

REPUBLIC OF SOUTH AFRICA

TAXATION LAWS AMENDMENT 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 26—2002]

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GENERAL EXPLANATORY NOTE:

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

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

BILL

To amend the Insurance Act, 1943, so as to withdraw the amount payable in respect of premiums paid on or after 1 January 2002; to amend the Transfer Duty Act, 1949, so as to provide for a new rate structure of duty; to provide for an exemption; and to delete an exemption; to amend the Estate Duty Act, 1955, so as to provide for a further exemption; to increase the deduction in calculating the dutiable amount of an estate; to provide that the Commissioner may reduce an assessment to rectify any processing error; and to effect certain consequential amendments; to fix the rates of normal tax payable in terms of the Income Tax Act, 1962, by persons other than companies in respect of taxable incomes for the years or periods of assessment ending on 28 February 2003, and by companies in respect of taxable incomes for the years of assessment ending during the period of 12 months ending on 31 March 2003; to amend the Income Tax Act, 1962, so as to amend a definition; to change the year-end of certain taxpayers; to increase the primary rebate; to further regulate the taxation of allowances or advances; to raise the exemption thresholds of certain interest and dividend income; to increase the thresholds for exemption of certain bursaries and *bona fide* scholarships; to increase the threshold for the immediate deduction in respect of certain intellectual property; to introduce an accelerated depreciation for certain assets used in a process of manufacture or process of a similar nature; to adjust the provisions relating to the write off of pipelines, transmission lines or cables and railway lines; to increase the turnover threshold relating to small business corporations; to introduce a deduction in respect of learnership agreements; to adjust the provisions relating to the deduction of certain medical expenses; to further regulate the deduction of donations to public benefit organisations which carry on certain public benefit activities; to limit the deductions by persons who receive remuneration; to further regulate the exemption relating to public benefit organisations; to increase the exempt limits for donations tax; to further regulate the submission of income tax returns in respect of foreign assets and funds held by residents; to provide that the Commissioner may estimate an amount of deemed foreign taxable income where a person does not report or account for foreign funds held or assets owned offshore; to allow the Commissioner to reduce an assessment to rectify any processing error; to allow the Commissioner to alter an assessment where an appeal is conceded; to further regulate refunds; to allow the Minister to prescribe the circumstances under which the Commissioner may settle a dispute; to adjust certain definitions; to increase the threshold for provisional taxpayers; to increase the exemption thresholds for bravery and long service awards; to further regulate the provisions regarding fringe benefits; to further regulate the determination of capital gains and losses where the price of an asset has been published in the *Gazette* and to allow the weighted average method to be permitted for the identification and valuation of

units in unit trusts registered or approved by the Registrar of unit trust companies; and to further regulate the determination of capital gains or capital losses derived from foreign currency assets; to introduce the Ninth Schedule to the Income Tax Act; to amend the Customs and Excise Act, 1964, so as to regulate the internal review of decisions made by the Commissioner; to effect certain consequential amendments to provide that the Commissioner may prescribe by rule various matters relating to special customs and excise warehouses; to further regulate the disposal of goods in certain warehouses; to provide for the enacting into law of a customs union agreement; to provide generally for the furnishing of security in respect of licenses; to provide for subcontracting by a licensed remover of goods in bond and for security to be furnished by a person other than a licensed remover in respect of goods removed or carried by such remover; to provide that the Commissioner may prescribe by rule the benefits conferred upon an accredited client; to allow the Minister to prescribe the circumstances under which the Commissioner may settle a dispute; and to provide for certain matters concerning counterfeit goods; and to provide for the rates of duty in respect of alcoholic and tobacco products; to amend the Stamp Duties Act, 1968, so as to provide for an exemption in respect of certain institutions, boards or bodies established by law; to abolish stamp duty on the cession of mortgage bonds; to exempt the issue of listed interest-bearing debentures from stamp duty; and to abolish stamp duty on certain insurance policies and contracts and cessions of insurance policies; to amend the Value-Added Tax Act, 1991, so as to effect a textual amendment; to amend the Uncertificated Securities Tax Act, 1998, so as to exempt repurchases of warrants by the issuers thereof and the issue of listed interest-bearing debentures; to amend the Skills Development Levies Act, 1999, so as to provide that the deemed remuneration of directors of private companies be excluded for purposes of determining the liability of the company for the skills development levy; and to further regulate the exemption relating to religious and charitable institutions; to amend the Taxation Laws Amendment Act, 2000, so as to extend the date before which entities must re-apply to the Commissioner for tax exempt status, to 31 December 2003; to amend the Revenue Laws Amendment Act, 2001, so as to amend section 101 of the Customs and Excise Act, 1964; to amend the Second Revenue Laws Amendment Act, 2001, so as to amend provisions relating to objections and appeals inserted by that Act in the Marketable Securities Tax Act, 1948, the Transfer Duty Act, 1949, the Estate Duty Act, 1955, the Stamp Duties Act, 1968, the Value-Added Tax Act, 1991, and the Uncertificated Securities Tax Act, 1998; to amend certain provisions inserted by that Act in the Customs and Excise Act, 1964; to amend the Unemployment Insurance Act, 2001, so as to withdraw an income tax exemption which is already contained in the Income Tax Act, 1962; to amend the Unemployment Insurance Contributions Act, 2002, so as to provide that the set-off provisions may also apply in respect of any amounts refundable to an employer and to adjust the provisions relating to interest; to effect certain consequential amendments and to provide for matters connected therewith.

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

Repeal of section 60 of Act 27 of 1943

1. (1) Section 60(1)(f) of the Insurance Act, 1943, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 January 2002 and shall apply in respect of premiums paid on or after that date. 5

Amendment of section 2 of Act 40 of 1949, as amended by section 1 of Act 59 of 1951, section 1 of Act 31 of 1953, section 1 of Act 32 of 1954, as substituted by section 2 of Act 77 of 1964, as amended by section 1 of Act 56 of 1966, section 2 of Act 66 of 1973, section 3 of Act 88 1974, section 5 of Act 106 of 1980, section 3 of Act 87 of 1988, section 2 of Act 136 of 1992, section 1 of Act 97 of 1993, section 3 of Act 37 of 1995, section 9 of Act 37 of 1996 and section 2 of Act 32 of 1999 10

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

“(b) subject to the provisions of subsection (5)—

- (i) [1] 0 per cent of so much of the said value or the said amount, as the case may be, as does not exceed [R70 000] R100 000;
 - (ii) 5 per cent of so much of the said value or the said amount, as the case may be, as exceeds [R70 000] R100 000 but does not exceed [R250 000] R300 000; and
 - (iii) 8 per cent of so much of the said value or the said amount, as the case may be, as exceeds [R250 000] R300 000,
- if the person by whom the property is acquired or in whose favour or for whose benefit the said interest or restriction is renounced is a natural person.”. 10

(2) Subsection (1) is deemed to have come into operation on 1 March 2002 and shall apply in respect of any property acquired, or interest or restriction in any property renounced, in terms of an agreement formally and finally signed on or after that date.

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 and section 8 of Act 60 of 2001 15 20

3. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended— 25

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

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

in respect of property acquired by such public benefit organisation, institution, board or body, the whole, or substantially the whole, of which will be used for the purposes of one or more public benefit activity carried on by such public benefit organisation, institution, board or body, as the case may be: Provided that if any such property or any portion thereof is subsequent to the acquisition thereof used for some purpose other than exclusively [**for religious, charitable or educational purposes**] in carrying on any public benefit activities, duty shall become payable in respect of the acquisition of that property or that portion thereof, and the date upon which that property or that portion thereof was first used for that other purpose shall for the purposes of section 3(1) and section 4 be deemed to be the date of acquisition thereof;” and 35 40 45

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

(2) (a) Subsection (1)(a) shall be deemed to have come into operation on 15 July 2001 and shall apply in respect of any property acquired, or interest or restriction in any property renounced, in terms of an agreement formally and finally signed on or after that date. 50

(b) Subsection (1)(b) shall be deemed to have come into operation on 1 March 2002 and shall apply in respect of any property acquired, or interest or restriction in any property renounced, in terms of an agreement formally and finally signed on or after that date. 55

Amendment of section 4 of Act 45 of 1955, as amended by section 2 of Act 59 of 1957, section 3 of Act 65 of 1960, section 9 of Act 71 of 1961, section 9 of Act 77 of 1964, section 3 of Act 81 of 1965, section 2 of Act 94 of 1967, section 5 of Act 92 of 1971, section 2 of Act 70 of 1975, section 1 of Act 104 of 1976, section 3 of Act 95 of 1978, section 4 of Act 102 of 1979, section 11 of Act 106 of 1980, section 3 of Act 99 of 1981, section 5 of Act 81 of 1985, section 6 of Act 86 of 1987, section 10 of Act 87 of 1988, section 8 of Act 97 of 1993, section 3 of Act 20 of 1994 and section 14 of Act 30 of 1998 5

4. (1) Section 4 of the Estate Duty Act, 1955, is hereby amended—
- (a) by the substitution in paragraph (h) for the words preceding subparagraph (i) of the following words: 10
- “the value of any property included in the estate which has not been allowed as a deduction under any other provision of this section which accrues or accrued by way of bequest to—”; and
- (b) by the insertion after subparagraph (i) of paragraph (h) of the following subparagraph: 15
- “(iA) any institution, board or body, which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act, 1962 (Act No. 58 of 1962), which has as its sole or principal object the carrying on of any public benefit activity contemplated in section 30 of that Act; or”. 20
- (2) Subsection (1)(b) shall be deemed to have come into operation on 15 July 2001 and shall apply in respect of the estate of any person who died on or after that date.

Amendment of section 4A of Act 45 of 1955, as amended by section 6 of Act 92 of 1971, section 3 of Act 95 of 1978, section 5 of Act 102 of 1979, section 12 of Act 106 of 1980, section 4 of Act 99 of 1981, section 6 of Act 81 of 1985, section 2 of Act 71 of 1986, substituted by section 11 of Act 87 of 1988 25

5. (1) Section 4A of the Estate Duty Act, 1955, is hereby amended by the substitution therein for the expression “R1 million” of the expression “R1,5 million”.
- (2) Subsection (1) shall be deemed to have come into operation on 1 March 2002, and shall apply in respect of the estate of any person who died on or after that date. 30

Insertion of section 9B in Act 45 of 1955

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

“Reduced assessments” 35

- 9B.** (1) The Commissioner may, notwithstanding the fact that no objection has been lodged or appeal noted in terms of the provisions of section 24 of this Act, reduce an assessment—
- (a) to rectify any processing error made in issuing that assessment; or
- (b) where the Commissioner is satisfied that in issuing that assessment— 40
- (i) any amount which was taken into account in determining the liability for estate duty, should not have been taken into account; or
- (ii) any amount which should have been taken into account in determining the liability for estate duty, was not so taken into account: 45
- Provided that such assessment in which the amount should or should not have been taken into account as contemplated in subparagraph (i) or (ii), as the case may be, was issued by the Commissioner based on information provided in the return submitted by the executor. 50
- (2) The Commissioner shall not reduce an assessment under subsection (1)—
- (a) after the expiration of three years from the date of the assessment contemplated in subsection (1); or
- (b) if the amount was assessed in an assessment accepted by the executor and which was made in accordance with the practice generally prevailing at the date of that assessment.”. 55

Amendment of section 25A of Act 45 of 1955, as inserted by section 16 of Act 60 of 2001

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

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

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

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

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

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

Amendment of section 1 of Act 58 of 1962, 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 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 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2001 and section 17 of Act 60 of 2001

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

- (a) by the deletion of subparagraphs (iii), (iv), (v) and (vi) of paragraph (c) of the definition of “gross income”;
- (b) by the substitution for the definition of “special trust” of the following definition:
 - “ ‘special trust’ means a trust created—
 - (a) solely for the benefit of a person who suffers from—
 - (i) any ‘mental illness’ as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973); or
 - (ii) any serious physical disability,
 where such illness or disability incapacitates such person from earning sufficient income for the maintenance of such person, or from managing his or her own financial affairs: Provided that where the person for whose benefit the trust was so created dies, such trust shall be deemed not to be a special trust in respect of years of assessment ending on or after the date of such person’s death; or
 - (b) by or in terms of the will of a deceased person, solely for the benefit of beneficiaries who are relatives in relation to that deceased person

and who are alive on the date of death of that deceased person (including any beneficiary who has been conceived but not yet born on that date), where the youngest of those beneficiaries is on the last day of the year of assessment of that trust under the age of 21 years.”; and

- (c) by the substitution for the definition of “year of assessment” of the following definition:

“ ‘year of assessment’ means any year or other period in respect of which any tax or duty leviable under this Act is chargeable, and any reference in this Act [or any other Income Tax Act] to any year of assessment ending the last or the twenty-eighth or the twenty-ninth day of February shall, unless the context otherwise indicates, in the case of a company be construed[—

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

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

Amendment of section 5 of Act 58 of 1962, as amended by section 2 of Act 6 of 1963, section 5 of Act 90 of 1964, section 6 of Act 88 of 1965, section 7 of Act 55 of 1966, section 6 of Act 95 of 1967, section 6 of Act 76 of 1968, section 7 of Act 89 of 1969, section 7 of Act 52 of 1970, section 5 of Act 88 of 1971, section 5 of Act 90 of 1972, section 5 of Act 65 of 1973, section 5 of Act 103 of 1976, section 5 of Act 113 of 1977, section 3 of Act 104 of 1980, section 4 of Act 96 of 1981, section 4 of Act 91 of 1982, section 3 of Act 94 of 1983, section 3 of Act 121 of 1984, section 3 of Act 65 of 1986, section 3 of Act 90 of 1988, section 3 of Act 129 of 1991, section 5 of Act 21 of 1994, section 4 of Act 21 of 1995, section 7 of Act 5 of 2001 and section 5 of Act 19 of 2001

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

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

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

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

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

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

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

- (c) any person (other than a person [referred to in] in respect of whom paragraph (b) applies or a company) [in respect of—

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

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

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

Amendment of section 6 of Act 58 of 1962, 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 and section 6 of Act 19 of 2001

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

Amendment of section 8 of Act 58 of 1962 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 Act 1999, section 17 of Act 30 of 2000, section 6 of Act 59 of 2000 and section 7 of Act 19 of 2001

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

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

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

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

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

(cc) by reason of the duties attendant upon his or her office, as contemplated in paragraph (d).

(ii) There shall not be included in the taxable income of a person in terms of the provisions of paragraph (a)(i), any amount paid or granted by a principal in reimbursement of, or as an advance for, any expenditure incurred or to be incurred by the recipient—

(aa) on the instruction of his or her principal in the furtherance of the trade of that principal; and

(bb) where that recipient must produce proof to that principal that such expenditure was wholly incurred as aforesaid and must account to that principal for that expenditure:

Provided that where that expenditure was incurred to acquire any asset, the ownership in that asset must vest in that principal.

(iii) For the purposes of this paragraph, ‘principal’ in relation to a recipient includes his or her employer or the authority, company, body or other organisation in relation to which any office is held, or any associated institution, as defined in the Seventh Schedule, in relation to such employer, authority, company, body or organisation.”;

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

“For the purposes of paragraph (a)(i)(aa)”;

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

- “(c) A recipient shall, for the purposes of paragraph (a)(i)(bb), be deemed to have actually expended,—
- (i) where that recipient proves to the Commissioner the amount of the expenses incurred by him or her in respect of accommodation, meals or other incidental costs (other than any amount of expenditure borne by the employer otherwise than by way of payment or granting of the allowance), the amount so actually incurred but limited to the amount of the allowance or advance paid or granted to meet those expenses; or
 - (ii) for each day or part of a day in the period during which he or she is absent from his or her usual place of residence—
 - (aa) an amount calculated at the rate of R65 in respect of meals and other incidental costs in the case where the accommodation is in the Republic; or
 - (bb) such amount as the Commissioner may allow in respect of meals and other incidental costs in the case where the accommodation is outside the Republic, but limited to the amount of the allowance or advance paid or granted to meet those expenses: Provided that this subparagraph does not apply in respect of any day or part of a day, where—
 - (A) the employer has borne the expenses (otherwise than by way of granting the allowance or advance) in respect of which the allowance was paid or granted for that day or part of that day; or
 - (B) the recipient has proved to the Commissioner any amount of actual expenditure in respect of meals or incidental costs for that day or part of that day, as contemplated in subparagraph (i).”;
- (d) by the deletion in subsection (1) of subparagraph (iv) of paragraph (d);
- (e) by the substitution in subsection (1) for paragraph (g) of the following paragraph:

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

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

Amendment of section 10 of Act 58 of 1962, 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 96 of 1975, 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 3 of Act 108 of 1986, section 7 of Act 65 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 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 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 1 of Act 49 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, section 9 of Act 19 of 2001 and section 26 of Act 60 of 2001

13. (1) Section 10 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for subparagraph (xv) of paragraph (i) of subsection (1) of the following subparagraph:
 - “(xv) in the case of any taxpayer who is a natural person—
 - (aa) so much of the aggregate of any foreign dividends contemplated in section 9E and interest received by or accrued to him or her from a source outside the Republic, which are not otherwise exempt from tax, as does not during the year of

assessment exceed R1 000: Provided that the amount of the exemption in terms of this paragraph shall—

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

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

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

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

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

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

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

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

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

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

Amendment of section 11 of Act 58 of 1962 as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994, section 12 of Act 21 of 1995, section 9 of Act 36 of 1996, section 12 of Act 28 of 1997, section 30 of Act 30 of 1998, section 20 of Act 53 of 1999, section 22 of Act 30 of 2000, section 15 of Act 59 of 2000, section 10 of Act 19 of 2001 and section 27 of Act 60 of 2001

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

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

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

“(ii) no deduction shall be made under this paragraph in respect of any such expenditure as is incurred in connection with any employment or office in respect of which the taxpayer derives remuneration as defined in paragraph 1 of the Fourth Schedule, unless that person is an agent or representative whose remuneration is normally derived mainly in the form of commissions based on his or her sales or the turnover attributable to that person.”; and

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

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

Amendment of section 12C of Act 58 of 1962, as amended by section 14 of Act 101 of 1990, section 11 of Act 113 of 1993, section 7 of Act 140 of 1993, section 11 of Act 21 of 1994, section 13 of Act 21 of 1995, section 18 of Act 59 of 2000 and section 11 of Act 19 of 2001 5

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

“(c) any new or unused machinery or plant referred to in paragraph (a) of this subsection, is or was— 10

- (i) acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement during the period commencing on 1 March 2002 and ending on 28 February 2005; and
- (ii) brought into use by the taxpayer during that period in a process of manufacture or process which in the opinion of the Commissioner is of a similar nature, carried on by that taxpayer in the course of its business (other than banking, financial services, insurance or rental business), the deduction under this subsection shall be increased to 40 per cent of the cost of such machinery or plant in respect of the year of assessment during which the plant or machinery was or is so brought into use for the first time and shall be 20 per cent in each of the three subsequent years of assessment.”. 15 20

Amendment of section 12D of Act 58 of 1962 as amended by section 23 of Act 30 of 2000, section 19 of Act 59 of 2000 and section 28 of Act 60 of 2001

16. (1) Section 12D of the Income Tax Act, 1962, is hereby amended by the substitution for the proviso to subsection (2) of the following proviso: 25

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

(2) Subsection (1) shall be deemed to have come into operation on 20 June 2002 and shall apply in respect of any affected asset contracted for or acquired on or after that date. 30

Amendment of section 12E of Act 58 of 1962 as inserted by section 12 of Act 19 of 2001

17. (1) Section 12E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4) for the expression “R1 million” wherever it appears in subparagraph (i) of paragraph (a) of the expression “R3 million”. 35

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

Insertion of section 12H in Act 58 of 1962

18. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 12G: 40

“Deduction in respect of learnership agreements

12H. (1) 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), where— 45

- (a) that employer during that year of assessment entered into a registered learnership agreement with a learner in the course of any trade carried on by that employer; or
- (b) a learner during that year of assessment completed any registered learnership agreement entered into by that employer with that learner during that year or any previous year of assessment in the course of any trade carried on by that employer. 50

- (2) For purposes of subsection (1), the amount of the allowance in respect of—
- (a) a registered learnership agreement entered into by that employer, as contemplated in subsection (1)(a), with a learner who at the time of entering into that agreement—
 - (i) was employed by that employer or associated institution in relation to that employer, is an amount equal to the lesser of—
 - (aa) 70 per cent of the annual equivalent of the remuneration of that learner stipulated in the agreement of employment between that learner and employer; or
 - (bb) R17 500; or
 - (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) the annual equivalent of the remuneration of that learner stipulated in the agreement of employment between that learner and employer; or
 - (bb) R25 000;
 - (b) the completion of any registered learnership agreement as contemplated in subsection (1)(b), is an amount equal to the lesser of—
 - (i) the annual equivalent of the remuneration of that learner stipulated in the agreement of employment between that learner and employer; or
 - (ii) R25 000.
- (3) No deduction shall be made by an employer under this section, unless that employer has provided to the Commissioner—
- (a) the name of the SETA with which the learnership agreement is registered;
 - (b) the title and code of the learnership allocated and issued by the Director-General: Department of Labour in terms of regulation 2(3) of the Learnership Regulations, 2001;
 - (c) the full names and identification number of the learner contemplated in the registered learnership agreement; and
 - (d) proof that the employer has complied with all the requirements of the Skills Development Levies Act, 1999 (Act No. 9 of 1999).
- (4) The provisions of this section shall not apply—
- (a) in respect of the substitution of any employer which is party to an existing registered learnership agreement by any other employer, as contemplated in regulation 5(1) of the Learnership Regulations, 2001;
 - (b) where an employer enters into a registered learnership agreement with a learner as a result of the substitution of an existing registered learnership agreement, as contemplated in regulation 5(2) of the Learnership Regulations, 2001; or
 - (c) where an employer enters into a registered learnership agreement with a learner, and a deduction is or was allowable to that employer during any year of assessment in respect of any other registered learnership agreement entered into by that employer with that learner in respect of the same learnership registered by the Director General of Labour, as contemplated in regulation 3(3) of the Learnership Regulations.
- (5) Where—
- (a) in the determination of the taxable income of an employer for any year of assessment an amount is or was allowed as a deduction in respect of any registered learnership agreement entered into by that employer with any learner, as contemplated in subsection (1)(a); and
 - (b) that registered learnership agreement is terminated prior to the completion thereof for any reason other than the death of that learner or the dismissal of that learner due to his or her incapacity as a result of ill-health or injury,
- that amount so allowed as a deduction shall, for the purposes of section 8(4)(a), be deemed to have been recovered or recouped by that employer.
- (6) For purposes of this section—
- ‘associated institution’ in relation to an employer means an associated institution as defined in paragraph 1 of the Seventh Schedule;
- ‘employer’ means—

- (a) in the case where a group of employers is party to a registered learnership agreement, the employer which is identified in that agreement as the lead employer; or
- (b) in any other case, the employer which is party to a registered learnership agreement;
- ‘learner’ means—
- (a) a learner who is party to a registered learnership agreement; or
- (b) an apprentice in a contract of apprenticeship contemplated in paragraph (b) of the definition of ‘registered learnership agreement’;
- ‘Learnership Regulations, 2001’ means the Regulations concerning the Registration of Intended Learnerships and Learnership Agreements (Government Notice No. R. 330 published in *Gazette* No. 22197 of 3 April 2001), made by the Minister of Labour in terms of section 36, read with sections 16(d) and 17(3) and (6) of the Skills Development Act, 1998;
- ‘registered learnership agreement’ means—
- (a) a learnership agreement entered into between a learner and an employer before 1 October 2006, which has been registered with a SETA, as contemplated in section 17(3) of the Skills Development Act, 1998; or
- (b) a contract of apprenticeship registered with the Department of Labour in terms of section 18 of the Manpower Training Act, 1981 (Act No. 56 of 1981);
- ‘remuneration’ means remuneration as defined in the Fourth Schedule;
- ‘SETA’ means a sector education and training authority established in terms of the Skills Development Act, 1998;
- ‘Skills Development Act, 1998’ means the Skills Development Act, 1998 (Act No. 97 of 1998).”.

- (2) Subsection (1) shall be deemed to have come into operation on 1 October 2001, and shall apply in respect of—
- (a) any registered learnership agreement entered into on or after that date; or
- (b) the completion by a learner on or after that date of any registered learnership agreement.

Amendment of section 18 of Act 58 of 1962, as amended by section 15 of Act 95 of 1967, section 12 of Act 76 of 1968, section 17 of Act 89 of 1969, section 14 of Act 52 of 1970, section 15 of Act 88 of 1971, section 12 of Act 104 of 1980, section 15 of Act 96 of 1981, section 15 of Act 121 of 1984, section 11 of Act 96 of 1985, section 14 of Act 90 of 1988, section 11 of Act 70 of 1989, section 16 of Act 101 of 1990, section 19 of Act 129 of 1991, section 18 of Act 141 of 1992, section 16 of Act 21 of 1995, section 23 of Act 53 of 1999 and section 26 of Act 59 of 2000

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

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

Amendment of section 18A of Act 58 of 1962, as amended by section 15 of Act 52 of 1970, section 16 of Act 88 of 1971, section 13 of Act 90 of 1972, section 14 of Act 65 of 1973, section 16 of Act 69 of 1975, section 13 of Act 104 of 1980, section 16 of Act 96 of 1981, section 14 of Act 91 of 1982, section 16 of Act 94 of 1983, section 16 of Act 121 of 1984, section 17 of Act 101 of 1990, section 20 of Act 129 of 1991, section 11 of Act 36 of 1996, section 15 of Act 90 of 1998 and section 24 of Act 30 of 2000

20. Section 18A 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:
- “Notwithstanding the provisions of section 23, there shall be allowed to be deducted from the taxable income of any taxpayer so much of the sum of any *bona fide* donations in cash or in kind made by such taxpayer and actually paid or transferred during the year of assessment to—”;

- (b) by the substitution in paragraph (a) of subsection (1) for the words following subparagraph (ii) of the following words:
 “which—
 (aa) carries on in the Republic any public benefit activity [**which is determined by the Minister by notice in the *Gazette* for the purposes of this section, a copy of which shall be laid upon the table in Parliament**] contemplated in Part II of the Ninth Schedule, or any other activity determined from time to time by the Minister by notice in the *Gazette* for the purposes of this section; and
 (bb) complies with any additional requirements prescribed by the Minister in terms of subsection (1A);”;
- (c) by the substitution for subparagraph (i) of paragraph (b) of subsection (1) of the following subparagraph:
 “(i) provides funds or assets solely to any public benefit organisation, institution, board or body contemplated in paragraph (a); and”;
- (d) by the addition to subsection (1) of the following proviso:
 “Provided that the Commissioner may, upon good cause shown and subject to such conditions as he or she may determine, either generally or in a particular instance, waive, defer or reduce the obligation to distribute any funds as contemplated in paragraph (b)(ii), having regard to the public interest and the purpose for which the relevant organisation wishes to accumulate those funds; and”;
- (e) by the insertion after subsection (1) of the following subsections:
 “(1A) The Minister may, by regulation, prescribe additional requirements with which a public benefit organisation carrying on any specific public benefit activity identified by the Minister in the regulations, must comply before any donation made to that public benefit organisation shall be allowed as a deduction under subsection (1).
 (1B) Any activity determined by the Minister in terms of subsection (1)(a) or any requirements prescribed by the Minister in terms of subsection (1A), must be tabled in Parliament within a period of 12 months after the date of publication by the Minister of that activity or those requirements, as the case may be, in the *Gazette*, for incorporation into this Act.”;
- (f) by the addition of the following subsections:
 “(5A) If the Commissioner has reasonable grounds for believing that any regulating or co-ordinating body of a group of public benefit organisations, contemplated in section 30(3A) or subsection (6)—
 (a) with intent or negligently fails to take any steps contemplated in that section or subsection, to exercise control over any public benefit organisation in that group; or
 (b) fails to notify the Commissioner where it becomes aware of any material failure by any public benefit organisation over which it exercises control to comply with any provision of this section,
 the Commissioner may by notice in writing addressed to that regulating or co-ordinating body direct that donations to public benefit organisations, institutions, boards or bodies in that group shall not qualify for deduction under the provisions of this section in respect of any year of assessment specified in such notice and any claim by any taxpayer for such deduction shall accordingly be disallowed.
 (6) The Commissioner may, for the purposes of this section, approve a group of institutions, boards or bodies contemplated in subsection (1)(a)(ii), sharing a common purpose which carry on any public benefit activity under the direction or supervision of a regulating or co-ordinating body, where that body takes such steps, as prescribed by the Commissioner, to exercise control over those institutions, boards or bodies in order to ensure that they comply with the provisions of this section.”.

Amendment of section 23 of Act 58 of 1962, as amended by section 18 of Act 65 of 1973, section 20 of Act 121 of 1984, section 23 of Act 129 of 1991, section 20 of Act 141 of 1992, section 18 of Act 113 of 1993, section 15 of Act 21 of 1994

21. (1) Section 23 of the Income Tax Act, 1962, is hereby amended—
 (a) by the deletion of paragraph (i); and

(b) by the addition of the following paragraph:

- “(m) subject to paragraph (k), any expenditure, loss or allowance, contemplated in section 11, which relates to any employment of, or office held by, any person (other than an agent or representative whose remuneration is normally derived mainly in the form of commissions based on his or her sales or the turnover attributable to him or her) in respect of which he or she derives any remuneration, as defined in paragraph 1 of the Fourth Schedule, other than—
- (i) any contributions to a pension or retirement annuity fund as may be deducted from the income of that person in terms of sections 11(k) or (n);
 - (ii) any allowance or expense which may be deducted from the income of that person in terms of section 11(c), (e), (i) or (j); and
 - (iii) any deduction which is allowable under section 11(a) in respect of any premium paid by that person in terms of an insurance policy—
 - (aa) which covers that person solely against the loss of income as a result of illness, injury, disability or unemployment; and
 - (bb) in respect of which all amounts payable in terms of that policy constitutes or will constitute income as defined.”.

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

Amendment of section 30 of Act 58 of 1962, as amended by section 26 of Act 113 of 1993 as repealed by section 20 of Act 21 of 1994, as inserted by section 35 of Act 30 of 2000 and as amended by section 16 of Act 19 of 2001

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

- (a) by the substitution for the definition of “public benefit activity” in subsection (1) of the following definition:
- “ ‘public benefit activity’ means—
- (a) any activity listed in Part I of the Ninth Schedule; and
 - (b) any other activity determined by the Minister from time to time by notice in the *Gazette* to be of a benevolent nature, having regard to the needs, interests and well-being of the general public;”;
- (b) by the substitution for the definition of “public benefit organisation” of the following definition:
- “ ‘public benefit organisation’ means any organisation—
- (a) which is a company formed and incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), or a trust or an association of persons;
 - (b) of which the sole object is carrying on one or more public benefit activities (including any undertakings or activities which are not prohibited under subsection (3)(b)(iv)), where—
 - (i) all such activities are carried on in a non-profit manner and with an altruistic or philanthropic intent;
 - (ii) no such activity is intended to directly or indirectly promote the economic self-interest of any fiduciary or employee of the organisation, otherwise than by way of reasonable remuneration payable to that fiduciary or employee; and
 - (iii) at least 85 per cent of such activities, measured as either the cost related to the activities or the time expended in respect thereof, are carried out for the benefit of persons in the Republic, unless the Minister, having regard to the circumstances of the case, directs otherwise; and
 - (c) where—
 - (i) each such activity carried on by that organisation is for the benefit of, or is widely accessible to, the general public at large, including any sector thereof (other than small and exclusive groups);
 - (ii) each such activity carried on by that organisation is for the benefit of, or is readily accessible to, the poor and needy; or

- (iii) that organisation is at least 85 per cent funded by donations, grants from any organ of state or any foreign grants;”;
- (c) by the substitution for subsection (2) of the following subsection:
 “(2) Any activity determined by the Minister in terms of paragraph (b) of the definition of ‘public benefit activity’ in subsection (1) or any conditions prescribed by the Minister in terms of subsection (3)(a) must be tabled in Parliament within a period of 12 months after the date of publication by the Minister of that activity or those conditions in the *Gazette*, for incorporation into this Act.”;
- (d) by the substitution for subparagraph (i) of paragraph (b) of subsection (3) of the following subparagraph:
 “(i) required to have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of such organisation and no single person directly or indirectly controls the decision making powers relating to that organisation: Provided that the provisions of this subparagraph shall not apply in respect of any trust established in terms of a will of any person who died on or before 31 December 2003;”;
- (e) by the substitution for item (aa) of subparagraph (ii) of paragraph (b) of subsection (3) the following item:
 “(aa) with a financial institution as defined in section 1 of the [**Financial Institutions (Investment of Funds) Act, 1984 (Act No. 39 of 1984)**] **Financial Services Board Act, 1990 (Act No. 97 of 1990);**”;
- (f) by the substitution for subparagraph (iii) of paragraph (b) of subsection (3) of the following subparagraph:
 “(iii) required on dissolution to transfer its assets to—
 (aa) any similar public benefit organisation which has been approved in terms of this section;
 (bb) any institution, board or body which is exempt from tax under the provisions of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity;
 or
 (cc) any department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in section 10(1)(a) or (b);”;
- (g) by the substitution for the proviso to subparagraph (v) of paragraph (b) of subsection (3) of the following proviso:
 “Provided that a donor (other than a donor which is an approved public benefit organisation or an institution board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation;”;
- (h) by the substitution for paragraph (d) of subsection (3) of the following paragraph:
 “(d) has not [**paid**] and will not pay any remuneration, as defined in the Fourth Schedule, to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects;”;
- (i) by the substitution for paragraph (g) of subsection (3) of the following paragraph:
 “(g) has, within such period as the Commissioner may determine, been registered in terms of section 13(5) of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), and complied with any other requirements imposed in terms of that Act, unless the Commissioner in consultation with the Director of Nonprofit Organisations designated in terms of section 8 of the Nonprofit Organisations Act, 1997, on good cause shown, otherwise directs; and”;

- (j) by the addition to subsection (3) of the following paragraph:
“(h) has not and will not use its resources directly or indirectly to support, advance or oppose any political party.”;
- (k) by the substitution for the proviso to subsection (3) of the following proviso: 5
 “Provided that notwithstanding subparagraph (iv) of paragraph (b), any business undertaking or trading activity, or asset used in such undertaking or activity, acquired by such organisation before 1 January 2001 [**by way of donation, bequest or inheritance**] may be retained or continued, as the case may be, in the form so acquired for a period of five years after that date.”; 10
- (l) by the insertion after subsection (3) of the following subsections:
 “(3A) The Commissioner may, for the purposes of subsection (3), grant approval in respect of any group of organisations sharing a common purpose, which carry on any public benefit activity under the direction or supervision of a regulating or co-ordinating body, where that body takes such steps, as prescribed by the Commissioner, to exercise control over those organisations in order to ensure that they comply with the provisions of this section. 15
 (3B) Where an organisation applies for approval before the later of 31 December 2003 or the last day of its first year of assessment, the Commissioner may approve that organisation for the purposes of this section, or for the purposes of any provision contained in section 10 which was repealed on 15 July 2001, with retrospective effect.”; 20
- (m) by the substitution in subsection (5) for the words following paragraph (b) of the following words: 25
“failed to comply with the provisions of this section, or the constitution, will or other written instrument under which it is established to the extent that it relates to the provisions of this section, [**he may**] the Commissioner shall after due notice withdraw [**his**] approval of the organisation with effect from the commencement of that year of assessment, where corrective steps are not taken by that organisation within a period stated by the Commissioner in that notice.”; and 30
- (n) by the insertion after subsection (5) of the following subsection: 35
“(5A) Where any regulating or co-ordinating body contemplated in subsection (3A)—
 (a) with intent or negligently fails to take any steps contemplated in that subsection to exercise control over any public benefit organisation; or
 (b) fails to notify the Commissioner where it become aware of any material failure by any public benefit organisation over which it exercises control to comply with any provision of this section, 40
 the Commissioner shall after due notice withdraw the approval of the group of public benefit organisations with effect from the commencement of that year of assessment, where corrective steps are not taken by that organisation within a period stated by the Commissioner in that notice.”. 45

Amendment of section 46 of Act 58 of 1962, as inserted by section 44 of Act 60 of 2001

23. Section 46 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution of paragraph (c) of subsection (6) of the following paragraph: 50
“(c) the liquidating company has not [**within a period of six months after the date of the liquidation distribution**] taken such steps as may be prescribed by the Minister by regulation in the *Gazette* to liquidate, wind up or deregister that company within such period specified by the Minister in those regulations; 55
- (b) by the addition of the word “or” at the end of paragraph (c) of subsection (6);
- (c) by the addition to subsection (6) of the following paragraph: 60
“(d) where the liquidating company at any stage withdraws any step taken to liquidate, wind up or deregister that company, as contemplated in paragraph (c), or does anything to invalidate any such step so taken, with the result that the liquidating company is or will not be liquidated, wound up or deregistered.”; and

(d) by the addition to subsection (6) of the following proviso:

“Provided that any tax which becomes payable as a result of the application of paragraph (c) or (d) may be recoverable from the holding company.”.

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 and section 45 of Act 16 of 2001

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

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

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

Amendment of section 64B of Act 58 of 1962, as inserted by section 34 of Act 113 of 1993 and amended by section 12 of Act 140 of 1993, section 24 of Act 21 of 1994, section 29 of Act 21 of 1995, section 21 of Act 36 of 1996, section 13 of Act 46 of 1996, section 25 of Act 28 of 1997, section 35 of Act 53 of 1999, section 39 of Act 30 of 2000, section 42 of Act 59 of 2000, section 18 of Act 5 of 2001 and section 48 of Act 60 of 2001

25. Section 64B of the Income Tax Act, 1962, is hereby amended by the substitution for the proviso to paragraph (c) of subsection (5) of the following proviso:

“Provided that where such dividend is distributed in anticipation of the liquidation or winding-up or deregistration of a company and such company—

- (i) has not [**within six months after the date on which such dividend is so distributed**] taken such steps as may be prescribed by the Minister by regulation in the *Gazette* to liquidate, wind up or deregister that company within such period specified by the Minister in those regulations; or
- (ii) has at any stage withdrawn any step taken to liquidate, wind up or deregister that company, as contemplated in paragraph (i), or does anything to invalidate any such step so taken, with the result that the company is or will not be liquidated, wound up or deregistered,

the provisions of this paragraph and of subsection (3)(b) shall be deemed not to have applied to such dividend and any secondary tax on companies which becomes payable as a result thereof shall be recoverable from the shareholders to whom such dividend was distributed in the same proportion as such dividend was so distributed:”.

Amendment of section 66 of Act 58 of 1962, as amended by section 10 of Act 6 of 1963, section 19 of Act 90 of 1964, section 27 of Act 88 of 1971, section 22 of Act 91 of 1982, section 19 of Act 65 of 1986, section 23 of Act 85 of 1987, section 37 of Act 101 of 1990, section 26 of Act 21 of 1994, section 41 of Act 30 of 2000, section 19 of Act 5 of 2001 and section 17 of Act 19 of 2001

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

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

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

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

Amendment of section 78 of Act 58 of 1962, as amended by section 25 of Act 5 of 2001

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

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

“(1A) (a) Where the Commissioner has reason to believe that any resident has not declared or accounted for—

(a) any funds held in foreign currency or any assets owned by that resident outside the Republic; or

(b) any funds in foreign currency or assets outside the Republic from which any income or gain would be attributable to that resident during the relevant year of assessment in terms of section 7 or Part X of the Eighth Schedule,

in any return contemplated in section 66(1), the Commissioner shall estimate the amount in foreign currency of any such funds or the market value in foreign currency of such assets, that he or she believes are owned by that resident outside the Republic on the last day of that year of assessment, after giving that resident notice to account for those funds or assets and that resident has failed to so account within the period stated by the Commissioner in that notice.

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

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

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

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

(a) translated to the currency of the Republic on the last day of the relevant year of assessment at the ruling exchange rate at that date to determine the amount to be included in taxable income; and

(b) taken into account by the Commissioner during any succeeding year of assessment in estimating the amount of any funds or value of any assets owned by that resident outside the Republic, as contemplated in subsection (1A).”;

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

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

- (a) what amount of such income, aggregate capital gain or aggregate capital loss shall be taxable income, net capital gain or assessed capital loss; or
- (b) the amount of the funds in foreign currency or value of the assets owned outside the Republic, 5
and any amount or value so agreed upon shall not be subject to any objection or appeal.”

(2) Subsection (1) shall come into operation on 1 January 2003, and shall apply in respect of any funds or assets held by a person, which are not declared or accounted for in any return submitted to the Commissioner in respect of any year of assessment ending 10 on or after that date.

Insertion of section 79A in Act 58 of 1962

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

“Reduced assessments” 15

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

- (a) to rectify any processing error made in issuing that assessment; or
- (b) where it is proved to the satisfaction of the Commissioner that in issuing that assessment any amount which— 20
- (i) was taken into account by the Commissioner in determining the taxpayer’s liability for tax, should not have been taken into account; or
- (ii) should have been taken into account in determining the taxpayer’s liability for tax, was not taken into account by the Commissioner: 25

Provided that such assessment, wherein the amount was so taken into account or not taken into account, as contemplated in subparagraph (i) or (ii), as the case may be, was issued by the Commissioner based on information provided in the taxpayer’s return for the current or any previous year of assessment. 30

- (2) The Commissioner shall not reduce an assessment under subsection (1)—
- (a) after the expiration of three years from the date of that assessment; or 35
- (b) if the amount was assessed in terms of an assessment accepted by the taxpayer and which was made in accordance with the practice generally prevailing at the date of that assessment.”

Amendment of section 83 of Act 58 of 1962 of Act 58 of 1962 as amended by section 22 of Act 103 of 1976, section 15 of Act 104 of 1979, section 36 of Act 129 of 1991, section 36 of Act 113 of 1993, section 30 of Act 28 of 1997, section 45 of Act 30 of 2000 and section 54 of Act 60 of 2001 40

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

- “(1C) The Commissioner may alter any assessment against which an appeal has been noted, as contemplated in subsection (1), where the Commissioner has conceded that appeal, in whole or in part, at any stage before— 45
- (a) the matter is heard by the tax board contemplated in section 83A, or the tax court contemplated in subsection (2); or
- (b) any appeal against a judgment of the tax court is heard, as contemplated in section 86A.” 50

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

Substitution of section 102 of Act 58 of 1962 as amended by section 28 of Act 69 of 1975, section 27 of Act 91 of 1982 and section 44 of Act 30 of 1998

30. The following section is hereby substituted for section 102 of the Income Tax Act, 1962:

“Refunds and set off

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

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

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

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

- (b) the refund is claimed by that person—

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

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

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

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

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

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

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Amendment of section 107B of Act 58 of 1962, as inserted by section 63 of Act 60 of 2001

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

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

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

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

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- (b) by the addition of the following subsections:

“(3) Where any dispute between the Commissioner and the person aggrieved by an assessment has been settled, as contemplated in subsection (1), the Commissioner may, notwithstanding anything to the contrary

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contained in this Act, alter that assessment for purposes of giving effect to that settlement.

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

(2) Subsection (1) shall come into operation on the date that section 63 of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001), comes into operation. 5

Amendment of paragraph 1 of the Fourth Schedule to Act 58 of 1962, as 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 and section 53 of Act 59 of 2000 10

32. (1) Paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended— 15

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

“ ‘remuneration’ means any amount of income which is paid or is payable to any person by way of any salary, leave pay, [allowance] wage, overtime pay, bonus, gratuity, commission, fee, emolument, pension, superannuation allowance, retiring allowance or stipend, whether in cash or otherwise and whether or not in respect of services rendered, including—”; and 20

(b) by the insertion after paragraph (b) of the definition of “remuneration” of the following paragraph: 25

“(bA) any allowance or advance, which must be included in the taxable income of that person in terms of section 8(1)(a)(i), other than—
(i) an allowance in respect of which paragraph (c) applies; or
(ii) an allowance or advance paid or granted to that person in respect of accommodation, meals or other incidental costs while that person is obliged to spend at least one night away from his or her usual place of residence in the Republic;”. 30

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

Amendment of paragraph 11B of Fourth Schedule to Act 58 of 1962, as inserted by section 41 of Act 90 of 1988 and amended by section 22 of Act 70 of 1989, section 47 of Act 101 of 1990, section 46 of Act 129 of 1991, section 34 of Act 141 of 1992, section 3 of Act 168 of 1993, section 40 of Act 21 of 1995, section 35 of Act 36 of 1996, section 48 of Act 28 of 1997, section 53 of Act 30 of 1998 and section 56 of Act 59 of 2000 35

33. (1) Paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for item (h) of the definition of “net remuneration” in subparagraph (1) of the following item: 40

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

(2) Subsection (1) shall come into operation on 1 August 2002. 45

Amendment of paragraph 18 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and as amended by section 28 of Act 90 of 1964, section 42 of Act 88 of 1971, section 49 of Act 85 of 1974, section 19 of Act 104 of 1979, section 26 of Act 65 of 1986, section 9 of Act 108 of 1986, section 23 of Act 70 of 1989, section 50 of Act 113 of 1993, section 37 of Act 36 of 1996 and section 24 of Act 19 of 2001 50

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

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

“(a) in respect of any period in respect of which provisional tax would but for the provisions of this item be payable by him or her, any person (other than a company or a director of a private company) who 55

satisfies the Commissioner that apart from any taxable income which he or she may derive by way of remuneration, or any amount referred to in paragraph [(i)] (iii) [**or (v)**] of the definition of “remuneration” in paragraph 1, he or she will not during that period derive any taxable income in excess of [**R2 000**] R10 000.”; and

- (b) by the substitution in subparagraph (3) for the words preceding item (a) and item (a) of the following words and item:

“(3) Any election made under subparagraph (2) shall be binding upon the person making such election and shall remain in force until 30 June 2002, or any earlier date on which—

- (a) the Commissioner upon such terms and conditions as he or she may impose [**has consented**] consents in writing to such person becoming a provisional taxpayer; or”.

Amendment of paragraph 5 of Seventh Schedule to Act 58 of 1962, as inserted by section 46 of Act 121 of 1984 and amended by section 28 of Act 96 of 1985, section 57 of Act 101 of 1990, section 31 of Act 21 of 1994 and section 46 of Act 21 of 1995

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

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

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

Amendment of paragraph 13 of Seventh Schedule to Act 58 of 1962, as amended by section 51 of Act 129 of 1991 and section 37 of Act 141 of 1992

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

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

- (a) has paid any contribution or made any payment to any fund as contemplated in paragraph 2(i); or
 (b) [**by reason of the fact that an employer**] has paid subscriptions due by his employee to a professional body, if membership of such body is a condition of the employee’s employment [**or**].”.

Amendment of paragraph 29 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 81 of Act 60 of 2001

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

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

- (a) that person has valued that asset within two years after valuation date; or
 (b) the price of that asset has been published by the Commissioner in terms of this paragraph in the Gazette.”.

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

Amendment of paragraph 32 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 28 of Act 19 of 2001 and section 84 of Act 60 of 2001

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

- “(b) constitute rights of unit holders—
 (i) [**assets**] contemplated in paragraph 31(1)(c), where the prices of these units, shares or interest are regularly published in a national or international newspaper; [**or**]

- (ii) in any unit portfolio comprised in any unit trust scheme managed or carried on by a management company registered under section 4 or 30 of the Unit Trust Control Act, 1981 (Act No. 54 of 1981); or
 (iii) in any arrangement or scheme contemplated in paragraph (e)(ii) of the definition of 'company' in section 1 of the Act, which is approved by the Registrar of Unit Trust Companies in terms of section 37A of the Unit Trust Control Act, 1981 (Act No. 54 of 1981); or”.

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

Amendment of paragraph 84 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001, and amended by section 34 of Act 19 of 2001 and section 110 of Act 60 of 2001

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

- (a) by the substitution in subparagraph (1) for the words preceding item (a) of the following words: 15
 “The Minister must, by way of notice in the *Gazette*, issue regulations to determine a capital gain or capital loss of persons or in respect of transactions (other than **[trusts carrying on any trade, natural persons who hold any foreign currency asset, foreign currency option contract or forward exchange contract as trading stock, or companies]** persons to whom or transactions in respect of which section 24I applies) in respect of—”;
- (b) by the substitution for subsection (4) of the following subsection: 20
 “(4) The regulations contemplated in subparagraph (1) **[must be]** shall come into operation on a date determined by the Minister and must be tabled in Parliament within 12 months after those regulations are issued for incorporation in this Schedule.”; and 25
- (c) by the deletion of subsection (5).

Insertion of Ninth Schedule in Act 58 of 1962

41. The following Schedule is hereby inserted in the Income Tax Act, 1962, after the Eighth Schedule: 30

“Ninth Schedule

(Section 30)

PUBLIC BENEFIT ACTIVITIES

Part I 35

1. Welfare and Humanitarian

- (a) The care or counseling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children. 40
- (b) The care or counseling of poor and needy persons where more than 90 per cent of those persons to whom the care or counseling are provided are over the age of 60.
- (c) The care or counseling of, or the provision of education programmes relating to, physically or mentally abused and traumatized persons.
- (d) The provision of disaster relief. 45
- (e) The rescue or care of persons in distress.
- (f) The provision of poverty relief.
- (g) Rehabilitative care or counseling or education of prisoners, former prisoners and convicted offenders and persons awaiting trial.
- (h) The rehabilitation, care or counseling of persons addicted to a dependence-forming substance or the provision of preventative and education programmes regarding addiction to dependence-forming substances. 50

- (i) Conflict resolution, the promotion of reconciliation, mutual respect and tolerance between the various peoples of South Africa.
- (j) The promotion or advocacy of human rights and democracy.
- (k) The protection of the safety of the general public.
- (l) The promotion or protection of family stability. 5
- (m) The provision of legal services for poor and needy persons.
- (n) The provision of facilities for the protection and care of children under school-going age of poor and needy parents.
- (o) The promotion or protection of the rights and interests of, and the care of, asylum seekers and refugees. 10
- (p) Community development for poor and needy persons and anti-poverty initiatives, including—
- (i) the promotion of community-based projects relating to self-help, empowerment, capacity building, skills development or anti-poverty; 15
- (ii) the provision of training, support or assistance to community-based projects contemplated in item (i); or
- (iii) the provision of training, support or assistance to emerging micro enterprises to improve capacity to start and manage businesses, which may include the granting of loans on such conditions as may be prescribed by the Minister by way of regulation. 20
- 2. Health Care**
- (a) The provision of health care services to poor and needy persons.
- (b) The care or counseling of terminally ill persons or persons with a severe physical or mental disability, and the counseling of their families in this regard. 25
- (c) The prevention of HIV infection, the provision of preventative and education programmes relating to HIV/AIDS.
- (d) The care, counseling or treatment of persons afflicted with HIV/AIDS, including the care or counseling of their families and dependants in this regard. 30
- (e) The provision of blood transfusion, organ donor or similar services.
- (f) The provision of primary health care education, sex education or family planning.
- 3. Land and Housing** 35
- (a) The development, construction, upgrading, conversion or procurement of housing units for the benefit of poor and needy persons.
- (b) The development, servicing, upgrading or procurement of stands, or the provision of building materials, for purposes of the activities contemplated in subparagraph (a). 40
- (c) The provision of residential care for retired persons, where more than 90 per cent of the persons to whom the residential care is provided are over the age of 60 and regular meals and nursing services are provided by the organisation carrying on such activity.
- (d) Building and equipping of community centres, clinics, sport facilities or crèches or other facilities of a similar nature for the benefit of the poor and needy. 45
- (e) The promotion, facilitation and support of access to land and use of land, housing and infrastructural development for promoting official land reform programmes. 50
- (f) Granting of loans for purposes of subparagraph (a) or (b) subject to such conditions as may be prescribed by the Minister by way of regulation.
- (g) The protection, enforcement or improvement of the rights of poor and needy tenants, labour tenants or occupiers, to use or occupy land or housing. 55
- 4. Education and Development**
- (a) The provision of education by a “school” as defined in the South African Schools Act, 1996, (Act No. 84 of 1996).

- (b) The provision of “higher education” by a “higher education institution” as defined in terms of the Higher Education Act, 1997, (Act No. 101 of 1997).
- (c) “Adult basic education and training”, as defined in the Adult Basic Education and Training Act, 2000, (Act No. 52 of 2000), including literacy and numeracy education. 5
- (d) “Further education and training” provided by a “public further education and training institution” as defined in the Further Education and Training Act 1998, (Act No. 98 of 1998).
- (e) Training for unemployed persons with the purpose of enabling them to obtain employment. 10
- (f) The training or education of persons with a severe physical or mental disability.
- (g) The provision of bridging courses to enable educationally disadvantaged persons to enter a higher education institution as envisaged in subparagraph (b). 15
- (h) The provision of educare or early childhood development services for pre-school children.
- (i) Training of persons employed in the national, provincial and local spheres of government, for purposes of capacity building in those spheres of government. 20
- (j) The provision of school buildings or equipment for public schools and educational institutions engaged in public benefit activities contemplated in subparagraphs (a) to (h).
- (k) Career guidance and counseling services provided to persons for purposes of attending any school or higher education institution as envisaged in subparagraphs (a) and (b). 25
- (l) The provision of hostel accommodation to students of a public benefit organisation contemplated in section 30 or an institution, board or body contemplated in section 10(1)(cA)(i), carrying on activities envisaged in subparagraphs (a) to (g). 30
- (m) Programmes addressing needs in education provision, learning, teaching, training, curriculum support, governance, whole school development, safety and security at schools, pre-schools or educational institutions as envisaged in subparagraphs (a) to (h). 35
- (n) Educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy.
- (o) The provision of scholarships, bursaries and awards for study, research and teaching on such conditions as may be prescribed by the Minister by way of regulation in the *Gazette*. 40
- 5. Religion, Belief or Philosophy**
- (a) The promotion or practice of religion which encompasses acts of worship, witness, teaching and community service based on a belief in a deity.
- (b) The promotion and/or practice of a belief. 45
- (c) The promotion of, or engaging in, philosophical activities.
- 6. Cultural**
- (a) The advancement, promotion or preservation of the arts, culture or customs.
- (b) The promotion, establishment, protection, preservation or maintenance of areas, collections or buildings of historical or cultural interest, national monuments, national heritage sites, museums, including art galleries, archives and libraries. 50
- (c) The provision of youth leadership or development programmes.
- 7. Conservation, Environment and Animal Welfare** 55
- (a) Engaging in the conservation, rehabilitation or protection of the natural environment, including flora, fauna or the biosphere.
- (b) The care of animals, including the rehabilitation, or prevention of the ill-treatment of animals.

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

8. Research and consumer rights

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

9. Sport

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

10. Providing of funds, assets or other resources

The provision of—

- (a) funds, assets, services or other resources by way of donation;
 - (b) assets or other resources by way of sale for a consideration not exceeding the direct cost to the organisation providing the assets or resources;
 - (c) funds by way of loan at no charge; or
 - (d) assets by way of lease for an annual consideration not exceeding the direct cost to the organisation providing the asset divided by the total useful life of the asset,
- to any—
- (i) any public benefit organisation which has been approved in terms of section 30;
 - (ii) any institution, board or body contemplated in section 10(1)(cA)(i), which conducts one or more public benefit activities in this part (other than this paragraph);
 - (iii) any association of persons carrying on one or more public benefit activity contemplated in this part (other than this paragraph), in the Republic; or
 - (iv) any department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in section 10(1)(a) or (b).”.

11. General

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

Part II

1. Welfare and Humanitarian

- (a) The care or counseling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children. 5
- (b) The care or counseling of poor and needy persons where more than 90 per cent of those persons to whom the care or counseling are provided are over the age of 60.

2. Health Care

- (a) The provision of health care services to poor and needy persons. 10
- (b) The care or counseling of terminally ill persons or persons with a severe physical or mental disability, and the counseling of their families in this regard.
- (c) The prevention of HIV infection, the provision of preventative and education programmes relating to HIV/AIDS. 15
- (d) The care, counseling or treatment of persons afflicted with HIV/AIDS, including the care or counseling of their families and dependants in this regard.

3. Education and Development

- (a) The provision of education by a “school” as defined in the South African Schools Act, 1996, (Act No. 84 of 1996). 20
- (b) The provision of “higher education” by a “higher education institution” as defined in terms of the Higher Education Act, 1997, (Act No. 101 of 1997).
- (c) “Adult basic education and training”, as defined in the Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000), including literacy and numeracy education. 25
- (d) “Further education and training” provided by a “public further education and training institution” as defined in the Further Education and Training Act 1998, (Act No. 98 of 1998). 30
- (e) Training for unemployed persons with the purpose of enabling them to obtain employment.
- (f) The training or education of persons with a severe physical or mental disability.
- (g) The provision of bridging courses to enable educationally disadvantaged persons to enter a higher education institution as envisaged in subparagraph (b). 35
- (h) The provision of educare or early childhood development services for pre-school children.
- (i) The provision of school buildings or equipment for public schools and educational institutions engaged in public benefit activities contemplated in subparagraphs (a) to (h). 40
- (j) Programmes addressing needs in education provision, learning, teaching, training, curriculum support, governance, whole school development, safety and security at schools, pre-schools or educational institutions as envisaged in subparagraphs (a) to (h). 45
- (k) Educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy.

4. Conservation, Environment and Animal Welfare

- The establishment and management of a transfrontier area, involving two or more countries, which— 50
- (a) is or will fall under a unified or coordinated system of management without compromising national sovereignty; and
- (b) has been established with the explicit purpose of supporting the conservation of biological diversity, job creation, free movement of animals and tourists across the international boundaries within the peace park, and the building of peace and understanding between the nations concerned.” 55

Amendment of section 3 of Act 91 of 1964, as amended by section 114 of Act 60 of 2001

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

(a) by the substitution for subsection (3) of the following subsection:

“(3) (a) For the purposes of any internal review under this section— 5

(i) except subparagraph (ii)(cc), any decision made by the Commissioner or an officer under the provisions of this Act, including any amendment or withdrawal thereof, shall be deemed to be effective from the date any notice or communication in respect of such decision is issued in writing or the date specified in such notice or communication; 10

(ii) any such decision includes—

(aa) any determination or other act of an administrative nature;

(bb) any amendment or withdrawal of a decision; and

(cc) any refusal to take a decision. 15

(b) Any person who may institute proceedings in respect of such decision by the Commissioner, the Controller or an officer under this Act may apply for such internal review within such time as the Commissioner may prescribe by rule.”; and

(b) by the addition of the following subsection: 20

“(4) (a) The Commissioner may, make rules—

(i) to delegate, for the purpose of internal review of any decision of any officer, the performance of any duty or the exercise of any power under this section or any other provision of this Act including the withdrawal or amendment of a decision, to any officer or any committee of officers; 25

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

(iii) to prescribe which decisions or categories of decisions of officers or any such committee shall be subject to review whether by any other committee or by any such other officer; 30

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

(v) regarding any other matter which the Commissioner may consider reasonably necessary and useful for the purposes of administering the provisions of this section. 35

(b) Notwithstanding the provisions of this section—

(i) the Commissioner may withdraw or amend any decision by any officer or committee of officers after considering such internal review;

(ii) any internal review procedure does not affect any appeal contemplated in this Act or the rights of any person to institute judicial proceedings arising from such decision.”. 40

Amendment of section 4 of Act 91 of 1964, as amended by section 2 of Act 105 of 1969, section 2 of Act 110 of 1979, sections 3 and 15 of Act 98 of 1980, section 2 of Act 84 of 1987, section 4 of Act 59 of 1990, section 1 of Act 105 of 1992, section 1 of Act 98 of 1993, section 2 of Act 45 of 1995, schedule 3 of Act 34 of 1997, section 58 of Act 30 of 1998, section 47 of Act 53 of 1999 and section 115 of Act 60 of 2001 45

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

“(3B) The provisions of subsection (3) shall not be construed as preventing [an officer] the Commissioner from using any information obtained by him in the exercise of his powers or the performance of his duties under this Act for the purposes of any other law administered by him.”;. 50

Amendment of section 21 of Act 91 of 1964, as amended by section 9 of Act 105 of 1969 55

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

- “(3) Unless this Act provides otherwise in respect of any special customs and excise warehouse, the Commissioner may prescribe by rule—
- (a) the purposes for which a special customs and excise warehouse may be licensed;
 - (b) the goods and activities that are allowed in such warehouse;
 - (c) the requirements to be complied with by applicants and licensees;
 - (d) the procedures applicable to the operation of such warehouse;
 - (e) the rules of conduct to be observed by the licensee; and
 - (f) any other matter which be necessary for the efficient and effective administration of such warehouses.”.

Amendment of section 43 of Act 91 of 1964, as amended by section 6 of Act 105 of 1976, section 7 of Act 112 of 1977, section 6 of Act 86 of 1982, section 32 of Act 45 of 1995, section 34 of Act 34 of 1997 and section 124 of Act 60 of 2001

45. Section 43 of the Customs and Excise Act, 1964, is hereby amended—
- (a) by the substitution in subsection (1) after paragraph (b) for the words preceding subparagraph (i) of the following words:

“the master, pilot or other carrier, container operator, depot operator, person in control of a container terminal or transit shed or other person who has control of such goods in terms of any provision of this Act shall furnish a list thereof together with all available documents to the Controller and shall remove the goods to—”;
 - (b) by the substitution in subsection (5) for the words preceding paragraph (a)(i) of the following words:

“Where the Commissioner on reasonable grounds determines that any goods to which this section relates or any goods which are detained as contemplated in section 113(8), have been imported or exported in contravention of any law other than this Act, the Commissioner may, except in the case of goods detained under section [113(8)] 113A for the purposes of the Counterfeit Goods Act, 1997 (Act No. 37 of 1997), request the South African Police Service or the authority administering such law—”;
 - (c) by the substitution for paragraphs (a), (b) and (c) of subsection (6) of the following paragraphs:
 - “(a) Where any goods are seized and detained under the Counterfeit Goods Act, 1997, as contemplated in section 113A of this Act and the importer is not known and no criminal or civil proceedings are instituted or no instruction is received for the release of the goods as contemplated in section 9(2) of the Counterfeit Goods Act, 1997, such goods shall, notwithstanding anything to the contrary in this Act or the said Counterfeit Goods Act, 1997, contained, be subject to this section.
 - (b) Where goods are seized and detained in the circumstances contemplated in paragraph (a), such goods shall, notwithstanding anything to the contrary contained in the Counterfeit Goods Act, 1997, be removed for detention to the State warehouse.
 - (c) Subsection (5)(c) shall apply *mutatis mutandis* in respect of goods to which this subsection relates.”.

Amendment of section 49 of Act 91 of 1964, as substituted by section 55 of Act 53 of 1999 and amended by section 60 of Act 30 of 2000 and section 127 of Act 60 of 2001

46. Section 49 of the Customs and Excise Act, 1964, is hereby amended—
- (a) by the substitution for subparagraph (iv) of paragraph (a) of subsection (1) of the following subparagraph:

“(iv) which is a customs union agreement with the government of any territory in Africa;”;
 - (b) by the addition to paragraph (a) of subsection (1) of the following subparagraph:

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

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

“(i) Any amendment of such agreement or any protocol or other part or provision thereof, any regulations for facilitating implementation, any agreed list of processing relating to originating status of goods, any annex or appendix or other addition to such agreement or protocol or any other matter agreed upon between governments or by any committee of, or a body established by, the parties to such agreement or any decision or condition imposed by such committee or body, is likewise enacted into law as part of this Act when published in accordance with the provisions of subsections (1) and (1A) of section 48 or subsection (5) or (5B) of this section by notice in the *Gazette* as an amendment of such agreement or protocol or part or provision, as the case may be, with effect from any date that may be specified in such notice.”.

Amendment of section 59A of Act 91 of 1964, as inserted by section 45 of Act 19 of 2001

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

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

Amendment of section 60 of Act 91 of 1964, as substituted by section 20 of Act 105 of 1969 and amended by section 11 of Act 86 of 1982, section 25 of Act 59 of 1990, section 9 of Act 19 of 1994, section 44 of Act 45 of 1995, section 57 of Act 53 of 1999 and section 46 of Act 19 of 2001

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

“(c) (i) Any person applying for a licence under any provision of this Act shall, before such licence is issued, furnish security, in the form, nature or amount determined by the Commissioner to protect the state from any loss likely to be incurred as a result of the activities to be licensed.
(ii) The Commissioner may at any time require that the form, nature or amount of such security be altered so as to protect the state as contemplated in subparagraph (i).”.

Amendment of section 64D of Act 91 of 1964, as inserted by section 48 of Act 19 of 2001

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

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

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

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

- (b) by the addition to subsection (5) of the following paragraph:

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

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

Amendment of section 64E of Act 91 of 1964, as inserted by section 48 of Act 19 of 2001

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

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

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

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

“(v) any other matter that is necessary in order to regulate the benefits provided in terms of this section;”.

Amendment of section 93A of Act 91 of 1964, as inserted by section 134 of Act 60 of 2001

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

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

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

Insertion of section 113A in Act 91 of 1964

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

“Powers and duties of officers in connection with counterfeit goods

113A. (1) An officer may—

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

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

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

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

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

(2) An officer—

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

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

(3) Subject to section 43(6), no goods seized or detained by an officer acting as an inspector as contemplated in the Counterfeit Goods Act, 1997, may be stored in a State warehouse except where such goods are detained or seized for purposes of this Act.

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

(5) The Commissioner may make rules—

- (a) regarding the procedures to be followed by an officer when exercising any power or performing any duty in connection with the detention of any goods under the provisions of subsection (1)(a) or the seizure and detention of counterfeit goods;
- (b) prescribing such forms as may be required to be completed for purposes of this section; and
- (c) concerning any other matter which the Commissioner may consider reasonably necessary and useful for the purpose of administering the provisions of this section.”.

Amendment of Schedule No. 1 to Act 91 of 1964, 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 and section 52 of Act 19 of 2001

53. (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) shall be deemed to have come into operation on 20 February 2002.

Amendment of section 4 of Act 77 of 1968, as amended by section 17 of Act 103 of 1969, section 5 of Act 72 of 1970, section 6 of Act 66 of 1973, section 8 of Act 88 of 1974, section 4 of Act 95 of 1978, section 7 of Act 99 of 1981, section 4 of Act 87 of 1982, section 4 of Act 118 of 1984, section 10 of Act 81 of 1985, section 18 of Act 87 of 1988, section 4 of Act 69 of 1989, section 5 of Act 136 of 1992, section 13 of Act 97 of 1993, section 78 of Act 30 of 1998, and section 67 of Act 30 of 2000

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

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

(2) Subsection (1) is deemed to have come into operation on 15 July 2001 and shall apply in respect of any instrument executed on or after that date.

Amendment of Item 7 of Schedule 1 to Act 77 of 1968, as amended by section 12 of Act 66 of 1973, section 18 of Act 88 of 1974, section 15 of Act 114 of 1977 and section 41 of Act 5 of 2001

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

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

“The like duty as is chargeable on [a cession of] the bond.”.

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

Amendment of Item 15 of Schedule 1 to Act 77 of 1968, 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 86 of Act 30 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 and section 147 of Act 60 of 2001

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

“(h) The issue of any interest-bearing debentures, including debenture stock, debenture bonds or any other securities of a company, whether constituting a charge on the assets of the company or not, listed by any stock exchange in the Republic or listed by any financial exchange as defined in the Financial Markets Control Act, 1989 (Act No. 55 of 1989).”

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

Amendment of Item 18 of Schedule 1 to Act 77 of 1968, as amended by section 26 of Act 103 of 1969, section 18 of Act 66 of 1973, section 34 of Act 87 of 1988, section 84 of Act 89 of 1991, section 18 of Act 97 of 1993 and section 73 of Act 30 of 2000

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

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

Amendment of schedule 1 to Act 89 of 1991, as substituted by section 177 of Act 60 of 2001

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

- (a) by the substitution for subheading 2710.00.12 of the following:
- | | |
|-------------|------------------|
| “2710.11.03 | Petrol, unleaded |
| 2710.11.05 | Petrol, leaded”; |
- and
- (b) by the substitution for subheading 2710.00.16 of the following:
- | | |
|-------------|-------------------|
| “2710.11.30 | Distillate fuel”. |
|-------------|-------------------|

Amendment of section 3 of Act 31 of 1998

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

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

Amendment of section 6 of Act 31 of 1998, as amended by section 15 of Act 32 of 1999, section 87 of Act 30 of 2000, section 75 of Act 19 of 2001 and section 180 of Act 60 of 2001

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

- (a) by the addition to subsection (1)(a) of the following subparagraph:
- “(iv) where the securities are interest-bearing debentures, including debenture stock, debenture bonds and similar securities of a juristic person, whether constituting a charge on the assets of the juristic person or not, listed by any stock exchange or by any

financial exchange as defined in the Financial Markets Control Act, 1989 (Act No. 55 of 1989);”; and

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

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

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

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

Amendment of section 3 of Act 9 of 1999, as amended by section 111 of Act 53 of 1999

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

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

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

Amendment of section 4 of Act 9 of 1999, as amended by section 112 of Act 53 of 1999 and section 91 of Act 30 of 2000

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

“(c) any public benefit organisation contemplated in section 10(1)(cN) of the Income Tax Act, which solely carries on any **[religious or charitable]** public benefit activity **[determined by the Minister of Finance in terms of section 30 of]** contemplated in paragraphs 1, 2(a), (b), (c) and (d) and 5 of Part I of the Ninth Schedule to that Act, or any public benefit organisation which provides funds solely to such public benefit organisation which so carries on any such public benefit activity; or”

Amendment of section 21 of Act 30 of 2000, as amended by section 78 of Act 19 of 2001

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

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

(2) Subsection (1) shall be deemed to have come into operation on the date that section 21 of the Taxation Laws Amendment Act, 2000, came into operation.

Amendment of section 40 of Act 19 of 2001

64. (1) Section 40(1) of the Revenue Laws Amendment Act, 2001, is hereby amended—

(a) by the substitution for the words, in the proposed section 19A(1)(a)(i) of the Customs and Excise Act, 1964 (Act No. 91 of 1964), preceding subparagraph (aa) of the following words:

“determine whether any such goods specified in such rule shall be entered or deemed to have been entered for home consumption at the time of issuing any prescribed document and removal from, or on receipt in, or at any time determined in such rule in respect of—”;

- (b) by the addition to the proposed section 19A(1) of the Customs and Excise Act, 1964, of the following paragraph: 5

“(c) Notwithstanding anything to the contrary in this Act contained, goods in a customs and excise manufacturing warehouse which have been entered or deemed to have been entered for home consumption on the date of receipt in such warehouse or at the time prescribed as contemplated in paragraph (a)(i) or any goods manufactured from such goods may, subject to such conditions and procedures as the Commissioner may prescribe by rule, be removed in bond or exported from such warehouse by the licensee, as if such goods have not been so entered or deemed to have been so entered for home consumption.” 10 15

- (2) Subsection (1) shall come into operation on the date or dates that section 40(1) of the Revenue Laws Amendment Act, 2001, come into operation, as contemplated in section 40(2) of the said Act.

Amendment of section 51 of Act 19 of 2001

65. (1) Section 51 of the Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1) in so far as it inserts section 101A(1)(c) in the Customs and Excise Act, 1964, for the words preceding subparagraph (i) thereof of the following words: 20

“For the purposes of the definition of ‘digital signature’, a digital signature is an electronic signature created by computer, intended by the registered user using it and by the Commissioner accepting it to have the same force and effect as the use of a manual signature and which is—” 25

- (2) Subsection (1) shall be deemed to have come into operation on the date on which section 51(1) of the Revenue Laws Amendment Act, 2001 comes into operation.

Amendment of section 5 of Act 60 of 2001

66. (1) Section 5 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1), for the proposed section 11A(2) of the Marketable Securities Tax Act, 1948, of the following subsection: 30

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

- (a) objections and appeals, as provided for in Part III of Chapter III and the rules promulgated thereunder; and 35
 (b) settlement of disputes, as provided for in section 107B, shall *mutatis mutandis* apply in respect of any objection lodged or appeal noted or any dispute settled in terms of this Act.”;

- (2) Subsection (1) shall come into operation on the date on which section 5 of the Second Revenue Laws Amendment Act, 2001, comes into operation. 40

Amendment of section 10 of Act 60 of 2001

67. (1) Section 10 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1), for the proposed section 18(2) of the Transfer Duty Act, 1949, of the following subsection: 45

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

- (a) objections and appeals, as provided for in Part III of Chapter III and the rules promulgated thereunder; and
 (b) settlement of disputes, as provided for in section 107B, shall *mutatis mutandis* apply in respect of any objection lodged or appeal noted or any dispute settled in terms of this Act.” 50

- (2) Subsection (1) shall come into operation on the date on which section 10 of the Second Revenue Laws Amendment Act, 2001, comes into operation.

Amendment of section 15 of Act 60 of 2001

68. (1) Section 15 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1), for the proposed section 24(2) of the Estate Duty Act, 1955, of the following subsection:

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

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

(b) settlement of disputes, as provided for in section 107B, shall *mutatis mutandis* apply in respect of any objection lodged or appeal noted or any dispute settled in terms of this Act.”.

(2) Subsection (1) shall come into operation on the date on which section 15 of the Second Revenue Laws Amendment Act, 2001, comes into operation.

Amendment of section 53 of Act 60 of 2001

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

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

Amendment of section 54 of Act 60 of 2001

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

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

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

Amendment of section 63 of Act 60 of 2001

71. (1) Section 63 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The provisions contained in the regulations prescribing the circumstances under which the Commissioner may [waive any claim for purposes of the settlement of] settle any dispute and the reporting requirements, as contemplated in section 107B of the Income Tax Act, 1962, must be [incorporated into the Income Tax Act, 1962,] tabled in Parliament within a period of 12 months from the date that the regulations come into operation for incorporation into the Income Tax Act, 1962.”.

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

Amendment of section 68 of Act 60 of 2001

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

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

Amendment of section 113 of Act 60 of 2001

73. (1) Section 113 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution for the proposed definition of “wharf operator” in section 1 of the Customs and Excise Act, 1964, of the following definition:

“‘wharf operator’ means the licensee in control of any goods on any wharf contemplated in section 6(1)(gA) and licensed in terms of the provisions of this Act

where any imported or exported goods, **[which are]** whether or not containerised, including goods in bulk, are landed from or loaded into any ship.”.

(2) Subsection (1) shall be deemed to have come into operation on the date on which section 113(1) of the Second Revenue Laws Amendment Act, 2001, comes into operation.

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Amendment of section 116 of Act 60 of 2001

74. (1) Section 116(1)(b) of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution for the proposed section 6(1)(gA) in the Customs and Excise Act, 1964, of the following:

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

(2) Subsection (1) shall be deemed to have come into operation on the date on which section 116(1) of the Second Revenue Laws Amendment Act, 2001, comes into operation.

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Amendment of section 130 of Act 60 of 2001

75. (1) Section 130(1) of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in paragraph (h), for the words preceding paragraph (a) and for paragraphs (a) and (b) of the proposed section 75(18) of the Customs and Excise Act, 1964 (Act No. 91 of 1964), of the following words and paragraphs:

“Subject to the provisions of the proviso to section 20(5) and items 412.07, 412.08, 412.09, 531.00, 532.00, 608.01, 608.02, 608.03, 608.04, 615.01, 615.02 and 615.03 of Schedules No. 4, 5 and 6 no rebate or refund of duty in respect of any loss or deficiency of any nature of any goods shall be allowed, but the Commissioner may allow a deduction from the dutiable quantity of the undermentioned goods of a quantity equal to the percentage stated below in each case, namely—

- (a) in the case of wine spirits (ethyl alcohol), excluding spirits specified in paragraph (bA), manufactured in the Republic received in, and entered for use and used in, such a customs and excise manufacturing warehouse for such purposes, and in accordance with such procedures as the Commissioner may prescribe by rule, 1,5 per cent of the quantity so received and entered;
- (b) in the case of spirits (ethyl alcohol), other than wine spirits, manufactured in the Republic received in, and entered for use and used in, such a customs and excise manufacturing warehouse for such purposes, and in accordance with such procedures as the Commissioner may prescribe by rule, 1,5 per cent of the quantity so received and entered.”.

(2) Subsection (1) shall be deemed to have come into operation on the date section 130(h) and (i) of the Second Revenue Laws Amendment Act, 2001 comes into operation.

Amendment of section 137 of Act 60 of 2001

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76. (1) Section 137 of the Second Revenue Laws Amendment Act, 2001, is hereby amended—

- (a) by the substitution for the proposed section 97(1)(a) of the Customs and Excise Act, 1964 (Act No. 91 of 1964), of the following paragraph:

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

- (b) by the substitution for the proposed section 97(2)(a) of the Customs and Excise Act, 1964 (Act No. 91 of 1964), of the following paragraph:

“(a) Any such agent shall be a legal person registered in the Republic in accordance with the laws of the Republic and which has its place of effective management in the Republic or a natural person ordinarily resident in the Republic with a permanent business establishment in the Republic.”; and

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- (c) by the addition to the proposed section 97 of the Customs and Excise Act, 1964, (Act No. 91 of 1964), of the following subsection:

“(3) For the purposes of this section—

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

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

(ii) ‘shipping line’ means any transport enterprise offering or operating an international shipping service.”.

- (2) Subsection (1) shall be deemed to have come into operation on the date section 137(1) of the Second Revenue Laws Amendment Act, 2001, comes into operation.

Amendment of section 145 of Act 60 of 2001

77. (1) Section 145 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1), for the proposed section 32B(2) of the Stamp Duties Act, 1968, of the following subsection:

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

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

(b) settlement of disputes, as provided for in section 107B, shall *mutatis mutandis* apply in respect of any objection lodged or appeal noted or any dispute settled in terms of this Act.”.

- (2) Subsection (1) shall be deemed to have come into operation on the date section 145 of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001) came into operation.

Amendment of section 160 of Act 60 of 2001

78. (1) Section 160 of the Second Revenue Laws Amendment Act, 2001, is hereby amended—

(a) by the substitution in paragraph (f), for the proposed section 33(4) of the Value-Added Tax Act, 1991, of the following subsection:

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

(b) by the addition of the following subsection, the present section becoming subsection (1):

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

- (2) Subsection (1) shall be deemed to have come into operation on the date section 160 of the Second Revenue Laws Amendment Act, 2001 (Act No. 60 of 2001) came into operation.

Amendment of section 182 of Act 60 of 2001

79. (1) Section 182 of the Second Revenue Laws Amendment Act, 2001, is hereby amended by the substitution in subsection (1), for the proposed section 17A(2) of the Uncertificated Securities Tax Act, 1998, of the following subsection:

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

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

(b) settlement of disputes, as provided for in section 107B, shall *mutatis mutandis* apply in respect of any objection lodged or appeal noted or any dispute settled in terms of this Act.”.

- (2) Subsection (1) shall come into operation on the date that section 182 of the Second Revenue Laws Amendment Act, 2001, came into operation.

Repeal of section 34 of Act 63 of 2001

80. Section 34 of the Unemployment Insurance Act, 2001, is hereby repealed.

Amendment of section 8 of Act 4 of 2002

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

“(3) If the amount of any contribution, interest or penalty paid by an employer to the Commissioner was not due or payable, or is in excess of the amount due or payable in terms of this Act, that amount, or such excess amount, **[must be refunded]** becomes refundable to that employer by the Commissioner.”. 5

Substitution of section 12 of Act 4 of 2002

82. (1) The following section is hereby substituted for section 12 of the Unemployment Insurance Contributions Act, 2002: 10

“Interest on late payments

12. An employer who fails to pay the full amount **[payable in terms of section 8 or 9 on the last day for payment as contemplated in section 8(1) or 9(1)]** of any contribution within the period for payment prescribed by this Act, must pay interest on the outstanding amount at the rate contemplated in paragraph (b) of the definition of “prescribed rate” in section 1 of the Income Tax Act, calculated from the day following the last day for payment to the day that payment is received by the Commissioner or Unemployment Insurance Commissioner, as the case may be.”. 15

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2002. 20

Amendment of section 13 of Act 4 of 2002

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

“(3) The amount of the additional penalty contemplated in subsection (2)— 25

(a) must be determined by the Commissioner or the Unemployment Insurance Commissioner, as the case may be, and must be paid by the employer within such period as the Commissioner or Unemployment Insurance Commissioner may determine; and

(b) shall be deemed to be an amount of contribution payable in terms of this Act, for purposes of— 30

(i) the determination of any interest payable in terms of section 12; and

(ii) the application of the provisions of the Income Tax Act, 1962, in respect of the payment and recovery of any contribution, interest or penalty in terms of section 14(1)(d).”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2002. 35

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

84. (1) Every amendment or withdrawal of or insertion in Schedules Nos. 1 to 6, inclusive, and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56, 56A or 75(15) of that Act during the calendar year ending on 31 December 2001 shall not lapse by virtue of the provisions of section 48(6), 49, 56(3), 56A(3) or 75(16) respectively, of that Act. 40

(2) The amendment of Part 2 of Schedule No. 1 and Schedule No. 6 to the Customs and Excise Act, 1964, made respectively under sections 48 and 75 of that Act by Government Notices R. 388 and 389 of 1 April 2002, in respect of the said Part 2 of Schedule No. 1 and Schedule No. 6 shall not lapse by virtue of the provisions of section 48(6) and section 75(16) of that Act. 45

Short title and commencement

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

(2) Save in so far as is otherwise provided in this Act or the context otherwise indicates, the amendments effected to the Income Tax Act, 1962, by this Act shall for purposes of assessments in respect of normal tax under the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2003. 50

SCHEDULE 1

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

(Section 8)

1. The rates of normal tax referred to in section 8 of this Act in respect of persons (other than companies) are as follows:—
- (a) in respect of the taxable income of any person (other than a company or a person in respect of which subparagraph (b) applies), an amount of tax calculated in accordance with the table below:

| Taxable Income | Rates of Tax |
|---|--|
| Where the taxable income— | |
| Does not exceed R40 000..... | 18 per cent of each R1 of the taxable income; |
| Exceeds R40 000 but does not exceed R80 000 | R7 200 plus 25 per cent of the amount by which the taxable income exceeds R40 000; |
| .. R80 000 R110 000 | R17 200 plus 30 per cent of the amount by which the taxable income exceeds R80 000; |
| .. R110 000 R170 000 | R26 200 plus 35 per cent of the amount by which the taxable income exceeds R110 000; |
| .. R170 000 R240 000 | R47 200 plus 38 per cent of the amount by which the taxable income exceeds R170 000; |
| .. R240 000 | R73 800 plus 40 per cent of the amount by which the taxable income exceeds R240 000. |

- (b) in respect of the taxable income of any trust (other than a special trust), an amount of 40 cents on each rand of taxable income.
2. The rates of normal tax referred to in section 8 of this Act in respect of companies are, subject to the provisions of paragraph 4, as follows:—
- (a) on each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f), (g) and (h)), 30 cents, or, in the case of a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 38 cents;
- (b) in respect of the taxable income of any company which qualifies as a small business corporation as defined in section 12E of the Income Tax Act, 1962, on each rand of the taxable income as does not exceed R150 000, 15 cents, and on each rand of the taxable income of such company as exceeds R150 000, 30 cents;
- (c) on each rand of the taxable income of any employment company as defined in section 12E of the Income Tax Act, 1962, 35 cents;
- (d) on each rand of the taxable income derived by any company from mining for gold on any gold mine with the exclusion of so much of the taxable income as the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of “gross income” in section 1 of the Income Tax Act, 1962, but after the set-off of any assessed loss in terms of section 20(1) of that Act, a percentage determined in accordance with the formula:

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

or, in the case of a company which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, in accordance with the formula:

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

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

- (e) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the Income Tax Act, 1962, a rate equal to the average rate of normal tax or 30 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from mining for gold on any gold mine for the period from which that company commenced its gold mining operations on that gold mine to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;
- (f) on each rand of the taxable income derived by any company from carrying on long-term insurance business in respect of its individual policyholder fund, company policyholder fund and corporate fund, 30 cents;
- (g) on each rand of the taxable income (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f) and (h)) derived by a company which has its place of effective management outside the Republic and which carries on a trade through a branch or agency within the Republic, 35 cents;
- (h) on each rand of the taxable income derived by a qualifying company as contemplated in section 37H of the Income Tax Act, 1962, subject to the provisions of the said section, zero cents:

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

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

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

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

SCHEDULE 2

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

(Section 53)

| TARIFF ITEM | TARIFF HEAD- ING | DESCRIPTION | RATE OF DUTY | |
|----------------|------------------------|--|------------------------------|------------------------------|
| | | | EXCISE | CUSTOMS |
| 104.00 | | By the substitution for tariff item 104.00 of the following: | | |
| "104.00 | | PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO | | |
| 104.01 | 19.01 | MALT EXTRACT; FOOD PREPARATIONS OF FLOUR, MEAL, STARCH OR MALT EXTRACT, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 50 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED; FOOD PREPARATIONS OF GOODS OF HEADINGS NOS. 04.01 TO 04.04, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 10 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED: | | |
| .10 | | Preparations, based on sorghum flour, put up for making beverages | 34,7c/kg | 34,7c/kg |
| 104.05 | 22.01 | WATERS, INCLUDING NATURAL OR ARTIFICIAL MINERAL WATERS AND AERATED WATERS, NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER NOR FLAVOURED; ICE AND SNOW | | |
| .10 | 22.02 | WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED, AND OTHER NON-ALCOHOLIC BEVERAGES (EXCLUDING FRUIT OR VEGETABLE JUICES OF HEADING NO. 20.09): Mineral waters, including spa waters and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state) | 0c/l | 0c/l |
| .20 | | Lemonade and flavoured mineral waters, including flavoured spa and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state) | 0c/l | 0c/l |
| .30 | | Non-alcoholic beverages not elsewhere specified or included in this tariff item, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state) | 0c/l | 0c/l |
| 104.10 | 22.03 | BEER MADE FROM MALT | 2 563c/l of absolute alcohol | 2 563c/l of absolute alcohol |
| 104.15 | 22.04 | WINE OF FRESH GRAPES, INCLUDING FORTIFIED WINES; GRAPE MUST, OTHER THAN THAT OF HEADING NO. 20.09 | | |
| | 22.05 | VERMOUTHS AND OTHER WINE OF FRESH GRAPES FLAVOURED WITH PLANTS OR AROMATIC SUBSTANCES | | |

| TARIFF ITEM | TARIFF HEAD-ING | DESCRIPTION | RATE OF DUTY | |
|-------------|-----------------|--|------------------------------|---|
| | | | EXCISE | CUSTOMS |
| | 22.06 | OTHER FERMENTED BEVERAGES (FOR EX-AMPLE, CIDER, PERRY AND MEAD): | | |
| .05 | | Sorghum beer (excluding beer made from preparations based on sorghum flour) | 7,82c/l | 7,82c/l |
| .10 | | Unfortified still wine | 80,7c/l | 80,7c/l |
| .40 | | Fortified still wine | 182,5c/l | 182,5c/l |
| .50 | | Other still fermented beverages, unfortified | 130,5c/l | 130,5c/l |
| .60 | | Other still fermented beverages, fortified | 231,4c/l | 231,4c/l |
| .70 | | Sparkling wine | 227,6c/l | 227,6c/l |
| .80 | | Other fermented beverages (excluding sorghum beer) | 275,2c/l | 275,2c/l |
| 104.20 | 22.07 | UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF 80 PER CENT VOLUME OR HIGHER; ETHYL ALCOHOL AND OTHER SPIRITS, DENA-TURED, OF ANY STRENGTH | | |
| | 22.08 | UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF LESS THAN 80 PER CENT VOLUME; SPIRITS, LIQUEURS AND OTHER SPIRITUOUS BEVERAGES: | | |
| .10 | | Wine spirits, manufactured in the Republic by the distillation of wine | 3 671c/l of absolute alcohol | — |
| .15 | | Spirits, manufactured in the Republic by the distillation of any sugar cane product | 3 671c/l of absolute alcohol | — |
| .25 | | Spirits, manufactured in the Republic by the distillation of any grain product | 3 671c/l of absolute alcohol | — |
| .29 | | Other spirits, manufactured in the Republic | 3 671c/l of absolute alcohol | — |
| .60 | | Imported spirits of any nature, including spirits in imported spirituous beverages (excluding liqueurs, cordials and similar spirituous beverages containing added sugar) and in compound alcoholic preparations of an alcoholic strength exceeding 1,713 per cent alcohol by volume | — | 3 575c/l of absolute alcohol or 1537c/l |
| .70 | | Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances | — | 3 575c/l of absolute alcohol |
| 104.30 | 24.02 | CIGARS, CHEROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR OF TOBACCO SUBSTITUTES | | |
| .10 | | Cigars | 76 670c/kg net | 76 670c/kg net |
| .20 | | Cigarettes | 175,4c/10 cigarettes | 175,4c/10 cigarettes |
| 104.35 | 24.03 | OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES "HOMOGENISED" OR "RECONSTITUTED" TOBACCO EXTRACTS AND ESSENCES: | | |
| .10 | | Cigarette tobacco | 10 297c/kg | 10 297c/kg |
| .20 | | Pipe tobacco | 5 251c/kg net | 5 251c/kg net |