REPUBLIC OF SOUTH AFRICA

EXPLANATORY MEMORANDUM

ON THE

TAXATION LAWS AMENDMENT BILL, 2002

[W.P. 1 —'02]

EXPLANATORY MEMORANDUM ON THE TAXATION LAWS AMENDMENT BILL, 2002

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INTRODUCTION

The Taxation Laws Amendment Bill, 2002, introduces amendments to the Insurance Act, 1943, the Transfer Duty Act, 1949, the Estate Duty Act, 1955, the Income Tax Act, 1962, the Customs and Excise Act, 1964, the Stamp Duties Act, 1968, the Value-Added Tax Act, 1991, the Uncertificated Securities Tax Act, 1998, the Skills Development Levies Act, 1999, the Taxation Laws Amendment Act, 2000, the Revenue Laws Amendment Act, 2001, the Second Revenue Laws Amendment Act, 2001, the Unemployment Insurance Act, 2001 and the Unemployment Insurance Contributions Act, 2002.

LIMITATION OF EMPLOYEE DEDUCTIONS

It was proposed in the Budget Review this year that the taxation system of employment income be simplified by limiting employee deductions. This is one step in the phased approach to introduce a separate Schedule to the Income Tax Act that will deal exclusively with the taxation of employment income. It was furthermore proposed that this limitation should not apply where an employee's remuneration is mainly derived in the form of commission based on sales or turnover.

In addition, the Minister of Finance proposed that the deemed R150 a day accommodation expenditure provision be withdrawn. Currently, where the employee is away from his or her usual place of residence for at least one night on business and the employer pays an allowance for subsistence and meals, the employee may claim the cost actually incurred against the allowance. If the cost is equal to or exceeds the allowance, the allowance is not subject to tax. Where actual expenses are not claimed, an employee may claim R150 a day against the allowance. This amount is deemed to have been spent on the cost of accommodation, meals and other incidental costs. Where the employer pays for accommodation, the deemed expense is reduced to R65 a day for personal subsistence and incidental costs.

In order to give effect to these announcements, a number of amendments to the Income Tax Act, 1962 are proposed:

- Paragraph *(c)* of the definition of "gross income" in section 1 is amended to delete the provisions that deal with entertainment allowances and advances. It is proposed that all allowances and advances be dealt with in section 8.

- Section 8(1)*(a)*(i) is amended to bring within its ambit all allowances and advances paid by a principal to an employee or holder of an office. A "principal" is defined to include an employer or the authority, company or body in relation to which any office is held, and any associated institution in relation to that employer, authority, company or body. The proposed provision provides that the allowances and advances will be included in taxable income to the extent that they are not expended—
  - on travelling on business;
  - for accommodation, meals and incidental costs while such office holder or employee is obliged to spend a night away from his usual place of residence as a result of business or official purposes; or
  - by reason of the duties attendant upon his or her public office.

Reimbursive allowances and advances which were or must be expended by the recipient on instruction of the principal in the furtherance of the principal's business, and where the recipient is required to produce proof to the principal that the amounts were wholly and actually expended for this purpose will, however, not be included. Where this expenditure was incurred to acquire any asset, the ownership in that asset must vest in the principal.

- Paragraph 8(1)*(c)* is amended to provide that for the purposes of paragraph *(a)*(i), accommodation, meals and incidental cost will be deemed to have been actually expended—
  (i) if the employee in his or her return submits proof that these expenses were incurred by him or her (and not borne by the employer otherwise than by the payment or grant of the allowance), but limited to the amount of the allowance or advance granted to meet these expenses, or
  (ii) for each day or part of a day in the period during which he or she us absent from his or her usual place of residence—
    (aa) an amount calculated at the rate of R65, in respect of meals and other incidental costs where the accommodation is in the Republic
    (bb) such amount as the Commissioner may allow in respect of meals and other incidental costs where the accommodation is outside the Republic, . This amount is currently set at US $120 per day.

  The amount deemed to have been expended in terms of (ii) is limited to the amount of the allowance or advance paid or granted to meet the cost of meals and incidental costs.

  The provisions of (ii) will not apply in respect of any day or part of a day, where:—

    (A) The employer has borne the expenses (otherwise than by way of the allowance or advance) in respect of which the allowance was paid or granted for that day or part of that day. For example, the employer has arranged with a travel agent that the cost of accommodation, meals and incidentals of an employee be paid directly by the employer.
    (B) The employee has proved to the Commissioner the amount of the actual expenditure in respect of meals and other incidental costs for that day or part of that day for the purposes of (i) above. If the employee has already claimed an amount for meals and incidental costs, it would be incorrect to allow a further amount.

- Holders of office are entitled to claim R2 500 per year as hospitality of a casual nature in terms of section 8(1)*(d)*. It is proposed that this concession be withdrawn as the equivalent deduction for employees, section 11*(u)*, is also being withdrawn to comply with the limitation of deductions.

- Section 11*(u)* which provides that taxpayers can claim entertainment expenses, which do not qualify as a deduction in terms of section 11*(a)*, to a maximum of R2 500, is amended to exclude employees and office holders who receive "remuneration" as defined in the Fourth Schedule from claiming entertainment expenditure. These expenses, may, however, still be claimed by an agent or

representative whose remuneration is normally derived mainly in the form of commissions based on sales or the turnover attributable to that person.

- Section 23 is amended to provide that employees and office holders may not claim any expenditure, losses or allowances in terms of section 11, which relate to any employment or office held in respect of which remuneration is received. This limitation does, however, not apply in respect of agents and representatives whose remuneration is normally derived mainly in the form of commission based on sales or turnover attributable to that agent or representative. There are, however, a few exceptions to the rule and employees and holders of office may claim as deductions—
- contributions to pension and retirement annuity funds (section 11*(k)* and *(n)*);
- legal expenses, wear and tear allowances on items used for the purpose of trade, such as computers and books, bad and doubtful debts in respect of income which is not paid to the employee as a result of the insolvency of the employer (sections 11*(c)*, *(e)*, *(i)* or *(j)*);
- premiums on what is commonly referred to as income continuation policy where the premium is allowable as a deduction in terms of section 11(a). The other conditions which must be met are that the policy must cover the person solely against the loss of income as a result of illness, injury, disability or unemployment, all compensation payable in terms of the policy must constitute income as defined and as is the case for all other expenses these premiums will be subject to any other prohibitions contained in the Act.

  The deduction of the premium of income continuation policies will be reconsidered when the taxation of retirement savings is reviewed later this year.

- It is proposed that the definition of "remuneration" in the Fourth Schedule be amended to include all the allowances that are deemed to be taxable income in terms of section 8(1)*(a)*(i) with the exception of—
  (i) travelling allowances and allowances of public holders of which 50 per cent is already included in the definition of "remuneration" in the Fourth Schedule, or
  (ii) an allowance or advance granted to the person in respect of accommodation meals or other incidental costs while that person is obliged to spend at least one night away from his or her usual place of residence in the Republic.

  An amendment is proposed for the definition of "net remuneration" in paragraph 11B in the Fourth Schedule to exclude from "net remuneration" amount included in terms of paragraph *(b*A*)* of the definition of "remuneration".

It is proposed that these amendments, with the exception of the amendments to the Fourth Schedule, be deemed to come into effect on 1 March 2002. It is proposed that the amendments to the Fourth Schedule come into effect on 1 August 2002.

Employees may still claim their medical expenses and donations to public benefit organisations under sections 18 and 18A respectively.

CLAUSE 1

Insurance Act: Repeal of section 60 of the Insurance Act, 1943

Presently, a charge of 2,5 per cent is levied on all premiums paid on insurance business underwritten in South Africa by Lloyd's of London.

The Minister of Finance proposed in his Budget Review this year that the levy be withdrawn in respect of premiums paid on or after 1 January 2002. This amendment gives effect to this proposal.

CLAUSE 2

Transfer Duty: Amendment of section 2 of the Transfer Duty Act, 1949

Transfer duty is levied on the acquisition of fixed property in South Africa. Currently, the rates for property acquired by natural persons, are—

- 1 per cent on the value up to R70 000;
- 5 per cent on the value from R70 000 up to R250 000; and
- 8 per cent on the value above R250 000.

To further encourage the acquisition of property and to ensure a more equitable distribution of the transfer duty burden, the Minister of Finance proposed that the rates and brackets be restructured as follows:

- no duty will be payable on the first R100 000 on the value of the property;
- 5 per cent will be payable on the value of the property from R100 000 up to R300 000; and
- 8 per cent will be payable on the value of the property above R300 000.

The new rate structure will apply in respect of property acquired, or rights or interest in property renounced in terms of an agreement entered into on or after 1 March 2002.

CLAUSE 3

Transfer Duty: Amendment of section 9 of the Transfer Duty Act, 1949

Subclause (a): Section 9(1)*(c)* of the Transfer Duty Act, 1949, provides for the exemption from transfer duty of the acquisition of any property by a public benefit organisation which is exempt from income tax in terms of section 10(1)*(c*N*)* of the Income Tax Act, 1962. This paragraph, prior to its amendment on 15 July 2001 by the Taxation Laws Amendment Act, 2000, provided for exemption of the acquisition of property by any religious, charitable or educational institution of a public character which is exempt from tax in terms of section 10(1)*(f)* of the Income Tax Act, 1962.

The amendment to section 9(1)*(c)* by the Taxation Laws Amendment Act, 2000, was consequential upon the introduction of the new provisions in the Income Tax Act, 1962, which regulate the tax exemption of public benefit organisations.

However, certain institutions, boards and bodies established by or under any law, which are exempt from income tax under section 10(1)*(c*A*)*(i) of the Income Tax Act, 1962, also previously qualified for the transfer duty exemption, as they were also regarded as religious, charitable or educational institutions as envisaged in section 10(1)*(f)*. As these entities are not exempt from income tax under section 10(1)*(c*N*)*, i.e. entities which are approved by the Commissioner under section 30, they no longer qualify for the transfer duty exemption.

It is proposed that section 9(1)*(c)* of the Transfer Duty Act, 1949, be amended to specifically include and therefore exempt institutions, boards and bodies established by law, which carry on a public benefit activity as contemplated in section 30.

It is proposed that this amendment should come into operation with effect from 15 July 2000, i.e. the date that the amendment introduced by the Taxation Laws Amendment Act, 2000, came into operation.

Subclause (b): Currently, the acquisition of certain property by a natural person is exempt from transfer duty to provide relief to low income groups. These exemptions include—

- the acquisition of a dwelling house or residential apartment held under sectional title with a value of R70 000 or less; and
- the acquisition of unimproved land to erect a dwelling house with a value of R30 000 or less.

Taking into account that there is now a general exemption in respect of the first R100 000 of property acquired by natural persons, the need for these provisions has fallen away and it is, therefore, proposed that they be deleted.

CLAUSE 4

Estate Duty: Amendment of section 4 of the Estate Duty Act, 1955

Section 4*(h)*(i) of the Estate Duty Act, 1955, provides for a deduction from the total value of all property included in the estate of the value of any property which accrues to a public benefit organisation which is exempt from income tax in terms of section 10(1)*(c*N*)* of the Income Tax Act, 1962. This paragraph, prior to its amendment on 15 July 2001 by the Taxation Laws Amendment Act, 2000, provided for the deduction of property which accrued to any religious, charitable or educational institution of a public character which was exempt from tax in terms of section 10(1)*(f)* of the Income Tax Act, 1962.

The amendment to section 4*(h)*(i) by the Taxation Laws Amendment Act, 2000, was consequential upon the introduction of the new provisions in the Income Tax Act, 1962, which regulate the tax exemption of public benefit organisations.

However, property which accrued to certain institutions, boards and bodies established by or under any law, which are exempt from income tax under section 10(1)*(c*A*)*(i) of the Income Tax Act, 1962, also previously qualified for the deduction, as these institutions, boards and bodies were also regarded as religious, charitable or educational institutions as envisaged in section 10(1)*(f)*.

As these entities are not exempt from income tax under section 10(1)*(c*N*)*, i.e. entities which are approved by the Commissioner under section 30, property which accrues to these entities will no longer qualify for the deduction.

It is, therefore, proposed that section 4*(h)*)*(i*A*)* of the Estate Duty Act, 1955, be introduced to specifically include under the exemption property which accrues to any institution, board or body established by law, which carries on a public benefit activity as contemplated in section 30.

It is proposed that this amendment should come into operation with effect from 15 July 2001, i.e. the date that the amendment introduced by the Taxation Laws Amendment Act, 2001, came into operation.

CLAUSE 5

Estate Duty: Amendment of section 4A of the Estate Duty Act, 1955

In determining the dutiable amount of an estate for estate duty purposes a basic deduction of R1 million is allowed. Therefore, only so much of the net value of a person's estate as exceeds R1 million will be subject to estate duty. The Minister of Finance in his Budget Review this year proposed that this deduction be increased from R1 million to R1,5 million in respect of the estate of any person who dies on or after 1 March 2002. This amendment gives effect to this proposal.

CLAUSE 6

Estate Duty: Insertion of section 9B in the Estate Duty Act, 1955

See notes on section 79A of the Income Tax Act, 1962 in *clause 28*.

CLAUSE 7

Estate Duty: Amendment of section 25A of the Estate Duty Act, 1955

This amendment is consequential upon the insertion of section 9B in the Estate Duty Act, 1955.

CLAUSE 8 AND SCHEDULE 1

Income Tax: Rates of normal tax

Rates of normal tax payable by persons (other than companies) and companies are enacted by *clause 8* and Schedule 1 to the Bill.

Persons other than companies

The rates for persons (other than companies) apply in respect of the year or period of assessment ending on 28 February 2003 and are provided for in paragraph 1 of Schedule 1.

The rates for—

- persons (other than companies) and special trusts are provided for in paragraph 1*(a)* of Schedule 1; and
- trusts (other than special trusts) are provided for in paragraph 1*(b)* of Schedule 1.

The rates for persons (other than companies and special trusts) consist of a progressive rate structure ranging between 18 per cent on the lowest portion of taxable income (amounts up to R40 000) and 40 per cent which is reached on the portion of taxable income above R240 000.

The rates for trusts (other than special trusts) are fixed at a rate of 40 per cent on taxable income.

Companies

The rates for companies apply in respect of years of assessment, i.e. the financial year of the company concerned, ending during the 12-month period from 1 April 2002 to 31 March 2003, and are provided for in paragraphs 2*(a)* to *(h)* inclusive, of Schedule 1.

Those rates are as follows:

(a) Taxable income derived otherwise than—
  (i) by a small business corporation or an employment company;
  (ii) from gold mining or long-term insurance business;
  (iii) by a foreign company through a branch or agency in the Republic; or
  (iv) by a qualifying company enjoying tax holiday status:
  30 cents per R1, but in the case of a company which mines for gold and which is exempt from secondary tax on companies in terms of an option exercised by it, 38 cents per R1 of its non-gold mining taxable income (paragraph 2*(a)* of Schedule 1).

(b) Taxable income derived by a company which qualifies as a small business corporation as defined in section 12E: 15 cents per R1 up to R150 000, and 30 cents per R1 of taxable income exceeding R150 000 (paragraph 2*(b)* of Schedule 1).

(c) Taxable income derived by an employment company as defined in section 12E: 35 cents per R1 of taxable income (paragraph 2*(c)* of Schedule 1).

(d) Taxable income derived by a company from gold mining: an amount determined in accordance with one of the following formulae—

  (i) where such company is not exempt from secondary tax on companies:

$$y = 37 - \frac{185}{x}\text{; or}$$

(ii) where such company is exempt from secondary tax on companies:

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

as provided for in paragraph 2*(d)* of Schedule 1.

(e) Taxable income in the form of "recoupments" of capital expenditure accruing to companies which are or have been gold mining companies: the average rate of tax, determined as provided, or 30 cents per R1, whichever is the higher (paragraph 2*(e)* of Schedule 1).

(f) Taxable income derived from long-term insurance business: 30 cents per R1 in respect of the insurer's individual policyholder fund, company policyholder fund and corporate fund (paragraph 2*(f)* of Schedule 1).

(g) Taxable income (excluding from gold mining, long-term insurance business, or a qualifying project enjoying tax holiday status, or derived by a small business corporation or an employment company) derived by a company which has its place of effective management outside the Republic and which carries on trade through a branch or an agency within the Republic: 35 cents per R1 (paragraph 2*(g)* of Schedule 1).

(h) Taxable income derived by a qualifying company which has been granted tax holiday status in terms of section 37H of the Income Tax Act, 1962: zero cents per R1 (paragraph 2*(h)* of Schedule 1).

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

CLAUSE 9

Income Tax: Amendment of section 1 of the Income Tax Act, 1962

Subclause (a): See notes on LIMITATION OF EMPLOYEE DEDUCTIONS.

Subclause (b): It is proposed that a single rate of tax be introduced for trusts to address the current practice of income splitting through the use of multiple trust structures. This higher rate does, however, not apply in respect of special trusts, which are taxed in terms of the same rate structure as natural persons. A special trust is currently defined as a trust which is established solely for the benefit of a person who suffers from any mental illness or serious physical disability, which incapacitates that person from earning

sufficient income to maintain himself or herself or from managing his or her own financial affairs.

Such a special trust is effectively, for purposes of income tax and capital gains tax, regarded to be a natural person. It is proposed that the definition of "special trust" be extended to also include a trust established by or in terms of the will of a deceased person, solely for the benefit of any beneficiaries who are relatives of the deceased person and who are alive on the date of death of that deceased person (including any beneficiary conceived but not yet born on that date), and where the youngest of those beneficiaries is on the last day of the year of assessment of that trust under the age of 21 years.

Subclause (c): The amendment to the definition of "year of assessment" is consequential upon the amendment of section 5 of the Income Tax Act, 1962. See notes on section 5 in *clause 10*.

CLAUSE 10

Income Tax: Amendment of section 5 of the Income Tax Act, 1962

Subclause (a): Deletion of obsolete provision.

Subclauses (b): The Income Tax Act, 1962, came into effect in 1962 and at that stage, certain farmers, fishers and diamond diggers could elect to be excluded from the provisional tax system and have a June year-end instead of the general February year-end. This has remained the case up to now for a few of such farmers, fishers and diamond diggers. It is estimated that there are currently less than 1 000 taxpayers who qualify for this treatment.

The Minister of Finance announced in his Budget Review this year that these taxpayers must be brought into the standard arrangement and that the 2002/03 tax year for all taxpayers with June tax years must begin on 1 July 2002 and end on 28 February 2003, thereafter, they will automatically fall in line with the February year end regime. This amendment gives effect to that proposal.

CLAUSE 11

Income Tax: Amendment of section 6 of the Income Tax Act, 1962

This clause increases the primary rebate from R4 140 to R4 860.

CLAUSE 12

Income Tax: Amendment of section 8 of the Income Tax Act, 1962

See notes on LIMITATION OF EMPLOYEE DEDUCTIONS.

CLAUSE 13

Income Tax: Amendment of section 10 of the Income Tax Act, 1962

Subclause (a): The interest and dividend exemption is currently R4 000 for taxpayers under 65 years of age and R5 000 for taxpayers age 65 years and above. This exemption has applied to interest and dividends from both South African and foreign sources.

The Minister of Finance proposed in his Budget Review this year that the interest and dividend income exemption be raised with effect from 1 March 2002, to R6 000 for taxpayers under the age of 65 and to R10 000 for taxpayers age 65 and over.

The Minister of Finance, furthermore, proposed that foreign dividends and interest from sources outside the Republic will only be exempt up to R1 000 out of the total exemption. This amendment gives effect to that proposal.

Subclause (b): Section 10(1)*(m*B*)* currently provides for the exemption from tax of any benefits or allowance payable in terms of the Unemployment Insurance Act, 1966. This Act was repealed with effect from 1 April 2002 and replaced by the Unemployment Insurance Act, 2001 (Act No. 63 of 2001). It is proposed that section 10(1)*(m*B*)* be amended to refer to the new Act.

Subclauses (c) and (d): Bursaries and scholarships for further education are in certain circumstances exempt from income tax in the hands of employees. There are certain conditions to this exemption, which include:

- the employee should not accept a reduced salary as a result of the bursary;
- the employee's salary should not exceed R50 000 a year; and
- the bursary should not exceed R1 600.

The Minister of Finance proposed in his Budget Review this year that these thresholds be raised to R60 000 and R2 000, respectively, in respect of any *bona fide* scholarship or bursary granted on or after 1 March 2002. This amendment gives effect to this proposal.

CLAUSE 14

Income Tax: Amendment of section 11 of the Income Tax Act, 1962

Subclause (a): Companies that invest in certain intellectual property are able to deduct the full cost of the investment in the year of assessment during which the expenses are incurred if the total cost of the investment is not more than R3 000.

The Minister of Finance proposed in his Budget Review this year that this amount be increased to R5 000 in respect of expenditure incurred on or after 1 March 2002 and this amendment give effect to this proposal.

Subclauses (b) and (c): See notes on LIMITATION OF EMPLOYEE DEDUCTIONS.

CLAUSE 15

Income Tax: Amendment of section 12C of the Income Tax Act, 1962

As was announced by the Minister of Finance in his Budget Review this year, an accelerated depreciation for manufacturing investment will be introduced. Section 12C is amended to give effect to this proposal and will now provide that an asset will be depreciated over a period of four years where the asset is acquired by a taxpayer on or after 1 March 2002 and used directly in a process of manufacture or a process similar to a process of manufacture in the course of the taxpayer's business. There is, however, a specific exclusion in respect of banking, financial services, insurance and rental business.

The taxpayer will be allowed to deduct 40 per cent of the cost of the asset in the year during which that asset is brought into use for the first time and 20 per cent in the subsequent three years.

CLAUSE 16

Income Tax: Amendment of section 12D of the Income Tax Act, 1962

Section 12D provides for an allowance on the cost of certain pipelines, transmission lines and cables and railway lines. This allowance will only be allowed as a deduction where the pipeline, transmission lines or cables or railway lines are used in the transportation of persons, goods, things or natural oil or the transmission of electricity or telecommunication signals.

It is proposed that, in order to avoid any possible abuse of the provisions and to bring this requirement in line with the new provisions relating to accelerated depreciation in section 12C, the requirement of sole or principal business be deleted and banking, financial services, insurance or rental business be specifically excluded from the provision.

CLAUSE 17

Income Tax: Amendment of section 12E of the Income Tax Act, 1962

Section 12E provides for a deduction in respect of certain plant and machinery of small business corporations. A "small business corporation" includes any close corporation or company registered as a private company in terms of the Companies Act, 1973, which complies with certain criteria. These criteria include—

- the gross income for the year of assessment may not exceed R1 million;
- none of the shareholders or members hold any shares or interest in any other unlisted company;
- not more than 20 per cent of the gross income consists of investment income and income from rendering a "personal service" as defined; and
- the company is not an employment company.

Small business corporations are subject to a graduated tax rate of 15 per cent on the first R100 000 of taxable income and may write off investment expenditure in the year in which it is incurred.

As small business development is a key element of Government's strategy for economic growth and job creation, the proposals contained in the Budget Review this year build on the tax concessions granted in the 2000 and 2001 Budgets.

The Minister of Finance proposed this year that the level for the 15 per cent rate be raised to R150 000. Furthermore, he also proposed that the R1 million turnover limit be increased to R3 million to ensure that a larger number of small businesses enjoy these benefits. This amendment will apply with effect from years of assessment ending on or after 1 April 2002.

CLAUSE 18

Income Tax: Insertion of section 12H in the Income Tax Act, 1962

The new section 12H provides for a deduction from the income derived by any employer during any year of assessment, an allowance where—

- that employer entered into a registered learnership agreement with a learner on or after 1 October 2001; or
- a learner on or after 1 October 2001 completes any registered learnership agreement entered into by that employer with that learner.

Where there is a group of employers that are all party to a registered learnership agreement, the employer which is identified in that agreement as the lead employer will be the employer that is entitled to claim the allowance.

A registered learnership agreement is defined as—

- any learnership agreement entered into between a learner and an employer before 1 October 2006, which has been registered with a SETA; or
- any contract of apprenticeship registered with the Department of Labour in terms of the old provisions of section 18 of the Manpower Training Act, 1981 (Act No. 56 of 1981) prior to its repeal.

A learner includes a learner who is party to a registered learnership agreement or an apprentice in a contract of apprenticeship.

The allowance in the case of the entering into a learnership, is—

- where that learner was not employed by that employer (or an associated institution in relation to that employer) prior to that learnership, equal to the lesser of the annual equivalent of the remuneration of the learner or R25 000; or
- where that learner was employed by that employer (or associated institution in relation to that employer), equal to the lesser of 70 per cent of the annual equivalent of the remuneration of the learner stipulated in the agreement of employment between that learner and employer or R17 500.

An associated institution in relation to an employer means an associated institution as

defined in paragraph 1 of the Seventh Schedule.

The allowance in respect of the completion of the learnership agreement is in all cases the lesser of the annual equivalent of the remuneration of that learner or R25 000.

The employer must provide the following information to the Commissioner before a deduction of the learnership allowance will be allowed:

- the name of the SETA with which the learnership agreement is registered;
- the title and code of the learnership allocated and issued by the Director-General: Department of Labour;
- the full names and identification number of the learner; and
- proof that the employer has complied with all the requirements of the Skills Development Levies Act, 1999 (Act No. 9 of 1999).

The employer will not be entitled to the deduction of the allowance—

- in respect of the substitution of any employer which is party to an existing registered learnership agreement by any other employer, as provided for in the Learnership Regulations, 2001; or
- where the employer enters into a registered learnership agreement with a learner as a result of the substitution of an existing registered learnership agreement, as provided for in the Learnership Regulations, 2001; or
- where the employer enters into a registered learnership agreement with a learner, where a deduction was previously allowable to that employer in respect of any other registered learnership agreement entered between that employer and that learner in respect of the same registered learnership.

The amount of the allowance which was allowed as a deduction will be recouped where the learnership is terminated prior to its completion other than for reason of the death of the learner or the dismissal due to his or her incapacity as a result of ill-health or injury.

CLAUSE 19

Income Tax: Amendment of section 18 of the Income Tax Act, 1962

In terms of the provisions of section 18 of the Income Tax Act, 1962, individual taxpayers aged 65 years and younger are only allowed to deduct medical expenses for purposes of determining their liability for tax, to the extent that those expenses exceed the greater of 5 per cent of the taxable income or R1 000.

The Minister of Finance proposed in his Budget Review this year that the R1 000 threshold be removed with effect from 1 March 2002 and this amendment gives effect to this proposal.

Taxpayers aged 65 and below will, therefore, be able to claim the amount of medical expenses which exceeds 5 per cent of their taxable income.

CLAUSE 20

Income Tax: Amendment of section 18A of the Income Tax Act, 1962

Section 18A of the Income Tax Act, 1962, provides for the deduction of donations made to public benefit organisations which carry on certain public benefit activities. These public benefit activities are identified by the Minister of Finance by way of notice in the *Gazette* in terms of section 18A(1)*(a)*.

Section 24 of the Taxation Laws Amendment Act, 2000 (Act No. 30 of 2000), which amended section 18A in the Income Tax Act, 1962, specifically provided that the public benefit activities which are determined by the Minister in the *Gazette*, must be incorporated into the Act within a period of 12 months after the date on which the amendment to section 18A comes into operation (i.e. 15 July 2000).

The Income Tax Act, 1962, is amended by the addition of the Ninth Schedule to incorporate the public benefit activities for purposes of section 18A and 30. The amendments to section 18A are consequential upon this. It is, however, proposed that a provision be retained in the Act to provide that in addition to the public benefit activities listed in the Ninth Schedule, the Minister of Finance may, by notice in the *Gazette*, determine additional activities which will qualify as public benefit activities for purposes of section 18A. Any activity so determined must be tabled in Parliament, within 12 months of publication in the *Gazette,* for incorporation in legislation.

It is, furthermore, proposed that the Minister may in certain instances prescribe further requirements which must be complied with by a public benefit organisation which carries on a specific activity identified by the Minister before donations to that organisations will be allowed as a deduction under section 18A.

A new subsection (6) is added to make provision that the Commissioner may approve a group of section 10(1)*(c*A*)*(i) entities for purposes of this section. The registration of a group of public benefit organisations is dealt with in section 30. The Commissioner may approve such a group of entities sharing a common purpose where those entities carry on their activities under the direction or supervision of a regulating or co-ordinating body. That regulating or co-ordinating body must take such steps as may be prescribed by the Commissioner to exercise control over those entities.

CLAUSE 21

Income Tax: Amendment of section 23 of the Income Tax Act, 1962

See notes on LIMITATION OF EMPLOYEE DEDUCTIONS.

CLAUSE 22

Income Tax: Amendment of section 30 of the Income Tax Act, 1962

Subclause (a) and (c): Section 30 of the Income Tax Act, 1962, provides for the approval of public benefit organisations which carry on certain public benefit activities, to

be exempt from income tax. These public benefit activities are identified by the Minister of Finance by way of a notice in the *Gazette* in terms of section 30(2)*(a)*.

Section 35 of the Taxation Laws Amendment Act, 2000 (Act No. 30 of 2000), which introduced section 30 in the Income Tax Act, 1962, specifically provided that the public benefit activities which are determined by the Minister in the *Gazette*, must be incorporated into the Act within a period of 12 months after the date on which section 30 comes into operation (i.e. 15 July 2000).

The Income Tax Act, 1962, is amended by the addition of the Ninth Schedule to incorporate the public benefit activities for purposes of section 18A and 30. The amendments to section 30 are consequential upon this. It is, however, proposed that a provision be retained in the Act to provide that in addition to the public benefit activities listed in the Ninth Schedule, the Minister of Finance may, by Notice in the *Gazette*, determine additional activities which will qualify as public benefit activities for purposes of section 30. Any activity so determined must be tabled in Parliament, within 12 months of publication in the *Gazette,* for incorporation in legislation.

Subclause (b): A public benefit organisation is an organisation of a public character which complies with certain requirements. There is, however, some uncertainty in so far as it relates to the term "of a public character". It is, therefore, proposed that specific requirements be built into section 30 which effectively reflect the public character requirement.

"Public benefit organisation" is redefined to include specific criteria with which a public benefit organisation must comply to be regarded as being of a public character.

Subclause (d): One of the current requirements of a public benefit organisation is that it is required to have at least three persons (who are not connected persons) to accept fiduciary responsibility of the organisation. It is proposed that a further requirement be added to provide that no single person may directly or indirectly control the decision-making powers relating to the organisation.

It is also proposed that the requirement of the minimum number of recommended persons to take fiduciary responsibility should not apply in respect of any testamentary trust established in terms of a will of a person who dies on or before 31 December 2003. The reason for this exclusion is that a will establishing a trust does not always make provision for a number of trustees and sufficient time is being granted for persons to amend their wills to ensure compliance with this requirement.

Subclause (e): This amendment is consequential upon the repeal of the Financial Institutions (Investment of Funds) Act, 1984 (Act No. 39 of 1984).

Subclause (f): A further requirement for a public benefit organisation in terms of the current provision is that the constitution of that public benefit organisation must require that on dissolution of that public benefit organisation, its assets must be transferred to a similar public benefit organisation which is approved in terms of section 30. It is proposed that this be extended to also allow that the assets may be transferred to an institution, board or body established by or under law which is exempt from tax in terms of section 10(1)*(c*A*)*(i), which carries on a public benefit activity, or that it may also be transferred to a department of State or an administration in the national or provincial

sphere of government.

Subclause (g): Section 30 contains a provision that prohibits the public benefit organisation from accepting donations that are revocable at the instance of the donor for reasons other than material failure to conform to the purpose and conditions of the donation. A donor may, however, not impose any condition which could enable the donor (or a connected person) to derive a direct or indirect benefit from the application of the donation. It is, however, proposed that this prohibition should not apply where the donor is a public benefit organisation or section 10*(c*A*)*(i) entity which carries on a public benefit activity.

Subclause (h): It is, furthermore, proposed that an additional requirement for a public benefit organisation be added, i.e. that the organisation may not benefit any person through any expenditure which is not in line with the object of the organisation.

Subclause (i): Currently, it is also a requirement of a public benefit organisation that it must register in terms of the Nonprofit Organisations Act, 1997, and comply therewith. Certain organisations are, however, not able to so register as they do not comply with requirements of that Act for registration. That Act, for example, requires that an accountant be appointed for such an organisation and this would place unnecessary administrative burden on certain entities especially in rural areas. Accordingly, it is proposed that the Commissioner may waive this requirement in consultation with the Director of Nonprofit Organisations on good cause shown.

Subclause (j): In order to underpin transparency in the political process, it is furthermore proposed that a special provision be inserted to prohibit public benefit organisations from using any resources to support, advance or oppose any political party. It should be noted that political parties themselves are exempt from tax under section 10(1)*(c*E*)*

Subclause (k): Section 30 limits the trading activities of public benefit organisations. There is, however, a provision that grants public benefit organisations a five year period to re-organise their affairs and to transfer their trading assets to separate taxable entities to avoid jeopardising their exempt status. This applies in respect of assets acquired by the public benefit activities before 1 January 2001 by way of donation, bequest or inheritance. It is proposed that this concession should apply in respect of all assets and not just those acquired by way of donation, bequest or inheritance and this amendment gives effect to this proposal.

Subclause (l): Currently, every public benefit organisation must apply individually for approval in terms of section 30. There are certain organisations which share a common purpose and which carry on their public benefit activities under the direction of a regulating or co-ordinating body. For practical reasons it is proposed that a provision be inserted to allow the Commissioner to approve groups of public benefit organisations where the regulating or co-ordinating body takes such steps as may be prescribed by the Commissioner to exercise control over those public benefit organisations to ensure that they comply with the requirements of section 30.

A provision is also inserted to empower the Commissioner to approve certain public benefit organisations with retroactive effect where these organisations previously qualified for exemption but did not apply for exemption. These entities must, however, apply before the later of the last day of the first year of assessment or on or before 31

December 2003.

Similarly, where a public benefit organisation which commences its activities applies for approval before the last day of its first year of assessment, the Commissioner may approve that public benefit organisation with effect from the date on which that organisation qualified for approval.

Subclause (m) and (n): These amendments are consequential upon the insertion of subsection (3A) to provide for approval of groups of public benefit organisations.

CLAUSE 23

Income Tax: Amendment of section 46 of the Income Tax Act, 1962

Section 46 provides that specific rules apply in respect of certain transactions relating to liquidation, winding-up and deregistration of a liquidating company. Subsection (6) specifically provides that these provisions will, however, not apply where the liquidating company has not within a period of six months after the date of the liquidation distribution, taken such steps as may be prescribed by the minister by regulation in the *Gazette* to liquidate, wind up or deregister that company.

Section 46 came into operation on 1 October 2001 and it is proposed that the steps to be prescribed by the Minister may make provision for instances where the liquidation distribution occurred more than six months prior to the publication of the regulations so that taxpayers may comply with the requirements.

CLAUSE 24

Income Tax: Amendment of section 56 of the Income Tax Act, 1962

Donations by individuals and companies that are not considered to be public companies, are subject to donations tax of 20 per cent. Casual donations and gifts of up to R25 000 for individuals and up to R5 000 for private companies, are however exempt.

The Minister of Finance proposed in his Budget Review this year that these limits be increased to R30 000 and R10 000, respectively, in respect of donations which take effect on or after 1 March 2002. This amendment gives effect to this proposal.

CLAUSE 25

Income Tax: Amendment of section 64B of the Income Tax Act, 1962

Section 64B imposes a secondary tax on companies (STC) in respect of dividends declared by a company. Section 64B(5)*(c)* provides for an exemption from STC in respect of any dividend distributed in the course or in anticipation of the liquidation or winding up or deregistration of a company. This exemption does, however, not apply where that company has not within six months after the date on which the dividend is distributed taken such steps as may be prescribed by the Minister by regulation in the

Gazette to liquidate, wind up or deregister the company.

This requirement as amended, came into operation on 12 December 2001 and it is proposed that the steps to be prescribed by the Minister may make provision for instances where the liquidation distribution occurred more than six months prior to the publication of the regulations so that taxpayers may comply with the requirements.

CLAUSE 26

Income Tax: Amendment of section 66 of the Income Tax Act, 1962

Subclauses (a) and (b): These amendments are consequential upon the increase in the interest and dividend exemption in section 10(1)*(i)*(xv) of the Income Tax Act, 1962.

Subclauses (c) and (d): The amendment proposed in this clause will ensure that residents who are not otherwise required to submit an income tax return, will now have to submit a return in which that resident must account for funds held in foreign currency or assets owned offshore or where any income or gain from any funds in foreign currency or assets offshore could be attributed to that resident in terms of section 7 or Part X of the Eighth Schedule.

This amendment is consequential upon the amendment to section 78 which empowers the Commissioner to estimate an amount of taxable income deemed to be derived from certain funds in foreign currency or assets owned outside the Republic, where those funds or assets have not been declared or accounted for in the tax return submitted by a resident.

CLAUSE 27

Income Tax: Amendment of section 78 of the Income Tax Act, 1962

The Minister of Finance proposed in his Budget Review this year that where any taxpayer does not account properly for assets outside the Republic, an amount of deemed foreign income will be subject to income tax. Therefore, failure to report foreign assets adequately will result in the inclusion in taxable income of a deemed amount of income based on the undisclosed foreign assets.

In terms of section 78 of the Income Tax Act, 1962, the Commissioner may estimate either in whole or in part the taxable income of a person where that person makes default in rendering a return or information or where the Commissioner is not satisfied with the return or information furnished by that person.

In order to give effect to the proposal of the Minister, it is proposed that section 78 be extended to provide that where the Commissioner has reason to believe that a resident has not declared or accounted for any funds held in foreign currency or assets owned outside the Republic or where the income or capital gains from any funds in foreign currency or assets outside the Republic could be attributed to that resident in terms of section 7 or Part X of Eighth Schedule, the Commissioner must estimate the amount of foreign currency of such funds or the market value of such assets. The Commissioner

may estimate the value after taking into account any information at his or her disposal which includes information relating to—

- any funds or assets transferred by that resident from the Republic;
- any amount received by or accrued to that resident from any source outside the Republic; or
- the period that has elapsed since those funds or assets were transferred, or amount was received or accrued.

This estimated amount shall be a percentage of the estimated value of those funds or assets, which shall be determined by applying the "official rate of interest" as contemplated in the Seventh Schedule to the estimated value of those funds or assets. The Commissioner may, however, estimate a higher amount of income in terms of the general provisions of section 78.

The amount so estimated in foreign currency must be translated to the currency of the Republic on the last day of the year of assessment by applying the ruling exchange rate on that date in order to determine the deemed amount of taxable income. Any amount of deemed income so estimated must be taken into account by the Commissioner in estimating the deemed amount of funds or assets owned offshore during any succeeding year in which such funds or assets are not declared or accounted for. Any such estimation shall be subject to objection and appeal.

This amendment will come into operation on 1 January 2003 and will apply in respect of any funds held in foreign currency or assets owned offshore which are not declared or accounted for in any return submitted in respect of any year of assessment ending on or after that date.

Example

A South African resident submits his 2003 tax return and discloses no foreign assets. The Commissioner has information at his disposal that the individual has—

- transferred $100 000 or R750 000 from South Africa for foreign investment purposes at the end of the 2001 tax year;
- invested $50 000 with a foreign portfolio manager while working on contract in New York for 4 months until February 2002; and
- changed the registration of his light aircraft from a South African to a Botswana registration in 2001 before commencing charter operations in Botswana.

The taxpayer fails to account for foreign assets after a request by the Commissioner to complete the sections of the tax return dealing with foreign assets and liabilities.

Estimated value of foreign currency

In terms of section 78(1A) the Commissioner estimates the value of foreign currency owned by the taxpayer on 28 February 2003 as follows:

- foreign investment of $100 000 increased by the official rate of interest for the tax year 2001/2 ($100 000 × 1.13) = $113 000
- investment with foreign portfolio manager = $50 000
- the 2001 market value of the specific make of aircraft is $80 000 and had not

decreased by February 2003

Estimated taxable income

In accordance with section 78(1B) the Commissioner estimates an amount of taxable income derived from the above funds and other assets ($113 000 + $50 000 + $80 000) by applying the official rate of interest of 11.5% which applied for the full 2003 tax year.

Estimated taxable income = $243 000 × 0.115
= $27 945

Translation of taxable income

The amount of taxable income estimated in foreign currency is then translated to Rand on 28 February 2003 at the ruling exchange rate of $1/R11

= $27 945 × 11
= R307 395

The amount of R307 395 is included in the taxable income of the taxpayer.

CLAUSE 28

Income Tax: Insertion of section 79A in the Income Tax Act, 1962

Currently, there is no provision in the Income Tax Act, 1962, in terms of which the Commissioner may alter an assessment to rectify processing errors. In contrast, where the amount assessed is less than the amount which should have been assessed to tax, the Commissioner may issue an additional assessment under the provisions of section 79 of the Act.

A processing error would include for example a capturing error, a bug in the computer programme or an amount that is incorrectly allocated.

The provisions of section 81(5) provide that where a taxpayer does not object against an assessment, that assessment becomes final and binding. Where the Commissioner, therefore, issues an incorrect assessment due to processing errors, this cannot be rectified unless the taxpayer lodges an objection against that assessment.

It is, therefore, proposed that a provision should be inserted in the Act to enable the Commissioner to issue reduced assessments in these instances.

In this regard, a new section 79A is proposed to provide that the Commissioner may reduce an assessment to rectify any processing errors even where no objection has been lodged against that assessment.

Furthermore, provision will be made in section 79A that the Commissioner may reduce an assessment where the assessment was issued in accordance with the information supplied by the taxpayer in his or her return but where that taxpayer, for example, did not claim a deduction to which he or she would have been entitled. This would also be

the case where the taxpayer can prove to the Commissioner that an amount was incorrectly included in his or her return as income. This situation is currently dealt with under the provisions of section 102. These taxpayers cannot object to the assessment on the grounds that the Commissioner incorrectly included that amount or disallowed the deduction, as the Commissioner based his or her assessment on the incorrect information supplied by the taxpayer. Section 79A will also apply where an amount of employees' tax or any foreign tax credit was not taken into account in determining the tax liability, where this was not claimed by the taxpayer in his or her return.

The three-year prescription rule will also apply in these instances. Where the assessment was issued in accordance with any practice generally prevailing on the date of the assessment, (e.g. at that stage the deduction was not allowable in terms of the Act), the Commissioner may not reduce that assessment.

CLAUSE 29

Income Tax: Amendment of section 83 of the Income Tax Act, 1962

Where a taxpayer notes an objection against an assessment, the Commissioner may under the provisions of section 81(4) alter the assessment or disallow the objection. In the case where the Commissioner disallows the objection, the taxpayer may appeal against that decision in terms of the provisions of section 83. Currently, when the Commissioner concedes an appeal before the matter is heard by the Court, the assessment is reduced as if the objection was allowed in terms of the provisions of section 81(4).

It is proposed, that a specific provision be inserted in section 83, which deals with the appeal procedures, to specifically allow for alteration of assessments to give effect to the Commissioner's decision to concede an appeal.

CLAUSE 30

Income Tax: Substitution of section 102 of the Income Tax Act, 1962

Clause 28 inserts a new section 79A in the Income Tax Act, 1962, to deal with processing errors made by the Commissioner in issuing an assessment and to reduce certain assessments which have become final and conclusive under the provisions of section 81 of the Act. Previously, these issues were dealt with under section 102, which ensured that a taxpayer obtained a refund of any amount paid which was in excess of the amount of tax properly chargeable in terms of the Act.

As reduced assessments are now covered under the new provisions of section 79A, it is proposed that section 102 be amended to only deal with refunds of payments made by taxpayers in excess of the tax assessed.

CLAUSE 31

Income Tax: Amendment of section 107B of the Income Tax Act, 1962

Subclause (a): Section 107B was inserted in the Income Tax Act, 1962, by section 63 of the Second Revenue Laws Amendment Act 2001 (Act No. 60 of 2001). This section will come into operation on a date to be determined by the President by proclamation in the *Gazette*. This section empowers the Commissioner, under certain circumstances to be prescribed by the Minister of Finance, to waive any claim against a taxpayer for purposes of any settlement of a dispute.

It is proposed that the wording be amended to specifically provide that the Commissioner may settle a dispute, notwithstanding any provision contained in the Act. The Commissioner must, however, comply with the provisions prescribed by the Minister of Finance for this purpose.
Subclause (b): Section 81 of the Income Tax Act, 1962, was also amended by section 63 of the Second Revenue Laws Amendment Act, 2001, to provide that the Commissioner may reduce an assessment to give effect to any settlement of a dispute between the taxpayer and the Commissioner. It is proposed, that this provision rather be included in section 107B for purposes of consistency and this amendment gives effect to this proposal.

CLAUSE 32

Income Tax: Amendment of paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962

See notes on LIMITATION OF EMPLOYEE DEDUCTIONS.

CLAUSE 33

Income Tax: Amendment of paragraph 11B of the Fourth Schedule to the Income Tax Act, 1962

See notes on LIMITATION OF EMPLOYEE DEDUCTIONS.

CLAUSE 34

Income Tax: Amendment of paragraph 18 of the Fourth Schedule to the Income Tax Act, 1962

Subclause (a): Individuals below the age of 65 who earn taxable non-employment income exceeding R2 000 a year must register as provisional taxpayers. The Minister of Finance proposed in his Budget Review this year that this threshold be increased from R2 000 to R10 000 with effect from 1 March 2002 and this amendment gives effect to this proposal.

Subclause (b): Since 1962, when the current Income Tax Act came into force, certain

farmers, fishers and diamond diggers remained outside the provisional tax system and had a June year-end instead of a February year-end. The Minister of Finance announced in his Budget Review this year that these taxpayers will be brought in line with all other taxpayers. This amendment gives effect to this proposal and any election not to be a provisional taxpayer which is still in force on 30 June 2002, will lapse immediately after that date.

CLAUSE 35

Income Tax: Amendment of paragraph 5 of Seventh Schedule to the Income Tax Act, 1962

Paragraph 5 of the Seventh Schedule deals with the inclusion in gross income of a fringe benefit where an asset is acquired by an employee from his or her employer or associated institution of the employer, at less than the market value. There are, however, certain exemptions that apply, which includes, *inter alia*, any amount not exceeding R2 000 for bravery and long service awards.

The Minister of Finance proposed in his Budget Review this year that this amount be increased to R5 000 in respect of any asset presented or given on or after 1 March 2002. This amendment gives effect to this proposal.

CLAUSE 36

Income Tax: Amendment of paragraph 10 of the Seventh Schedule to the Income Tax Act, 1962

Paragraph 2*(e)* and paragraph 10 of the Seventh Schedule provide for the determination of the cash equivalent of a taxable benefit derived from the rendering of any service to an employee at the expense of his or her employer. Paragraph 10(2)*(d)* provides that no value shall be placed on occasional services, if the cost to the employer of rendering such services does not exceed R500 during the year of assessment.

The Minister of Finance proposed this year in his Budget Review that this provision be repealed with effect from years of assessment commencing on or after 1 March 2002. This amendment gives effect to this proposal.

CLAUSE 37

Income Tax: Amendment of paragraph 13 of the Seventh Schedule to the Income Tax Act, 1962

Paragraph 2*(i)* and paragraph 12A of the Seventh Schedule to the Income Tax Act, 1962, provide for the determination of the taxable benefit of an employee in respect of any contributions made by an employer to a medical scheme on his or her behalf.

In order to clarify that these contributions by the employer do not also fall within the provisions of paragraph 2*(h)* and paragraph 13, which deal with payment by an employer

of an employee's debt, it is proposed that paragraph 13 be amended to specifically exclude these contributions to a medical scheme.

CLAUSE 38

Income Tax: Amendment of paragraph 29 of the Eighth Schedule to the Income Tax Act, 1962

Paragraph 29 provides the rules for determining the market value of assets acquired before valuation date.

It is proposed that a person must be treated as having determined a market value of an asset where the price of the asset has been published in the *Gazette*. The purpose of this amendment is to relieve taxpayers from the need to determine a market value of an asset where the price has already been fixed by the Commissioner and published in the *Gazette*.

It is also proposed that the erroneous reference to paragraph 27(1)*(b)* be replaced with the correct reference to paragraph 27(3).

CLAUSE 39

Income Tax: Amendment of paragraph 32 of the Eighth Schedule to the Income Tax Act, 1962

Paragraph 32 prescribes the rules for the determination of the base cost of 'identical assets' for capital gains tax purposes. As the law stands three identification methods are permitted—

- specific identification;
- first in, first out; and
- weighted average.

The use of the weighted average method is restricted to the following identical assets—

- assets the prices of which are quoted on a recognised exchange, e.g. shares, bonds, property unit trusts;
- units in a unit portfolio comprised in any unit trust in securities or property shares carried on in the Republic and similar foreign schemes where the prices of these units are regularly published in newspapers; and
- coins made mainly from gold or platinum where the prices of these coins are regularly published in newspapers.

There are certain unit trust schemes that operate as 'wholesalers' in which other unit trust funds and organisations invest. As a result of their high entry levels and specialist nature, the general public would not invest in such schemes.

The Registrar of Unit Trust Companies and the industry are concerned that the publication of the prices of the units of these funds could lead to confusion among the general public and thought is being given to discontinuing the publication of details of

these funds in the media. As the paragraph currently reads unit holders in these funds will not be able to use the weighted average method of valuing their units if this occurs. The purpose of the requirement that prices had to be published was to ensure that they were not manipulated.

All the unit trusts registered or approved by the Registrar are required to have specific rules regarding the valuation of units which are monitored. In addition, the valuation date values of unit trusts in the Republic have been determined and published in the *Gazette* which will significantly reduce the possibility of manipulation.

It is, therefore, proposed that the weighted average method also be permitted for the identification and valuation of units in unit trusts registered or approved by the Registrar. In order to prevent taxpayers from having to do the valuation on one basis for a period until the amendment is made and thereafter change, it is proposed that the amendment be deemed to take effect on 1 October 2001.

CLAUSE 40

Income Tax: Amendment of paragraph 84 of Eighth Schedule to the Income Tax Act, 1962

Subclause (a): In terms of paragraph 84 of the Eighth Schedule, the Minister of Finance must issue regulations to determine the capital gain or loss in respect of certain transactions in foreign currency. The Second Revenue Laws Amendment Act No. 60 of 2001, amended the Income Tax Act, 1962, to provide that all foreign currency gains and losses of companies, trusts carrying on a trade and any natural person who holds any exchange item for the purposes of trade, fall within the ambit of section 24I.

It is proposed that the wording of paragraph 84(1) be brought in line with section 24I to ensure that a person falls either in the provisions of section 24I or the regulations issued in terms of paragraph 84 of the Eighth Schedule.

Subclause (b): It is proposed that the regulations contemplated in subparagraph (1) must come into operation on a date to be determined by the Minister. These regulations must be tabled in Parliament, within 12 months of being issued, for incorporation into the Eighth Schedule to the Income Tax Act, 1962.

CLAUSE 41

Income Tax: Insertion of the Ninth Schedule in the Income Tax Act, 1962

See NOTES ON amendments to section 18A and section 30 in *clauses 20* and *22*.

The public benefit activities for purposes of those sections are listed in respectively Parts I and II of the Ninth Schedule.

CLAUSE 42

Customs and Excise: Amendment of section 3 of the Customs and Excise Act, 1964

This amendment intends to formalise internal review procedures. The amendment is mainly enabling in that the Commissioner may create by rule the necessary structures whereby a person who is not satisfied with a decision of an officer may apply for internal review of such a decision.

The Commissioner is nevertheless still empowered to withdraw or amend any decision after such internal review. A person's right of appeal under the Act or to institute any judicial proceedings arising from such decision is not affected.

The difference between these provisions and those for an internal administrative appeal in section 95A (section 135 of the Second Revenue Laws Amendment Act, 2001 – not yet in operation) is that the former provisions provide for internal review by officers while the latter will provide for internal review by a committee composed of officers and persons independent from SARS.

CLAUSE 43

Customs and Excise: Amendment of section 4 of the Customs and Excise Act, 1964

This amendment provides that the Commissioner, as opposed to "an officer", may use any information obtained by him in the exercise of his powers or the performance of his duties under the Act for the purposes of any other law administered by him. The reference to “an officer” was at variance with the provisions of other laws administered by the Commissioner.

CLAUSE 44

Customs and Excise: Amendment of section 21 of the Customs and Excise Act, 1964

Section 21 deals with special customs and excise warehouses.

This amendment arises from the Siyakha initiative. The amendment is enabling in that the Commissioner may prescribe by rule various matters relating to special customs and excise warehouses. It is envisaged that such warehouses will be used in future for consolidation of imported and locally produced (dutiable or duty free) goods for export. The purpose of the amendment is to obtain and maintain improved control over such goods.

CLAUSE 45

Customs and Excise: Amendment of section 43 of the Customs and Excise Act, 1964

Section 43 deals with the storage and disposal of goods dealt with contrary to the provisions of the Customs and Excise Act, and other Acts and with counterfeit goods.

The amendments include a textual amendment to subsection (1) and amendments to subsections (5) and (6) necessitated by the insertion of section 113A.

CLAUSE 46

Customs and Excise: Amendment of section 49 of the Customs and Excise Act, 1964

Section 49 provides for the enacting into law of international agreements. The section is amended to also provide for the enacting into law of a customs union agreement.

The provisions of paragraph *(b)*(i) are extended to include that "any annex or appendix or other addition to such agreement or protocol" may also be enacted into law as provided therein.

CLAUSE 47

Customs and Excise: Amendment of section 59A of the Customs and Excise Act, 1964

This is a textual amendment.

CLAUSE 48

Customs and Excise: Amendment of section 60 of the Customs and Excise Act, 1964

Section 60 deals with licensing under the Customs and Excise Act. Subsection (1) is amended to provide generally for the furnishing of security in respect of licences under the new proposed paragraph *(c)*. The purpose of this measure is to secure the payment of duties.

CLAUSE 49

Customs and Excise: Amendment of section 64D of the Customs and Excise Act, 1964

Section 64D provides for the licensing of removers of goods in bond. The amendments provide for subcontracting by a licensed remover of goods in bond and for security to be

furnished by a person other than a licensed remover in respect of goods removed or carried by such remover.

CLAUSE 50

Customs and Excise: Amendment of section 64E of the Customs and Excise Act, 1964

Section 64E provides for the Accreditation of Customs and Excise clients. The amendment inserts a provision enabling the Commissioner to prescribe by rule the benefits conferred upon an accredited client.

CLAUSE 51

Customs and Excise: Substitution for section 93A of the Customs and Excise Act, 1964

Section 107B was inserted in the Customs and Excise Act, 1964, by section 63 of the Second Revenue Laws Amendment Act, 2001. This section empowers the Commissioner, under certain circumstances to be prescribed by the Minister of Finance, to waive any claim against a taxpayer for purposes of any settlement of a dispute.

It is proposed that the wording be amended to specifically provide that the Commissioner may settle a dispute, notwithstanding any provision contained in the Act. The Commissioner must, however, comply with the provisions prescribed by the Minister of Finance for this purpose.

CLAUSE 52

Customs and Excise: Insertion of section 113A of the Customs and Excise Act, 1964

The Commissioner for SARS has been granted certain powers in terms of the Counterfeit Goods Act, 1997, in relation to counterfeit goods imported into the Republic. He may, for example, seize and detain such goods at the request of the owner of the intellectual property rights.

The proposed section *inter alia* provides—

- for the detention of goods by an officer to ascertain whether the goods are counterfeit goods;
- clarity on what goods an officer may seize and detain when acting as an inspector under the Counterfeit Goods Act;
- under what circumstances an officer may refuse to detain any goods and may not seize or detain counterfeit goods;
- that an officer should not be liable for damages arising from any *bona fide* acts of an officer.

Provision is also made for the Commissioner to make rules regarding procedures and forms.

CLAUSE 53

Customs and Excise: Amendment of Schedule No. 1 to Act 91 of 1964

This clause provides for the amendment of Schedule No. 1 to the Customs and Excise Act, 1964, and the date of commencement thereof. Such amendments are reflected in Schedule 2 to this Bill. It arises from the taxation proposals which were tabled by the Minister of Finance during his Budget Speech and contains the amendments to the rates of duty in respect of alcoholic and tobacco products.

CLAUSE 54

Stamp Duties: Amendment of section 4 of the Stamp Duties Act, 1968

Section 4(1)*(f)* of the Stamp Duties Act, 1968, provides for the exemption from stamp duties of any instrument which is executed by or on behalf of a public benefit organisation which is exempt from income tax in terms of section 10(1)*(c*N*)* of the Income Tax Act, 1962, if the duty would be legally payable and borne by such organisation.

This paragraph, prior to its amendment by the Taxation Laws Amendment Act, 2000 (Act No. 30 of 2000), provided for exemption of any instrument executed by any religious, charitable or educational institution of a public character which is exempt from tax in terms of section 10(1)*(f)* of the Income Tax Act, 1962.

The amendment to section 4(1)*(f)* by the Taxation Laws Amendment Act, 2000, was consequential upon the introduction of the new provisions in the Income Tax Act, 1962, which regulate the tax exemption of public benefit organisations.

However, certain institutions, boards and bodies established by or under any law, which are exempt from income tax under section 10(1)*(c*A*)*(i) of the Income Tax Act, 1962, also previously qualified for the exemption, as they were also regarded as religious, charitable or educational institutions as envisaged in section 10(1)*(f)*. As these entities are not exempt from income tax under section 10(1)*(c*N*)*, i.e. entities which are approved by the Commissioner under section 30, they will no longer qualify for the exemption.

It is proposed that section 4(1)*(f)* of the Stamp Duties Act, 1968, be amended to specifically include institutions, boards and bodies established by law, which carry on a public benefit activity as contemplated in section 30.

It is proposed that this amendment should come into operation with effect from 15 July 2001, i.e. the date that the amendment introduced by the Taxation Laws Amendment Act, 2000, came into operation.

CLAUSE 55

Stamp Duties: Amendment of item 7 of Schedule 1 to the Stamp Duties Act, 1968

The Minister of Finance announced in his Budget Review this year that stamp duty be

abolished on the cession of mortgages, as from 1 April 2002. This amendment gives effect to this proposal.

CLAUSE 56

Stamp Duties: Amendment of item 15 of Schedule 1 to the Stamp Duties Act, 1968

The Minister of Finance announced in his Budget Review this year that listed interest-bearing debentures will be exempt from Stamp Duty from 1 April 2002. This amendment gives effect to this proposal.

CLAUSE 57

Stamp Duties: Amendment of item 18 of Schedule 1 to the Stamp Duties Act, 1968

The Minister of Finance announced in his Budget Review this year that stamp duty on certain insurance policies and contracts and the cession of insurance policies will be abolished from 1 April 2002. This amendment gives effect to this proposal.

CLAUSE 58

Value-Added Tax: Amendment of Schedule 1 of the Value-Added Tax Act, 1991

The amendments are of a textual nature.

CLAUSE 59

Uncertificated Securities Tax: Amendment of section 3 of the Uncertificated Securities Tax Act, 1998

This amendment is consequential upon the amendment to section 6 in *clause 60*.

CLAUSE 60

Uncertificated Securities Tax: Amendment of section 6 of the Uncertificated Securities Tax Act, 1998

The Minister of Finance announced in his Budget Review this year that repurchase of warrants by the issuers thereof and the issue of listed interest-bearing debentures will be exempt from uncertificated securities tax from 1 April 2002. This amendment gives effect to this proposal.

CLAUSE 61

Skills Development Levies Act: Amendment of section 3 of the Skills Development Levies Act, 1999

The amount of the skills development levy payable by an employer is based on the amount of remuneration paid or payable, or deemed to be paid or payable, by that employer to its employees during any month, as determined for purposes of employees' tax in terms of the provisions of the Fourth Schedule to the Income Tax Act, 1962.

Previously, the remuneration paid by a private company to its directors was excluded from the employees' tax provisions. The Fourth Schedule to the Income Tax Act, 1962, was, however, amended with effect from 1 March 2002 to include directors in the employment tax system and by introducing a new paragraph 11C which deems certain amounts to be paid by a private company to a director of that company. The effect thereof is that the remuneration payable by a private company to its directors is, therefore, with effect from 1 March 2002 also included in determining the skills development levy payable by that private company.

However, as the Skills Development Levies Act, 1999, currently reads, the deemed amounts of remuneration will also be included for purposes of the determination of the liability of an employer for the skills development levy. This will have the effect that the actual remuneration, as well as the deemed remuneration will be taken into account in determining the employees liability for the skills development levy.

It is, therefore, proposed that the deemed remuneration as contemplated in paragraph 11C of the Fourth Schedule to the Income Tax Act, 1962, should not be taken into account for purposes of the skills development levy and this amendment gives effect to this proposal.

CLAUSE 62

Skills Development Levies: Amendment of section 4 of the Skills Development Levies Act, 1999

Section 4(1)*(c)* of the Skills Development Levies Act, 1999, provides for the exemption of any public benefit organisation contemplated in section 10(1)*(c*N*)* of the Income Tax Act which—

- solely carries on any religious or charitable public benefit activity determined by the Minister of Finance in terms of section 30 of that Act; or
- provides funds solely to such public benefit organisation which so carries on such public benefit activity.

It is proposed that the exemption relating to religious and charitable institutions be amended to bring it in line the with public benefit organisation provisions in the Income Tax Act, 1962. This amendment gives effect to this proposal.

CLAUSE 63

Income Tax: Amendment of section 21 of the Taxation Laws Amendment Act, 2000

The provisions regulating the taxation of public benefit organisations (PBO's) were reviewed in 2000. Sections 10(1*)(*c*B*), *(*c*C*), *(*c*D*), *(*c*F*), *(*c*I*), *(*c*J*), *(f)* and *(f*A*)* of the Income Tax Act, 1962, which granted exemption to certain entities, were repealed and replaced by a new section 10(1*)(c*N*)* and section 30, which now regulate the exemption of public benefit organisations.

Section 21(1) of the Taxation Laws Amendment Act, 2000, introduced these amendments to the Income Tax Act, 1962. Section 21(2) provides that any entity, which was exempt from tax under section 10(1)*(c*B*)*, *(*c*C*), *(*c*D*), *(*c*F*), *(*c*I*), *(*c*J*), *(f)* or *(f*A*)*, prior to its repeal, continues to enjoy exemption on condition that the entity applies for approval under the new provisions within a period of 12 months from the date that the new provisions take effect.

These provisions come into operation on 15 July 2001. All entities that were exempt in terms of the repealed provisions must, therefore, apply to the Commissioner for exemption under the new provisions before 15 July 2002.

It has, however, become apparent that the one-year period was unrealistic, for the following reasons:

- this requirement has placed an unprecedented administrative workload on SARS as all applications for exemption are dealt with centrally at SARS Head Office. This includes, for example, the development of a new electronic system for handling public benefit organisations. Furthermore, it was not previously compulsory for the Commissioner to approve all public benefit organisations and not all organisations were, therefore, required to submit income tax returns;
- despite the fact that public entities' were alerted that they need to apply or re-apply to the Commissioner for exemption, it appears that the majority of organisations are still not aware of this requirement, especially those in the rural areas. It is estimated that there could be as many as 97 000 organisations which potentially would have to apply for exemption;
- the list of public benefit activities is being extended. There are several organisations that previously qualified for exemption, but which do not qualify in terms of the provisions of the current legislation. In many instances, the proposed extended activity list will once again include these organisations.

It is, therefore, proposed that the date before which these entities must re-apply to the Commissioner be extended to 31 December 2003, to enable them to comply with this requirement.

CLAUSE 64

Customs and Excise: Amendment of section 40 of Act 19 of 2001

This is an amendment to section 19A(1)(a), which has not yet come into operation. Section 19(1A) was drafted to enable the Commissioner to introduce provisions relating

to the "Duty at Source" principle, that is the entry for home consumption or deemed entry for home consumption when goods manufactured are removed from a manufacturing warehouse. However, with regard to certain procedures goods must be entered for home consumption or must be deemed to have been entered for home consumption when the goods are received or a date during an accounting month as may be specified by rule. The amendment is accordingly introduced to allow for greater flexibility to accommodate such procedures.

Paragraph (c) of section 19A(1) is inserted to provide that where goods or any goods manufactured from such goods in a customs and excise manufacturing warehouse have been entered for home consumption or deemed to have been entered for home consumption, they may nevertheless be removed in bond or exported from such warehouse as if such goods have not been so entered or deemed to have been so entered. This provision is inserted to facilitate, where necessary, the administration of such warehouses.

The amendments will come into operation when section 40(1) of the Revenue Laws Amendment Act, 2001, comes into operation as may be specified in the proclamation contemplated in section 40(2) of the said Act.

CLAUSE 65

Customs and Excise: Amendment of section 51 of the Revenue Laws Amendment Act, 2001

This is a textual amendment in respect of the insertion of section 101A which is not yet in operation. Section 101A deals with electronic communication for purposes of customs and excise procedures.

CLAUSE 66

Marketable Securities Tax: Amendment of section 5 of the Second Revenue Laws Amendment Act, 2001

Section 5 of the Second Revenue Laws Amendment Act, 2001, inserts section 11A in the Marketable Securities Tax Act, 1948, to provide that the objection and appeal procedures contained in the Income Tax Act, 1962, should apply. This section will come into operation on a date to be determined by the President by proclamation in the *Gazette*.

It is proposed that section 107B of the Income Tax Act, 1962, which empowers the Commissioner to settle a dispute with a taxpayer notwithstanding the provisions of the Act, should also apply in respect of any dispute in terms of the Marketable Securities Tax Act. This amendment gives effect to this proposal.

CLAUSE 67

Transfer Duty: Amendment of section 10 of the Second Revenue Laws Amendment Act, 2001

Section 10 of the Second Revenue Laws Amendment Act, 2001, substitutes section 18 of the Transfer Duty Act, 1949, to provide that the objection and appeal procedures contained in the Income Tax Act, 1962, should apply. This section will come into operation on a date to be determined by the President by proclamation in the *Gazette*.

It is proposed that section 107B of the Income Tax Act, 1962, which empowers the Commissioner to settle a dispute with a taxpayer notwithstanding the provisions of the Act, should also apply in respect of any dispute in terms of the Transfer Duty Act, 1949. This amendment gives effect to this proposal.

CLAUSE 68

Estate Duty: Amendment of section 15 of the Second Revenue Laws Amendment Act, 2001

Section 15 of the Second Revenue Laws Amendment Act, 2001, substitutes section 24 of the Estate Duty Act, 1955, to provide that the objection and appeal procedures contained in the Income Tax Act, 1962, should apply. This section will come into operation on a date to be determined by the President by proclamation in the *Gazette*.

It is proposed that section 107B of the Income Tax Act, 1962, which empowers the Commissioner to settle a dispute with a taxpayer notwithstanding the provisions of the Act, should also apply in respect of any dispute in terms of the Estate Duty Act, 1955. This amendment gives effect to this proposal.

CLAUSE 69

Income Tax: Amendment of section 53 of the Second Revenue Laws Amendment Act, 2001

This amendment is consequential upon the amendment of section 107B of the Income Tax Act, 1962. See notes on *clause 31.*

CLAUSE 70

Income Tax: Amendment of section 54 of the Second Revenue Laws Amendment Act, 2001

This amendment is of a textual nature.

CLAUSE 71

Income Tax: Amendment of section 63 of the Second Revenue Laws Amendment Act, 2001

The amendment proposed in this clause is consequential upon the changes to section 107B of the Income Tax Act, 1962, in *clause 31*.

CLAUSE 72

Income Tax: Amendment of section 68 of the Second Revenue Laws Amendment Act, 2001

Section 68(1)*(a)* of the Second Revenue Laws Amendment Act, 2001, amended paragraph 4*(a)* of the Eighth Schedule to the Income Tax Act, 1962. The wording contained in the amendment did, however, not coincide with the actual wording of paragraph 4*(a)* of the Eighth Schedule. It is, therefore, proposed that section 68(1)*(a)* be repealed with effect from date of promulgation of the Second Revenue Laws Amendment Act, 2001.

CLAUSE 73

Customs and Excise: Amendment of section 113 of the Second Revenue Laws Amendment Act, 2001

This is an amendment of a section that is not yet in operation. The definition of "wharf operator" which will be inserted in section 1 of the Customs and Excise Act, 1964, is amended to include containerised goods under the control of the wharf operator.

CLAUSE 74

Customs and Excise: Amendment of section 116 of the Second Revenue Laws Amendment Act, 2001

This amendment is consequential upon the amendment of section 113 of Act 60 of 2001 and relates to the provision for appointment of wharfs under section 6 of the Customs and Excise Act, 1964.

CLAUSE 75

Customs and Excise: Amendment of section 130 of Act 60 of 2001

Section 130(1) of the Second Revenue Laws Amendment Act, 2001, is amended to re-introduce a fixed loss allowance of 1,5 per cent on the quantity of wine spirits or other spirits, manufactured in the Republic that are received in and entered for use and used in such a customs and excise manufacturing warehouse for such purposes and in accordance with such procedures as the Commissioner may prescribe.

The original amendment provided for actual loss or a loss of 1,5 per cent on such quantity, but it has been found that the actual loss would be difficult to administer and the 1,5 per cent is considered reasonable under the circumstances.

CLAUSE 76

Customs and Excise: Amendment of section 137 of the Second Revenue Laws Amendment Act, 2001

This amendment relates to an amendment of section 97 of the Customs and Excise Act, 1964, which is not yet in operation.

Section 97 provides for the appointment of agents by a container operator, master, pilot or other carrier. The new provisions also include definitions of "airline" and "shipping line".

CLAUSE 77

Stamp Duties: Amendment of section 145 of the Second Revenue Laws Amendment Act, 2001

Section 145 of the Second Revenue Laws Amendment Act, 2001, inserts section 32B in the Stamp Duties Act, 1968, to provide that the objection and appeal procedures contained in the Income Tax Act, 1962, should apply. This section will come into operation on a date to be determined by the President by proclamation in the *Gazette*.

It is proposed that section 107B of the Income Tax Act, 1962, which empowers the Commissioner to settle a dispute with a taxpayer notwithstanding the provisions of the Act, should also apply in respect of any dispute in terms of the Stamp Duties Act, 1968. This amendment gives effect to this proposal.

CLAUSE 78

Value-Added Tax: Amendment of section 160 of the Second Revenue Laws Amendment Act, 2001

Section 160 of the Second Revenue Laws Amendment Act, 2001, amends section 33 of the Value-Added Tax Act, 1991, which provides that the objection and appeal procedures contained in the Income Tax Act, 1962, and any regulations under that Act relating to any appeal to the tax court shall *mutatis mutandis* apply with reference to any appeal under this section which is or is to be heard by that court.

It is proposed that section 107B of the Income Tax Act, 1962, which empowers the Commissioner to settle a dispute with a taxpayer notwithstanding the provisions of the Act, should also apply in respect of any dispute in terms of the Value-Added Tax Act, 1991. This amendment gives effect to this proposal.

CLAUSE 79

Uncertificated Securities Tax: Amendment of section 182 of the Second Revenue Laws Amendment Act, 2001

Section 182 of the Second Revenue Laws Amendment Act, 2001, inserts section 17A in the Uncertificated Securities Tax Act, 1998, to provide that the objection and appeal procedures contained in the Income Tax Act, 1962, should apply. This section will come into operation on a date to be determined by the President by proclamation in the *Gazette*.

It is proposed that section 107B of the Income Tax Act, 1962, which empowers the Commissioner to settle a dispute with a taxpayer notwithstanding the provisions of the Act, should also apply in respect of any dispute in terms of the Uncertificated Securities Tax Act, 1998. This amendment gives effect to this proposal.

CLAUSE 80

Unemployment insurance: Repeal of section 34 of the Unemployment Insurance Act, 2001

Section 34 of the Unemployment Insurance Act, 2001, provides that any benefits payable in terms of that Act shall be exempt from income tax. It is, however, preferred that all income tax exemptions be dealt with specifically in the Income Tax Act, 1962, and not in other Acts.

This exemption will, however, be contained in section 10(1)*(m*B*)* of the Income Tax Act, 1962, and it is, therefore, proposed that section 34 of the Unemployment Insurance Act, 2001, be repealed.

CLAUSE 81

Unemployment Insurance Contributions: Amendment of section 8 of the Unemployment Insurance Contributions Act, 2002

Section 8(3) of the Unemployment Insurance Contributions Act, 2002, provides that where any amount of contribution, interest or penalty paid by an employer was not due or payable, or was in excess of the amount due or payable, that amount must be refunded to the employer.

Section 14 of the Act, however, makes certain provisions of the Income Tax Act, 1962, *mutatis mutandis* applicable, which include the provisions relating to refunds. This also includes the provisions which empower the Commissioner to set off any amount which is refundable to a taxpayer against any other amount due in terms of any Act administered by the Commissioner.

It is, therefore, proposed that section 8(3) be amended to ensure that the set-off provisions may also be applied in respect of any amounts refundable to the employer in terms of the Unemployment Insurance Contributions Act, 2002.

CLAUSE 82

Unemployment Insurance Contributions: Amendment of section 12 of the Unemployment Insurance Contributions Act, 2002

This amendment is of a textual nature.

CLAUSE 83

Unemployment Insurance Contributions: Amendment of section 13 of the Unemployment Insurance Contributions Act, 2002

Section 12 of the Unemployment Insurance Act, 2002, imposes interest on any contribution which is not paid within the period prescribed by the Act. It is proposed that where the Commissioner imposes a penalty on an employer where that employer fails to perform any duty imposed upon that employer by the Act or does anything or omits to do anything with intent to evade payment of the contribution or to cause a refund of any amount which is not properly refundable, interest should also be charged where the employer does not pay the amount of the penalty within the prescribed period.

The allocation of payment, i.e. first in respect of penalty, thereafter interest and thereafter the contribution, as provided in section 89*ter* of the Income Tax Act, 1962, applies *mutatis mutandis* for purposes of the Unemployment Insurance Contributions Act, 2002. It is proposed that the additional penalty imposed in terms of section 13(2) should be deemed to be an amount of contribution for purposes of the allocation of any payment made by the employer to bring the treatment in line with the provisions of the Income Tax Act, 1962. The amendments to section 13 give effect to these proposals.

CLAUSE 84

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

This clause provides for the continuation of the amendments to the Schedules to the Act effected by the Minister during the 2001 calendar year.

CLAUSE 85

Short title and commencement.

This clause provides the short title and commencement date of the Bill.