



23 June 2009

National Treasury  
Private Bag X115  
Pretoria  
0001

**Per e-mail:** bviljoen@parliament.gov.za  
nomfanelo.mpotulo@treasury.gov.za

Dear Sir/Madam

### **DRAFT TAXATION LAWS AMENDMENT BILL, 2009**

The draft Taxations Laws Amendment Bill and the draft Taxation Laws Second Amendment Bill issued on 1 June 2009 refer.

#### **3.12 DEPRECIATION ON IMPROVEMENTS**

We thank you for the inclusion of the amendment to sections 11D, 12B, 12C, 12D, 12F and 37B of the Income Tax Act. The consistency of the treatment of depreciation for improvements is welcomed.

We note, however, that it is proposed that the amendments will be effective for expenditure incurred in respect of years of assessment ending on or after 1 January 2010 i.e. the general effective date (per the Explanatory Memorandum) or on 1 January 2009 and in respect of assets acquired on or after that date (section 12D).

The nature of improvements to many of the assets, in particular port, rail and pipeline assets in the case of Transnet, is that the expenditure takes place over a significant period of time, and in many instances in respect of assets that are decades old. As a result, and in particular in the case of certain of the port assets owned by Transnet (and which are more than 40 years old) a significant portion of the expenditure has already been incurred (R4.7 billion between 2003 and 2009), yet the improvements have not yet been brought into use. In addition, further expenditure in respect of these improvements is required before the improved assets can be brought into use.

<b>Transnet Limited</b>	47 <sup>th</sup> Floor	P.O. Box 72501
Registration Number	Carlton Centre	Parkview, Johannesburg
1990/000900/06	150 Commissioner Street	South Africa, 2122
	Johannesburg	T +27 11 308 2719
	2001	F +27 11 308 2430

**Directors:** FTM Phaswana (Chairman) C F Wells\* (Acting Group Chief Executive) Dr I Abedian Prof GK Everingham NBP Gcaba MJ Hankinson  
Dr ND Haste OBE\* PG Joubert NNA Matyumza MP Moyo BT Ngcuka NR Ntshingila KC Ramon A Singh\* (Acting Chief Financial Officer)  
\*Executive \*British

Group Company Secretary: A N C Ceiba

www.transnet.net

Given the move toward consistency of the provisions of the Income Tax Act, we suggest that the effective date of the amendments be in line with the amendments to section 12F and the introduction of section 12DA of the Income Tax Act. We therefore request that these amendments apply to "any improvements to an asset brought into use on or after 1 January 2008".

Alternatively, all amendments in respect of these sections should be effective 1 January 2009, and in respect of improvements to existing assets, should be applicable for "improvements brought into use on or after 1 January 2009".

#### **OTHER**

In our request dated 15 July 2008, we noted that the provisions of section 17(2)(a)(viii) of the Value-Added Tax Act, No. 89 of 1991, do not allow for Transnet Freight Rail ("TFR") a division of Transnet Limited primarily responsible for the transportation of rail freight, to claim the input tax on food parcels provided by TFR to train drivers, as the claim is limited to those provided "... to a crew member of such ship or vessel, where such meal or refreshment is supplied in the course of making a taxable supply by that vendor; ...".

We therefore requested that this section be expanded to include "... a crew member of such ship, vessel or rolling stock ...". We note that this amendment is not included in either of the Bills, and request that the inclusion thereof be reconsidered.

Yours faithfully

  
**CF WELLS**  
**Acting Group Chief Executive**  
**Date:** 23 June 2009