CLAUSE 31

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

Government introduced the learnership tax allowance in 2002 to encourage on the job training and to enhance skills development in the Republic. This allowance, which is set to expire in October 2006, has boosted the number of learnerships. The Minister of Finance proposed in the 2006 Budget Review that the learnership allowance be extended to October 2011, in line with the extension of the national Skills Development Strategy to 2010. Furthermore, the Minister proposed that the maximum allowance upon the entering into a learnship be increased from R17 500 to R20 000 for existing employees and from R25 000 to R30 000 for new employees. Similarly, it was proposed that the maximum allowance upon completion of all learnerships be increased from R25 000 to R30 000.

The Minister further proposed that, given the additional expenses associated with employing disabled persons as learners, a more favouable learnerhip tax allowance be introduced with effect from 1 July 2006 in respect of disabled learners. In terms of the proposed amendments, an employer will be allowed to deduct an initial allowance of 150 per cent of the annual salary of an existing learner employee with a disability (up to a maximum of R40 000) and 175 per cent for an unemployed learner with a disability (up to a maximum of R50 000). The allowance for disabled persons completing a learnership will be 175 per cent of the employee's annual salary (up to a maximum of R50 000).

CLAUSE 32

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

Subclause (a): Section 24I of the Income Tax Act was amended by the Revenue Laws Amendment Act, 2005, to *inter alia* align the translation of exchange items at the end of the tax year with Generally Accepted Accounting Practice. With this amendment the translation rule relating to a forward exchange contract which is an affected contract was erroneously omitted and it is, therefore, proposed that it be reinserted with effect from the date of the 2005 amendment.

Subclause (b): Section 24I of the Income Tax Act was amended by the Revenue Laws Amendment Act, 2005, to *inter alia* extend the relief measures contained in section 24I(10) to also include foreign currency loans and advances between connected persons which were previously dealt with under the discontinued provisions of section 24I(7A). With this amendment to subsection (10), the proviso thereto was erroneously omitted and it is, therefore, proposed that it be reinserted with effect from the date of the 2005 amendment.

CLAUSE 33

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

As was proposed by the Minister of Finance in the 2006 Budget Review that the annual donations tax exemption will be increased from R30 000 to R50 000 with effect from 1 March 2006. This amendment gives effect to this proposal.

CLAUSE 34

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

As mentioned by the Minister of Finance in the 2005 and 2006 Budget Reviews, the provisions relating to the motor vehicle allowances are amended as the generous allowance in the formula created an unfair bias in the structuring of salary packages with undue benefits accruing especially to higher income earners. Although the proposed amendments to section 8 of the Income Tax Act address these concerns, the full amount of tax payable on the non-business related portion of the travel allowance only becomes payable on assessment. To ensure that the correct amount of income tax is collected through the PAYE system during the year, it is proposed that the percentage of the monthly motor vehicle allowance which should be subject to PAYE be increased from 50% to 60%. The amendments give effect to this proposal.

CLAUSE 35

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

Employees who receive free or discounted residential accommodation are subject to fringe benefit taxation. This form of fringe benefit taxation is based on a formula which is partly based on prior year salary less R20 000. As proposed by the Minister of Finance in his 2006 Budget Review, the amount of R20 000 will be doubled to R40 000 and the amendment gives effect to this proposal.

CLAUSE 36

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

Cross-border travel benefits up to R500 for transport business employees are not subject to fringe benefit taxation. As proposed by the Minister of Finance in his 2006 Budget Review, the R500 monetary cap rule will be deleted as obsolete. The amendment gives effect to this proposal.

CLAUSE 37

Income Tax: Amendment of paragraph 12B of the Eighth Schedule to the Income Tax Act, 1962

No value will be placed on any taxable benefit resulting form the provision of medical treatment listed in any category of the prescribed minimum benefits determined by the Minister of Health, which is provided to the employee (or his or her spouse or children) in terms of a scheme or programme of that employer which does not constitute the carrying on of the business of a medical scheme, who are

beneficiaries of a medical scheme registered under the provisions of the Medical Schemes Act, 1998, if the total cost of any treatment provided in terms of that programme is recovered from that medical scheme.

CLAUSE 38

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

In terms of paragraph 5 of the Eighth Schedule, a natural person has an annual exclusion of R10 000 in respect of capital gains or capital losses during a year of assessment. This effectively means that after setting off all capital gains and losses for the year, any balance remaining (whether a gain or loss) which is less than R10 000 is disregarded. This annual exclusion increases to R50 000 in the year that a person dies.

The Minister of Finance proposed in the 2006 Budget Review that the annual exclusion will increase from R10 000 to R12 500 and in the year of death of a taxpayer increase from R50 000 to R60 000. The amendments give effect to this proposal.

CLAUSE 39

Income Tax: Amendment of paragraph 45 of the Eighth Schedule to the Income Tax Act, 1962

Paragraph 45 of the Eighth Schedule to the Income Tax Act provides for an exclusion of the first R1 million capital gain or loss realised from the disposal of a primary residence of the taxpayer. The Minister of Finance proposed in the 2006 Budget Review that this exclusion will be increased to R1,5 million with effect from 1 March 2006. The amendment gives effect to this proposal.

CLAUSE 40

Income Tax: Amendment of paragraph 57 of the Eighth Schedule to the Income Tax Act, 1962

Paragraph 57 of the Eighth Schedule to the Income Tax Act provides for the exclusion of the first R500 000 of any capital gain realised from the disposal of an asset of or interest in a small business in certain circumstances. The Minister of Finance announced in his Budget Review this year that this amount will be increased to R750 000. This amendment gives effect to that proposal.

CLAUSE 41

Income Tax: Amendment of paragraph 64B of the Eighth Schedule to the Income Tax Act, 1962

In 2005 anti-avoidance measures were introduced in order to prevent multinationals from utilising the participation exemption for capital gains with little or no consideration remaining within the South African jurisdiction. The measures cover

situations where the consideration on disposal of foreign shares is distributed *in specie*. However, a distribution of cash would not trigger the anti-avoidance rules. It is proposed that subparagraph (3) be amended in order to cover the distribution of all forms of consideration under the anti-avoidance rule. Furthermore, it is proposed that subparagraph (4) be amended to ensure that the company to which distributions were made, which qualified for the STC exemption contained in section 64B(5)*(f)* or the participation exemption in section 10(1)*(k)*(ii)*(dd)* of the Income Tax Act, also be subject to the anti-avoidance rules on the disposal of the distribution received.

CLAUSE 42

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

Section 4(8A)(a) empowers an officer to stop and detain goods in order to determine whether the provisions of the Customs and Excise Act, or any other law, has been complied with before the goods are allowed to pass from the control of the Commissioner as contemplated in section 107(2)(a) of the Act.

The current wording of subsection (8A)(a) does not, for the purposes of the subsection, include ships, vehicles and containers contemplated in section 1(2) in the description of "goods".

The proposed amendment to subsection (8A)(a) is aimed at providing for the stopping, detention and examination of all goods under the control of the Commissioner, including ships, vehicles or any container contemplated in section 1(2), whether for the purposes of the Customs and Excise Act or any other law as contemplated in section 107(2)(a). The amendment also clearly vests the general power of examination which is required to give effect to the aims of the subsection in a customs officer.

CLAUSE 43

Customs and Excise: Amendment of section 107 of the Customs and Excise Act, 1964

Section 107(1) deals with the expenses relating to the handling, examination, weighing, analysis, etc of goods for the purposes of the Customs and Excise Act. It also specifies the persons responsible for such costs.

Section 107(2)(a) prohibits the Commissioner from allowing goods to pass from under his or her control until the provisions of this Act or any other law relating to the importation, or exportation, or transit carriage through the Republic of goods have been complied with in respect of such goods.

The proposed insertion of subsection (3) is consequential to the amendment of section 4(8A)(a) and includes, for the purposes of subsections 107(1) and 107(2)(a), any ship, vehicle or container contemplated in section 1(2) in the description of "goods".

CLAUSE 44

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

This clause provides for the amendment of Schedule No. 1 to the Customs and Excise Act. These amendments are reflected in Schedule 2 to this Bill. These amendments give effect to the taxation proposals which were tabled by the Minister of Finance during his Budget Speech this year and contain the rates of duty in respect of alcoholic and tobacco products.

CLAUSE 45

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

This clause provides for the continuation of the amendments to the Schedules to the Customs and Excise Act, which were effected by the Minister of Finance during the 2005 calendar year.

CLAUSE 46

Stamp Duties: Amendment of section 1 of the Stamp Duties Act, 1968

The proposed amendment is consequential upon the introduction of electronic stamping. Adhesive revenue stamps and impressed stamps (franking machines) will be phased out and these provisions will become obsolete. The proposed amendment will come into operation on a date fixed by the President by proclamation in the *Gazette*.

CLAUSE 47

Stamp Duties: Amendment of item 14 of Schedule 1 to the Stamp Duties Act, 1968

Currently item 14 of Schedule 1 to the Stamp Duties Act provides that stamp duty is not payable if the duty calculated on a lease or agreement of lease does not in aggregate exceed R200 over the period of the lease. In order to reduce the compliance burden for taxpayers entering into lower-value rental agreements and the administrative burden on SARS, the Minister of Finance proposed in the 2006 Budget Review that this exemption level will be increased to R500. The amendment gives effect to this proposal.

CLAUSE 48

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

Currently participatory interests in a collective investment scheme which is a trust are not subject to Stamp Duty. The proposed amendment aligns the treatment of collective investment schemes which are Open Ended Investment Companies with

that of the Uncertificated Securities Tax Act, 1998. See the proposed amendment to section 6 of the Uncertificated Securities Tax Act.

The proposed amendment will result in participatory interests in all Collective Investment Schemes (Unit Trusts and Open Ended Investment Companies) being exempt from stamp duty.

CLAUSE 49

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

See notes under AMENDMENTS RELATING TO MUNICIPALITIES FOR PURPOSES OF VALUE-ADDED TAX.

CLAUSE 50

Value-Added Tax: Amendment of section 2 of the Value-Added Tax Act, 1991

The proposed amendment is to clarify that it was always intended that the granting of an option falls within the ambit of a financial service, which is exempt from VAT in terms of section 12*(a)*.

CLAUSE 51

Value-Added Tax: Amendment of section 6 of the Value-Added Tax Act, 1991

National Treasury only has access to any class of taxpayers' data for purposes of policy design and revenue estimation. This limited access is insufficient in the case of public entities given National Treasury's role in appropriating funds. The National Treasury is now given access to individual taxpayer data to the extent that the taxpayer involved is an entity as listed in the Public Finance Management Act, 1999 and the Local Government: Municipal Finance Management Act, 2003.

CLAUSE 52

Value-Added Tax: Amendment of section 8 of the Value-Added Tax Act, 1991

See notes under AMENDMENTS RELATING TO MUNICIPALITIES FOR PURPOSES OF VALUE-ADDED TAX.

It is proposed that section 8(6)*(a)* and *(b)* be deleted due to paragraph *(c)* of the definition of "enterprise" in section 1 of the VAT Act being deleted and municipal rates being drawn into the VAT net. The single supply, i.e. the flat rate is excluded from the definition of a "municipal rate" in section 1 of the VAT Act and therefore results in VAT being levied at the standard rate on the supply.

The proposed amendment to section 8(23) is consequential upon the deletion of paragraph (c) of the definition of "enterprise" in section 1.

The proposed amendment to section 8(27) is to deem the municipality to supply

services to the owner of property to the extent that the municipality levies a "municipal rate" as defined in section 1 of the VAT Act on that person's property.

CLAUSE 53

Value-Added Tax: Amendment of section 10 of the Value-Added Tax Act, 1991

The proposed amendment is consequential upon the deletion of section 8(6)*(a)* and *(b)* of the VAT Act.

CLAUSE 54

Value-Added Tax: Amendment of section 11 of the Value-Added Tax Act, 1991

Subclause (1)(a): In his 2002 Budget Review the Minister of Finance announced the Government's policy framework as regards environmentally friendly fuels.

The Minister announced that biofuels would—

- Enjoy a tax concession in respect of the general fuel levy;
- Enjoy the same concessions (i.e. rebates and drawbacks) as other fuels when used for certain purposes specified in any item to Schedule No. 4,5 and 6 to the Customs and Excise Act, 1964;
- Attract the same rate of excise duty applicable to other fuels;
- Be subject to Road Accident Fund (RAF) levy if used in vehicles operated on public roads.

The proposed amendment aligns the VAT Act to the provisions of the Customs and Excise Act, 1964, in respect of the references used for certain fuel levy goods. The proposed amendment is also due to the supply of leaded petrol no longer being permitted as from 1 January 2006. The supply of certain fuel levy goods, which now also includes biodiesel, will be subject to VAT Act at the zero rate.

Subclause (1)*(b):* Goods which consist of anti-knock preparations, which are based on lead compounds, are currently zero-rated for VAT purposes. However, the proposed amendment to delete the zero-rating of these goods is due to the supply of leaded petrol no longer being permitted as from 1 January 2006. Also see subclause (1)*(a)*.

Subclause (1)*(c):* The proposed amendments aligns the VAT Act to the provisions of the Customs and Excise Act, 1964, in respect of illuminating kerosene.

Subclause (1)*(g):* The proposed amendment zero rates the deemed supply of services by the municipality to the owner of the rateable property.

CLAUSE 55

Value-Added Tax: Amendment of section 12 of the Value-Added Tax Act, 1991

Subclause (1)*(a):* The proposed amendment is due to the deletion of paragraph *(c)* of the definition of "enterprise" in section 1 of the VAT Act. The proposed amendment will result in a hostel or boarding establishment which was operated at a

loss by a "municipality" now being taxable at the standard rate, for VAT purposes as "commercial accommodation" as defined in section 1 of the VAT Act.

Subclause (1)*(b)*: The proposed amendment refers to the appropriate reference in the Income Tax Act.

CLAUSE 56

Value-Added Tax: Amendment of section 15 of the Value-Added Tax Act, 1991

The proposed amendment is due to the term "local authority" being replaced by "municipality". Only a "municipality" as defined in section 1 of the VAT Act is allowed to account for VAT on the payments basis. All other persons who previously fell within the definition of a "local authority", but do not now fall within the definition of a "municipality" will be required to change to the invoice basis.

CLAUSE 57

Value-Added Tax: Amendment of section 16 of the Value-Added Tax Act, 1991

The proposed amendment ensures that the municipality does not claim input tax in respect of assets on which an adjustment in terms of section 18(4) of the VAT Act was blocked in terms of proviso (v) to that section. Therefore where a municipality supplies any assets to which the proviso (v) to section 18(4) of the VAT Act applies, the municipality will be liable to account for output tax on that supply, but will not be entitled to claim input tax in terms of section 16(3)*(h)* of the VAT Act. The same rule applies where a complete change in use of those goods or services occurs on or after 1 July 2006 in terms of section 18(1) of the VAT Act (from taxable to exempt purposes).

CLAUSE 58

Value-Added Tax: Amendment of section 17 of the Value-Added Tax Act, 1991

The proposed amendment is due to the term "local authority" being replaced by "municipality". It is therefore proposed that the reference to section 8(6)*(a)* of the VAT Act be deleted. This provision allows a municipality to claim the input tax on goods or services that are acquired for the purposes of providing sporting or recreational facilities or public amenities to the public.

CLAUSE 59

Value-Added Tax: Amendment of section 18 of the Value-Added Tax Act, 1991

Sections 18(2) and 18(5) of the VAT Act provide that a municipality is required to make an annual input tax or output tax adjustment in the case of capital goods or services used only partially for taxable supplies. The provisions are aimed at ensuring that where capital goods and services are used for mixed purposes, the input tax which may be claimed must be in proportion to the extent to which those assets are applied for taxable use in the municipality's enterprise over the lifetime of

the assets. The adjustments are required where the input tax apportionment percentage applied by the municipality during the year varies by more than 10% from the percentage applied in the previous year.

The proposed amendments provide that the adjustments under sections 18(2) and 18(5) of the VAT Act will not apply in the case of a municipality where:

- the capital goods or services were acquired prior to 1 July 2006; or
- the capital assets were acquired after 1 July 2006, but input tax thereon was denied under proviso (v) to section 18(4) of the VAT Act.

Furthermore, proviso (v) to section 18(4) of the VAT Act was inserted to deny input tax where a municipality is required to return those same assets to a taxable environment in the future. The reasoning behind this is that the municipality would have previously enjoyed the benefit of an input tax credit on those assets (or the equivalent thereof, as the VAT cost would have been taken into account in the budget appropriation to that municipality), and therefore a further input tax credit would not be allowed on those assets if they are subsequently applied for taxable use.

The effect of the proposed amendment is therefore to treat the capital goods and services used partially for taxable supplies after 1 July 2006 in such a way that the annual variation in the extent of taxable use will not create an output tax or input tax adjustment event in respect of the assets mentioned above. An output tax liability will only arise when the asset is eventually sold, donated, exchanged (which also includes a transfer to an exempt division in terms of section 18(1) of the VAT Act, e.g. public transport division).

CLAUSE 60

Value-Added Tax: Amendment of section 23 of the Value-Added Tax Act, 1991

The proposed amendment is consequential upon the deletion of paragraph *(c)* of the definition of "enterprise" in section 1. Furthermore the proposed amendment to paragraph (b) is also consequential upon the amendments in the Revenue Laws Amendment Act, 2005, in which the foreign donor projects was catered for.

CLAUSE 61

Value-Added Tax: Amendment of section 27 of the Value-Added Tax Act, 1991

In light of government's efforts to ease small businesses' administrative burden, it is proposed to increase the annual turnover limited to qualify as a small scale farmer falling within Category D or a small vendor falling within Category F from R1 million to R1,2 million.

CLAUSE 62

Value-Added Tax: Insertion of section 40B in the Value-Added Tax Act, 1991

As a result of uncertainty in the past as to what constitutes a "transfer payment", some municipalities applied the zero rate of tax to the deemed supply which arose in

terms of section 8(5) of the VAT Act upon receipt of certain payments. For example, where a municipality received an "equitable share" payment under the annual Division of Revenue Act, the payment gives rise to a deemed supply under section 8(5) of the VAT Act, which does not qualify for zero-rating in terms of section 11(2)(p) of the VAT Act prior to its deletion in 2005. As the municipality does not make an actual supply of goods or services in terms of section 7(1)(a) of the VAT Act in return for that payment, it is proposed that the VAT assessed on such payments qualifies to be reduced under this provision. In some of these cases, the incorrect application of the law has been corrected by the Commissioner by the issuing of assessments and the amounts due on these assessments are wholly or partly outstanding. If the tax due is to be paid by the Department which made the incorrectly treated "transfer payment" to the municipality, additional funds would have to be made available to the municipality to pay the tax, which would result in a circular flow of funds in the Government sphere.

In order to address this situation, section 40B of the VAT Act proposes that upon written application, the Commissioner must issue a reduced assessment in respect of certain amounts of tax, additional tax, penalty and interest which have been assessed and which are payable by a municipality. The reduced assessment only applies where, and to the extent that, the amount payable arose as a result of the incorrect application of the zero-rate in terms of sections 8(5) and 11(2)*(p)* of the VAT Act on an actual supply of goods or services made on or before 31 March 2005, and the amount is still outstanding on that date. This is where the municipality failed to charge VAT at the standard rate in terms of section 7(1)(a) of the VAT Act because it assumed that the payment in respect of those supplies qualified as a "transfer payment" as defined in section 1.

The amount of the reduced assessment may not exceed the net balance of VAT which remains payable on 31 March 2005 by the municipality so that where any amount due to that municipality arose in any tax period subsequent to the tax period in which the assessment was raised and has been set off against the outstanding debt, or if any part of that amount has otherwise been recovered by SARS, that amount will not be taken into account. The reduced assessment may therefore not give rise to a refund of any tax, additional tax, penalty or interest paid in respect of the outstanding amount for any period prior to 1 April 2005.

In order to prevent the Commissioner from issuing assessments where no assessments have been raised before 1 April 2005 on the municipality, in regard to the incorrect application of the zero rate in terms of sections 8(5) and 11(2)*(p)* of the VAT Act for the period prior to 1 April 2005, it is proposed that the Commissioner may not raise any assessment to recover those amounts.

On the other hand, to prevent the claiming of refunds where the municipality has incorrectly paid output tax in terms of section 7(1)(a) of the VAT Act at the standard rate instead of the zero rate in terms of sections 8(5) and 11(2)*(p)* of the VAT Act on a "transfer payment", it is proposed that the Commissioner may not refund any amount of tax, penalty or interest incorrectly paid in respect of any period prior to 1 April 2005.

Example 1

A municipality (vendor) supplies management services to the Department of Tourism. VAT should have been charged at 14% in respect of the actual services

supplied in terms of section 7(1)*(a)* of the VAT Act, but both parties were under the mistaken impression that the payment received by the municipality was a zero-rated "transfer payment." SARS raised an assessment against the municipality in the amount of R50 000 in March 2003. Since that date, SARS has recovered R35 000 of that amount by offsetting VAT refunds which were due to that municipality. The municipality still has a VAT liability of R15 000 plus penalty and interest thereon as at 31 March 2005. In terms of section 40B(2) of the VAT Act, the remaining tax liability of R15 000, plus the penalty and interest thereon must be reduced to nil by the issuing of a reduced assessment by the Commissioner, if written application is made by the municipality in this regard. This is because the entire liability to tax relates to the incorrect application of the law referred to in that section.

Example 2

If in the case of the municipality in example 1, SARS had not raised an assessment, in respect of the VAT payable on the consideration paid for the management services supplied, which should have been levied, in terms of section 7(1)*(a)* of the VAT Act, by 31 March 2005, the Commissioner may not make any assessment to correct the previously incorrect application of the zero rate (section 40B(3) of the VAT Act).

CLAUSE 63

Value-added Tax: Amendment of section 46 of the Value-Added Tax Act, 1991

See notes under AMENDMENTS RELATING TO MUNICIPALITIES FOR PURPOSES OF VALUE-ADDED TAX.

CLAUSE 64

Value-added Tax: Amendment of section 48 of the Value-Added Tax Act, 1991

See notes under AMENDMENTS RELATING TO MUNICIPALITIES FOR PURPOSES OF VALUE-ADDED TAX.

CLAUSE 65

Value-Added Tax: Amendment of section 55 of the Value-Added Tax Act, 1991

The proposed amendment refers to the appropriate reference in the Income Tax Act.

CLAUSE 66

Value-Added Tax: Amendment of paragraph 5 of Schedule 1 to the Value-Added Tax Act, 1991

See notes under AMENDMENTS RELATING TO MUNICIPALITIES FOR PURPOSES OF VALUE-ADDED TAX.

CLAUSE 67

Value-Added Tax: Amendment of paragraph 7 of Schedule 1 to the Value-Added Tax Act, 1991

Subclause (1)*(a):* See discussion on clause 54(1)*(a)* above.
The proposed amendment to paragraph 7 of Schedule 1 to the Value-Added Tax Act, 1991, aligns the Value-Added Tax Act with the provisions of the Customs and Excise Act in respect of the importation of fuel levy goods which now also includes biodiesel, and which are exempt from VAT on importation.

Subclause (1)*(b):* Goods which consist of anti-knock preparations, which are based on lead compounds, are currently zero-rated for VAT purposes. However, the proposed amendment to delete the zero-rating of these goods is due to the supply of leaded petrol no longer being permitted as from 1 January 2006. Also see subclause 54(1)*(a)*.

Subclause (1)*(c):* The proposed amendment aligns the VAT Act to the provisions of the Customs and Excise Act, 1964, where applicable in respect of goods consisting of illuminating kerosene.

CLAUSE 68

Tax on Retirement Funds: Amendment of section 2 of the Tax on Retirement Funds Act, 1996

As the Minister of Finance announced in the 2006 Budget Review, changes to the taxation of retirement funds are under consideration and a discussion document will be released for public comment. However, to help South Africans accumulate adequate savings for retirement, the Minister proposed that the rate of tax on retirement funds will be reduced from 18 per cent to 9 per cent with effect from 1 March 2006. The amendment gives effect to this proposal.

CLAUSE 69

Uncertificated Securities Tax: Amendment of section 1 of the Uncertificated Securities Tax Act, 1998

The proposed amendment is to clarify that a change in the beneficial ownership of a security occurs when a company acquires or redeems its own securities.

CLAUSE 70

Uncertificated Securities Tax: Amendment of section 5 of the Uncertificated Securities Tax Act, 1998

The proposed amendment to section 5A of the Uncertificated Securities Tax Act (UST) is in recognistion of the fact that dividends and rights are on occasion ceded

separately from the title of the full security.

The taxable amount on which UST is payable where the full beneficial ownership in securities is acquired will be the greater of—

- the amount declared by the person acquiring such security; or
- if no amount is so declared, or if the amount so declared is less than the lowest price of the securities on the date of the relevant transaction, the closing price of those securities on the date of the relevant transaction.

Where any of the rights or entitlements in the beneficial ownership of securities, as contemplated in paragraphs (a) or (b) of the definition of "beneficial ownership" are acquired, the amount on which UST will be payable by the person who acquires such rights or entitlements, will be the greater of—

- the amount of the consideration declared by the person who acquires those rights or entitlements; or
- the fair market value of those rights or entitlements on the date of acquisition thereof.

The proposed amendment will apply to every change in beneficial ownership on or after 1 January 2006.

CLAUSE 71

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

The proposed amendment is to exempt changes in beneficial ownership in participatory interest in all listed collective investment schemes regulated in terms of the Collective Investment Schemes Control Act, 2002; which potentially faces double tax of Uncertificated Securities Tax/Transfer Duty. The first one being at the collective investment scheme level, and the other at the level of the holders of participatory interests (unit holders). This potential double charge is inconsistent with the treatment of unlisted collective investment schemes, which are not companies, which are subject to only one level of tax at the collective investment scheme level.

This result should be that participatory interests in all Collective Investment Schemes (Unit Trusts and Open Ended Investment Companies) will be exempt from uncertificated securities tax. This exemption will apply to collective investment schemes in securities, property, participation bonds or declared schemes.

CLAUSE 72

Regional Services Levies: Amendment of section 93 of the Local Government: Municipal Structures Act, 1998

See notes on REGIONAL SERVICES LEVIES AND REGIONAL ESTABLISHMENT LEVIES.

CLAUSE 73

Short title, commencement and savings

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