

CLAUSE 1

Transfer Duty: Amendment of section 1

Paragraph (a): The amendment updates the title to a Government office.

Paragraphs (b) to (e): The amendment deletes references to repealed legislative acts from the “property” definition and cross-references thereto.

CLAUSE 2

Transfer Duty: Amendment of section 2

See notes on **TRANSFER DUTY: RELIEF FOR ENTITIES**

CLAUSE 3

Transfer Duty: Amendment of section 3A

See notes on **ISLAMIC FINANCE: EXTENSION OF MURABAHA**

CLAUSE 4

Transfer Duty: Amendment of section 5

Paragraph (a): Deletion of an obsolete cross-reference (see paragraphs (b) to (e) in Clause 1).

Paragraph (b) and (c): The amendment updates the title to a Government post.

CLAUSE 5

Transfer Duty: Amendment of section 9

Paragraphs (a) and (b): See notes on **TRANSFER DUTY: RELIEF FOR ENTITIES**

Paragraph (c): See notes on **ISLAMIC FINANCE: PROPOSED GOVERNMENT SUKUK**

CLAUSE 6

Income Tax: Fixing of rates of normal tax and amendment of certain amounts for purpose of Act 58 of 1962

See notes on **RATES AND THRESHOLDS**

CLAUSE 7

Income Tax: Amendment of section 1

Paragraphs (a) and (b): The proposed amendment modifies the connected person definition for group ownership and company ownership so as to take into account voting rights (in addition to the current focus on “equity shares”). Voting rights are an important part of a meaningful ownership interest that connects various persons.

Paragraph (c) and (d): See notes on **DIVIDENDS TAX: CONTRIBUTED TAX CAPITAL ADJUSTMENTS**

Paragraphs (e) to (h): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (i): The amendments seek to clarify the definition of ‘equity share’ by reverting to pre-existing language.

Paragraph (j): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (k): The amendment deletes the word “stock” because modern usage of the term “stock” suggests shares as opposed to debt.

Paragraph (l): The term entity is added to the foreign partnership definition because certain foreign conduits are technically entities (e.g. limited liability companies).

Paragraph (m): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (n): See notes on **DEBT CANCELLATION: CHARACTER ISSUES**; see also **ASSUMPTION OF CONTINGENT LIABILITIES: TAXABLE COMPANY ACQUISITIONS**

Paragraph (o): See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

Paragraphs (p) and (q): See notes on **DIVIDENDS TAX: REMOVAL OF THE VALUE EXTRACTION TAX (VET)**

Paragraph (r): The proposed change clarifies the inter-relationship of gross income taken into account under the retirement/withdrawal tables versus artificial withdrawals.

Paragraph (s): See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

Paragraphs (t) to (v): See notes on **DIVIDENDS TAX: REMOVAL OF THE VALUE EXTRACTION TAX (VET)**

Paragraph (w): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (x): See notes on **LONG-TERM INSURANCE: TAXATION OF PROCEEDS**

Paragraph (y): The amendment adjusts the language for consistency of style.

Paragraph (z): See notes on **INCENTIVE: HEADQUARTER COMPANY ADJUSTMENTS**

Paragraph (zA) and (zB): See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

Paragraph (zC): The amendment adjusts the language contained in the definition of "pension fund" to technically allow for employers to subsequently join that fund. As a practical matter, subsequent membership entry regularly occurs in the case of umbrella funds.

Paragraph (zD): See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

Paragraph (zE): The amendment corrects the reference to the Pension Funds Act, 1956.

Paragraph (zF): The basic philosophy for permitted transfers between retirement savings funds is to permit the transfer of less restrictive funds to equal or more restrictive funds. The amendment accordingly permits pension preservation funds to be additionally derived from provident and provident preservation funds (as opposed to just pension and pension preservation funds).

Paragraph (zG): The proposed amendment to the definition of "pension preservation fund" aligns the concept of "unclaimed benefit" in the Income Tax Act with the definition of that concept now found in the Pension Funds Act.

Paragraph (zH): The amendment corrects an erroneous cross-reference.

Paragraph (zI): See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

Paragraph (zJ): The proposed amendment to the definition of "pension preservation fund" aligns the concept of "unclaimed benefit" in the Income Tax Act with the definition of that concept now found in the Pension Funds Act.

Paragraph (zK): The amendment corrects an erroneous cross reference.

Paragraph (zL): The amendment deletes the definition of "regional electricity distributor" as obsolete (given Government's withdrawal of the proposal).

Paragraph (zM) to (zP): See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

Paragraph (zQ): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (zR): Stemming from amendments made in 2010, the term "share capital" will be replaced by the term "share" because the term "share capital" is anachronistic given the new Companies Act.

Paragraph (zS): The amendment adds the definition of “share” to clarify that the term includes “similar” equity interests (mainly to better account for a variety of foreign ownership interests).

CLAUSE 8

Income Tax: Amendment of section 5

The amendment corrects the date when the cross-reference to section 7A(4A) is deleted. More specifically, the effective date of the deletion will be moved from 1 January 2010 to 1 March 2011 (consistent with the date when severance payments are added to the lump sum formula contained in the 2nd Schedule).

CLAUSE 9

Income Tax: Amendment of section 6

Paragraphs (a) to (c): See notes on **RETIREMENT: THIRD REBATE FOR THE ELDERLY**

Paragraph (d): The rules relating to the transitional phase-out of SITE will apply solely to taxpayers whose full remuneration falls within SITE (not just the amounts attributable to “net remuneration”). These transitional rules also relate to all taxes under the Income Tax Act (not just the normal tax).

CLAUSE 10

Income Tax: Insertion of section 6A

See notes on **MEDICAL SCHEMES CREDIT**

CLAUSE 11

Income Tax: Amendment of section 6*quat*

Paragraph (a): See notes on **TIMING OF FOREIGN TAX CREDITS**; See also notes on **UNIFICATION OF THE SOURCE RULES**

Paragraph (b) to (d): See notes on **UNIFICATION OF THE SOURCE RULES**

Paragraphs (e) and (f): See notes on **REHAUL OF THE CONTROLLED FOREIGN COMPANY (CFC) REGIME**

Paragraph (g): See notes on **SPECIAL FOREIGN TAX CREDIT FOR MANAGEMENT FEES**

Paragraph (h): See notes on **TIMING OF FOREIGN TAX CREDITS**

CLAUSE 12

Income Tax: Insertion of section 6quin

See notes on **SPECIAL FOREIGN TAX CREDIT FOR MANAGEMENT FEES**

CLAUSE 13

Income Tax: Insertion of section 6sex

See notes on **NEW DISPENSATION FOR FOREIGN DIVIDENDS**

CLAUSE 14

Income Tax: Amendment of section 7

Paragraph (a): The amendment revises legal language in line with proper technical usage.

Paragraphs (b) and (c): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

CLAUSE 15

Income Tax: Amendment of section 7A

See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DOWNDOWN ACCOUNTS**

CLAUSE 16

Income Tax: Amendment of section 8

Paragraph (a): The amendment increases the maximum amount on which actual expenses in respect of wear and tear (and finance charges) may be claimed against a travel allowance. As a result of this amendment, the maximum amount is now R480 000. This amendment aligns the maximum cost of a vehicle with the maximum value of a vehicle according to the rate per kilometer table fixed by the Minister of Finance on 25 February 2011 by notice in the Gazette.

Paragraph (b): The amendment re-inserts references omitted erroneously.

CLAUSE 17

Income Tax: Amendment of section 8A

Paragraph (a): The amendment corrects a spelling error.

Paragraph (b): The amendment deletes the word “stock” because modern usage of the term “stock” suggests shares as opposed to debt.

CLAUSE 18

Income Tax: Amendment of section 8B

See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

CLAUSE 19

Income Tax: Amendment of section 8C

See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

CLAUSE 20

Income Tax: Amendment of section 8E

See notes on **ANTI-AVOIDANCE: THIRD-PARTY BACKED SHARES**

CLAUSE 21

Income Tax: Insertion of section 8EA

See notes on **ANTI-AVOIDANCE: THIRD-PARTY BACKED SHARES**

CLAUSE 22

Income Tax: Amendment of section 8F

See notes on **ANTI-AVOIDANCE: THIRD-PARTY BACKED SHARES**

CLAUSE 23

Income Tax: Insertion of section 8G

See notes on **ANTI-AVOIDANCE: DEBT WITHOUT SET MATURITY DATES**

CLAUSE 24

Income Tax: Substitution of section 9

See notes on **UNIFICATION OF THE SOURCE RULES**

CLAUSE 25

Income Tax: Amendment of section 9A

A controlled foreign company does not technically have a “year of assessment” or “income” - only South African residents holding participating rights in that controlled foreign company. The proposed changes accordingly adjust the language to reflect technically correct terms associated with a controlled foreign company – i.e. “foreign tax year” and “net income”.

CLAUSE 26

Income Tax: Amendment of section 9C

Paragraphs (a) to (c): The term “equity share” is now technically delinked from section 41 for ease of use. However, like the section 41 definition, the term “equity share” includes participatory interests in a portfolio of collective investment scheme (meaning that the disposal of these interests after three years triggers a capital gain/loss as under current law).

Paragraph (d): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (e): See notes on **INCENTIVE: VENTURE CAPITAL COMPANY REVISIONS**

Paragraph (f): As discussed above, the term “equity share” is now technically delinked from section 41 for ease of use.

Paragraph (g): The amendment merely clarifies the existing intention. The first-in-first-out timing rule should be applied only to identical shares in the same company.

CLAUSE 27

Income Tax: Amendment of section 9D

Paragraph (a): See notes on **INCENTIVE: HEADQUARTER COMPANY ADJUSTMENT**

Paragraph (b): See notes on **REHAUL OF THE CONTROLLED FOREIGN COMPANY (CFC) REGIME**

Paragraph (c) to (e): See notes on **OFFSHORE CELL COMPANIES**

Paragraph (f): See notes on **REHAUL OF THE CONTROLLED FOREIGN COMPANY (CFC) REGIME**

Paragraph (g): See notes on **TRANSFER PRICING: CORRELATIVE ADJUSTMENTS**

Paragraphs (h) and (i): See notes on **REHAUL OF THE CONTROLLED FOREIGN COMPANY (CFC) REGIME**

Paragraph (j): A controlled foreign company does not technically have a “year of assessment” - only South African residents holding participating rights in that controlled foreign company. The proposed changes accordingly adjust the language to reflect technically correct term associated with a controlled foreign company – i.e. “foreign tax year”.

Paragraphs (k) to (l): See notes on **REHAUL OF THE CONTROLLED FOREIGN COMPANY (CFC) REGIME**

Paragraph (m): See notes on **DIVIDENDS TAX: NEW DISPENSATION FOR FOREIGN DIVIDENDS**

Paragraphs (n) to (p): See notes on **REHAUL OF THE CONTROLLED FOREIGN COMPANY (CFC) REGIME**

CLAUSE 28

Income Tax: Insertion of section 9H

See notes on **SINGLE CHARGE FOR EMIGRATION**

CLAUSE 29

Income Tax: Insertion of section 9I

See notes on **INCENTIVE: HEADQUARTER COMPANY ADJUSTMENTS**

CLAUSE 30

Income Tax: Amendment of section 10

Paragraph (a): The amendment now covers entities formed pursuant to the old and new companies act legislation.

Paragraph (b) and (c): See notes on **RATES AND THRESHOLDS**

Paragraph (d): The current wording refers to a share block company "established in terms of" the Share Blocks Control Act. However, the Share Blocks Control Act does not technically address the establishment of share block companies (only defining them). Therefore, it is proposed that the wording be adjusted to read "as defined in" the Share Blocks Control Act, 1980.

Paragraph (e): The amendment now covers entities formed under the old and new companies act legislation.

Paragraph (f): The proposed amendment deletes the cross-reference to the former exemption contained in section 10(1)(x) as that exemption was deleted in 2010.

Paragraph (g): See notes on **ROAD ACCIDENT FUND PAYOUTS**

Paragraph (h): See notes on **LONG -TERM INSURANCE: TAXATION OF PROCEEDS**

Paragraphs (i) and (j): See notes on **RATES AND THRESHOLDS**

Paragraph (k): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (l): Automatic ordinary revenue treatment for taxpayers disposing of “trading stock” shares in a buyback is inconsistent with the new dividend definition, which treats specific buybacks as dividends. This dividend treatment should equally apply regardless of whether the shares are held as trading stock or capital. This automatic ordinary treatment is also unnecessary as an anti-avoidance mechanism given the addition of the minimum holding period rules for the dividend exemption (see notes on **DIVIDENDS TAX: DIVIDEND CESSIONS**).

Paragraph (m): See notes on **DIVIDENDS FROM EMPLOYEE SHARE BASED INCENTIVES**

Paragraph (n): see notes on **ANTI-AVOIDANCE: DIVIDEND CESSIONS** (in relation to (ee)) and **ANTI-AVOIDANCE: DIVIDENDS IN RESPECT OF BORROWED SHARES** (in relation to (ff) and (gg)).

Paragraph (o): See notes on **DIVIDENDS TAX: NEW DISPENSATION FOR FOREIGN DIVIDENDS**

Paragraph (p): The amendment deletes the definition of “regional electricity distributor” as obsolete (given Government’s withdrawal of the proposal).

Paragraph (q): The amendment corrects punctuation.

Paragraph (r): See notes on **EMPLOYEE COMPENSATION FUND ENTITIES**

Paragraph (s): See notes on **INCENTIVE: FILM PRODUCTION REVISIONS**

Paragraph (t): See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

CLAUSE 31

Income Tax: Amendment of section 10A

See notes on See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

CLAUSE 32

Income Tax: Insertion of section 10B

See notes on **DIVIDENDS TAX: NEW DISPENSATION FOR FOREIGN DIVIDENDS**

CLAUSE 33

Income Tax: Amendment of section 11

Paragraph (a): The proposed amendment deletes paragraph (bA) as obsolete in light of the business start-up deduction rules contained in section 11A.

Paragraph (b): The proposed amendment deletes paragraph (hA) as obsolete in light of the revised company/trust mining rehabilitation rules contained in section 37A.

Paragraph (c): See notes on **LONGTERM INSURANCE: KEY PERSON PLAN ELECTIONS**

CLAUSE 34

Income Tax: Repeal of section 11C

Taxpayers cannot deduct interest incurred for domestic shares due to the exemption of domestic dividends from normal tax (even though dividends trigger a separate 10 per cent charge under both the Secondary Tax on Companies and under the proposed withholding tax). The proposed amendments essentially place foreign dividends on par with domestic dividends, being subject to an overall maximum effective tax rate of 10 per cent. It is accordingly proposed that deductions be similarly disallowed in respect of expenditures incurred to acquire foreign shares.

CLAUSE 35

Income Tax: Substitution of section 11D

See notes on **INCENTIVE: RESEARCH AND DEVELOPMENT REVISIONS**

CLAUSE 36

Income Tax: Insertion of section 11F

See notes on **ASSUMPTION OF CONTINGENT LIABILITIES: TAXABLE COMPANY ACQUISITIONS**

CLAUSE 37

Income Tax: Amendment of section 12C

Paragraph (a) to (c): See notes on **INCENTIVE: RESEARCH AND DEVELOPMENT REVISIONS**

Paragraph (d): The proposed amendment makes provision for foundations and supporting structures on which a plant is mounted (or to which it is fixed) to be deemed part of that plant and to be eligible for the same deductions as the plant. This situation is set out in Practice Note 16, dated 12 March 1993. SARS has embarked on a process of repealing all practice notes. It is now proposed that this position instead be codified in the Income Tax Act. A similar provision already exists in paragraph (iiA) of the proviso to section 11(e).

CLAUSE 38

Income Tax: Amendment of section 12E

Paragraph (a): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (b): The definition of "small business corporation" in subsection (4) (a) refers to certain close corporations, co-operatives or companies. However, the definition of "personal service" in subsection (4) (d) only relates to a company or close corporation. The proposed amendment broadens the definition to include co-operatives in the definition of "personal service" to align the definition with the "small business corporation" definition.

CLAUSE 39

Income Tax: Amendment of section 12G

The proposed amendments make grammatical and punctuation changes.

CLAUSE 40

Income Tax: Amendment of section 12H

The additional allowance for learnerships is extended by another five years.

CLAUSE 41

Income Tax: Amendment of section 12I

Paragraphs (a) to (d): See notes on **INCENTIVE: INDUSTRIAL POLICY PROJECT REVISIONS**

Paragraph (e): The amendment contains grammatical change.

CLAUSE 42

Income Tax: Amendment of section 12J

See notes on **INCENTIVE: VENTURE CAPITAL COMPANY REVISIONS**

CLAUSE 43

Income Tax: Insertion of section 12O

See notes on **INCENTIVE: FILM PRODUCTION REVISIONS**

CLAUSE 44

Income Tax: Amendment of section 13

See notes on **INCENTIVE: RESEARCH AND DEVELOPMENT REVISIONS**

CLAUSE 45

Income Tax: Amendment of section 13*quat*

Paragraph (a):

The depreciation allowance for urban development zones can generally be used either by developers or first-purchasers (the first party purchasing the property from the developer). The first-purchaser cannot claim the depreciation allowance if already claimed by the developer. At issue is another requirement that prevents the developer from claiming the depreciation allowance if the property is used for anything other than sale. This same requirement also prevents the purchaser from claiming the allowance even if the allowance was never claimed by the developer.

With the advent of the global economic downturn, certain developers are temporarily renting their properties to maintain cash-flow due to a lack of sales. This temporary rental of property unfortunately prevents both the developer and first-purchaser from claiming the depreciation allowance. Thus result appears to be overly punitive. It is proposed that the developer be allowed to undertake temporary rentals for up to three years without jeopardizing the depreciation allowance. It should be noted that this relief roughly matches the three-year relief for temporarily rentals by developers registered for VAT (see note on **TEMPORARY RELIEF FOR THE RENTAL OF RESIDENTIAL PROPERTY BY DEVELOPERS**).

Paragraph (b):

Consistent with other aspects of the urban development zone depreciation allowance, the allowance applies to purchases of the entire building or part of the building.

CLAUSE 46

Income Tax: Amendment of section 14

The proposed amendment eliminates a cross-reference to a deleted provision.

CLAUSE 47

Income Tax: Amendment of section 18

Paragraph (a): See notes on **MEDICAL SCHEME CREDITS**

Paragraph (b): The proviso to subsection (4) relates to payment of tax in terms of section 5(1A), which has been deleted. The proviso is accordingly deleted as obsolete.

CLAUSE 48

Income Tax: Amendment of section 18A

See notes on **DIVIDENDS TAX: COLLECTIVE INVESTMENT SCHEME ADJUSTMENTS**

CLAUSE 49

Income Tax: Amendment of section 22

Paragraph (a): See notes on **DIVIDENDS TAX: NEW DISPENSATION FOR FOREIGN DIVIDENDS**

Paragraph (b): See notes on **ASSUMPTION OF CONTINGENT LIABILITIES: TAXABLE COMPANY ACQUISITIONS**

CLAUSE 50

Income Tax: Substitution of section 22B

See notes on **DIVIDENDS TAX: DIVIDEND STRIPPING ADJUSTMENTS**

CLAUSE 51

Income Tax: Amendment of section 23

Paragraph (a): See notes on **LONG-TERM: EMPLOYER CONTRIBUTIONS AS A FRINGE BENEFIT**

Paragraphs (b) and (c): Taxpayers cannot deduct interest incurred for domestic shares due to the exemption of domestic dividends from normal tax (even though dividends trigger a separate 10 per cent charge under both the Secondary Tax on Companies and under the proposed withholding tax). The proposed amendments essentially place foreign dividends on par with domestic dividends, being subject to an overall maximum effective

tax rate of 10 per cent. It is accordingly proposed that deductions be similarly disallowed in respect of expenditures incurred to acquire foreign shares.

CLAUSE 52

Income Tax: Amendment of section 23B

See notes on **INCENTIVE: RESEARCH AND DEVELOPMENT REVISIONS**

CLAUSE 53

Income Tax: Insertion of section 24CA

See notes on **ASSUMPTION OF CONTINGENT LIABILITY: TAXABLE COMPANY ACQUISITIONS**

CLAUSE 54

Income Tax: Repeal of section 24F

See notes on **INCENTIVE: FILM PRODUCTION REVISION**

CLAUSE 55

Income Tax: Income Tax: Amendment of section 24H

Qualifying investors of a partnership, trust and other conduit entity are excluded from being viewed as a South African permanent establishment despite the permanent establishment activities of the partnership, trust or other entity. Qualifying investors are essentially limited liability investors lacking the authority to act on behalf of the partnership, trust or other entity. Consistent with this change, the trade or business of a partnership will not be ascribed to qualifying investors despite the general trade or business rule for partners to the contrary.

CLAUSE 56

Income Tax: Amendment of section 24I

Paragraph (a) to (g): See notes on **FOREIGN CURRENCY: MATCHING EXCHANGE ITEM RELIEF**

Paragraph (h): See notes on **FOREIGN CURRENCY: FOREIGN SHARE ACQUISITION HEDGES**

CLAUSE 57

Income Tax: Amendment of section 24J

Paragraphs (a) & (b): See notes on **ANTI-AVOIDANCE: DEBT WITHOUT SET MATURITY DATES**

Paragraph (c): The amendment deletes the word “stock” because modern usage of the term “stock” suggests shares as opposed to debt.

Paragraph (d): See notes on **ISLAMIC FINANCE: PROPOSED GOVERNMENT SUKUK**

Paragraph (e): **ANTI-AVOIDANCE: DEBT WITHOUT SET MATURITY DATES**

CLAUSE 58

Income Tax: Amendment of section 24JA

See note on **ISLAMIC FINANCE: PROPOSED GOVERNMENT SUKUK** and see note on **ISLAMIC FINANCE: EXTENSION OF MURABAHA**

CLAUSE 59

Income Tax: Amendment of section 25BA

See notes on **DIVIDENDS TAX: COLLECTIVE INVESTMENT SCHEME ADJUSTMENTS**

CLAUSE 60

Income Tax: Amendment of section 29A

See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNT**

CLAUSE 61

Income Tax: Amendment of section 30B

The amendment clarifies the implicit notion that the general rule of subsection (2) is subject to the additional conditions of subsections (3) and (4).

CLAUSE 62

Income Tax: Substitution of section 31

The amendment simplifies section 31. See further notes on **TRANSFER PRICING: CORRELATIVE ADJUSTMENTS**

CLAUSE 63

Income Tax: Amendment of section 35

See notes on **UNIFICATION OF THE SOURCE RULES**

CLAUSE 64

Income Tax: Amendment of section 35A

The amendment corrects a grammatical error.

CLAUSE 65

Income Tax: Amendment of section 36

See notes on **DIVIDENDS TAX: COLLATERAL DEFINITIONAL ISSUES**

CLAUSE 66

Income Tax: Amendment of section 37J

Paragraph (a): See notes on **UNIFICATION OF THE SOURCE RULES**

Paragraph (b): The exclusion for controlled foreign companies is moved from section 37J(2) to section 37K; see also notes on **CROSS-BORDER INTEREST WITHHOLDING ADJUSTMENTS**

CLAUSE 67

Income Tax: Insertion of section 37JA

See notes on **CROSS-BORDER INTEREST WITHHOLDING ADJUSTMENTS**

CLAUSE 68

Income Tax: Amendment of section 37K

Paragraph (a): See notes on **UNIFICATION OF THE SOURCE RULES**

Paragraph (b): The terms are adjusted in accordance with the explicit definition of “foreign resident” contained in section 37I.

Paragraph (c) to (e): The exclusion for controlled foreign companies is moved from section 37J(2) to section 37K.

CLAUSE 69

Income Tax: Amendment of section 37L

See notes on **CROSS-BORDER INTEREST WITHHOLDING ADJUSTMENTS**

CLAUSE 70

Income Tax: Insertion of section 37M

See notes on **CROSS-BORDER INTEREST WITHHOLDING ADJUSTMENTS**

CLAUSE 71

Income Tax: Insertion of section 37N

See notes on **CROSS-BORDER INTEREST WITHHOLDING ADJUSTMENTS**

CLAUSE 72

Income Tax: Amendment of section 41

Paragraph (a): The amendment deletes an obsolete reference.

Paragraph (b) and (c): The amendment updates the company legislation references from coverage of the 1973 Companies Act to coverage of the 2008 Companies Act.

Paragraph (d) and (e): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITIONAL ISSUES**

CLAUSE 73

Income Tax: Amendment of section 42

Paragraph (a) to (d): See notes on **OFFSHORE RESTRUCTURING**

Paragraph (e) to (g): Although assets received by a company in a section 42 “asset-for-share transaction” generally have a carryover base cost, a fair market value tax cost applies in the case of listed shares transferred (and in the case of collective investment scheme interests transferred). It is now proposed that this fair market deviation must be reflected when determining contributed tax capital (because contributed tax capital derived from an “asset-for-share transaction” mirrors the tax cost of the assets transferred to the company).

Paragraph (h) to (i): Currently, contributed tax capital derived from a section 42 transfer fails to account for consideration directly or indirectly paid to the transferor. Contributed tax capital must accordingly be reduced for consideration (e.g. cash or other property) paid to the transferors as part of the overall transaction or for the associated assumption of transferor debt by the company transferee.

Paragraph (j): See notes on **OFFSHORE RESTRUCTURING**

Paragraph (k) and (l): See notes on **ASSUMPTION OF CONTINGENT LIABILITIES: TAXABLE COMPANY ACQUISITIONS**

Paragraph (m): Because most taxpayers prefer to fall within rollover treatment, taxpayers falling within the conditions of “asset-for-share transactions” receive the benefit of rollover treatment unless the parties agree otherwise. However, transferring parties falling completely outside of South African taxing jurisdiction prefer to avoid rollover treatment because the assets transferred effectively receive a market value tax cost without any upfront taxation (regardless of the reorganisation rollover rules). It was accordingly intended that asset transfers from parties wholly outside South African taxing jurisdiction be excluded from rollover treatment. The exclusion, however, failed to account for potential taxation under the controlled foreign company regime. It is accordingly proposed that the exclusion from rollover treatment apply only where transferor lacks: (i) taxable income (or assessed loss), and (ii) section 9D net income.

CLAUSE 74

Income Tax: Amendment of section 44

Paragraph (a): See notes on **OFFSHORE RESTRUCTURING**

Paragraph (b) to (d): Under current law, target shareholders fall within amalgamation rollover treatment only if these shareholders have a qualifying interest (often requiring a 20 per cent minimum equity stake). The qualifying interest requirement operates separately from other aspects of the amalgamation rollover rules. The net result may mean that rollover treatment applies at the entity level but not the shareholder level. This split treatment gives rise to technical anomalies and can be unfair to minority shareholders who may be “involuntary” participants. The qualifying interest requirement for the target shareholders will accordingly be dropped.

Paragraph (e) to (f): See notes on **DIVIDENDS TAX: REORGANISATION MITIGATION**

Paragraph (g): See the discussion in respect of paragraphs (b) to (d) above.

Paragraph (h): In order for “amalgamation transaction” rollover treatment to apply, the amalgamated company must be liquidated within a set period, failure to satisfy this deadline triggers gain. A proviso is added to ensure that any tax resulting from this failure to liquidate will be recoverable from the resultant company. This liability for the resultant company in an amalgamation matches the liability for holding company transferees in a “failed” rollover liquidation.

Paragraph (i): The amendment updates the references to collective investment schemes in accordance with recent changes to the section 1 definitions.

Paragraph (j): See notes on **OFFSHORE RESTRUCTURING**

CLAUSE 75

Income Tax: Amendment of section 45

Paragraph (a): The amendment deletes the article “a” as superfluous

Paragraph (b): See notes on **ANTI-AVOIDANCE: SUSPENSION OF INTRAGROUP ROLLOVERS**

CLAUSE 76

Income Tax: Amendment of section 46

Paragraph (a) and (b): See notes on **OFFSHORE RESTRUCTURING**

Paragraph (c): See notes on **DIVIDENDS TAX: REORGANISATION MITIGATION**

Paragraph (d): See notes on **OFFSHORE RESTRUCTURING**

Paragraph (e): In 2009, the “election-out” mechanism from rollover treatment in the case of most reorganisations was changed to a written agreement among the parties to avoid confusion about whether a need existed to submit this election to SARS. Yet, the “election-out” mechanism has inadvertently remained in the case of unbundlings. This mechanism will accordingly be changed to a written agreement mechanism consistent with the other reorganisation provisions.

CLAUSE 77

Income Tax: Amendment of section 47

Paragraphs (a) to (e): See notes on **OFFSHORE RESTRUCTURING**

Paragraph (f) and (g): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (h) and (i): See notes on **OFFSHORE RESTRUCTURING**

CLAUSE 78

Income Tax: Substitution of section 57

See notes on **DIVIDENDS TAX: REMOVAL OF THE VALUE-EXTRACTION TAX (VET)**

CLAUSE 79

Income Tax: Amendment of section 62

See notes on **DEBT CANCELLATION: CHARACTER ISSUES**

CLAUSE 80

Income Tax: Amendment of section 64C

Paragraphs (a) and (b): The amendment updates the company legislation references from coverage of the 1973 Companies Act to coverage of the 2008 Companies Act.

Paragraph (c): The proposed amendment eliminates the potential overlap between actual and deemed dividends when applying the Secondary Tax on Companies. More specifically, a deemed dividend cannot arise if an actual dividend exists.

Paragraph (d): An exemption from deemed dividend treatment exists in the case of loans to trusts so that these trusts can acquire shares for the benefit of employees. However, in practical terms, this exemption is slightly too narrow. The exemption will accordingly be expanded to cover 7th schedule associated institutions (not just the company or a controlling company).

CLAUSE 81

Income Tax: Amendment of section 64D

See notes on **DIVIDENDS TAX: IN SPECIE DIVIDENDS**

CLAUSE 82

Income Tax: Amendment of section 64E

Paragraph (a): See notes on **DIVIDENDS TAX: ACCRUAL VERSUS CASH ACCOUNTING**

Paragraph (b): See notes on **DIVIDENDS TAX: IN SPECIE DIVIDENDS**

Paragraph (c): See notes on **DIVIDENDS TAX: REMOVAL OF THE VALUE-EXTRACTION TAX**

CLAUSE 83

Income Tax: Insertion of section 64EA

See notes on **DIVIDENDS TAX: IN SPECIE DIVIDENDS**

CLAUSE 84

Income Tax: Amendment of section 64F

Paragraph (a) and (b): See notes on **DIVIDENDS TAX: IN SPECIE DIVIDENDS**

Paragraph (c): The exemptions dealing with residential property distributions under paragraph 51A of the 8th Schedule have been moved to section 64FA (specifically dealing with distributions *in specie*).

CLAUSE 85

Income Tax: Insertion of section 64FA

See notes on **DIVIDENDS TAX: IN SPECIE DIVIDENDS**

CLAUSE 86

Income Tax: Amendment of section 64G

See notes on **DIVIDENDS TAX: IN SPECIE DIVIDENDS**

CLAUSE 87

Income Tax: Amendment of section 64H

See notes on **DIVIDENDS TAX: IN SPECIE DIVIDENDS**

CLAUSE 88

Income Tax: Substitution of section 64I

See notes on **DIVIDENDS TAX: IN SPECIE DIVIDENDS**

CLAUSE 89

Income Tax: Amendment of section 64J

The proposed technical changes in wording stem from changes in the dividend definition and in the trigger for the Dividends Tax (from accrual to payment).

CLAUSE 90

Income Tax: Amendment of section 64K

See notes on **DIVIDENDS TAX: IN SPECIE DIVIDENDS**

CLAUSE 91

Income Tax: Repeal of Part IX

See notes on **DIVIDENDS TAX: REMOVAL OF THE VALUE-EXTRACTION TAX**

CLAUSE 92

Income Tax: Amendment of section 68

The amendment revises legal language in line with proper technical usage.

CLAUSE 93

Income Tax: Amendment of section 80T

The term “arrangement” for purposes of reportable arrangements is being changed in line with the term “arrangement” as used for impermissible avoidance arrangements (i.e. section 80L)).

CLAUSE 94

Income Tax: Amendment of section 101

The proposed amendment updates the reference to collective investment schemes in line with recent changes to the section 1 definition.

CLAUSE 95

Income Tax: Amendment of section 103

Paragraph (a): See notes on **ANTI-AVOIDANCE: DIVIDEND CESSIONS**

Paragraph (b): The proposed amendment deletes an obsolete effective date.

CLAUSE 96

Income Tax: Amendment of paragraph 1 of Second Schedule

See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

CLAUSE 97

Income Tax: Amendment of paragraph 2 of Second Schedule

See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

CLAUSE 98

Income Tax: Amendment of paragraph 2C of Second Schedule

The amendment corrects the reference to the Pension Funds Act, 1956

CLAUSE 99

Income Tax: Amendment of paragraph 3 of Second Schedule

See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

CLAUSE 100

Income Tax: Amendment of paragraph 3A of Second Schedule

See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN ACCOUNTS**

CLAUSE 101

Income Tax: Amendment of paragraph 4 of Second Schedule

The amendment clarifies that the general timing rules are subject to paragraphs 3 and 3A dealing with the death of members, former members and the death of successor members.

CLAUSE 102

Income Tax: Amendment of paragraph 6 of Second Schedule.

The basic philosophy for permitted transfers between retirement savings funds is to permit the transfer of less restrictive funds to equal or more restrictive funds. The amendment accordingly permits all fund transfers to retirement annuity funds (the most restrictive type of retirement fund).

CLAUSE 103

Income Tax: Amendment of paragraph 1 of Fourth Schedule

Paragraph (a): The proposed amendment improves the technical linkage to the entities described in section 10(1)(e) as initially intended.

Paragraph (b): The amendment improves the technical linkage to the language of Seventh Schedule as initially intended.

CLAUSE 104

Income Tax: Amendment of paragraph 11B of Fourth Schedule

See notes on **RETIREMENT: LIVING ANNUITY CONVERSION TO DRAWDOWN**

CLAUSE 105

Income Tax: Amendment of paragraph 18 of Fourth Schedule

See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

CLAUSE 106

Income Tax: Amendment of paragraph 3 of the Sixth Schedule

See notes on **SMALL BUSINESS: MICRO-BUSINESS TURNOVER TAX RELIEF**

CLAUSE 107

Income Tax: Amendment of paragraph 6 of the Sixth Schedule

See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

CLAUSE 108

Income Tax: Amendment of paragraph 8 of the Sixth Schedule

See notes on **SMALL BUSINESS: MICRO-BUSINESS TURNOVER TAX RELIEF**

CLAUSE 109

Income Tax: Amendment of paragraph 10 of the Sixth Schedule

See notes on **SMALL BUSINESS: MICRO-BUSINESS TURNOVER TAX RELIEF**

CLAUSE 110

Income Tax: Amendment of paragraph 2 of the Seventh Schedule

Paragraph (a): Subparagraph (a) relates to the right of an employee to private use of assets as an employee fringe benefit. The value of this use is determined in accordance with paragraphs 6 and 7. The proposed amendment deletes the references to specific subparagraphs because these paragraphs need to be read in their entirety.

Paragraph (b) and (c): See notes on **LONG-TERM INSURANCE: EMPLOYER CONTRIBUTIONS AS A FRINGE BENEFIT**

CLAUSE 111

Income Tax: Amendment of paragraph 7 of the Seventh Schedule

See notes on **JUDICIAL LONG DISTANCE COMMUTING**

CLAUSE 112

Income Tax: Amendment of paragraph 9 of the Seventh Schedule

See notes on **RATES AND THRESHOLDS**

CLAUSE 113

Income Tax: Insertion of paragraph 12C in the Seventh Schedule

See notes on **LONG-TERM INSURANCE: EMPLOYER CONTRIBUTIONS AS A FRINGE BENEFIT**

CLAUSE 114

Income Tax: Amendment of paragraph 5 of the Eighth Schedule

See notes on **RATES AND THRESHOLDS**

CLAUSE 115

Income Tax: Amendment of paragraph 12 of the Eighth Schedule

See notes on **SINGLE CHARGE FOR EMIGRATION**

CLAUSE 116

Income Tax: Amendment of paragraph 19 of the Eighth Schedule

See notes on **DIVIDENDS TAX: DIVIDEND STRIPPING ADJUSTMENTS**

CLAUSE 117

Income Tax: Amendment of paragraph 20 of the Eighth Schedule

Paragraph (a): See notes on **ASSUMPTION OF CONTINGENT LIABILITIES: TAXABLE COMPANY ACQUISITIONS**

Paragraph (b): See notes on **DIVIDENDS TAX: NEW DISPENSATION FOR FOREIGN DIVIDENDS**

CLAUSE 118

Income Tax: Amendment of paragraph 35 of the Eighth Schedule

See notes on **DEBT CANCELLATION: CHARACTER ISSUES** and **ASSUMPTION OF CONTINGENT LIABILITIES: TAXABLE COMPANY ACQUISITIONS**

CLAUSE 119

Income Tax: Amendment of paragraph 43 of the Eighth Schedule

See notes on **FOREIGN CURRENCY: REPEAL OF CAPITAL GAIN RULES**

CLAUSE 120

Income Tax: Substitution of paragraph 43A of the Eighth Schedule

Paragraph (a) to (c): See notes on **DIVIDENDS TAX: DIVIDEND STRIPPING ADJUSTMENTS**

CLAUSE 121

Income Tax: Amendment of paragraph 51A of the Eighth Schedule

Paragraphs (a) and (b): The technical language relating to the potential transferees of residential property entities creates unnecessary anomalies. The law is clarified to state that these transferees must be connected persons to the liquidating entity (i.e. company or trust), and those connected persons mainly used the residential property for domestic (i.e. non-business) purposes. These persons typically involve the founding family member, the spouse or the dependents who use the property for personal use.

Paragraph (c): As under current law, taxpayers holding residential property in a company or trust must terminate the company or trust as a condition for relief. The proposed amendment adjusts the rules for terminating trusts to be more flexible in line with the rule for companies. Under the revised rule, trusts must take steps to terminate within six months (without the legislation describing the actual specifics).

Paragraph (d): The amendment corrects an erroneous cross-reference.

Paragraph (e): In line with the rest of the subparagraph, the reference should be to a “company” as opposed to a “trust”.

Paragraph (f): The company or trust limitation applies to transferors, not transferees. The “company or trust” language is accordingly dropped.

Paragraph (g): As under current law, companies or trust shareholders holding residential property entities must be terminated as a condition for relief (like the required termination of the residential property entity). The proposed amendment adjusts the rules for terminating trust shareholders to be more flexible in line with the rule for company shareholders. Under the revised rule, trust shareholders must take steps to terminate within six months (without the legislation describing the actual specifics).

Paragraph (h): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

CLAUSE 122

Income Tax: Amendment of paragraph 55 of the Eighth Schedule

See notes on **LONG-INSURANCE: TAXATION OF PROCEEDS**

CLAUSE 123

Income Tax: Amendment of paragraph 57 of the Eighth Schedule

See notes on **RATES AND THRESHOLDS**

CLAUSE 124

Income Tax: Amendment of paragraph 64B

Paragraph (a) and (b): See notes on **INCENTIVE: HEADQUARTER COMPANY ADJUSTMENTS**

Paragraph (c): See notes on **REHAUL OF THE CONTROLLED FOREIGN COMPANY (CFC) REGIME**

Paragraph (d): See notes on **ANTI-AVOIDANCE: THIRD PARTY BACKED SHARES**

Paragraph (e) to (g): See notes on **CFC RESTRUCTURING**

Paragraph (h) and (i): See notes on **DIVIDENDS TAX: NEW DISPENSATION FOR FOREIGN DIVIDENDS**

Paragraph (j): See notes on **REHAUL OF THE CONTROLLED FOREIGN COMPANY (CFC) REGIME**

Paragraph (k): See notes on **DIVIDENDS TAX: NEW DISPENSATION FOR FOREIGN DIVIDENDS**

Paragraph (l): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (m): See notes on **ANTI-AVOIDANCE: THIRD PARTY BACKED SHARES**

CLAUSE 125

Income Tax: Amendment of paragraph 74 of the Eighth Schedule

Paragraph (a): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (b): See notes on **DIVIDENDS TAX: ACCRUAL VERSUS CASH ACCOUNTING**

Paragraph (c) and (d): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

CLAUSE 126

Income Tax: Amendment of paragraph 75 of the Eighth Schedule

See notes on **DIVIDENDS TAX: IN SPECIE DIVIDENDS**

CLAUSE 127

Income Tax: Amendment of paragraph 76 of the Eighth Schedule

Paragraph (a): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

Paragraph (b): See notes on **DIVIDENDS TAX: REVISED TREATMENT FOR CAPITAL DISTRIBUTIONS**

Paragraph (c): See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

CLAUSE 128

Income Tax: Amendment of paragraph 76A of the Eighth Schedule

See notes on **DIVIDENDS TAX: REVISED TREATMENT FOR CAPITAL DISTRIBUTIONS**

CLAUSE 129

Income Tax: Insertion of paragraph 76B of the Eighth Schedule

See notes on **DIVIDENDS TAX: REVISED TREATMENT FOR CAPITAL DISTRIBUTIONS**

CLAUSE 130

Income Tax: Amendment of paragraph 77 of the Eighth Schedule

See notes on **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

CLAUSE 131

Income Tax: Amendment of paragraph 78 of the Eighth Schedule

Paragraph (a): The proposed amendment restores the capital gains rules for share distributions. Shares received via a distribution generally have a base cost of nil because share distributions generally fall outside the dividend definition. To the extent a share distribution qualifies as a dividend (under prior, current or proposed law), the shares are deemed to have a base cost equal to the amount recognised as a dividend.

Paragraph (b): **DIVIDENDS TAX: COLLATERAL DEFINITION ISSUES**

CLAUSE 132

Income Tax: Repeal of Part XIII of the Eighth Schedule

See notes on **FOREIGN CURRENCY: REPEAL OF CAPITAL GAIN RULES**

CLAUSE 133

Income Tax: Amendment of paragraph 8 of the Tenth Schedule

In 2010, the oil and gas right definition applicable to Tenth Schedule oil and gas relief was modified for technical deficiencies. These modifications are now being made to the definition required for fiscal stability under the same Schedule.

CLAUSE 134

Custom & Excise: Amendment of section 47B

The air passenger tax on international flights to destinations in non-member countries (i.e. countries that are not member states of the South African Customs Union) will be increased from R150 to R190 from 1 October 2011. It should be noted that the air passenger tax on flights to destinations in member states will also be increased from R80 to R100 from 1 October 2011 (this latter change will be published by notice in the Government Gazette).

CLAUSE 135

Custom & Excise: Amendment of Schedule 1

This clause provides for the amendment of the rates of duty on alcoholic and tobacco products in Schedule No. 1 with two sets of effective dates:

- Appendix II to this Bill arises from the Budget Review proposals tabled by the Minister of Finance on 23 February 2011. Subject to section 58(1) of the Customs and Excise Act, 1964, Appendix is deemed to have come into operation on 23 February 2011.
- Appendix III of this Bill applies from 1 March 2011.

CLAUSE 136

Custom & Excise: Continuation of amendments of Schedules

This clause provides for the continuation, withdrawal or insertion of amendments in the Schedules to the Customs and Excise Act made during the period from 1 August 2010 until the close of 31 July 2011.

CLAUSE 137

Value-Added Tax: Amendment of section 1

Paragraph (a): See notes on **EMPLOYEE COMPENSATION FUND ENTITIES**

Paragraph (b): See notes on **DELINKING VAT FROM TRANSFER DUTY**

CLAUSE 138

Value-Added Tax: Amendment of section 2

Paragraph (a): See notes on **ISLAMIC FINANCE: PROPOSAL GOVERNMENT SUKUK**

Paragraph (b): The amendment updates the references to financial accounting addressing financial instruments.

Paragraph (c): The amendment deletes the reference to “superannuation scheme” and replaces that definition with the current retirement savings definitions within section 1 of the Income Tax.

CLAUSE 139

Value-Added Tax: Amendment of section 8

See notes on **SMALL BUSINESS: MICRO-BUSINESS TURNOVER TAX RELIEF**

CLAUSE 140

Value-Added Tax: Amendment of section 8A

See notes on **ISLAMIC FINANCE: EXTENSION OF MURABAHA**

CLAUSE 141

Value-Added Tax: Amendment of section 10

Paragraph (a): See notes on **MICRO BUSINESS TURNOVER TAX RELIEF**

Paragraph (b): See notes on **TEMPORARY RELIEF FOR THE RENTAL OF RESIDENTIAL PROPERTY BY DEVELOPERS**

CLAUSE 142

Value-Added Tax: Amendment of section 11

See notes on **CLARIFICATION OF ZERO RATING FOR MINING RIGHT CONVERSIONS AND RENEWALS**

CLAUSE 143

Value-Added Tax: Amendment of section 13

See notes on **INTRA-WAREHOUSE TRANSFERS**

CLAUSE 144

Value-Added Tax: Amendment of section 14:

See notes on **MINIMUM VAT EXEMPTION FOR IMPORTED SERVICES**

CLAUSE 145

Value-Added Tax: Amendment of section 16:

Paragraph (a): [??]

Paragraph (b): See notes on **DELINKING VAT FROM TRANSFER DUTY**

Paragraph (c): See notes on **INPUT CREDITS IN RESPECT DISCOUNT VOUCHERS**

CLAUSE 146

Value-Added Tax: Insertion of section 18B:

See notes on **TEMPORARY RELIEF FOR THE RENTAL OF RESIDENTIAL PROPERTY BY DEVELOPERS**

CLAUSE 147

Value-Added Tax: Amendment of section 22:

See notes on **DEFERRED CHARGE FOR UNPAID GROUP MEMBER DEBT**

CLAUSE 148

Value-Added Tax: Amendment of section 23:

See notes on **MICRO BUSINESS TURNOVER TAX RELIEF**

CLAUSE 149

Value-Added Tax: Amendment to Schedule 1

Paragraph (a): See notes on **MINIMUM-VAT EXEMPTION FOR IMPORTED SERVICES**

Paragraph (b): See notes on **INPUT CREDITS IN RESPECT DISCOUNT VOUCHERS**

Paragraph (c): See notes on **SYNCHRONISING VAT AND CUSTOMS FOR TEMPORARY IMPORT RELIEF**

CLAUSE 150

Unemployment Insurance Contributions: Amendment to Section 4

The proposed amendment excludes various government officials (including members of Parliament, the National assembly, municipal council and Council of Traditional Leaders) from being required to make unemployment insurance contributions. These parties are excluded because these persons do not receive corresponding Unemployment Insurance Fund benefits.

CLAUSE 151

Securities Transfer Tax: Amendment to Section 1

Dividend cessions will no longer be subject to the Securities Transfer Tax in view of the fact that dividend cessions will now be treated as ordinary revenue for purposes of the

Income Tax Act. In essence, dividend cessions are viewed as an income right totally independent of the underlying shares.

CLAUSE 152

Securities Transfer Tax: Amendment to Section 4

This rule is being deleted as superfluous in light of the fact that dividend cessions are being removed from the ambit of the Securities Transfer Tax.

CLAUSE 153

Securities Transfer Tax: Amendment to Section 5

This rule is being deleted as superfluous in light of the fact that dividend cessions are being removed from the ambit of the Securities Transfer Tax.

CLAUSE 154

Securities Transfer Tax: Amendment to Section 8

Paragraph (a): The amendment deletes the exemption for a “regional electricity distributor” as obsolete (given Government’s withdrawal of the proposal).

Paragraph (b): See notes on **SECURITIES TRANSFER TAX: TEMPORARY ADJUSTMENT TO THE BROKER-MEMBER EXEMPTION**

CLAUSE 155

Securities Transfer Tax: Substitution of section 8A

See notes on **ISLAMIC FINANCE: EXTENSION OF MARABAHA**

CLAUSE 156

Royalty Act: Amendment to 8A of the Mineral and Petroleum Resources Royalty Act:

This amendment corrects the heading relating to rollover relief in respect of the transfer of mineral resources between extractors.

CLAUSE 157

Royalty Act: Amendment to section 10 of the Mineral and Petroleum Resources Royalty Act:

Members of an unincorporated body of persons may elect that the unincorporated body may be deemed to be a person for the period the election. This election is essential for the unincorporated body to register for the royalty. The proposed amendment better ties the word to the election contained in section 4 of the Mineral and Petroleum Resources Royalty (Administration) Act.

CLAUSE 158

Royalty Act: Amendment of section 15 to the Mineral and Petroleum Resources Royalty Act:

This amendment allows an oil and gas company to utilise the average exchange rate when translating amounts received or accrued or expenditure or losses incurred in a foreign currency. This rule matches the translation rules relating for oil and gas companies as contained in the Income Tax.

CLAUSE 159

Royalty Act: Amendment of Schedule 2 to the Mineral and Petroleum Resources Royalty Act:

This amendment correctly reflects the first saleable point for vanadium.

CLAUSE 160

Amendment of section 4 of Act 60 of 2008:

The proposed amendment rectifies incorrect effective dates relating to the definition of "dividend".

CLAUSE 161

Revenue Laws Amendment Act, 2008: Amendment of section 14 of Act 60 of 2008

The proposed amendment postpones the effective date of section 9E (deals with passive holding companies) to 1 April 2013.

CLAUSE 162

Revenue Laws Amendment Act, 2008: Amendment of section 84 of Act 60 of 2008

See notes on **DIVIDENDS TAX: REVISED TREATMENT FOR CAPITAL DISTRIBUTIONS**

CLAUSE 163

Taxation Laws Amendment Act, 2009: Repeal of section 55 of Act 17 of 2009

The proposed amendment repeals an amendment to section 102 of the Income Tax Act, 1962, on the basis that the amendment to section 102 is no longer necessary in light of subsequent changes to the dividends tax withholding rules.

CLAUSE 164

Taxation Laws Amendment Act, 2009: Repeal of section 79 of Act 17 of 2009

See notes on **DIVIDENDS TAX: REVISED TREATMENT FOR CAPITAL DISTRIBUTIONS**

CLAUSE 165

Taxation Laws Amendment Act, 2010: Amendment of section 6 of Act 7 of 2010

The proposed amendment rectifies an incorrect effective date relating to the “foreign partnership” definition.

CLAUSE 166

Taxation Laws Amendment Act, 2010: Amendment of section 18 of Act 7 of 2010

The proposed amendment inserts a missing effective date relating to the Companies Act, 2008.

CLAUSE 167

Taxation Laws Amendment Act, 2010: Amendment of section 46 of Act 7 of 2010

The proposed amendment rectifies an incorrect effective date relating to the “foreign partnership” definition.

CLAUSE 168

Taxation Laws Amendment Act, 2010: Repeal of section 56 of Act 7 of 2010

See notes on **TRANSFER PRICING: CORRELATIVE ADJUSTMENTS.**

CLAUSE 169

Taxation Laws Amendment Act, 2010: Amendment of section 137 of Act 7 of 2010

The proposed amendment is consequential to the change to the first saleable point for vanadium (see Clause 159).

CLAUSE 170

Taxation Laws: Amendment of section 138 of the Taxation Laws Amendment Act, 2010

The proposed amendment rectifies incorrect effective dates relating to the definition of “dividend”.

CLAUSE 171

Taxation Laws: Amendment of section 145 of the Taxation Laws Amendment Act, 2010

The proposed amendment rectifies incorrect effective dates relating to the definition of “dividend”.

CLAUSE 172

Two special zero-ratings for the Value-added Tax are added in respect of goods and services supplied by Cricket South Africa. The first zero-rating relates to the International Cricket Council Championship Trophy South African (2009) event. The second zero-rating relates to the Champions League Twenty20 (2010) event.

CLAUSE 173

Short title and commencement

This clause contains the default effective date of amendments to the Income tax Act, 1962

APPENDIX I

See notes on **RATES AND THRESHOLDS**