REPUBLIC OF SOUTH AFRICA

TAXATION LAWS AMENDMENT ACT

REPUBLIEK VAN SUID-AFRIKA

WET OP BELASTINGWETTE

No 3, 2008

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.

ACT

To amend the—

- **Income Tax Act, 1962, so as to fix the rates of normal tax; to amend and insert certain definitions; to delete certain obsolete definitions; to delete certain obsolete provisions; to delete certain obsolete references; to effect textual and consequential amendments; to exclude certain amounts from the net income of a controlled foreign company; to add, amend and remove certain exemptions; to add, amend and remove certain deductions; to amend provisions relating to: the deemed receipt or accrual of income, certain limitations in respect of deductions, special corporate rules, the determination of the net amount of a dividend, the treatment of certain tax claims and refunds, the determination of S.I.T.E., public benefit activities and the taxation of fringe benefits, persons commencing or ceasing to be residents, capital distributions and oil and gas companies;**
- **Customs and Excise Act, 1964, so as to amend rates of duty in Schedule No. 1;**
- **Value-Added Tax Act, 1991, so as to amend thresholds;**
- **Collective Investment Schemes Control Act, 2002, so as to effect a textual correction;**
- **Revenue Laws Amendment Act, 2006, so as to amend provisions with regard to the 2010 FIFA World Cup;**
- **Diamond Export Levy Act, 2007, so as to effect textual corrections;**
- **Securities Transfer Tax Act, 2007, so as to substitute a word; and**
- **Revenue Laws Amendment Act, 2007, so as to amend effective dates; to amend provisions relating to the amalgamation of sporting bodies; to effect textual amendments;**

and to provide for matters connected therewith.

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

Fixing of rates of normal tax and amendment of certain amounts for purposes of Act 58 of 1962

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

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

(a) by the substitution for the amounts in section 6(2)*(a)* and *(b)* respectively of the amounts in the third column opposite the relevant section in the table in paragraph 2 of Appendix I to this Act;

(b) by the substitution for the amount in paragraph *(b)* of the definition of "formula B" in paragraph 1 of the Second Schedule of the amount in the third column of the table in paragraph 8 of Appendix I to this Act; and

(c) by the substitution for each monetary amount in the provisions specified in the second column of the tables in Part II of Appendix I to this Act of the monetary amount in the third column opposite the relevant provision.

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

(4) For the purposes of Appendix III to this Act any word or expression to which a meaning has been assigned in the Value-Added Tax Act, 1991, unless the context indicates otherwise, bears the meaning so assigned.

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

(a) any person (other than a company) for the year of assessment commencing on 1 March 2008; and

(b) any company for any year of assessment ending during the period of 12 months ending on 31 March 2009.

(6) The Value-Added Tax Act, 1991, is hereby amended by the substitution for each monetary amount in the provisions specified in the second column of the table in Appendix III to this Act of the monetary amount in the third column opposite the relevant provision.

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

(8) Subsection (6) is deemed to have come into operation on 1 March 2008 and applies in respect of any tax period commencing on or after that date.

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R780 of 14 April 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2000, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002, section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, section 3 of Act 16 of 2004, section 3 of Act 32 of 2004, section 3 of Act 32 of 2005,

section 19 of Act 9 of 2006, section 3 of Act 20 of 2006, section 3 of Act 8 of 2007 and section 5 of Act 35 of 2007

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

(a) by the deletion of the definition of "building society";

(b) by the substitution in the definition of "child" for the words preceding paragraph *(b)* of the following words:

"**'child'**, in relation to any person, includes any person adopted by him or her—

(a) under **[the provision of the Adoption of Children Act, 1923 (Act. No. 25 of 1923), or Children's Act, 1937 (Act No. 31 of 1937), or the Children's Act, 1960 (Act No. 33 of 1960)]** the law of the Republic; or";

(c) by the deletion of the definition of "date of deep level production";

(d) by the deletion of the word "and" in the definition of "dividend" at the end of paragraph *(b)*;

(e) by the insertion in the definition of "dividend" after paragraph *(b)* of the following paragraph:

"*(c)* any reduction of the profits of a company as a result of—

(i) the reduction of the capital of that company; or

(ii) the acquisition, cancellation or redemption of shares issued by that company; and";

(f) by the deletion in the definition of "dividend" of paragraph *(c*A*)*;

(g) by the insertion in the definition of "dividend" after paragraph *(c)* of the following paragraph:

"*(c*B*)* any reduction of the profits of a company, if—

(i) that company holds shares in any other company which is a shareholder in relation to that company; and

(ii) those shares are cancelled,";

(h) by the substitution in the definition of "dividend" for the words preceding subparagraph *(aa)* of paragraph (iii) of the first proviso of the following words:

"if, in the event of any partial reduction of the capital of a company or acquisition, cancellation or redemption of shares issued by that company, any cash or any asset is given to a shareholder and the cash or asset (or a portion thereof) represents a return of share capital or share premium, the amount of share capital or share premium so returned—";

(i) by the substitution in the definition of "dividend" for paragraph (iiiA) of the first proviso of the following paragraph:

"(iiiA) in the event of the reduction **[or redemption]** of the share capital or share premium of a company, or the acquisition, cancellation or redemption of shares issued by that company, in relation to a class of shareholders, that company must be deemed to have distributed profits to the shareholders in that class to the extent that the share capital and share premium **[that must be apportioned to any class of shares shall not exceed]** so reduced exceeds the **[consideration given in respect of the issue of that class of shares]** share capital and share premium contributed by that class of shareholders;";

(j) by the deletion of the definition of "entertainment expenditure";

(k) by the substitution in the definition of "gross income" for paragraph *(a)* of the following paragraph:

"*(a)* any amount received or accrued by way of annuity, including any amount contemplated in the definition of 'living annuity' or the definition of 'annuity amount' in section 10A(1);";

(l) by the substitution in the definition of "gross income" for subparagraph (i) of the proviso to paragraph *(d)* of the following subparagraph:

"(i) the provisions of this paragraph shall not apply to any lump sum award from any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;";

(m) by the substitution in the definition of "gross income" for paragraph *(e)* of the following paragraph:

"*(e)* a retirement fund lump sum benefit or retirement fund lump sum withdrawal benefit;";

(n) by the substitution in the definition of "gross income" for paragraph *(e*B*)* of the following paragraph:

"*(e*B*)* any actuarial surplus that may be used for a purpose contemplated in section 15E(1)*(f)* or *(g)* of the Pension Funds Act, 1956 (Act No. 24 of 1956), if the use of that surplus for that purpose was approved by the board contemplated in section 15E of that Act;";

(o) by the insertion after the definition of "listed company" of the following definition:

"**'living annuity'** means a right of a member or former member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, or his or her dependant or nominee, or any subsequent nominee, to an annuity purchased from a person on or after the retirement date of that member or former member in respect of which—

(a) the value of the annuity is determined solely by reference to the value of assets which are specified in the annuity agreement and are held by or on behalf of that person for purposes of providing the annuity;

(b) the amount of the annuity is determined in accordance with a method or formula prescribed by the Minister by notice in the *Gazette;*

(c) the full remaining value of the assets contemplated in paragraph *(a)* may be paid as a lump sum when the value of those assets become at any time less than an amount prescribed by the Minister by notice in the *Gazette;*

(d) the amount of the annuity is not guaranteed by that person;

(e) on the death of the member or former member, the value of the assets referred to in paragraph *(a)* may be paid to a dependant or nominee of the member or former member as an annuity or lump sum, or, in the absence of a dependant or nominee, to the deceased's estate as a lump sum; and

(f) further requirements regarding the annuity may be prescribed by the Minister by notice in the *Gazette*;";

(p) by the deletion of the definition of "married woman";

(q) by the deletion of the definition of "mutual building society";

(r) by the insertion after the definition of "nominal value" of the following definition:

"**'normal retirement age'** means—

(a) in the case of a member of a pension fund or provident fund, the date on which the member becomes entitled to retire from employment for reasons other than sickness, accident, injury or incapacity through infirmity of mind or body;

(b) in the case of a member of a retirement annuity fund, a pension preservation fund or a provident preservation fund, the date on which the member attains 55 years of age; or

(c) in the case of a member of any fund contemplated in this definition, the date on which that member becomes permanently incapable of carrying on his or her occupation due to sickness, accident, injury or incapacity through infirmity of mind or body;'';

(s) by the deletion of the definition of ''other deep level gold mine'';

(t) by the substitution in the definition of ''pension fund'' for subparagraphs *(dd)* and *(ee)* of paragraph (ii) of the proviso to paragraph *(c)* of the following subparagraphs:

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

(ee) that a partner of a partnership is regarded as an employee of the partnership; and'';

(u) by the deletion in the definition of ''pension fund'' of subparagraph *(gg)* of paragraph (ii) of the proviso to paragraph *(c)*;

(v) by the insertion after the definition of ''pension fund'' of the following definition:

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

(a) membership of the fund consists of—

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

(aa) resignation, retrenchment or dismissal from employment and who elected to have any lump sum benefit that is payable as a result of the termination transferred to that fund;

(bb) the winding up of that fund, if the member elects or is required in terms of the rules to transfer to this fund; or

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

(ii) former members of any other pension preservation fund—

(aa) if that fund was wound up; or

(bb) if the member elected to have any lump sum benefit contemplated in paragraph 2*(b)*(ii) of the Second Schedule transferred to this pension preservation fund and who made this election while they were members of that other fund;

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

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

(b) contributions to the fund are limited to any amount contemplated in paragraph 2*(b)*(ii) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), that is paid to the fund by a pension fund or any other pension preservation fund of which such member or the member's former spouse was previously a member;

(c) not more than one amount contemplated in paragraph 2*(b)*(ii) of the Second Schedule (excluding amounts transferred to any other pension preservation fund) is allowed to be paid to the member during the period of membership of the fund and any other pension preservation fund;

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

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

(w) by the insertion after the definition of "provident fund" of the following definition:

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

(a) membership of the fund consists of—

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

(aa) resignation, retrenchment or dismissal from employment and who elected to have any lump sum benefit that is payable as a result of the termination transferred to that fund;

(bb) the winding up of that fund, if the members elected or are required in terms of the rules to transfer to this fund; or

(cc) a transfer of business from one employer to another in terms of section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995), and the employment of the employee with the transferor employer is transferred to the transferee employer, if the members elected or are required in terms of the rules to transfer to this fund;

(ii) former members of any other provident preservation fund—

(aa) if that fund was wound up; or

(bb) if the member elected to have any benefit contemplated in paragraph 2*(b)*(ii) of the Second Schedule transferred to that fund and who made this election while they were members of that other fund;

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

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

(b) contributions to the fund are limited to amounts contemplated in paragraph 2*(b)*(ii) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), paid by a provident fund or any other provident preservation fund of which the member or the member's former spouse was previously a member;

(c) not more than one amount contemplated in paragraph 2*(b)*(ii) of the Second Schedule (excluding amounts transferred to any other provident preservation fund) is allowed during the period of membership of the fund and any other provident preservation fund; and

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

(x) by the substitution in the definition of "retirement annuity fund" for subparagraph (ii) of paragraph *(b)* of the proviso of the following subparagraph:

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

(y) by the deletion in the definition of "retirement annuity fund" of subparagraphs (iii) and (iv) of paragraph *(b)* of the proviso;

(z) by the substitution in the definition of "retirement annuity fund" for subparagraph (v) of paragraph *(b)* of the proviso of the following subparagraph:

"(v) that no member shall become entitled to the payment of any annuity or lump sum benefit contemplated in paragraph 2*(a)* of the Second Schedule prior to reaching normal retirement age;";

*(z*A*)* by the deletion in the definition of "retirement annuity fund" of subparagraphs (vi) and (vii) of paragraph *(b)* of the proviso;

*(z*B*)* by the substitution in the definition of "retirement annuity fund" for subparagraphs (x) and (xi) of paragraph *(b)* of the proviso of the following subparagraphs:

"(x) that a member who discontinues his or her contributions prior to his or her retirement date shall be entitled to—

(aa) an annuity or a lump sum benefit contemplated in paragraph 2*(a)* of the Second Schedule payable on that date;

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

(cc) the payment of a lump sum benefit contemplated in paragraph 2*(b)*(ii) of the Second Schedule where that member's interest in the fund is less than an amount determined by the Minister by notice in the *Gazette*; or

(dd) the payment of a lump sum benefit contemplated in paragraph 2*(b)*(ii) of the Second Schedule where that member emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control;

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

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

(bb) in any other case, be paid for the member's benefit into any other retirement annuity fund;";

*(z*C*)* by the insertion after the definition of "retirement annuity fund" of the following definition:

"**'retirement date'** means the date on which a member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, in terms of the rules of that fund, becomes entitled to an annuity or a lump sum benefit contemplated in paragrah 2*(a)* of the Second Schedule on or subsequent to death or attaining normal retirement age;";

*(z*D*)* by the substitution in the definition of "retirement-funding employment" for paragraph *(b)* of the following paragraph:

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

(ii) in relation to a partner in a partnership (other than a partner contemplated in subparagraph (i)) the part of the partner's income from the partnership in the form of the partner's share of profits;";

*(z*E*)* by the substitution for the definition of "retirement fund lump sum benefit" of the following definition:

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

*(z*F*)* by the insertion after the definition of "retirement fund lump sum benefit" of the following definitions:

"**'retirement fund lump sum withdrawal benefit'** means an amount determined in terms of paragraph 2*(b)* of the Second Schedule; **'retirement interest'** means a member's share of the value of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as determined in terms of the rules of the fund upon his or her retirement date;";

*(z*G*)* by the substitution for the definition of "tax" of the following definition:

"**'tax'** or **'the tax'** or **'taxation'** means any levy **[or]**, tax or administrative penalty leviable under this Act and for the purposes of Part IV of Chapter III includes any levy or tax leviable under any previous Income Tax Act;"; and

*(z*H*)* by the insertion after the definition of "water services provider" of the following definition:

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

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

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

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

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

Amendment of section 7 of Act 58 of 1962, as amended by section 5 of Act 90 of 1962, section 8 of Act 88 of 1965, section 5 of Act 55 of 1966, section 7 of Act 94 of 1983, section 2 of Act 30 of 1984, section 5 of Act 90 of 1988, section 5 of Act 70 of 1989, section 4 of Act 101 of 1990, section 7 of Act 129 of 1991, section 5 of Act 141 of 1992, section 6 of Act 21 of 1995, section 23 of Act 30 of 1998, section 13 of Act 53 of 1999, section 5 of Act 59 of 2000, section 10 of Act 74 of 2002, section 17 of Act 45 of 2003, section 5 of Act 32 of 2004, section 9 of Act 31 of 2005 and section 8 of Act 35 of 2007

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

(a) by the substitution in subsection (2C) for paragraph *(a)* of the following paragraph:

"*(a)* any benefit paid or payable to a spouse in his or her capacity as a member or past member of a pension fund, pension presevation fund, provident fund, provident preservation fund, benefit fund, retirement annuity fund or any other fund of a similar nature shall be deemed to be income derived by such spouse from a trade carried on by him or her;";

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

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

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

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

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

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

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

"There shall be included in the taxpayer's income all amounts allowed to be deducted or set off under the provisions of sections 11 to 20, inclusive, section 24D, section 24F, section 24G, section 24I, section 24J **[and]**, section 27(2)*(b)* **[and *(d)*]** and section 37B(2) of this Act, except section 11*(k)*, *(p)* and *(q)*, section 11D(1), section 12(2) or section 12(2) as applied by section 13(8), or section 13*bis*(7), or section 15*(a)*, or section 15A, or under the corresponding provisions of any previous Income Tax

Act, whether in the current or any previous year of assessment which have been recovered or recouped during the current year of assessment";

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

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

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

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

(3) Subsection (1)*(c)*, to the extent that it relates to section 12DA, section 12F or section 37B, is deemed to have come into operation on 1 January 2008.

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

Amendment of section 9A of Act 58 of 1962, as substituted by section 12 of Act 35 of 2007

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

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

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

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

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

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

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

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

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

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

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

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

(c) **[is not]** a hybrid equity instrument as defined in section 8E.";

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

"(2) Any amount other than a dividend received by or accrued to a taxpayer **[as a result of the disposal by that taxpayer of]** in respect of a qualifying share shall be deemed to be of a capital nature."; and

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

"(3) The provisions of this section shall not apply to any qualifying share if at the time of the disposal of that share the taxpayer was a connected person in relation to the company that issued that share and—

(a) more than 50 per cent of the market value of the equity shares, **[as defined]** contemplated in section 44, of that company was attributable directly or indirectly to immovable property **[held by that company at the time of the disposal]** other than—

(i) immovable property held directly or indirectly by a person that is not a connected person to the taxpayer; **[and]** or

(ii) immovable property held directly or indirectly for a continuous period of more than three years immediately prior to that disposal; or

(b) that company acquired any asset during the period of three years immediately prior to that disposal and amounts were paid or payable by any person **[during that period]** to any person other than that company for the use of that asset while that asset was held by that company during that period.".

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

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

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

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

"is attributable to—

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

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

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

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

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

(b) by the addition in subsection (9) of the word "or" at the end of paragraph *(f*A*)*; and

(c) by the deletion in subsection (9) of the word "or" at the end of paragraph *(f*B*)*.

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998, section 18 of Act 53 of 1999, section 21 of Act 30 of 2000, section 13 of Act 59 of 2000, sections 9 and 78 of Act 19 of 2001, section 26 of Act 60 of 2001, section 13 of Act 30 of 2002, section 18 of Act 74 of 2002, section 36 of Act 12 of 2003, section 26 of Act 45 of 2003, section 8 of Act 16 of 2004, section 14 of Act 32 of 2004, section 5 of Act 9 of 2005, section 16 of Act 31 of 2005, section 23 of Act 9 of 2006, section 10 of Act 20 of 2006, section 10 of Act 8 of 2007 and section 16 of Act 35 of 2007

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

(a) by the deletion in subsection (1) of paragraph *(c*M*)*;

(b) by the substitution in subsection (1)*(d)* for subparagraph (i) of the following subparagraph:

"(i) pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, or a beneficiary fund defined in section 1 of the Pension Funds Act, 1956 (Act No. 24 of 1956);";

(c) by the substitution in subsection (1)*(e)* for the words preceding subparagraph *(i)* of the following words:

"any levy and any income derived from any other sources, to the extent that the income derived from those other sources does not in total exceed R50 000, received by or accrued to—";

(d) by the substitution in subsection (1)*(k)*(ii) for item *(bb)* of the following item:

"(bb) to the extent that the foreign dividend relates to any amount which was declared by a listed company which complies with paragraphs *(a)* and *(b)* of the definition of 'listed company' in section 1 **[and more than 10 per cent of the equity share capital in that listed company is at the time of the declaration of that foreign dividend held collectively by residents]**;";

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

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

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

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

(g) by the deletion in subsection (1) of paragraph *(n*H*)*; and

(h) by the deletion in subsection (1)*(x)* of the further proviso.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1968, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994, section 12 of Act 21 of 1995, section 9 of Act 36 of 1996, section 12 of Act 28 of 1997, section 30 of Act 30 of 1998, section 20 of Act 53 of 1999, section 22 of Act 30 of 2000, section 15 of Act 59 of 2000, section 10 of Act 19 of 2001, section 27 of Act 60 of 2001, section 14 of Act 30 of 2002, section 19 of Act 74 of 2002, section 27 of Act 45 of 2003, section 9 of Act 16 of 2004, section 16 of Act 32 of 2004, section 6 of Act 9 of 2005, section 18 of Act 31 of 2005, section 11 of Act 20 of 2006, section 11 of Act 8 of 2007 and section 17 of Act 35 of 2007

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

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

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

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

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

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

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

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

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

(e) by the substitution in paragraph *(n)* for paragraph (i) of the proviso of the following paragraph:

"(i) no deduction shall be made under subparagraph *(aa)* in respect of any amount paid into a retirement annuity fund for the benefit of a member of such fund where such amount is a lump sum benefit derived by the member from a pension fund, a pension preservation fund, a provident fund, a provident preservation fund or a retirement annuity fund and that amount has under the provisions of paragraph 6 *(a)***[, *(b)* or *(c)*]** (i), (ii), (iii) and (iv) of the Second Schedule qualified for deduction from any amount to be included in the member's gross income;"; and

(f) by the deletion in paragraph *(n)* of paragraph (ix) of the proviso.

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

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

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

(a) by the addition in subsection (2) of the word "and" at the end of paragraph *(b)*;

(b) by the deletion in subsection (2) of the word "and" at the end of paragraph *(c)*;

(c) by the deletion in subsection (2) of paragraph *(d)*; and

(d) by the substitution for subsection (7) of the following subsection:

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

Amendment of section 12D of Act 58 of 1962

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

(a) by the insertion in subsection (1) after paragraph *(a)* of the definition of "affected asset" of the following paragraph:

"*(a*A*)* pipeline for the transportation of water used by power stations in the process of generating electricity;";

(b) by the substitution in subsection (2) for paragraphs *(a)* and *(b)* of the following paragraphs:

"*(a)* is owned by the taxpayer and is brought into use for the first time by such taxpayer; and

(b) is used directly by such taxpayer for purposes contemplated in the definition of 'affected asset'."; and

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

"*(b)* 5 per cent of the cost incurred in respect of any asset contemplated in paragraph *(a*A*), (b*), *(c)* or *(d)* of the definition of affected asset.".

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

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

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

(a) the amount allowable in terms of and subject to that section; or

(b) an amount equal to 50 per cent of the cost of the asset in the year of assessment during which it was first brought into use, 30 per cent in the first succeeding year and 20 per cent in the second succeeding year.".

Amendment of section 14 of Act 58 of 1962, as amended by section 13 of Act 90 of 1962, substituted by section 19 of Act 55 of 1966, amended by section 17 of Act 85 of 1974, section 12 of Act 103 of 1976, section 11 of Act 104 of 1979, section 10 of Act 65 of 1986, section 14 of Act 21 of 1995, section 14 of Act 28 of 1997 and section 23 of Act 59 of 2000

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

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

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

15. (1) Section 20 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraphs *(b)* and *(c)* of the proviso of the following paragraphs:

"*(b)* derived by any person from the carrying on within the Republic of any trade, any—

(i) assessed loss incurred by such person during such year; or

(ii) any balance of assessed loss incurred in any previous year of assessment, in carrying on any trade outside the Republic; or

(c) that is a retirement fund lump sum benefit included in taxable income, any—

(i) balance of assessed loss;

(ii) 'assessed loss' as defined in subsection (2) incurred in such year before taking into account that retirement fund lump sum benefit

[, in carrying on any trade outside the Republic;].''.

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

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

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

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

Amendment of section 23A of Act 58 of 1962, as inserted by section 21 of Act 121 of 1984, amended by section 13 of Act 96 of 1985, section 15 of Act 65 of 1986, section 12 of Act 70 of 1989, section 22 of Act 101 of 1990, section 24 of Act 129 of 1991, section 34 of Act 30 of 1998, section 32 of Act 60 of 2001 and section 33 of Act 35 of 2007

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

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

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

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

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

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

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

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

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

(a) by the lessee or licensee, or by any sublessee or sublicensee in relation to the asset; or

(b) by a person who was at any time during that period a connected person in relation to the lessee, licensee, sublessee or sublicensee,

the cost or value of the depreciable asset for the purpose of this section and any deduction or allowance claimed by the taxpayer in respect of the asset shall not exceed the amount determined in accordance with subsection (2A).

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

(a) the cost of the asset to the most recent lessee, licensee, sublessee, sublicensee or connected person contemplated in subsection (2) that previously held that asset, less the sum of—

(i) all deductions which have been allowed to the lessee, licensee, sublessee, sublicensee or connected person in respect of the asset; and

(ii) all deductions that are deemed to have been allowed to the lessee, licensee, sublessee, sublicensee or connected person in respect of the asset in terms of section 11*(e)*(ix), 12B(4B), 12C(4A), 12D(3A), 12DA(4), 12F(3A), 13(1A), 13*bis*(3A), 13*ter*(6A), 13*quin*(3) or 37B(4);

(b) any amount contemplated in paragraph *(n)* of the definition of 'gross income' in section 1 that is required to be included in the income of the lessee, licensee, sublessee, sublicensee or connected person that arises as a result of the disposal of the asset; and

(c) the applicable percentage in paragraph 10 of the Eighth Schedule, of the capital gain of the lessee, licensee, sublessor, sublicensee or connected person that arises as a result of the disposal.".

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

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

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

"*(a)* which is allowable as a deduction in terms of the provisions of section 11*(a)*, *(c)* or *(d)*, section 11A, section 11D(1), or section 28(2)*(a)* **[and *(c)*]**; and"; and

(b) by the substitution in subsection (1) for paragraph *(cc)* of the proviso of the following paragraph:

"*(cc)* to any expenditure to which the provisions of section **[24I, 24J,]** 24K or 24L apply; or".

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

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

(a) by the substitution in subsection (3) for paragraph *(c)* of the following paragraph:

"*(c)* any discount which accrued to such person or any premium incurred by such person in respect of any forward exchange contract"; and

(b) by the deletion of subsection (5).

Amendment of section 29A of Act 58 of 1962, as inserted by section 30 of Act 53 of 1999 and amended by section 36 of Act 59 of 2000, section 15 of Act 5 of 2001, section 15 of Act 19 of 2001, section 39 of Act 60 of 2001, section 30 of Act 74 of 2002, section 16 of Act 16 of 2004 and section 23 of Act 20 of 2006

21. Section 29A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4)*(a)* for subparagraph (i) of the following subparagraph:

"(i) business carried on by the insurer with, and any policy of which the owner is, any pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund or benefit fund;".

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

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

(a) by the deletion in the definition of "public benefit organisation" in subsection (1) of paragraph *(b)*(iii); and

(b) by the substitution in subsection (3)*(b)*(iii) for item *(aa)* of the following item:

"*(aa)* any **[similar]** public benefit organisation which has been approved in terms of this section;".

Amendment of section 36 of Act 58 of 1962, as amended by section 12 of Act 72 of 1963, section 15 of Act 90 of 1964, section 20 of Act 88 of 1965, section 23 of Act 55 of 1966, section 16 of Act 95 of 1967, section 14 of Act 76 of 1968, section 26 of Act 89 of 1969, section 21 of Act 65 of 1973, section 28 of Act 85 of 1974, section 20 of Act 104 of 1980, section 25 of Act 94 of 1983, section 16 of Act 96 of 1985, section 14 of Act 70 of 1989, section 26 of Act 101 of 1990, section 30 of Act 129 of 1991, section 24 of Act 141 of 1992, section 29 of Act 113 of 1993, section 17 of Act 36 of 1996, section 41 of Act 60 of 2001, section 31 of Act 32 of 2004; section 26 of Act 20 of 2006 and section 46 of Act 35 of 2007

23. Section 36 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in the definition of "capital expenditure" in subsection (11) for the words in paragraph *(c)* preceding subparagraph (i) of the following words:

"in the case of any post-1973 gold mine**[, any other deep level gold mine]** or any post-1990 gold mine, an allowance calculated at the rate of 10 per cent per annum in the case of a post-1973 gold mine **[or any other deep level gold mine]** or 12 per cent per annum in the case of any post-1990 gold mine on the amount of the aggregate of—";

(b) by the substitution in the definition of "capital expenditure" in subsection (11)*(c)* for subparagraph (i) of the following subparagraph:

"(i) the expenditure referred to in paragraphs *(a)* and *(b)*, excluding any interest and other charges on loans referred to in paragraph *(b)*, if the mine is a post-1973 gold mine or a post-1990 gold mine**[, or the expenditure referred to in paragraph *(a)*, if the mine is any other deep level gold mine]**; and

(c) by the substitution in the definition of "capital expenditure" in subsection (11) for the words preceding paragraph *(aa)* of the proviso of the following words:

"if the mine is a post-1973 gold mine, a post-1990 gold mine, for the period from the end of the month in which the expenditure is actually incurred up to the end of the year of assessment immediately preceding the first year of assessment in respect of which the determination of the taxable income derived from the working of such mine does not result in an assessed loss or nil**[, and, if the mine is any other deep level gold mine, for a period of 10 years from the commencement of the year of**

assessment during which the mine is recognised as any other deep level gold mine]: Provided that—".

Amendment of section 38 of Act 58 of 1962, as amended by section 21 of Act 90 of 1962, section 16 of Act 90 of 1964, section 28 of Act 89 of 1969, section 31 of Act 85 of 1974, section 27 of Act 94 of 1983, section 24 of Act 121 of 1984, section 32 of Act 53 of 1999, section 36 of Act 30 of 2000, section 43 of Act 60 of 2001, section 34 of Act 74 of 2002 and section 30 of Act 8 of 2007

24. Section 38 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4)*(b)* for item (i) of the following item:

"(i) any benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund or any trust or institution which in the opinion of the Commissioner is of a public character; and".

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

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

(a) by the substitution in subsection (1) for the words preceding paragraph (i) of the proviso to the definition of "foreign financial instrument holding company" of the following words:

": Provided that in determining whether more than the prescribed proportion of the assets of the company and all influenced companies consist of financial instruments**[,]**—";

(b) by the substitution in subsection (1) for subparagraph *(aa)* of paragraph (i) of the proviso to the definition of "group of companies" of the following subparagraph:

"*(aa)* that company is a company contemplated in paragraph **[*(b)*,]** *(c)*, *(d)* or *(e)* of the definition of 'company';";

(c) by the deletion in subsection (1) of the word "or" at the end of paragraph (i)*(cc)* of the proviso to the definition of "group of companies";

(d) by the substitution in subsection (1) for the word "and" at the end of paragraph (i)*(dd)* of the proviso to the definition of "group of companies" of the word "or";

(e) by the addition in subsection (1) to paragraph (i) of the proviso to the definition of "group of companies" of the following subparagraph:

"*(ee)* that company is a company contemplated in paragraph *(b)* of the definition of 'company', unless that company has its place of effective management in the Republic; and";

(f) by the deletion in subsection (1) of the definition of "qualifying interest"; and

(g) by the insertion after subsection (4) of the following subsection:

"(5) The Commissioner may prescribe the circumstances under which a person entering into any asset-for-share transaction, amalgamation transaction, intra-group transaction, unbundling transaction or liquidation distribution contemplated in sections 42, 44, 45, 46 and 47, respectively, must furnish a return to the Commissioner of that transaction or distribution.".

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

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

(a) the definition of "dividend" in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), are deemed to have come into operation on 1 October 2007 and apply in respect of any amount distributed on or after that date;

(b) Part III of Chapter II of that Act, are deemed to have come into operation on 21 February 2008;

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

(d) paragraph 12 of the Eighth Schedule to that Act, are deemed to have come into operation on 1 October 2007 and apply in respect of any disposal on or after that date.

(4) Subsection (1)*(g)* is deemed to have come into operation on 21 February 2008.

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

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

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

"**[Company formations]** <u>**Asset-for-share transactions**</u>";

(b) by the substitution in subsection (1) for subparagraph *(bb)* of paragraph *(a)* of the definition of "asset-for-share transaction" of the following subparagraph:

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

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

"**'equity share'** means an equity share as **[defined]** <u>contemplated</u> in section 44; and";

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

"**'qualifying interest'** of a person means—

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

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

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

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

(e) by the substitution in subsection (2) for paragraph *(b*A*)* of the following paragraph:

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

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

"Where a person disposed of any asset in terms of an asset-for-share transaction and that person ceases to hold a qualifying interest in that company, as contemplated in **[paragraph *(b)*]** paragraphs *(c)* and *(d)* of the definition of 'qualifying interest', within a period of 18 months after the date of the disposal of that asset (whether or not by way of the disposal of **[any]** shares in that company), or ceases within that period to be engaged on a full-time basis in the business of the company, or controlled group company in relation to that company, of rendering the service contemplated in subsection (1)*(a)*(ii)*(bb)*, that person **[must]** is for purposes of subsection (5), section 22 or the Eighth Schedule **[be]** deemed to have—".

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

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

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

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

"**'qualifying interest'** of a person means—

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

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

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

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

"*(b)* the resultant company is a company contemplated in paragraph *(c)***[,]** or *(d)* **[or *(e)*(i)]** of the definition of 'company';

*(b*A*)* the resultant company is a company contemplated in paragraph *(e)*(i) of the definition of 'company' and the amalgamated company is not a company contemplated in that paragraph;".

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

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

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

(a) by the substitution in subsection (4)*(b)* for the words preceding subparagraph (i) of the following words:

"Where a transferee company which has acquired an asset as contemplated in paragraph *(a)* ceases to form part of any group of companies in relation to the transferor company contemplated in paragraph *(a)*(i) or any controlling group company in relation to that transferor company

and transferee company at any time before the disposal by the transferee company of that asset, that transferee company must—";

(b) by the insertion after subsection (4) of the following subsection:

"(4A) Subsection (4)*(b)* does not apply in respect of any asset disposed of by a company prior to the coming into operation of section 52(1)*(c)* of the Revenue Laws Amendment Act, 2007 (Act No. 35 of 2007), where that transferee company and that transferor company contemplated in that subsection cease to form part of a group of companies by reason of the coming into operation of that section."; and

(c) by the insertion after subsection (4A) of the following subsection:

"(4B) A transferee company and a transferor company contemplated in subsection (4) must for purposes of that subsection be deemed to have ceased to form part of any group of companies in relation to each other if a disposal contemplated in that subsection forms part of any transaction, operation or scheme in terms of which—

(a) any consideration received or accrued in respect of that disposal; or

(b) any amount derived directly or indirectly from such consideration, has, within two years of that disposal, been disposed of—

(i) by that transferor company; or

(ii) by any other company forming part of the same group of companies as the transferor company,

to any person that does not form part of the same group of companies as the transferor company—

(aa) for no consideration;

(bb) for a consideration which does not reflect an arm's length price; or

(cc) by means of a distribution.".

(2) Paragraphs *(a)* and *(c)* of subsection (1) are deemed to have come into operation on 21 February 2008 and apply in respect of an asset disposed of on or after that date, unless that disposal is the subject of an application for an advance tax ruling accepted by the Commissioner before that date.

(3) Paragraph *(b)* of subsection (1) is deemed to have come into operation on 21 February 2008.

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

29. (1) Section 46 of the Income Tax Act, 1962, is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

"(1) For purposes of this section, **'unbundling transaction'** means any transaction in terms of which all the equity shares of a company which is a resident or a controlled foreign company (hereinafter referred to as the 'unbundled company') that are held by a company (hereinafter referred to as the 'unbundling company') which, if listed, is a resident, are distributed by that unbundling company to the shareholder or shareholders of that unbundling company in accordance with the effective interest of that shareholder or those shareholders, as the case may be, in the shares of that unbundling company, but only to the extent to which those shares are so distributed—

(a) where that unbundling company is a listed company and the shares of the unbundled company are listed or will be listed within 12 months after that **[disposal]** distribution, to the shareholders of that unbundling company;

(b) where that unbundling company is an unlisted company, to any shareholder of that unbundling company that forms part of the same group of companies as that unbundling company;

(c) pursuant to an order in terms of the Competition Act, 1998 (Act No. 89 of 1998), made by the Competition Tribunal or the Competition

Appeal Court, to the shareholders of that unbundling company; or

(d) where that unbundled company and that unbundling company are controlled foreign companies immediately before that distribution, to a person that holds at least 95 per cent of the equity shares in that unbundling company:

Provided that the shares contemplated in paragraph *(a)* or *(b)* constitute—

(i) where that unbundled company is a listed company immediately before that distribution—

(aa) more than 25 per cent of the equity shares of that unbundled company in the case where no other shareholder holds an equal or greater amount of equity shares in that unbundled company; or

(bb) in any other case, at least 35 per cent of the equity shares of that unbundled company; or

(ii) where that unbundled company is an unlisted company immediately before that distribution, more than 50 per cent of the equity shares of that unbundled company:

Provided further that shares which are distributed as contemplated in paragraph *(d)* constitute at least 95 per cent of the equity shares of that unbundled company.

['equity share' means an equity share as contemplated in section 44.]

(2) Where an unbundling company distributes shares **[to a shareholder]** in terms of an unbundling transaction, that unbundling company must disregard that distribution for purposes of determining its taxable income or assessed loss, or its net income as contemplated in section 9D.''.

(2) Subsection (1) is deemed to have come into operation on 21 February 2008 and applies in respect of a disposal on or after that date.

Insertion of section 46A in Act 58 of 1962

30. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 46 of the following section:

''**Limitation of expenditure incurred in respect of shares held in an unbundling company**

46A. (1) Notwithstanding any other provision of this Act, if a taxpayer acquires a share in an unbundled company from an unbundling company in terms of an unbundling transaction defined in section 46 and a share in that unbundling company was within a period of two years preceding the acquisition held by a person who was a connected person in relation to the taxpayer at any time during that period, and any amount received by or accrued to that person in respect of the disposal of the share at any time during that period would not have been subject to normal tax or would not have been taken into account for purposes of determining the net income, as defined in section 9D, of that person, the expenditure incurred by the taxpayer in respect of any share held in that company shall not for purposes of this Act exceed an amount determined in accordance with subsection (2).

(2) The amount to be determined for purposes of subsection (1) is the sum of—

(a) the cost of the equity share to the connected person contemplated in subsection (1) that first held that share less the sum of all deductions that have been allowed in respect of the share to any connected person that held that share during that period;

(b) any amount contemplated in paragraph *(n)* of the definition of 'gross income' in section 1 that is required to be included in the income of

any connected person that held that share during that period that arises as a result of the disposal of the share by any such person; and

(c) any capital gain of any connected person that held that share during that period that arises as a result of the disposal of the share by any such person.''.

(2) Subsection (1) is deemed to have come into operation on 21 February 2008 and applies in respect of the allocation of expenditure to unbundled shares acquired on or after that date, unless that acquisition is the subject of an application for an advance tax ruling accepted by the Commissioner before that date.

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

31. (1) Section 47 of the Income Tax Act, 1962, is hereby amended—

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

''(5) Where—

(a) a holding company disposes of any equity share in a liquidating company as a result of the liquidation, winding up or deregistration of that liquidating company; or

(b) in anticipation of or in the course of the liquidation, winding up or deregistration of a liquidating company, a capital distribution of cash or an asset *in specie* by that company is received by or accrues to a holding company,

the holding company must disregard that disposal or distribution for purposes of determining its taxable income, assessed loss, aggregate capital gain or aggregate capital loss.''; and

(b) by the substitution in subsection (6)*(c)* for subparagraph (i) of the following subparagraph:

''(i) has not, within a period of **[six]** 18 months after the date of the liquidation distribution, or such further period as the Commissioner may allow, taken the steps contemplated in section 41(4) to liquidate, wind up or deregister; or''.

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

(3) Subsection (1)*(b)* is deemed to have come into operation on 1 January 2008 and applies in respect of a liquidation distribution on or after that date.

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

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

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

''*(b)* in the determination of the net amount of any dividend distributed in the course or in anticipation of the liquidation, winding up, deregistration or final termination of the corporate existence of a company, there shall be allowed as a deduction any dividend contemplated in subsection (5)*(c)*(i) or (ii) which has during the current or any previous dividend cycle accrued to the company.'';

(b) by the deletion in subsection (5)*(c)* of the proviso to subparagraph (ii);

(c) by the substitution in subsection (5)*(c)* for subparagraph (iii) of the following subparagraph:

"(iii) distribution of realised or unrealised profits derived by that company before that company became a resident";

(d) by the substitution for the proviso to subsection (5)*(f)* of the following proviso:

": Provided that this exemption shall not apply to the extent to which that dividend consists of any shares in that shareholder: Provided further that the provisions of this paragraph do not apply in respect of a dividend declared by a controlling group company to a controlled group company in relation to that controlling group company";

(e) by the deletion in subsection (5) of paragraph *(g)*;

(f) by the addition in subsection (5)*(i)* of the word "and" at the end of the paragraph and by the deletion in subsection (5)*(j)* of the word "and" at the end of the paragraph; and

(g) by the deletion of subsections (15), (16) and (17).

(2) Paragraphs *(a)*, *(b)* and *(c)* of subsection (1) are deemed to have come into operation on 21 February 2008 and apply in respect of a dividend declared on or after that date, unless that dividend is the subject of an application for an advance tax ruling accepted by the Commissioner before that date.

(3) Paragraphs *(e)*, *(f)* and *(g)* of subsection (1) come into operation on 1 January 2009 and apply in respect of a dividend declared on or after that date.

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

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

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

(i) a shareholder forming part of the same group of companies as the company that is deemed to have declared the dividend; or

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

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

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

Amendment of section 102A of Act 58 of 1962, inserted by section 40 of Act 94 of 1983, amended by section 28 of act 36 of 1996 and section 9 of Act 9 of 2007

34. Section 102A of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph *(a)* of the following paragraph:

"*(a)* whose taxable income for the year of assessment consists entirely of remuneration (as defined in paragraph 1of the Fourth Schedule) **[the amount of which does not exceed the amount referred to in section 66(1)*(b)*(i), as applicable in respect of the said year]**; and".

Amendment of Second Schedule to Act 58 of 1962

35. The Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the heading of the following heading:

"**COMPUTATION OF GROSS INCOME DERIVED BY WAY OF LUMP SUM BENEFITS [FROM PENSION, PROVIDENT AND RETIREMENT ANNUITY FUNDS]**".

Amendment of paragraph 1 of Second Schedule to Act 58 of 1962, as amended by section 31 of Act 90 of 1962, section 23 of Act 90 of 1964, section 34 of Act 88 of 1971, section 34 of Act 69 of 1975, section 26 of Act 113 of 1977, section 27 of Act 104 of 1980, section 28 of Act 96 of 1981, section 46 of Act 94 of 1983, section 24 of Act 65 of 1986, section 17 of Act 104 of 1979, section 24 of Act 65 of 1986, section 43 of Act 101 of 1990, section 35 of Act 21 of 1995, section 41 of Act 28 of 1997, section 47 of Act 30 of 1998, section 82 of Act 45 of 2003, section 43 of Act 32 of 2004, section 46 of Act 8 of 2007 and section 61 of Act 35 of 2007

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

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

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

$$Z = C + E - D,$$

in which formula—";

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

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

(c) by the deletion of the proviso to the definition of "formula B";

(d) by the substitution for the definition of "lump sum benefit" of the following definition:

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

(e) by the substitution for the definition of "retire" of the following defintion:

"**'retire'**, in relation to a member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, means to become entitled to the annuity or lump sum benefit contemplated in the definition of 'retirement date';".

Amendment of paragraph 2 of Second Schedule to Act 58 of 1962, as amended by section 42 of Act 28 of 1997, section 48 of Act 30 of 1998, section 47 of Act 8 of 2007 and section 62 of Act 35 of 2007

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

(a) by the substitution for the words preceding subparagraph *(a)* of the following words:

"Subject to the provisions of section 9(1)*(g)* and paragraphs 2A, 2B and 2C, the amount to be included in the gross income of any person for any year of assessment in terms of paragraph *(e)* of the definition of 'gross income' in section 1 **[of this Act]** shall be—";

(b) by the addition at the end of subparagraph *(a)* of the word "and"; and

(c) by the substitution for subparagraphs *(b)* and *(c)* of the following subparagraph:

"*(b)* the aggregate of—

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

(ii) the aggregate of any amounts, other than any amount contemplated in paragraphs *(a)* and *(b)*(i), received by or accrued to such person during that year by way of lump sum benefits from or in consequence of membership or past membership of any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, less the deductions permitted under the provisions of paragraph 6 of this Schedule.".

(2) Paragraphs *(b)* and *(c)* of subsection (1) are deemed to have come into operation on 13 September 2007 and apply in respect of a lump sum benefit accrued on or after that date.

Amendment of paragraph 2B of Second Schedule to Act 58 of 1962, as inserted by section 42 of Act 53 of 1999, amended by section 64 of Act 60 of 2001, section 45 of Act 32 of 2004 and section 63 of Act 35 of 2007

38. Paragraph 2B of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the words preceding the proviso of the following words:

"For the purposes of paragraphs **[2*(a)*]** 2 and 2A, where a court has made an order that any part of the pension interest of a member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund shall be paid to the former spouse of that member, as provided for in the Divorce Act, 1979 (Act No. 70 of 1979), the amount of that part is, to the extent that that amount is not deemed to have been received by or to have accrued to the member in terms of paragraph 2*(b)*, deemed to be an

amount that accrues to that member on the date on which the pension interest, of which that amount forms part, accrues to that member''.

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

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

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

Amendment of paragraph 3 of Second Schedule to Act 58 of 1962, as amended by section 47 of Act 94 of 1983, section 50 of Act 30 of 1998 and section 50 of Act 8 of 2007

40. Paragraph 3 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the words preceding the proviso of the following words:

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

Amendment of paragraph 4 of Second Schedule to Act 58 of 1962, as amended by section 20 of act 72 of 1963, section 24 of Act 90 of 1964 and section 36 of Act 21 of 1995

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

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

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

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

''If upon a member's withdrawal or resignation from or the winding up of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund on or after the fifteenth day of March, 1961, a policy of insurance is ceded or otherwise made over to or in favour of such member before the date of promulgation of the Income Tax Act, 1964, any lump sum due in respect of such policy upon its maturity or surrender before such date shall be deemed to be a lump sum benefit accruing to such member from a pension fund, pension preservation fund, provident fund, provident preservation fund or

retirement annuity fund, as the case may be, on the date of such maturity or surrender, or, if such member dies before such last-mentioned date, on the date of his or her death, and shall be assessed to tax in respect of the year of assessment during which such benefit is deemed to accrue as though it were a lump sum benefit derived by him or her upon his or her withdrawal or resignation from the fund or upon his or her retirement or immediately prior to his or her death, as the case may be''; and

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

''(2)*bis* If a policy of insurance is ceded or otherwise made over to or in favour of a member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund by the fund in question on or after the date of commencement of the Income Tax Act, 1964, the surrender value of such policy shall, provided such member retired or ceased to be a member of such fund on or after the fifteenth day of March, 1961, be deemed for the purposes of this Schedule to be a lump sum benefit accruing to such member from such fund on the date of such cession or making over.''.

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

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

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

''The deduction to be allowed in determining the amount required to be included in the taxpayer's gross income for a year of assessment in terms of paragraph 2*(b)*(ii) is the sum of the following amounts—

(a) so much of the lump sum benefit as is derived by the taxpayer from a—

(i) pension fund as is paid for the benefit of the taxpayer into any other pension fund, pension preservation fund or retirement annuity fund;

(ii) pension preservation fund as is paid for the benefit of the taxpayer into any other pension preservation fund;

(iii) provident fund as is paid for the benefit of the taxpayer into any pension fund, provident fund, provident preservation fund or retirement annuity fund;

(iv) provident preservation fund as is paid for the benefit of the taxpayer into any other provident preservation fund; and

(v) retirement annuity fund as is paid for the member's benefit into any other retirement annuity fund;

(b) so much of the excess of the aggregate value of the lump sum benefits so derived by the taxpayer from all the funds over the sum of the amounts allowed to be deducted by the taxpayer under item *(a)* as does not exceed R1 800'';

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

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

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

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

Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of Act 113 of 1993, section 16 of Act 140 of 1993, section 37 of Act 21 of 1995, section 34 of Act 36 of 1996, section 44 of Act 28 of 1997, section 52 of Act 30 of 1998, section 52 of Act 30 of 2000, section 53 of Act 59 of 2000, section 19 of Act 19 of 2001, section 32 of Act 30 of 2002, section 46 of Act 32 of 2004, section 49 of Act 31 of 2005, section 28 of Act 9 of 2006, section 39 of Act 20 of 2006, section 54 of Act 8 of 2007 and section 64 of Act 35 of 2007

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

(a) by the substitution for the definition of "employer" of the following definition:

" **'employer'** means any person (excluding any person not acting as a principal, but including any person acting in a fiduciary capacity or in his capacity as a trustee in an insolvent estate, an executor or an administrator of a benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund or any other fund) who pays or is liable to pay to any person any amount by way of remuneration, and any person responsible for the payment of any amount by way of remuneration to any person under the provisions of any law or out of public funds (including the funds of any provincial council or any administration or undertaking of the State) or out of funds voted by Parliament or a provincial council;"; and

(b) by the substitution in the definition of "provisional taxpayer" for the words in paragraph *(a)* following subparagraph (ii) of the following words:

"but shall exclude for a period of three years as from the first year of assessment commencing on or after 1 April 2006—

(aa) any public benefit organisation as contemplated in paragraph *(a)* of the definition of 'public benefit organisation' in section 30(1) that has been approved by the Commissioner in terms of section 30(3); **[and]**

(bb) any recreational club as contemplated in the definition of 'recreational club' in section 30A(1) that has been approved by the Commissioner in terms of section 30A(2); and

(cc) any body or association contemplated in section 10(1)*(e)*:

Provided that the Commissioner may extend the periods as contemplated in **[subparagraph]** subparagraphs *(aa)* **[and]**, *(bb)* and *(cc)* to such later date as he or she may determine by notice in the *Gazette*;".

Amendment of paragraph 11B of Fourth Schedule to Act 58 of 1962, as amended by section 41 of Act of Act 90 of 1988, 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, section 56 of Act 59 of 2000, section 33 of Act 30 of 2002, section 56 of Act 74 of 2002, section 22 of Act 16 of 2004, section 43 of Act 20 of 2006 and section 57 of Act 8 of 2007

44. (1) Paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in the definition of "net remuneration" in subparagraph (1) for subparagraph (ii) of paragraph *(f)* of the following subparagraph:

"(ii) by way of an annuity provided or payable by a pension fund, pension preservation fund, provident fund, provident preservation fund or benefit fund;";

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

"The amount of Standard Income Tax on Employees to be deducted or withheld from any net remuneration under the provisions of subparagraph (2) shall, unless the Commissioner otherwise directs for purposes of subparagraph (4)—"; and

(c) by the substitution for subparagraph (4) of the following subparagraph:

"(4) Where—

(a) the taxpayer is entitled to—

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

(ii) a deduction under section 18 of this Act, and the taxpayer's taxable income derived otherwise than from net remuneration cannot be reduced by the full amount of any such deduction; or

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

the Commissioner shall on application made by the taxpayer amend—

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

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

(2) Paragraphs *(b)* and *(c)* of subsection (1) are deemed to have come into operation on 1 January 2008.

Amendment of paragraph 16 of Fourth Schedule to Act 58 of 1962, as amended by section 86 of Act 45 of 2003, section 23 of Act 16 of 2004, section 52 of Act 31 of 2005

45. Paragraph 16 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (2) of the following subparagraph:

"(2) Any liability for employees' tax or interest on employees' tax or any penalty imposed under this Part of any person who in terms of the definition of 'employer' in paragraph 1 is an employer by virtue of **[his]** such person having paid or become liable to pay remuneration in a fiduciary capacity or in **[his]** the person's capacity as a trustee in an insolvent estate, an executor, or an administrator of a benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund or any other fund, or as a representative employer, shall be limited to the extent only of any assets belonging to the person,

body, trust, estate or fund represented or administered by **[him]** such person which may be in **[his]** the possession or under **[his]** the management, disposal or control of such person.''.

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

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

(a) by the deletion in subparagraph (1)*(d)*(i) of the word ''and'' after item *(aa)*;

(b) by the substitution in subparagraph (1)*(d)*(i) for the word ''or'' at the end of item *(bb)* of the word ''and''; and

(c) by the addition to subparagraph (1)*(d)*(i) of the following subsubitem:

''*(cc)* any amount contemplated in paragraph *(e)* of the definition of 'gross income'; or''.

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

Amendment of paragraph 1 of Seventh Schedule to Act 58 of 1962, as amended by section 26 of Act 96 of 1985, section 33 of Act 65 of 1986, section 28 of Act 85 of 1987, section 24 of Act 70 of 1989, section 55 of Act 101 of 1990, section 49 of Act 129 of 1991, section 35 of Act 141 of 1992, section 52 of Act 113 of 1993, section 30 of Act 21 of 1994, section 40 of Act 36 of 1996, section 54 of Act 30 of 2000, section 59 of Act 59 of 2000 and section 62 of Act 74 of 2002

47. Paragraph 1 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in the definition of ''taxable benefit'' for paragraph *(c)* of the following paragraph:

''*(c)* any lump sum benefit payable by a benefit fund, pension fund **[or]**, pension preservation fund, provident fund**[,]** or provident preservation fund being a benefit referred to in the definition of 'benefit fund' in section 1 of this Act or in paragraph (i) of the proviso to paragraph *(c)* of the definition of 'pension fund' in that section or in paragraph *(a)* of the definition of 'provident fund' in that section;''

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

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

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

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

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

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

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

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

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

(i) if that employee was present in the Republic for a period exceeding 90 days during the year of assessment immediately preceding the date of arrival referred to in subparagraph (7A); or

(ii) to the extent that the cash equivalent of the value of the taxable benefit derived from the occupation of the residential accommodation exceeds an amount equal to R25 000 multiplied by the number of months during which subparagraph (7A) applies.".

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

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

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

(a) by the deletion of the definition of **"aggregate capital gain"**;

(b) by the deletion of the definition of **"aggregate capital loss"**; and

(c) by the deletion of the definition of **"taxable capital gain"**.

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

50. (1) Paragraph 12 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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

"(1) **[Where]** Unless subparagraph (4) applies, where an event described in subparagraph (2) occurs, a person **[will]** must, subject to paragraph 24, be treated for the purposes of this Schedule as having disposed of an asset described in **[that]** subparagraph (2) for an amount received or accrued equal to the market value of the asset at the time of the event and to have immediately reacquired the asset at an expenditure equal to that market value, which expenditure must be treated as an amount of expenditure actually incurred and paid for the purposes of paragraph 20(1)*(a)*.";

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

"a person **[who]** that commences or ceases to be a resident or a controlled foreign company, in respect of all assets of that person other than—";

(c) by the substitution in subparagraph (2)*(b)* for the words preceding subitem (i) of the following words:

"an asset of a person **[who]** that is not a resident, which asset—";

(d) by the substitution for subparagraph (4) of the following subparagraph:

"(4) A person that ceases to be a controlled foreign company as a result of commencing to be a resident must, subject to paragraph 24, be treated as having disposed of each of that person's assets, other than—

(a) assets in the Republic listed in paragraph 2(1)*(b)*(i) and (ii); and

(b) assets held by that person on the day before that person ceased to be a controlled foreign company, if any amount received or accrued from the disposal of those assets would have been taken into account for purposes of determining the net income, as contemplated in section 9D, of the controlled foreign company,

for an amount equal to the market value of each of those assets and as having acquired each of those assets at a cost equal to that market value, which cost must be treated as an amount of expenditure actually incurred and paid for the purposes of paragraph 20(1)*(a)*.";

(e) by the substitution in subparagraph (5)*(a)(bb)* for the words after item (B) of the following words:

"and these transactions were part of a scheme to avoid any tax otherwise imposed by virtue of this **[subparagraph]** Act; or";

(f) by the substitution in subparagraph (5)*(a)(cc)* for item (B) of the following item:

"(B) these transactions are part of a scheme to avoid any tax otherwise imposed by virtue of this **[subparagraph]** Act."; and

(g) by the substitution in subparagraph (5)*(c)* for subitem (i) of the following subitem:

"(i) has not within **[six]** 18 months of that reduction or discharge, or such further period as the Commissioner may allow, taken such steps as contemplated in section 41(4) to liquidate, wind up, deregister or finally terminate its corporate existence;".

(2) Paragraphs *(a)*, *(b)* and *(d)* of subsection (1) are deemed to have come into operation on 21 February 2008 and apply in respect of an asset disposed of on or after that date, unless that disposal is the subject of an application for an advance tax ruling accepted by the Commissioner before that date.

(3) Subsection (1)*(g)* is deemed to have come into operation on 1 January 2008.

Amendment of paragraph 13 of Eighth Schedule to Act 58 of 1962, as amended by section 69 of Act 74 of 2002 and section 57 of Act 32 of 2004

51. Paragraph 13 of the Eighth Schedule is hereby amended by the substitution in subparagraph (1)*(g)* for subitem (i) of the following subitem:

"(i) paragraph 12(2)*(a)*, *(b)*, *(c)*, *(d)* or *(e)*, paragraph 12(3) **[or 12(4)]**, is the date immediately before the day that the event occurs; or".

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

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

"(iii)*(aa)* a right in a controlled foreign company held directly by a resident, an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph **[(10)]** 10 of that company and of any other controlled foreign company in which that controlled foreign company and that resident directly or indirectly have an interest, which was included in the income of that resident in terms of section 9D during any year of assessment, less the amount of any foreign dividend distributed by that company to that resident during any year of assessment which was exempt from tax in terms of section 10(1)*(k)*(ii)*(cc)*; or

(bb) a right in a controlled foreign company held directly by another controlled foreign company, an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph 10) of that **[first mentioned]** first-mentioned controlled foreign company and of any other controlled foreign company in which both the **[first]** first- and **[second mentioned]** second-mentioned controlled foreign companies directly or indirectly have an interest, which **[was]** during any year of assessment would have been

included in the income of **[a resident]** that second-mentioned controlled foreign company in terms of section 9D had it been a resident **[in relation to both companies in terms of section 9D]**, less the amount of any foreign dividend distributed by that **[first mentioned]** first-mentioned controlled foreign company to the **[second mentioned]** second-mentioned controlled foreign company if that dividend **[was]** would have been exempt from tax in terms of section 10(1)*(k)*(ii)*(cc)* had that second-mentioned controlled foreign company been a resident;''.

Amendment of paragraph 24 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001, amended by section 76 of Act 60 of 2001, section 72 of Act 74 of 2002, section 69 of Act 31 of 2005 and section 46 of Act 20 of 2006

53. (1) Paragraph 24 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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

''Where an asset contemplated in paragraph **[12(4)]** 12(2) has been disposed of by a person on or after the date on which that person commenced to be a resident and the proceeds from that disposal and the expenditure allowable in terms of paragraph 20 incurred prior to that date (determined without regard to paragraph **[12(4)]** 12(2)) in respect of that asset are each lower than the market value of that asset as contemplated in paragraph **[12(4)]** 12(2), that person must be treated as having acquired that asset at a cost equal to the higher of—''; and

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

''Where an asset contemplated in paragraph **[12(4)]** 12(2) has been disposed of by a person on or after the date on which that person commenced to be a resident and the proceeds from the disposal of that asset and the market value of that asset as contemplated in paragraph **[12(4)]** 12(2) are each lower than the expenditure allowable in terms of paragraph 20 incurred prior to that date (determined without regard to paragraph **[12(4)]** 12(2)) in respect of that asset, that person must be treated as having acquired that asset at a cost equal to the higher of—''.

(2) Subsection (1) is deemed to have come into operation on 21 February 2008 and applies in respect of an asset disposed of on or after that date, unless that disposal is the subject of an application for an advance tax ruling accepted by the Commissioner before that date.

Amendment of paragraph 40 of Eighth Schedule to Act 58 of 1962, as amended by section 89 of Act 60 of 2001, section 82 of Act 74 of 2002 and section 50 of Act 20 of 2006

54. Paragraph 40 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for item *(d)* of the following item:

''*(d)* an interest in a pension, pension preservation, provident, provident preservation or retirement annuity fund in the Republic or a fund, arrangement or instrument situated outside the Republic which provides benefits similar to a pension, pension preservation, provident, provident preservation or retirement annuity fund which if the proceeds thereof had been received by or accrued to the deceased, the capital gain or capital loss determined in respect of the disposal of the interest would have been disregarded in terms of paragraph 54,''.

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

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

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

Amendment of paragraph 54 of Eighth Schedule to Act 58 of 1962

56. Paragraph 54 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph *(b)* of the following subparagraph:

"*(b)* a lump sum benefit paid from a fund, arrangement or instrument situated outside the Republic which provides similar benefits under similar conditions to a pension, pension preservation, provident, provident preservation or retirement annuity fund approved in terms of this Act.".

Amendment of paragraph 55 of Eighth Schedule to Act 58 of 1962, as amended by section 31 of Act 19 of 2001, section 98 of Act 60 of 2001, section 87 of Act 74 of 2002, section 102 of Act 45 of 2003 and section 76 of Act 31 of 2005

57. Paragraph 55 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for item *(d)* of the following item:

"*(d)* in respect of a policy originally taken out on the life of a person, where that policy is provided to that person or dependant by or in consequence of that person's membership of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund.".

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

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

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

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

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

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

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

"*(b)* that interest is disposed of—

(i) to any person other than a resident or a controlled foreign company;

(ii) in the circumstances contemplated in paragraph 12(2)*(a)*, where those circumstances arise directly or indirectly as a result of a disposal to a person contemplated in subitem (i); or

(iii) by a person to a controlled foreign company in relation to that person or to any other controlled foreign company that forms part of the same group of companies as that person.";

(d) by the substitution in subparagraph (3) for the words preceding item *(a)* of the following words:

"Paragraph 8*(b)* applies in respect of any capital gain determined in respect of any disposal of any interest in the equity share capital of any foreign company by a person which is or was disregarded in terms of **[subparagraph]** subparagraphs (2) and (5) in any year of assessment, if—"; and

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

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

(2) Paragraphs *(c)* and *(d)* of subsection (1) are deemed to have come into operation on 21 February 2008 and apply in respect of an interest disposed of on or after that date, unless that disposal is the subject of an application for an advance tax ruling accepted by the Commissioner before that date.

(3) Paragraph *(e)* of subsection (1), insofar as it relates to paragraphs 67A and 76A, is deemed to have come into operation on 1 October 2007 and applies in respect of a distribution on or after that date.

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

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

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

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

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

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

(a) by the deletion in subparagraph (1) of the word "and" at the end of item *(a)*;

(b) by the substitution in subparagraph (1) for the fullstop at the end of item *(b)* of the expression "; and"; and

(c) by the addition in subparagraph (1) after item *(b)* of the following item:

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

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

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

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

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

"**[Disposal and part-disposal]** Part-disposal **of shares**";

(b) by the substitution in subparagraph (1) for item *(b)* of the following item:

"*(b)* in any other case, on the date of receipt or accrual of a capital distribution of cash or an asset *in specie* (other than a share distributed in terms of an unbundling transaction contemplated in section 46(1)) received by or accrued to that shareholder on or after 1 October 2007."; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

65. (1) Paragraph 1 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in the definition of ''refining'' for paragraph *(a)* of the following paragraph:

''*(a)* any such activity which constitutes—

(i) the separation of oil and gas condensates;

(ii) the drying of gas; or

(iii) the removal of non-hydrocarbon constituents,

as a process integral to the production of oil and gas from a well and preliminary to the further refining of such separated condensates, oil, gas or dry gas, as the case may be, at another facility; or''.

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

Amendment of Schedule No. 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992, section 13 of Act 98 of 1993, section 12 of Act 19 of 1994, section 74 of Act 45 of 1995, section 8 of Act 44 of 1996, section 15 of Act 27 of 1997, section 75 of Act 30 of 1998, section 7 of Act 32 of 1999, section 64 of Act 30 of 2000, section 52 of Act 19 of 2001, section 53 of Act 30 of 2002, section 41 of Act 12 of 2003, section 155 of Act 45 of 2003, section 36 of Act 16 of 2004, section 14 of Act 9 of 2005; section 36 of Act 9 of 2006 and section 76 of Act 8 of 2007

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

(2) Subject to section 58(1) of the Customs and Excise Act, 1964, subsection (1) is deemed to have come into operation on 20 February 2008.

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

67. (1) Every amendment to or withdrawal from or insertion in Schedules Nos. 1 to 6, and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56, 56A, 57, 60 or 75(15) of that Act during the calendar year ending on 31 December 2007 shall not lapse by virtue of section 48(6), 49, 56(3), 56A(3), 57(3), 60(4) or 75(16) of that Act.

(2) The amendment of Parts 2B, 5A and 5B of Schedule No. 1, Schedule No. 6, Schedule No. 8 and Schedule No. 10 to the Customs and Excise Act, 1964, made respectively under sections 48 and 75(15) of that Act by Government Notices R.242, R.243, R.244 and R.245 of 27 February 2008, in respect of the said Parts 2B, 5A and 5B of Schedule No. 1, Schedule No. 6, Schedule No. 8 and Schedule No. 10 shall not lapse by virtue of the provisions of section 48(6) or 75(16) of that Act.

Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, paragraph 1 of Government Notice 2695 of 8 November 1991, section 12 of Act 136 of 1992, section 1 of Act 61 of 1993, section 22 of Act 97 of 1993, section 9 of Act 20 of 1994, section 18 of Act 37 of 1996, section 23 of Act 27 of 1997, section 34 of Act 34 of 1997, section 81 of Act 53 of 1999, section 76 of Act 30 of 2000, section 64 of Act 59 of 2000, section 65 of Act 19 of 2001, section 148 of Act 60 of 2001, section 114 of Act 74 of 2002, section 47 of Act 12 of 2003, section 164 of Act 45 of 2003, section 43 of Act 16 of 2004, section 92 of Act 32 of 2004, section 8 of Act 10 of 2005, section 101 of Act 31 of 2005, section 40 of Act 9 of 2006, section 77 of Act 20 of 2006, section 81 of Act 8 of 2007 and section 104 of Act 35 of 2007

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

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

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

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

''(7) No registration or other fees are payable in respect of any endorsement or entry made in terms of subsection (5), and no **[other]** fees are payable in respect of the issue of a substituting participatory interest or the transfer of assets as a result of any amalgamation, cession, transfer or take-over in terms of this section.''.

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

Amendment of Schedule 1 to Act 20 of 2006

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

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

''**'FIFA Designated Service Provider'** means with respect to the *Championship*—

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

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

(c) the Host Broadcaster;'';

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

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

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

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

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

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

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

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

(d) by the substitution in paragraph 7(2) for item *(a)* of the following item:

"*(a)* **[paragraph]** subject to item (e), paragraphs *(a)*, *(b)* and *(c)* of the definition of *'Championship site'* during the *Championship duration*;";

(e) by the addition to paragraph 7(2) of the following item:

"*(e)* paragraph *(c)* of the definition of '*Championship site'*, where FIFA and the *Commissioner* have agreed in terms of that paragraph that it will be an additional area or facility used for an official event, during such period as may be agreed between the parties.";

(f) by the addition to paragraph 7 of the following subparagraph:

"(4) The payment of amounts which relate to the *Championship* between the entities contemplated in paragraph 6 are not subject to the withholding taxes in terms of section 35 or 35A of the *Income Tax Act, 1962*.";

(g) by the addition to Part III of the following paragraph:

"**Registration of entity as employer for purposes of certain taxes**

8A. (1) An entity contemplated in paragraph 6—

(a) is not required, in terms paragraph 10 of the Fourth Schedule to the *Income Tax Act, 1962*—

(i) to register with the *Commissioner* as an employer in terms of that Schedule if the entity only employs persons whose receipts and accruals are excluded from 'gross income' as defined in section 1 of the *Income Tax Act, 1962; or*

(ii) to deduct or withhold any employees' tax in terms of that Schedule from its employees whose receipts and accruals are excluded from 'gross income' as defined in section 1 of the *Income Tax Act,1962*; and

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

(h) by the substitution for paragraph 10 of the following paragraph:

"**10.** Notwithstanding anything to the contrary contained in the *Income Tax Act, 1962,* any receipt or accrual of an individual contemplated in paragraph 9(1) is excluded from 'gross income' as defined in that Act, to the extent that it is derived from activities connected with the *Championship*.".

(2) Subsection (1) is deemed to have come into operation on 1 April 2006 and applies in respect of years of assessment ending on or after 1 January 2007.

Amendment of section 11 of Act 15 of 2007

71. Section 11 of the Diamond Export Levy Act, 2007, is hereby amended—

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

"*(a)* gross sales to diamond beneficiators in respect of a producer means all amounts received or accrued during that assessment period by that producer in respect of all unpolished diamonds delivered to **[the]** premises within the Republic for the benefit of those diamond beneficiators;"; and

(b) by the substitution in subsection (1)*(b)* for item *(i)* of the following item:

"(i) all amounts received or accrued during that assessment period by that producer in respect of all unpolished diamonds delivered to premises within the Republic (other than the value of all unpolished diamonds described in paragraph (ii) to the extent that any amount of the value of those diamonds is not subsequently re-imported into the Republic); and".

Substitution of section 14 of Act 15 of 2007

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

"**Transitional arrangements**

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

(a) the entire initial assessment period; and

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

as described in section 11.

(2) For purposes of the gross sales calculations described in subsection (1), paragraph *(a)* of section 11(1) is substituted to mean 'gross sales to diamond beneficiators in respect of a producer means all amounts received or accrued during that assessment period by that producer in respect of all unpolished diamonds delivered to premises within the Republic (other than unpolished diamonds described in paragraph (ii) to the extent that any amount of the value of those diamonds is not subsequently re-imported into the Republic)'.

(3) Notwithstanding section 7(1)*(c)*, if a producer described in section 7 holds an exemption from section 48A of the Diamonds Act pursuant to section 74 of that Act at any time—

(a) during its initial assessment period; or

(b) on or after the ending date of its initial assessment period but on or before the twenty-ninth day of the ending date of that assessment period,

the exemption is deemed to cover the entire initial assessment period, and the producer is not subject to the levy otherwise imposed in respect of all of its unpolished diamonds under the cover of bill of entry for export delivered during the initial assessment period.

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

(5) Notwithstanding section 4(3) of the Administration Act, for purposes of this section, 'initial assessment period' means the first assessment period after the date on which this Act comes into operation.".

Amendment of section 8 of Act 25 of 2007

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

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

Amendment of section 52 of Act 35 of 2007

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

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

"*(b)* Part III of Chapter II of that Act, comes into operation on **[1 January 2009]** 21 February 2008;

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

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

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

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

Amendment of section 54 of Act 35 of 2007

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

"(3) Notwithstanding subsection (2), any transaction entered into during the period beginning on 1 January 2007 and ending on 7 January 2008 that would have been a share-for-share transaction as defined in section 43 of the Income Tax Act, 1962, had that section not been repealed by this section, is deemed to be an asset-for-share transaction as defined in section 42 of that Act.".

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

Substitution of section 125 of Act 35 of 2007

76. (1) The Revenue Laws Amendment Act, 2007, is hereby amended by the substitution for section 125 of the following section:

"**Special rules relating to the amalgamation of professional and amateur sporting bodies**

125. (1) For the purposes of this section, any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, must, unless the context otherwise indicates, bear the meaning so assigned, and—

'amalgamation transaction' means any transaction—

(a) between a transferor and a transferee, either of which was before the conclusion of that transaction—

(i) approved by the Commissioner in terms of section 30 of the Income Tax Act; and

(ii) engaged in the activities contemplated in paragraph 9 of Part I of the Ninth Schedule to the Income Tax Act;

(b) in terms of which that transferor disposes of all its assets (other than assets it elects to use to settle any debts incurred by it in the ordinary course of its activities) to that transferee; and

(c) as a result of which that transferor's existence will be terminated;

'Income Tax Act' means the Income Tax Act, 1962 (Act No. 58 of 1962);

'transferor' means any person who carries on any sporting activities falling under a code of sport administered and controlled by a national federation as contemplated in section 1 of the National Sport and Recreation Act, 1998 (Act No. 110 of 1998); and

'transferee' means any person who—

(a) carries on sporting activities falling under the same code of sport as the sporting activities carried on by the transferor, and

(b) will carry on sporting activities contemplated in paragraph 9 of Part I of the Ninth Schedule falling under that code of sport after the date of the conclusion of the transaction contemplated in subsection (2).

(2) This section applies, notwithstanding any provision to the contrary in the Income Tax Act, other than section 103 and Part IIA of Chapter III, in respect of an amalgamation transaction, as approved by the Commissioner and subject to such conditions as he or she may impose.

(3) Where a transferor disposes of—

(a) a capital asset to a transferee in terms of an amalgamation transaction and that transferee acquires that asset as a capital asset—

(i) that transferor must be deemed to have disposed of that asset for an amount equal to base cost of that asset on the date of the disposal thereof; and

(ii) that transferor and that transferee must, for purposes of determining any capital gain or capital loss in respect of a disposal of that asset by that transferee, be deemed to be one and the same person with respect to—

(aa) the date of acquisition of that asset by that transferor and the amount and date of incurral by that transferor of any expenditure in respect of that asset allowable in terms of paragraph 20 of the Eighth Schedule to the Income Tax Act; and

(bb) any valuation of that asset effected by that transferor as contemplated in paragraph 29(4) of the Eighth Schedule to the Income Tax Act; or

(b) an asset held by it as trading stock to a transferee in terms of an amalgamation transaction and that transferee acquires that asset as trading stock—

(i) that transferor must be deemed to have disposed of that asset for an amount equal to the amount taken into account by that transferor in respect of that asset in terms of section 11*(a)* or 22(1) or (2) of the Income Tax Act; and

(ii) that transferor and that transferee must, for purposes of determining any taxable income derived by that transferee from a trade carried on by it, be deemed to be one and the same person with respect to the date of acquisition of that asset by that transferor and the amount and date of incurral by that transferor of any cost or expenditure incurred in respect of that asset as contemplated in section 11*(a)* or 22(1) or (2) of the Income Tax Act.

(4) Where a transferor disposes of an asset that constitutes an allowance asset in that transferor's hands to a transferee in terms of an amalgamation transaction and that transferee acquires that asset as an allowance asset—

(a) no allowance allowed to that transferor in respect of that asset must be recovered or recouped by that transferor or included in that transferor's income for the year of that transfer; and

(b) that transferor and that transferee must be deemed to be one and the same person for purposes of determining the amount of any allowance—

(i) to which that transferee may be entitled in respect of that asset; or

(ii) that is to be recovered or recouped by or included in the income of that transferee in respect of that asset.

(5) Where the transferee disposes of any share in the transferor as a result of the liquidation, winding up or deregistration of that transferor, that transferee must disregard that disposal for purposes of determining its taxable income, assessed loss, aggregate capital gain or aggregate capital loss.

(6) The provisions of section 10(1)*(c*N*)* of the Income Tax Act will not apply in respect of the receipts and accruals derived by the transferor or transferee during the year of assessment in which the transaction contemplated in subsection (2) was concluded.

(7) The provisions of section 30 of the Income Tax Act will not apply in respect of the transferor or transferee as from the date the transaction contemplated in subsection (2) was concluded.

(8) The transferee and the Commissioner may agree, subject to such adjustments as may be necessary and subject to such conditions as the Commissioner may impose, that the transferee be deemed to have received all receipts and accruals and be deemed to have incurred all expenditure and losses received or incurred by the transferor during the year of assessment in which the transaction contemplated in subsection (2) was concluded.

(9) No transfer duty is payable in terms of the Transfer Duty Act, 1949, in respect of the acquisition of an asset by the transferee in terms of a transaction as contemplated in subsection (2) if the public officer of the company has made a sworn affidavit or solemn declaration that the transaction complies with the provisions of this section.

(10) Subsections (1) to (9) come into operation on 1 January 2008 and shall apply to any disposal on or before 31 December 2009.''.

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

Short title and commencement

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

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

Appendix I

(Section 1)

PART I

RATES OF NORMAL TAX AND REBATES

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

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

2.

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

3. The rate of tax referred to in section 1(1) of this Act to be levied in respect of the taxable income of any trust (other than a special trust or a public benefit organisation or recreational club referred to in paragraph 5) in respect of any year of assessment ending on 28 February 2009 is 40 per cent.

4. The rate of tax referred to in section 1(1) of this Act to be levied in respect of the taxable income of companies (other than a public benefit organisation or recreational club referred to in paragraph 5 or a small business corporation referred to in paragraph 6) in respect of any year of assessment ending during the twelve month period ending on 31 March 2009, is, subject to the provisions of paragraph 10, as follows:

(a) 28 per cent of the taxable income of any company (excluding taxable income referred to in subparagraphs *(b), (c), (d), (e), (f)* and *(g)*) or, in the case of such a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 35 per cent;

(b) in respect of the taxable income of any employment company as defined in section 12E of the Income Tax Act, 1962, 33 per cent;

(c) on each rand of the taxable income derived by any company from mining for gold on any gold mine with the exclusion of so much of the taxable income as the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph *(j)* of the definition of ‘‘gross income’’ in section 1 of the Income

Tax Act, 1962, but after the set-off of any assessed loss in terms of section 20(1) of that Act, a percentage determined in accordance with the formula:

$$y = 34 - \frac{170}{x}$$

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

$$y = 43 - \frac{215}{x}$$

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

(d) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph *(j)* of the definition of "gross income" in section 1 of the Income Tax Act, 1962, a rate equal to the average rate of normal tax or 28 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from mining for gold on any gold mine for the period from which that company commenced its gold mining operations on that gold mine to the end of the period assessed, by the number of Rands contained in the said aggregate taxable income;

(e) on each rand of the taxable income derived by any company from carrying on long-term insurance business in respect of—

(i) its individual policyholder fund, 30 per cent; and

(ii) its company policyholder fund and corporate fund, 28 per cent;

(f) on each rand of the taxable income (excluding taxable income referred to in paragraphs *(b), (c), (d), (e)*, and *(g)*) derived by a company which is not a resident, 33 per cent;

(g) on each rand of the taxable income derived by a qualifying company contemplated in section 37H of the Income Tax Act, 1962, subject to the provisions of the said section, zero per cent:

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

5. The rate of tax referred to in section 1(1) of this Act to be levied in respect of each rand of the taxable income of any public benefit organisation that has been approved by the Commissioner in terms of section 30(3) of the Income Tax Act, 1962 (Act No. 58 of 1962), or any recreational club that has been approved by the Commissioner in terms of section 30A(2) of that Act is 28 cents, in the case of an organisation or club that is a company, in respect of any year of assessment ending during the twelve month period ending on 31 March 2009 or, in the case of an organisation or club that constitutes a person other than a company, in respect of any year of assessment ending during the twelve month period ending on 28 February 2009, 28 cents.

6. The rate of tax referred to in section 1(1) of this Act in respect of the taxable income of any company which qualifies as a small business corporation as defined in section 12E of the Income Tax Act, 1962, in respect of any year of assessment ending during the twelve month period ending on 31 March 2009 is, subject to the provisions of paragraph 10, set out in the table below:

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

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

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

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

8.

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

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

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

Part II

INCOME TAX MONETARY THRESHOLDS SUBJECT TO PERIODIC LEGISLATIVE CHANGE

11. General savings thresholds

Description *(The contents of this column are solely for convenience and are of no force or effect)*	**Reference to the Income Tax Act, 1962**	**Monetary amount**
Broad-based employee share schemes: Employees can receive tax-exempt shares if the shares are part of a broad-based employee share plan. Companies can also deduct shares issued under the plan.		
Maximum exemption for shares received by employees	The definition of **"qualifying equity share"** in section 8B(3)	R9 000
Maximum deduction for shares issued by the employer	The proviso to section 11*(l*A)	R3 000
Exemption for interest and certain dividends:		
Exemption for domestic interest and otherwise taxable domestic collective scheme dividends in respect of persons younger than 65 years	Section 10(1)(i)(xv)*(bb)*(B)	R19 000
Exemption for passive portfolio savings in respect of persons 65 years or older	Section 10(1)(i)(xv)*(bb)*(A)	R27 500
Maximum application of the above exemption for foreign interest and otherwise taxable dividends	Section 10(1)(i)(xv)*(aa)*	R3 200
Annual donations tax exemption:		
Exemption for donations made by entities	Section 56(2)*(a)* and the proviso thereto	R10 000
Exemption for donations made by individuals	Section 56(2)*(b)*	R100 000
Capital gains exclusions:		
Annual exclusion for individuals and special trusts	Paragraph 5(1) of Eighth Schedule	R16 000
Exclusion for the disposal of a primary residence	Paragraph 45(1) of Eighth Schedule	R1,5 million
Maximum market value of all assets allowed within the small business definition on disposal when person over 55	Definition of **"small business"** in paragraph 57(1) of Eighth Schedule	R5 million
Exclusion amount on disposal of small business when person over 55	Paragraph 57(3) of Eighth Schedule	R750 000
Exclusion on death	Paragraph 5(2) of Eighth Schedule	R120 000

12. Retirement savings thresholds

Description *(The contents of this column are solely for convenience and are of no force or effect)*	**Reference to the Income Tax Act, 1962**	**Monetary amount**
Deductible retirement fund contributions: Pension fund and retirement annuity fund members may deduct their contributions subject to certain percentage or monetary ceilings (the latter of which are provided below).		
Pension fund monetary ceiling for contributions	The proviso to section 11*(k)*(i)	R1 750
Pension fund monetary ceiling for arrear contributions	Paragraph *(aa)* of the proviso to section 11*(k)*(ii)	R1 800
Retirement annuity fund monetary ceiling for contributions (if also a member of a pension fund)	Section 11*(n)(aa)*(B)	R3 500
Retirement annuity fund monetary ceiling for contributions (if not a member of a pension fund)	Section 11*(n)(aa)*(C)	R1 750
Retirement annuity fund monetary ceiling for arrear contributions	Section 11*(n)(bb)*	R1 800
Permissible lump sum withdrawals upon retirement: Pension fund and retirement annuity fund members may withdraw lump sums upon retirement.		
Pension fund monetary amount for permissible lump sum withdrawals	Paragraph (ii)*(dd)* of the proviso to paragraph *(c)* of the definition of **"pension fund"** in section 1	R50 000
Retirement annuity fund monetary amount for permissible lump sum withdrawals	Paragraph *(b)*(ii) of the proviso to the definition of **"retirement annuity fund"** in section 1	R50 000

13. Deductible business expenses for individuals

Description *(The contents of this column are solely for convenience and are of no force or effect)*	**Reference to the Income Tax Act, 1962**	Monetary amount
Car allowance: Individuals receive an annual vehicle allowance to defray business travel expenses, including deemed depreciation on the vehicle.		
Ceiling on vehicle cost	Section 8(1)*(b)*(iiiA)*(bb)*(A)	R400 000
Ceiling on debt relating to vehicle cost	Section 8(1)*(b)*(iiiA)*(bb)*(B)	R400 000

14. Employment-related fringe benefits

Description *(The contents of this column are solely for convenience and are of no force or effect)*	**Reference to the Income Tax Act, 1962**	**Monetary amount**
Exempt scholarships and bursaries: Employers can provide exempt scholarships and bursaries to employees and their relatives, subject to annual monetary ceilings.		
Annual ceiling for employees	Paragraph (ii)*(aa)* of the proviso to section 10(1)*(q)*	R100 000
Annual ceiling for employee relatives	Paragraph (ii)*(bb)* of the proviso to section 10(1)*(q)*	R10 000
Exempt termination benefits: Employees of age 55 or older receive exemption for payments related to employment termination subject to a monetary ceiling.	Section 10(1)*(x)*	R30 000
Medical scheme contributions: Medical scheme contributions are tax deductible if the individual pays (and tax-free if the employer pays) subject to monthly ceilings.		

Description *(The contents of this column are solely for convenience and are of no force or effect)*	**Reference to the Income Tax Act, 1962**	**Monetary amount**
Monthly ceiling for schemes with one beneficiary	Section 18(2)*(c)*(i)*(aa)* and paragraph 12A(1)*(a)* of Seventh Schedule	R570
Monthly ceiling for schemes with two beneficiaries	Section 18(2)*(c)*(i)*(bb)* and paragraph 12A(1)*(b)* of Seventh Schedule	R1 140
Additional monthly ceiling for each additional beneficiary	Section 18(2)*(c)*(i)*(cc)* and paragraph 12A(1)*(c)* of Seventh Schedule	R345
Awards for bravery and long service: The deemed values of bravery and long service awards are reduced by the monetary amount indicated.	Paragraphs *(a)* and *(b)* of the further proviso to paragraph 5(2) of Seventh Schedule	R5 000
Employee accommodation: Employee accommodation is taxed by means of a formula if the employer owns the accommodation, but no tax is payable if the employee earns less than the amount indicated.	Paragraph 9(3)*(a)*(ii) of Seventh Schedule	R46 000
Accomodation for expatriate employees: The value of accommodation provided to expatriate employees is taxable to the extent that it exceeds the amount indicated	Paragraph 9(7B)(ii) of Seventh Schedule	R25 000
Exemption for *de minimis* employee loans: Employee loans below the amount indicated are not deemed to have any value as a fringe benefit	Paragraph 11(4)*(a)* of Seventh Schedule	R3 000
Employer deductions for employee housing: Expenses incurred for providing employee housing is limited to the ceiling indicated (per dwelling).	Paragraph (ii) of the proviso to section 11*(t)*	R15 000
Additional employer deductions for learnerships: Employers receive additional deductions for learnerships depending on the circumstances.		
Monetary ceiling of additional deduction for the employer when entering into a learnership agreement with an existing employee	Section 12H(2)*(a)*(i)*(bb)*	R20 000
Monetary ceiling of additional deduction for the employer when entering into a learnership agreement with a new employee	Section 12H(2)*(a)*(ii)*(bb)*	R30 000
Monetary ceiling of additional deduction for the employer in the case of completing a learnership agreement (all employees)	Section 12H(2)*(b)*(ii)	R30 000
Monetary ceiling of additional deduction for the employer when entering into a learnership agreement with an existing disabled employee	Section 12H(2A)*(a)*(i)*(bb)*	R40 000
Monetary ceiling of additional deduction for the employer when entering into a learnership agreement with a new disabled employee	Section 12H(2A)*(a)*(ii)*(bb)*	R50 000
Monetary ceiling of additional deduction for the employer in the case of completing learnership agreements with disabled employees	Section 12H(2A)*(b)*(ii)	R50 000

15. Depreciation

Description *(The contents of this column are solely for convenience and are of no force or effect)*	**Reference to the Income Tax Act, 1962**	**Monetary amount**
Small-scale intellectual property: Intellectual property with a cost below the amount indicated is immediately deductible.	Paragraph *(aa)* of the proviso to section 11(*g*C)	R5 000

Description *(The contents of this column are solely for convenience and are of no force or effect)*	**Reference to the Income Tax Act, 1962**	**Monetary amount**
Urban Development Zone incentive: Developers undertaking projects in excess of the amount indicated must provide special notice to the Commissioner.	Section 13*quat*(10A)	R5 million

16. Miscellaneous

Description *(The contents of this column are solely for convenience and are of no force or effect)*	**Reference to the Income Tax Act, 1962**	**Monetary amount**
Public benefit organisations:		
PBO trading income is exempt up to the greater of 5 per cent of total receipts and accruals or the amount indicated.	Section 10(1)*(c*N)(ii)*(dd)*(ii)	R100 000
Donations to transfrontier parks are deductible if the donation equals or exceeds the amount indicated.	Section 18A(1C)*(a)*(ii)	R1 million
PBOs providing housing are exempt if beneficiaries are households with a monthly income of the stated amount or less.	Paragraph 3*(a)* of Part I of Ninth Schedule and paragraph 5*(a)* of Part II of Ninth Schedule	R7 500
Recreational clubs: Club trading income is exempt up to the greater of 5 per cent of total receipts and accruals or the amount indicated.	Section 10(1)*(c*O)(iv)*(bb)*	R50 000
Farmer deductions for employee housing: Ceiling for expenses incurred by farmers to provide employee housing (per employee)	Paragraph 12(5) of First Schedule	R15 000
Prepaid expenses: Limit of prepaid expenses that will not be deferred until delivery of goods, services or benefits	Paragraph *(bb)* of the proviso to section 23H(1)	R80 000
Small business corporations: Corporations qualify for tax incentives if gross income does not exceed the amount referred to.	Section 12E(4)*(a)*(i)	R14 million
Housing associations: Housing association investment income is exempt up to the amount indicated	Section 10(1)*(e)*	R50 000

17. Administration

Description *(The contents of this column are solely for convenience and are of no force or effect)*	**Reference to the Income Tax Act, 1962**	**Monetary amount**
Investment income exempt from provisional tax: If a natural person solely generates income from interest, dividends and real estate rentals, the income amount indicated is exempt from provisional tax.		
In the case of natural persons below age 65	Paragraph 18(1)*(c)*(ii) of Fourth Schedule	R20 000
In the case of natural persons over age 65	Paragraph 18(1)*(d)*(i) of Fourth Schedule	R80 000
S.I.T.E. threshold: Tax on employment income is subject to the S.I.T.E. (Standard Income Tax on Employees) system up to the amount indicated.	Items *(a)* and *(b)* of paragraph 11B(2) and items *(a)*, *(b)*(ii) and *(b)*(iii) of paragraph 11B(3) of Fourth Schedule	R60 000
Automatic appeal to the High Court: The full bench of the High Court has automatic jurisdiction to appeals if the disputed amount exceeds the amount indicated	Section 83(4B)*(a)*	R50 million

Appendix II

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

(Section 66)

Tariff Item	Tariff heading	Description	Rate of duty	
			Excise	Customs
104.00		Prepared foodstuffs; beverages, spirits and vinegar; tobacco		
104.01	19.01	Malt extract; food preparations of flour, groats, meal starch or malt extract, not containing cocoa or containing less than 40 per cent by mass of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 04.01 to 04.04, not containing cocoa or containing less than 5 per cent by mass of cocoa calculated on a totally defatted basis not elsewhere specified or included		
.10		Traditional beer powder as defined in Additional Note 1 to Chapter 19	34.7 c/kg	34.7 c/kg
104.10	22.03	Beer made from malt		
.10		Traditional beer as defined in Additional Note 1 to Chapter 22	7.82 c/l	7.82 c/l
.20		Other	R42.38 /l of absolute alcohol	R42.38 /l of absolute alcohol
104.15	22.04	Wine of fresh grapes, including fortified wines; grape must, other than that of heading no. 20.09		
	22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:		
.02		Sparkling wine	R5.63 /l	R5.63 /l
.04		Unfortified wine	R1.84 /l	R1.84 /l
.06		Fortified wine	R3.40 /l	R3.40 /l
104.17	22.06	Other fermented beverages, (for example, cider, perry and mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included		
.05		Traditional beer as defined in Additional Note 1 to Chapter 22	7.82 c/l	7.82 c/l
.15		Other fermented beverages, unfortified	R2.12 /l	R2.12 /l
.17		Other fermented beverages, fortified	R4.32 /l	R4.32 /l
.22		Mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	R2.12 /l	R2.12 /l
.90		Other	R4.32 /l	R4.32 /l
104.20	22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent volume or higher; ethyl alcohol and other spirits, denatured, of any strength		
	22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent volume; spirits, liqueurs and other spirituous beverages:		
.10		Wine spirits, manufactured by the distillation of wine	R67.72 /l of absolute alcohol	R67.72 /l of absolute alcohol
.15		Spirits, manufactured by the distillation of any sugar cane product	R67.72 /l of absolute alcohol	R67.72 /l of absolute alcohol
.25		Spirits, manufactured by the distillation of any grain product	R67.72 /l of absolute alcohol	R67.72 /l of absolute alcohol
.29		Other spirits	R67.72 /l of absolute alcohol	R67.72 /l of absolute alcohol
.40		Liqueurs and other spirituous beverages	R67.72 /l of absolute alcohol	R67.72 /l of absolute alcohol
104.30	24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes		
.10		Cigars, cheroots, and cigarillos, of tobacco or of tobacco substitutes	R1 726.92 /kg net	R1 726.92 /kg net
.20		Cigarettes, of tobacco or of tobacco substitutes	R3.41 /10 cigarettes	R3.41 /10 cigarettes
104.35	24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:		
.10		Cigarette tobacco and substitutes thereof	R173.49 /kg	R173.49 /kg
.20		Pipe tobacco and substitutes thereof	R92.15 /kg net	R92.15 /kg net

Appendix III

VALUE-ADDED TAX MONETARY THRESHOLDS SUBJECT TO PERIODIC LEGISLATIVE CHANGE

(Section 1)

Description *(The contents of this column are solely for convenience and are of no force or effect)*	**Reference to the Value-Added Tax Act, 1991**	**Monetary amount**
Registration		
- Compulsory	Section 23(1)*(a)*	R300 000
- Voluntary	Section 23(3)*(b)*(ii), *(c)* and *(d)*	R20 000
- Commercial accommodation	Paragraph *(a)* of the definition of 'commercial accommodation' in section 1	R60 000
- Payments basis of VAT registration	Section 15(2)*(b)*(i)	R 2,5 million
- Exception to payments basis : in respect of supplies of goods or services made by a vendor	Section 15(2A)	R100 000
Tax invoices		
- Abridged tax invoice	Section 20(5)	R3 000
- No tax invoice required	Section 20(6)	R50
Tax periods		
- Category C submission of VAT 201 return	Section 27(3)*(a)*(i)	R30 million
- Category D submission of VAT 201 return	Section 27(4)*(c)*(i)	R1,5 million
- Category F submission of VAT 201 return	Section 27(4B)*(a)*(i)	R1,5 million