To: Mr Yunus Ismail Carrim  
Chairperson of the Standing Committee on Finance
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Copied to: Ms Teboho Sepanya  
Committee Secretary
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And to: Mr Allen Wicomb  
Committee Secretary
PER EMAIL: awicomb@parliament.gov.za

Dear Mr Carrim,

RE: Equal Education’s concerns with regards to the proposed Draft Tax Law Amendment Bill and the Draft Tax Administration Law Amendment Bill

1. Equal Education (EE) is a social movement of learners, parents, teachers and community members fighting to achieve its core objective of realising quality and equality in the South African education system.

2. In order to achieve its objectives, EE conducts a broad range of activities. These include campaigns grounded in detailed research and policy analysis and supported, where necessary, by using the courts and legal process to advance the values of, and to contribute to, a strong civil society that holds government, private interests and individuals accountable.

3. In line with its objectives, EE has been monitoring the developments of the realisation of fee-free higher education through the pilot of the Ikusasa Student Financial Aid Programme (ISFAP).

4. The Ministerial Task Team (MTT) tasked with investigating a new funding model for poor and ‘missing middle’ students proposed ISFAP as the new model for higher education funding.

5. In its blue-print, the MTT regards fee-free higher education, in the short term, as financially viable. In order for this to be realised, the blue-print recommends that amendments be made to the SARS Act and the Income Tax Act to ensure its implementation.

6. The recommended amendments are as follows:
(a) The SARS Act

The MTT recommended the extending of the South African Revenues Services’ scope, in order for it to act as a debt collector for ISFAP. The ISFAP blueprint highlights how SARS administers and operates as the collecting agent for several Acts and thus the same could be done for ISFAP. What is however different within this context is the requirement of the SARS Act to be widened to enable SARS to have the power to collect outstanding student fees, essentially collecting ISFAP debt, in a manner similar to the collection of SDL and UIF. By virtue of the MTT’s own acknowledgement that ‘the ambit of the SARS Act could be widened’ shows that this is an extraordinary ask of the services currently rendered and administered by the SARS Act.

(b) The Income Tax Act

The MTT further recommends that amendments be made to the Income Tax Act; particularly sections 10 and 56, as well as the seventh and ninth schedules of the act. The amendments for section 10 suggest that ISFAP be exempt from donation tax because as currently listed under section 56 of the Income Tax Act, ISFAP does not fall within any exemption. Furthermore, the MTT recommends that the list of Donations under section 56 be expanded so as to allow for ISFAP and its donors to be exempt from income tax deductions for donations made. The amendments for schedule 7 suggest that the Tax Act be amended to defer, over an appropriate period, the taxable fringe benefit which would arise for an employee upon their employer assuming the full amount of said employee’s student debt.

7. EE is aware, however, that the Draft Income Tax Amendment Bill and the Draft Tax Administration Amendment Bill do not speak directly to the amendments proposed by the MTT.

8. That being said, EE has noted that some aspects of the Bills may potentially make way for the MTT’s recommendations. It is with this in mind, that we would like to request some clarification on the following proposed amendments:
   a. In the Draft Tax Law Amendment Bill, we would like to receive clarification on whether the widening of the scope of this bill, could potentially also include vehicles such as ISFAP?
   b. In the same Bill, Section 29 of the Bill aims to amend Section 18A of the Income Tax and as such, we also request clarification on whether the proposed tax exemptions may be extended to an entity such as ISFAP? Here, we particularly refer to whether, at a later stage, the Commissioner would approve such a vehicle as ISFAP as being exempt from deductible tax from donations received?

9. EE remains deeply concerned that the MTT would propose such drastic changes to a legislative framework that is intended to protect the public’s interests. We therefore welcome the participatory nature of the Draft Income Tax Amendment Bill and the Draft Tax Administration Amendment Bill, and look forward to the Committee’s response to our request for clarification.
Yours faithfully,

Tshepo Motsepe  
General Secretary, Equal Education