



# SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

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PUBLISHED BY AUTHORITY

THE INCOME TAX (AMENDMENT) BILL, 2004  
(Bill No. 6 of 2004)

(To be presented by the Minister of Finance)

## MEMORANDUM OF OBJECTS AND REASONS

The object of the Bill is to amend the Income Tax Order 1975, so as to provide for -

- (a) the taxation of amounts paid in respect of restraint of trade and also include into the tax net the business income of exempt organisation;
- (b) the introduction of a tax rebate and a mortgage interest rebate in the determination of the tax payable by a natural person;
- (c) the repeal of section 12(5) with regard to the granting of tax holidays;
- (d) the deduction of contributions made in respect of capital assets to approved educational institutions, schools and hospitals; to provide for the restriction of the deduction in respect of "infrastructural initial allowance" to parastatals and statutory corporations by redefining the term "infrastructural services";
- (e) the ring-fencing of "assessed property loss", "assessed farming loss", and "assessed business loss" in the case of a natural person;
- (f) the increase in the maximum allowable deductions in respect of contributions to pension funds and to provide for greater contributions to retirement annuity funds and permit a greater deduction as regards annuities paid to former employees or dependants;
- (g) the prohibition of a double deduction where an amount qualifies for a deduction under more than one provision of the Order and to provide for the proper tax treatment of finance leases;
- (h) the abolition of the double deduction in respect of training allowances;
- (i) the keeping of records and other records as may be necessary for the accurate determination of the tax payable by any taxpayer;
- (j) the widening of the scope of the duty to furnish information and returns;
- (k) the levying of a penalty where a taxpayer makes default in rendering a return if the determination of taxable income results in an "assessed loss";
- (l) the imposition of additional tax in respect of withholding taxes in the case of failure to withhold or non remittance of tax withheld;
- (m) the requirement of a taxpayer identification number to be used on all documentation or notices used for the purposes of the Income Tax Order;
- (n) a withholding tax from payments to certain persons; and

- (o) other matters consequential or incidental thereto.

P.M. DLAMINI  
*Attorney-General*

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A BILL

Entitled

An Act to amend the Income Tax Order 1975.

ENACTED by the King and the Parliament of Swaziland.

***Short title and commencement***

1. This Act may be cited as the Income Tax (Amendment) Act, 2004; shall be read as one with the Income Tax Order, 1975, (hereinafter referred to as the "Order"); and shall come into operation on a date to be announced by the Minister by Notice published in the Gazette.

***Amendment of Section 2***

2. Section 2 of the Order is amended -

- (a) by replacing the figure "E2 000" which occurs in paragraph (c) of the definition of "approved bursary scheme" with the figure "E3 000";

- (b) by adding, in the alphabetical order, the following new definition of "exempt organisation"-

"exempt organisation" means an organisation -

- (a) which is -

(i) an amateur sporting organisation;

(ii) an ecclesiastical, charitable, or educational institution of a public character; or

(iii) a trade union, employees' association, an association of employers registered under the Industrial Relations Act, or a chamber of commerce and industry;

- (b) which the Commissioner is satisfied that it is a genuine exempt organisation; and

- (c) none of the income or assets of which confers or may confer, a private benefit on any person;"

- (c) by adding in the alphabetical order, the following new definition of "mortgage interest"-

"mortgage interest" means interest paid plus fringe benefit value of any soft loan concession on a bond financing the purchase of a property as the principal private residence of the taxpayer";

- (d) by adding, in the alphabetical order, the following new definition of "official rate of interest"-

"official rate of interest", in relation to a year of assessment, means the Central Bank of Swaziland discount rate as at the commencement of the year of assessment";

- (e) by replacing the words "seven hundred and twenty emalangeni" which occur in paragraph (b)(iv) of the proviso to the definition "pension fund" with the words "one thousand five hundred emalangeni";

#### ***Amendment of Section 7***

3. Section 7 of the Order is amended -

- (a) by replacing the words "(a) to (l)" which occur immediately after the word "paragraphs" before the word "herein" with the words "(a) to (m)";

- (b) by deleting from paragraph (ff), the entire subparagraph (d);

- (c) by replacing paragraph (k) with the following new paragraph (k) -

"(k) any amount by way of allowance received by or accrued to a public servant, a Member of Parliament, a Minister, or a member of a statutory or other similar body, but excluding reimbursive allowances expended for appropriate official purposes";

- (d) by renumbering paragraph (l) as paragraph (M).

- (e) by inserting immediately after paragraph (k) the following new paragraph (l) -

"(l) any amount received by or accrued to any person as compensation for any restraint of trade imposed on such person";

#### ***Amendment of Section 8***

4. Section 8 of the Order is amended by, replacing section 8 with the following new section 8 -

##### ***"Normal Tax Rebate***

8. (l) In the case of a natural person the tax payable in terms of section 6 shall, save as is otherwise provided in this Order, be reduced by -

- (a) an amount not exceeding the sum of two thousand four hundred emalangeni in any year of assessment:

Provided that no reduction shall be made under this subsection if the tax payable in terms of section 6 is subject to the rates of tax prescribed in Part III of the Third Schedule;

- (b) an amount equal to ten per cent of the amount paid for each lilangeni or part thereof in respect of -

- (i) any amount paid by way of a mortgage interest during the year of assessment;

Provided that the amount to be allowed as a reduction under this subparagraph shall not exceed two thousand four hundred emalangeni;

- (ii) the premium paid by a person during the year of assessment upon policy under which that person, the spouse or child of that person is insured against death or sickness:

Provided that no reduction shall be made in respect of insurance under a policy if the amount paid as premium for such policy has been allowed as a reduction from the income of the taxpayer under section 14, or has been allowed in respect of income or similar tax paid by him in a foreign country;

- (2) If the period of assessment is less than twelve months, the reduction under subsection (1)(a) shall be such amount as bears to the full amount of the reduction provided for thereunder the same ratio as the period assessed bears to twelve months.

#### ***Amendment of Section 11***

##### **5. Section 11 of the Order is amended -**

- (a) In subsection (1) by, adding the following new paragraph (k) immediately after paragraph (j) -

“(k) any interest where -

- (i) the debt is secured by immovable property located, or movable property used, in Swaziland;

- (ii) the borrower is a person ordinarily resident in Swaziland; or

- (iii) the borrowing relates to a business carried on in Swaziland.”

- (b) In subsection (9A), by replacing paragraph (a) with the following new paragraph (a) -

“(a) any interest received by or accrued to a person who is ordinarily resident or carrying on business in Swaziland from a source outside Swaziland shall be deemed to be from a source within Swaziland notwithstanding that it may have been recovered or recouped outside Swaziland, unless the interest is effectively connect with a business carried on by the person through a branch in the other country”;

#### ***Amendment of section 12***

##### **6. Section 12 of the order is amended -**

- (a) In subsection (1), paragraph (a) -

- (i) by replacing subparagraph (vii) with the following new subparagraph (vii) -

“(vii) an exempt organisation other than business income that is not related to the function constituting the basis for the organisation’s existence”;

- (ii) by deleting subparagraph (viii); and

- (iii) by deleting subparagraph (ix);

- (b) in subsection (2), by replacing the figure “(ix)” with the figure “(vii)”;

- (c) by deleting the entire subsection (3);
- (d) by deleting the entire subsection (5); and
- (e) by deleting the entire subsection (6).

***Insertion of a new sections 12bis and 12ter***

7. The Order is amended by, inserting immediately after section 12 the following new sections 12bis and 12ter -

***“Prohibition of a double exemption***

12bis. Where an amount qualifies or has qualified for an exemption under more than one provision of this Order, an exemption in respect of such amount or any portion thereof shall not be allowed more than once in the determination of taxable income of any person.

***Repeal of exemption of Public Enterprises***

12. ter (1) Notwithstanding anything contained in any other law, with effect from the 1<sup>st</sup> day of July, 2001, no public enterprise shall be exempt from taxation, except as provided for in this Act.

(2) For the purposes of this section, the term “public enterprise” shall have the meaning assigned to it in the Public Enterprises (Control and Monitoring) Act, 1989.”

***Amendment of section 14***

8. Section 14 of the Order is amended -

(a) In subsection (1) -

(i) by replacing the proviso to paragraph (c) with the following new proviso -

“Provided that the value of any machinery or plant used by the taxpayer for the purposes of his business shall be reduced by the amount of deduction which may be made under paragraph (e)(i) and (ii)”;

(ii) In paragraph (e) by -

(A) deleting, in subparagraph (i) the words “or which was let by a taxpayer and which is brought into use by the lessee thereof for the purpose of the lessee’s trade and is used by the lessee directly in a process of manufacture,”;

(B) replacing in the proviso to subparagraph (iii), the words “sub-paragraph (ii)” with the words “subparagraph (iii)” wherever it occurs in the proviso;

(C) replacing subparagraph (iv)(B) with the following new subparagraph (iv)(B) -

“(iv) (B) “infrastructural services” means the provision of electricity, water, sewer, rail facilities or telecommunications by a parastatal or statutory corporation whose main business is to provide such services”;

(D) replacing subparagraph (v) with the following new subparagraph (v) -

“(v) the allowances referred to in subparagraphs (i), (ii) and (iii) shall not be given if the taxpayer elects otherwise”;

(iii) In paragraph (i) by, replacing the words “one thousand seven hundred and fifty emalangeni” which occur in the proviso to paragraph (i) with the words “six thousand emalangeni”;

(iv) In paragraph (j) by -

(A) replacing the words “five thousand emalangeni” which occur in the subparagraph (i) with the words “twelve thousand emalangeni”;

(B) replacing the words “three thousand five hundred emalangeni” which occur in subparagraph (ii) with the words “seven thousand five hundred emalangeni”; and

(C) replacing the words “one thousand seven hundred and fifty emalangeni” which occur in subparagraph (iii) with the words “six thousand emalangeni”;

(v) by replacing the words “six thousand emalangeni” which occur in the proviso to paragraph (l) with the words “twelve thousand emalangeni”;

(vi) In paragraph (t) by, replacing the figure “E25 000” which occurs in subparagraph (v) with the figure “E50 000”;

(vii) by replacing paragraph (vv) with the following new paragraph (vv) -

“(vv) any grant made to an educational institution, school or hospital which is registered with the appropriate Ministry, for undertaking capital projects in the form of building, fittings, furniture as well as other items associated with capital assets needed for the development of such educational institution or school or hospital:

Provided that there shall be deducted in the year of assessment in which such grant is made such portion and in subsequent years of assessment such other portions of the residue, as the Commissioner may determine”;

(viii) by replacing paragraph (x) with the following new paragraph (x) -

“(x) expenditure incurred during the year of assessment by a taxpayer for appropriate training of any person who is employed by the taxpayer in a business the income of which is subject to tax.”;

(ix) by replacing paragraph (z) with the following new paragraph (z) -

“(z) any contribution (including any contribution made prior to the coming into force of this paragraph), whether in cash or in kind, made during the year of assessment towards any national disaster scheme or national emergency body established by the government.”;

(b) In subsection 2 by -

(i) inserting the following new proviso immediately after subparagraph (b) -

“Provided that -

(i) Where the property income of a taxpayer who is a natural person for a year of assessment is exceeded by deductions relating to the production of that income, the amount of the excess (referred to as an “assessed property loss”) may not be deducted against any other income of the taxpayer for the year of assessment, but shall be carried forward and deducted in determining the taxable property income of the taxpayer in subsequent years of assessment until the assessed property loss is exhausted;

(ii) where the farming income of a taxpayer who is a natural person for a year of assessment is exceeded by deductions relating to the production of that income, the amount of the excess (referred to as an “assessed farming loss”) may not be deducted against any other income of the taxpayer for the year of assessment, but shall be carried forward and deducted in determining the taxable farming income of the taxpayer in subsequent years of assessment until the assessed farming loss is exhausted;

(iii) where the business income of a taxpayer who is a natural person for a year of assessment is exceeded by deductions relating to the production of that income, the amount of business loss”) may not be deducted against any other income of the taxpayer for the year of assessment, but shall be carried forward and deducted in determining the taxable business income of the taxpayer in subsequent years of assessment until the assessed business loss is exhausted; and

(ii) inserting the following new subparagraph (c) immediately after subparagraph (b) -

“(c) Where a taxpayer has more than one class of loss, the reduction in subparagraph (a)(ii) shall be applied rateably to each class of loss.”;

#### ***Deletion of section 14A***

9. The Order is amended by deleting the entire section 14A.

#### ***Insertion of a new section 14B***

10. The Order is amended by, inserting the following new section 14B immediately after section 14A -

#### ***“Prohibition of a double deduction***

14B. Where an amount qualifies or has qualified for a deduction under more than one provision of this Order or qualifies for rebate under section 8, a deduction in respect of such amount or any portion thereof shall not be allowed more than once in the determination of taxable income of any person.”

#### ***Deletion of section 18***

11. The Order is amended by deleting the entire section 18.



***Insertion of a new section 20bis***

12. The Order is amended by, inserting the following new section 20 *bis* immediately after section 20 -

***“Finance Leases***

20bis. (1) Where a lessor leases property to a lessee under a finance lease, for all purposes of this Order -

- (a) The lessee is treated as the owner of the property; and
- (b) The Lessor is treated as having made a loan to the lessee, in respect of which the payments of interest and principal are made equal in amount to the rental payable by the lessee.

(2) The interest component of each payment under the loan is considered as interest expense for the lessee and interest income for the lessor.

(3) A lease of property is a finance lease if -

- (a) the lease transfers substantially all the risks and rewards to ownership of an asset;  
or
- (b) the lessee has an option to purchase the property for a fixed or determinable price at the expiration of the lease;

(4) A finance lease entered into before the commencement of this section, which has been dealt with for purposes of the determination of taxable income other than in accordance with the provisions of subsection (1), shall be dealt with for purposes of determining taxable income in each subsequent year of assessment, on the same basis as applied in the previous years of assessment in respect of that lease until the expiry of the term of the lease.

(5) Any amount received or accrued arising from the disposal of an asset which was acquired in terms of a lease which lease has been dealt with for purposes of the determination of taxable income other than in accordance with the provisions of subsection (1), shall be included into taxable income.

***Amendment of section 32B***

13. Section 32B of the Order is amended -

- (a) in subsection (1) by, inserting the following new proviso immediately after subparagraph (b) -

“Provided that the tax on royalties shall not be payable in respect of royalties accruing to any ecclesiastical, charitable or educational institution of a public character, whether or not supported wholly or partly by grants from public revenue.”;

- (b) under subsection (6) -

- (i) in paragraph (A) by, adding immediately after the semi colon the word “and”;
- (ii) in paragraph (b) by, replacing the semi-colon after word “section” with a full stop and deleting the word “and”; and

- (iii) by deleting paragraph (c).

***Amendment of section 32C***

14. Section 32C of the Order is amended under subsection (5) -

- (a) in paragraph (a) by, adding immediately after the semi colon the word "and";
- (b) in paragraph (b) by, replacing the semi-colon after word "section" with a full stop and deleting the word "and";
- (c) by deleting paragraph (c).

***Amendment of section 32D***

15. Section 32D of the Order is amended by deleting subsection (8).

***Amendment of section 33***

16. Section 33 of the Order is amended by deleting subsection (16).

***Inserting of a new section 35bis***

17. The Order is amended by, inserting the following new section 35bis immediately after section 35 -

***"The keeping of business and other records***

35bis. (1) For the purposes of this section, the term "*records*" includes books of account (whether contained in a manual, mechanical, or electronic format) recording receipts or payments or income or expenditure, and also includes vouchers, ledgers, journals, bank statements, cash books, cheque books, deposit slips, paid cheques, invoices, receipts, deeds, plans, instruments, trade lists, stock lists, and such other documents as are necessary to verify the entries in any such books of account.

(2) Without limiting the generality of subsection (1) of this section the records required to be kept and retained, pursuant to subsection (3) of this section, in respect of any trade carried on during any year of assessment by any person, shall contain -

- (a) A record of the assets and liabilities of the person (in relation to that trade); and
- (b) A record of all entries from day to day of all sums of money received and expended by the person (in relation to that trade) and the matters in respect of which the receipt and expenditure takes place; and
- (c) Where that trade involves dealing in goods -
  - (i) A record of goods purchased and of all goods sold in the carrying on of that trade showing the goods, and the sellers and buyers or, as the case may be, the agents of the sellers and buyers in sufficient detail to enable the goods and the sellers and buyers, and the said agents to be readily identified by the Commissioner; and all invoices relating thereto; and

- (ii) Statements (including quantities and values) of trading stock held by the person at the end of each year of assessment, and all records of stock takings from which any such statement of trading stock has been, or is to be, prepared; and
- (d) Where that trade involves the provision of services, records of the services provided and all invoices relating thereto;
- (e) The charts and codes of accounts, the accounting instruction manuals, and the system and programme documentation which describes the accounting system used in each year of assessment in the carrying on of that trade; and
- (f) A fixed asset register recording all the tangible assets (excluding stock) of the business.

(3) Subject to subsection (6) of this section, every person who -

- (a) carries on trade in Swaziland;
- (b) carries on any other activity (not being the carrying on of employment as an employee) in Swaziland in the production of income;
- (c) makes, holds, or disposes of, for the purpose of producing income, any investment;

shall keep in Swaziland at the place where the trade is carried on original records in the English or Siswati language (regard being had to the occupation of the person concerned and the scale on which the trade is carried on) to enable the ascertainment readily by the Commissioner, or any other officer authorised by him in that behalf, of -

- (d) the taxable income derived by that person from, as the case may be, the carrying on of that trade, or the carrying on of that activity, or the making or holding or disposing of that investment; and
- (e) the deduction allowable in the calculating of the taxable income, -

and shall retain in Swaziland all such records for a period at least five years after the end of the year of assessment to which they relate or as long as it remains material to the administration of this Order.

(4) Where a person who is required in terms of subsection (3) to retain records lodges an objection or appeal against an assessment, that person shall retain all records relevant to that objection or appeal until that assessment becomes final.

(5) The Commissioner may disallow a claim for a deduction if the taxpayer is unable without reasonable excuse to produce a receipt or other record of the transaction, or to produce evidence relating to the circumstances giving rise to the claim for deduction.

(6) This section shall not require the retention of any records -

- (a) in respect of which the Commissioner has given notice in writing that retention is not required;
- (b) of any company which, has been wound up and finally dissolved."

***Amendment of section 37***

18. The Order is amended by, replacing section 37 with the following new section 37 -

***"Duty to furnish information or returns***

"37 (1) Every person shall, if required by the Commissioner, furnish to him, in such form and within such time as the Commissioner may require, returns showing -

- (a) the names and addresses of all or any particular class of persons employed by him, and the earnings, salary, wages, allowances or benefits or pensions, whether in money or otherwise, received by or accrued to or in favour of each such person in respect of such employment;
  - (b) all amounts received by or accrued to or in favour of any person in respect of any share or interest in any business carried on by the person furnishing the return;
  - (c) all moneys received by the person furnishing the return from any person for investment or on loan or on deposit with or without interest;
  - (d) all interest or rent received by or accrued to or in favour of any person from the person furnishing the return or from any business carried on by the last-mentioned person in Swaziland;
  - (e) All interest, rent or dividends collected for or on behalf of any person by the person furnishing the return;
  - (f) all such other information in his possession with regard to the income received by or accrued to or in favour of any person as may be required by the Commissioner.
- (2) In addition to the returns specified in subsection (1), every person shall, if required by the Commissioner -
- (a) furnish the Commissioner with information reflecting -
    - (i) the full name and address; and
    - (ii) in the case of -
      - (aa) any natural person, the identification number of such person; or
      - (bb) any person other than a natural person, the tax number,

in relation to the amounts received by or accrued to such person as contemplated in this section; and
  - (b) supply such information and furnish such returns or such further or other returns as the Commissioner may require.
- (3) Every person to whom a return or a written request for information is sent by the Commissioner shall complete the return or comply with the written request for information in accordance with the requirements of the Commissioner and shall return the completed form or furnish the information to the Commissioner at such time and place as the Commissioner may direct."

***Amendment of section 40***

19. Section 40 of the Order is amended by, inserting the following new subsection (8) immediately after subsection (7) -

“(8) A taxpayer who makes default in rendering a return in respect of any year of assessment in which the determination of the taxpayer income of the taxpayer results in an assessed loss shall, while such default continues, be liable to a penalty not exceeding fifty emalangeni for each day during which the default continues.”

***Insertion of a new section 40bis***

20. The Order is amended by, inserting the following new section 40bis immediately after section 40 -

***“Additional tax in relation to the withholding of taxes***

40bis. (1) Every person liable to withhold tax as required under any provisions contained in this Order who fails to withhold tax is liable for additional tax of twenty per cent of the amount of tax not withheld.

(2) Every person who fails to remit any tax withheld to the Commissioner shall be liable for additional tax of -

- (a) if the tax which that person has failed to pay to the Commissioner is paid within less than thirty days from the date on which the tax should have been paid, ten percent of the tax;
- (b) if the tax which that person has failed to pay to the Commissioner is paid thirty or more days after the date on which the tax should have been paid, but less than ninety days after the due date, fifteen percent of the tax;
- (c) if the tax to which that person has failed to pay to the Commissioner is paid ninety or more days after the date on which the tax should have been paid, but less than 180 days after the due date, twenty per cent of the tax; and
- (d) if the tax which that person has failed to pay to the Commissioner is paid one hundred and eighty or more days after the date on which the tax should have been paid, twenty-five percent of the tax.

(3) Additional tax recoverable under subsection (1) or (2) is borne personally by the person on whom it is levied, and no part thereof is recoverable from the person who received the payment from which tax should have been withheld.”

***Amendment of section 51***

21. Section 51 of the Order is amended in subsection (8), by replacing the words “twenty emalangeni” which occur immediately after the word “exceeding” with the words “one hundred emalangeni”.

***Replacement of Section 57***

22. The Order is amended, by replacing section 57 with the following new section 57 -

***"Appointment of day for payment of tax and interest on overdue payments"***

57 (1) Any tax chargeable under this Order shall be paid on such days and at such places as notified by the Commissioner or as specified in this Order, and may be paid in one sum or, upon written application by the taxpayer, in instalments of equal or varying amounts as the Commissioner may determine having regard to the circumstances of the case.

Provided that -

- (a) where tax is permitted to be paid by instalments and there is default in payment of any instalment, the whole balance of the tax outstanding shall become immediately payable.
- (b) where permission is granted under subsection (1) to pay tax by instalments interest arising under subsection (2) shall be payable on the unpaid balance of the tax due.

(2) If the taxpayer fails to pay any tax in full within the period for payment notified by the Commissioner in the notice of assessment or within the period for payment as prescribed by this Order, shall be liable for interest calculated at the rate of eighteen per centum per annum from the date on which the payment was due until the date on which payment is made.

Provided that the Minister may by notice in the Gazette reduce or increase the rate of such interest.

(3) Where the Commissioner has allowed for the payment in instalments of equal or varying amounts under subsection (1), interest shall be calculated upon the unpaid tax from the date the payment should have been made if not for the granting of an extension.

***Insertion of new section 59B***

23. The Order is amended by, inserting the following new section 59B immediately after section 59A -

***"A directive to withhold tax from payments made to certain persons"***

59B. (1) If in any case the Commissioner has reason to believe that any tax payable may not be recovered, the Commissioner may issue a directive to any person to withhold tax from any money which -

- (a) is due or may become to the person liable to taxation;
- (b) the person holds or may subsequently hold for or on account of the person liable to taxation;
- (c) the person has authority from some other person to pay to the person liable to taxation;

***at the rate specified under subsection (2).***

(2) The amount of tax to be withheld in respect of a directive issued under subsection (1) shall be at the rate of ten per cent on the amount due as contemplated in subsection (1).

(3) Every person who has deducted any tax under subsection (2) shall -

- (a) furnish to such person a certificate showing the amount of the tax deducted;
- (b) remit to the Commissioner the amount of tax deducted within fifteen days of the date of service of the directive or, if on such date no money is due from him to, or is held by him for or on account of, that person, within fifteen days of the date on which such money becomes due to, or available for or on account of that person.

(6) No deduction of tax under this section shall receive the person liable to taxation from the obligation to furnish any return for the assessment of the tax under section 33 or from any other obligation imposed by this Order.

(7) Any person who fails to deduct tax in accordance with subsection (1), shall, in addition to any penalty for which he may be liable under section 66, be personally liable to pay the Commissioner the tax which he should have deducted as if it were tax due and payable by him under Part VII of this Order.

***Amendment of section 66***

24. Section 66 of the Order is amended in subsection (1) -

- (a) by replacing paragraph (f) with the following new paragraph (f) -

“(f) fails to keep original records of his transactions as required by section 35*bis*”; and

- (b) by adding the following new paragraph (n) immediately after paragraph (m) -

“(n) fails to withhold and account for tax under section 59B;”

***Insertion of a new sections 69ter and 69quat***

25. The Order is amended by, inserting the following new sections 69*ter* and 69*quat* immediately after section 69 (*bis*) -

***“Taxpayer identification number***

69*ter*. The Commissioner may require a taxpayer to include the taxpayer identification number issued by the Commissioner to that taxpayer or in the case of a natural person his or her personal identification number in any return, notice, or other document used for the purposes of this Order.”

***“Transitional***

69*quat*. (1) After 30 June 2004, a person who was exempted from tax under the repealed section 12(5) of the Order may elect for the continuation of the benefit or right conferred to him under that section until the benefit of the exemption expires in accordance with the terms of the exemption or such grant.

(2) An election under section (1) shall be made in writing to the Commissioner by 31 July 2004.”

***Amendment of the Second Schedule***

27. The Second Schedule to the Order is amended:

(a) in paragraph 1 by adding the following words to the end of the definition of employee”

“and includes a former employee who receives remuneration which accrued before the termination of the contract of employment;” and

(b) in paragraph 9, by replacing subparagraph (3) with the following new subparagraph (3) -

“(3) The amount to be deducted or withheld in respect of employees’ tax from any lump sum to which paragraph (b) or (c) of the definition of “gross income” applies or any other lump sum to which the employee is entitled by virtue of the employee’s contract of employment or service, shall be ascertained by the employer from the Commissioner before paying out such lump sum, and the Commissioner’s determination of the amount to be deducted or withheld shall be final.”

***Amendment of the Third Schedule***

28. The Third Schedule to the Order is amended by, replacing Part II with the following -

**“PART II**

Rates of normal tax in the case of person other than companies shall be -

<b>Taxable Income</b>		<b>Rates of tax</b>
<b>Exceeds</b>	<b>But does not exceed</b>	
<b>E</b>	<b>E</b>	<b>E</b>
0	30 000	0 + 12% of the excess over 0
30 000	45 000	3 600 + 20% of the excess over 30 000
45 000	60 000	6 600 + 25% of the excess over 45 000
60 000	75 000	10 350 + 30% of the excess over 60 000
75 000		14 850 + 33% of the excess over 75 000”