REPUBLIC OF SOUTH AFRICA

EXPLANATORY MEMORANDUM

ON THE

REVENUE LAWS AMENDMENT BILL, 2000

[W.P. 2 — 2000]

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INTRODUCTION

The Revenue Laws Amendment Bill, 2000, introduces amendments to 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 Tax on Retirement Funds Act, 1996, the Skills Development Levies Act, 1999, and the Taxation Laws Amendment Act, 2000.

RESIDENCE BASIS OF TAXATION

Introduction

As was announced by the Minister of Finance in the Budget Review this year, legislative measures will be introduced to change the current source-based system of taxation to a residence (worldwide) system with effect from years of assessment commencing on or after 1 January 2001.

The South African income tax system is currently based primarily on the source principle of taxation and all income which, therefore, originates in the Republic, or which is deemed to be from a source within the Republic is taxable in terms of the Income Tax Act, 1962. In 1997, however, provisions were introduced in the Act to tax residents of the Republic on their worldwide passive (investment) income.

These provisions were introduced in the Act to protect the South African tax base from the effects of the relaxation of the exchange control provisions that came into effect on 1 July 1997. The amendments to the Act were, however, limited to the inclusion of certain forms of passive income, such as interest, annuities, rentals and royalties. These forms of income were included within the ambit of the Act by the introduction of—

- section 9C which extended the deemed source provisions to provide that these forms of income would be deemed to be received by, or accrued to, a resident from a source in the Republic; and
- section 9D in terms of which the passive income of certain controlled foreign entities (i.e. foreign entities in which South African residents have more than 50 per cent control or participation) and income which accrues to a foreigner as a result of a donation by a resident, became taxable in the hands of the resident/s who control such entities or who made the donation.

As was announced in the Budget Review, a “residence minus” system will be adopted with effect from years of assessment commencing on or after 1 January 2001. That is to say, taxpayers will be taxed on their worldwide income, although certain categories of income and activities undertaken outside the Republic will be exempt from South African tax.

As an interim measure it was announced that dividends declared out of foreign profits on or after 23 February 2000, would be subject to tax. Section 9E was introduced in the Act to give effect to this proposal.

Elements of the proposed tax structure relating to the worldwide basis of taxation include the following:

- The income tax base will be extended to include all income of residents of South Africa, subject to certain exclusions mentioned hereafter. Foreign taxes paid in respect of this income will be allowed as a credit against the South African tax liability.
- The existing provisions of section 9D of the Act will be extended in order to impute all income of controlled foreign entities to residents with an interest in such entities, subject to certain exclusions mentioned hereafter.
- The income of a controlled foreign entity that is a company will not be imputed if the income was subject to tax in a designated country on a basis substantially the same as that of the Republic and at a statutory rate of tax of at least 27 per cent, or if the income complies with certain business tests.
- Business profits of a foreign branch of a resident will also not be taxed if the income was subject to tax in a designated country on a basis similar to that of the Republic and at a statutory rate of at least 27 per cent.
- Foreign residents will continue to be taxed on their South African source income only.

Definition of "gross income"

The definition of "gross income" in section 1 of the Income Tax Act, 1962, is amended and most of the references to income from a source in the Republic are deleted. Residents, therefore, will become taxable on their worldwide income with effect from years of assessment commencing on or after 1 January 2001.

Non-residents will, however, still only be taxed in the Republic on income which is derived from a source in the Republic.

Definition of "resident"

A definition of "resident" is introduced in the Income Tax Act, 1962, as there are currently a number of references throughout the Act to persons "resident" and "ordinarily resident" in the Republic. As far as companies are concerned the current wording of the Act is also somewhat inconsistent as some provisions require a "managed <u>and</u> controlled" test, whereas others refer to "managed <u>or</u> controlled" and some provisions use the expression "effectively managed" in the Republic. The definition of a "resident" is fundamental to the residence basis of taxation and the different provisions and definitions, therefore, need to be aligned.

In this regard the following definition of "resident" is proposed:

'resident' means any—

- natural person who is ordinarily resident in the Republic;
- natural person who is not at any stage during the relevant year of assessment ordinarily resident in the Republic, but who?

  - is physically present in the Republic for a period exceeding 91 days (or part days) during the relevant year of assessment as well as during each of the three years preceding such year of assessment; and
  - was physically present in the Republic for a period exceeding 549 days (or part days) in aggregate during the preceding three years of assessment.

  Where such a person is outside the Republic for a continuous period of 330 full days after such person ceases to be physically present in the Republic, such person shall be deemed not to have been a resident from the day that such person so ceased to be physically present in the Republic;
- any person (other than a natural person), which is incorporated, established, formed or which has its place of effective management in the Republic. This will, however, not include an international headquarter company.

The Courts have interpreted "ordinarily resident" to mean the place where a person has his or her place of permanent residence. If a person is outside the Republic and has the intention to return to the Republic to make it his or her permanent home, such person will, therefore, be regarded as a resident regardless of the period of time spent outside the Republic. The majority of countries use a similar basis which, although effectively the same test, are referred to as "domicile, habitual abode, permanent home". A person will, therefore, become a resident and be taxed on his or her worldwide income by virtue of him or her being ordinarily resident from the date that such person so becomes ordinarily resident, until such person ceases to be ordinarily resident in the Republic.

The second rule for natural persons is a physical presence test, which is also widely used throughout the world. The period the person has to be physically present differs from country to country.

This day test or time rule will, however, not apply in respect of any person who was at any stage during the year of assessment ordinarily resident in the Republic. This will avoid the possibility that a person, who was ordinarily resident in the Republic and who has emigrated, could still be regarded as being a resident and be taxed on his or her worldwide income for the full tax year in terms of the physical presence test.

Where a person, who became a resident by virtue of the physical presence test, leaves the Republic and is absent for a continuous period of 330 days, such person will be deemed not to be a resident from the day that he or she left the Republic.

The rule for the residence of companies and other entities is similar to that of other countries.

International headquarter company

As noted above, an international headquarter company is excluded from the definition of "resident". An "international headquarter company" is defined as a company?

- the entire equity share capital of which is held by persons who are not residents or trusts;
- where any indirect interest of residents or of any trust in such equity share capital does not exceed 5 per cent in aggregate of the total equity share capital of such company; and

- where 90 per cent of the value of the assets of such company represents interests in the equity share capital and loan capital of subsidiaries of such company which are not residents and in which such company holds a beneficial interest of at least 50 per cent.

The effect of the exclusion from the definition of "resident" will be that the provisions of sections 9D and 9E will not apply and the income of the subsidiaries will not be imputed to such company. The company will also not be taxed on the dividends received from its foreign subsidiaries or foreign sourced income. As Secondary Tax on Companies will now only be imposed on companies that are residents, the international headquarter company will also not be subject to STC on dividends declared.

Foreign income of resident individuals

Any foreign income received by or accrued to an individual who is a resident will be taxable in his or her hands and a foreign tax credit will be granted in respect of any foreign taxes which are proved to be payable. This income includes any active or passive income. There are, however, a number of exceptions to this rule which are discussed below.

Residents earning employment income abroad

Previously section 10(1)*(o)* of the Income Tax Act, 1962, granted an exemption from income tax only to officers and crew members employed on board any South African ship if such officers and crew members were outside the Republic for more than 183 days during the year of assessment. The scope of this provision was extended in 1999 to also include officers and crew members on board any ship involved in marine mining activities to bring their tax position in line with the officers and crew members doing the exact same work on passenger ships.

Bearing in mind that all other residents will now be taxed on their worldwide income regardless of whether they were physically present in the Republic or not, the provisions of section 10(1)*(o)* need to be revised. Internationally it is accepted practice to exempt foreign employment income of a resident if the resident was outside his or her country of residence for a period exceeding 183 days (in some countries even as little as 91 days if the income was taxed elsewhere).

It is, therefore, proposed that the principle contained in section 10(1)*(o)* should be retained. It is also proposed that the principle should be extended to include residents who are outside the Republic, for purposes of rendering services outside the Republic for or on behalf of their employer, for a period which in aggregate exceeds 183 full days in a 12 month period commencing or ending during a year of assessment and for a continuous period exceeding 60 full days during such 183 day period. The effect of this relief measure will be monitored to determine whether certain categories of employees abuse it to earn foreign employment income without foreign taxation. It is proposed that this relief measure should not apply in respect of any remuneration derived from services rendered outside the Republic for or on behalf of any employer contemplated in section 9(1)*(e)* of the Act. This includes employers in the national or provincial spheres of government or any public entity if 80 per cent or more of the expenses of such entity is defrayed from funds voted by Parliament.

Example:

A South African engineer contracts with an employer in Mozambique to work on a construction project for a period of 8 months from 1 October 2000. The individual returns to SA during that period for a week after each two month period spent in Mozambique. The Mozambique employment income will not be taxable in SA as the engineer is employed outside SA for a period which in aggregate exceeds 183 days during a twelve month period and which included a continuous period of absence of more than 60 days.

Foreign pension payments

The issue of the taxation of foreign pensions has raised some controversy. Currently foreign pensions and social security payments are exempt from income tax.

It is, however, international practice for a country of residence to tax foreign pensions. Many reasons have been put forward as to why foreign pensions should not be taxable once the Republic moves to a worldwide basis of taxation. It is argued that this may discourage foreigners from retiring in the Republic. Furthermore, it is argued that the income from a pension is static and that any tax imposed thereon will effectively reduce the pensioners' income. This argument is not necessarily correct as in most instances the country of source in any event taxes the pension if it is not taxed in the country of residence.

Various other problems such as the deductibility of contributions to foreign pension funds and the taxation of lump sum payments from these funds will have to be addressed. Foreign funds would also have to be approved by the Commissioner based on whether the rules of the fund comply with the requirements of the Act and this may place a significant administrative burden on SARS.

From a practical point of view, it is, therefore, proposed that foreign pensions not be taxed at this stage. It must, however, be noted that this is merely an interim measure and that the issue of the taxation of foreign pensions will be revisited over the next three years. This should provide sufficient time to determine how contributions to these funds and the taxation of payments from foreign funds should be dealt with and to determine what the economic impact of taxing foreign pensions may be.

It is proposed that social security payments by foreign governments not be taxed as such an exemption is encountered in comparable jurisdictions.

Foreign income of resident companies (Branches)

The foreign income of a resident company, for example income attributable to a foreign branch, will generally be subject to tax. However, branch income will be exempt if such income was subject to tax in a designated country at a statutory rate of at least 27 per cent and the basis of taxation in that country is similar to that of the Republic. Any other income which was not taxed at that rate in a designated country or which was derived from a non-designated country will be taxable in the Republic and a credit will be granted in respect of any foreign taxes which are proved to be payable in respect of such income.

<u>*Example:*</u>

A South African bank opens a branch in Australia and the business activities result in a profit of Australian $100 000 for the financial year. Australia is on the designated list of countries and the profit will be taxed at a statutory rate in excess of 27%. The Australian $100 000 will, therefore, not be included in the taxable income of the SA resident bank on a current basis.

It is proposed that the losses of foreign branches of a resident company should not be set off against the South African income of the company. This is proposed in order to protect the existing tax base as there is no information available relating to the magnitude of foreign losses and to what extent this may erode the current South African tax base. Such a measure will also limit the possibility of a person starting a foreign operation in a branch in order to utilise the losses against the South African income and then converting the branch into a separate subsidiary company when it becomes profitable. This would have the effect that the income could be exempt once the branch showed a profit while the losses previously allowed would not be recouped.

A foreign loss incurred in one foreign country may, however, be set off against the income from any other foreign country and South African losses may also be set off against foreign income.

Active income of a Controlled Foreign Entity (CFE)

Currently, section 9D provides for the imputation of passive income of a CFE to any resident in the same ratio as the participation rights of the resident in such CFE. A CFE includes any foreign entity in which residents hold more than 50 per cent of the participation rights or votes or control of the entity.

All income, active and passive will, however, be imputed under the new residence basis of taxation, subject to a number of exclusions discussed hereunder. In this regard, a new rule is proposed to provide that the income of a CFE will only be imputed to any resident who, together with any connected person in relation to such resident, holds at least 10 per cent of the participation rights in such CFE. The amount to be imputed to the resident will be an amount equal to the proportional amount of the net income of the CFE, determined at the same ratio as such resident's participation rights to total participation rights in the CFE.

The 'net income' of the CFE means an amount equivalent to what the taxable income of the CFE would have been if such CFE had been a resident. The deductions and allowances of the CFE are, however, limited to the income and the losses are, therefore, not imputed to the resident, but are carried forward to future years of assessment.

<u>*Example:*</u>

A company incorporated in South Africa, and therefore resident in SA, conducts business activities through branches in Botswana and Mauritius. The company also operates through a wholly owned subsidiary located in Brazil.

During the 2002 year of assessment none of the exemptions contained in sections 9D and 9F apply to the profits generated by the branches or subsidiary. The

activities for the year resulted in the following taxable incomes or losses calculated by applying the provisions of the SA Income Tax Act after conversion to Rand:

SA company	*SA activities*	*R5 000 000*
	Botswana	*(R3 000 000)*
	Mauritius	*R1 000 000*
Brazilian company		*(R2 000 000)*

The SA company will be taxed on taxable income of R5 000 000. The foreign sourced income resulted in an assessed loss of R2 000 000 which will be carried forward to the 2003 year of assessment to be set off against foreign sourced income. The loss of the Brazilian subsidiary will be carried forward to be set off against income of that company during the following tax year.

Income taxed at 27 per cent or above

The first exclusion from section 9D relates to income of the CFE which is a company, which has been or will be subject to tax in a designated country on a similar basis to that of the Republic at a statutory rate of at least 27 per cent. This income will, therefore, not be imputed to the resident shareholders.

Example:

A South African resident owns a United States company which earns rental income from letting an office block. The US is a designated country. The profits of the company are subject to a tax rate of 35% in the US. The profits of the company will not be imputed to the SA resident on a current basis.

Similarly, any foreign dividend declared by the CFE from profits which were not previously imputed to the resident will also be exempt as the underlying profits would have been subject to tax in a designated country (on a similar basis to that of South Africa) at a rate of 27 per cent.

Income taxed below 27 per cent

Where the income of the CFE which is a company is not taxed at a statutory rate of at least 27 per cent, the income of the CFE will be taxed in the hands of the resident as it arises and any subsequent dividend declared thereafter by the company to the resident will be exempt.

The income will, however, not be imputed if such income complies with a legitimate business establishment test, which contains a number of objective criteria. In these instances, the tax on the income will be deferred until a dividend is distributed.

Example:

A South African company sets up an Irish company which provides consulting services to clients in Europe, North America and South Africa. Ireland is not a designated country. The Irish company owns the offices from where the business is managed and its Irish resident employees provide all the consulting services to clients, who are unconnected persons. The net income of the Irish company will not be imputed to the SA company on a current basis.

The income of a CFE will also not be imputed to residents if the income of the CFE is subject to South African tax in the hands of the entity. This would, for example, be the case where the income was derived from a source in the Republic or deemed to be from a source in the Republic.

Where the income of the CFE is derived by way of any dividend declared or interest, royalty or rental income paid or payable to such CFE by any other CFE (in relation to the resident), such income will also not be imputed to the resident.

Diversionary transactions:

Circumstances may arise where, even though the CFE has a proper business establishment, the income of the CFE will be imputed to residents as it arises. This will be so in the case of transactions which are generally referred to as diversionary transactions and which are aimed at exploiting the South African tax base. These transactions may include transactions in respect of both goods and services where the income which should otherwise have been taxable in the Republic is reduced or otherwise diverted to a low tax jurisdiction or a tax haven country. A transaction whereby an abnormally high or low price for a purchase or sale is used to divert profits from the Republic is an example in this regard.

Example:

A South African company manufactures chemical products which are exported to a number of countries in Africa. The SA company has a wholly owned subsidiary in Mauritius which conducts its business through an office. The manufacturer sells all its products to the Mauritian company which then on-sells the products to retailers of the products. The manufacturer is responsible for marketing of the products and the products are transported directly from the SA factory to the retailers. The group generates a net profit of 25% of which 20% is reflected in the Mauritian company. The net income of the Mauritian company will be imputed to the SA company on a current basis due to the fact that the purchase of goods from the SA group company is not based on an arm's length price.

Passive income

Passive income in the form of dividends, interest, royalties, rental income, annuities, insurance income or income of a similar nature, will be imputed on a current basis, unless—

- it does not exceed 5 per cent of the total receipts and accruals of the CFE;
- it arises from the principal trading activities of any banking or financial services, insurance or rental business, except where the income is received from any connected person who is a resident, or from a resident as part of a scheme for the avoidance of taxes, duties or levies.

Example:

An individual resident in South Africa sets up a company in Guernsey as an investment company. The assets of the company are worth £75 000 and are managed by an offshore portfolio manager. An amount of £3 000 accrues to the

investment company representing foreign dividends and interest. The income of the Guernsey company will be imputed to the SA resident on a current basis as it does not comply with any of the exclusions under section 9D(9)(b).

Trusts

The taxation of income of trusts is currently dealt with in section 25B of the Income Tax Act, 1962. In reality a trust is not a separate legal persona and a trustee effectively receives and holds assets on behalf of the beneficiaries of the trust. The principle of a trust being a person for tax purposes was incorporated in the Act in 1992. Section 25B currently provides that where the income of the trust vests in the beneficiaries, it is taxed in the hands of the beneficiaries, whereas in the case where the beneficiaries are not entitled to the income, i.e. a discretionary trust where the income does not vest in a beneficiary, the trust is taxed on the income. Similarly, deductions are allowed in the hands of the beneficiaries or the trust, as the case may be, depending on whether the income vests in the beneficiaries or not. Section 25B(4) to (6) makes provision for the limitation of losses in the hands of the beneficiaries by deeming so much of the expenses as exceeds the income of the beneficiaries to be incurred by the trust.

The introduction of the residence basis of taxation may create certain practical difficulties with the application of the provisions of section 25B, due to the fact that the residence of the trust or beneficiaries and the source of the income affect the taxability of the trust and the beneficiaries and the deductibility of expenses.

It is, therefore, proposed that the existing provisions of section 25B be amended to deal with these difficulties. Furthermore, deductions and allowances of a trust will not be deemed to be incurred by a beneficiary who acquired a vested right as a result of the exercise of a discretion by the trustees of a trust.

Designated countries

The current section 9E of the Income Tax Act, 1962, which deals with the taxation of foreign dividends, requires that a country must have concluded a tax treaty with the Republic and have a tax on income that is determined on a basis which is substantially the same as that of the Republic before such a country may be designated by the Minister. Foreign dividends declared from profits that were generated in these countries are exempt if these profits were subject to tax at a statutory rate of at least 27 per cent.

This approach was followed with the introduction of section 9E to limit the additional administrative workload which the broadening of the tax base places on the taxpayer and on SARS, as this exemption has the effect that it is not required to determine the additional tax liability and to calculate the credit which must be granted in respect of foreign taxes paid or payable.

It is proposed that the countries to be designated by the Minister should not be limited to countries with which the Republic has concluded a tax treaty, but that they should include all countries which have a tax on income that is determined on a basis which is substantially the same as that of the Republic and have a general corporate rate of at least 27 per cent. Extending the list will limit the administrative workload even further.

Credit provisions

Section 6*quat* of the Income Tax Act, 1962, provides for a deduction from South African tax payable by the resident in respect of any income, of any tax proved to be payable to the government of any other country in respect of such income.

Currently section 6*quat* limits the credits per country, i.e. foreign tax credits of one country may not be used as a credit against tax on income from another country. The fact that the list of designated countries is to be extended to include non-treaty countries will, to a large extent, eliminate excess credits as any income which has been subject to a statutory tax rate of 27 per cent will be exempt and no foreign credits will apply.

Following the above it is proposed that onshore mixing of foreign tax credits be allowed.

Furthermore, it is proposed that the carry forward rule of unutilised credit during a year of assessment be extended from three to seven years. However, the rule that unutilised credits may be offset against STC will fall away at the same time. In order to cater for situations where the foreign tax liability has changed after the initial crediting of such tax, a provision has also been inserted to allow for the issue of reduced or additional assessment for a period of up to 6 years from the date of the original assessment, to give effect to such adjustments.

Tax Sparing

A provision has been inserted in section 9E to provide that the Minister may by notice in the *Gazette*, to such extent as he may deem necessary in the national interests of the Republic and subject to such conditions as he may prescribe, waive the application of that section in respect of any dividend received by or accrued to a resident to the extent that such dividend is declared from profits derived from any project approved by the Minister. This will, however, only apply in respect of dividends which are remitted to the Republic. In approving such a project, the Minister must have regard to?

- the economic benefits of such project for the Republic;
- the extent to which goods and services will be provided in respect of such project from the Republic;
- the potential effect such project may have on the South African tax base;
- other assistance granted by the State or organ of state in respect of such project; and
- such other criteria which the Minister may prescribe by notice in the *Gazette*.

The Minister may also withdraw any such waiver where he is satisfied that any condition imposed by him has not been complied with.

General

Deduction of interest incurred in respect of foreign dividends

The general deduction formula in the Income Tax Act, 1962, makes provision for the deduction of expenses actually incurred in the production of income. It may, however, happen that interest expenditure is incurred in one year in respect of future foreign dividends. It may not be possible to determine at the time that the interest expense is incurred whether the foreign entity will in fact declare a dividend and, if so, whether or not it will be exempt in terms of the provisions of section 9E.

It is, therefore, proposed that the deduction of any interest expenses incurred in respect of foreign dividends will only be allowed to the extent that foreign dividend income is included in the taxable income. Any excess amount (after reducing such amount by the amount of exempt dividends received during the year) may be carried forward to the following year.

Exchange control regulations and limitations

It is proposed that the current principles contained in the Act should be retained in respect of foreign income that cannot be repatriated to the Republic due to the limitations imposed by exchange control regulations of a foreign country. In such cases the income will only be taxed in the Republic when the income can be repatriated.

Depreciation and write-off of certain assets

Various provisions in the Act provide for the write-off of certain assets used by a taxpayer for the purposes of his or her trade. As these deductions will now become available in respect of certain assets which are used by a taxpayer in his or her trade outside the Republic which were not previously taxed in the Republic, it is proposed that these provisions should be amended to provide that where such asset was used by the taxpayer in any previous year, the period of use of such asset during such previous years must be taken into account in determining the amount by which the asset may still be written off. This will ensure that if any asset was used previously in a trade which was not taxable and which now becomes taxable the taxpayer will not be entitled to the full depreciation. Only a proportionate amount of the depreciation which relates to the period that the income is subject to tax will, therefore, be allowed.

When an asset in respect of which a deduction has been allowed is sold by a taxpayer, any amount of such a deduction which is recovered or recouped is included in the income of such taxpayer in terms of the provisions of section 8(4). Although for the purposes of sections 11*(e)*, 11*(o)*, 12B, 12C, 12D, 13, 13*bis* and 13*ter* the depreciation of assets, which are used in any previous year in the production of any income which was not subject to tax in the Republic, is deemed to have been allowed in such previous years for purposes of determining the balance of the depreciation allowance, such depreciation was not allowed in such previous years as contemplated in section 8(4). Any amount thereof recovered or recouped in respect of such years will, therefore, not be included in the income of the taxpayer in terms of that section.

Tax on Retirement Funds

It is proposed that the Tax on Retirement Funds Act, 1996, should be amended to include foreign income in the form of interest and rental income in the formula for determining taxable income.

CLAUSE 1

Estate Duty: Amendment of section 1 of the Estate Duty Act, 1955

Section 4*(q)* of the Estate Duty Act, 1955, provides that in the determination of the net value of the estate of a deceased person, the value of the property which accrues to the surviving spouse of the deceased must be deducted from the total value of all property included in the estate. The word "spouse" is not defined in the Act. SARS has always interpreted the word to mean the *surviving spouse in a legal marriage dissolved by death.* This section, therefore, only allows a deduction in respect of property which accrues to such a surviving spouse of a deceased.

As the benefit is exclusively conferred on spouses in a legal marriage it unfairly discriminates against same-sex life partners, which is inconsistent with the provisions of section 9(3) of the Constitution. It is, therefore, proposed that the Act be amended, to include a definition of the word "spouse" in section 1 of the Act, to ensure that the meaning thereof is extended to include partners in a permanent same-sex life partnership as well as spouses in marriages concluded in terms of customary law or a recognised system of religious law.

CLAUSE 2

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

Subclauses (a), (b), and (i): A new definition of a resident is being introduced in the Act which will ensure that a company is for all purposes of the Act treated consistently as far as residence is concerned. The definitions of "domestic company", "external company" and "South African company" have, therefore, become obsolete.

Subclause (c): The definition of "gross income" is amended to ensure that for purposes of any resident, it includes all income regardless of the source and as far as non-residents are concerned, it will still only include income which are received or accrued from a source within or deemed to be within the Republic.

Subclause (d): Paragraph *(g*A*)* of the definition of "gross income" includes any amount received or accrued as consideration for imparting of any scientific, technical, industrial or commercial knowledge or information for use in the Republic. The reference to "for use in the Republic" is deleted to ensure that where a resident receives any amount in respect of the imparting of such knowledge or information in any other country, such amount should also be included in gross income.

Subclause (e) and (j): Deletion of obsolete provision.

Subclause (f): This subclause introduces the new definition of "international headquarter company". See notes on INTERNATIONAL HEADQUARTER COMPANY.

Subclause (g): This amendment is consequential upon the approval by the Registrar of Pension Funds in certain instances to allow for the repatriation of surplus assets in a pension fund to employers.

Subclause (h): This subclause introduces the new definition of resident. See notes on DEFINITION OF RESIDENT.

CLAUSE 3

Income Tax: Amendment of section 3 of the Income Tax Act, 1962

These amendments are consequential upon the–

- repeal of section 9C in this Bill;
- the deletion of section 10(1)*(c*B*)*, *(c*I*)* and *(c*J*)* by the Taxation Laws Amendment Act, 2000 (Act 30 of 2000); and
- the insertion of section 25D in this Bill.

CLAUSE 4

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

Section 6*quat* of the Act deals with the granting of credits in respect of foreign taxes.

Subsection (1) of section 6*quat* is amended to delete a reference to section 9C which has been repealed as well as the reference to a resident shareholder as defined in section 9E, which definition has also been deleted. Paragraph *(a)* of subsection (1) currently provides for a rebate of foreign tax payable in respect of any income "from any country outside the Republic" which was included in the taxable income of a person. These provisions specifically did not refer to the words "source outside the Republic", as residents are currently only taxed on South African source income and any amount received or accrued from an actual source outside the Republic, would only have been included in his or her income if it was deemed to be from a source in the Republic.

It is proposed that paragraph *(a)* of subsection (1) be amended to refer to a source outside the Republic which is not deemed to be from a source in the Republic, or which are deemed to be from a source in the Republic in terms of section 9(1)*(c*A*)*, *(e)* or *(f*A*)*. No credit will, therefore, be granted in respect of any other amounts which are deemed to be from a source in the Republic. The amendment to paragraph *(b)* and the deletion of paragraph *(c)* are consequential upon the repeal of section 9C and the deletion of section 9(1)*(d)*, *(d)bis* and *(f)*. The amendment to paragraph (*d*) is of a textual nature.

Subsection (1A) provides for the determination of the amount of the rebate and currently provides that the taxes payable in one country may only be deducted from the South African tax relating to the income which is derived from that country and is included in taxable income.. The amendments to subsection (1A) enable a resident

to deduct all foreign taxes, proved to be payable in any country in respect of foreign income included in his or her taxable income, from the tax payable in the Republic on the total amount of such income. This is known as the onshore mixing of foreign tax credits.

A proviso is also added to provide that where a resident is a member of a partnership or the beneficiary of any trust in any other country and such partnership or trust is taxed as a separate entity in such other country, the proportional amount of the tax which is payable by the partnership or trust which relates to the resident's interest in such partnership or trust shall be deemed to have been payable by the resident. This provision will ensure that the resident will be entitled to the credit of the proportional amount of tax which is payable by the partnership or trust.

The amendments to subsection (1B) also allow for the onshore mixing of foreign tax credits.

Currently any excess credits, i.e. foreign tax credits that exceed the tax payable in the Republic, may be carried forward for three years reckoned from the year of assessment when the excess amount was for the first time carried forward. It is proposed that this period be extended to seven years. The carry forward of excess credits against STC liability will fall away.

The other changes to subsection (1B) and subsection (2) are of a textual nature.

The definition of "resident of the Republic" in subsection (3) is deleted and is consequential upon the introduction of a definition of "resident" in section 1 of the Act.

Subsection (4) is inserted to provide for the conversion of the amount of the foreign tax to the currency of the Republic. The ruling exchange rate on the day that the foreign tax is actually paid will be used. If the tax was not actually paid by the last day of the year of assessment, the ruling exchange rate on such last day will be applied. A proviso is inserted to provide that, in the case of a foreign dividend, the exchange rate used is that used for the purposes of section 9E.

Subsection (5) makes provision that the Commissioner may issue revised assessments where it appears that the foreign tax credit granted was in excess of, or less than, the actual credit granted in respect of any income included in the taxable income of a person. Such an additional or reduced assessment may, however, not be issued after a period 6 years from the date of the assessments in terms of which the foreign tax credit was first allowed.

CLAUSE 5

Income Tax: Amendment of section 7 of the Income Tax Act, 1962

The provisions of section 9D currently provide for the taxation of investment income of controlled foreign entities and investment income arising from donations, settlements or other dispositions. It is proposed that the provisions of section 9D should deal solely with the income of controlled foreign entities and that the anti-avoidance provisions relating to donations, settlements or other dispositions should be included in section 7 which contains similar provisions.

CLAUSE 6

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

Subclause (a): This amendment is consequential upon the deletion of section 9(1)*(c)*.

Subclause (b): See notes on the DEPRECIATION AND WRITE OFF OF CERTAIN ASSETS.

CLAUSE 7

Income Tax: Amendment of section 9 of the Income Tax Act, 1962

Subclause (a): As residents will now be taxed on their worldwide income, there is no need to deem certain forms of income to be from a source within the Republic.

Subclause (b): Section 9(1)*(e)*(i) deems certain income received or accrued for services rendered by a person for or on behalf of the Government, the South African Tourist Corporation (SATOUR) or the Council for Scientific and Industrial Research (CSIR) to be from a source in the Republic. The reason for this is that these services are funded by Government and that the Government should, therefore, retain the right to tax such income. It is proposed that the reference to SATOUR and CSIR should be deleted and that all income received or accrued for services rendered for or on behalf of any national or provincial public entity should be subject to tax if 80 per cent or more of the entity's expenditure is defrayed directly or indirectly from funds voted by Parliament.

Subclause (c): This amendment provides for equality of treatment between employees inside and outside the Republic in respect of reimbursements of domestic or private expenditure.

Subclause (d): This amendment is consequential upon the deletion of section 9(1)*(d)*, *(d)bis* and *(f)*.

Subclause (e): This amendment is consequential upon the fact that residents will be taxed on income on a worldwide basis.

CLAUSE 8

Income Tax: Repeal of section 9A of the Income Tax Act, 1962

This amendment is consequential upon the fact that residents will be taxed on income on a worldwide basis.

CLAUSE 9

Income Tax: Repeal of section 9C of the Income Tax Act, 1962

Section 9C of the Act provides for the taxation of certain types of passive foreign income which are received by or accrue to a resident. As all foreign income will now be taxable in the hands of a resident, section 9C has become obsolete.

CLAUSE 10

Income Tax: Amendment of section 9D of the Income Tax Act, 1962

See notes on ACTIVE INCOME OF CONTROLLED FOREIGN ENTITIES

CLAUSE 11

Income Tax: Amendment of section 9E of the Income Tax Act, 1962

Subclauses (a) and (b): Currently a foreign dividend is defined as any dividend which is distributed by a company from any profits which were derived by such company from a source outside the Republic which are not deemed to be from a source within the Republic, or which are deemed to be from a source within the Republic which have not been subject to tax in the Republic. This effectively means that a South African company can also declare a foreign dividend. As resident companies will become taxable on their foreign income, it is proposed that the foreign dividend definition only include dividends declared by non-resident companies, as dividends which are declared from profits which were already taxed in the Republic will in any event be exempt. It will, however, include a dividend distributed by a resident company from profits derived by such company before it became a resident.

Subclause (c): This subclause proposes an amendment to provide that where a CFE in relation to a resident disposes of any shares in a company, but the resident retains the same effective interest in such company the shares of which have been so disposed of, the provisions which deem a disposal of shares to be a dividend shall also not apply.

Subclause (d): The deletion of the definition of "resident" in subsection (1) is consequential upon the introduction of a definition of "resident in section 1 of the Act.

Subclause (e): Currently section 9E(2) deems any foreign dividend received by or accrued to a resident to be from a source within the Republic for the purposes of the definition of "gross income". As residents will now be taxable on their worldwide income the requirement of deemed source is no longer necessary.

Subclause (f): See notes on DEDUCTION OF INTEREST INCURRED IN RESPECT OF FOREIGN DIVIDENDS. This amendment will be deemed to have come into operation on 23 February 2000, the date from which foreign dividends became taxable.

Subclause (g): These amendments are consequential upon the amendment to the definition of "foreign dividend" to only include dividends distributed by a non-resident company. The exemptions contained in section 9E(7)*(a)* and *(b)* are, therefore, no longer necessary.

Subclause (h): Section 9E(7)*(d)* provides for an exemption of any foreign dividend distributed to a resident who holds a qualifying interest in the company, to the extent that the profits from which the dividend is distributed were generated in a designated country and have been or will be subject to tax at a rate of at least 27 per cent. It was, however, the intention that the profits must have been subject to a statutory rate (as opposed to an effective rate) of at least 27 per cent. This amendment gives

effect to this intention. Where a designated country applies a progressive rate structure to the company for income tax purposes, the highest rate in such scale shall be deemed to be the statutory rate. The amendment will be deemed to have come into operation on 23 February 2000, the date from which foreign dividends became taxable.

Example:

A South African company has two wholly owned subsidiaries, one in Norway and the other in the United Kingdom. The activities conducted in the subsidiaries do not qualify as business establishments. Both Norway and the United Kingdom are countries designated by the Minister of Finance.

The profits of the Norwegian company are normally subject to tax at a rate of 28 per cent. During the 2003 tax year the company made substantial profits but had no tax liability as a result of the utilisation of a large assessed loss. The profits will not be imputed to the SA shareholder due to the fact that it would have been subject to tax of 28 per cent had the company generated sufficient profits to utilise the full assessed loss.

During the 2003 tax year the profits of the UK company are subject to tax at a rate of 20 per cent. However, had the company earned sufficient profits, it would have been taxed at the normal tax rate of 30 per cent, as the UK applies a progressive rate structure to companies. The profits will not be imputed to the SA shareholder as the profits are deemed to have been subject to tax at a statutory rate of 30 per cent for purposes of the exemption provision.

Subclause (i) and (n): Section 9E(7) provides for the exemption from tax of certain foreign dividends. Where, however, a dividend is distributed by a company from dividends received by that company which were previously exempt from tax in terms of this subsection, this will once again be taxable under the provisions of section 9E. It is not the intention to tax these profits if they were initially exempt under any of the other provisions of subsection (7) and it is proposed that a specific exemption be introduced to provide that such dividends will not be taxable.

Subclause (j): This amendment is consequential upon the extension of section 9D to include all foreign income and not just investment income as was previously the case.

Subclause (k): This provision proposes an amendment to provide for an exemption where the profits from which the dividend is declared has been subject to tax in the Republic. The current wording of the Act only allows such an exemption where such income was taxed in the Republic in the hands of the company.

Subclauses (l) and (m): This amendment proposes an exemption from the provisions of section 9E of any dividend which is declared from any income derived by the company declaring the dividend by way of a dividend declared to such company by a resident. These profits will, therefore, have been subject to tax in the Republic.

Subclause (o): See notes on DESIGNATED COUNTRIES.

Subclause (p): See notes on TAX SPARING.

Subclause (q): This amendment proposes the introduction of a provision to provide for the conversion of a foreign dividend to the currency of the Republic on the date that the dividend is declared.

CLAUSE 12

Income Tax: Insertion of section 9F in the Income Tax Act, 1962

This section deals with the foreign source income of a branch of a South African resident company. The foreign source income of a branch of a resident company will not be taxable if it has been or will be subject to tax in any designated country at a statutory rate of at least 27 per cent. Where a designated country applies a progressive rate structure to the company for income tax purposes, the highest rate in such scale shall be deemed to be the statutory rate. The amount determined in accordance with this section will be exempt in terms of the new section 10(1)*(k*A*)* which is inserted in the Act.

A general provision is also inserted to provide that where the foreign income cannot be repatriated to the Republic due to the limitations imposed by exchange control regulations of the foreign country, the income will only be taxed in the Republic when the income can be repatriated.

CLAUSE 13

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

Subclause (a), (b), (e), (f), (g), (h) (i) and (k): These amendments are consequential upon the introduction of a definition of "resident" in section 1 of the Act.

Subclause (c): This amendment is consequential upon the fact that residents will be taxed on their worldwide income and it also withdraws the exemption enjoyed by pension, provident and retirement annuity funds of Namibia. As South African now has a double taxation agreement with Namibia in place, this amendment will ensure equal treatment of all foreign retirement funds.

Subclause (d): See notes on INCOME OF INDIVIDUALS: *Foreign pension payments.*

Subclause (j) and (l): These amendments regulate the tax treatment of income other than in the form of interest and foreign dividends.

Subclause (n): This amendment is consequential upon the repeal of section 9C.

Subclause (m) and (o): See notes on the insertion of section 9F.

Subclause (p): See notes on RESIDENTS EARNING EMPLOYMENT INCOME ABROAD.

Subclause (q): Section 10(1)*(p)* provides for an exemption from income of any amount received by or accrued to a person who is not a resident for services rendered or work or labour done by him or her outside the Republic for or on behalf of the Government, the South African Tourist Corporation (SATOUR) or the Council for Scientific and Industrial Research (CSIR), if the amount is taxable in the country

in which such non-resident is ordinarily resident and the tax is not paid by the Government. This income becomes taxable in the hands of the non-resident by virtue of the fact that it is deemed to be from a source in the Republic in terms of section 9(1)*(e)*(i). As section 9(1)*(e)*(i) is amended to delete the reference to SATOUR and CSIR and to provide that all income received or accrued for services rendered for or on behalf of any national or provincial public entity should be subject to tax if 80 per cent or more of the entity's expenditure is defrayed directly or indirectly from funds voted by Parliament, it is proposed that section 10(1)*(p)* be amended to coincide with this provision.

Subclauses (r), (s) and (t): Makes provision for an exemption of amounts allocated by the Department of Trade and Industry in terms of certain incentive programmes.

CLAUSE 14

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

This amendment is consequential upon the repeal of section 9C.

CLAUSE 15

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

Subclause (a): Section 11 provides for the general deductions which may be allowed in the determination of taxable income derived from carrying on any trade in the Republic. As residents will now be taxed on their worldwide income, it is proposed that the provisions of section 11 be extended to trade outside the Republic and this amendment gives effect to this proposal.

Subclause (b): Currently section 11*(a)* provides for the deduction of expenses and losses actually incurred in the Republic in the production of income which expenses and losses are not of a capital nature. Section 11*(b)* on the other hand provide for the deduction of expenses and losses actually incurred outside the Republic in the production of income which expenses and losses are not of a capital nature. It is proposed that the provisions of section *(a)* and *(b)* be combined and that there be no distinction between expenses and losses incurred in or outside the Republic.

Subclause (c): See notes on GENERAL: *Depreciation and write-off of certain assets*

Subclauses (d), (g) and (h): Section 11*(g*A*)* provides for an allowance in respect of expenditure incurred in obtaining any patent or the restoration of any patent, design or trade mark under the specific Acts regulating patents, designs or trade marks or similar property. Similarly section 11*(g*B*)* provides for a deduction of expenditure incurred in respect of expenditure in obtaining the extension of the tem of a patent, design or trade mark. These allowances are, therefore, only allowed in respect of the registration or restoration, or extension of the term, of a patent, design or trade mark registered in the Republic. As the income derived from any foreign patent, design or trade mark will now become taxable in the hands of the resident, it is proposed that this provision be extended to allow the allowance in respect of expenditure incurred in registering any patent, design or trade mark under any similar law of any other country. Section 11*(g*C*)* provides for a deduction of expenditure actually incurred by an exporter in obtaining in any export country the registration of any patent, design or

trade mark or the extension of the registration period of any patent design or trade mark. In the light of the amendment to section 11*(g*A*)* and *(g*B*)*, it is proposed that section 11*(g*C*)* be deleted.

Subclause (e) and (f) : These amendments are consequential upon the introduction of a definition of "resident" in section 1 of the Act.

Subclause (i): See notes on GENERAL: *Depreciation and write-off of certain assets*

CLAUSE 16

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

Subclauses (a), (b) and (c): These amendments are consequential upon the repeal of section 17.

CLAUSE 17

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

See notes on GENERAL: *Depreciation and write-off of certain assets*

CLAUSE 18

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

See notes on GENERAL: *Depreciation and write-off of certain assets*

CLAUSE 19

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

Subclause (a): Section 12D was inserted in the Act to provide for the deduction in respect of certain pipelines, transmission lines and railway lines. This provision allows for the deduction of an allowance in respect of the cost actually incurred by the taxpayer in respect of the acquisition of such asset which?

- is owned by the taxpayer; and
- is used directly by the taxpayer?
  - in the production of income; and
  - in carrying on the sole business of transportation or transmission.

As cross border pipelines may be used in the production of both local income (which will be taxable) and foreign income (which may as a result of the application of a double taxation agreement not be subject to tax), it is proposed that the deduction of the cost only be allowed to the extent that the asset is used in the production of income.

It is proposed that this amendment be effective from 23 February 2000, the date on which section 12D came into operation.

Subclause (b) and (c): See notes on GENERAL: *Depreciation and write-off of certain assets*

CLAUSE 20

Income Tax: Amendment of section 13 of the Income Tax Act, 1962

See notes on GENERAL: *Depreciation and write-off of certain assets*

CLAUSE 21

Income Tax: Amendment of section 13bis of the Income Tax Act, 1962

See notes on GENERAL: *Depreciation and write-off of certain assets*

CLAUSE 22

Income Tax: Amendment of section 13ter of the Income Tax Act, 1962

See notes on GENERAL: *Depreciation and write-off of certain assets*

CLAUSE 23

Income Tax: Amendment of section 14 of the Income Tax Act, 1962

Subclauses (a), *(b) and (c):* These amendments are consequential upon the introduction of a definition of "resident" in section 1 of the Act and the deletion of section 9(1)*(c)*.

CLAUSE 24

Income Tax: Amendment of section 14bis of the Income Tax Act, 1962

Subclauses (a), (b), (c) and (d): These amendments are consequential upon the deletion of section 9(1)*(c)*.

CLAUSE 25

Income Tax: Repeal of section 17 of the Income Tax Act, 1962

Section 17 provides for the deduction of any expenditure incurred by any person, who in the course of any trade carried on in the Republic manufactures goods, in connection with the appointment of any agent outside the Republic for the sale of such goods to persons outside the Republic. This provision was inserted to provide for the deduction of what could otherwise not have qualified as a capital expense. As worldwide income will now be taxable it is proposed that this section be deleted to ensure equal treatment between any trade carried on in and outside the Republic.

CLAUSE 26

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

This is amendment is consequential upon the fact that residents will be taxed on their worldwide income.

CLAUSE 27

Income Tax: Amendment of section 20 of the Income Tax Act, 1962

Subclauses (a) and (b): Section 20 provides for the set off from any trade carried on by any person in the Republic, of any assessed losses incurred by such person. As residents will be taxed on their worldwide income, it is proposed that the reference to trade in the Republic be deleted.

Subclause *(c)*: It is proposed that the foreign losses incurred by an individual or acompany should not be set off against the South African income of the individual or company. This is proposed in order to protect the existing tax base as there is no information available relating to the magnitude of foreign losses and to what extent this may erode the current South African tax base. Such a measure will also limit the possibility of a person starting a foreign operation in a branch in order to utilise the losses against the South African income and then converting the branch to a separate subsidiary company when it becomes profitable. This could have the effect that the income would be exempt once the branch showed a profit while the losses previously allowed would not be recouped.

CLAUSE 28

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

Section 23F, which regulates the deduction of expenditure incurred by a taxpayer for the acquisition of trading stock. More specifically, subsection (1) provides that where a taxpayer incurs expenditure for the acquisition of trading stock which was neither disposed of by him during the year nor held by him at the end of such year, the deduction in terms of the Act of such expenditure shall not be allowed in such year, but shall be deemed to have been incurred in the first subsequent year in which either—

- such trading stock is disposed of by him;

- the value of such trading stock falls to be included in his income under the provisions of section 22(1); or
- it is shown by him that by reason of the loss or destruction of such trading stock or any other reason, such trading stock will neither be disposed of nor held by him,

to the extent that such expenditure has actually been paid by such taxpayer.

It was, however, not the intention that the requirement that the expenditure has actually been paid should apply in the first two instances, i.e. where the trading stock is disposed of by him, or where the value of the trading stock falls within his income. It is, therefore, proposed that section 23F(1) be amended to apply the actually paid requirement only to the instance where it is shown by the taxpayer that the trading stock will neither be disposed of nor held by him. This amendment shall be deemed to have come into operation on 23 February 2000.

CLAUSE 29

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

Section 23H was introduced into the Act to provide for the limitation of certain deductions which are allowable in terms of the provisions of section 11*(a)*, *(b)*, *(c)* or *(d)*. Although the deduction of expenses of short-term insurers is dealt with under section 28 of the Act, the deduction is actually allowable under the provisions of section 11*(a)*. In order to eliminate any uncertainty as to the applicability of section 23H to deductions claimed by short-term insurers, it is proposed that section 23H be amended in this regard with effect from 23 February 2000. The amendment deleting the reference to section 11(b) is consequential upon the repeal of section 11(b).

CLAUSE 30

Income Tax: Amendment of section 24F of the Income Tax Act, 1962

These amendments are consequential upon the repeal of section 17.

CLAUSE 31

Income Tax: Amendment of section 24I of the Income Tax Act, 1962

Section 24I provides for the determination for tax purposes of any gains or losses on foreign exchange transactions. As residents will now also be taxed on any trade carried on outside the Republic, it is proposed that the reference to any trade carried on in the Republic in this section be deleted. The definition of “foreign currency” is also amended to provide that—

- in respect of any trade carried on within the Republic, foreign currency shall mean any currency which is not legal tender in the Republic; and
- in respect of any trade carried on in any country outside the Republic, foreign currency shall mean any currency which is not legal tender in such country.

CLAUSE 32

Income Tax: Substitution for section 25B of the Income Tax Act, 1962

See notes on TRUSTS.

CLAUSE 33

Income Tax: Insertion of section 25D of the Income Tax Act, 1962

A new section 25D is inserted in the Act to provide for the determination of the taxable income or losses of any resident which are derived from a foreign source in the foreign currency of the country from where the income is so derived.

Once the amount of the taxable income is determined, that amount shall be converted on the last day of the year of assessment to the currency of the Republic at the ruling exchange rate at that date. Any other exchange rate or rates, determined with reference to the ruling exchange rates during the year as the Commissioner may approve, may also be applied at the request of the taxpayer.

CLAUSE 34

Income Tax: Amendment of section 27 of the Income Tax Act, 1962

This amendment is consequential upon the repeal of section 21*ter* by the Revenue Laws Amendment Act, 1999 (Act No. 53 of 1999).

CLAUSE 35

Income Tax: Amendment of section 28bis of the Income Tax Act, 1962

These amendments are consequential upon the introduction of a definition of "resident" in section 1 of the Act.

CLAUSE 36

Income Tax: Amendment of section 29A of the Income Tax Act, 1962

This amendment is consequential upon the fact that residents will be taxed on their worldwide income.

CLAUSE 37

Income Tax: Amendment of section 31 of the Income Tax Act, 1962

Subclause (a): The amendments to paragraphs *(a)*, *(b)* and *(c)* of the definition of "international agreement" in section 31(1), are consequential upon the introduction of a definition of "resident" in section 1 of the Act. A new paragraph *(d)* is inserted to also include in the definition of "international agreement" any agreement between two

residents where either of such residents is as a result of the application of the provisions of any double taxation agreement not subject to tax in the Republic.

Subclause (b): The definition of "international agreement" contains references to a permanent establishment which is not defined in the Act. It is proposed that a definition be inserted in this section to provide that a permanent establishment means a permanent establishment as defined in Article 5 of the Model Tax Convention on Income and on Capital of the OECD.

Subclause (c): These amendments are consequential upon the introduction of a definition of "resident" in section 1 of the Act.

CLAUSE 38

Income Tax: Amendment of section 33 of the Income Tax Act, 1962

This amendment is consequential upon the introduction of a definition of "resident" in section 1 of the Act.

CLAUSE 39

Income Tax: Amendment of section 35 of the Income Tax Act, 1962

Currently section 35 provides for the assessment of non-residents in respect of income derived from royalties or similar payments contemplated in section 9(1)*(b)* and *(b*A*)*. These royalties include amounts received by or accrued to such person by virtue of—

- the use or right of use in the Republic of any patent, design, trade mark, copyright, model, pattern, plan, formula or process or any other property or right of a similar nature or any motion picture film, or any film or video tape or disc for use in connection with television, or any sound recording or advertising matter used or intended to be used in connection with such motion picture film, film or video tape or disc;
- the imparting of or the undertaking to impart any scientific, technical, industrial or commercial knowledge or information for use in the Republic.

In terms of the existing provisions an amount of 30 per cent of such receipts and accruals will be included in taxable income. Any person liable to pay any such royalty to any non-resident must withhold an amount equal to 12 per cent of such amount and pay such amount over to the Commissioner.

It is proposed that section 35 be amended to constitute a final withholding tax of 12 per cent on royalties.

CLAUSE 40

Income Tax: Substitution for section 54 of the Income Tax Act, 1962

This amendment is consequential upon the introduction of a definition of "resident" in section 1 of the Act.

CLAUSE 41

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

This amendment is consequential upon the introduction of a definition of “resident” in section 1 of the Act.

CLAUSE 42

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

Subclause (a): This amendment is consequential upon the introduction of a definition of “resident” in section 1 of the Act.

Subclause (b): This amendment is consequential upon the insertion of paragraphs *(e)*(iii), (*e*)(iv) and *(f)* in section 9E(3) and of section 9E(8A).

Subclause (c): This amendment is consequential to the move to tax residents on a worldwide basis and the fact that STC is imposed only on residents.

Subclause (d): These amendments are consequential upon the fact that residents will be taxed on their worldwide income.

CLAUSE 43

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

Subclause (a): This amendment is consequential upon the amendment to the definition of "official rate of interest” in paragraph 1 of the Seventh Schedule to the Income Tax Act, 1962. As that definition now includes loans denominated in a foreign currency, it is no longer necessary for section 64C(4)(d) to distinguish between loans denominated in the currency of the Republic and loans denominated in a foreign currency.

Subclauses (*b*), (*c*) and (*d*): This amendment limits the scope of the deemed dividend and will not apply to any loan granted to any recipient, which is a company, by any other company which holds for its own benefit, whether directly or indirectly through one or more intermediate companies, any of the equity share capital of such recipient company. The provisions of this paragraph shall, however, not apply where such recipient holds any of the equity share capital in such other company

CLAUSE 44

Income Tax: Amendment of section 70 of the Income Tax Act, 1962

This amendment is consequential upon the repeal of section 9C.

CLAUSE 45

Income Tax: Amendment of section 72 of the Income Tax Act, 1962

This amendment is consequential upon the repeal of section 9C.

CLAUSE 46

Income Tax: Insertion of section 72A of the Income Tax Act, 1962

A new section 72A is inserted in the Act to make provision for a reporting requirement relating to the participation rights of residents in a controlled foreign entity (CFE), as well as the income of such CFE. In terms of this subsection, every resident who—

- directly or indirectly holds 10 per cent or more of the participation rights in any controlled foreign entity as contemplated in section 9D; and
- together with any connected person in relation to such resident, holds more than 50 per cent of the total participation rights in any controlled foreign entity,

must submit a return reflecting certain information to the Commissioner. This will, however, only apply to the resident who holds the greatest percentage of the participation rights in the CFE.

The following information relating to the controlled foreign entity must be provided—

- the name, address and country of residence of such controlled foreign entity;
- a description of the various classes of the participation rights in such controlled foreign entity;
- the percentage and class of participation rights held by such resident whether directly, indirectly or together with connected persons;
- the percentage and class of participation rights held by any other resident (who is a connected person in relation to such resident) who directly or indirectly holds 10 per cent or more of the participation rights in such controlled foreign entity;
- a description of the receipts and accruals of such controlled foreign entity which are—
  - included in the income of such resident in terms of the provisions of section 9D;
  - not included in the income of such residents in terms of the provisions of section 9D(9);
- a description of any amount of tax paid by such controlled foreign entity to the government of any other country in respect of any income contemplated in paragraph *(f)*, including the particulars relating to the country in which such tax was paid and the underlying profits to which such foreign tax relates.

The resident who is required to submit this return must also provide the relevant information to any connected person who is a resident who holds at least 10 per cent of the participation rights in the CFE. This resident must also have available for submission to the Commissioner when so requested, an income statement or balance sheet of the CFE. A resident who receives relevant information from the resident who holds the greatest percentage of the participation rights in the CFE must then also submit this information to the Commissioner.

CLAUSE 47

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

Section 83A provides for certain tax appeals, which do not exceed an amount of R30 000 in tax or such other amount to be determined by the Minister of Finance by way of notice in the *Gazette*, to be heard in the Special Board. It is proposed that this section be amended to not refer to a specific monetary amount, but only to an amount to be determined by the Minister.

CLAUSE 48

Income Tax: Amendment of section 89bis of the Income Tax Act, 1962

This amendment deletes the reference to obsolete provisions.

CLAUSE 49

Income Tax: Amendment of section 89ter of the Income Tax Act, 1962

These amendments delete a reference to obsolete provisions.

CLAUSE 50

Income Tax: Amendment of section 89quat of the Income Tax Act, 1962

Section 89*quat* makes provision for the determination of interest on the underpayment or overpayment of provisional tax. Where the taxable income as finally determined exceeds the credit amount which has been paid by the taxpayer under the provisions of the Fourth Schedule, interest is payable by the taxpayer. Where, however, such credit amount paid by the taxpayer exceeds the amount of the tax as assessed, the Commissioner must pay interest to the taxpayer on the excess amount.

The credit amount as defined includes the sum of—
- provisional tax paid by the taxpayer;
- any additional provisional tax paid by the taxpayer; and
- any amount of employees' tax withheld by the taxpayer's employer.

No provision is currently made for foreign taxes payable to the government of any other country on any foreign source income, which must be deducted from the South African tax payable on such foreign source income.

It is, therefore, proposed that in determining the credit amount of taxes already paid for purposes of section 89*quat*, any foreign taxes payable to the government of any other country, which may be deducted from the South African tax, must also be taken into account. This amendment gives effect to this proposal.

CLAUSE 51

Income Tax: Amendment of section 90 of the Income Tax Act, 1962

This amendment deletes a reference to obsolete provisions.

CLAUSE 52

Income Tax: Amendment of section 103 of the Income Tax Act, 1962

This amendment is consequential upon the insertion of a definition of "resident" in section 1 of the Act.

CLAUSE 53

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

Subclauses (a) and (d): These amendments are consequential upon the introduction of a definition of "resident" in section 1 of the Act.

Subclause (b): This amendment is consequential upon the amendment of the definition of "gross income" in section 1 of the Act by the Taxation Laws Amendment Act, 2000 (Act No. 30 of 2000), to include amounts received in respect of a restraint of trade.

Subclause (c): In so far as this subclause deletes the reference to "ordinarily resident in the Republic" it is consequential upon the introduction of a definition of "resident" in section 1 of the Act.

In so far as the amendment inserts a reference to paragraphs *(e)* and *(f)*, this amendment is consequential upon the amendment of the definition of "employee" by the Taxation Laws Amendment Act, 2000 (Act No. 30 of 2000), to include any personal service company and any personal service trust.

CLAUSE 54

Income Tax: Amendment of paragraph 2 of the Fourth Schedule to the Income Tax Act, 1962

As residents of the Republic will now become taxable on their worldwide income (including employment income) it is proposed that the provisions in the Act relating to the withholding of employees' tax be extended to include resident employers as well as representative employers of foreign employers. This will ensure that where a foreign employer has a representative employer, as defined, in the Republic, employees' tax will be deducted from the remuneration of resident employees and such tax will be paid over to the Commissioner.

CLAUSE 55

Income Tax: Amendment of paragraph 9 of the Fourth Schedule to the Income Tax Act, 1962

Paragraph 9 of the Fourth Schedule to the Act provides that the Commissioner may prescribe deduction tables for employees' tax purposes having regard, *inter alia*, to the rates of normal tax as fixed by Parliament or foreshadowed by the Minister of Finance in his budget statement and to the rebates applicable in terms of section 6. These tables determine the amount of employees' tax that must be withheld by an employer from the remuneration payable by such employer to an employee.

As residents will become taxable on their worldwide income and such remuneration may be taxable in another country where the services are rendered, it is proposed that Paragraph 9 be amended to provide that the Commissioner may also take into account any foreign tax credits which may be deductible from the normal tax payable in the Republic, when prescribing these deduction tables for employees' tax purposes.

CLAUSE 56

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

This amendment makes provision for the payment of annuities provided by a pension fund, provident fund or benefit fund, as opposed to annuities payable by such funds.

CLAUSE 57

Income Tax: Amendment of paragraph 17 of the Fourth Schedule to the Income Tax Act, 1962

Paragraph 17 of the Fourth Schedule to the Act provides that the Commissioner may prescribe deduction tables for provisional tax purposes having regard, *inter alia*, to the rates of normal tax as fixed by Parliament or foreshadowed by the Minister of Finance in his budget statement and to the rebates applicable in terms of section 6. These tables determine the amount of provisional tax that may be used by provisional taxpayers for determining the amount of provisional tax payable or for purposes of estimating the liability of such taxpayer for normal tax.

As residents will become taxable on their worldwide income and such income may be taxable in another country, it is proposed that Paragraph 17 be amended to provide that the Commissioner may also take into account any foreign tax credits which may be deductible from the normal tax payable in the Republic, when prescribing these deduction tables for provisional tax purposes.

CLAUSE 58

Income Tax: Amendment of paragraph 2 of the Fifth Schedule to the Income Tax Act, 1962

This amendment is consequential upon the introduction of a definition of “resident” in section 1 of the Act.

CLAUSE 59

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

Paragraphs 2(f) and 11 of the Seventh Schedule to the Income Tax Act, 1962, provide for the determination of a taxable benefit derived by an employee in consequence of the grant of a loan to such employee as a benefit or by virtue of his or her employment, where either no interest is payable by the employee on such loan or interest is payable by him or her thereon at a rate lower than the official rate of interest, as defined.

Currently, the official rate of interest is a rate of interest fixed by the Minister of Finance from time to time by notice in the *Gazette*. As residents will be taxed on their foreign employment income(subject to a number of exclusions) and interest rates vary from country to country, it is proposed that the definition of “official rate of interest” be amended to include that where the loan to the employee is denominated in a foreign currency, it shall mean market related interest. This will have the effect that a fringe benefit on such a loan will only arise to the extent that the interest rate charged on such a loan is below the relevant market related rate of interest.

CLAUSE 60

Customs and Excise: Amendment of section 1 of the Customs and Excise Act, 1964

The amendment of the definition of “this Act” is of a textual nature and relates to the provision in section 49 for the enacting into law of agreements as part of the Act.

CLAUSE 61

Customs and Excise: Amendment of section 46A of the Customs and Excise Act, 1964

The United States of America has enacted preferential tariff treatment in respect of certain goods imported from beneficiary sub-Saharan African countries.

The provisions for preferential tariff treatment are contained in the African Growth and Opportunity Act (AGOA) which is incorporated in the Trade and Development Act of 2000 of the United States.

Textiles and articles of apparel, as contemplated in that Act, will enter the United States duty free with effect from 1 October 2000. Other goods will be granted preferential treatment with effect from 1 January 2001.

The Republic of South Africa has been designated by the President of the United States as a beneficiary sub-Saharan country.

AGOA (section 113*(a)*(1)) states that the preferential treatment shall not be provided to textile and apparel articles imported from a beneficiary sub-Saharan African country, unless that country *inter alia*?

- has enacted an effective visa system, domestic laws and enforcement procedures to prevent unlawful transshipment;
- has enacted legislation that would permit United States Customs Service verification teams to investigate allegations of transshipment;
- agrees to report on a timely basis on the total exports from and imports into the country concerned of covered articles;
- will co-operate with the United States to address and take action necessary to prevent circumvention as provided in Article 5 of the Agreement on Textile and Clothing;
- agrees to require producers and exporters of covered articles to maintain complete records of the production and export of the covered articles;
- agrees to report on a timely basis, at the request of the Unites States Customs Service on documentation used to establish the country of origin for the purposes of in implementing an effective visa system; and
- has either implemented and follows or is making substantial progress toward implementing and following procedures and requirements similar in all material respects to the relevant procedures and requirements under Chapter 5 of NAFTA (the North American Free Trade Agreement entered into between the United States, Mexico and Canada on December 17, 1992).

The proposed section 46A is intended to provide for the implementation of requirements specified in AGOA. It could also be used for other similar preferential tariff treatment allowed by other countries.

Subclause (1): This subclause contains definitions of “preferential tariff treatment”,and “enactment” (which includes the provisions of any legislative act by a government providing for preferential tariff treatment, administrative requirements of the customs administration of a country and any legislation or agreement incorporated by reference in such provisions and any amendments to such provisions, requirements, legislation or agreement, kept by the Commissioner as contemplated in subsection (2)). It, further, includes a definition of “circumvention” and “transshipment” to which subclause (8) relates.

Subclause (2): The duty is imposed on the Commissioner to keep two copies of such enactment and any amendment received from the customs administration of the country allowing preferential treatment. The Commissioner must further record the date any enactment or amendment is received. Provision is also made for the effective date of the enactment or amendment while paragraph *(c)* is an evidentiary provision which provides that the copy of the enactment or the enactment as amended and the date recorded must be accepted as *prima facie* proof of the contents and the effective date of the enactment and amendment thereto. The Commissioner may furthermore publish any enactment or part thereof by notice in the *Gazette*.

Paragraph *(d)* provides that a copy kept by the Commissioner must be accessible to any interested person during official working hours.

Subclause (3): This clause provides that the application of the provisions of the Act relating to any importer, producer, manufacturer, exporter, licensee or the principal or agent or the importation and exportation of goods and various other matters for the purposes of giving effect to any enactment (unless otherwise provided in the section or in any rule made in terms of that section) will be subject to such enactment or any part or provisions thereof, as the case may be.

Paragraph *(b)* provides that section 4(12A) will apply *mutatis mutandis* in respect of goods exported for the purposes of benefiting from the preferential tariff treatment contemplated in an enactment. Furthermore, any person referred to in section 4(12A)(a) is deemed to have agreed to comply with the requirements governing the allowing of such treatment by the government of the country to which the goods are exported. The requirements include those in respect of the keeping and production of books, accounts and other documents and permitting and assisting customs officers of the country of importation to investigate books, accounts and other documents and any circumvention contemplated in section 46A(8). (Section 4(12A) provides for the powers of officers investigating the origin of goods where proof of origin has been furnished to comply with the provision of any agreement contemplated in sections 46, 49 or 51).

Subclause (4): To enable the Commissioner to apply the provisions of an enactment, this clause allows the Commissioner to decide or determine various matter in connection with the provisions of such enactment and to make rules.

Subclause (5): The Commissioner is empowered, when authorised by the Minister, to furnish any report required in terms of any enactment.

Subclause (6): This clause provides for the registration of a producer, manufacturer or exporter of goods to which the section relates. Provision is also made that the Commissioner may refuse or cancel registration and reregister any such person.

Subclause (7): This provision prohibits the export of any goods with the object of obtaining any benefit of preferential treatment in terms of an enactment unless the goods comply with the provisions of origin or other provisions of the enactment or of the Act.

Subclause (8): A person who, in connection with any goods produced or manufactured and exported, for the purposes of obtaining a preferential tariff treatment in the country of importation in terms of an enactment–

- makes any false statement;
- makes use of any declaration or document containing such statement; or
- performs any other act

for the purposes of the circumvention of any provisions of an enactment relating to the origin, production, or manufacture of such goods, is guilty of an offence. Such a person is further guilty of an offence when any other provision of the Act is contravened or an attempt is made to circumvent or contravene the provisions contemplated in the subsection.

The Commissioner may prohibit any exporter who is convicted or dealt with under the provisions of section 91 for any circumvention involving transshipment from exporting goods for the purpose of obtaining any benefit in terms of any enactment for a period not exceeding 5 years. The prohibition also applies to the successor of the exporter or any other entity, owned or operated by the principal of the exporter (section 8*(b)*).

Subclause (9): the Minister may publish any notice or the Commissioner may make rules under the section with retrospective effect as from 1 October or any date thereafter.

CLAUSE 62

Customs and Excise: Amendment of section 80 of the Customs and Excise Act, 1964

This amendment is of a textual nature to bring the provision in line with the wording of the Afrikaans text.

CLAUSE 63

Stamp Duty: Amendment of Item 15 of the Stamp Duties Act, 1968

This amendment provides for an exemption where assets are transferred from one fund established by law to another fund established by law.

CLAUSE 64

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

Subclause (a): After the municipal elections which are scheduled to take place during December 2000, a large number of local authorities will be disestablished and their functions taken over by new local authorities. The definition of "local authority" is amended to deem the disestablished and the new local authority to be one and the same local authority. This will have the effect that the taking over of the activities is not seen as a supply and that no adjustments need to be made in terms of the Act.

Subclause (b): This amendment is consequential upon the introduction of a definition of "resident" in section 1 of the Income Tax Act, 1962.

CLAUSE 65

Value-Added Tax: Amendment of section 33A of the Value-Added Tax Act, 1991

Section 33A provides for certain tax appeals, which do not exceed an amount of R30 000 in tax or such other amount to be determined by the Minister of Finance by way of notice in the *Gazette*, to be heard in the Special Board. It is proposed that this section be amended to not refer to a specific monetary amount, but only to an amount to be determined by the Minister.

CLAUSE 66

Tax on Retirement Funds: Amendment of section 1 of the Tax on Retirement Funds Act, 1996

These amendments are consequential upon the introduction of section 29A in the Income Tax Act, 1962, by the Revenue Laws Amendment Act, 1999 (Act No. 53 of 1999).

CLAUSE 67

Tax on Retirement Funds: Amendment of section 3 of the Tax on Retirement Funds Act, 1996

These amendments are consequential upon the introduction of a worldwide basis of taxation for residents of the Republic.

CLAUSE 68

Tax on Retirement Funds: Amendment of section 4 of the Tax on Retirement Funds Act, 1996

These amendments are consequential upon the introduction of section 29A in the Income Tax Act, 1962, by the Revenue Laws Amendment Act, 1999 (Act No. 53 of 1999).

CLAUSE 69

Tax on Retirement Funds: Amendment of section 16 of the Tax on Retirement Funds Act, 1996

These amendments are consequential upon the introduction of a worldwide basis of taxation for residents of the Republic.

CLAUSE 70

Skills Development Levy: Amendment of section 13 of the Skills Development Levies Act, 1999

Section 13 of the Skills Development Levies Act, 1999, makes certain provisions of the Income Tax Act, 1962, relating to, *inter alia*, returns, obtaining of information, assessment, recovery of tax, etc. applicable to the levies collected in terms of the Skills Development Levies Act, 1999. It is proposed that this section be extended to also make applicable the provisions of section 105 of the Income Tax Act, 1962, which provides that a person that is charged with an offence under the Act, may notwithstanding anything to the contrary contained in any law, be tried in respect of that offence by any court having jurisdiction within any area in which such person resides or carries on business.

CLAUSE 71

Income Tax: Amendment of section 12 of the Taxation Laws Amendment Act, 2000

Section 12 of the Taxation Laws Amendment Act, 2000, fixes the rates of tax payable by persons (other than companies) and companies. These rates apply in respect of—

(a) the taxable income of persons other than companies for the year of assessment ending on 28 February 2001 or 30 June 2001;
(b) the taxable income of companies for the year of assessment ending during the period of 12 months ending on 21 March 2001; and
(c) the taxable income of small business corporations and employment companies, for the year of assessment commencing on or after 1 April 2000 and ending during the period of twelve months ending on 31 March 2001.

The English text of section 12, however, contained a printing error in paragraph *(c)* thereof, which erroneously referred to years of assessment commencing on or after 1 April 2000 and ending during the period of twelve months ending on 31 March 2000. It is, therefore, proposed that this section be amended to reflect the correct date, i.e. 31 March 2001.

CLAUSE 72

Income Tax: Amendment of section 24 of the Taxation Laws Amendment Act, 2000

Section 24 of the Taxation Laws Amendment Act, 2000 (Act No. 30 of 2000) replaces section 18A of the Income Tax Act, 1962, relating to the deduction of donations made to public benefit organisations, with effect from a date to be determined by the President. In terms of the new section 18A, there shall be allowed to be deducted a certain percentage of donations made to certain public benefit organisations which provide funds solely to other public benefit organisations, if 75 per cent or more of the donations received by or accrued to such organisation by way of donations are distributed to such other organisations during the preceding year of assessment. As only the donations that are actually received by the organisation can be so distributed, it is proposed to change the provision to delete the reference to donations which accrued to such organisation.

CLAUSE 73

Income Tax: Amendment of section 35 of the Taxation Laws Amendment Act, 2000

Section 35 of the Taxation Laws Amendment Act, 2000 (Act No. 30 of 2000) inserts a new section 30 in the Income Tax Act, 1962, to regulate the income tax exemption of public benefit organisations. This section will, however, only come into operation on a date to be determined by the President.

In terms of the new provisions, certain organisations that carry on public benefit activities shall be exempt from tax. Section 30(2)*(a)* provides that the Minister of Finance shall by notice in the *Gazette* determine as public benefit activities any activities, which are of a philanthropic and benevolent nature, having regard to the needs, interests and well-being of the general public.

It is proposed that, as certain activities may be either "philanthropic" or "benevolent" and not necessarily both, the provisions of section 30(2)*(a)* be amended to delete the requirement that the activities should be both philanthropic and benevolent. If it complies with either test, the Minister may determine such activity as a public benefit activity.

CLAUSE 74

Income Tax: Amendment of section 59 of the Taxation Laws Amendment Act, 2000

In terms of the Taxation Laws Amendment Act 30 of 2000, section 47B is to come into operation on 1 November 2000, in respect of the carriage of chargeable passengers on any flight which commences after that date. Subsequent to the promulgation of that Act, representations were made to the Minister of Finance to point out that tickets have already been sold for flights which are to depart after 1 November 2000. A large number of these tickets do not include the prescribed tax, and practical problems are envisaged in collecting the tax on such tickets. As the relevant operators have indicated that they are in a position to include the tax in tickets sold after 1 August 2000, for flights which depart on or after 1 November 2000, the Minister has agreed to fix the date from which the operators are liable for payment of the tax as 1 August 2000.

CLAUSE 75

Income Tax: Amendment of Paragraph 4 of Schedule 1 to the Taxation Laws Amendment Act, 2000

This amendment is consequential upon the repeal of section 9C of the Income Tax Act, 1962.

CLAUSE 76

Short title and commencement.

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

The following bodies were consulted on the draft legislation:

ACCOUNTING FORUM
AFRIKAANSE HANDELSINSTITUUT (AHI)
AIRLINES ASSOCIATION OF SOUTHERN AFRICA (AASA)
ASSOCIATION FOR THE ADVANCEMENT OF BLACK ACCOUNTANTS OF SOUTH AFRICA (ABASA)
ASSOCIATION OF LAW SOCIETIES (ALS)
ASSOCIATION OF UNIT TRUSTS (AUTSA)
BANKING COUNCIL
COMMERCIAL AND FINANCIAL ACCOUNTANTS (CFA)
COSATU
FINANCIAL AND FISCAL COMMISSION (FFC)
INSTITUTE OF RETIREMENT FUNDS (IRF)
JOHANNESBURG STOCK EXCHANGE (JSE)

LIFE OFFICES ASSOCIATION (LOA)
NATIONAL AFRICAN FEDERATED CHAMBER OF COMMERCE AND INDUSTRY (NAFCOC)
NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL (NEDLAC)
SOUTH AFRICAN CHAMBER OF BUSINESS (SACOB)
SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS (SAICA)
TAX ADVISORY COMMITTEE (TAC)