section,

the Commissioner may by notice in writing addressed to that person or that regulating or co-ordinating body, as the case may be, direct that donations to—

(aa) that public benefit organisation, institution, board or body contemplated in paragraph (a); or

(bb) in the case of such failure by a regulating or co-ordinating body as contemplated in paragraph (b), public benefit organisations, institutions, boards or bodies in that group,

shall not qualify for deduction under the provisions of this section in respect of any year of assessment specified in such notice, and any claim by any taxpayer for such deduction shall accordingly be disallowed.”;

(d) by the addition of the following subsection:

~~“(6) The Commissioner may, for the purposes of this section approve a group of institutions, boards or bodies contemplated in subsection (1)(a)(ii), sharing a common purpose which carry on any public benefit activity under the direction of a regulating or co-ordinating body, where that body takes such steps, as prescribed by the Commissioner, to exercise control over those institutions, boards or bodies in order to ensure that they comply with the provisions of this section.”.~~

Amendment of section 23 of Act 58 of 1962

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

(a) by the deletion of paragraph (i); and

(b) by the addition of the following paragraph:

“(m) subject to paragraph (k), any expenditure, loss or allowance which relates to any employment of, or office held by, any person in respect of which he or she derives any remuneration, as defined in paragraph 1 of the Fourth Schedule, other than—

- (i) any contributions to a pension or retirement annuity fund as may be deducted from the income of that person in terms of sections 11(k) or (n);
- (ii) any allowance which may be deducted from the income of that person in terms of section 11(e), (i) or (j); and
- (iii) in the case of an agent or representative whose remuneration is normally derived mainly in the form of commissions based on his or her sales or the turnover attributable to that person, so much of any expenditure incurred by him or her as may be deducted from his or her income in terms of section 11(a) or (c).”.

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

Amendment of section 30 of Act 58 of 1962

22. Section 30 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for the definition of “public benefit activity” in subsection (1) of the following definition:

“public benefit activity” means—

 - (a) any activity listed in Part I of the Ninth Schedule; and
 - (b) any other activity determined by the Minister from time to time by notice in the *Gazette* to be of a benevolent nature, having regard to the needs, interests and well-being of the general public.”;
- (b) by the substitution for the definition of “public benefit organisation” of the following definition:

“public benefit organisation” means any organisation—

 - (a) which is a company formed and incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), or a trust or an association of persons;

(b) of which the sole object is carrying on one or more public benefit activities (including any undertakings or activities which are not prohibited under subsection (3)(b)(iv)), where—

- (i) all such activities are carried on in a non-profit manner and with an altruistic or philanthropic intent;
- (ii) no such activity is intended to directly or indirectly promote the economic self-interest of the fiduciaries or employees of the organisation; and
- (iii) at least 85 per cent of such activities, measured as the cost related to the activities and the time expended in respect thereof, are carried out in the Republic, unless the Minister, having regard to the circumstances of the case, directs otherwise; and

(c) where—

- (i) each such activity carried on by that organisation is for the benefit of, or is widely accessible to, the general public at large, including any sector thereof (other than small and exclusive groups);
- (ii) each such activity carried on by that organisation is for the benefit of, or is readily accessible to, the poor and needy; or
- (iii) that organisation is at least 85 per cent funded by donations, grants from any organ of state or grants from any foreign state.”;

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

“(2) Any activity determined by the Minister in terms of paragraph (b) of the definition of ‘public benefit activity’ in subsection (1) must be tabled in Parliament for incorporation into this Act within a period of 12 months after the date of publication by the Minister of that activity in the *Gazette*.”;

(d) by the substitution for subparagraph (i) of paragraph (b) of subsection (3) of the following subparagraph:

- “(i) required to have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of such organisation and no single person directly or indirectly controls the decision making powers relating to that organisation: Provided that the provisions of this subparagraph shall not apply in respect of any trust established in terms of a will of any person who died on or before 31 December 2003;”;
- (e) by the substitution for subparagraph (iii) of paragraph (b) of subsection (3) of the following subparagraph:
- “(iii) required on dissolution to transfer its assets to—
- (aa) any similar public benefit organisation which has been approved in terms of this section;
- (bb) any institution, board or body which is exempt from tax under the provisions of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity;
- or
- (cc) any department of state or administration in the national or provincial sphere of government;”;
- (f) by the substitution for the proviso to subparagraph (v) of paragraph (b) of subsection (3) of the following proviso:
- “Provided that a donor (other than a donor which is an approved public benefit organisation or an institution board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation;”;
- (g) by the substitution for paragraph (d) of subsection (3) of the following paragraph:
- “(d) has not economically benefited and will not economically benefit any person in a manner which is not consistent with its objects and

has not paid or will not pay any remuneration, as defined in the Fourth Schedule, to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered;”;

(h) by the substitution for paragraph (g) of subsection (3) of the following paragraph:

“(g) has within such period as the Commissioner may determine, been registered in terms of section 13(5) of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), and complied with any other requirements imposed in terms of that Act, unless the Commissioner in consultation with the Director of Nonprofit Organisations designated in terms of section 8 of the Nonprofit Organisations Act, 1997, on good cause shown, otherwise directs; and”;

(i) by the addition to subsection (3) of the following paragraph:

“(h) has not and will not use its resources directly or indirectly to support, advance or oppose any political party;”;

(j) by the substitution for the proviso to subsection (3) of the following proviso:

“Provided that notwithstanding subparagraph (iv) of paragraph (b), any business undertaking or trading activity, or asset used in such undertaking or activity, acquired by such organisation before 1 January 2001 **[by way of donation, bequest or inheritance]** may be retained or continued, as the case may be, in the form so acquired for a period of five years after that date.”;

(k) by the insertion after subsection (3) of the following subsections:

“(3A) The Commissioner may, for the purposes of subsection (3), grant approval in respect of any group of organisations sharing a common purpose, which carry on any public benefit activity under the direction of a regulating or co-ordinating body, where that body takes such steps, as

prescribed by the Commissioner, to exercise control over those organisations in order to ensure that they comply with the provisions of this section.

(3B) Where an organisation applies for approval before the later of 31 December 2003 or the last day of its first year of assessment, the Commissioner may approve that organisation for the purposes of this section or for the purposes of any provision contained in section 10, which was repealed on 15 July 2001, with retrospective effect from the date on which that organisation first qualified for approval.”;

- (l) by the substitution in subsection (5) for the words following paragraph (b) of the following words:

“failed to comply with the provisions of this section, or the constitution, will or other written instrument under which it is established to the extent that it relates to the provisions of this section, ~~he may~~ the Commissioner shall after due notice withdraw ~~his~~ approval of the organisation with effect from the commencement of that year of assessment, where corrective steps are not taken by that organisation within a period stated by the Commissioner in that notice.”;

- (m) by the insertion after subsection (5) of the following subsection:

“(5A) Where any regulating or co-ordinating body contemplated in subsection (3A) has failed to take any steps contemplated in that subsection to exercise control over any public benefit organisation, the Commissioner shall after due notice withdraw the approval of the group of public benefit organisations with effect from the commencement of that year of assessment, where corrective steps are not taken by that organisation within a period stated by the Commissioner in that notice.”.

Amendment of section 56 of Act 58 of 1962

23. (1) Section 56 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in paragraph (a) of subsection (2) for the expression “R5 000”, wherever it occurs in that paragraph, of the expression “R10 000”; and
- (b) by the substitution in paragraph (b) of subsection (2) for the expression “R25 000” of the expression “R30 000”.

(2) Subsection (1) shall be deemed to have come into operation on 1 March 2002, and shall apply in respect of any donation which takes effect on or after that date.

Amendment of section 66 of Act 58 of 1962

24. Section 66 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subitem (A) of item (aa) of subparagraph (ii) of paragraph (b) of subsection (1) for the expression “R4 000” of the expression “R10 000”;
- (b) by the substitution in subitem (B) of item (aa) of subparagraph (ii) of paragraph (b) of subsection (1) for the expression “R3 000” of the expression “R6 000”;
- (c) by the addition of the word “and” at the end of subparagraph (v) of paragraph (b) of subsection (1); and
- (d) by the addition to paragraph (b) of subsection (1) of the following subparagraph:

“(vi) any resident who owns any funds or assets outside the Republic, or any funds or assets from which any income or gain would be attributable to that resident during the relevant year of assessment in terms of section 7 or Part X of the Eighth Schedule.”.

Amendment of section 78 of Act 58 of 1962

25. (1) Section 78 of the Income Tax Act, 1962, is hereby amended—

(a) by the insertion after subsection (1) of the following subsection:

“(1A)(a) Where the Commissioner has reason to believe that any resident has not declared or accounted for any funds or assets owned by that resident outside the Republic, or any funds or assets from which any income or gain would be attributable to that resident during the relevant year of assessment in terms of section 7 or Part X of the Eighth Schedule, in any return contemplated in section 66(1), the Commissioner shall estimate the amount in foreign currency of any such funds or the market value in foreign currency of such assets, that he or she believes are owned by that resident outside the Republic on the last day of that year of assessment, after giving that resident notice to account for those funds or assets and that resident has failed to so account within the period stated by the Commissioner in that notice.

(b) The amount or value in foreign currency contemplated in paragraph (a) may be estimated after taking into account any information at the disposal of the Commissioner including, but not limited to, information relating to—

- (i) any funds or assets transferred by that resident from the Republic;
- (ii) any funds or assets received by or accrued to that resident from any source outside the Republic; or
- (iii) the period that has elapsed since those funds or assets were transferred, or funds or assets were received or accrued.

(1B) The Commissioner shall estimate an amount of taxable income derived from any funds or assets contemplated in subsection (1A), which estimated amount shall be calculated by applying a percentage, determined at the ‘official rate of interest’ contemplated in paragraph 1 of the Seventh Schedule during the year of assessment, of the estimated

amount of those funds or value of those assets or such higher amount as may be estimated in terms of subsection (1).

(1C) The amount of taxable income estimated in terms of subsection (1B)—

- (a) shall be converted to the currency of the Republic on the last day of the relevant year of assessment at the ruling exchange rate at that date to determine the amount to be included in taxable income; and
- (b) shall be taken into account by the Commissioner during any succeeding year of assessment in estimating the amount of any funds or value of any assets owned by that resident outside the Republic, as contemplated in subsection (1A).”; and

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

“(2) Any such estimate of the taxable income as contemplated in subsection (1), or the estimated amount of any funds or value of any assets as contemplated in subsection (1A), shall be subject to objection and appeal: Provided that if it appears to the Commissioner that any person is unable from any cause to furnish an accurate return of his income, aggregate capital gain, ~~or~~ aggregate capital loss or amount of funds or value of assets owned outside the Republic, the Commissioner may agree with such person as to—

(a) what amount of such income, aggregate capital gain or aggregate capital loss shall be taxable income, net capital gain or assessed capital loss, or

(b) the amount of the funds or value of the assets owned outside the Republic,

and any amount or value so agreed upon shall not be subject to any objection or appeal.”.

(2) Subsection (1) shall come into operation on 1 January 2003, and shall apply in respect of any funds or assets held by a person, which are not declared or accounted for in any return submitted to the Commissioner in respect of any year of assessment ending on or after that date.

Insertion of section 79A in Act 58 of 1962

26. The following section is hereby inserted in the Income Tax Act, 1962, after section 79:

“Reduced assessments

79A.(1) The Commissioner may, notwithstanding the fact that no objection has been lodged or appeal noted in terms of the provisions of Part III of Chapter III of this Act, reduce an assessment—

(a) to rectify any processing error made in issuing that assessment; or

(b) where it is proved to the satisfaction of the Commissioner that in issuing that assessment—

(i) any amount which was taken into account by the Commissioner in determining the taxpayer's liability for tax, should not have been taken into account, or

(ii) any amount which should have been taken into account in determining the taxpayer's liability for tax, was not taken into account by the Commissioner:

Provided that such assessment, wherein the amount was so taken into account or not taken into account, as contemplated in subparagraph (i) or (ii), as the case may be, was issued by the Commissioner based on information provided in the taxpayer's return.

(2) The Commissioner shall not reduce an assessment under subsection (1)—

(a) after the expiration of three years from the date of the assessment contemplated in subsection (1); or

- (b) if the amount was assessed in terms of an assessment accepted by the taxpayer and which was made in accordance with the practice generally prevailing at the date of that assessment.”.

Amendment of section 83 of Act 58 of 1962

27. (1) Section 83 of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (1B) of the following subsection:

“(1C) The Commissioner may alter any assessment against which an appeal has been noted, as contemplated in subsection (1), where the Commissioner has conceded that appeal, in whole or in part, at any stage before—

- (a) the matter is heard by the tax board contemplated in section 83A, or the tax court contemplated in subsection (2); or
- (b) any appeal against a judgment of the tax court is heard, as contemplated in section 86A.”.

(2) Subsection (1) shall come into operation on the date that section 53 of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001), comes into operation.

Substitution of section 102 of Act 58 of 1962

28. The following section hereby substitutes section 102 of the Income Tax Act, 1962:

“Refunds and set off

102.(1) Any amount paid by any person in terms of the provisions of this Act shall be refundable to the extent that such amount exceeds—

- (a) in the case where that amount was paid in respect of any assessment, the amount so assessed; or
- (b) in any other case, the amount properly chargeable under this Act.

(2) The Commissioner shall not authorize a refund under subsection (1)(b), where—

(a) that amount was paid in accordance with the practice generally prevailing at the date of the payment; or

(b) the refund is claimed by that person—

(i) after a period of three years after the end of that year of assessment, in the case where—

(aa) that amount constitutes an amount of employees' tax deducted or withheld during any year of assessment from the remuneration of that person under the provisions of the Fourth Schedule;

(bb) that person's income for that year of assessment consisted solely of remuneration as defined in the Fourth Schedule; and

(cc) that person was not required under any provision of this Act to furnish a return of income for that year of assessment and did not render such a return during the period of three years since the end of that year of assessment; or

(ii) in any other case, after a period of three years from the date of the official receipt acknowledging such payment or, where more than one such payment was made, the date of the official receipt acknowledging the latest of such payments.

(3) Where any refund contemplated in subsection (1) is due to any person who has failed to pay any amount of tax, additional tax, duty, levy, charge, interest or penalty levied or imposed under this Act or any other Act administered by the Commissioner, within the period prescribed for payment of the amount, the Commissioner may set off against the amount

which the person has failed to pay, any amount which has become refundable to the person under this section.”.

Amendment of section 107B of Act 58 of 1962

29. (1) Section 107B of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subsections (1) and (2) of the following subsections:

“(1) The Minister may by regulation prescribe the circumstances under which the Commissioner may, **[for purposes of the settlement of]** ~~notwithstanding any provision of this Act, settle~~ a dispute between the Commissioner and a taxpayer **[waive any claim against that taxpayer]** in whole or in part, where such a settlement would be to the best advantage of the state.

(2) The Minister must prescribe the requirements for the reporting by the Commissioner of any **[claim against a taxpayer]** ~~dispute~~ which has been **[waived]** ~~settled~~ in whole or in part by the Commissioner, as contemplated in subsection (1)”; and

(b) by the addition of the following subsections:

~~“(3) Where any dispute between the Commissioner and the person aggrieved by an assessment has been settled, as contemplated in subsection (1), the Commissioner may, notwithstanding anything to the contrary contained in this Act, alter that assessment for purposes of giving effect to that settlement.~~

~~“(4) Any altered assessment contemplated in subsection (3) shall not be subject to objection and appeal.”.~~

(2) Subsection (1) shall come into operation on the date that section 63 of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001), comes into operation.

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

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

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

“‘remuneration’ means any amount of income which is paid or is payable to any person by way of any salary, leave pay, **[allowance]** wage, overtime pay, bonus, gratuity, commission, fee, emolument, pension, superannuation allowance, retiring allowance or stipend, whether in cash or otherwise and whether or not in respect of services rendered, including—”; and

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

~~“(bA) any allowance or advance (other than an allowance in respect of which paragraph (c) applies) in respect of which section 8(1)(a) applies, whether or not that allowance or advance has been expended as contemplated in that section.”.~~

- (2) Subsection (1) shall come into operation on 1 August 2002.

Amendment of paragraph 11B of Fourth Schedule to Act 58 of 1962

31. Paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for item (h) of the definition of “net remuneration” in subparagraph (1) of the following item:

“(h) the amount of any allowance or advance contemplated in paragraph (bA) or (c) of the definition of “remuneration” in paragraph 1;”.

Amendment of paragraph 18 of Fourth Schedule to Act 58 of 1962

32. Paragraph 18 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for item (a) of subparagraph (1) of the following item:
- “(a) in respect of any period in respect of which provisional tax would but for the provisions of this item be payable by him or her, any person (other than a company or a director of a private company) who satisfies the Commissioner that apart from any taxable income which he or she may derive by way of remuneration, or any amount referred to in paragraph [(i)] (iii) **[or (v)]** of the definition of “remuneration” in paragraph 1, he or she will not during that period derive any taxable income in excess of **[R2 000]** ~~R10 000.~~”; and
- (b) by the substitution in subparagraph (3) for the words preceding item (a) and item (a) of the following words and item:
- “(3) Any election made under subparagraph (2) shall be binding upon the person making such election and shall remain in force until 30 June 2002, ~~or any earlier date on which—~~
- (a) the Commissioner upon such terms and conditions as he may impose **[has consented]** ~~consents~~ in writing to such person becoming a provisional taxpayer; or”.

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

33. Paragraph 5 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in items (a) and (b) of the second proviso to subparagraph (2) for the expression “R2 000” of the expression “R5 000”.

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

34. Paragraph 10 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the deletion of item (d) of subparagraph (2).

Amendment of paragraph 13 of Seventh Schedule to Act 59 of 1962

35. Paragraph 13 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (2) of the following subparagraph:

“(2) No value shall be placed under this paragraph on the value of any taxable benefit derived ~~by reason of the fact that an employer—~~

~~(a) has paid any contribution or made any payment to any fund as contemplated in paragraph 2(i); or~~

(b) **[by reason of the fact that an employer]** has paid subscriptions due by his employee to a professional body, if membership of such body is a condition of the employee's employment **[or]**.”.

Amendment of paragraph 29 of Eighth Schedule to Act 58 of 1962

36. Paragraph 29 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (4) of the following subparagraph:

“(4) For the purposes of paragraphs 26(1)(a) and 27~~[(1)(b)](3)~~, a person may only adopt the market value as the valuation date value of that asset—

~~(a) if that person has valued that asset within two years after valuation date; or~~

~~(b) the price of that asset has been published by the Commissioner in terms of this paragraph in the Gazette.”.~~

(2) Subsection (1) shall be deemed to have come into operation on 1 October 2001.

Amendment of paragraph 32 of Eighth Schedule to Act 58 of 1962

37. Paragraph 32 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for item (b) of subparagraph (3A) of the following item:

- “(b) constitute rights of unit holders—
- (i) **[assets]** contemplated in paragraph 31(1)(c), where the prices of these units, shares or interest are regularly published in a national or international newspaper;
 - ~~(ii) in any unit portfolio comprised in any unit trust scheme managed or carried on by a management company registered under section 4 or 30 of the Unit Trust Control Act, 1981 (Act No. 54 of 1981); or~~
 - ~~(iii) in any arrangement or scheme contemplated in paragraph (e)(ii) of the definition of ‘company’ in section 1 of the Act, which is approved by the Registrar of Unit Trust Companies in terms of section 37A of the Unit Trust Control Act, 1981 (Act No. 54 of 1981); or”.~~

(2) Subsection (1) shall be deemed to have come into operation on 1 October 2001.

Amendment of paragraph 84 of Eighth Schedule to Act 58 of 1962

38. Paragraph 84 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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

“The Minister must, by way of notice in the *Gazette*, issue regulations to determine a capital gain or capital loss of persons (other than **[trusts carrying on any trade, natural persons who hold any foreign currency asset, foreign currency option contract or forward exchange contract as trading stock, or companies]** persons to whom section 24I applies) in respect of—”;

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

“(4) The regulations contemplated in subparagraph (1) shall come into operation on a date determined by the Minister and must be tabled in Parliament for incorporation in this Schedule within 12 months after those regulations are issued.”; and

- (c) by the substitution for subsection (5) of the following subsection:

“(5) For the purposes of this paragraph ‘foreign currency asset’ in relation to a person means any amount in foreign currency—

- (a) which constitutes a unit of foreign currency of that person; or
(b) owing to that person in respect of any loan, advance or debt payable to that person.”.

Insertion of Ninth Schedule in Act 58 of 1962

39. The following Schedule is hereby inserted in the Income Tax Act, 1962, after the Eighth Schedule:

“Ninth Schedule

(Section 30)

PUBLIC BENEFIT ACTIVITIES

Part I

1. Welfare and Humanitarian

- (a) The care or counseling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children.
- (b) The care or counseling of poor and needy persons where more than 90 per cent of those persons to whom the care or counseling are provided are over the age of 60.
- (c) The care or counseling of, or the provision of education programmes relating to, physically or mentally abused and traumatized persons.
- (d) The provision of disaster relief.
- (e) The rescue or care of persons in distress.
- (f) The provision of poverty relief.
- (g) Rehabilitative care or counseling or education of prisoners, former prisoners and convicted offenders and persons awaiting trial.
- (h) The rehabilitation, care or counseling of persons addicted to a dependence-forming substance or the provision of preventative and education programmes regarding addiction to dependence-forming substances.
- (i) Conflict resolution, the promotion of reconciliation, mutual respect and tolerance between the various peoples of South Africa or the promotion of human rights and democracy.
- (j) The protection of the safety of the general public.
- (k) The promotion or protection of family stability.
- (l) The provision of legal services for poor and needy persons.
- (m) The provision of day care facilities for children under school-going age of poor and needy parents.
- (n) The promotion or protection of the rights and interests of, and the care of, asylum seekers and refugees.

- (o) Community development for poor and needy persons and anti-poverty initiatives, including—
 - (i) the promotion of community-based projects relating to self-help, empowerment, capacity building, skills development or anti-poverty;
 - (ii) the provision of training, support or assistance to community-based projects contemplated in subparagraph (i); or
 - (iii) the provision of training, support or assistance to emerging micro enterprises to improve capacity to start and manage businesses, which may include the granting of loans on such conditions as may be prescribed by the Minister by way of regulation in the *Gazette*.

2. Health Care

- (a) The provision of health care services to poor and needy persons.
- (b) The care or counseling of terminally ill persons or persons with a severe physical or mental disability, and the counseling of their families in this regard.
- (c) The prevention of HIV infection, the provision of preventative and education programmes relating to HIV/AIDS.
- (d) The care, counseling or treatment of persons afflicted with HIV/AIDS, including the care or counseling of their families and dependants in this regard.
- (e) The provision of blood transfusion, organ donor or similar services.
- (f) The provision of primary health care education, sex education or family planning.

3. Land and Housing

- (a) The development, construction, upgrading, conversion or procurement of housing units for the benefit of poor and needy persons.
- (b) The development, servicing, upgrading or procurement of stands, or the provision of building materials, for purposes of the activities contemplated in subparagraph (a).
- (c) The provision of residential care for retired persons, where more than 90 per cent of the persons to whom the residential care is provided are over the age of 60 and regular meals and nursing services are provided by the organisation carrying on such activity.
- (d) Building and equipping of community centres, clinics, sport facilities or creches for the benefit of the poor and needy.
- (e) The promotion, facilitation and support of access to land and use of land, housing and infrastructural development for promoting official land reform programmes.
- (f) Granting of loans for purposes of paragraph (a) or (b) subject to such conditions as may be prescribed by the Minister by way of regulation in the *Gazette*.
- (g) The protection, enforcement or improvement of the rights of poor and needy tenants, labour tenants or occupiers, to use or occupy land or housing.

4. Education and Development

- (a) The provision of education by a "school" as defined in the South African Schools Act, 1996, (Act No. 84 of 1996).
- (b) The provision of "higher education" by a "higher education institution" as defined in terms of the Higher Education Act, 1997, (Act No. 101 of 1997).

- (c) “Adult basic education and training”, as defined in the Adult Basic Education and Training Act, 2000, (Act No. 52 of 2000), including literacy and numeracy education.
- (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).
- (e) Training for unemployed persons with the purpose of enabling them to obtain employment.
- (f) The training or education of persons with a severe physical or mental disability.
- (g) The provision of bridging courses to enable educationally disadvantaged persons to enter a higher education institution as envisaged in subparagraph (b).
- (h) The provision of educare or early childhood development services for pre-school children.
- (i) Training of persons employed in the national, provincial and local spheres of government, for purposes of capacity building in those spheres of government.
- (j) The provision of school buildings or equipment on land owned or held by the State, or by—
 - (i) a public benefit organisation contemplated in section 30; or
 - (ii) an institution, board or body contemplated in section 10(1)(cA)(i),
 which carries on any public benefit activity as contemplated in subparagraphs (a) to (h) or held by the State.
- (k) Career guidance and counseling services provided to persons for purposes of attending any school or higher education institution as envisaged in subparagraphs (a) and (b).
- (l) The provision of hostel accommodation to students of a public benefit organisation contemplated in section 30 or an institution, board or body contemplated in section 10(1)(cA), carrying on

activities envisaged in subparagraphs (a) to (g).

- (m) Programmes addressing needs in education provision, learning, teaching, training, curriculum support, governance, whole school development, safety and security at schools, pre-schools or educational institutions as envisaged in subparagraphs (a) to (h).
- (n) Educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy.
- (o) The provision of scholarships, bursaries and awards for study, research and teaching.

5. Religion, Belief or Philosophy

- (a) The promotion and/or practice of religion which encompasses acts of worship, witness and community service based on a belief in a deity.
- (b) The promotion and/or practice of a belief.
- (c) The promotion of, or engaging in, philosophical activities.

6. Cultural

- (a) The advancement, promotion or preservation of the arts, culture or customs.
- (b) The promotion, establishment, protection, preservation or maintenance of areas, collections or buildings of historical interest, national monuments, national heritage sites, museums, including art galleries, archives and libraries.
- (c) The provision of youth development programs.

7. Conservation, Environment and Animal Welfare

- (a) Engaging in the conservation, rehabilitation or protection of the natural environment, including flora, fauna or the biosphere.
- (b) The care of animals, including the rehabilitation, or prevention of the ill-treatment of animals.
- (c) The promotion of, and education and training programmes relating to, environmental awareness, greening, clean-up or sustainable development projects.
- (d) The establishment and management of a transfrontier area, involving two or more countries, which
 - (i) is or will fall under a unified or coordinated system of management without compromising national sovereignty; and
 - (ii) has been established with the explicit purpose of supporting the conservation of biological diversity, job creation, free movement of animals and tourists across the international boundaries within the peace park, and the building of peace and understanding between the nations concerned.

8. Research and consumer rights

- (a) Research including agricultural, economic, educational, industrial, medical, political, social, scientific and technological research.
- (b) The protection and promotion of consumer rights and the improvement of control and quality with regard to products or services.

9. Sport

The administration, development, co-ordination or promotion of sport or recreation in which the participants take part on a non-professional basis as a pastime.

10. Providing of funds, assets or other resources

The provision of—

- (a) funds or assets or other resources by way of donation;
- (b) assets or other resources by way of sale for a consideration not exceeding the direct cost to the organisation providing the assets or resources;
- (c) funds by way of loan at no charge;
- (d) assets by way of lease for an annual consideration not exceeding the direct cost to the organisation providing the asset or resources divided by the total useful life of the asset.

to any—

- (i) any public benefit organisation which has been approved in terms of section 30;
- (ii) any institution, board or body contemplated in section 10(1)(cA)(i), which conducts one or more public benefit activities in this part (other than this paragraph);
- (iii) any association of persons carrying on one or more public benefit activity contemplated in this part (other than this paragraph), in the Republic; or
- (iv) any department of state or administration in the national or provincial sphere of government.”.

11. General

- (a) The provision of support services to, or promotion of the common interests of public benefit organisations contemplated in section 30 of the Income Tax Act, 1962, or institutions, boards or bodies contemplated in section 10(1)(cA)(i), which conducts one or more public benefit activities contemplated in this part.
- (b) The hosting of any international event approved by the Minister of Finance for purposes of these regulations, having regard to—
 - (i) the foreign participation in that event; and
 - (ii) the economic impact that event may have on the country as a whole.

Part II

1. **Welfare and Humanitarian**

- (a) The care or counseling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children.
- (b) The care or counseling of poor and needy persons where more than 90 per cent of those persons to whom the care or counseling are provided are over the age of 60.

2. **Health Care**

- (a) The provision of health care services to poor and needy persons.
- (b) The care or counseling of terminally ill persons or persons with a severe physical or mental disability, and the counseling of their families in this regard.
- (c) The prevention of HIV infection, the provision of preventative and education programmes relating to HIV/AIDS.

- (d) The care, counseling or treatment of persons afflicted with HIV/AIDS, including the care or counseling of their families and dependants in this regard.

3. Education and Development

- (a) The provision of education by a “school” as defined in the South African Schools Act, 1996, (Act No. 84 of 1996).
- (b) The provision of “higher education” by a “higher education institution” as defined in terms of the Higher Education Act, 1997, (Act No. 101 of 1997).
- (c) “Adult basic education and training”, as defined in the Adult Basic Education and Training Act, 2000, (Act No. 52 of 2000), including literacy and numeracy education.
- (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).
- (e) Training for unemployed persons with the purpose of enabling them to obtain employment.
- (f) The training or education of persons with a severe physical or mental disability.
- (g) The provision of bridging courses to enable educationally disadvantaged persons to enter a higher education institution as envisaged in subparagraph (b).
- (h) The provision of educare or early childhood development services for pre-school children.
- (i) The provision of school buildings or equipment on land owned or held by either the State, a public benefit organisation contemplated in section 30 or an institution, board or body contemplated in section 10(1)(cA)(i), carrying on any public benefit activity as envisaged in subparagraphs (a) to (h).

- (j) Programmes addressing needs in education provision, learning, teaching, training, curriculum support, governance, whole school development, safety and security at schools, pre-schools or educational institutions as envisaged in subparagraphs (a) to (h).
- (k) Educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy.

4. Conservation, Environment and Animal Welfare

The establishment and management of a transfrontier area, involving two or more countries, which—

- (a) is or will fall under a unified or coordinated system of management without compromising national sovereignty, and
- (b) has been established with the explicit purpose of supporting the conservation of biological diversity, job creation, free movement of animals and tourists across the international boundaries within the peace park, and the building of peace and understanding between the nations concerned.”

Amendment of section 3 of Act 91 of 1964

40. Section 3 of the Customs and Excise Act, 1964, is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:
 - “(3)(a) For the purposes of any internal review under this section—
 - (i) except subparagraph (ii)(cc), any decision by the Commissioner or an officer under the provisions of this Act, including any amendment or withdrawal thereof, shall be deemed to be effective from the date any notice or communication in respect of such decision is issued in writing or the date specified in such notice or communication;

- (ii) any such decision includes—
 - (aa) any determination or other act of an administrative nature;
 - (bb) any amendment or withdrawal of a decision; and
 - (cc) any refusal to take a decision.

(b) Any such decision issued by an officer shall indicate whether it is subject to internal review as provided in any rule contemplated in subsection (4).

(c) Any person who may institute proceedings in respect of such decision by the Commissioner, the Controller or an officer under the Act may apply for such internal review."; and

(b) by the addition of the following subsection:

"(4)(a) The Commissioner may, subject to the empowering provisions of the Commissioner in this section to perform any duty imposed or exercise any power conferred under this Act or to withdraw or amend any decision of an officer, make rules—

(i) to delegate, for the purpose of internal review of any decision of any officer, the performance of any such duty or the exercise of such power under this section or any other provision of this Act including the withdrawal or amendment of such decision, to any officer or any committee of officers;

(ii) to prescribe at which office any committee of officers shall be constituted, and the composition of such committee;

(iii) to prescribe which decisions or categories of decisions of officers or any such committee shall be subject to review whether by any other committee or by any such other officer;

(iv) to prescribe internal review procedures and such forms as may be required for the purposes of this section; and

(v) regarding any other matter which the Commissioner may consider reasonably necessary and useful for the purposes of administering the provisions of this section.

(b) Notwithstanding the provisions of this section—

- (i) the Commissioner may withdraw or amend any decision by any officer or committee of officers after considering such internal review;
- (ii) any internal review procedure does not affect any appeal contemplated in this Act or the rights of any person to institute any judicial proceedings arising from such decision."

Amendment of section 4 of Act 91 of 1964

41. Section 4 of the Customs and Excise Act, 1964, is hereby amended by the substitution for subsection (3B) of the following subsection:

"(3B) The provisions of subsection (3) shall not be construed as preventing **[an officer]** ~~the Commissioner~~ from using any information obtained by him in the exercise of his powers or the performance of his duties under this Act for the purposes of any other law administered by him.";

Amendment of section 21 of Act 91 of 1964

42. Section 21 of the Customs and Excise Act, 1964, is hereby amended by the addition of the following subsection:

"(3) Except where any provision of this Act otherwise provides in respect of any special customs and excise warehouse, the Commissioner may prescribe by rule—

- (a) the purposes for which any special customs and excise warehouse may be licensed;
- (b) the goods and the activities in connection therewith that will be allowed in such warehouse;
- (c) the requirements to be complied with by applicants and licensees;

- (d) the procedures applicable to the operation of such warehouse;
- (e) the rules of conduct required to be observed by the licensee; and
- (f) any other matter which the Commissioner may consider necessary or useful for the efficient and effective administration of such warehouses."

Amendment of section 43 of Act 91 of 1964

43. Section 43 of the Customs and Excise Act, 1964, is hereby amended—

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

"the master, pilot or other carrier, container operator, depot operator, person in control of a container terminal or transit shed or other person who has control of such goods in terms of any provision of this Act shall furnish a list thereof together with all available documents to the controller and shall remove the goods to—";

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

"Where the Commissioner on reasonable grounds determines that any goods to which this section relates or any goods which are detained as contemplated in section 113(8), have been imported or exported in contravention of any law, the Commissioner may, except in the case of goods detained under section 113A for the purposes of the Counterfeit Goods Act, 1997 (Act No. 37 of 1997), request the South African Police Service or the authority administering such law—"; and

- (c) by the substitution for paragraphs (a), (b) and (c) of subsection (6) of the following paragraphs:

"(a) Where any goods are seized and detained under the provisions of the Counterfeit Goods Act, 1997, as contemplated in section 113A of this Act and the importer is not known and no criminal prosecution or civil

proceedings is or are instituted or no instruction is received for the release of the goods as contemplated in section 9(2) of the said Counterfeit Goods Act, such goods shall, notwithstanding anything to the contrary in this Act or the said Counterfeit Goods Act contained, be subject to the provisions of this section.

(b) Where goods are seized and detained in the circumstances contemplated in paragraph (a), such goods shall, notwithstanding anything to the contrary contained in the said Counterfeit Goods Act, be removed for detention to the State warehouse.

(c) The provisions of subsection (5)(c) shall apply *mutatis mutandis* in respect of goods to which this section relates."

Amendment of section 49 of Act 91 of 1964

44. Section 49 of the Customs and Exoise Act, 1964, is hereby amended—

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

"(iv) which is a customs union agreement with the government of any state in Africa;"

(b) by the addition to paragraph (a) of subsection (1) of the following subparagraph:

"(v) which provides for any other matter which either expressly or by implication requires to be administered by customs legislation;"

(c) by the substitution for subparagraph (i) of paragraph (b) of subsection (1) of the following subparagraph:

"(i) Any amendment of such agreement or any protocol or other part or provision thereof, any regulations for facilitating implementation, any agreed list of processing relating to originating status of goods, any annex or appendix or other addition to such agreement or protocol or any other matter agreed upon between governments or by any committee of, or a

body established by, the parties to such agreement or any decision or condition imposed by such committee or body, is likewise enacted into law as part of this Act when published in accordance with the provisions of subsections (1) and (1A) of section 48 or subsection (5) or (5B) of this section by notice in the *Gazette* as an amendment of such agreement or protocol or part or provision, as the case may be, with effect from any date that may be specified in such notice."

Amendment of section 59A of Act 91 of 1964

45. Section 59A of the Customs and Excise Act, 1964, is hereby amended by the substitution in subsection (2) for paragraph (c) of the following paragraph:

"(c) The provisions of section 60(2) shall apply *mutatis mutandis* for the purposes of paragraph **[(a)] (b)**."

Amendment of section 60 of Act 91 of 1964

46. Section 60 of the Customs and Excise Act, 1964, is hereby amended by the addition to subsection (1) of the following paragraph:

"(c)(i) Any person applying for a licence under any provision of this Act shall, before such licence is issued, furnish such security as the Commissioner may require.

(ii) The Commissioner may at any time require that the form, nature or amount of such security shall be altered or renewed in such manner as he may determine."

Amendment of section 64D of Act 91 of 1964

47. (1) Section 64D of the Customs and Excise Act, 1964, is hereby amended—

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

"(3A)(a) The Commissioner may, subject to such conditions as he may prescribe by rule and impose in each case, allow a licensed remover of goods in bond to subcontract the removal or carriage of goods to which this section relates to another licensed remover of goods in bond.

(b) When a licensed remover of goods so subcontracts, both such licensed removers shall be jointly and severally liable for the fulfilment of all obligations under this Act as contemplated in subsection (6)."; and

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

"(a)(i) Before any person is licensed as a remover of goods in bond such person shall furnish such security and enter into such agreement as the Commissioner may require.

(ii) Notwithstanding the provisions of subparagraph (i), the Commissioner may, subject to such conditions as he may prescribe by rule and impose in each case, accept such security from any other person in respect of any goods removed or carried by such remover."

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

Amendment of section 64E of Act 91 of 1964

48. Section 64E of the Customs and Excise Act, 1964, is hereby amended—

(a) by the substitution for subparagraph (iv) of paragraph (c) of subsection (2) of the following subparagraph:

"(iv) the benefits conferred upon an accredited client"; and

(b) by the addition to paragraph (c) of subsection (2) of the following subparagraph:

"(v) any other matter that may be reasonably necessary and useful to regulate the benefits provided in terms of this section;".

Amendment of section 93A of Act 91 of 1964

49. Section 93A of the Customs and Excise Act, 1964, is hereby amended by substitution for subsections (1) and (2) of the following subsections:

"(1) The Minister may by regulation prescribe the circumstances under which the Commissioner may, **[for purposes of the settlement of]** notwithstanding any provision contained in this Act, settle a dispute between the Commissioner and any person concerning any amount which may include duty, forfeiture, penalty, interest or charges payable under the provisions of this Act, **[waive any claim against such a person]** in whole or in part, where such a settlement would be to the best advantage of the state.

(2) The Minister must so prescribe the requirements for the reporting by the Commissioner of any **[claim against such person]** dispute which has been **[waived]** settled in whole or in part by the Commissioner, as contemplated in subsection (1)."

Insertion of section 113A in Act 91 of 1964

50. The following section is hereby inserted in the Customs and Excise Act, 1964, after section 113:

"Powers and duties of officers in connection with counterfeit goods

113A.(1) An officer may—

(a) detain any goods to ascertain whether such goods are counterfeit goods as contemplated in the Counterfeit Goods Act, 1997 (Act No. 37 of 1997; or

(b) notwithstanding anything to the contrary contained in the said Act, while acting as an inspector as defined in that Act, for the purposes thereof—

(i) seize and detain any goods when requested to do so in accordance with the provisions of section 15 of the said Act whether or not such goods are under customs control;

(ii) seize and detain any goods in accordance with the provisions of the said Act where such officer has reasonable cause to believe that such goods are *prima facie* counterfeit goods as defined in that Act while such goods are under customs control; or

(iii) seize and detain any goods while such goods are in transit through the Republic or transit goods found in the area of control of any Controller where such officer has reasonable cause to believe that such goods are *prima facie* counterfeit goods as defined in the said Act.

(2) An officer—

(a) may refuse to detain any goods as contemplated in subsection (1)(a)(i) in circumstances where the request to do so does not in all respects conform with the requirements of the said Act; and

(b) shall not seize or detain any counterfeit goods where the Commissioner is not indemnified against claims of any nature which may result from such seizure and detention.

(3) Subject to the provisions of section 43(6), no goods seized or detained by an officer acting as an inspector as contemplated in the said Act may be stored in the State warehouse except where such goods are detained or seized for purposes of this Act.

(4) Notwithstanding anything to the contrary in any other law contained, no person shall be entitled to any compensation for any loss or diminution of or damage to any goods to which this section relates or any loss or damage sustained resulting from any *bona fide* act of any officer in respect of such goods.

(5) The Commissioner may make rules—

(a) regarding the procedures to be followed by an officer when exercising any power or performing any duty in connection with the detention of any goods under the provisions of subsection (1)(a)(i) or the seizure and detention of counterfeit goods;

(b) prescribing such forms as may be required to be completed for purposes of this section; and

(c) concerning any other matter which the Commissioner may consider reasonably necessary and useful for the purpose of administering the provisions of this section."

Amendment of Schedule No. 1 to Act 91 of 1964

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

(2) Subject to the provisions of section 58(1) of the Customs and Excise Act, 1964, subsection (1) shall be deemed to have come into operation on 20 February 2002.

Amendment of section 4 of Act 77 of 1968

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

"(f) any instrument which is executed by or on behalf of—

- (i) public benefit organisation which is exempt from tax in terms of section 10(1)(cN) of the Income Tax Act, 1962 (Act 58 of 1962); or
 - (ii) any institution, board or body, which is exempt from tax in terms of the provisions of section 10(1)(cA)(i) of the Income Tax Act, 1962, which has as its sole or principal object the carrying on of any public benefit activity contemplated in section 30,
- if the duty thereon would be legally payable and borne by such, public benefit organisation, institution, board or body.

Amendment of Item 7 of Schedule 1 to Act 77 of 1968

53. (1) Item 7 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—

- (a) by the deletion paragraphs (3) and (4); and
- (b) by the substitution for the particulars in the column *Amount of duty* under sub-item (5) of the following particulars:

"The like duty as is chargeable on **[a cession of]** the bond."

(2) Subsection (1) is deemed to have come into operation on 1 April 2002 and shall apply in respect of agreements of cession entered into on or after that date.

Amendment of Item 15 of Schedule 1 to Act 77 of 1968

54. (1) Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended by the addition to *Exemptions from the duty under paragraph (1) or (2)* of the following paragraph:

"(h) The issue of any interest-bearing debentures, including debenture stock, debenture bonds or any other securities of a company, whether

constituting a charge on the assets of the company or not, listed by any stock exchange in the Republic or listed by any financial exchange as defined in the Financial Markets Control Act, 1989 (Act No. 55 of 1989).".

(2) Subsection (1) is deemed to have come into operation on 1 April 2002 and shall apply in respect of the issue of a listed debt instrument on or after that date.

Amendment of Item 18 of Schedule 1 to Act 77 of 1968

55. (1) Item 18 of Schedule 1 to the Stamp Duties Act, 1968 is hereby amended by the deletion of paragraphs (2A), (5) and (7) thereof.

(2) Subsection (1) is deemed to have come into operation on 1 April 2002 and shall apply in respect of any policy or contract referred to in those items executed or ceded on or after that date.

Amendment of Schedule 1 to Act 89 of 1991

56. Paragraph 8 of Schedule 1 to the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution for subheading 2710.00.12 of the following:

"2710.11.03 Petrol, unleaded
2710.11.05 Petrol, leaded"; and

(b) by the substitution for subheading 2710.00.16 of the following:

"2710.11.30 Distillate fuel".

Amendment of section 3 of Act 31 of 1998

57. Section 3 of the Uncertificated Securities Tax Act, 1998, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The taxable amount in respect of the issue within the Republic of securities, which are shares **[or debentures]** as defined in the Companies Act, 1973 (Act No. 61 of 1973), shall be the value of such securities.”.

Amendment of section 6 of Act 31 of 1998

58.(1) Section 6 of the Uncertificated Securities Tax Act, 1998 is hereby amended—

(a) by the addition to paragraph (a) of subsection (1) of the following subparagraph:

~~“(iv) if the securities are interest bearing debentures (including debenture stock, debenture bonds and similar securities of a juristic person, whether constituting a charge on the assets of the juristic person or not) listed by any stock exchange or by any financial exchange as defined in the Financial Markets Control Act, 1989 (Act No. 55 of 1989);”; and~~

(b) by the addition to paragraph (b) of subsection (1) of the following subparagraph:

~~“(x) if the security constitutes a warrant and the beneficial ownership therein is acquired by the issuer thereof.”.~~

(2) Subsection (1)(a) shall be deemed to have come into operation on 1 April 2002 and shall apply in respect of any interest-bearing debenture issued on or after that date.

(b) Subsection (1)(b) shall be deemed to have come into operation on 1 April 2002 and shall apply in respect of change in beneficial ownership in a warrant on or after that date.

Amendment of section 3 of Act 9 of 1999

59. Section 3 of the Skills Development Levies Act, 1999, is hereby amended by the addition to subsection (5) of the following paragraph:

“(e) which is in terms of paragraph 11C of the Fourth Schedule to the Income Tax Act, 1962, deemed to be paid or payable by an employer which is a private company for purposes of that Act, to any person who is a director of that private company.”.

Amendment of section 4 of Act 9 of 1999

60. Section 4 of the Skills Development Levies Act, 1999, is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(c) any public benefit organisation contemplated in section 10(1)(cN) of the Income Tax Act, which solely carries on any **[religious or charitable]** public benefit activity **[determined by the Minister of Finance in terms of section 30 of]** contemplated in paragraphs 1 and 5 of Part I of the Ninth Schedule to that Act, or any public benefit organisation which provides funds solely to such public benefit organisation which so carries on any such public benefit activity; or”.

Amendment of section 21 of Act 30 of 2000

61. Section 21 of the Taxation Laws Amendment Act, 2000, is hereby amended by the substitution for the second proviso to paragraph (a) of subsection (2) of the following proviso:

“Provided that any company, society, trust, institution, union, chamber, exchange, other association of persons or fund whose receipts and

accruals were exempt from tax in terms of the provisions of paragraphs (cB), (cC), (cD), (cF), (cl), (cJ), (f) and (fA) of section 10(1) of the Income Tax Act, 1962, prior to the amendment thereof by this section, which company, society, trust, institution, union, chamber, exchange, other association of persons or fund applies for approval by the Commissioner in terms of section 10(1)(d)(ii) or (iii) or section 30 of that Act **[within a period of 12 months after the date so fixed by the President]** before 31 December 2003, or submit a written undertaking as provided for in the said section 30 **[within such period]** before that date, shall continue to enjoy exemption until written notification by the Commissioner of his decision in terms of the said section 10(1)(d)(ii) or (iii) or section 30:".

Amendment of section 51 of Act 19 of 2001

62. (1) Section 51(1) of the Revenue Laws Amendment Act, 2001 (Act No. 19 of 2001), which inserts section 101A in the Customs and Excise Act, 1964, is hereby amended by the substitution in the English text for the words preceding subparagraph (i) of paragraph (c) of subsection (1) of the following words:

"For the purposes of the definition of 'digital signature', a digital signature is an electronic signature created by computer, intended by the registered user using it and by the Commissioner accepting it to have the same force and effect as the use of a manual signature and which is—".

(2) Subsection (1) shall be deemed to have come into operation on the date section 51(1) of the Revenue Laws Amendment Act, 2001 (Act No. 19 of 2001), comes into operation.

Amendment of section 5 of Act 60 of 2001

63. Section 5 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1), in so far as it inserts section 11A(2) in the Marketable Securities Tax Act, 1948, of the following:

“(2) The provisions of the Income Tax Act, 1962, relating to—

- (a) objections and appeals, as provided for in Part III of Chapter III and the rules promulgated thereunder; and
 - (b) settlement of disputes, as provided for in section 107B,
- shall *mutatis mutandis* apply in respect of any objection lodged or appeal noted or any dispute settled in terms of this Act.”.

Amendment of section 10 of Act 60 of 2001

64. Section 10 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1), in so far as it inserts section 18(2) in the Transfer Duty Act, 1949, of the following:

“(2) The provisions of the Income Tax Act, 1962, relating to—

- (a) objections and appeals, as provided for in Part III of Chapter III and the rules promulgated thereunder; and
- (b) settlement of disputes, as provided for in section 107B,

shall *mutatis mutandis* apply in respect of any objection lodged or appeal noted or any dispute settled in terms of this Act.”.

Amendment of section 15 of Act 60 of 2001

65. Section 15 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1), in so far as it inserts section 24(2) in the Estate Duty Act, 1955, of the following:

“(2) The provisions of the Income Tax Act, 1962, relating to—

- (a) objections and appeals, as provided for in Part III of Chapter III and the rules promulgated thereunder; and
 - (b) settlement of disputes, as provided for in section 107B,
- shall *mutatis mutandis* apply in respect of any objection lodged or appeal noted or any dispute settled in terms of this Act.”.

Amendment of section 53 of Act 60 of 2001

66. (1) Section 53 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the deletion of paragraph (d) of subsection (1).

(2) Subsection (1) shall come into operation on the date that section 53 of the Second Revenue Laws Amendment Act, 2001, comes into operation.

Amendment of section 54 of Act 60 of 2001

67. (1) Section 54 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in paragraph (d) of subsection (1), for paragraph (b) of the proviso to subsection (4) of section 83 of the Income Tax Act, 1962, of the following paragraph:

- “(b) where any such appeal relates to the valuation of immovable property, or of both movable and immovable property, such third member shall, if the President of the court, the Commissioner or the appellant so desires, be a person appointed by the Commissioner from amongst persons approved by the President of the Republic, **[an additional member]** who shall be a person appointed and carrying on business as a sworn appraiser who has skills or knowledge relating to the purpose for which the property is utilised; and”.

(2) Subsection (1) shall come into operation on the date that section 54 of the Second Revenue Laws Amendment Act, 2001, comes into operation.

Amendment of section 68 of Act 60 of 2001

68.(1) Section 68 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the deletion of paragraph (a) of subsection (1).

(2) Subsection (1) shall be deemed to have come into operation on 12 December 2001.

Amendment of section 113 of Act 60 of 2001

69. (1) Section 113(1) of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001), is hereby amended by the substitution for the definition of “wharf operator” in section 1 of the Customs and Excise Act, 1964, of the following definition:

“‘wharf operator’ means the licensee in control of any goods on any wharf contemplated in section 6(1)(gA) and licensed in terms of the provisions of this Act where any imported or exported goods, whether or not containerised, including goods in bulk, are loaded from or loaded into any ship.”.

(2) Subsection (1) shall be deemed to have come into operation on the date section 113(1) of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001), comes into operation.

Amendment of section 116 of Act 60 of 2001

70. (1) Section 116(1) of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001), is hereby amended by the substitution for paragraph (gA) of subsection (1) of section 6 of the Customs and Excise Act, 1964, of the following paragraph:

“(gA) wharfs on which goods imported or exported, whether or not containerised, including goods in bulk, may be landed from or loaded into any ship by, and be under the control of, a wharf operator;”.

(2) Subsection (1) shall be deemed to have come into operation on the date section 116(1) of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001), comes into operation.

Amendment of section 137 of Act 60 of 2001

71. (1) Section 137(1) of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001), substituting section 97 of the Customs and Excise Act, 1964, is hereby amended

(a) by the substitution for paragraph (a) of subsection (1) of section 97 of the following paragraph:

"(a) any container operator, master, pilot, or other carrier may, and shall in the circumstances specified in paragraph (b), instead of himself or herself performing any act, including the answering of questions required by or under any provision of this Act, appoint an agent **[registered]** licensed under the provisions of this Act to perform any such act;"

(b) by the substitution for paragraph (a) of subsection (2) of section 97 of the following paragraph:

"(a) Any such agent shall be a legal person registered in the Republic in accordance with the laws of the Republic and which has its place of effective management in the Republic or a natural person ordinarily

resident in the Republic with a permanent business establishment in the Republic."; and

(c) by the addition in section 97 of the following subsection:

"(3) For the purposes of this section—

(a) 'agent' includes, subject to subsection (2)(a), a person carrying on a business as an 'airline' or a 'shipping line';

(b) (i) 'airline' means any transport enterprise offering or operating an international air service;

(ii) 'shipping line' means any transport enterprise offering or operating an international shipping service."

(2) Subsection (1) shall be deemed to have come into operation on the date section 137(1) of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001), comes into operation.

Amendment of section 145 of Act 60 of 2001

72. Section 145 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1), in so far as it inserts section 32B(2) in the Stamp Duties Act, 1968, of the following:

"(2) The provisions of the Income Tax Act, 1962, relating to—

(c) objections and appeals, as provided for in Part III of Chapter III and the rules promulgated thereunder; and

(d) settlement of disputes, as provided for in section 107B,

shall *mutatis mutandis* apply in respect of any objection lodged or appeal noted or any dispute settled in terms of this Act."

Amendment of section 160 of Act 60 of 2001

73. Section 160 of the Second Revenue Laws Amendment Act, 2001, is hereby amended—

(a) by the substitution in paragraph (f), in so far as it amends section 33(4) of the Value-Added Tax Act, 1991, of the following:

“(4) The provisions of sections 83(8), **[(9), (10)]** (11), (12), (14), **[(15), (16)]** (17), (18), **[and]** (19), **[and]**, 84, **[and]** 85, 107A and 107B of the Income Tax Act and any regulations under that Act relating to any appeal to the **[special] tax court or settlement of disputes** shall *mutatis mutandis* apply with reference to any appeal under this section which is or is to be heard by that court or any settlement of a dispute in terms of this Act.”.

(b) by the addition of the following subsection:

“(2) Subsection (1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Amendment of section 182 of Act 60 of 2001

74. Section 182 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1), in so far as it inserts section 17A(2) in the Uncertificated Securities Tax Act, 1998, of the following:

“(2) The provisions of the Income Tax Act, 1962, relating to—

- (a) objections and appeals, as provided for in Part III of Chapter III and the rules promulgated thereunder; and
- (b) settlement of disputes, as provided for in section 107B,

shall *mutatis mutandis* apply in respect of any objection lodged or appeal noted or any dispute settled in terms of this Act.”.

Repeal of section 34 of Act 63 of 2001

75. Section 34 of the Unemployment Insurance Act, 2001, is hereby amended by the repeal of section 34.

Amendment of section 8 of Act 4 of 2002

76. Section 8 of the Unemployment Insurance Contributions Act, 2002, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) If the amount of any contribution, interest or penalty paid by an employer to the Commissioner was not due or payable, or is in excess of the amount due or payable in terms of this Act, that amount, or such excess amount, ~~[must be refunded]~~ becomes refundable to that employer by the Commissioner.”.

Substitution of section 12 of Act 4 of 2002

77. (1) Section 12 of the Unemployment Insurance Contributions Act, 2002, is hereby substituted by the following section:

“Interest on late payments

12. An employer who fails to pay the full amount **[payable in terms of section 8 or 9 on the last day for payment as contemplated in section**

~~8(1) or 9(1)]~~ of any contribution within the period for payment prescribed by this Act, must pay interest on the outstanding amount at the rate contemplated in paragraph (b) of the definition of “prescribed rate” in section 1 of the Income Tax Act, calculated from the day following the last day for payment to the day that payment is received by the Commissioner or Unemployment Insurance Commissioner, as the case may be.”.

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

Amendment of section 13 of Act 4 of 2002

78. (1) Section 13 of the Unemployment Insurance Contributions Act, 2002, is hereby amended by the substitution for subsection (3) of the following subsection:

~~“(3) The amount of the additional penalty contemplated in subsection (2)—~~
~~(a) must be determined by the Commissioner or the Unemployment Insurance Commissioner, as the case may be, and must be paid by the employer within such period as the Commissioner or Unemployment Insurance Commissioner may determine; and~~
~~(b) shall be deemed to be an amount of contribution payable in terms of this Act for purposes of—~~
~~(i) the determination of any interest payable in terms of section 12; and~~
~~(ii) the application of the provisions of the Income Tax Act, 1962, in respect of the payment and recovery of any contribution, interest or penalty in terms of section 14(1)(d).”.~~

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

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

79.(1) Every amendment or withdrawal of or insertion in Schedules Nos. 1 to 6, inclusive, and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56 or 75(15) of that Act during the calendar year ending on 31 December 2001 shall not lapse by virtue of the provisions of section 48(6), 49, 56(3) or 75(16) of that Act.

(2) The amendment of Part 2 of Schedule No. 1 and Schedule No. 6 to the Customs and Excise Act, 1964, made respectively under sections 48 and 75 of that Act by Government Notices R. 388 and 389 of 1 April 2002, in respect of the said Part 2 of Schedule No. 1 and Schedule No. 6 shall not lapse by virtue of the provisions of section 48(6) of that Act.

Short title and commencement

80. (1) This Act shall be called the Taxation Laws Amendment Act, 2002.

(2) Save in so far as is otherwise provided in this Act or the context otherwise indicates, the amendments effected to the Income Tax Act, 1962, by this Act shall for purposes of assessments in respect of normal tax under the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2003.

SCHEDULE 1

RATES OF NORMAL TAX PAYABLE BY PERSONS (OTHER THAN COMPANIES) IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 2003, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 2003

(Section 8)

1. The rates of normal tax referred to in section 8 of this Act in respect of persons (other than companies) are as follows:—

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

Taxable Income	Rates of Tax
Where the taxable income—	
Does not exceed R40 000.....	18 per cent of each R1 of the taxable income;
Exceeds R40 000 but does not exceed R80 000	R7 200 plus 25 per cent of the amount by which the taxable income exceeds R40 000;
“ R80 000 “ “ “ “ R110 000	R17 200 plus 30 per cent of the amount by which the taxable income exceeds R80 000;
“ R110 000 “ “ “ “ R170 000	R26 200 plus 35 per cent of the amount by which the taxable income exceeds R110 000;

“ R170 000 “ “ “ “ R240 000	R47 200 plus 38 per cent of the amount by which the taxable income exceeds R170 000;
“ R240 000	R73 800 plus 40 per cent of the amount by which the taxable income exceeds R240 000.

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

2. The rates of normal tax referred to in section 8 of this Act in respect of companies are, subject to the provisions of paragraph 4, as follows:—

- (a) on each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f), (g) and (h)), 30 cents, or, in the case of 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, 38 cents;
- (b) in respect of the taxable income of any company which qualifies as a small business corporation as defined in section 12E of the Income Tax Act, 1962, on each rand of the taxable income as does not exceed R150 000, 15 cents, and on each rand of the taxable income of such company as exceeds R150 000, 30 cents;
- (c) on each rand of the taxable income of any employment company as defined in section 12E of the Income Tax Act, 1962, 35 cents;

- (d) on each rand of the taxable income derived by any company from mining for gold on any gold mine (with the exclusion of so much of the taxable income as the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of “gross income” in section 1 of the Income Tax Act, 1962, but after the set-off of any assessed loss in terms of section 20(1) of that Act, a percentage determined in accordance with the formula:

$$y = 37 - \frac{185}{x}$$

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:

$$y = 46 - \frac{230}{x}$$

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

- (e) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in its gross income of any amount

referred to in paragraph (j) of the definition of "gross income" in section 1 of the Income Tax Act, 1962, a rate equal to the average rate of normal tax or 30 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from mining for gold on any gold mine for the period from which that company commenced its gold mining operations on that gold mine to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

- (f) on each rand of the taxable income derived by any company from carrying on long-term insurance business in respect of its individual policyholder fund, company policyholder fund and corporate fund, 30 cents;
- (g) on each rand of the taxable income (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f) and (h)) derived by a company which has its place of effective management outside the Republic and which carries on a trade through a branch or agency within the Republic, 35 cents;
- (h) on each rand of the taxable income derived by a qualifying company as contemplated in section 37H of the Income Tax Act, 1962, subject to the provisions of the said section, zero cents:

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

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

4. For the purposes of paragraph 2, income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any other income which results directly from mining for gold.

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

DRAFT

SCHEDULE 2

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

(Section 51)

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
104.00		By the substitution for tariff item 104.00 of the following:		
"104.00		PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO		
104.01	19.01	MALT EXTRACT; FOOD PREPARATIONS OF FLOUR, MEAL, STARCH OR MALT EXTRACT, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 50 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED; FOOD PREPARATIONS OF GOODS OF HEADINGS NOS. 04.01 TO 04.04, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 10 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED:		
.10		Preparations, based on sorghum flour, put up for making beverages	34.7c/kg	34.7c/kg
104.05	22.01	WATERS, INCLUDING NATURAL OR ARTIFICIAL MINERAL WATERS AND AERATED WATERS, NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER NOR FLAVOURED; ICE AND SNOW		
	22.02	WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED, AND OTHER NON-ALCOHOLIC BEVERAGES (EXCLUDING FRUIT OR VEGETABLE JUICES OF HEADING NO. 20.09):		

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOM S
.10		Mineral waters, including spa waters and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	0c/1	0c/1
.20		Lemonade and flavoured mineral waters, including flavoured spa and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	0c/1	0c/1
.30		Non-alcoholic beverages not elsewhere specified or included in this tariff item put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	0c/1	0c/1
104.10	22.03	BEER MADE FROM MALT	2 563c/l of absolute alcohol	2 563c/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	VERMOUTHS AND OTHER WINE OF FRESH GRAPES FLAVOURED WITH PLANTS OR AROMATIC SUBSTANCES		
	22.06	OTHER FERMENTED BEVERAGES (FOR EXAMPLE, CIDER, PERRY AND MEAD):		
.05		Sorghum beer (excluding beer made from preparations based on sorghum flour)	7.82c/1	7.82c/1

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
.10		Unfortified still wine	80.7c/l	80.7c/l
.40		Fortified still wine	182.5c/l	182.5c/l
.50		Other still fermented beverages, unfortified	130.5c/l	130.5c/l
.60		Other still fermented beverages, fortified	231.4c/l	231.4c/l
.70		Sparkling wine	227.6c/l	227.6c/l
.80		Other fermented beverages (excluding sorghum beer)	275.2c/l	275.2c/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 in the Republic by the distillation of wine	3 671c/l of absolute alcohol	-
.15		Spirits, manufactured in the Republic by the distillation of any sugar cane product	3 671c/l of absolute alcohol	-
.25		Spirits, manufactured in the Republic by the distillation of any grain product	3 671c/l of absolute alcohol	-
.29		Other spirits, manufactured in the Republic	3 671c/l of absolute alcohol	

TARIFF ITEM	TARIFF HEADING	DESCRIPTION	RATE OF DUTY	
			EXCISE	CUSTOMS
.60		Imported spirits of any nature, including spirits in imported spirituous beverages (excluding liqueurs, cordials and similar spirituous beverages containing added sugar) and in compound alcoholic preparations of an alcoholic strength exceeding 1,713 per cent alcohol by volume	-	3 575c/l of absolute alcohol or 1 537c/l
.70		Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances	-	3 575c/l of absolute alcohol
104.30	24.02	CIGARS, CHERROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR OF TOBACCO SUBSTITUTES		
.10		Cigars	76 670c/kg net	76 670c/kg net
.20		Cigarettes	175.4c/10 cigarettes	175.4c/10 cigarettes
104.35	24.03	OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES "HOMOGENISED" OR "RECONSTITUTED" TOBACCO EXTRACTS AND ESSENCES:		
.10		Cigarette tobacco	10 297c/kg	10 297c/kg
.20		Pipe tobacco	5 251c/kg net	5 251c/kg net