REPUBLIC OF SOUTH AFRICA

TAXATION LAWS AMENDMENT BILL

(As introduced in the National Assembly as a money Bill)
(The English text is the official text of the Bill)

(MINISTER OF FINANCE)

[B - 2004]

GENERAL EXPLANATORY NOTE:

[ ]	Words in bold type in square brackets indicate omissions from existing enactments.
________	Words underlined with a solid line indicate insertions in existing enactments.

BILL

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

Amendment of section 2 of Act 40 of 1949

1. (1) Section 2 of the Transfer Duty Act, 1949, is hereby amended by the substitution in subsection (1) for subparagraphs (i) and (ii) of paragraph *(b)* of the following subparagraphs:

"(i) 0 per cent of so much of the said value or the said amount, as the case may be, as does not exceed **[R140 000]** <u>R150 000</u>;

(ii) 5 per cent of so much of the said value or the said amount, as the case may be, as exceeds **[R140 000]** <u>R150 000</u> but does not exceed R320 000; and".

(2) Subsection (1) shall be deemed to have come into operation on 1 March 2004 and shall apply in respect of any property acquired, or interest or restriction in any property renounced, in terms of an agreement formally and finally signed on or after that date.

Fixing of rates of normal tax in terms of Act 58 of 1962

2. The rates of normal tax to be levied in terms of section 5(2) of the Income Tax Act, 1962, in respect of—

(a) the taxable income of any person (other than a company) for the year of assessment ending on 28 February 2005; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 2005,

shall be as set out in Schedule 1 to this Act.

Amendment of section 6 of Act 58 of 1962

3. Section 6 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for paragraphs *(a)* and *(b)* of the following paragraphs:

"*(a)* a primary rebate, an amount of **[R5 400]** R5 800; and

(b) a secondary rebate, if the taxpayer was or, had he or she lived, would have been **[over the age of]** at least 65 years of age on the last day of the year of assessment, an amount of **[R3 100]** R3 200.".

Amendment of section 10 of Act 58 of 1962

4. Section 10 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for subitems (A) and (B) of item *(bb)* of subparagraph (xv) of paragraph *(i)* of the following subitems:

"(A) in the case of any person who was or, had he or she lived, would have been at least 65 years of age on the last day of the year of assessment, the amount of **[R15 000]** R16 000; or

(B) in any other case, the amount of **[R10 000]** R11 000,".

Amendment of Schedule No. 1 to Act 91 of 1964

5. (1) Schedule No. 1 to the Customs and Excise Act, 1964, is hereby amended as set out in Schedule 2 to this Act.

(2) Subject to the provisions of section 58(1) of the Customs and Excise Act, 1964, subsection (1) shall be deemed to have come into operation on 18 February 2004.

Amendment of section 1 of Act 77 of 1968

6. Section 1 of the Stamp Duties Act, 1968, is hereby amended by the deletion of the definition of "fixed deposit".

Amendment of section 7 of Act 77 of 1968

7. Section 7 of the Stamp Duties Act, 1968, is hereby amended—

(a) by the deletion in subsection (1) of paragraph *(d)*;

(b) by the substitution in subsection (1) for paragraphs *(g)* and *(h)* of the following paragraphs:

"*(g)* in the case of the original issue of a marketable security **[or of a negotiable certificate of deposit]**, the company or corporate body issuing the marketable security **[or negotiable certificate of deposit]**;

(h) in the case of the registration of transfer of a marketable security **[or of a negotiable certificate of deposit]**, the transferee;".

Repeal of section 21 of Act 77 of 1968

8. (1) Section 21 of the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 2004 and shall apply in respect of any fixed deposit receipt given on or after that date.

Repeal of item 7 of Schedule 1 to Act 77 of 1968

9. (1) Item 7 of Schedule 1 to the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) is deemed to have come into operation on 1 March 2004 and shall apply in respect of any mortgage bond executed on or after that date.

Repeal of item 13 of Schedule 1 to Act 77 of 1968

10. (1) Item 13 of Schedule 1 to the Stamp Duties Act, 1968, is hereby repealed.

(2) Subsection (1) is deemed to have come into operation on 1 April 2004 and shall apply in respect of any fixed deposit receipt given on or after that date.

Amendment of item 15 of Schedule 1 to Act 58 of 1962

11. Item 15 of Schedule 1 to the Stamp Duties Act, 1968, is hereby amended—

(a) by the insertion under the *Exemptions from duty under paragraph (1) or (2)* of the following paragraph:

"*(b)* The issue of any negotiable certificate in respect of any deposit made with any banking institution registered under the Banks Act, 1990 (Act No. 94 of 1990).";

(b) by the insertion under the *Exemptions from duty under paragraph (3)* of the following paragraph:

“*(d)* The registration of transfer of any negotiable certificate in respect of any deposit made with any banking institution registered under the Banks Act, 1990 (Act No. 94 of 1990).”.

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

12. (1) Every amendment or withdrawal of or insertion in Schedules Nos. 1 to 6, inclusive, and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56 or 75(15) of that Act during the calendar year ending on 31 December 2003 shall not lapse by virtue of the provisions of section 48(6), 49, 56(3) or 75(16) of that Act.

(2) The amendment of Part 2 of Schedule No. 1 and Schedule No. 6 to the Customs and Excise Act, 1964, made respectively under sections 48 and 75 of that Act by Government Notices R. ?? and R. ?? of date??, in respect of the said Part 2 of Schedule No. 1 and Schedule No. 6 shall not lapse by virtue of the provisions of section 48(6) of that Act.

Short title and commencement

13. (1) This Act shall be called the Taxation Laws Amendment Act, 2004.

(2) Save in so far as is otherwise provided in this Act or the context otherwise indicates, the amendments effected to the Income Tax Act, 1962, by this Act shall for purposes of assessments in respect of normal tax under the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2005.

SCHEDULE 1

RATES OF NORMAL TAX PAYABLE BY PERSONS (OTHER THAN COMPANIES) IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 2005, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 2005

(Section 2)

1. The rates of normal tax referred to in section 2 of this Act in respect of persons (other than companies) are as follows:—

(a) in respect of the taxable income of any person (other than a person in respect of which subparagraph *(b)* applies), an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax
Where the taxable income—	
Does not exceed R74 000……………………..	18 per cent of each R1 of the taxable income;
Exceeds R74 000 but does not exceed R115 000	R13 320 plus 25 per cent of the amount by which the taxable income exceeds R74 000;
“ R115 000 “ “ “ “ R155 000	R23 570 plus 30 per cent of the amount by which the taxable income exceeds R115 000;
“ R155 000 “ “ “ “ R195 000	R35 570 plus 35 per cent of the amount by which the taxable income exceeds R155 000;
“ R195 000 “ “ “ “ R270 000	R49 570 plus 38 per cent of the amount by which the taxable income exceeds R195 000;
“ R270 000	R78 070 plus 40 per cent of the amount by which the taxable income exceeds R270 000.

(b) in respect of the taxable income of any trust (other than a special trust), an amount of 40 cents on each rand of taxable income.

2. The rates of normal tax referred to in section 2 of this Act in respect of companies are, subject to the provisions of paragraph 4, as follows:—

(a) on each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs *(b)*, *(c)*, *(d)*, *(e)*, *(f)*, *(g)* and *(h)*), 30 cents, or, in the case of such a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 38 cents;

(b) in respect of the taxable income of any company which qualifies as a small business corporation as defined in section 12E of the Income Tax Act, 1962, on each rand of the taxable income as does not exceed R150 000, 15 cents, and on each rand of the taxable income of such company as exceeds R150 000, 30 cents;

(c) on each rand of the taxable income of any employment company as defined in section 12E of the Income Tax Act, 1962, 35 cents;

(d) on each rand of the taxable income derived by any company from mining for gold on any gold mine with the exclusion of so much of the taxable income as the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph *(j)* of the definition of "gross income" in section 1 of the Income Tax Act, 1962, but after the set-off of any assessed loss in terms of section 20(1) of that Act, a percentage determined in accordance with the formula:

$$y = 37 - \frac{185}{x}$$

or, in the case of a company which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, in accordance with the formula:

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

in which formulae y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion, but before the set-off of any assessed loss or deduction which is not attributable to the mining for gold from the said mine) bears to the income so derived (with the said exclusion);

(e) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner for the South African Revenue Service determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph *(j)* of the definition of "gross income" in section 1 of the Income Tax Act, 1962, a rate equal to the average rate of normal tax or 30 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from mining for gold on any gold mine for the period from which that company commenced its gold mining operations on that gold mine to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(f) on each rand of the taxable income derived by any company from carrying on long-term insurance business in respect of its individual policyholder fund, company policyholder fund and corporate fund, 30 cents;

(g) on each rand of the taxable income (excluding taxable income referred to in subparagraphs *(b)*, *(c)*, *(d)*, *(e)*, *(f)* and *(h)*) derived by a company which is not a resident and which carries on a trade through a branch or agency within the Republic, 35 cents;

(h) on each rand of the taxable income derived by a qualifying company as contemplated in section 37H of the Income Tax Act, 1962, subject to the provisions of the said section, zero cents:

Provided that the tax determined in accordance with any of subparagraphs *(a)* to *(h)*, inclusive, shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. The rates set forth in paragraphs 1 and 2 shall be the rates required to be fixed by Parliament in accordance with the provisions of section 5(2) of the Income Tax Act, 1962.

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

5. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, bears the meaning so assigned.

SCHEDULE 2

AMENDMENTS TO SCHEDULE NO. 1 TO THE CUSTOMS AND EXCISE ACT, 1964

(Section 5)