

REPUBLIC OF SOUTH AFRICA

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

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

(MINISTER OF FINANCE)

[B 14—2006]

ISBN 0 621 36191 7

No. of copies printed 1 800

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 provide for a Small Business Tax Amnesty in respect of the voluntary disclosure by an applicant of any failure to comply with certain Acts administered by the Commissioner; to amend the Transfer Duty Act, 1949, so as to adjust the rates of duty; to effect a textual amendment and to provide for an exemption from duty in the case of an acquisition by a spouse on death or dissolution of marriage; to amend the Estate Duty Act, 1955, so as to increase the estate duty exemption; to amend the Income Tax Act, 1962, so as to fix the rates of normal tax payable by persons other than companies in respect of taxable income for the years of assessment ending 28 February 2007 and by companies in respect of taxable income for the years of assessment ending during the 12 months ending on 31 March 2007; to amend a definition; to increase the primary and secondary rebates; to further regulate the taxation of travelling allowances; to further extend the deeming provision on the disposal of listed shares to individuals; to further regulate the exemption in respect of interest and foreign dividends; to delete obsolete provisions and to provide for certain amounts received by grant to be exempt from normal tax; to further increase the turnover limit for small business corporations; to further regulate provisions relating to learnership agreements; to reinsert certain provisions relating to the determination of gains and losses on foreign exchange transactions; to increase the annual donations tax exemption; to adjust the percentage of a motor vehicle allowance which is subject to employees' tax; to further adjust the formula for determining the taxable benefit on employer provided residential accommodation; to further regulate the provisions for determining a taxable benefit in respect of free or cheap transport provided to employees; to further regulate the determination of a taxable benefit resulting from employer provided medical treatment; to increase the annual exclusion in respect of capital gains or capital losses; to increase the exclusion for capital gains tax purposes of the amount realised from the disposal of a primary residence; to increase the exclusion for capital gains tax purposes of the amount realised from the disposal of an asset of or interest in a small business; and to further regulate the provisions relating to the disposal of interests in equity share capital of foreign companies; to amend the Customs and Excise Act, 1964, so as to amend Schedule No. 1; and to provide for the continuation of certain amendments to the Schedules; to exempt certain marketable securities which are participatory interests in a collective investment scheme from stamp duty; and to provide for relief in respect of leases; to amend the Value-Added Tax Act, 1991, so as to amend and insert definitions in respect of municipalities and municipal rates; to insert certain deeming provisions; to provide for zero-rating of municipal rates; to align certain provisions with regard to fuel levy items with the Customs and Excise Act, 1964; to regulate certain input tax deductions and adjustments by municipalities; and to provide for certain

liabilities and limitation of refunds of municipalities for tax; to amend the Tax on Retirement Funds Act, 1996, so as to adjust the rate of tax; and to amend the Uncertificated Securities Tax Act, 1998, so as to amend a definition; to provide for the taxation of the change in the full beneficial ownership in securities, or any of the rights or entitlements in respect thereof; to exempt certain marketable securities which are participatory interests in a collective investment scheme from uncertificated securities tax; and to withdraw the power of district and metropolitan municipalities to levy and claim regional services levies; and to provide for matters connected therewith.

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

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CHAPTER I**SMALL BUSINESS TAX AMNESTY****Part I****Interpretation 30****Definitions**

1. For purposes of this Chapter, unless the context indicates otherwise, any meaning ascribed to a word or expression in the Income Tax Act, the Value-Added Tax Act, the Skills Development Levies Act and the Unemployment Insurance Contributions Act must bear the meaning so ascribed, and— 35

“**2006 year of assessment**” means the year of assessment ending during the 12 month period commencing 1 April 2005 and ending 31 March 2006;

“**carrying on of a business**” includes the earning of investment income incidental to the regular carrying on of a business;

“**deliver**”, in relation to any notice or document, means— 40

(a) handing that notice or document to the relevant person;

(b) sending that notice or document to the relevant person by registered post to that person’s last known address, which may be his or her last known place of residence, office, place of business or postal address;

(c) transmitting that notice or document to the relevant person by facsimile; or 45

- (d) transmitting that notice or document to the relevant person by electronic means: 5
 Provided that in the case of paragraphs (c) and (d), the notice or document must be handed to the relevant person or sent by registered post to that person as contemplated in paragraph (b), within ten days of it being so transmitted by facsimile or electronic means;
- “**Income Tax Act**” means the Income Tax Act, 1962 (Act No. 58 of 1962);
- “**Minister**” means the Minister of Finance;
- “**person**” includes an insolvent estate, the estate of a deceased person and any trust; 10
- “**qualifying period**”, in relation to tax amnesty in respect of—
- (a) income tax, means any year of assessment preceding the 2006 year of assessment;
- (b) secondary tax on companies, means any dividend cycle which ends in any year of assessment preceding the 2006 year of assessment; 15
- (c) any withholding tax on royalties means the period ending on or before 28 February 2006; and
- (d) any other tax, levy or contribution means any tax period or month which ends on or before 28 February 2006;
- “**Skills Development Levies Act**” means the Skills Development Levies Act, 1999 (Act No. 9 of 1999); 20
- “**tax amnesty levy**” means the levy contemplated in Part IV of this Chapter;
- “**Unemployment Insurance Contributions Act**” means the Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002);
- “**unlisted company**” means any company as defined in section 1 of the Income Tax Act, but excludes— 25
- (a) a company referred to in paragraph (e) of that definition; and
- (b) any listed company as defined in that Act;
- “**Value-Added Tax Act**” means the Value-Added Tax Act, 1991 (Act No. 89 of 1991). 30

Part II

Application for tax amnesty

Application of Chapter

2. A person may apply for tax amnesty under this Chapter, if— 35
- (a) that person—
- (i) is a natural person (including the deceased or insolvent estate of a natural person);
- (ii) was an unlisted company throughout the qualifying period and all the shares or members’ interests in the company were held directly by natural persons (including the deceased or insolvent estate of a natural person) throughout the 2006 year of assessment; 40
- (iii) is a trust and all the beneficiaries of that trust throughout the 2006 year of assessment were natural persons (including the deceased or insolvent estate of a natural person); and
- (b) the total gross income of that person for the 2006 year of assessment from carrying on business did not exceed R10 million, but if that person’s financial year was not 12 months the amount of R10 million must be adjusted proportionally taking into account the number of months that are more or less than 12 months, and for that purpose a part of a month must be reckoned as a full month. 50

Application for tax amnesty and period for application

3. A person (hereinafter referred to as “the applicant”) applying for tax amnesty in terms of this Chapter must submit an application to the Commissioner—
- (a) during the period commencing 1 August 2006 and ending 31 May 2007; and
- (b) at the address and in the manner and form prescribed by the Commissioner. 55

Information required in application

4. (1) The applicant must, in the application for tax amnesty, disclose the taxable income in respect of all amounts received by or accrued to (or deemed to have been received by or accrued to) that applicant from the carrying on of business during the 2006 year of assessment. 5
- (2) The applicant must furnish an income tax return for the 2006 year of assessment and a statement of all assets (at cost) and liabilities as at the end of that year together with the application for tax amnesty or within such period as the Commissioner may allow.
- (3) If it is not possible for the applicant to provide full particulars of any actual amounts in the application or in any return or statement relating to the application, the applicant may provide reasonable estimates of those amounts and must disclose to the Commissioner that the amounts provided are estimates. 10

Part III

Evaluation and approval of application

Evaluation of application and approval 15

5. (1) The Commissioner must, subject to subsection (2), approve an application for tax amnesty in respect of an applicant, only if that applicant complies with all the provisions of sections 2, 3 and 4.
- (2) The Commissioner may not, subject to subsection (4), approve an application in terms of subsection (1) if the Commissioner, at any time before the submission of the application for tax amnesty, delivered a notice to that applicant or that applicant's representative informing that applicant of an audit, investigation or other enforcement action relating to any failure by that applicant to comply with any Act in respect of which application for tax amnesty is made. 20
- (3) For the purposes of subsection (2), enforcement action means an enforcement action of a type as may be prescribed by the Commissioner by Notice in the *Gazette*. 25
- (4) Subsection (2) does not apply if the Commissioner has, before the submission of the application for tax amnesty, delivered a notification that—
- (a) the notice contemplated in that subsection has been withdrawn; or
 - (b) the audit or investigation contemplated in that subsection has been concluded. 30
- (5) The Commissioner must deliver to the applicant a notice of his or her decision to approve or deny the application for tax amnesty and must set out the reasons for any decision to deny that application.

Part IV

Payment of Tax Amnesty Levy 35

Imposition of tax amnesty levy

6. (1) An applicant whose application has been approved in terms of section 5 is subject to a tax amnesty levy, which is paid for the benefit of the National Revenue Fund.
- (2) The tax amnesty levy is calculated by applying the rates in subsection (3) to the taxable income of the applicant for the 2006 year of assessment to the extent that it is attributable to any amount derived by the applicant from carrying on business. 40
- (3) The rates to be applied in calculating the tax amnesty levy are—
- (a) 0 per cent of so much of the taxable income contemplated in subsection (2) as does not exceed R35 000;
 - (b) 2 per cent of so much of the taxable income as exceeds R35 000 but does not exceed R100 000; 45
 - (c) 3 per cent of so much of the taxable income as exceeds R100 000 but does not exceed R250 000;
 - (d) 4 per cent of so much of the taxable income as exceeds R250 000 but does not exceed R500 000; and 50
 - (e) 5 per cent of so much of the taxable income as exceeds R500 000.
- (4) In determining the amount of the tax amnesty levy in terms of subsections (2) and (3), no regard must be had to the balance of any assessed loss or assessed capital loss carried forward from any year of assessment preceding the 2006 year of assessment.

Payment of tax amnesty levy

7. The tax amnesty levy must be paid to the Commissioner within a period of 12 months after the date on which the notice of approval was delivered to the person in terms of section 5(5), or such longer period as the Commissioner may allow subject to such conditions as the Commissioner may impose. 5

Part V**Relief in terms of Tax Amnesty****Relief from payment of tax, contribution or levies**

8. Subject to section 10, an applicant whose application has been approved in terms of section 5 is not liable for the payment of— 10

- (a) income tax in terms of the Income Tax Act, in respect of any amount received by or accrued to (or deemed to have been received by or accrued to) the applicant during the qualifying period, from the carrying on of any business; 10
- (b) employees' tax in terms of the Fourth Schedule to the Income Tax Act, in respect of any remuneration as defined in that schedule paid to employees during the qualifying period; 15
- (c) any value-added tax in terms of the Value-Added Tax Act, in respect of any supply or importation of goods or services, during the qualifying period;
- (d) withholding tax on royalties in terms of the Income Tax Act, in respect of any amount paid during the qualifying period to any person who is not a resident; 20
- (e) secondary tax on companies, in terms of the Income Tax Act, in respect of any dividend declared or deemed to be declared for the purposes of section 64B of the Income Tax Act during the qualifying period;
- (f) contributions payable in terms of the Unemployment Insurance Contributions Act in respect of any remuneration, as defined in that Act, paid during the qualifying period; and 25
- (g) levies payable in terms of the Skills Development Levies Act in respect of any leviable amounts as contemplated in that Act, during the qualifying period.

Relief from payment of additional tax, penalties and interest

9. (1) An applicant whose application has been approved in terms of section 5 is not liable for the payment of any additional tax, penalty or interest to the extent that it relates to any amount for which relief has been granted in terms of section 8. 30

(2) The Commissioner may extend the date for the submission of any returns to be furnished by an applicant in terms of any Act to which this Chapter relates and may waive the penalty for the late submission of that return. 35

(3) The Commissioner may waive any additional tax or penalties imposed or interest charged to an applicant in terms of any Act to which this Chapter relates on any amounts relating to returns due after the qualifying period.

Circumstances where tax amnesty relief does not apply

10. The tax amnesty relief does not apply in respect of any amount of tax, levy, contribution, interest, penalty or additional tax, to the extent that it— 40

- (a) had already been paid before the submission of the application; or
- (b) is payable or becomes payable by the applicant in consequence of any information which was furnished to the Commissioner by the applicant or a representative of the applicant in any return or declaration or otherwise before the submission of the application; or 45
- (c) is payable by the applicant in terms of an assessment issued by the Commissioner before the submission of the application; or
- (d) relates to value-added tax not paid as a result of a false declaration of the acquisition, import or export of goods or services that did not actually occur. 50

Disallowance of deductions, allowances and losses

- 11.** An applicant whose application has been approved in terms of section 5 may not—
- (a) utilise any assessed loss or assessed capital loss arising during the qualifying period for the purposes of determining that applicant's liability for income tax after the qualifying period; 5
 - (b) for the purposes of calculating that applicant's liability for secondary tax on companies, set off any excess of dividends which accrued to the applicant during any dividend cycle ending during the qualifying period against any dividends declared by the applicant during any dividend cycle ending after the qualifying period; or 10
 - (c) claim the deduction of any input tax as defined in section 1 of the Value-Added Tax Act, or any other deduction contemplated in section 16(3) of that Act, which relates to any supply to that applicant during any tax period ending during the qualifying period for purposes of calculating that applicant's liability for value-added tax after the qualifying period. 15

Circumstances where approval is void

- 12.** Any approval granted by the Commissioner is void if—
- (a) the applicant fails to pay the full amount of the tax amnesty levy within the period prescribed in Part IV; 20
 - (b) the applicant failed to make full disclosure of any information required in the application, including any amounts contemplated in section 4(1) or in any return or statement contemplated in section 4(2); or
 - (c) any estimate made by the applicant in terms of section 4(3) is materially incorrect. 25

Part VI**Regulations****Waiver of additional tax, penalty and interest**

- 13.** (1) The Minister may by regulation prescribe the circumstances upon which the Commissioner may waive in whole or in part any amount of additional tax, penalty or interest payable in respect of any year of assessment, dividend cycle, tax period or month ending during the qualifying period, by a person who satisfies the requirements as set out in section 2 but to whom the tax amnesty relief will not apply as a result of the circumstances contemplated in section 10(b) and (c), where that waiver would facilitate the purpose and objective of the tax amnesty as contemplated in section 1(b) of the Second Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006. 30
- (2) The Minister must in the regulations contemplated in subsection (1) prescribe—
- (a) the procedures to be followed by the Commissioner in waiving any amount; and
 - (b) the requirements for reporting by the Commissioner of any amounts which have been waived. 40
- (3) The Minister must publish draft regulations in the *Gazette* for public comment and submit the draft regulations to Parliament for parliamentary scrutiny at least 30 days before any regulations contemplated in this section are published.

CHAPTER II

45

GENERAL AMENDMENTS TO TAXATION LAWS

Amendment of section 2 of Act 40 of 1949, as substituted by section 2 of Act 77 of 1964 and amended by section 1 of Act 56 of 1966, section 2 of Act 66 of 1973, section 3 of Act 88 of 1974, section 5 of Act 106 of 1980, section 3 of Act 87 of 1988, section 2 of Act 136 of 1992, section 3 of Act 97 of 1993, section 1 of Act 37 of 1995, section 9 of Act 37 of 1996, section 2 of Act 32 of 1999, section 2 of Act 30 of 2002, section 31 of Act 12 of 2003, section 1 of Act 16 of 2004, section 1 of Act 9 of 2005 and section 1 of Act 31 of 2005 50

14. (1) Section 2 of the Transfer Duty Act, 1949, is hereby amended—
- (a) by the substitution in subsection (1)(a) for the expression “10 per cent” of the expression “8 per cent”; and
 - (b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
 - “(b) subject to **[the provisions of]** subsection (5)—
 - (i) 0 per cent of so much of the said value or the said amount, as the case may be, as does not exceed **[R190 000] R500 000**;
 - (ii) 5 per cent of so much of the said value or the said amount, as the case may be, as exceeds **[R190 000] R500 000** but does not exceed **[R330 000] R1 million**; and
 - (iii) 8 per cent of so much of the said value or the said amount, as the case may be, as exceeds **[R330 000], R1 million**, if the person who acquires the property or in whose favour or for whose benefit the said interest or restriction is renounced is a natural person.”.
- (2) Subsection (1) is deemed to have come into operation on 1 March 2006 and applies in respect of any property acquired or interest or restriction in any property renounced on or after that date.

Amendment of section 5 of Act 40 of 1949, as amended by section 6 of Act 103 of 1969, section 2 of Act 86 of 1987, section 3 of Act 136 of 1992, section 2 of Act 20 of 1994 and section 2 of Act 45 of 2003

15. Section 5 of the Transfer Duty Act, 1949, is hereby amended by the substitution in subsection (7) for paragraph (b) of the following paragraph:
- “(b) the municipal **[or divisional council]** valuation of the property concerned;”.

Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973, section 5 of Act 88 of 1974, section 77 of Act 54 of 1976, section 2 of Act 95 of 1978, section 6 of Act 106 of 1980, section 2 of Act 99 of 1981, section 2 of Act 118 of 1984, section 3 of Act 81 of 1985, section 3 of Act 86 of 1987, section 4 of Act 87 of 1988, section 36 of Act 9 of 1989, section 1 of Act 69 of 1989, section 79 of Act 89 of 1991, section 6 of Act 120 of 1992, section 4 of Act 136 of 1992, section 5 of Act 97 of 1993, section 2 of Act 37 of 1995, section 3 of Act 32 of 1999, section 3 of Act 30 of 2000, section 2 of Act 5 of 2001, section 8 of Act 60 of 2001, section 3 of Act 30 of 2002, section 4 of Act 74 of 2002, section 3 of Act 45 of 2003, section 2 of Act 16 of 2004, section 2 of Act 32 of 2004 and section 2 of Act 31 of 2005

16. Section 9 of the Transfer Duty Act, 1949, is hereby amended—
- (a) by the deletion in subsection (1) of paragraph (f); and
 - (b) by the substitution in subsection (1) for paragraph (i) of the following paragraph:
 - “(i) a surviving or divorced spouse who acquires the sole ownership in the whole or any portion of property registered in the name of his or her deceased or divorced spouse **[to whom he was married in community of property, in respect of so much of the value of the property in which sole ownership is acquired as represents his share in that property by virtue of the marriage in community of property]** where that property or portion is transferred to that surviving or divorced spouse as a result of the death of his or her spouse or dissolution of their marriage or union;”.

Amendment of section 4A of Act 45 of 1955, as substituted by section 11 of Act 87 of 1988 and amended by section 5 of Act 30 of 2002

17. (1) Section 4A of the Estate Duty Act, 1955, is hereby amended by the substitution for the expression “R1,5 million” of the expression “R2,5 million”.
- (2) Subsection (1) is deemed to have come into operation on 1 March 2006 and applies in respect of the estate of any person who dies on or after that date.

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

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

- (a) the taxable income of any person (other than a company) for the year of assessment ending on 28 February 2007; and
 - (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 2007,
- shall be as set out in Schedule 1 to this Act.

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R.780 of 14 April 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 34 of Act 34 of 1997, section 19 of Act 30 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2001, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002, section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, section 3 of Act 16 of 2004, section 3 of Act 32 of 2004 and section 3 of Act 32 of 2005

19. Section 1 of the Income Tax Act, 1962, is hereby amended by the substitution in the definition of “dividend” for paragraph (b) of the following paragraph:

- “(b) in relation to a company that is not being wound up, [or] liquidated, or deregistered or where the corporate existence of that company is not finally terminated, any profits distributed, whether in cash or otherwise, and whether of a capital nature or not, including an amount equal to the nominal value, at the time of issue thereof, of any capitalization shares awarded to shareholders and the nominal value of any bonus debentures or securities awarded to shareholders;”.

Amendment of section 6 of Act 58 of 1962, as inserted by section 5 of Act 104 of 1980 and amended by section 5 of Act 96 of 1981, section 5 of Act 91 of 1982, section 4 of Act 94 of 1983, section 4 of Act 121 of 1984, section 3 of Act 96 of 1985, section 4 of Act 85 of 1987, section 4 of Act 90 of 1988, section 4 of Act 70 of 1989, section 3 of Act 101 of 1990, section 4 of Act 129 of 1991, section 4 of Act 141 of 1992, section 5 of Act 21 of 1995, section 4 of Act 36 of 1996, section 3 of Act 28 of 1997, section 22 of Act 30 of 1998, section 5 of Act 32 of 1999, section 15 of Act 30 of 2000, section 6 of Act 19 of 2001, section 11 of Act 30 of 2002, section 35 of Act 12 of 2003, section 6 of Act 16 of 2004, section 3 of Act 9 of 2005 and section 7 of Act 31 of 2005

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

Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act 101 of 1990, section 9 of Act 129 of 1991, section 6 of Act 141 of 1992, section 4 of Act 113 of 1993, section 6 of Act 21 of 1994, section 8 of Act 21 of 1995, section 6 of Act 36 of 1996, section 6 of Act 28 of 1997, section 24 of Act 30 of 1998, section 14 of Act 53

of 1999, section 17 of Act 30 of 2000, section 6 of Act 59 of 2000, section 7 of Act 19 of 2001, section 21 of Act 60 of 2001, section 12 of Act 30 of 2002, section 11 of Act 74 of 2002, section 18 of Act 45 of 2003, section 6 of Act 32 of 2004 and section 4 of Act 9 of 2005

21. Section 8 of the Income Tax Act, 1962, is hereby amended by the substitution in the second proviso to subsection (1)(b)(ii) for the expression “16 000 kilometres”, wherever it occurs, of the expression “18 000 kilometres”. 5

Amendment of section 9B of Act 58 of 1962, as inserted by section 9 of Act 101 of 1990 and amended by section 11 of Act 129 of 1991, section 9 of Act 141 of 1992, section 6 of Act 113 of 1993, section 7 of Act 36 of 1996, section 26 of Act 30 of 1998, section 16 of Act 53 of 1999, section 21 of Act 45 of 2003 and section 12 of Act 32 of 2004 10

22. Section 9B of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (8) of the following subsection:

“(8) For the purposes of this section any amount included in the income of any [company] taxpayer in terms of [the provisions of] section 22(8)(b) as a result of the application, disposal or distribution of any affected share as contemplated in that section, [shall be] is deemed to be an amount which has accrued to [such company] that taxpayer as a result of the disposal of [such] that affected share.”. 15

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998, section 18 of Act 53 of 1999, section 21 of Act 30 of 2000, section 13 of Act 59 of 2000, sections 9 and 78 of Act 19 of 2001, section 26 of Act 60 of 2001, section 13 of Act 30 of 2002, section 18 of Act 74 of 2002, section 36 of Act 12 of 2003, section 26 of Act 45 of 2003, section 8 of Act 16 of 2004, section 14 of Act 32 of 2004, section 5 of Act 9 of 2005 and section 16 of Act 31 of 2005 20 25 30 35

23. Section 10 of the Income Tax Act, 1962, is hereby amended— 40

- (a) by the substitution in subsection (1)(i)(xv)(aa) for the expression “R2 000” of the expression “R2 500”;
- (b) by the substitution in subsection (1)(i)(xv)(bb)(A) for the expression “R22 000” of the expression “R24 500”;
- (c) by the substitution in subsection (1)(i)(xv)(bb)(B) for the expression “R15 000” of the expression “R16 500”;
- (d) by the deletion in subsection (1)(zH) of subparagraphs (i) and (ii); and
- (e) by the addition in subsection (1)(zL) of the word “and” at the end of subparagraph (i). 45

Amendment of section 12E of Act 58 of 1962, as inserted by section 12 of Act 19 of 2001 and amended by section 17 of Act 30 of 2002, section 21 of Act 74 of 2002, section 37 of Act 12 of 2003, section 31 of Act 45 of 2003, section 9 of Act 9 of 2005 and section 21 of Act 31 of 2005 50

24. Section 12E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4)(a)(i) for the expression “R6 million”, wherever it occurs, of the expression “R14 million”. 55

Amendment of section 12H of Act 58 of 1962, as inserted by section 18 of Act 30 of 2002 and amended by section 32 of Act 45 of 2003 and section 22 of Act 31 of 2005

25. (1) Section 12H of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 5
 “Notwithstanding section 23B, but subject to subsection (3), there shall be allowed to be deducted from the income derived by any employer during any year of assessment, an allowance determined in accordance with subsection (2) or (2A), where—”;
- (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 10
 “[**For purposes of subsection (1)**] Subject to subsection (2A), the amount of the allowance contemplated in subsection (1) in respect of—”;
- (c) by the substitution in subsection (2)(a)(i)(bb) for the expression “R17 500” of the expression “R20 000”;
- (d) by the substitution in subsection (2)(a)(ii)(bb) for the expression “R25 000” of the expression “R30 000”;
- (e) by the substitution in subsection (2)(b)(ii) for the expression “R25 000” of the expression “R30 000”; and 20
- (f) by the insertion after subsection (2) of the following subsection:
 “(2A) If the learner contemplated in subsection (1) is a disabled person at the time of entering into the learnership agreement, the amount of the allowance in respect of—
- (a) a registered learnership agreement entered into by that employer with that learner who at the time of entering into that agreement— 25
- (i) was employed by that employer or associated institution in relation to that employer, is an amount equal to the lesser of—
- (aa) in the case of a learnership agreement with a duration of— 30
- (A) less than 12 months, 150 per cent of the total amount of the remuneration of that learner for the period of that learnership agreement as stipulated in the agreement of employment between that learner and employer; or 35
- (B) 12 months or more, 150 per cent of the annual equivalent of the remuneration of that learner stipulated in the agreement of employment between that learner and employer; or 40
- (bb) R40 000; or 40
- (ii) was not employed by that employer or any associated institution in relation to that employer, is an amount equal to the lesser of—
- (aa) in the case of a learnership agreement with a duration of— 45
- (A) less than 12 months, 175 per cent of the total amount of the remuneration of that learner for the period of that learnership agreement as stipulated in the agreement of employment between that learner and employer; or 50
- (B) 12 months or more, 175 per cent of the annual equivalent of the remuneration of that learner stipulated in the agreement of employment between that learner and employer; or 55
- (bb) R50 000; and 55
- (b) the completion of any registered learnership agreement as contemplated in subsection (1)(b), is an amount equal to the lesser of—
- (i) in the case of a learnership agreement with a duration of—
- (aa) less than 12 months, 175 per cent of the total amount of the remuneration of that learner for the period of that learnership agreement as stipulated in the agreement of employment between that learner and employer; or 60

- (bb) 12 months or more, 175 per cent of the annual equivalent of the remuneration of that learner stipulated in the agreement of employment between that learner and employer; or
- (ii) R50 000.”;
- (g) by the insertion in subsection (6) after the definition of “associated institution” of the following definition:
- “**‘disabled person’** means a person who falls within the definition of “people with disabilities” as contained in section 1 of the Employment Equity Act 1998 (Act No. 55 of 1998);”;
- (h) by the substitution in subsection (6) for paragraph (a) of the definition of “registered learnership agreement” of the following paragraph:
- “(a) a learnership agreement entered into between a learner and an employer before 1 October [2006] 2011, which has been registered with a SETA, as contemplated in section 17(3) of the Skills Development Act, 1998; or”.
- (2) (a) Subsection (1)(a), (b), (f) and (g) shall come into operation on 1 July 2006 and applies in respect of any learnership agreement entered into on or after that date.
- (b) Subsection (1)(c), (d) and (e) is deemed to have come into operation on 1 March 2006 and applies in respect of any learnership agreement entered into on or after that date.

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

26. (1) Section 24I of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for subparagraph (ii) of paragraph (b) of the definition of “ruling exchange rate” of the following subparagraph:
- “(ii) the date it is translated, the market-related forward rate available for the remaining period of such forward exchange contract or in respect of a forward exchange contract which is an affected contract, the forward rate in terms of such forward exchange contract;”;
- (b) by the substitution in subsection (7A)(a) for the words preceding subparagraph (i) of the following words:
- “**[Subject to subsection (10), where]** Where any exchange difference is to be included in or deducted from the income of any company in terms of subsection (3), there shall, in lieu of such deduction or inclusion, be included in or deducted, as the case may be, from the income of such company during any year of assessment an amount equal to 10 per cent of the deferred amount of such exchange difference arising from a loan or advance obtained or granted during any year of assessment ending before 8 November 2005 owing by such company to any other company or owing by any other company to such company (such a loan or advance referred to as a qualifying exchange item for the purposes of this subsection), if—”;
- (c) by the addition to subsection (10) of the following proviso:
- “: Provided that where that exchange item is realised during any year of assessment, the exchange difference in respect of that exchange item shall be determined by multiplying that exchange item by the difference between the ruling exchange rate on the date on which that exchange item is realised and the ruling exchange rate on transaction date, after taking into account any exchange difference included in or deducted from the income of that person in terms of this section in respect of that exchange item.”;
- (2) (a) Subsection (1)(a) is deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2006.
- (b) Subsection (1)(b) and (c) is deemed to have come into operation on 8 November 2005 and applies in respect of years of assessment ending on or after that date.

Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964, section 25 of Act 55 of 1966, section 33 of Act 89 of 1969, section 38 of Act 85 of 1974, section 21 of Act 113 of 1977, section 13 of Act 101 of 1978, section 23 of Act 96 of 1981, section 31 of Act 94 of 1983, section 4 of Act 30 of 1984, section 28 of Act 121 of 1984, section 18 of Act 96 of 1985, section 21 of Act 85 of 1987, section 26 of Act 90 of 1988, section 28 of Act 141 of 1992, section 32 of Act 113 of 1993, section 18 of Act 36 of 1996, section 39 of Act 30 of 1998, section 38 of Act 30 of 2000, section 41 of Act 59 of 2000, section 45 of Act 60 of 2001, section 24 of Act 30 of 2002, section 35 of Act 74 of 2002, section 56 of Act 45 of 2003, section 38 of Act 32 of 2004 and section 45 of Act 31 of 2005

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

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

Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of Act 113 of 1993, section 16 of Act 140 of 1993, section 37 of Act 21 of 1995, section 34 of Act 36 of 1996, section 44 of Act 28 of 1997, section 52 of Act 30 of 1998, section 52 of Act 30 of 2000, section 53 of Act 59 of 2000, section 19 of Act 19 of 2001, section 32 of Act 30 of 2002, section 46 of Act 32 of 2004 and section 49 of Act 31 of 2005

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

- (a) by the substitution in paragraph (bA) of the definition of “**remuneration**” for subparagraph (i) of the following subparagraph:
 - “(i) an allowance in respect of which paragraph (c) or (cA) applies; or”;
- (b) by the substitution in the definition of “**remuneration**” for paragraph (c) of the following paragraph:
 - “(c) 50 per cent of—
 - (i) **the amount of any allowance or advance in respect of transport expenses referred to in section 8(1)(b), other than any such allowance or advance contemplated in section 8(1)(b)(iii) which is based on the actual distance travelled by the recipient, and which is calculated at a rate per kilometre which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under the said section 8(1)(b)(iii); and**
 - (ii) the amount of any allowance referred to in section 8(1)(d) granted to the holder of a public office contemplated in section 8(1)(e);”;
- (c) by the insertion in the definition of “**remuneration**” after paragraph (c) of the following paragraph:
 - “(cA) 60 per cent of the amount of any allowance or advance in respect of transport expenses referred to in section 8(1)(b), other than any such allowance or advance contemplated in section 8(1)(b)(iii) which is based on the actual distance travelled by the recipient, and which is calculated at a rate per kilometre which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under section 8(1)(b)(iii);”.

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

Amendment of paragraph 9 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 van 1984 and amended by section 31 of Act 96 of 1985, section 34 of Act 65 of 1986, section 29 of Act 85 of 1987, section 59 of Act 101 of 1990, section 53 of Act 113 of 1993, section 33 of Act 21 of 1994, section 49 of Act 28 of 1997, section 55 of Act 30 of 1998, section 55 of Act 30 of 2000 and section 57 of Act 31 of 2005 5

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

Amendment of paragraph 10 of Seventh Schedule to Act 58 of 1962, as inserted by section 32 of Act 96 of 1985 and amended by section 60 of Act 101 of 1990, section 36 of Act 30 of 2002 and section 58 of Act 31 of 2005 10

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

(a) by the substitution in subparagraph (1)(a) for the words preceding the proviso of the following words: 15

“in the case of any travel facility granted by any employer who is engaged in the business of conveying passengers for reward by sea or by air to enable any employee or any relative of such employee to travel to any destination outside the Republic for his or her private or domestic purposes, [if the lowest fare payable by a passenger utilizing such facility (had he paid the full fare) at the relevant time in respect of any such journey exceeds R500,] an amount equal to [such] the lowest fare payable by a passenger utilising such facility (had he or she paid the full fare), less the amount of any consideration given by the employee or his or her relative in respect of such facility”; and 20

(b) by the substitution in subparagraph (2)(a) of subitem (ii) for the following subitem: 25

“(ii) to any destination outside the Republic if such travel was undertaken on a flight or voyage made in the ordinary course of the employer’s business and such employee, spouse or minor child was not permitted to make a firm advance reservation of the seat or berth occupied by him[, or if the lowest fare in respect of such travel facility, as contemplated in subparagraph (1)(a)] or her;”. 30

Amendment of paragraph 12B of the Seventh Schedule to Act 58 of 1962, as inserted by section 60 of Act 31 of 2005 35

31. Paragraph 12B of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3)(a) for subitem (ii) of the following subitem:

“(ii) which does not constitute the carrying on of the business of a medical scheme, if [the treatment provided in terms of that scheme or programme is available only to employees of that employer who are not members] that employee and his or her spouse and children— 40
 (aa) are not beneficiaries of a medical scheme registered under the Medical Schemes Act, 1998 (Act No. 131 of 1998)[, and to the spouses and children of those employees]; or 45
 (bb) are beneficiaries of such a medical scheme, and the total cost of that treatment is recovered from that medical scheme;”. 50

Amendment of paragraph 5 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 50

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

(a) by the substitution in subparagraph (1) for the expression “R10 000” of the expression “R12 500”; and

(b) by the substitution in subparagraph (2) for the expression “R50 000” of the expression “R60 000”. 55

Amendment of paragraph 45 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 29 of Act 19 of 2001 and section 93 of Act 60 of 2001

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

Amendment of paragraph 57 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 89 of Act 74 of 2002

34. Paragraph 57 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3) for the expression “R500 000” of the expression “R750 000”. 10

Amendment of paragraph 64B of Eighth Schedule to Act 58 of 1962, as inserted by section 105 of Act 45 of 2003 and amended by section 79 of Act 31 of 2005

35. Paragraph 64B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended— 15

- (a) by the substitution in subparagraph (3)(c)(iii)(bb) for the words preceding subparagraph (A) of the following words:
 - “by means of a distribution [*in specie* as contemplated in paragraph 75] by a company, unless the full amount of that distribution—”; and
- (b) by the substitution in subparagraph (4) for the words preceding item (a) of the following words:
 - “Where [subsection] subparagraph (3) does not apply due to the fact that any distribution as provided for in subparagraph (3)(c)[(ii)(aa)]—”. 20

Amendment of Schedule No. 1 of Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992, section 13 of Act 98 of 1993, section 12 of Act 19 of 1994, section 74 of Act 45 of 1995, section 8 of Act 44 of 1996, section 15 of Act 27 of 1997, section 75 of Act 30 of 1998, section 7 of Act 32 of 1999, section 64 of Act 30 of 2000, section 52 of Act 19 of 2001, section 53 of Act 30 of 2002, section 41 of Act 12 of 2003, section 155 of Act 45 of 2003, section 36 of Act 16 of 2004 and section 15 of Act 9 of 2005 25 30 35

36. (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 section 58(1) of the Customs and Excise Act, 1964, subsection (1) is deemed to have come into operation on 15 February 2006. 40

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

37. (1) Every amendment or withdrawal of or insertion in Schedules No. 1 to 6, and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56 or 75(15) of that Act during the calendar year ending on 31 December 2005 shall not lapse by virtue of section 48(6), 49, 56(3) or 75(16) of that Act. 45

(2) The amendment of Parts 1, 2, 3 and 5 of Schedule No. 1, Schedule No. 4, Schedule No. 5 and Schedule No. 6 to the Customs and Excise Act, 1964, made respectively under sections 48 and 75(15) of that Act by Government Notices R. 291, R292, R293, R295, R296, R297, R298, R299, R300, R301, R304 and R313 of 31 March 2006, in respect of the said Parts 1, 2, 3 and 5 of Schedule No. 1, Schedule No. 4, Schedule No. 5 and Schedule No. 6 shall not lapse by virtue of the provisions of section 48(6) or 75(16) of that Act. 50

Amendment of item 14 of Schedule 1 to Act 77 of 1968, as amended by section 19 of Act 114 of 1977, section 7 of Act 95 of 1978, section 90 of Act 32 of 2004 and section 99 of Act 31 of 2005

38. (1) Item 14 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—
- (a) by the substitution in paragraph (a) of the “*Exemption from duty under paragraph (1)*” for the words preceding the proviso to paragraph (a) of the following words:
- “For the purposes of this Item, no duty shall be payable in the event that the duty calculated on a lease or agreement of lease does not in aggregate exceed [R200] R500 over the period of the lease:” and
- (b) by the substitution in paragraph (b) of the “*Exemptions from duty under paragraph (1)*” for subparagraph (ii) of the following subparagraph:
- “(ii) in the 12 months ending on the last day of February each year in the case of any other lessor, if that amount does not in aggregate exceed [R200] R500 during such year of assessment, or 12 month period, whichever is applicable.”.
- (2) Subsection (1) is deemed to have come into operation on 1 March 2006 and applies in respect of any lease agreement executed on or after that date.

Amendment of item 15 of Schedule 1 to Act 77 of 1968, as substituted by section 13 of Act 89 of 1972 and amended by section 16 of Act 66 van 1973, section 21 of Act 88 of 1974, section 3 of Act 104 of 1976, section 20 of Act 114 of 1977, section 8 of Act 95 of 1978, section 8 of Act 102 of 1979, section 21 of Act 106 of 1980, section 9 of Act 99 of 1981, section 7 of Act 87 of 1982, section 14 of Act 92 of 1983, section 11 of Act 118 of 1984, section 11 of Act 81 of 1985, section 5 of Act 71 of 1986, section 13 of Act 108 of 1986, section 11 of Act 86 of 1987, section 33 of Act 87 of 1988, section 14 of Act 69 of 1989, section 9 of Act 136 of 1991, section 8 of Act 136 of 1992, section 17 of Act 97 of 1993, section 17 of Act 140 of 1993, section 8 of Act 20 of 1994, section 19 of Act 46 of 1996, section 21 of Act 27 of 1997, section 86 of Act 30 of 1998, section 18 of Act 31 of 1998, section 79 of Act 53 of 1999, section 72 of Act 30 of 2000, section 63 of Act 59 of 2000, section 42 of Act 5 of 2001, section 147 of Act 60 of 2001, section 56 of Act 30 of 2002, section 113 of Act 74 of 2002, section 163 of Act 45 of 2003, section 91 of Act 32 of 2004, section 18 of Act 9 of 2005 and section 100 of Act 31 of 2005

39. (1) Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—
- (a) by the insertion in the “*Exemptions from the duty under paragraph (3)*” after paragraph (b) of the following paragraph:
- “(c) Any registration of transfer of marketable securities which are participatory interests in a collective investment scheme regulated in terms of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002).”;
- (b) by the addition to the “*Exemptions from the duty under paragraph (4)*” of the following paragraph:
- “(d) Where the marketable securities are participatory interests in a collective investment scheme regulated in terms of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002).”; and
- (c) by the addition to the “*Exemptions from the duty under paragraph (5)*” of the following paragraph:
- “(e) The acquisition by the transferee from the transferor of marketable securities which are participatory interests in a collective investment scheme regulated in terms of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002).”.
- (2) Subsection 1 is deemed to have come into operation on 1 July 2006 and applies in respect of any marketable security transferred or acquired on or after that date.

Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, paragraph 1 of Government Notice 2695 of 8 November 1991, section 12 of Act 136 of 1992, section 1 of Act 61 of 1993, section 22 of Act 97 of 1993, section 9 of Act 20 of 1994, section 18 of Act 37 of 1996, section 23 of Act 27 of 1997, section 34 of Act 34 of 1997, section 81 of Act 53 of 1999, section 76 of Act 30 of 2000, section 64 of Act 59 of 2000, section 65 of Act 19 of 2001, section 148 of Act 60 of 2001,

section 114 of Act 74 of 2002, section 47 of Act 12 of 2003, section 164 of Act 45 of 2003, section 43 of Act 16 of 2004, section 92 of Act 32 of 2004, section 8 of Act 10 of 2005 and section 101 of Act 31 of 2005

40. (1) Section 1 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the deletion in the definition of “**designated entity**” of the word “or” at the end of paragraph (ii) and at the end of paragraph (iii); 5
 - (b) by the addition in the definition of “**designated entity**” of the word “or” at the end of paragraph (iv);
 - (c) by the addition of the following paragraph to the definition of “**designated entity**”: 10
 - “(v) which is a municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);”;
 - (d) by the substitution for the definition of “**donation**” of the following definition: 15
 - “‘**donation**’ means a payment whether in money or otherwise voluntarily made to any association not for gain for the carrying on or the carrying out of the purposes of that association and in respect of which no identifiable direct valuable benefit arises or may arise in the form of a supply of goods or services to the person making that payment or in the form of a supply of goods or services to any other person who is a connected person in relation to the person making the payment, but does not include any payment made by a public authority or a [**local authority**] municipality;”;
 - (e) by the substitution in the definition of “**enterprise**” for paragraph (a) of the following paragraph: 25
 - “(a) in the case of any vendor [**other than a local authority**], any enterprise or activity which is carried on continuously or regularly by any person in the Republic or partly in the Republic and in the course or furtherance of which goods or services are supplied to any other person for a consideration, whether or not for profit, including any enterprise or activity carried on in the form of a commercial, financial, industrial, mining, farming, fishing, municipal or professional concern or any other concern of a continuing nature or in the form of an association or club;”;
 - (f) by the deletion of paragraph (c) of the definition of “**enterprise**”; 35
 - (g) by the insertion in the definition of “**enterprise**” of the following paragraph to the proviso: 35
 - “(x) where the Minister is satisfied that an activity of the municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), is of a regulatory nature and if the Commissioner, in pursuance of a decision of the Minister, has notified that ‘municipal entity’ of that decision, the supply of goods or services in respect of that activity by the municipal entity shall be deemed not to be the carrying on of an enterprise;”;
 - (h) by the substitution for the definition of “**grant**” of the following definition: 45
 - “‘**grant**’ means any appropriation, grant in aid, subsidy or contribution transferred, granted or paid to a vendor by a public authority, [**local authority**] municipality or constitutional institution listed in Schedule 1 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), but does not include— 50
 - (a) a payment made for the supply of any goods or services to that public authority or [**local authority**] municipality, including all goods or services supplied to a public authority, [**local authority**] municipality or constitutional institution listed in Schedule 1 to the Public Finance Management Act, 1999 (Act No. 1 of 1999) in accordance with a procurement process prescribed— 55
 - (i) in terms of the Regulations issued under section 76(4)(c) of the Public Finance Management Act, 1999 (Act No. 1 of 1999); or
 - (ii) in terms of Chapter 11 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), or any other similar process; or 60
 - (b) a payment contemplated in section 8(23);”;

- (i) by the deletion of the definition of “**local authority**”;
- (j) by the insertion of the following definitions after the definition of “**motor car**”:
- “**‘municipality’** means a municipality which—
- (a) is an organ of state within the local sphere of government exercising legislative and executive authority within an area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998); and
- (b) which has the power in terms of section 2 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), to levy municipal rates,
- but does not include any institution or entity listed in the Schedules to the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- ‘municipal rate’** means a rate levied by a municipality in terms of section 2 of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), on ‘rateable property’ of an ‘owner’ as defined in section 1 of that Act respectively: Provided that a municipal rate does not include—
- (a) a single charge levied by that municipality for rates and other supplies of goods or services such as—
- (i) electricity, gas, water; or
- (ii) drainage, removal or disposal of sewage or garbage; or
- (iii) goods or services that are incidental to, or necessary for the supply of those goods or services, to that owner; or
- (b) a rate levied in respect of supplies of goods or services contemplated in paragraph (a);”; and
- (k) by the substitution for the definition of “**person**” of the following definition: “**‘person’** includes any public authority, any [**local authority**] municipality, any company, any body of persons (corporate or unincorporate), the estate of any deceased or insolvent person, any trust fund and any foreign donor funded project;”.
- (2) Subsection (1) is deemed to have come into operation on 1 July 2006.

Amendment of section 2 of Act 89 of 1991, as amended by section 22 of Act 136 of 1991, paragraph 2 of Government Notice 2695 of 8 November 1991, section 13 of Act 136 of 1992, section 10 of Act 20 of 1994, section 19 of Act 37 of 1996, section 24 of Act 27 of 1997, section 87 of Act 30 of 1998, section 82 of Act 53 of 1999, section 149 of Act 60 of 2001, section 115 of Act 74 of 2002, section 44 of Act 16 of 2004 and section 93 of Act 32 of 2004

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

“the buying or selling of any derivative or the granting of an option:”.

Amendment of section 8 of Act 89 of 1991, as amended by section 24 of Act 136 of 1991, paragraph 4 of Government Notice 2695 of 8 November 1991, section 15 of Act 136 of 1992, section 24 of Act 97 of 1993, section 11 of Act 20 of 1994, section 20 of Act 46 of 1996, section 25 of Act 27 of 1997, section 83 of Act 53 of 1999, section 67 of Act 19 of 2001, section 151 of Act 60 of 2001, section 166 of Act 45 of 2003, section 95 of Act 32 of 2004 and section 102 of Act 31 of 2005

42. (1) Section 8 of the Value-Added Tax Act, 1991 is hereby amended—
- (a) by the substitution for subsection (5) of the following subsection:
- “(5) For the purposes of this Act a designated entity shall be deemed to supply services to any public authority or [**local authority**] municipality to the extent of any payment made by the public authority or municipality concerned to or on behalf of that designated entity in respect of the taxable supply of goods or services by that designated entity.”;

- (b) by the substitution for subsection (5A) of the following subsection:
 “(5A) For the purposes of section 11(2)(t), a vendor (excluding a designated entity) shall be deemed to supply services to any public authority, **[local authority] municipality** or constitutional institution listed in Schedule 1 to the Public Finance Management Act, 1999 (Act No. 1 of 1999) to the extent of any grant paid to or on behalf of that vendor in respect of the taxable supply of goods or services by that vendor.”;
- (c) by the substitution for subsection (6) of the following subsection:
 “(6) For the purposes of this Act[—
- (a) **where a local authority makes any supply to any person of goods or services contemplated in paragraph (c)(i), (ii) or (iii) of the definition of ‘enterprise’ in section 1 and no consideration relating specifically to such supply is payable to such local authority by such person, the local authority shall be deemed to make such supply to that person where any amount of rates on the value of fixed property is payable by that person to such local authority;**
- (b) **a regional services council, joint services board or transitional metropolitan council shall be deemed to supply services to a person in respect of the other activities of that council or board referred to in paragraph (c) of the said definition where any amount of any levy is payable by that person to such council or board in terms of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), or the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990), as the case may be, or where any amount of such levy may in terms of the Local Government Transition Act, 1993, be levied and claimed by a transitional metropolitan council; and**
- (c) **the transfer of all its assets and liabilities by an administrative unit of a [local authority] municipality that is separately registered under subsection (2) of section 50, to the vendor intended in subsection (1) of that section, shall be deemed not to be a supply.”;**
- (d) by the addition to subsection (15) of the following proviso:
 “: Provided that this subsection does not apply to a single charge as contemplated in paragraph (a) of the proviso to the definition of ‘municipal rate’ in section 1.”; and
- (e) by the substitution for subsection (23) of the following subsection:
 “(23) For the purposes of this Act a vendor shall be deemed to supply services to any public authority or **[local authority] municipality** to the extent of any payment in terms of the Housing Subsidy Scheme referred to in section 3(5)(a) of the Housing Act, 1997 (Act No. 107 of 1997), made to or on behalf of that vendor in respect of the taxable supply of goods and services by the vendor.”.
- (2) Subsection (1) is deemed to have come into operation on 1 July 2006.

Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, paragraph 5 of Government Notice 2695 of 8 November 1991, section 16 of Act 136 of 1992, section 26 of Act 97 of 1993, section 12 of Act 20 of 1994, section 21 of Act 37 of 1996, section 22 of Act 46 of 1996, section 27 of act 27 of 1997, section 84 of Act 53 of 1999, section 68 of Act 19 of 2001, section 152 of Act 60 of 2001, section 168 of Act 45 of 2003, section 97 of Act 32 of 2004 and section 104 of Act 31 of 2005

- 43.** (1) Section 10 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the substitution for subsection (14) of the following subsection:
 “(14) Where services are or are deemed by section 8(5) to be supplied to any public authority or **[local authority] municipality** by any vendor the consideration in money for such supply shall be deemed to be the amount of any payment made from time to time by the public authority or **municipality** concerned to or on behalf of the vendor as contemplated in the said section.”; and
- (b) by the deletion of subsection (15).

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

Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, paragraph 6 of Government Notice 2695 of 8 November 1991, section 17 of Act 136 of 1992, section 27 of Act 97 of 1993, section 13 of Act 20 of 1994, section 28 of Act 27 of 1997, section 89 of Act 30 of 1998, section 85 of Act 53 of 1999, section 77 of Act 30 of 2000, section 43 of Act 5 of 2001, section 153 of Act 60 of 2001, section 169 of Act 45 of 2003, section 46 of Act 16 of 2004, section 98 of Act 32 of 2004, section 21 of Act 9 of 2005 and section 105 of Act 31 of 2005

44. (1) Section 11 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (h) of the following paragraph:
- “(h) the goods consist of fuel levy goods referred to in Fuel Item Levy numbers [195.10.05, 195.10.06, 195.10.07 and] 195.10.03, 195.10.17, 195.20.01 and 195.20.03 in Part 5A of Schedule No. 1 to the Customs and Excise Act; or”;
- (b) by the deletion in subsection (1) of paragraph (hB);
- (c) by the substitution in subsection (1) for paragraph (l) of the following paragraph:
- “(l) the goods consist of illuminating kerosene (marked) intended for use as fuel for illuminating or heating, referred to in Fuel Item Levy number 195.10.13 in Part 5A of Schedule No. 1 to the Customs and Excise Act and are not mixed or blended with another substance; or”;
- (d) by the substitution in subsection (2) for paragraph (n) of the following paragraph:
- “(n) the services comprise the carrying on by a welfare [organization] organisation of the activities referred to in the definition of ‘welfare [organization] organisation’ in section 1 and to the extent that any payment in respect of those services [are] is made in terms of section 8(5) those services shall be deemed to be supplied by that [organization] organisation to a public authority or [local authority] municipality; or”;
- (e) by the substitution in subsection (2) for paragraph (s) of the following paragraph:
- “(s) the services are deemed to be supplied to a public authority or [local authority] municipality in terms of section 8(23); or”;
- (f) by the addition in subsection (2) of the word “or” at the end of paragraphs (o), (q), (t) and (v); and
- (g) by the addition to subsection (2) of the following paragraph:
- “(w) a ‘municipal rate’ as defined in section 1, is levied by a municipality.”.
- (2) (a) Subsection (1)(a), (b) and (c) is deemed to have come into operation on 1 April 2006.
- (b) Subsection (1)(d), (e), (f) and (g) is deemed to have come into operation on 1 July 2006.

Amendment of section 12 of Act 89 of 1991, as amended by section 28 of Act 136 of 1991, section 18 of Act 136 of 1992, section 14 of Act 20 of 1994, section 29 of Act 27 of 1997, section 86 of Act 53 of 1999, section 69 of Act 19 of 2001, section 154 of Act 60 of 2001, section 117 of Act 74 of 2002 and section 99 of Act 32 of 2004

45. (1) Section 12 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the deletion in paragraph (c)(ii) of item (cc); and
- (b) by the substitution in paragraph (h)(i)(cc) for the words preceding subitem (A) of the following words:
- “(cc) by an institution in the Republic which is exempt from income tax in terms of section [30] 10(1)(cN) of the Income Tax Act and which has been formed for the—”.
- (2) Subsection (1)(a) is deemed to have come into operation on 1 July 2006.

Amendment to section 15 of Act 89 of 1991, as amended by paragraph 8 of Government Notice 2695 of 8 November 1991, section 20 of Act 136 of 1992, section 31 of Act 27 of 1997 and section 90 of Act 30 of 1998

46. (1) Section 15 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (a) of the following paragraph: 5
 “(a) the vendor is a public authority, [local authority] municipality or association not for gain; or”; and
- (b) by the substitution for subsection (2A) of the following subsection: 10
 “(2A) Any vendor (other than a public authority or [local authority] municipality) who in terms of subsection (2) accounts for tax payable on a payments basis shall, in respect of any supply made on or after 5 June 1997 of goods (other than fixed property) or services in respect of which the consideration in money is R100 000 or more, account for the tax payable on an invoice basis.”. 15
- (2) Subsection (1) is deemed to have come into operation on 1 July 2006.

Amendment to section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991, section 21 of Act 136 of 1992, section 30 of Act 97 of 1993, section 16 of Act 20 of 1994, section 23 of Act 37 of 1996, section 32 of Act 27 of 1997, section 91 of Act 30 of 1998, section 87 of Act 53 of 1999, section 71 of Act 19 of 2001, section 156 of Act 60 of 2001, section 172 of Act 45 of 2003 and section 107 of Act 31 of 2005 20

47. (1) Section 16 of the Value-Added Tax Act, 1991, is hereby amended by—
- (a) the addition in subsection (3) to the proviso to paragraph (h) of the word “or” at the end of subparagraph (ii) of the proviso; and
- (b) the addition in subsection (3) to the proviso to paragraph (h) of the following paragraph: 25
 paragraph:
 “(iii) this subsection does not apply where such goods or services were acquired by a municipality before 1 July 2006, or an input tax deduction in respect of that acquisition was denied in terms of paragraph (v) of the proviso to section 18(4);”. 30
- (2) Subsection (1) is deemed to have come into operation on 1 July 2006.

Amendment to section 17 of Act 89 of 1991, as amended by section 31 of Act 136 of 1991, paragraph 9 of Government Notice 2695 of 8 November 1991, section 22 of Act 136 of 1992, section 31 of Act 97 of 1993, section 17 of Act 20 of 1994, section 33 of Act 27 of 1997, section 92 of Act 30 of 1998, section 88 of Act 53 of 1999, section 173 of Act 45 of 2003, section 102 of Act 32 of 2004 and section 108 of Act 31 of 2005 35

48. (1) Section 17 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (2)(a) for subparagraph (v) of the following subparagraph:
- “(v) such goods or services are acquired by a [local authority] municipality for the purpose of providing sporting or recreational facilities or public amenities to the public [in the circumstances referred to in section 8(6)(a) or for the purposes of the provision of the goods or services referred to in paragraph (c)(iv) of the definition of ‘enterprise’ in section 1];”. 40
- (2) Subsection (1) is deemed to have come into operation on 1 July 2006.

Amendment to section 18 of Act 89 of 1991, as amended by section 32 of Act 136 of 1991, section 23 of Act 136 of 1992, section 32 of Act 97 of 1993, section 18 of Act 20 of 1994, section 34 of Act 27 of 1997, section 93 of Act 30 of 1998, section 89 of Act 53 of 1999, section 174 of Act 45 of 2003, section 103 of Act 32 of 2004 and section 109 of Act 31 of 2005

49. (1) Section 18 of the Value-Added Tax Act, 1991, is hereby amended— 50
- (a) by the deletion of the word “or” at the end of paragraph (i) of the proviso to subsection (2) and the addition of the word “or” at the end of paragraph (ii) of that proviso;
- (b) by the addition to the proviso to subsection (2) of the following paragraph: 55
 “(iii) capital goods or services acquired by a municipality, if the goods or services were acquired prior to 1 July 2006 or if an input tax deduction

- in respect thereof was denied in terms of paragraph (v) of the proviso to section 18(4).”;
- (c) by the deletion of the word “or” at the end of paragraph (iii) of the proviso to subsection (4) and the addition of the word “or” at the end of paragraph (iv) of that proviso; 5
- (d) by the addition to the proviso to subsection (4) of the following paragraph:
“(v) this subsection shall not apply where a municipality applies goods or services acquired before 1 July 2006 for the purposes of consumption, use or supply in the course of making taxable supplies on or after 1 July 2006.”; 10
- (e) by the deletion of the word “or” at the end of paragraph (i)(aa) of the proviso to subsection (5) and the addition of the word “or” at the end of subparagraph (bb) of that proviso; and
- (f) by the addition to paragraph (i) of the proviso to subsection (5) of the following subparagraph: 15
“(cc) capital goods or services acquired by a municipality prior to 1 July 2006, or if an input tax deduction in respect thereof was denied in terms of paragraph (v) of the proviso to section 18(4);”.
- (2) Subsection (1) is deemed to have come into operation on 1 July 2006.

Amendment of section 27 of Act 89 of 1991, as amended by section 34 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 28 of Act 136 of 1992, section 78 of Act 30 of 2000, section 40 of Act 34 of 2004 and section 11 of Act 10 of 2005 20

- 50.** (1) Section 27 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the substitution in subsection (4)(c)(i) for the expression “R1 million” of the expression “R1,2 million”; 25
- (b) by the substitution in subsection (4B)(a)(i) for the expression “R1 million” of the expression “R1,2 million”; 30
- (c) by the substitution in subsection (5)(b) for the expression “R1 million” of the expression “R1,2 million”.
- (2) Subsection (1) shall come into operation on 1 July 2006 and applies in respect of any tax period commencing on or after that date.

Insertion of section 40B of Act 89 of 1991

- 51.** (1) The following section is hereby inserted in the Value-Added Tax Act, 1991, after section 40A: 35

“Liability of municipalities for tax and limitation of refunds

40B. (1) This section applies in respect of the supply of goods or services on or before 31 March 2005 by any entity which at the time of that supply qualified as a ‘local authority’ as defined prior to the deletion of that definition by the Small Business Amnesty and Amendment of Taxation Laws Act, 2006. 40

(2) Where the Commissioner on or before 31 March 2005 issued an assessment for an amount of tax or additional tax in respect of any supply of goods or services contemplated in subsection (1) to correct a prior incorrect application of the zero rate of tax in terms of section 11(2)(p) as it read on 31 March 2005 in respect of that supply, the Commissioner must, on written application, reduce that assessment to the extent that the amount of tax, additional tax, penalty or interest arose as a result of that correction and was not yet paid on that date as long as the reduced assessment will not result in a refund to that entity. 45 50

(3) The Commissioner may not after 31 March 2005 make any assessment to correct a prior incorrect application of the zero per cent rate of tax in terms of section 11(2)(p) as it read on 31 March 2005 in respect of any supply of goods or services contemplated in subsection (1).

(4) If a local authority incorrectly charged tax at the rate referred to in section 7(1) instead of the zero per cent rate of tax in terms of section 11(2)(p) as it read on 31 March 2005 in respect of any supply contemplated in subsection (1), the Commissioner may not refund any such tax or any penalty or interest that arose as a result of the late payment of such tax, paid by that local authority to the Commissioner.” 5

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

Amendment of paragraph 5 of Schedule 1 to Act 89 of 1991, as substituted by section 113 of Act 31 of 2005

52. (1) Paragraph 5 of Schedule 1 to the Value-Added Tax Act, 1991, is hereby amended by the substitution for subparagraph (a) of the following subparagraph: 10

“(a) a public authority or a [local authority] municipality; or”.

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

Amendment of paragraph 7 of Schedule 1 to Act 89 of 1991, as substituted by section 115 of Act 31 of 2005 15

53. (1) Paragraph 7 of Schedule 1 to the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in subparagraph (c) for item (i) of the following item:

“(i) fuel levy goods referred to in fuel levy item no.—

(aa) [195.10.05] 195.10.03: Petrol[, unleaded,] as defined in Additional Note 1(b) to Chapter 27 in Part 1 of Schedule No. 1 to the Customs and Excise Act[, put up as 93 octane; 20

(bb) 195.10.06: Petrol, unleaded, as defined in Additional Note 1(b) to Chapter 27 in Part 1 of Schedule No. 1 to the Customs and Excise Act, excluding that put up as 93 octane; 25

(cc) 195.10.07: Petrol, leaded, as defined in Additional Note 1(c) to Chapter 27 in Part 1 of Schedule No. 1 to the Customs and Excise Act; and]

(dd) 195.10.17: Distillate fuel, as defined in Additional Note 1(g) to Chapter 27 in Part 1 of Schedule No. 1 to the Customs and Excise Act; 30

(ee) 195.20.01: Biodiesel as defined in Additional Note 1(a) to Chapter 38 in Part 1 of Schedule No. 1 to the Customs and Excise Act; and

(ff) 195.20.03: Other biodiesel, in Part 5A of Schedule No. 1 to the Customs and Excise Act; or”; 35

(b) by the deletion in subparagraph (c) of item (iii); and

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

“(iv) illuminating kerosene (marked) as defined in Additional Note 1(f) to Chapter 27 in Part 1 of Schedule No. 1 to the Customs and Excise Act, referred to in fuel levy item no. 195.10.13 in Part 5A of Schedule No. 1 to the Customs and Excise Act and which are not mixed or blended with another substance.” 40

(2) Subsection (1)(a) and (b) is deemed to have come into operation on 1 April 2006.

Amendment of section 2 of Act 38 of 1996, as amended by section 107 of Act 30 of 1998 and section 49 of Act 12 of 2003 45

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

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

Amendment of section 1 of Act 31 of 1998, as amended by section 190 of Act 45 of 2003, section 109 of Act 32 of 2004 and section 127 of Act 31 of 2005 50

55. (1) Section 1 of the Uncertificated Securities Tax Act, 1998, is hereby amended by the addition to the definition of “beneficial ownership” of the following proviso:

“: Provided that where a company cancels or redeems its own securities, that company is deemed to have acquired the beneficial ownership in those securities.” 55

Substitution of section 5 of Act 31 of 1998, as amended by section 130 of Act 28 of 2005

56. (1) The following section hereby substitutes section 5 of the Uncertificated Securities Tax Act, 1998:

“5. Change in beneficial ownership in securities effected by a participant.—

(1) Unless tax is payable on a transaction contemplated in section 4, the taxable amount in respect of any change in beneficial ownership in a security or part thereof effected by a participant, shall be—

(a) where the full beneficial ownership in that security is acquired— 10

(i) the amount of the consideration for that security declared by the person who acquires beneficial ownership of that security; or

(ii) if no amount of consideration referred to in subparagraph (i) is declared, or if the amount so declared is less than the lowest price of the securities on the date of the relevant transaction or other manner of acquisition, the closing price of the security on the date of the relevant transaction or other manner of acquisition; or 15

(b) where any of the rights or entitlements in the beneficial ownership of that security is acquired, the greater of— 20

(i) the amount of the consideration declared by the person who acquires beneficial ownership of those rights or entitlements; or

(ii) the fair market value of those rights or entitlements on the date of acquisition. 25

(2) The participant shall be liable for the tax payable in respect of the change in beneficial ownership in a security or part thereof contemplated in this section.” 30

(2) Subsection (1) is deemed to have come into operation on 1 July 2006 and applies in respect of every change in beneficial ownership in any security or part thereof on or after that date.

Substitution of section 5A of Act 31 of 1998, as inserted by section 131 of Act 31 of 2005

57. (1) The following section hereby substitutes section 5A of the Uncertificated Securities Tax Act, 1998: 35

“5A. Other transactions.—

(1) Unless tax is payable on a transaction contemplated in section 4 or 5 the taxable amount in respect of any change in beneficial ownership in a security or part thereof, shall be— 40

(a) where the full beneficial ownership in that security is acquired—

(i) the amount of the consideration for that security declared by the person who acquires beneficial ownership of that security; or

(ii) if no amount of consideration referred to in subparagraph (i) is declared, or if the amount so declared is less than the lowest price of the security on the date of the relevant transaction or other manner of acquisition, the closing price of the security on the date of the relevant transaction or other manner of acquisition; or 45

(b) where any of the rights or entitlements in the beneficial ownership of that security is acquired, the greater of— 50

(i) the amount of the consideration declared by the person who acquires beneficial ownership of those rights or entitlements; or 55

- (ii) the fair market value of those rights or entitlements on the date of acquisition.

(2) The person who acquires the beneficial ownership of a security or who acquires any of the rights or entitlements contemplated in subsection (1)(b) shall be liable for the tax payable in respect of the change in beneficial ownership in a security or part thereof as contemplated in this section.”

(2) Subsection (1) is deemed to have come into operation on 1 January 2006 and applies in respect of every change in beneficial ownership in any security or part thereof on or after that date.

Amendment of section 6 of Act 31 of 1998, as amended by section 15 of Act 32 of 1999, section 87 of Act 30 of 2000, section 75 of Act 19 of 2001, section 180 of Act 60 of 2001, section 60 of Act 30 of 2002, section 122 of Act 74 of 2002, section 191 of Act 45 of 2003, section 111 of Act 32 of 2004 and section 132 of Act 31 of 2005

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

(a) by the addition in subsection (1)(b) of the word “or” at the end of paragraph (x); and

(b) the addition in subsection (1) to paragraph (b) of the following subparagraph: “(xi) to the extent that the securities are participatory interests in a collective investment scheme regulated in terms of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002).”

(2) Subsection (1) is deemed to have come into operation on 1 July 2006 and applies in respect of any change in beneficial ownership in any security on or after that date.

Amendment of section 93 of Act 117 of 1998, as amended by section 11 of Act 33 of 2000 and section 21 of Act 51 of 2002

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

(2) Despite subsection (1), any regional establishment levy or regional services levy for which liability arose in terms of the Regional Services Council Act, 1985 (Act No. 109 of 1985), or the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990), before or on 30 June 2006 may be collected by a municipal council in accordance with the provisions of those Acts.

(3) The liability for any regional establishment levy or regional services levy referred to in subsection (2) in respect of which a summons for the collection thereof has not been issued before or on 30 June 2008 lapses on that date.

(4) Subsections (1) and (2) are deemed to have come into operation on 1 July 2006.

Amendment of Schedule 1 to Act 9 of 2005

60. (1) Schedule 1 of the Taxation Laws Amendment Act, 2005, is hereby amended by the substitution in paragraph 2 for subparagraph (d) of the following subparagraph:

“(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:

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

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:

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

in which formulae y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion, but

before the set-off of any assessed loss or deduction which is not attributable to the mining for gold from the said mine) bears to the income so derived (with the said exclusion);”.

(2) Subsection (1) is deemed to have come into operation on 1 April 2005 and applies in respect of any year of assessment which ends during the 12 months period commencing on that date and ending 31 March 2006. 5

Transitional mineral and petroleum provisions

61. The transitional mineral and petroleum provisions relating to the preservation of the tax terms contained in the OP26 right for converted pre-existing petroleum rights and new petroleum rights are set out in Schedule 3. 10

Short title, commencement and savings

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

(2) Save in so far as is otherwise provided in this Act or the context indicates otherwise, the amendments effected to the Income Tax Act, 1962, by this Act shall for purposes of assessments in respect of normal tax under the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2007. 15

SCHEDULE 1

RATES OF NORMAL TAX PAYABLE BY PERSONS (OTHER THAN COMPANIES) IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 2007, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 2007 5

(Section 18)

1. The rates of normal tax referred to in section 18(a) of this Act in respect of persons (other than companies) are as follows:—
- (a) in respect of the taxable income of any person (other than a person in respect of which subparagraph (b) applies), an amount of tax calculated in accordance with the table below: 10

Taxable Income	Rates of Tax	
Where the taxable income—		
Does not exceed R100 000	18 per cent of each R1 of the taxable income;	15
Exceeds R100 000 but does not exceed R160 000	R18 000 plus 25 per cent of the amount by which the taxable income exceeds R100 000;	
" R160 000 " " " " R220 000	R33 000 plus 30 per cent of the amount by which the taxable income exceeds R160 000;	
" R220 000 " " " " R300 000	R51 000 plus 35 per cent of the amount by which the taxable income exceeds R220 000;	20
" R300 000 " " " " R400 000	R79 000 plus 38 per cent of the amount by which the taxable income exceeds R300 000;	
" R400 000	R117 000 plus 40 per cent of the amount by which the taxable income exceeds R400 000.	25

- (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 18(b) 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)), 29 cents, or, in the case of such a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 37 cents; 30
- (b) in respect of the taxable income of any company which qualifies as a small business corporation as defined in section 12E of the Income Tax Act, 1962, an amount of tax calculated in accordance with the table below: 35

Taxable Income	Rates of Tax	
Where the taxable income—		
Does not exceed R40 000	0 per cent of the taxable income;	40
Exceeds R40 000 but does not exceed R300 000	10 per cent of the amount by which the taxable income exceeds R40 000;	
Exceeds R300 000	R26 000 plus 29 per cent of the amount by which the taxable income exceeds R300 000.	45

- (c) on each rand of the taxable income of any employment company as defined in section 12E of the Income Tax Act, 1962, 34 cents;
- (d) on each rand of the taxable income derived by any company from mining for gold on any gold mine with the exclusion of so much of the taxable income as the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the Income Tax Act, 1962, but after the set-off of any assessed loss in terms of section 20(1) of that Act, a percentage determined in accordance with the formula: 50

$$y = 35 - \frac{175}{x} \quad 55$$

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:

$$y = 45 - \frac{225}{x} \quad 5$$

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); 10

- (e) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the Income Tax Act, 1962, a rate equal to the average rate of normal tax or 29 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from mining for gold on any gold mine for the period from which that company commenced its gold mining operations on that gold mine to the end of the period assessed, by the number of Rands contained in the said aggregate taxable income; 15 20 25
- (f) on each rand of the taxable income derived by any company from carrying on long-term insurance business in respect of—
- (i) its individual policyholder fund, 30 cents; and
 - (ii) its company policyholder fund and corporate fund, 29 cents;
- (g) on each rand of the taxable income (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f) and (h)) derived by a company which is not a resident and which carries on a trade through a branch or agency within the Republic, 34 cents; 30
- (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; 35

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. 40

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. 45

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.

SCHEDULE 2

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

(Section 36)

Tariff item	Tariff heading	Description	Rate of duty		
			Excise	Customs	
104.00		Prepared foodstuffs; beverages, spirits and vinegar; tobacco			5
104.01	19.01	Malt extract; food preparations of flour, groats, meal starch or malt extract, not containing cocoa or containing less than 40 per cent by mass of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 04.01 to 04.04, not containing cocoa or containing less than 5 per cent by mass of cocoa calculated on a totally defatted basis not elsewhere specified or included:			10
.10		Traditional African beer powder as defined in Additional Note 1 to Chapter 19	34.7 c/kg	34.7 c/kg	15
104.10	22.03	Beer made from malt			20
.10		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82 c/l	7.82 c/l	
.20		Other	3 667.82 c/l of absolute alcohol	3 667.82 c/l of absolute alcohol	25
104.15	22.04	Wine of fresh grapes, including fortified wines; grape must, other than that of heading no. 20.09			30
	22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances			
.02		Sparkling wine	465.58 c/l	465.58 c/l	
.04		Unfortified wine	158.09 c/l	158.09 c/l	
.06		Fortified wine	287.88 c/l	287.88 c/l	
104.17	22.06	Other fermented beverages, (for example, cider, perry and mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included:			35
.05		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82 c/l	7.82 c/l	40
.15		Other fermented beverages, unfortified	183.38 c/l	183.38 c/l	
.17		Other fermented beverages, fortified	365.35 c/l	365.35 c/l	45
.22		Mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	183.38 c/l	183.38 c/l	50
.90		Other	365.35 c/l	365.35 c/l	
104.20	22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent volume or higher; ethyl alcohol and other spirits, denatured, of any strength			55
	22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent volume; spirits, liqueurs and other spirituous beverages:			60

Tariff item	Tariff heading	Description	Rate of duty		
			Excise	Customs	
.10		Wine spirits, manufactured by the distillation of wine	5 521.00 c/l of absolute alcohol	5 521.00 c/l of absolute alcohol	5
.15		Spirits, manufactured by the distillation of any sugar cane product	5 521.00 c/l of absolute alcohol	5 521.00 c/l of absolute alcohol	10
.25		Spirits, manufactured by the distillation of any grain product	5 521.00 c/l of absolute alcohol	5521.00 c/l of absolute alcohol	15
.29		Other spirits	5 521.00 c/l of absolute alcohol	5521.00 c/l of absolute alcohol	20
.40		Liqueurs and other spirituous beverages	5 521.00 c/l of absolute alcohol	5521.00 c/l of absolute alcohol	25
					30
104.30	24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes			
.10		Cigars, cheroots, and cigarillos, of tobacco or of tobacco substitutes	148 515.70 c/kg net	148 515.70 c/kg net	35
.20		Cigarettes, of tobacco or of tobacco substitutes	278.04 c/10 cigarettes	278.04 c/10 cigarettes	
104.35	24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:			40
.10		Cigarette tobacco and substitutes thereof	15 649.41 c/kg net	15 649.41 c/kg net	45
.20		Pipe tobacco and substitutes thereof	8 261.93 c/kg net	8 261.93 c/kg net	

Schedule 3**TRANSITIONAL PETROLEUM PROVISIONS***(Section 61)***Definitions**

1. For the purposes of this Schedule, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) (hereinafter referred to as the “MPRDA”), bears the meaning so assigned. 5

Continuation of pre-existing mineral rights holders

2. Notwithstanding the provisions of the MPRDA, a holder of an OP26 right that converts that right into an exploration or production right will retain the tax terms of that OP26 right. 10

Tax provision of new order rights

3. Notwithstanding the provisions of the MPRDA, any holder of an exploration right or a production right not described in section 2, will be entitled to the tax terms of a standard OP26 sublease issued by the designated agency before the MPRDA took effect. 15

Commencement and termination

4. (1) This Schedule is deemed to have come into operation on 1 June 2006.
(2) Paragraphs 1, 2 and 3 (as well as the entitlement to the tax terms contemplated in paragraphs 2 and 3) cease to apply on the earlier of 1 May 2009 or a date to be prescribed by legislation. 20