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THE PRESIDENCY

No. 14

8 January 2008

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 60 of 2008: Revenue Laws Amendment Act, 2008.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

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

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

ACT

To—

- amend the Transfer Duty Act, 1949, so as to provide for exemptions from duty;
- amend the Estate Duty Act, 1955, so as to exclude certain proceeds from estate duty;
- amend the Pension Funds Act, 1956, so as to effect a technical correction;
- amend the Income Tax Act, 1962, so as to amend and insert certain definitions; to effect technical corrections; to repeal certain provisions; to amend certain provisions; to make new provision for: passive holding companies; deductions in respect of residential units; additional investment and training allowances, venture capital companies, licence fees, intellectual property, environmental conservation and maintenance, micro businesses, dividends tax and education loans; and to lower a rate of tax;
- amend the Customs and Excise Act, 1964, so as to amend certain provisions; to make new provision for: removal of dutiable imported goods from a customs and excise storage warehouse; losses in respect of certain liquid bulk goods; liability for underpayments of duty; certain exemptions in respect of environmental levy goods; and dutiability of waste and scrap after the destruction of goods; to prohibit refund of a duty; to provide for the continuation of certain amendments to the Schedules; to deem a date on which an international trade agreement came into operation; and to effect consequential and textual amendments;
- repeal the Stamp Duties Act, 1968;
- amend the Value-Added Tax Act, 1991, so as to amend certain definitions; to repeal a provision; to amend certain provisions; to raise a limit; and to effect consequential and textual amendments;
- amend the Income Tax Act, 1993, so as to repeal a provision;
- amend the Income Tax Act, 1994, so as to repeal a provision;
- amend the Restitution of Land Rights Act, 1994, so as to amend provisions relating to transfer duty and stamp duty;
- repeal the Company Tax Amendment Decree, 1994, of the former Republic of Ciskei;
- repeal the Tax Amnesty Act, 1995;

- repeal the Final Relief on Tax, Interest, Penalty and Additional Tax Act, 1996;
 - amend the Revenue Laws Amendment Act, 2006, so as to amend provisions relating to the 2010 FIFA World Cup;
 - amend the Taxation Laws Amendment Act, 2007, so as to effect a technical correction;
 - amend the Securities Transfer Tax Act, 2007, so as to amend provisions;
 - amend the Revenue Laws Amendment Act, 2007, so as to amend commencement dates;
 - amend the Taxation Laws Amendment Act, 2008, so as to amend commencement dates and to effect a technical correction,
- and to provide for matters connected therewith.

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

Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973, section 5 of Act 88 of 1974, section 77 of Act 54 of 1976, section 2 of Act 95 of 1978, section 6 of Act 106 of 1980, section 2 of Act 99 of 1981, section 2 of Act 118 of 1984, section 3 of Act 81 of 1985, section 3 of Act 86 of 1987, section 4 of Act 87 of 1988, section 36 of Act 9 of 1989, section 1 of Act 69 of 1989, section 79 of Act 89 of 1991, section 6 of Act 120 of 1992, section 4 of Act 136 of 1992, section 5 of Act 97 of 1993, section 2 of Act 37 of 1995, section 4 of Act 126 of 1998, section 3 of Act 32 of 1999, section 3 of Act 30 of 2000, section 2 of Act 5 of 2001, section 8 of Act 60 of 2001, section 3 of Act 30 of 2002, section 4 of Act 74 of 2002, section 3 of Act 45 of 2003, section 2 of Act 16 of 2004, section 2 of Act 32 of 2004, section 2 of Act 31 of 2005, section 16 of Act 9 of 2006, section 1 of Act 20 of 2006 and section 2 of Act 35 of 2007

1. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended by the addition to subsection (1) of the following paragraphs:

- “(n) any person to whom the Minister of Land Affairs has made available state land administered or controlled by him or her in terms of the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993), or section 42E of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);
- (o) any person in respect of so much of the value of the property as does not exceed an amount equal to any advance or subsidy granted to that person in terms of the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993), for the purposes of that acquisition.”.

(2) Subsection (1) comes into operation on a date determined by the Minister by notice in the *Gazette* and applies in respect of the acquisition of property acquired on or after that date.

Amendment of section 3 of Act 45 of 1955, as amended by section 2 of Act 65 of 1960, section 8 of Act 77 of 1964, section 2 of Act 81 of 1965, section 4 of Act 92 of 1971, section 3 of Act 89 of 1972, section 3 of Act 102 of 1979, section 10 of Act 106 of 1980, section 2 of Act 92 of 1983, section 4 of Act 81 of 1985, section 9 of Act 87 of 1988, section 7 of Act 97 of 1993, section 6 of Act 27 of 1997, section 13 of Act 30 of 1998, section 7 of Act 30 of 2000 and section 5 of Act 31 of 2005

2. (1) Section 3 of the Estate Duty Act, 1955, is hereby amended—

(a) by the addition to subsection (2) of the following paragraph:

- “(i) so much of any benefit which is due and payable by, or in consequence of membership or past membership of, any pension fund, pension preservation fund, provident fund, provident preser-

vation fund or retirement annuity fund as defined in the Income Tax Act, 1962 (Act No. 58 of 1962), on or as a result of the death of the deceased.”; and

(b) by the deletion in subsection (3) of paragraph (a)*bis*.

(2) Subsection (1) comes into operation on 1 January 2009 and applies in respect of the estate of a person who dies on or after that date. 5

Amendment of section 37D of Act 24 of 1956, as inserted by section 14 of Act 94 of 1977 and amended by section 14 of Act 80 of 1978, section 4 of Act 65 of 2001, section 4 of Act 35 of 2007 and section 16 of Act 22 of 2008

3. (1) Section 37D of the Pension Funds Act, 1956, is hereby amended— 10

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

“(d) deduct from a member’s benefit or minimum individual reserve, as the case may be—

(i) any amount assigned from such benefit or individual reserve to a non-member spouse in terms of a decree granted under section 7(8)(a) of the Divorce Act, 1979 (Act No. 70 of 1979); 15

(iA) any amount payable in terms of a maintenance order as defined in section 1 of the Maintenance Act, 1998 (Act No. 99 of 1998); and 20

(ii) employees’ tax required to be deducted or withheld in terms of the Fourth Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962), as a result of the deduction referred to in subparagraph (i) or (iA);”;

(b) by the substitution in subsection (3)(b) for subparagraph (i) of the following subparagraph: 25

“(i) any maintenance order referred to in subsection [(1)(d)(i)] (1)(d)(iA);”.

(2) Subsection (1) is deemed to have come into operation on the date on which section 16 of the Financial Services Laws General Amendment Act, 2008, comes into operation. 30

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R780 of 14 April 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2001, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002, section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, section 3 of Act 16 of 2004, section 3 of Act 32 of 2004, section 3 of Act 32 of 2005, section 19 of Act 9 of 2006, section 3 of Act 20 of 2006, section 3 of Act 8 of 2007, section 5 of Act 35 of 2007 and section 2 of Act 3 of 2008 35 40 45 50

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

(a) by the deletion in the definition of “benefit fund” of the word “or” at the end of paragraph (b);

- (b) by the insertion after the definition of “connected person” of the following definition:
- “**‘contributed tax capital’**, in relation to a class of shares issued by a company, means an amount equal to the sum of—
- (a) the share capital and share premium immediately before the effective date as defined in section 64D in relation to shares issued before that date, less so much of the share capital and share premium as would have constituted a dividend, as defined before that date, had the share capital and share premium been distributed immediately before that date; and
 - (b) the consideration received by or accrued to the company for the issue of shares on or after that date, reduced by so much of that amount as the company has transferred on or after that date to shareholders in relation to those shares, and has by the date of the transfer determined in writing to be an amount so transferred: Provided that the amount so transferred to a shareholder of any class of shares is deemed to be an amount that bears to the total of the amounts so transferred to all shareholders of that class the same ratio as the number of shares of that class held by that shareholder bears to the total number of shares of that class;”;
- (c) by the substitution for the definition of “dividend” of the following definition:
- “**‘dividend’** means any amount transferred by a company to a shareholder in relation to a share held by the shareholder, to the extent that the amount transferred—
- (a) does not result in a reduction of contributed tax capital; and
 - (b) does not constitute shares in that company;”;
- (d) by the substitution for the definition of “foreign dividend” of the following definition:
- “**‘foreign dividend’** means any dividend, as defined prior to the coming into operation of Part VIII of Chapter II of this Act, received by or which accrued to any person from a foreign company as defined in section 9D;”;
- (e) by the substitution in the definition of “gross income” for subparagraphs (iii) and (iv) of paragraph (cA) of the following subparagraphs:
- “(iii) is or was a personal service **[company]** provider as defined in the Fourth Schedule; or
 - (iv) **[is or]** was a personal service company or personal service trust as defined in the Fourth Schedule prior to section 66 of the Revenue Laws Amendment Act, 2008, coming into operation;”;
- (f) by the insertion in the definition of “gross income” after paragraph (eB) of the following paragraph:
- “(eC) any amount awarded to a person by a beneficiary fund as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), to the extent that the amount does not form part of any amount transferred to that beneficiary fund for or on behalf of that person by a trust;”;
- (g) by the substitution in the definition of “living annuity” for the words preceding paragraph (a) of the following words:
- “**‘living annuity’** means a right of a member or former member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, or his or her dependant or nominee, or any subsequent nominee, to an annuity purchased from a person or provided by that fund on or after the retirement date of that member or former member in respect of which—”;
- (h) by the substitution in the definition of “living annuity” for paragraph (a) of the following paragraph:
- “(a) the value of the annuity is determined solely by reference to the value of assets which are specified in the annuity agreement and are held **[by or on behalf of that person]** for purposes of providing the annuity;”;