NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER 90

DATE OF PUBLICATION: 18 FEBRUARY 2005

ADV H C SCHMIDT (DA) TO ASK THE MINISTER OF FINANCE:

(1) Whether, in light of the Mineral and Petroleum Resources Development Act, Act 28 of 2002, that came into operation on 1 May 2004, an independent risk assessment report has been completed by the National Treasury; if not, why not; if so, (a) which concerns relating to claims for compensation were raised in the report, (b) what is the (i) projected amount of compensation to be claimed by (aa) international (bb) South African mining houses and (cc) agricultural farmers and (ii) total number of claims expected to be filed in respect of each of these specified categories;

(2) whether the said report was submitted to the Minister or Department of Minerals and Energy; if not, (a) why not and (b) to which department was the report submitted;

(3) whether he will consider releasing the report to the public; if not, why not; if so, when? **N135E**

REPLY:

(1) Yes, the National Treasury has undertaken and completed a risk assessment on the potential financial risks to Government that may result from the implementation of the Mineral and Petroleum Resources Development Act, Act 28 of 2002.

(2) No, the document has not been submitted to the Minister or Department of Minerals and Energy. However, its subject matter is under discussion as part of the broader process of implementation of the Minerals and Petroleum Resources Act.

(3) No. The report contains proprietary information and confidential advice.

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER 289

DATE OF PUBLICATION: 4 MARCH 2005

MR I O DAVIDSON (DA) TO ASK THE MINISTER OF FINANCE:

(a) Which municipalities have received applications to utilise the accelerated depreciation allowances for investment in under-utilised urban development zones in terms of the tax incentives in support of inner city development announced by him in the 2003 Budget, (b) what are the criteria for accessing such depreciation allowances, (c) how are the allowances structured, (d) how many projects in each of the said municipalities have been approved to receive the allowance, (e) what is the nature of each project, (f) what is the anticipated cost to the fiscus for each of the said projects and (g) what is the estimated ultimate improvement in the value of each of the projects as a result of the utilisation of the allowance? **N423E**

REPLY:

(a) I have been informed that many of the approved municipalities (9) have received some queries on this incentive. In fact, whilst a few applications may be forthcoming later this year, it is expected that such applications may only come in for the 2006 year of assessment.

(b) The criteria are clearly spelt out in legislation in subsection 13quat(6) and (9) and subsection 13quat(4) and (5) of the Income Tax Act, of 1962 for the municipality and the taxpayer respectively. More information is also available from the guideline published on the National Treasury website www.treasury.gov.za (Click the following icons: (i) Local Government; (ii) Urban Development Zones; (iii) Urban Renewal Tax Incentive - Guide for Investors). Both the municipality and investors within a municipality have to meet certain criteria.

Municipality criteria (subsection 13quat(6) and (9))

For each selected municipality to qualify for the incentive, the municipality has the task of designating one inner city area that will qualify for the incentive. The designated area must meet the following set of criteria in order for it to be able to qualify for the incentive:

(i) The designated area must be a developed urban location within the selected municipality;

(ii) The designated area must be demarcated through formal resolution by the relevant municipal council consistent with that municipality's development plan;

(iii) The designated area must be prioritised in that municipality's integrated development plan as a priority area for further investments to promote business or industrial activity or dense residential settlements to support such activity;

(iv) The designated area must proportionately contribute or have previously contributed a significant portion of the total revenue collections for all areas located within the current boundaries of that municipality, measured in the form of:

- property rates; or
- assessed property values;

(v) Significant fiscal measures must have been implemented by a municipality to support the regeneration of the designated area, including:

- the appropriation of significant funds for developing the area in the annual budget of the municipality;
- special tariffs for categories of residential, commercial or industrial users; or
- partnership arrangements with the business community for the promotion of urban development within that area;

(vi) Every municipality must contain information in their annual report, and send details to the Commissioner and the Minister for each urban development zone within their area, listing (i) each taxpayer with a certificate that the building is located within the urban development zone, (ii) the location of each building for which the certificate was issued, (iii) the cost incurred by the taxpayer in respect of each building, (iv) the additional property rates collected as a result of this section and (v) the total amount of estimated jobs created as a result of this section.

<u>Investor criteria (Subsection 13quat(4) and (5))</u>

(i) The investor must improve an existing building or erect, extend or add to an existing building or construct a new building within the urban development zone. Hence, an investor purchasing a pre-constructed building or improvement is ineligible for the incentive. In other words, the taxpayer must add value to the zone.

(ii) The investor must together with his tax return for the year of assessment in which the deduction is claimed, provide the Commissioner of SARS, with the following:

- a certificate of occupancy for that building along with a certificate from the relevant municipality confirming that the building is located within its urban development zone;
- the total amount of the costs to the taxpayer of erection, extension, addition or improvement of a building; and
- particulars as to whether the costs were incurred in respect of the erection of a building, or the extension, addition or improvement of a building,

(iii) The investor must use the improved or new building solely for purposes of his trade. The trade can be of any kind, either commercial, industrial or even as rental of a residential apartment. For instance, an investor constructing a building for lease would qualify for the incentive as well as an investor constructing premises to conduct a retail business. On the other hand, an investor living in a portion of a newly constructed building while leasing another portion would be ineligible because the building is not solely used for trade. This requirement applies on a per building basis. Thus, if an investor has two separate buildings on the same parcel of land, personal use of one building will generally not prevent the incentive from applying to the second building if that second building is used solely for trade;

(iv) The investor must not cease to use the building solely for purposes of his trade during any previous year of assessment;

(v) The investor must not have disposed of the building during any previous year of assessment

(c) The incentive provides taxpayers with a tax write-off of the cost of the building or improvement over time before actual sale (and without regard to the write off for accounting purposes). The tax write-off period depends on whether the construction relates to a new building (or extension or addition to a new building) versus an improvement of an existing building (or part thereof).

<u>New Buildings (Plus Extensions and Additions)</u>:

Taxpayers erecting a new building (or extending or adding to the expanse of the building) benefit from a 17-year write-off period. This write-off allows for a deduction of 20 percent for the first year and annual deductions of 5 percent for each of the following 16 years.

<u>Improvements</u>:

A taxpayer who refurbishes or improves an existing building will receive a 20 percent straight-line depreciation write-off over a 5-year period. The purpose of this enhanced incentive (beyond the 17-year write-off above) is to maintain structures considered worthy of retention and to maximise the use of all the sunken capital in existing buildings. In order to qualify as a refurbishment, taxpayers must preserve a substantial part of the building's existing structural or exterior framework. In addition, extensions or additions to an existing building fall within the 5-year write-off (as opposed to the 17-year write-off) if merely incidental to the improvement. In other words, any extension or addition to an existing building is allowed only if incidental to the improvement.

(d) As pointed out in (a), it is too early to provide this information. In our opinion, this information will be available after the next 12-18 months.

(e) Refer to (d) above.

(f) Refer to (d) above.

(g) Refer to (d) above.

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER 559

DATE OF PUBLICATION: 15 APRIL 2005

MR VC GORE (ID) TO ASK THE MINISTER OF FINANCE:

Whether there are any agreements in place, which regulate the tax status of (a) former and/or (b) current directors of two banks (names furnished) in their personal capacities as (i) the alleged sole proprietors of the said banks in South Africa and/or (ii) separate employers of the said banks' locally employed staff in South Africa; if not, why not; if so, under what legislation and/or regulations are these powers exercised? **N535E**

REPLY:

Firstly, South Africa has an agreement with the German Investment Bank (DEG) regarding operating conditions under which to provide finance by way of share capital participation and/or long term loans to public and private sector entities. This agreement was signed into power on 22 June 1998.

Secondly, an agreement exists between South Africa and Germany ("Agreement concerning Financial Cooperation") enabling South Africa to obtain loans from the German Development Bank (KFW) on behalf of the Development Bank of South Africa (DBSA). This agreement was signed into power on 10 March 1998.

The agreements neither extend a tax exemption to directors of DEG/KFW in their personal capacity nor to locally recruited staff of DEG/KFW.

The taxation of foreign entities and personnel in South Africa is regulated by domestic law, as modified by the Diplomatic Immunities Act, 2001, Double Taxation Agreements entered into in terms of section 108 of the Income Tax Act, 1962 and other international agreements contemplated by section 231 of the Constitution.

NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER 578

DATE OF PUBLICATION: 15 APRIL 2005

MR F B FARROW (DA) TO ASK THE MINISTER OF FINANCE:

Whether he has investigated the possibility of amending legislation to allow him to allocate a portion of the general fuel tax levies to a dedicated road maintenance and development fund in each province, in a similar way to the collection of fuel taxes for the Road Accident Fund; if not, why not; if so, what legislation is required to be amended in order to accommodate this proposal? **N768E**

REPLY:

No. Section 227 of the Constitution entitles provinces to an equitable share of revenue raised nationally as well as conditional and/or unconditional grants. These allocations from the national Government to provinces come from the national revenue fund. Included in these amounts are funds prioritized for road building and maintenance.