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## **Non-profit organisations in South Africa reaping the benefits of the Income Tax Campaign**

**Tessa Brewis and Ricardo Wyngaard -The Non-Profit Consortium  
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In November this year an Amendment Bill was passed by Parliament in South Africa that will bring about significant improvements to the tax system for non-profit organisations.<sup>1</sup> The amendments are viewed as yet another victory for the non-profit sector, as well as an affirmation of the importance of the ongoing Tax Campaign.

The Tax Campaign, which began in the early 1990's yielded its first major results in 2001 with a complete overhaul of the system of taxation for non-profits and the introduction of the concept of public benefit organisations (PBOs) into the tax legislation. Since then, the Non-profit Consortium, with the support of key partners like the Legal Resources Centre, the South African Council of Churches, the Charities Aid Foundation Southern Africa and more recently the International Centre for Not-for-Profit Law, has continued to campaign for the further refinement and improved the implementation of the law.

The budget tax proposals announced by the Minister of Finance in February 2006 signified a triumph for persistent advocacy, since they addressed many of the issues raised by NPC in its submissions and meetings with revenue officials. The budget tax proposals placed the following items on the agenda for the year: the lists of tax exempt public benefit activities would be refined and extended; the rules for permissible investments for PBOs would be relaxed; the statutory tax rates for the taxable trading activities of all PBOs irrespective of their legal form would be aligned; the dual registration process would be streamlined and tax benefits would be extended to foreign PBOs operating in South Africa.

The draft version of the bill published in September 2006 reflected the items identified by the Minister of Finance and concerns raised by the NPC in past submissions. Although the majority of proposals contained in the draft bill were beneficial to the non-profit sector, a number of shortcomings were identified. For example, in the initial proposal the new aligned tax rates would have meant a 5% increase for the majority of organisations<sup>2</sup>, and complicated rules were proposed to prevent PBOs investing in foreign investments. The Non-Profit Consortium responded by making a joint submission together with the Legal Resources Centre and Douglas and Velcich, to the Finance Portfolio Committee, and also arranging an

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<sup>1</sup> The Revenue Laws Amendment Bill (33 of 2006) (the Bill) that was released on 03 November 2006

<sup>2</sup> PBOs exceeding the trading limitations contained in the Income Tax Act are required to pay tax on the income generated from such excessive trading.

urgent meeting between civil society stakeholders as the revenue officials. The final version of the amendments indicated that the majority of NPC's recommendations had been included and that the interventions had been successful.

The final changes to the legislation, which will come into operation early next year, include the following major advances:

- organisations will no longer be required to register as Non-profit Organisations in terms of the Non-profit Organisations Act of 1997, as a condition for registration as PBOs. This will simplify the regulatory burden for many organisations;
- the statutory tax rates for the taxable trading activities of all PBOs irrespective of their legal form will be 29%;
- there are no restrictions on investments made by PBOs;
- tax exemption will be granted to foreign legal entities operating in South Africa, on condition that they qualify for tax exemption in the country in which they are established.

The ongoing interaction between civil society stakeholders and the revenue officials has yielded many positive outcomes. Over the years the relationship has developed into one of mutual assistance and respect, resulting in consistent improvements to the tax system for non-profits. Already on the agenda for next year is relief for small organisations and a possibility of a tax amnesty for NPOs as well as an increase in tax benefits for donors.