

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# Government Gazette

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## STATE PRESIDENT'S OFFICE

No. 1024

2 November 2010

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

**No. 7 of 2010: Taxation Laws Amendment Act, 2010.**



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

**GENERAL EXPLANATORY NOTE:**

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

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*(English text signed by the President.)*

*(Assented to 31 October 2010.)*

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**ACT**

To—

- amend the Transfer Duty Act, 1949, so as to clarify a provision; to make new provision; and to correct a reference;
- amend the Estate Duty Act, 1955, so as to correct a reference and to clarify a provision;
- amend the Income Tax Act, 1962, so as to fix the rates of normal tax and amend monetary amounts; to amend, delete and insert certain definitions; to effect technical corrections; to repeal certain provisions; to amend certain provisions; to make new provision; and to effect textual and consequential amendments;
- amend the Customs and Excise Act, 1964, so as to amend rates of duty in Schedule No. 1; and to make provision for continuation;
- amend the Value-Added Tax Act, 1991, so as to amend certain definitions; to make new provision; and to amend certain provisions;
- amend the Revenue Laws Amendment Act, 2006, so as to amend the special measures relating to 2010 FIFA World Cup South Africa;
- amend the Securities Transfer Tax Act, 2007, so as to effect consequential amendments;
- amend the Revenue Laws Amendment Act, 2007, so as to amend a commencement date;
- amend the Mineral and Petroleum Resources Royalty Act, 2008, so as to amend and insert certain definitions; to clarify certain provisions; to make new provision; and to amend the Schedules;
- amend the Revenue Laws Amendment Act, 2008, so as to change commencement dates;
- amend the Taxation Laws Amendment Act, 2009, so as to change commencement dates; to clarify certain provisions; and to correct a reference;

and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 40 of 1949, as amended by section 11 of Act 80 of 1959, section 1 of Act 77 of 1964, section 5 of Act 103 of 1969, section 4 of Act 106 of 1980, section 1 of Act 86 of 1987, section 2 of Act 87 of 1988, Proclamation R.11 of 1994, section 8 of Act 37 of 1996, section 34 of Act 34 of 1997, section 1 of Act 5 of 2001, section 2 of Act 74 of 2002, section 1 of Act 45 of 2003 and section 1 of Act 17 of 2009** 5

1. (1) Section 1 of the Transfer Duty Act, 1949, is hereby amended by the addition in the definition of “property” of the word “and” at the end of paragraph (f).

(2) Subsection (1) is deemed to have come into operation on 1 September 2009.

**Insertion of section 3A in Act 40 of 1949** 10

2. (1) The Transfer Duty Act, 1949, is hereby amended by the insertion after section 3 of the following section:

**“Sharia compliant financing arrangements**

**3A.** (1) For the purpose of the payment of duty in respect of any murabaha as defined in section 24JA(1) of the Income Tax Act, 1962 (Act No. 58 of 1962)— 15

(a) the bank shall be deemed not to have acquired any property under the sharia arrangement; and

(b) the client shall be deemed to have acquired property from the seller— 20  
 (i) for an amount equal to the consideration paid by the bank to the seller; and  
 (ii) at such time as the bank acquired the property from the seller by virtue of the transaction between the seller and the bank.

(2) For the purpose of the payment of the duty in respect of any diminishing musharaka as defined in section 24JA(1) of the Income Tax Act, 1962 (Act No. 58 of 1962)— 25

(a) the bank shall be deemed not to have acquired any property under the sharia arrangement;

(b) (i) where the bank and the client jointly acquire property, the client shall be deemed to have acquired the bank’s interest in the property— 30

(aa) for an amount equal to the amount paid by the bank in respect of the bank’s interest in the property; and

(bb) at the time that the seller of the asset was divested of any interest in the property by virtue of the transaction between the seller and the bank; and 35

(ii) where the bank acquires an interest in property from the client, the bank shall be deemed not to have acquired any interest in property from the client and the client shall be deemed not to have subsequently acquired any interest in that property from the bank.”. 40

(2) Subsection (1) comes into operation on a date determined by the Minister of Finance by notice in the *Gazette*.

**Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973, section 5 of Act 88 of 1974, section 77 of Act 54 of 1976, section 2 of Act 95 of 1978, section 6 of Act 106 of 1980, section 2 of Act 99 of 1981, section 2 of Act 118 of 1984, section 3 of Act 81 of 1985, section 3 of Act 86 of 1987, section 4 of Act 87 of 1988, section 36 of Act 9 of 1989, section 1 of Act 69 of 1989, section 79 of Act 89 of 1991, section 6 of Act 120 of 1992, section 4 of Act 136 of 1992, section 5 of Act 97 of 1993, section 2 of Act 37 of 1995, section 4 of Act 126 of 1998, section 3 of Act 32 of 1999, section 3 of Act 30 of 2000, section 2 of Act 5 of 2001, section 8 of Act 60 of 2001, section 3 of Act 30 of 2002, section 4 of Act 74 of 2002, section 3 of Act 45 of 2003, section 2 of Act 16 of 2004, section 2 of Act 32 of 2004, section 2 of Act 31 of 2005, section 16 of Act 9 of 2006, section 1 of Act 20 of 2006, section 2 of Act 35 of 2007, section 1 of Act 60 of 2008 and section 3 of Act 17 of 2009**

3. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended—

(a) by the deletion in subsection (1)(l)(iv) of item (aa); and

(b) by the substitution for subsection (20) of the following subsection:

“(20) No duty shall be payable in respect of any acquisition of any interest in a residence as contemplated in paragraph 51 or 51A of the Eighth Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962), where that acquisition takes place as a result of a transfer or disposal contemplated in [that paragraph] either of those paragraphs.”

(2) Paragraph (a) of subsection (1) is deemed to have come into operation 1 January 2009 and applies in respect of transactions entered into on or after that date.

(3) Paragraph (b) of subsection (1) comes into operation on 1 October 2010 and applies in respect of acquisitions taking place on or after that date and before 1 January 2013.

**Amendment of section 4A of Act 45 of 1955, as substituted by section 5 of Act 17 of 2009**

4. (1) Section 4A of the Estate Duty Act, 1955, is hereby amended—

(a) by the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) the amount specified in subsection (1) divided by the number of spouses, reduced by an amount which is determined by dividing the amount deducted, in accordance with [subsection (1)] this section, from the net value of the estate of the previously deceased person by the number of spouses of that previously deceased person.”; and

(b) by the addition after subsection (5) of the following subsection:

“(6) Where a person and his or her spouse die simultaneously, the person of whom the net value of the estate, determined in accordance with section 4, is the smallest must be deemed for the purposes of this section to have died immediately prior to his or her spouse.”

(2) Subsection (1) is deemed to have come into operation on 1 January 2010 and applies in respect of the estate of a person who dies on or after that date.

**Fixing of rates of normal tax and amendment of certain amounts for purposes of Act 58 of 1962**

5. (1) The rates of tax fixed by Parliament in terms of section 5(2) of the Income Tax Act, 1962, are set out in paragraphs 1, 3, 4, 5, 6 and 8 of Appendix I to this Act.

(2) The rate of tax fixed by Parliament in terms of section 48B(1) of the Income Tax Act, 1962, is set out in paragraph 7 of Appendix I to this Act.

(3) The Income Tax Act, 1962, is hereby amended by the substitution for the amounts in section 6(2)(a) and (b) respectively of the amounts in the third column opposite the relevant section in the table in paragraph 2 of Appendix I to this Act.

(4) For the purposes of Appendix I to this Act any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, bears the meaning so assigned unless the context indicates otherwise.

- (5) Subject to subsection (6), the rates of tax referred to in subsection (1) and the amounts referred to in subsection (3) apply in respect of—
- (a) any person (other than a company or a trust other than a special trust) for the year of assessment commencing on or after 1 March 2010;
  - (b) any company for any year of assessment ending during the period of 12 months ending on 31 March 2011; and
  - (c) any trust (other than a special trust) for any year of assessment ending on 28 February 2011.
- (6) The rate of tax referred to in subsection (2) applies in respect of the taxable turnover of a person that was a registered micro business as defined in paragraph 1 of the Sixth Schedule to the Income Tax Act, 1962, in respect of any year of assessment commencing on or after 1 March 2010.

**Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R780 of 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, Government Notice No. 46 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, Government Notice No. 1503 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2001, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002, section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, section 3 of Act 16 of 2004, section 3 of Act 32 of 2004, section 3 of Act 32 of 2005, section 19 of Act 9 of 2006, section 3 of Act 20 of 2006, section 3 of Act 8 of 2007, section 5 of Act 35 of 2007, section 2 of Act 3 of 2008, section 4 of Act 60 of 2008 and section 7 of Act 17 of 2009**

6. (1) Section 1 of the Income Tax Act, 1962, is hereby amended—
- (a) by the deletion of the definition of “capitalization shares”;
  - (b) by the substitution in the definition of “company” for subparagraph (ii) of paragraph (e) of the following subparagraph:
    - “(ii) **[arrangement or]** portfolio comprised in any investment scheme carried on outside the Republic that is comparable to a portfolio of a collective investment scheme in participation bonds or a portfolio of a collective investment scheme in securities in pursuance of any arrangement in terms of which members of the public (as defined in section 1 of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002)), are invited or permitted to **[invest in a portfolio of a collective investment scheme, where one or more investors]** contribute to and hold **[a]** participatory **[interest]** interests in **[a]** that portfolio **[of the scheme]** through shares, units or any other form of participatory interest; or”;