Division of Revenue Act, 2005 (Act 1 of 2005), has been repealed by Division of Revenue Act (Act 2 of 2006) as of 1 April 2006

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THE PRESIDENCY

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

No. 1 of 2005: Division of Revenue Act, 2005.

(English text signed by the President.)
(Assented to 30 March 2005.)

ACT

To provide for the equitable division of revenue anticipated to be raised nationally among the national, provincial and local spheres of government for the 2005/06 financial year and the responsibilities of all three spheres pursuant to such division; and to provide for matters connected therewith.

PREAMBLE

WHEREAS section 214(1) of the Constitution requires an Act of Parliament to provide for—

(a) the equitable division of revenue raised nationally among the national, provincial and local spheres of government;
(b) the determination of each province's equitable share of the provincial share of that revenue; and
(c) any other allocations to provinces, local government or municipalities from the national government's share of that revenue, and any conditions on which those allocations may be made;

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

ARRANGEMENT OF SECTIONS

Sections

CHAPTER 6

GENERAL

CHAPTER 1

INTERPRETATION AND OBJECTS OF ACT

Interpretation

1. (1) In this Act, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Public Finance Management Act or the Municipal Finance Management Act has the meaning assigned to it in the Act in question and—

"budget year" means the financial year commencing on 1 April 2005 and ending on 31 March 2006;

"category A, B or C municipality" has the meaning assigned to each category in terms of the Municipal Structures Act, 1998 (Act No. 117 of 1998);

"corporation for public deposits account" means a bank account of the Provincial Revenue Fund held with the Corporation for Public Deposits, established by the Corporation of Public Deposits Act, 1984 (Act No. 46 of 1984);

"framework" means the conditions and other information in respect of an allocation published by the National Treasury in terms of section 28;

"Municipal Finance Management Act" means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

"municipal financial year" means the financial year of a municipality commencing on 1 July and ending on 30 June;

"next financial year" means the financial year commencing on 1 April 2006 and ending on 31 March 2007;

"payment schedule" means a schedule, which sets out—

(a) the amount of each transfer of an equitable share or any other allocation in terms of this Act to be transferred to a province or municipality for the financial year;
(b) the date on which each transfer must be paid; and
(c) to whom, and to which bank account, each transfer must be paid;

"prescribe" means prescribe by regulation in terms of section 45;

"primary bank account"—

(a) in relation to a province, means a bank account of the Provincial Revenue Fund held with a commercial bank which the head of the department in the provincial treasury has certified to the National Treasury, as the bank account into which allocations, other than the equitable share allocation and Social Assistance Transfers and Social Assistance Administration allocations, in terms of this Act must be deposited; and

(b) in relation to a municipality, means the bank account of the municipality as determined in terms of section 8 of the Municipal Finance Management Act;

"Public Finance Management Act" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"quarter" means—

(a) 1 April to 30 June;

(b) 1 July to 30 September;

(c) 1 October to 31 December; or

(d) 1 January to 31 March;

"receiving officer"—

(a) in relation to a Schedule 4 or 5 allocation transferred to a province, means the accounting officer of the provincial department which receives that allocation or a portion thereof for spending via an appropriation from its Provincial Revenue Fund; or

(b) in relation to a Schedule 4 or 6 allocation transferred to a municipality, the accounting officer of the municipality, except for that portion of the Municipal Infrastructure allocation, committed before 30 September 2003 and spent by the transferring national officer directly on behalf of the municipality;

"transferring national officer" means the accounting officer of a national department that transfers a Schedule 4, 5 or 6 allocation to a province or municipality or makes a Schedule 7 allocation on behalf of a municipality; and

"transferring provincial officer" means the accounting officer of a provincial department that receives a Schedule 5 or 6 allocation for the purpose of transferring it to a municipality in the relevant province.

(2) Any determination or instruction in terms of this Act must be in writing.

(3) Section 35 of the Public Finance Management Act, section 3 of the Financial and Fiscal Commission Act, 1997 (Act No. 99 of 1997) and sections 9 and 10 of the Municipal Systems Act do not apply in respect of any powers and functions assigned in terms of this Act to a province or municipality.

Objects of Act

2. The objects of this Act are to—

(a) provide for the equitable division of revenue anticipated to be raised nationally among the three spheres of government;

(b) promote co-operative governance and intergovernmental relations on budgetary matters;

(c) promote better co-ordination between policy, planning, budget preparation and execution processes;

(d) promote predictability and certainty in respect of all allocations to provinces and municipalities in order that such governments may plan their budgets over a multi-year period;

(e) promote transparency and equity in the resource allocation process;

(f) promote accountability by ensuring that all allocations are reflected on the budgets of receiving provinces and municipalities; and

(g) ensure that legal proceedings in respect of division of revenue disputes between organs of state in the three spheres of government are avoided as far as possible.

CHAPTER 2

EQUITABLE SHARE ALLOCATIONS

Equitable division of revenue anticipated to be raised nationally among spheres of government

3. (1) Revenue anticipated to be raised nationally in respect of the budget year must be divided among the national, provincial and local spheres of government for their equitable share allocations as set out in Column A of Schedule 1.

(2) An envisaged division of revenue anticipated to be raised in respect of the next financial year and the 2007/08 financial year, and which is subject to the provisions of the annual Division of Revenue Act in respect of those financial years, is set out in Column B of Schedule 1.