



# THE ANC Whip

The bi-weekly newsletter of the ANC Caucus

11-24 Nov 2005

Issue No.1

## Cross-boundary municipalities

THE ANTICIPATED determination of where municipalities currently located in cross-boundary areas will be located has led affected communities to protest, based on a belief that they will be better served in one province as opposed to the other. Parliament and the Municipal Demarcation Board have been seized with the finalisation of the Cross Boundary Municipalities Repeal Bill. The Provincial and Local Government Portfolio Committee held public hearings to hear opinions of the affected communities on this matter.

Last week the residents of Khutsong near Carletonville protested against their inclusion in the North West Province. The protests were characterised by acts of violence. These kinds of

protests are not acceptable. The ANC Caucus made a statement in the National Assembly condemning the violence and called on affected communities to respect the rule of law and "the authority of the Municipal Demarcation Board and Parliament to process and finalise the municipal and provincial boundaries". The Constitution allows for the establishment of cross-boundary municipalities which in recent times have been found to adversely affect development and service delivery. Since the establishment of the cross-boundary municipalities, there have been practical difficulties in terms of administering such municipalities.

This is so because, laws of more than one province need to be administered in a cross-boundary municipality

and the municipality needs both provinces to approve its Integrated Development Plan (IDP).

In particular, where priorities for IDP differ from province to province, the coordination and integration of programmes and budgets of two different provinces into a single IDP becomes extremely difficult. This means that cross-boundary municipalities presented challenges, which delayed the government in providing services to communities in an equitable and sustainable manner, promoting integrated social and economic development and ensuring effective

l o c a l  
g o v e r n a n c e .  
T h e  
C o n s t i t u t i o n  
T w e l f t h  
A m e n d m e n t  
B i l l g i v e s e f f e c t

**"no municipality should straddle provincial boundaries"**

to the principle that "no municipality should straddle provincial boundaries". In essence, the Bill aims to re-determine the geographical areas of provinces so as to ensure that each municipality is placed under one province. The Bill also does away with the current arrangement in terms of which provincial boundaries are determined in terms of the boundaries of magisterial districts and then introduces a new arrangement in terms of which provincial boundaries are determined in terms of the municipal boundaries. In conclusion, the Provincial and Local Government Portfolio Committee is dealing with a related bill, Cross-Boundary Municipalities Laws Repeal Bill, to be finalised by Parliament at the end of 2005.

## COMMENT

### What is

### *The ANC Whip?*

*The ANC Whip* is a bi-weekly newsletter of the ANC Parliamentary Caucus that provides its readers with a synopsis of the work of the Caucus, Study Groups, Parliamentary Committees and Parliament.

It will highlight a few of the major laws and developments in Parliament every two weeks. The *ANC Whip* will be issued fortnightly while Parliament is in session, by the Office of the Chief Whip.

It replaces the *Parliamentary Bulletin*, which was last published in 2000.

Should you have any suggestions, articles/comments or information to share, please contact the Caucus Media Office at: [021] 403 3107 / email: momothapo@parliament.gov.za / mlekgoro@parliament.gov.za

**Postal address: Media & Communications Unit, African National Congress Parliamentary Caucus, P O Box 15, PARLIAMENT OF THE REPUBLIC SOUTH AFRICA, CAPE TOWN 8000**

## CHARTER DIARIES



Copies of the Freedom Charter 50th Anniversary Commemorative Diaries are being printed by Dynamic Diaries

and would be available by December 2005. To place an order please call the Caucus Media Unit.

## Special pensions

Jabu Moleketi

Finance Dep Minister

THE Special Pensions Amendment Bill is an amendment to the Special Pensions Act no 69 of 1996. The Special Pensions Act, 1996 gave effect to section 189 of the Interim Constitution, 1993 [Act No. 200 of 2003], in that it provides for the payment of special pensions to persons and survivors' lump sums to their eligible dependent, who made sacrifices or served the public interest in establishing a non-racial democratic constitutional order while serving fulltime in a banned or restricted political organisation and as a consequence of such activity were unable to or prevented from providing for pensions, for a significant period. When former Deputy Minister of Finance, Gill Marcus, introduced the Special Pensions Act to this House in 1996, she stated that "the Act reflected the pain and anguish, torture and depravation that so many people experienced under Apartheid. This Act cannot provide full restitution or correct all the ills, misfortune and hardship caused by the Apartheid years. While nothing can compensate for that, the provisions of this Act are aimed at addressing the dire needs that these people may experience in their old age." The process leading up to the Special Pensions Act in 1996 was preceded by wide ranging consultations with political organisations and NGOs. Public meetings were held in different parts of the country and the views of former political prisoners sought. The passing of the Special Pensions Act in 1996 was indeed a historical event and unique in its foundation and probably the first and only its kind in the world. We are proud of the progress our country has made with the implementation of this dispensation. A period of more than eight years has lapsed since the promulgation of the Special Pensions Act on December 1 1996. The Act was amended in 1998 to enable the payment of a monthly pension to persons from the age of 35 [instead of 60 years]. It was again amended in 2003 in order to condone late applications, as the period provided for applications in terms of the Act was 12 months from the commencement date of the Act, which expired on December 1 1997.

Subsequently to December 1 1997 a number of late applications have been condoned to date in terms of the Act. The two main amendments proposed in the Bill before you, seeks to amend the Special Pensions Act by providing for:

■ The lapsing of the provisions providing for pensions and survivor's lump sums on 31 December 2006. This means that the consideration of new applications for pensions of survivor's lump sums after this debate will no longer be possible; and

■ The extension of certain benefits to better align with benefits afforded to pensioners, and spouses and dependants of pensioners under other pension schemes, taking into account equity and affordability. In this regard, provision is made in the Bill for the following new benefits: monthly pension for surviving spouses or orphans on the death of a pensioner, which will apply retrospectively from December 1 1996; and funeral benefits for pensioners, surviving spouses or orphans. Other amendments proposed, provides for the disestablishment of the Board 60 days after the lapsing of the provisions providing for pensions and survivor's lump sums on December 31 2006 [and Review Board 90 days thereafter]. It also provides for the head of pensions administration in the National Treasury and the Minister to respectively take over the boards' responsibilities; and the resolution of administrative and legal difficulties relating to the implementation of the Act. The Bill allows the Board and the Review Board to reconsider and amend a determination made by it under certain circumstances and recover any pension or benefit paid to which a person was not entitled. As soon as this Bill is enacted, the National Treasury will embark on an extensive campaign to reach all those who qualify for a special pension and have not yet applied. We will make ever effort to ensure that as far as possible information about special pensions reaches every part of the country, urban and rural, in order for those who qualify for any benefit under the Act, to make application before the closing date.

This is an edited version  
of the speech made in the NA

## Revenue laws amendment bill

Since the dawn of the democratic order the popular government has continuously engaged in an effort to transform the revenue system of the country with the view to raise collection and easing the tax burden on the poor and working people.

The Revenue Laws Amendment Bill of 2005 was introduced to regulate the tax implications of the following:

- (a) visiting skilled expatriates,
- (b) medical scheme contributions and employer provided off-site medical services,
- (c) partial taxation of trading income,
- (d) withholding tax on non-resident entertainers and sportspersons,
- (e) individual home office expenses,
- (f) company car fringe benefits,
- (g) travel expenses of family members to visit an employee working away from home, and
- (h) pension provisions for previous non-statutory force members.

Regarding the regulation of the visiting skilled expatriates, a residence basis of taxation was introduced in 2001.

A three year period commencing from the date on which an expatriate becomes resident in South Africa is allowed, during which foreign income and capital gains of the expatriates are not taxed in South Africa. The period was allowed through the operation of the definition of 'resident' and its purpose was to encourage visiting expatriates with scarce skills to work in South Africa. Internationally, this period is not in line with the tax treatment in other tax jurisdictions, like Australia and Canada for example. This Bill proposes that the period that a person is physically present in the Republic before he or she becomes a resident be extended to five years. In addition, to conforming to international best practice, the proposed amendment could make South Africa more attractive to visiting skilled expatriates.

TO PAGE 3...

# Revenue laws amendment

...FROM PAGE 2

The regulation of the medical scheme contributions and employer provided off-site medical services attempts to ensure that medical expenses exceeding 7.5% of taxable income are deductible.

It also seeks to ensure a situation whereby on-site and certain off-site employer provided medical treatment for employees and dependents are not taxed.

It is also proposed that the R500 de-minimis-rule for medical expenses for a family with a physically disabled person be scrapped and such families and persons, and older than 65, deduct all medical expenses.

In terms of the regulation of the partial taxation of trading income, a proposal is made that a partial taxation be made whereby no limit is placed on trading income.

But this income will be taxable. The effect of this provision is that Public Benefit Organisation [PBO] may trade without the risk of losing its tax-exempt status. After the public hearings (convened in mid-October 2005), the proposal is amended to provide for tax-exempt trading gross income limited to the greater of R50 000 or 5 per cent of a PBO's receipts and accrual.

The situation regarding the withholding of tax on non-resident entertainer and sportspersons is that entertainers and sport persons are liable for SA income tax on income earned from performances in the country. In many instances, these individuals leave South Africa without paying any taxes that are due to the fiscus.

The Bill proposes that a 15% final withholding tax obligation be placed on SA residents paying non-resident entertainers or sportspersons.

For example, an Australian golfer won a one-week golf tournament that was hosted by a South African resident in August.

The prize money that was paid to him amounted \$1 million. Before paying the prize money to the golfer, the South African host must withhold \$150 000 and pay this to SARS. The golfer must be given a cheque for \$850 000. If the tax was withheld on 14 August, then it must be paid over to SARS before the end of

that particular year.

Assume that the exchange rate on 14 August was R6.30 to the dollar, then SARS will receive R945 000 (\$150 000 \* R6.30).

On the regulation of home office expenses, the bill allows for deductions in the case of employees who are required by their employers to bear the cost of maintaining a home office as their central business

**"R500 de-minimis rule for medical expenses for a family with a physically disabled person be scrapped**

location instead of operating at a site provided by the employer. According to the Bill, the monthly fringe benefit associated with the use of a company car is to be increased from 1.8% to 2.5% of the value – excluding VAT, as from 1 March 2006. The bill also seeks to regulate travel expenses of family members to visit an employee working away from home.

Due to the nature of work performed by certain individuals, they are required to be away from home for extended periods of time. Employers, in these circumstances, often pay the travel expenses of family members to visit such employees. Under the current provisions of the Income Tax Act, such payments are viewed as fringe benefits and are taxable in the hands of the employee. The Bill proposes that such payments by the employer be exempted from tax and must not be viewed as a fringe benefit.

## Revolutionarising the country's diamond industry

The Diamond Amendment Bill, passed recently, seeks to revolutionarise the South African mineral industry in terms of its outlook and its way of operating.

The development of the downstream in the diamond value chain in South Africa as advocated by the legislation has an immense economic potential, as it will stimulate business development in the diamond and related industries. The legislation seeks to impact and make strategic interventions in the following areas:

### **Socio-Economic Impact:**

It intends to serve as an impetus to create jobs for the unemployed masses of our people. This will reduce the number of unemployed people in general and the women, youth and graduates in particular.

**Skills Development:** Create a potential for the unemployed and the retrenched, particularly women and youth to be re-skilled and trained to work in the cutting and polishing industry.

**Equitable Wealth Distribution:** The subsidiary aim of the legislation is to spread wealth within the industry, and to avoid unnecessary advantage by the already existing diamond cartel, which has been dominating the industry since the discovery of diamonds and other minerals in the country.

**Access to Rough Diamonds:** The State Diamond and Trader in conjunction with the Diamond Exchange and Export Centre will enable those that do not have free access to rough diamonds.

**Cuttable and Non-cuttable Diamonds:** The cuttability and non-cuttability of the diamonds as raised by industry players is noted. In the interest of developing a beneficiation industry in South Africa, the market forces should be left to decide which diamonds are cuttable and which ones are non-cuttable.

■ Views expressed in this publication might not represent those of the ANC or ANC Parliamentary Caucus. Contact ANC Media Unit @ 021 403- 3107