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PART 1 OF 2

THE PRESIDENCY

No. 1451 18 December 2017

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

Act No. 17 of 2017: Taxation Laws Amendment Act, 2017

DIE PRESIDENSIE

No. 1451 18 Desember 2017

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 17 van 2017: Wysigingswet op Belastingwette, 2017

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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.

(English text signed by the President)
(Assented to 14 December 2017)

ACT

To amend the Estate Duty Act, 1955, so as to amend a provision; to amend the Income Tax Act, 1962, to amend certain provisions; to make new provision; to repeal certain provisions; to amend the Customs and Excise Act, 1964, so as to make new provision; and to make provision for continuations; to amend the Value-Added Tax Act, 1991, so as to amend certain provisions; to amend the Skills Development Levies Act, 1999, so as to amend a provision; to amend the Unemployment Insurance Contributions Act, 2002, so as to amend a provision; to amend the Securities Transfer Tax Act, 2007, so as to amend certain provisions; to amend the Employment Tax Incentive Act, 2013, so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2013, so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2015, so as to amend certain provisions; to amend the Revenue Laws Amendment Act, 2016, so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2016, so as to amend a provision; to provide for tax relief for bargaining councils; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Part I

Taxation Laws Amendments

Amendment of section 3 of Act 45 of 1955, as amended by section 2 of Act 65 of 1960, section 8 of Act 77 of 1964, section 2 of Act 81 of 1965, section 4 of Act 92 of 1971, section 3 of Act 89 of 1972, section 3 of Act 102 of 1979, section 10 of Act 106 of 1980, section 2 of Act 92 of 1983, section 4 of Act 81 of 1985, section 9 of Act 87 of 1988, section 7 of Act 97 of 1993, section 6 of Act 27 of 1997, section 13 of Act 30 of 1998, section 7 of Act 30 of 2000, section 5 of Act 31 of 2005, section 2 of Act 60 of 2008 and section 3 of Act 25 of 2015

1. (1) Section 3 of the Estate Duty Act, 1955, is hereby amended by the substitution in subsection (2) for paragraph (*b*A) of the following paragraph:

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ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde in vet druk in vierkantige hakies, dui skrappings uit bestaande verordeninge aan.

__________ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

(Engelse teks deur die President geteken)
(Goedgekeur op 14 Desember 2017)

WET

Tot wysiging van die Boedelbelastingwet, 1955, ten einde 'n bepaling te wysig; tot wysiging van die Inkomstebelastingwet, 1962, ten einde sekere bepalings te wysig; nuwe bepalings te verorden; ten einde sekere bepalings te skrap; tot wysiging van die Doeane- en Aksynswet, 1964, ten einde 'n nuwe bepaling te verorden; en om voorsiening te maak vir voortsettings; tot wysiging van die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde sekere bepalings te wysig; tot wysiging van die "Skills Development Levies Act", 1999, ten einde 'n bepaling te wysig; tot wysiging van die "Unemployment Insurance Contributions Act", 2002, ten einde 'n bepaling te wysig; tot wysiging van die Wet op Belasting op Oordrag van Sekuriteite, 2007, ten einde sekere bepalings te wysig; tot wysiging van die "Employment Tax Incentive Act", 2013, ten einde sekere bepalings te wysig; tot wysiging van die Wysigingswet op Belastingwette, 2013, ten einde sekere bepalings te wysig; tot wysiging van die Wysigingswet op Belastingwette, 2015, ten einde sekere bepalings te wysig; tot wysiging van die Wysigingswet op Inkomstewette, 2016, ten einde sekere bepalings te wysig; tot wysiging van die Wysigingswet op Belastingwette, 2016, ten einde 'n bepaling te wysig; om voorsiening vir belastingverligting vir bedingingsrade te maak; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Deel I

Wysiging van Belastingwette

Wysiging van artikel 3 van Wet 45 van 1955, soos gewysig deur artikel 2 van Wet 65 van 1960, artikel 8 van Wet 77 van 1964, artikel 2 van Wet 81 van 1965, artikel 4 van Wet 92 van 1971, artikel 3 van Wet 89 van 1972, artikel 3 van Wet 102 van 1979, artikel 10 van Wet 106 van 1980, artikel 2 van Wet 92 van 1983, artikel 4 van Wet 81 van 1985, artikel 9 van Wet 87 van 1988, artikel 7 van Wet 97 van 1993, artikel 6 van Wet 27 van 1997, artikel 13 van Wet 30 van 1998, artikel 7 van Wet 30 van 2000, artikel 5 van Wet 31 van 2005, artikel 2 van Wet 60 van 2008 en artikel 3 van Wet 25 van 2015

1. (1) Artikel 3 van die Boedelbelastingwet, 1955, word hierby gewysig deur in subartikel (2) paragraaf *(b*A*)* deur die volgende paragraaf te vervang:

“*(b*A) so much of the amount of any contribution made by the deceased in consequence of membership or past membership of any pension fund, provident fund, or retirement annuity fund, as was not allowed as a deduction in terms of section 11 *(k)* **[or]**, section 11*(n)* or section 11F of the Income Tax Act, 1962 (Act No. 58 of 1962), or paragraph 2 of the Second Schedule to that Act or, as was not exempt in terms of section 10C of that Act in determining the taxable income as defined in section 1 of that Act, of the deceased;”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2016.

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 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 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 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, section 7 of Act 17 of 2009, section 6 of Act 7 of 2010, section 7 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 23 of Schedule 1 to that Act, section 2 of Act 22 of 2012, section 4 of Act 31 of 2013, section 1 of Act 43 of 2014, section 3 of Act 25 of 2015 and section 5 of Act 15 of 2016

2. (1) Section 1 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) for the proviso to the definition of ‘‘connected person’’ for the following proviso:

‘‘: Provided that for the purposes of this definition, a company includes a portfolio of a collective investment scheme **[of securities]**;’’;

(b) by the substitution in subsection (1) in paragraph *(b)* in the definition of ‘‘dividend’’ for subparagraph (iii) of the following subparagraph:

‘‘(iii) constitutes an acquisition by the company of its own securities by way of a general repurchase of securities as contemplated in subparagraph *(b)* of paragraph 5.67(B) of section 5 of the JSE Limited Listings Requirements, where that acquisition complies with any applicable requirements prescribed by paragraphs 5.68 and 5.72 to **[5.84]** 5.81 of section 5 of the JSE Limited Listings Requirements;’’;

(c) by the deletion in subsection (1) in the definition of ‘‘domestic treasury management company’’ of paragraph *(a)*;

(d) by the substitution in subsection (1) in paragraph *(m)* of the definition of ‘‘gross income’’ for the words preceding the proviso of the following words:

‘‘any amount received or accrued in respect of a policy of insurance of which the taxpayer is the policyholder, where the policy relates to the

“*(b*A*)* soveel van die bedrag van enige bydrae gemaak deur die oorledene kragtens lidmaatskap of gewese lidmaatskap van enige pensioenfonds, voorsorgsfonds, of uittredingannuïteitsfonds, as wat nie in berekening gebring is nie ingevolge artikel 11*(k)* **[of]**, artikel 11*(n)* of artikel 11F van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962) of paragraaf 2 van die Tweede Bylae by daardie Wet of, soos nie vrygestel was ingevolge artikel 10C van daardie Wet nie, in die berekening van belasbare inkomste, soos omskryf in artikel 1 van daardie Wet, van die oorledene;”.

(2) Subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

Wysiging van artikel 1 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 90 van 1962, artikel 1 van Wet 6 van 1963, artikel 4 van Wet 72 van 1963, artikel 4 van Wet 90 van 1964, artikel 5 van Wet 88 van 1965, artikel 5 van Wet 55 van 1966, artikel 5 van Wet 76 van 1968, artikel 6 van Wet 89 van 1969, artikel 6 van Wet 52 van 1970, artikel 4 van Wet 88 van 1971, artikel 4 van Wet 90 van 1972, artikel 4 van Wet 65 van 1973, artikel 4 van Wet 85 van 1974, artikel 4 van Wet 69 van 1975, artikel 4 van Wet 103 van 1976, artikel 4 van Wet 113 van 1977, artikel 3 van Wet 101 van 1978, artikel 3 van Wet 104 van 1979, artikel 2 van Wet 104 van 1980, artikel 2 van Wet 96 van 1981, artikel 3 van Wet 91 van 1982, artikel 2 van Wet 94 van 1983, artikel 1 van Wet 30 van 1984, artikel 2 van Wet 121 van 1984, artikel 2 van Wet 96 van 1985, artikel 2 van Wet 65 van 1986, artikel 1 van Wet 108 van 1986, artikel 2 van Wet 85 van 1987, artikel 2 van Wet 90 van 1988, artikel 1 van Wet 99 van 1988, Goewermentskennisgewing R780 van 1989, artikel 2 van Wet 70 van 1989, artikel 2 van Wet 101 van 1990, artikel 2 van Wet 129 van 1991, artikel 2 van Wet 141 van 1992, artikel 2 van Wet 113 van 1993, artikel 2 van Wet 21 van 1994, Goewermentskennisgewing 46 van 1994, artikel 2 van Wet 21 van 1995, artikel 2 van Wet 36 van 1996, artikel 2 van Wet 28 van 1997, artikel 19 van Wet 30 van 1998, Goewermentskennisgewing 1503 van 1998, artikel 10 van Wet 53 van 1999, artikel 13 van Wet 30 van 2000, artikel 2 van Wet 59 van 2000, artikel 5 van Wet 5 van 2001, artikel 3 van Wet 19 van 2001, artikel 17 van Wet 60 van 2001, artikel 9 van Wet 30 van 2002, artikel 6 van Wet 74 van 2002, artikel 33 van Wet 12 van 2003, artikel 12 van Wet 45 van 2003, artikel 3 van Wet 16 van 2004, artikel 3 van Wet 32 van 2004, artikel 3 van Wet 32 van 2005, artikel 19 van Wet 9 van 2006, artikel 3 van Wet 20 van 2006, artikel 3 van Wet 8 van 2007, artikel 5 van Wet 35 van 2007, artikel 2 van Wet 3 van 2008, artikel 4 van Wet 60 van 2008, artikel 7 van Wet 17 van 2009, artikel 6 van Wet 7 van 2010, artikel 7 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 23 van Bylae 1 by daardie Wet, artikel 2 van Wet 22 van 2012, artikel 4 van Wet 31 van 2013, artikel 1 van Wet 43 van 2014, artikel 3 van Wet 25 van 2015 en artikel 5 van Wet 15 van 2016

2. (1) Artikel 1 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) na die omskrywing van “agent” die volgende voorbehoudsbepaling in te voeg:

“ **‘amptelike rentekoers’**—

(a) in die geval van ’n skuld wat in die geldeenheid van die Republiek aangedui word, ’n rentekoers gelykstaande aan die Suid-Afrikaanse heraankoopkoers plus 100 basispunte; of

(b) in die geval van ’n skuld wat in enige ander geldeenheid aangedui word, ’n rentekoers wat die ekwivalent is van die Suid-Afrikaanse heraankoopkoers toepaslik in daardie geldeenheid plus 100 basispunte: Met dien verstande dat waar ’n nuwe heraankoopkoers of ekwivalente koers vasgestel word, die nuwe rentekoers van toepassing is by die toepassing van hierdie omskrywing vanaf die eerste dag van die maand wat volg op die datum waarop daardie nuwe heraankoopkoers of ekwivalente koers in werking getree het;”;

(b) deur in subartikel (1) in die omskrywing van “binnelandse skatkisbestuursmaatskappy” paragraaf *(a)* te skrap;

(c) deur in subartikel (1) in paragraaf *(m)* van die omskrywing van “bruto inkomste” die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

“ ’n bedrag ontvang of toegeval ten opsigte van ’n versekeringspolis waarvan die belastingpligtige die polishouer is, waar die polis betrekking

death, disablement or **[severe]** illness of an employee or director (or former employee or director) of the taxpayer, including by way of any loan or advance'';

(e) by the insertion in subsection (1) after the definition of ''officer'' of the following definition:

'' **'official rate of interest'** means—

(a) in the case of a debt which is denominated in the currency of the Republic, a rate of interest equal to the South African repurchase rate plus 100 basis points; or

(b) in the case of a debt which is denominated in any other currency, a rate of interest that is the equivalent of the South African repurchase rate applicable in that currency plus 100 basis points: Provided that where a new repurchase rate or equivalent rate is determined, the new rate of interest applies for the purposes of this definition from the first day of the month following the date on which that new repurchase rate or equivalent rate came into operation;'';

(f) by the substitution in subsection (1) in the proviso to paragraph *(c)* of the definition of ''pension fund'' for paragraph (i) of the following paragraph:

''(i) that the fund is a permanent fund *bona fide* established for the purpose of providing annuities for employees on retirement **[from employment]** date or for the dependants or nominees of deceased employees, or mainly for the said purpose and also for the purpose of providing benefits other than annuities for the persons aforesaid or for the purpose of providing any benefit contemplated in paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and'';

(g) by the substitution in subsection (1) in paragraph *(c)*(ii) of the proviso to the definition of ''pension fund'' for subparagraphs *(cc)* and *(dd)* of the following subparagraphs respectively:

''*(cc)* that persons who immediately prior to the said date were employed by the employer and who on the said date fall within the said class or classes may, on application made **[within a period of not more than 12 months as from the said date]**, be permitted to become members of the fund on such conditions as may be specified in the rules;'';

(dd) that not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000 **[or]** where the employee is deceased or where the employee elects to transfer the retirement interest to a retirement annuity fund;'';

(h) by the substitution in subsection (1) for paragraph *(a)* of the proviso to the definition of ''provident fund'' of the following paragraph:

''*(a)* that the fund is a permanent fund *bona fide* established solely for the purpose of providing benefits for employees on retirement **[from employment]** date or solely for the purpose of providing benefits for the dependants or nominees of deceased employees or deceased former employees or solely for a combination of such purposes or mainly for the said purpose and also for the purpose of providing any benefit contemplated in paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and'';

(i) by the substitution in subsection (1) for paragraph *(a)* of the definition of ''retirement date'' of the following paragraph:

''*(a)* a member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, elects to retire and in terms of the rules of that fund, becomes entitled to an annuity or a lump sum benefit contemplated in

het op die dood, ongeskikstelling of **[ernstige]** siekte van 'n werknemer of direkteur (of voormalige werknemer of direkteur) van die belastingpligtige, ook by wyse van 'n lening of voorskot:'';

(d) deur in subartikel (1) in die omskrywing van ''dividend'' in paragraaf *(b)* subparagraaf (iii) deur die volgende paragraaf te vervang:

''(iii) 'n verkryging deur die maatskappy van sy eie effekte deur middel van 'n algemene heraankoop van effekte, soos beoog in subparagraaf *(b)* van paragraaf 5.67 (B) van artikel 5 van die 'JSE Limited Listings Requirements' uitmaak, waar daardie verkryging voldoen aan enige toepaslike vereistes voorgeskryf deur paragrawe 5.68 en 5.72 tot **[5.84]** 5.81 van artikel 5 van die 'JSE Limited Listings Requirements';'';

(e) deur in subartikel (1) in die voorbehoudsbepaling tot paragraaf *(c)* van die omskrywing van ''pensioenfonds'' subparagraaf (i) deur die volgende subparagraaf te vervang:

''(i) dat die fonds 'n permanente fonds is wat bona fide ingestel is met die oogmerk om vir werknemers **[by uitdienstreding]** op uittreedatum of vir die afhanklikes of benoemdes van oorlede werknemers, jaargelde beskikbaar te stel, of hoofsaaklik met genoemde oogmerk en ook met die oogmerk om ander voordele as jaargelde vir voorgemelde persone beskikbaar te stel of met die oogmerk om enige voordeel beoog in paragraaf 2C van die Tweede Bylae of artikel 15A of 15E van die Wet op Pensioenfondse te voorsien; en'';

(f) deur in subartikel (1) in paragraaf *(c)*(ii) van die voorbehoudsbepaling tot die omskrywing van ''pensioenfonds'' subparagrawe *(cc)* en *(dd)* onderskeidelik deur die volgende subparagrawe te vervang:

''*(cc)* dat persone wat onmiddellik voor genoemde datum by die werkgewer in diens was en wat op genoemde datum in genoemde kategorie of kategorieë val, op aansoek **[binne 'n tydperk van hoogstens 12 maande vanaf genoemde datum gedoen]**, toegelaat kan word om op die in die reëls vermelde voorwaardes lede van die fonds te word;

(dd) dat hoogstens een-derde van die totale waarde van die uittreebelang deur 'n enkele betaling vervang kan word en dat die restant in die vorm van 'n annuïteit (met inbegrip van 'n lewende annuïteit) betaal moet word, behalwe waar twee-derdes van die totale waarde nie R165 000 te bowe gaan nie of waar die werknemer oorlede is of waar die werknemer kies om die uittreebelang oor te dra na 'n pensioenbewaringsfonds;'';

(g) deur in subartikel (1) in paragraaf *(b)* in die omskrywing van ''teruggawe van kapitaal'' subparagraaf (ii) deur die volgende subparagraaf te vervang:

''(ii) 'n verkryging deur die maatskappy van sy eie effekte by wyse van 'n algemene heraankoop van effekte soos beoog in subparagraaf *(b)* van paragraaf 5.67(B) van artikel 5 van die 'JSE Limited Listings Requirements' uitmaak, waar daardie verkryging voldoen aan enige toepaslike vereistes voorgeskryf deur paragrawe 5.68 en 5.72 tot **[5.84]** 5.81 van artikel 5 van die 'JSE Limited Listings Requirements';'';

(h) deur in subartikel (1) die omskrywing van ''uittreebelang'' deur die volgende omskrywing te vervang:

'' **'uittreebelang'** 'n lid se aandeel van die waarde van 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds soos bepaal ingevolge die reëls van die fonds op die datum waarop hy of sy kies om af te tree of om dit na 'n pensioenbewaringsfonds oor te dra;'';

(i) deur in subartikel (1) in die omskrywing van ''uittreedatum'' paragraaf *(a)* deur die volgende paragraaf the vervang:

''*(a)* 'n lid van 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds, ingevolge die reëls van daardie fonds, kies om af te tree en geregtig word op 'n annuïteit of 'n enkelbedragvoordeel beoog in paragraaf

paragraph 2(1)*(a)*(i) or *(c)* of the Second Schedule on or subsequent to attaining normal retirement age; or'';

(j) by the substitution in subsection (1) for the definition of ''retirement fund lump sum benefit'' of the following definition:

'' **'retirement fund lump sum benefit'** means an amount determined in terms of paragraph 2(1)*(a)* or *(c)* of the Second Schedule;'';

(k) by the substitution in subsection (1) for the definition of ''retirement interest'' of the following definition:

'' **'retirement interest'** means a member's share of the value of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as determined in terms of the rules of the fund on the date on which he or she elects to retire or transfer to a retirement annuity fund;''; and

(l) by the substitution in subsection (1) in paragraph *(b)* of the definition of ''return of capital'' for subparagraph (ii) of the following subparagraph:

''(ii) an acquisition by the company of its own securities by way of a general repurchase of securities as contemplated in subparagraph *(b)* of paragraph 5.67(B) of section 5 of the JSE Limited Listings Requirements, where that acquisition complies with any applicable requirements prescribed by paragraphs 5.68 and 5.72 to **[5.84]** 5.81 of section 5 of the JSE Limited Listings Requirements;''.

(2) Paragraph *(c)* of subsection (1) comes into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

(3) Paragraphs *(f)*, *(g)*, *(h)*, *(i)*, *(j)* and *(k)* of subsection (1) come into operation on 1 March 2018 and apply in respect of years of assessment commencing on or after that date.

Amendment of section 5 of Act 58 of 1962, as substituted by section 2 of Act 6 of 1963 and amended by section 5 of Act 90 of 1964, section 5 of Act 88 of 1971, section 5 of Act 90 of 1972, section 5 of Act 65 of 1973, section 5 of Act 103 of 1976, section 5 of Act 113 of 1977, section 3 of Act 104 of 1980, section 4 of Act 96 of 1981, section 4 of Act 91 of 1982, section 3 of Act 94 of 1983, section 3 of Act 121 of 1984, section 3 of Act 90 of 1988, section 5 of Act 21 of 1994, section 4 of Act 21 of 1995, section 7 of Act 5 of 2001, section 10 of Act 30 of 2002, section 15 of Act 45 of 2003, section 4 of Act 20 of 2006, section 4 of Act 8 of 2007, section 3 of Act 3 of 2008, section 6 of Act 60 of 2008, section 8 of Act 17 of 2009, section 7 of Act 7 of 2010, section 8 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 28 of Schedule 1 to that Act, section 5 of Act 31 of 2013 and section 6 of Act 15 of 2016

3. (1) Section 5 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (10) for paragraph *(e)* of the following paragraph:

''*(e)* 'D' represents an amount equal to so much of any current contribution to a pension fund, provident fund or retirement annuity fund as is allowable as a deduction in terms of section **[11*(k)*]** 11F solely by reason of the inclusion in the taxpayer's income of any amount contemplated in paragraph *(d)*(i), (ii), (iii) or (iv):''.

(2) Subsection (1) is deemed to have come into operation on 1 March 2016.

Amendment of section 6*quat* of Act 58 of 1962, as inserted by section 9 of Act 89 of 1969 and amended by section 5 of Act 94 of 1983, section 5 of Act 85 of 1987, section 5 of Act 28 of 1997, section 12 of Act 53 of 1999, section 16 of Act 30 of 2000, section 4 of Act 59 of 2000, section 8 of Act 5 of 2001, section 20 of Act 60 of 2001, section 9 of Act 74 of 2002, section 16 of Act 45 of 2003, section 4 of Act 32 of 2004, section 8 of Act 31 of 2005, section 7 of Act 35 of 2007, section 9 of Act 17 of 2009, section 7 of Act 18 of 2009, section 11 of Act 24 of 2011, section 3 of Act 22 of 2012, section 6 of Act 25 of 2015 and section 10 of Act 15 of 2016

4. Section 6*quat* of the Income Tax Act, 1962, is hereby amended—

2(1)*(a)*(i) of *(c)* van die Tweede Bylae op of na die bereiking van normale uittreeouderdom; of'';

(j) deur in subartikel (1) die omskrywing van ''uittreefonds enkelbedragvoordeel'' deur die volgende omskrywing te vervang:

'' **'uittreefonds enkelbedragvoordeel'** 'n bedrag bepaal ingevolge paragraaf 2(1)*(a)* of *(c)* van die Tweede Bylae;''; en

(k) deur in subartikel (1) in die omskrywing van ''verbonde persoon'' die voorbehoudsbepaling deur die volgende voorbehoudsbepaling te vervang:

'': Met dien verstande dat by die toepassing van hierdie omskrywing 'n maatskappy ook 'n portefeulje van 'n kollektiewe beleggingskema **[in effekte]** beteken;''; en

(l) deur in subartikel (1) in die voorbehoudsbepaling tot die omskrywing van ''voorsorgfonds'' paragraaf *(a)* deur die volgende paragraaf te vervang:

''*(a)* dat die fonds 'n permanente fonds is wat *bona fide* ingestel is uitsluitlik met die oogmerk om vir werknemers **[by uitdiensstreding]** op uittreedatum voordele beskikbaar te stel of uitsluitlik met die oogmerk om vir die afhanklikes of benoemdes van oorlede werknemers of oorlede voormalige werknemers voordele beskikbaar te stel of uitsluitlik met 'n kombinasie van genoemde oogmerke of hoofsaaklik vir genoemde oogmerk en ook met die oogmerk om enige voordeel beoog in paragraaf 2C van die Tweede Bylae of artikel 15A of 15E van die Wet op Pensioenfondse te voorsien; en''.

(2) Paragraaf *(b)* van subartikel (1) tree in werking op 1 Januarie 2018 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragrawe *(e)*, *(f)*, *(h)*, *(i)*, *(j)* en *(k)* van subartikel (1) tree in werking op 1 Maart 2018 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 5 van Wet 58 van 1962, soos vervang deur artikel 2 van Wet 6 van 1963 en gewysig deur artikel 5 van Wet 90 van 1964, artikel 5 van Wet 88 van 1971, artikel 5 van Wet 90 van 1972, artikel 5 van Wet 65 van 1973, artikel 5 van Wet 103 van 1976, artikel 5 van Wet 113 van 1977, artikel 3 van Wet 104 van 1980, artikel 4 van Wet 96 van 1981, artikel 4 van Wet 91 van 1982, artikel 3 van Wet 94 van 1983, artikel 3 van Wet 121 van 1984, artikel 3 van Wet 90 van 1988, artikel 5 van Wet 21 van 1994, artikel 4 van Wet 21 van 1995, artikel 7 van Wet 5 van 2001, artikel 10 van Wet 30 van 2002, artikel 15 van Wet 45 van 2003, artikel 4 van Wet 20 van 2006, artikel 4 van Wet 8 van 2007, artikel 3 van Wet 3 van 2008, artikel 6 van Wet 60 van 2008, artikel 8 van Wet 17 van 2009, artikel 7 van Wet 7 van 2010, artikel 8 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 28 van Bylae 1 by daardie Wet, artikel 5 van Wet 31 van 2013 en artikel 6 van Wet 15 van 2016

3. (1) Artikel 5 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (10) paragraaf *(e)* deur die volgende paragraaf te vervang:

''*(e)* 'D' 'n bedrag voorstel gelyk aan soveel van enige lopende bydrae tot 'n pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds as wat toelaatbaar is as 'n aftrekking ingevolge artikel **[11*(k)*]** 11F uitsluitlik omrede van die insluiting by die belastingpligtige se inkomste van 'n bedrag beoog in paragraaf *(d)*(i), (ii), (iii) of (iv):''.

(2) Subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

Wysiging van artikel 6*quat* van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 89 van 1969 en gewysig deur artikel 5 van Wet 94 van 1983, artikel 5 van Wet 85 van 1987, artikel 5 van Wet 28 van 1997, artikel 12 van Wet 53 van 1999, artikel 16 van Wet 30 van 2000, artikel 4 van Wet 59 van 2000, artikel 8 van Wet 5 van 2001, artikel 20 van Wet 60 van 2001, artikel 9 van Wet 74 van 2002, artikel 16 van Wet 45 van 2003, artikel 4 van Wet 32 van 2004, artikel 8 van Wet 31 van 2005, artikel 7 van Wet 35 van 2007, artikel 9 van Wet 17 van 2009, artikel 7 van Wet 18 van 2009, artikel 11 van Wet 24 van 2011, artikel 3 van Wet 22 van 2012, artikel 6 van Wet 25 van 2015 en artikel 10 van Wet 15 van 2016

4. Artikel 6*quat* van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) by the substitution in subsection (1B)*(a)* for subparagraph (i) of the following subparagraph:

''(i) in determining the amount of the taxable income that is attributable to that income, proportional amount, taxable capital gain or amount, any allowable deductions contemplated in **[sections 11*(n)*, 18 and]** section 18A must be deemed to have been incurred proportionately in respect of income derived from sources within and outside the Republic;''; and

(b) by the substitution for subsection (1D) of the following subsection:

''(1D) Notwithstanding the provisions of subsection (1C), the deduction of any tax paid or proved to be payable as contemplated in that subsection shall not in aggregate exceed the total taxable income (before taking into account any such deduction) attributable to income which is subject to taxes as contemplated in that subsection, provided that in determining the amount of the taxable income that is attributable to that income, any allowable deductions contemplated in **[sections 11*(n)*, 18 and]** section 18A must be deemed to have been incurred proportionately in the ratio that that income bears to total income.''.

Amendment of section 7C of Act 58 of 1962, as inserted by section 12 of Act 15 of 2016

5. (1) Section 7C of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) for the words following paragraph *(b)* of the following words:

''directly or indirectly provides to—

(i) a trust in relation to which—

(aa) that person or company **[,]**; or

(bb) any person that is a connected person in relation to **[that]** the person or company referred to in item *(aa)*,

is a connected person; or

(ii) a company if at least 20 per cent of—

(aa) the equity shares in that company are held, directly or indirectly; or

(bb) the voting rights in that company can be exercised,

by the trust referred to in subparagraph (i) or by a beneficiary of that trust.'';

(b) by the insertion after subsection (1) of the following subsection:

''(1A) If a person acquires a claim to an amount owing by a trust or a company in respect of a loan, advance or credit referred to in subsection (1), that person must for purposes of this section be treated as having provided a loan, advance or credit to that trust or company—

(a) on the date on which that person acquired that claim; or

(b) if that person was not a connected person on that date in relation to—

(i) that trust; or

(ii) the person who provided that loan, advance or credit to that trust or company,

on the date on which that person became a connected person in relation to that trust or person,

that is equal to the amount of the claim so acquired.'';

(c) by the substitution for subsections (3) and (4) of the following subsections respectively:

''(3) If a trust or company incurs—

(a) no interest in respect of a loan, advance or credit referred to in subsection (1) or subsection (1A); or

(b) interest at a rate lower than the official rate of interest **[as defined in paragraph 1 of the Seventh Schedule]**,

an amount equal to the difference between the amount incurred by that trust or company during a year of assessment as interest in respect of that loan, advance or credit and the amount that would have been incurred by

(a) deur in subartikel (1B)*(a)* subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) by die vasstelling van die bedrag van die belasbare inkomste wat toeskryfbaar is aan daardie inkomste, proporsionele bedrag, belasbare kapitaalwins of bedrag, word enige toelaatbare aftrekkings in **[artikels 11*(n)*, 18 en]** artikel 18A bedoel, geag proporsioneel ten opsigte van inkomste verkry vanuit bronne binne en buite die Republiek aangegaan te wees;"; en

(b) deur subartikel (1D) deur die volgende subartikel te vervang:

"(1D) Ondanks die bepalings van subartikel (1C) mag die aftrekking van enige belasting wat betaal of bewys word betaalbaar te wees soos in daardie subartikel beoog, nie in totaal die totale belasbare inkomste (voor daardie aftrekking in berekening gebring is) wat toeskryfbaar is aan die inkomste wat aan belasting in daardie subartikel bedoel onderhewig is, te bowe gaan nie, met dien verstande dat by die berekening van die bedrag van die belasbare inkomste wat aan daardie inkomste toeskryfbaar is, enige toelaatbare aftrekkings in **[artikels 11*(n)*, 18 en]** artikel 18A beoog, geag word proporsioneel aangegaan te wees in die verhouding wat daardie inkomste tot die totale inkomste staan.".

Wysiging van artikel 7C van Wet 58 van 1962, soos ingevoeg deur artikel 12 van Wet 15 van 2016

5. (1) Artikel 7C van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die woorde wat op paragraaf *(b)* volg deur die volgende woorde te vervang:

"direk of indirek—

(i) aan 'n trust voorsien met betrekking waartoe—

(aa) daardie persoon of maatskappy**[,]**; of

(bb) enige persoon wat 'n verbonde persoon is met betrekking tot **[daardie]** die persoon of maatskappy bedoel in item *(aa)*,

'n verbonde persoon is; of

(ii) 'n maatskappy indien ten minste 20 persent van—

(aa) die ekwiteitsaandele in daardie maatskappy gehou word, direk of indirek; of

(bb) die stemregte in daardie maatskappy uitgeoefen kan word, deur die trust beoog in subparagraaf (i) of deur 'n begunstigde van daardie trust.";

(b) deur na subartikel (1) die volgende subartikel in te voeg:

"(1A) Indien 'n persoon 'n reg verkry tot 'n bedrag verskuldig deur 'n trust of 'n maatskappy ten opsigte van 'n lening, voorskot of krediet beoog in subartikel (1), word daardie persoon vir doeleindes van hierdie artikel behandel asof daardie persoon 'n lening, voorskot of krediet voorsien het aan daardie trust of maatskappy—

(a) op die datum waarop daardie persoon daardie reg verkry het; of

(b) indien daardie persoon nie 'n verbonde persoon was nie op daardie datum met betrekking tot—

(i) daardie trust; of

(ii) die persoon wat daardie lening, voorskot of krediet aan daardie trust of maatskappy voorsien het,

op die datum waarop daardie persoon 'n verbonde persoon geword het met betrekking tot daardie trust of persoon,

wat gelykstaande is aan die bedrag van die reg aldus verkry.";

(c) deur subartikels (3) en (4) onderskeidelik deur die volgende subartikels te vervang:

"(3) Indien 'n trust of maatskappy—

(a) geen rente aangaan ten opsigte van 'n lening, voorskot of krediet vermeld in subartikel (1) of subartikel (1A) nie; of

(b) rente aangaan teen 'n koers laer as die amptelike rentekoers **[soos omskryf in paragraaf 1 van die Sewende Bylae]**,

word 'n bedrag gelykstaande aan die verskil tussen die bedrag aangegaan deur daardie trust of maatskappy, gedurende 'n jaar van aanslag as rente ten opsigte van daardie lening, voorskot of krediet en die bedrag wat

that trust or company at the official rate of interest must, for purposes of Part V of Chapter II, be treated as a donation made to that trust by the person referred to in subsection (1)*(a)* or subsection (1A) on the last day of that year of assessment of that trust.

(4) If a loan, advance or credit was provided by a company to a trust or another company at the instance of more than one person that is a connected person in relation to that company as referred to in paragraph *(b)* of subsection (1), each of those persons must be treated as having donated, to that trust or company, the part of that amount that bears to that amount the same ratio as the equity shares or voting rights in that company that were held by that person during that year of assessment bears to the equity shares or voting rights in that company held in aggregate by those persons during that year of assessment.'';

(d) by the substitution in subsection (5) for the words preceding paragraph *(a)* of the following words:

''Subsections (2) and (3) do not apply in respect of any amount owing by a trust or company during a year of assessment in respect of a loan, advance or credit referred to in subsection (1) if'';

(e) by the substitution in subsection (5) for paragraph *(a)* of the following paragraph:

''*(a)* that trust or company is a public benefit organisation approved by the Commissioner in terms of section 30(3) or a small business funding entity approved by the Commissioner in terms of section 30C;'';

(f) by the substitution in subsection (5)*(d)* for the words preceding subparagraph (i) of the following words:

''that trust or company used that loan, advance or credit wholly or partly for purposes of funding the acquisition of an asset and—;''

(g) by the substitution in subsection (5)*(d)* for subparagraph (i) of the following subparagraph:

''(i) the person referred to in subsection (1)*(a)* or the spouse of that person used that asset as a primary residence as contemplated in paragraph *(b)* of the definition of ''primary residence'' in paragraph 44 of the Eighth Schedule throughout the period during that year of assessment during which that trust or company held that asset; and'';

(h) by the substitution in subsection (5) for paragraph *(f)* of the following paragraph:

''*(f)* that loan, advance or credit was provided to that trust or company in terms of an arrangement that would have qualified as a sharia compliant financing arrangement as contemplated in section 24JA, had that trust or company been a bank as defined in that section; **[or]**'';

(i) by the insertion in subsection (5) of the word ''or'' at the end of paragraph *(g)* and the addition of the following paragraph:

''*(h)* that trust was created solely for purposes of giving effect to an employee share incentive scheme in terms of which—

(i) that loan, advance or credit was provided—

(aa) by a company to that trust; or

(bb) for purposes of funding the acquisition, by that trust, of shares in that company or in any other company forming part of the same group of companies as that company (hereinafter referred to as a 'scheme company');

(ii) equity instruments, as defined in section 8C, that relate to or derive their value from shares in a scheme company may be offered by that trust to a person solely by virtue of that person—

(aa) being in employment on a full-time basis with; or

aangegaan sou gewees het deur daardie trust of maatskappy teen die amptelike rentekoers, vir doeleindes van Deel V van Hoofstuk II, behandel as 'n skenking oorgemaak aan daardie trust op die laaste dag van daardie jaar van aanslag deur die persoon vermeld in subartikel (1)*(a)* of subartikel (1A).

(4) Indien 'n lening, voorskot of krediet deur 'n maatskappy aan 'n trust of ander maatskappy voorsien is op aandrang van meer as een persoon wat 'n verbonde persoon is met betrekking tot daardie maatskappy soos vermeld in paragraaf *(b)* van subartikel (1), word elkeen van daardie persone behandel asof hulle geskenk het, aan daardie trust of maatskappy, die gedeelte van daardie bedrag wat tot daardie bedrag in dieselfde verhouding staan as wat die ekwiteitsaandele of stemregte in daardie maatskappy wat gehou is deur daardie persoon tydens daardie jaar van aanslag in verhouding staan tot die ekwiteitsaandele of stemregte in daardie maatskappy in somtotaal gehou deur daardie persone tydens daardie jaar van aanslag.'';

(d) deur in subartikel (5) die woorde wat paragraaf voorafgaan *(a)* deur die volgende woorde te vervang:

''Subartikels (2) en (3) is nie van toepassing nie ten opsigte van enige bedrag verskuldig deur 'n trust of maatskappy tydens 'n jaar van aanslag ten opsigte van 'n lening, voorskot of krediet in subartikel (1) bedoel indien'';

(e) deur in subartikel (5) paragraaf *(a)* deur die volgende paragraaf te vervang:

''*(a)* daardie trust of maatskappy 'n openbare weldaadsorganisasie is goedgekeur deur die Kommissaris ingevolge artikel 30(3) of 'n kleinsake befondsingsentiteit goedgekeur deur die Kommissaris ingevolge artikel 30C;'';

(f) deur in subartikel (5)*(d)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

''daardie trust of maatskappy daardie lening, voorskot of krediet in die geheel of gedeeltelik gebruik het vir doeleindes van die befondsing van die verkryging van 'n bate en—'';

(g) deur in subartikel (5)*(d)* subparagraaf (i) deur die volgende subparagraaf te vervang:

''(i) die persoon in subartikel (1)*(a)* bedoel of die gade van daardie persoon daardie bate deurgaans tydens die periode gedurende daardie jaar van aanslag waartydens daardie trust of maatskappy daardie bate gehou het gebruik het as primêre woning soos omskryf in paragraaf 44 van die Agtste Bylae; en'';

(h) deur in subartikel (5) paragraaf *(f)* deur die volgende paragraaf te vervang:

''*(f)* daardie lening, voorskot of krediet aan daardie trust of maatskappy voorsien is ingevolge 'n ooreenkoms wat sou kwalifiseer as 'n finansieringsreëling ingevolge sharia soos beoog in artikel 24JA, indien daardie trust of maatskappy 'n bank was soos in daardie artikel omskryf; **[of]**'';

(i) deur in subartikel (5) aan die einde van paragraaf *(g)* die woord ''of'' in te voeg en die volgende paragraaf by te voeg:

''*(h)* daardie trust was opgerig uitsluitlik vir die doel om 'aandele-aansporingskema vir werknemers' te verwesenlik ingevolge waarvan—

(i) daardie leningvoorskot of krediet voorsien was—

(aa) deur 'n maatskappy aan daardie trust; of

(bb) vir doeleindes van die befondsing van die verkryging, deur daardie trust, van aandele in daardie maatskappy of in enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie maatskappy (hierna 'n ''skemamaatskappy'' genoem);

(ii) ekwiteitsinstrumente, soos omskryf in artikel 8C, wat betrekking het op of hulle waarde verkry van aandele in 'n skemamaatskappy wat deur daardie trust aan 'n persoon aangebied mag word alleenlik uit hoofde daarvan dat daardie persoon—

(aa) op 'n voltydse basis in diens is van; of

(bb) holding the office of director of,
a scheme company; and

(iii) a person that is a connected person in terms of paragraph *(d)*(iv) of the definition of connected person in relation to any scheme company is not entitled to participate in that scheme.''.

(2) Paragraphs *(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(f)*, *(g)* and *(h)* of subsection (1) are deemed to have come into operation on 19 July 2017 and apply in respect of any amount owed by a trust or a company in respect of a loan, advance or credit provided to that trust or that company before, on or after that date.

(3) Paragraph *(i)* of subsection (1) is deemed to have come into operation on 1 March 2017 and applies in respect any amount owed by a trust in respect of a loan, advance or credit provided to that trust before, on or after that date.

Insertion of section 7D in Act 58 of 1962

6. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 7C:

''**Calculation of amount of interest**

7D. Where it must be determined, for the purposes of this Act, what amount would have accrued or been incurred as interest in respect of any loan, debt, advance or amount of credit provided to a person or an amount owed by a person had that interest accrued or been incurred at a specific rate of interest, that amount must be determined without regard to any rule of the common law or provision of any Act in terms of which—

(a) the amount of any interest, fee or similar finance charge that accrues or is incurred in respect of a debt may not in aggregate exceed the amount of that debt; or

(b) no interest may accrue or be incurred in respect of a debt once the amount that has accrued or been incurred as interest is equal to the amount of that debt.''.

(2) Subsection (1) comes into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

Insertion of section 7E in Act 58 of 1962

7. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 7D:

''**Time of accrual of interest payable by SARS**

7E. In determining the taxable income derived by any person during a year of assessment, any amount of interest to which a person becomes entitled that is payable by SARS in terms of a tax Act is deemed to accrue to that person on the date on which that amount is paid to that person.''.

(2) Subsection (1) comes into operation on 1 March 2018 and applies to amounts of interest paid by SARS on or after that date.

Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act 101 of 1990, section 9 of Act 129 of 1991, section 6 of Act 141 of 1992, section 4 of Act 113 of 1993, section 6 of Act 21 of 1994, section 8 of Act 21 of 1995, section 6 of Act 36 of 1996, section 6 of Act 28 of 1997, section 24 of Act 30 of 1998, section 14 of Act 53 of 1999, section 17 of Act 30 of 2000, section 6 of Act 59 of 2000, section 7 of Act 19

(bb) die amp bekleer van direkteur van,

'n skema maatskappy; en

(iii) 'n persoon wat 'n verbonde persoon is ingevolge paragraaf *(d)*(iv) van die omskrywing van 'verbonde persoon' met betrekking tot enige maatskappy nie geregtig is om aan daardie skema deel te neem nie.''.

(2) Paragrawe *(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(f)*, *(g)* en *(h)* van subartikel (1) word geag op 19 Julie 2017 in werking te getree het en is van toepassing ten opsigte van enige bedrag verskuldig deur 'n trust of 'n maatskappy ten opsigte van 'n lening, voorskot of krediet voorsien aan daardie trust of maatskappy voor, op of na daardie datum.

(3) Paragraaf *(i)* van subartikel (1) word geag op 1 Maart 2017 in werking te getree het en is van toepassing ten opsigte van enige bedrag verskuldig deur 'n trust ten opsigte van 'n lening, voorskot of krediet voorsien aan daardie trust of maatskappy voor, op of na daardie datum.

Invoeging van artikel 7D in Wet 58 van 1962

6. (1) Die volgende artikel word hierby na artikel 7C in die Inkomstebelastingwet, 1962, ingevoeg:

''**Berekening van bedrag van rente**

7D. Waar bepaal moet word, by die toepassing van hierdie Wet, watter bedrag aangegaan sou word of toegeval het as rente ten opsigte van enige lening, skuld, voorskot of bedrag krediet voorsien aan 'n persoon of 'n bedrag verskuldig deur 'n persoon indien daardie rente toegeval het of aangegaan is teen 'n bepaalde rentekoers, word daardie bedrag bereken sonder inagneming van enige reël van die gemenereg of bepaling van enige Wet ingevolge waarvan—

(a) die totaal van die bedrag van enige rente, fooi of soortgelyke finansieringskoste wat toeval of aangegaan is ten opsigte van 'n skuld nie die bedrag van daardie skuld mag oorskry nie; of

(b) geen rente mag toegeval of aangegaan word nie ten opsigte van 'n skuld sodra die bedrag wat toegeval het of aangegaan is as rente gelykstaande is aan die bedrag van daardie skuld.''.

(2) Subartikel (1) tree in werking op 1 Januarie 2018 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Invoeging van artikel 7E in Wet 58 van 1962

7. (1) Die volgende artikel word hierby na artikel 7D in die Inkomstebelastingwet, 1962, ingevoeg:

''**Tydstip van toevalling van rente deur SAID betaalbaar**

7E. By die bepaling van die belasbare inkomste verkry deur enige persoon gedurende 'n jaar van aanslag, word enige bedrag aan rente waarop 'n persoon geregtig word wat ingevolge 'n Belastingwet deur SAID betaalbaar is, geag aan daardie persoon toe te val op die datum waarop daardie bedrag aan daardie persoon betaal word.''.

(2) Subartikel (1) tree op 1 Maart 2018 in werking en is van toepassing op bedrae aan rente op of na daardie datum deur SAID betaal.

Wysiging van artikel 8 van Wet 58 van 1962, soos gewysig deur artikel 6 van Wet 90 van 1962, artikel 6 van Wet 90 van 1964, artikel 9 van Wet 88 van 1965, artikel 10 van Wet 55 van 1966, artikel 10 van Wet 89 van 1969, artikel 6 van Wet 90 van 1972, artikel 8 van Wet 85 van 1974, artikel 7 van Wet 69 van 1975, artikel 7 van Wet 113 van 1977, artikel 8 van Wet 94 van 1983, artikel 5 van Wet 121 van 1984, artikel 4 van Wet 96 van 1985, artikel 5 van Wet 65 van 1986, artikel 6 van Wet 85 van 1987, artikel 6 van Wet 90 van 1988, artikel 5 van Wet 101 van 1990, artikel 9 van Wet 129 van 1991, artikel 6 van Wet 141 van 1992, artikel 4 van Wet 113 van 1993, artikel 6 van Wet 21 van 1994, artikel 8 van Wet 21 van 1995, artikel 6 van Wet 36 van 1996, artikel 6 van Wet 28 van 1997, artikel 24 van Wet 30 van 1998,

of 2001, section 21 of Act 60 of 2001, section 12 of Act 30 of 2002, section 11 of Act 74 of 2002, section 18 of Act 45 of 2003, section 6 of Act 32 of 2004, section 4 of Act 9 of 2005, section 21 of Act 9 of 2006, section 5 of Act 20 of 2006, section 6 of Act 8 of 2007, section 9 of Act 35 of 2007, sections 1 and 5 of Act 3 of 2008, section 9 of Act 60 of 2008, section 11 of Act 17 of 2009, section 10 of Act 7 of 2010, section 16 of Act 24 of 2011, section 271 of Act 28 of 2011, read with paragraph 30 of Schedule 1 to that Act, section 9 of Act 22 of 2012, section 9 of Act 31 of 2013, section 5 of Act 42 of 2014, section 5 of Act 43 of 2014 and section 8 of Act 25 of 2015

8. (1) Section 8 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4)*(a)* for the words preceding the proviso of the following words:

"There shall be included in the taxpayer's income all amounts allowed to be deducted or set off under the provisions of sections 11 to 20, inclusive, section 24D, section 24F, section 24G, section 24I, section 24J, section 27(2)*(b)* and section 37B(2) of this Act, except section 11*(k)*, 11*(n)*, 11*(p)* and *(q)*, section 11F, section 12(2) or section 12(2) as applied by section 12(3), section 12A(3), section 13(5), or section 13(5) as applied by section 13(8), or section 13*bis*(7), section 15*(a)* or section 15A, or under the corresponding provisions of any previous Income Tax Act, whether in the current or any previous year of assessment which have been recovered or recouped during the current year of assessment:".

(2) Subsection (1) is deemed to have come into operation on 1 March 2016.

Amendment of section 8B of Act 58 of 1962, as inserted by section 6 of Act 104 of 1980 and amended by section 6 of Act 121 of 1984, section 6 of Act 101 of 1990, section 8 of Act 32 of 2004, section 11 of Act 31 of 2005, section 6 of Act 20 of 2006,section 10 of Act 35 of 2007, section 10 of Act 60 of 2008, section 11 of Act 7 of 2010 and section 18 of Act 24 of 2011

9. Section 8B of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3) for paragraph *(a)* of the following paragraph:

"*(a)* equity shares in that employer, or in a company that is an associated institution as defined in the Seventh Schedule in relation to the employer are acquired by employees of that employer, for consideration which does not exceed the minimum consideration required by the Companies Act**[, 1973 (Act No. 61 of 1973)]**;".

Amendment of section 8EA of Act 58 of 1962, as inserted by section 12 of Act 22 of 2012 and amended by section 11 of Act 31 of 2013, section 7 of Act 43 of 2014 and section 15 of Act 15 of 2016

10. (1) Section 8EA of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3)*(b)* for subparagraph (vii) of the following subparagraph:

"(vii) any person that holds equity shares in an issuer contemplated in subparagraph (ii) if **[—**

(aa) **that issuer used the funds provided by that person solely for the acquisition by that issuer, other than from a company that immediately before that acquisition formed part of the same group of companies as the issuer, of equity shares in an operating company; and**

***(bb)*]** the enforcement right exercisable or enforcement obligation enforceable against that person is limited to any rights in and claims against that issuer that are held by that person.".

(2) Subsection (1) comes into operation on 1 January 2018 and applies in respect of dividends or foreign dividends received or accrued during years of assessment commencing on or after that date.

artikel 14 van Wet 53 van 1999, artikel 17 van Wet 30 van 2000, artikel 6 van Wet 59 van 2000, artikel 7 van Wet 19 van 2001, artikel 21 van Wet 60 van 2001, artikel 12 van Wet 30 van 2002, artikel 11 van Wet 74 van 2002, artikel 18 van Wet 45 van 2003, artikel 6 van Wet 32 van 2004, artikel 4 van Wet 9 van 2005, artikel 21 van Wet 9 van 2006, artikel 5 van Wet 20 van 2006, artikel 6 van Wet 8 van 2007, artikel 9 van Wet 35 van 2007, artikels 1 en 5 van Wet 3 van 2008, artikel 9 van Wet 60 van 2008, artikel 11 van Wet 17 van 2009, artikel 10 van Wet 7 van 2010, artikel 16 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 30 van Bylae 1 by daardie Wet, artikel 9 van Wet 22 van 2012, artikel 9 van Wet 31 van 2013, artikel 5 van Wet 42 van 2014, artikel 5 van Wet 43 van 2014 en artikel 8 van Wet 25 van 2015

8. (1) Artikel 8 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (4)*(a)* die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

> ''By die belastingpligtige se inkomste word ingereken alle bedrae wat ingevolge die bepalings van artikels 11 tot en met 20, artikel 24D, artikel 24F, artikel 24G, artikel 24I, artikel 24J, artikel 27(2)*(b)* en artikel 37B(2) van hierdie Wet, behalwe artikel 11*(k)*, (11)*(n)*, 11*(p)* en *(q)*, artikel 11F, artikel 12(2), of artikel 12(2) soos toegepas deur artikel 12(3), artikel 12A(3), artikel 13(5), of artikel 13(5), soos toegepas deur artikel 13(8), of artikel 13*bis*(7), artikel 15*(a)* of artikel 15A, of ingevolge die ooreenstemmende bepalings van 'n vorige Inkomstebelastingwet toegelaat is, hetsy in die lopende of 'n vorige jaar van aanslag, om afgetrek of verreken te word, en gedurende die lopende jaar van aanslag verhaal of vergoed is:''.

(2) Subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

Wysiging van artikel 8B van Wet 58 van 1962, soos ingevoeg deur artikel 6 van Wet 104 van 1980 en gewysig deur artikel 6 van Wet 121 van 1984, artikel 6 van Wet 101 van 1990, artikel 8 van Wet 32 van 2004, artikel 11 van Wet 31 van 2005, artikel 6 van Wet 20 van 2006, artikel 10 van Wet 35 van 2007 en artikel 10 van Wet 60 van 2008, artikel 11 van Wet 7 of 2010 en artikel 18 van Wet 24 van 2011

9. Artikel 8B van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (3) paragraaf *(a)* deur die volgende paragraaf te vervang:

> ''*(a)* ekwiteitsaandele in daardie werkgewer, of 'n maatskappy wat 'n verwante inrigting soos in die Sewende Bylae omskryf met betrekking tot die werkgewer is, deur werknemers van daardie werkgewer verkry word teen 'n vergoeding wat nie die minimum vergoeding wat ingevolge die Maatskappywet**[, 1973 (Wet No. 61 van 1973),]** vereis word, oorskry nie;''.

Wysiging van artikel 8EA van Wet 58 van 1962, soos ingevoeg deur artikel 12 van Wet 22 van 2012 en gewysig deur artikel 11 van Wet 31 van 2013, artikel 7 van Wet 43 van 2014 en artikel 15 van Wet 15 van 2016

10. (1) Artikel 8EA van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (3)*(b)* subparagraaf (vii) deur die volgende subparagraaf te vervang:

> ''(vii) enige persoon wat ekwiteitsaandele hou in 'n uitreiker in subparagraaf (ii) beoog indien**[—**
>
> ***(aa)*** **daardie uitreiker die fondse deur daardie persoon voorsien uitsluitlik gebruik het vir die verkryging deur daardie uitreiker van ekwiteitsaandele in 'n bedryfsmaatskappy; en**
>
> ***(bb)*]** die afdwingingsreg uitoefenbaar of afdwingingsverpligting afdwingbaar teen daardie persoon beperk is tot regte in en eise teen daardie uitreiker wat gehou word deur daardie persoon.''.

(2) Subartikel (1) tree in werking op 1 Januarie 2018 en is van toepassing ten opsigte van dividende of buitelandse dividende ontvang of toegeval tydens jare van aanslag wat op of na daardie datum begin.

Amendment of section 8F of Act 58 of 1962, as substituted by section 12 of Act 31 of 2013 and amended by section 8 of Act 43 of 2014, section 9 of Act 25 of 2015 and section 16 of Act 15 of 2016

11. Section 8F of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Any amount that is incurred by a company in respect of interest on or after the date that the interest becomes hybrid interest is—

(a) deemed to be a dividend *in specie* in respect of a share that is declared and paid by that company to the person to whom that amount accrued on the last day of the year of assessment of that company during which it was incurred; and

(b) not deductible.".

Amendment of section 8FA of Act 58 of 1962, as inserted by section 14 of Act 31 of 2013 and amended by section 15 of that Act, section 9 of Act 43 of 2014, section 10 of Act 25 of 2015 and section 17 of Act 15 of 2016

12. Section 8FA of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Any amount that is incurred by a company in respect of interest on or after the date that the instrument becomes a hybrid debt instrument is—

(a) deemed to be a dividend *in specie* in respect of a share that is declared and paid by that company to the person to whom that amount accrued on the last day of the year of assessment of that company during which it was incurred; and

(b) not deductible.".

Insertion of section 8G in Act 58 of 1962

13. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 8FA:

"**Determination of contributed tax capital in respect of shares issued to a group company**

8G. (1) For the purposes of this section **'group of companies'** means two or more companies in which one company (hereinafter referred to as the 'controlling group company') directly or indirectly holds shares or voting rights in at least one other company (hereinafter referred to as the 'controlled group company'), to the extent that—

(a) at least 50 per cent of the equity shares or voting rights in each controlled group company are directly held by the controlling group company, one or more other controlled group companies or any combination thereof; and

(b) the controlling group company directly holds at least 50 per cent of the equity shares or voting rights in at least one controlled group company.

(2) Where a company issues shares (hereinafter referred to as the 'issuing company') to any company that is not a resident (hereinafter referred to as the 'subscribing company') that forms, after that transaction, part of the same group of companies as the issuing company, the amount of the contributed tax capital in relation to those shares will, to the extent that the consideration for those shares—

(a) consists of; or

(b) is used, directly or indirectly to acquire,

any shares in another company that is a resident (hereinafter referred to as the 'target company') and that forms part of a group of companies in relation to the subscribing company, be equal to so much of the total contributed tax capital attributable to shares of that class in that target company so acquired, determined in terms of subsection (3), as bears the same ratio that the number of shares so acquired bears to the total number of shares of that class.

(3) The contributed tax capital in relation to the shares in that target company must be determined—

Wysiging van artikel 8F van Wet 58 van 1962, soos vervang deur artikel 12 van Wet 31 van 2013 en gewysig deur artikel 8 van Wet 43 van 2014, artikel 9 van Wet 25 van 2015 en artikel 16 van Wet 15 van 2016

11. Artikel 8F van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Enige bedrag wat aangegaan word ten opsigte van rente op of na die datum waarop die rente 'n hibriede rente word—

(a) word geag 'n dividend *in specie* op die laaste dag van die jaar van aanslag van daardie maatskappy waarin dit aangegaan is deur die maatskappy verklaar en betaal te wees; en

(b) is nie aftrekbaar nie.".

Wysiging van artikel 8FA van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 31 van 2013 en gewysig deur artikel 15 van daardie Wet, artikel 9 van Wet 43 van 2014, artikel 10 van Wet 25 van 2015 en artikel 17 van Wet 15 van 2016

12. Artikel 8FA van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Enige bedrag wat aangegaan word ten opsigte van rente op of na die datum waarop die instrument 'n hibriede skuldinstrument word—

(a) geag 'n dividend *in specie* op die laaste dag van die jaar van aanslag van daardie maatskappy waarin dit aangegaan is deur die maatskappy verklaar en betaal te wees; en

(b) is nie aftrekbaar nie.".

Invoeging van artikel 8G in Wet 58 van 1962

13. (1) Die volgende artikel word hierby na artikel 8FA in die Inkomstebelastingwet, 1962, ingevoeg:

"**Bepaling van toegevoegde belastingkapitaal ten opsigte van aandele uitgereik aan groepsmaatskappy**

8G. (1) By toepassing van hierdie artikel beteken **'groep van maatskappye'** twee of meer maatskappye waarin een maatskappy (hierna die 'beherende groepsmaatskappy' genoem) regstreeks of onregstreeks aandele hou of stemregte in ten minste een ander maatskappy (hierna die 'beheerde groepsmaatskappy' genoem), tot die mate wat—

(a) ten minste 50 persent van die ekwiteitsaandele of stemregte in elke beheerde groepsmaatskappy direk gehou word deur die beherende groepsmaatskappy, een of meer ander beheerde groepsmaatskappye of enige kombinasie daarvan; en

(b) die beherende groepsmaatskappy direk ten minste 50 persent van die ekwiteitsaandele of stemregte in ten minste een beheerde groepsmaatskappy direk hou.

(2) Waar 'n maatskappy aandele uitreik (hierna die 'uitreikmaatskappy' genoem) aan enige maatskappy wat nie 'n inwoner is nie (hierna die 'intekenmaatskappy' genoem) wat, na, daardie transaksie, deel uitmaak van dieselfde groep van maatskappye as die uitreikmaatskappy, word die bedrag van toegevoegde belastingkapitaal met betrekking tot daardie aandele, tot die mate wat vergoeding vir daardie aandele—

(a) uit enige aandele bestaan; of

(b) gebruik word om regstreeks of onregstreeks enige aandele te verkry,

in 'n ander maatskappy wat 'n inwoner is (hierna verwys as die 'teikenmaatskappy') en wat deel uitmaak van 'n groep van maatskappye met betrekking tot die intekenmaatskappy, gelykstaande aan soveel van die totale toegevoegde belastingkapitaal toeskryfbaar aan aandele van daardie klas in daardie teikenmaatskappy aldus verkry, bereken ingevolge subartikel (3), wat in dieselfde verhouding staan as wat die getal aandele aldus verkry staan tot die totale getal aandele van daardie klas.

(3) Die toegevoegde belastingkapitaal met betrekking tot die aandele in daardie teikenmaatskappy word bepaal—

(a) in terms of paragraph *(b)* of the definition of 'contributed tax capital' in section 1; and

(b) with reference to the date from which that target company formed part of a group of companies in relation to the subscribing company.

(4) Paragraph *(a)* of the definition of 'contributed tax capital' in section 1 does not apply in respect of any shares of a class that were issued, as contemplated in subsection (2), by an issuing company before that issuing company became a resident.''.

(2) Subsection (1) is deemed to have come into operation on 19 July 2017 and applies in respect of any share issued on or after that date.

Amendment of section 9C of Act 58 of 1962, as inserted by section 14 of Act 35 of 2007 and amended by section 7 of Act 3 of 2008, section 12 of Act 60 of 2008, section 15 of Act 7 of 2010, section 24 of Act 24 of 2011, section 13 of Act 22 of 2012, section 18 of Act 31 of 2013, section 11 of Act 43 of 2014, section 12 of Act 25 of 2015 and section 19 of Act 15 of 2016

14. Section 9C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (5) for paragraph *(b)* of the proviso of the following paragraph:

''*(b)* to expenditure in respect of equity shares in a REIT or a controlled company, as defined in section 25BB(1), that is a resident except to the extent that such amount was taken into account in determining the cost price or value of trading stock under section 11*(a)*, 22(1) or (2).''.

Amendment of section 9D of Act 58 of 1962, as inserted by section 9 of Act 28 of 1997 and amended by section 28 of Act 30 of 1998, section 17 of Act 53 of 1999, section 19 of Act 30 of 2000, section 10 of Act 59 of 2000, section 9 of Act 5 of 2001, section 22 of Act 60 of 2001, section 14 of Act 74 of 2002, section 22 of Act 45 of 2003, section 13 of Act 32 of 2004, section 14 of Act 31 of 2005, section 9 of Act 20 of 2006, sections 9 and 96 of Act 8 of 2007, section 15 of Act 35 of 2007, section 8 of Act 3 of 2008, section 13 of Act 60 of 2008, section 12 of Act 17 of 2009, sections 16 and 146 of Act 7 of 2010, section 25 of Act 24 of 2011, sections 14 and 156 of Act 22 of 2012, section 19 of Act 31 of 2013, section 12 of Act 43 of 2014, section 13 of Act 25 of 2015 and section 20 of Act 15 of 2016

15. (1) Section 9D of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) for the definition of ''controlled foreign company'' of the following definition:

'' **'controlled foreign company'** means—

(a) any foreign company where more than 50 per cent of the total participation rights in that foreign company are directly or indirectly held, or more than 50 per cent of the voting rights in that foreign company are directly or indirectly exercisable, by one or more persons that are residents other than persons that are headquarter companies: Provided that—

(i) no regard must be had to any voting rights in any foreign company—

(aa) which is a listed company; or

(bb) if the voting rights in that foreign company are exercisable indirectly through a listed company;

(ii) any voting rights in a foreign company which can be exercised directly by any other controlled foreign company in which that resident (together with any connected person in relation to that resident) can directly or indirectly exercise more than 50 per cent of the voting rights are deemed for purposes of this definition to be exercisable directly by that resident; and

(a) ingevolge paragraaf *(b)* of die omskrywing van 'toegevoegde belastingkapitaal' in artikel 1; en

(b) met verwysing na die datum met ingang waarvan daardie teikenmaatskappy deel uitmaak van 'n groep maatskappye met betrekking tot die intekenmaatskappy.

(4) Paragraaf *(a)* van die omskrywing van 'toegevoegde belastingkapitaal' in artikel 1 is nie van toepassing nie ten opsigte van enige aandele van 'n klas wat uitgereik is, soos beoog in subartikel (2) nie, deur 'n uitreikmaatskappy voor daardie uitreikmaatskappy 'n inwoner geword het.''.

(2) Subartikel (1) word geag op 19 Julie 2017 in werking te getree het en is van toepassing ten opsigte van enige aandeel uitgereik op of na daardie datum.

Wysiging van artikel 9C van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 35 van 2007 en gewysig deur artikel 7 van Wet 3 van 2008, artikel 12 van Wet 60 van 2008, artikel 15 van Wet 7 van 2010, artikel 24 van Wet 24 van 2011, artikel 13 van Wet 22 van 2012, artikel 18 van Wet 31 van 2013, artikel 11 van Wet 43 van 2014, artikel 12 van Wet 25 van 2015 en artikel 19 van Wet 15 van 2016

14. Artikel 9C van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (5) paragraaf *(b)* van die voorbehoudsbepaling deur die volgende paragraaf te vervang:

''*(b)* op uitgawes ten opsigte van ekwiteitsaandele in 'n EIT of 'n beheerde maatskappy, soos omskryf in artikel 25BB(1), wat 'n inwoner is buiten tot die mate wat daardie bedoelde bedrag in ag geneem is in die bepaling van die kosprys of waarde van handelsvoorraad kragtens artikel 11*(a)*, 22(1) of (2).''.

Wysiging van artikel 9D van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 28 van 1997 en gewysig deur artikel 28 van Wet 30 van 1998, artikel 17 van Wet 53 van 1999, artikel 19 van Wet 30 van 2000, artikel 10 van Wet 59 van 2000, artikel 9 van Wet 5 van 2001, artikel 22 van Wet 60 van 2001, artikel 14 van Wet 74 van 2002, artikel 22 van Wet 45 van 2003, artikel 13 van Wet 32 van 2004, artikel 14 van Wet 31 van 2005, artikel 9 van Wet 20 van 2006, artikels 9 en 96 van Wet 8 van 2007, artikel 15 van Wet 35 van 2007, artikel 8 van Wet 3 van 2008, artikel 13 van Wet 60 van 2008, artikel 12 van Wet 17 van 2009, artikels 16 en 146 van Wet 7 van 2010, artikel 25 van Wet 24 van 2011, artikels 14 en 156 van Wet 22 van 2012, artikel 19 van Wet 31 van 2013, artikel 12 van Wet 43 van 2014, artikel 13 van Wet 25 van 2015 en artikel 20 van Wet 15 van 2016

15. (1) Artikel 9D van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die omskrywing van ''beheerde buitelandse maatskappy'' deur die volgende omskrywing te vervang:

'' **'beheerde buitelandse maatskappy'—**

(a) 'n buitelandse maatskappy waar meer as 50 persent van die totale deelnemende belange in daardie buitelandse maatskappy direk of indirek gehou word, of meer as 50 persent van die stemreg in daardie buitelandse maatskappy direk of indirek uitgeoefen kan word, deur een of meer persone wat inwoners is, buiten persone wat hoofkwartiermaatskappye is: Met dien verstande dat—

(i) enige stemreg in 'n buitelandse maatskappy buite rekening gelaat word—

(aa) indien daardie buitelandse maatskappy 'n genoteerde maatskappy is; of

(bb) indien die stemreg in daardie buitelandse maatskappy indirek deur 'n genoteerde maatskappy uitoefenbaar is;

(ii) enige stemreg in 'n buitelandse maatskappy wat direk uitgeoefen kan word deur enige ander beheerde buitelandse maatskappy waarin daardie inwoner (tesame met enige verbonde persoon met betrekking tot daardie inwoner) direk of indirek meer as 50 persent van die stemreg kan uitoefen, by die toepassing van hierdie omskrywing geag word direk deur daardie inwoner uitoefenbaar te wees; en

(iii) a person is deemed not to be a resident for purposes of determining whether residents directly or indirectly hold more than 50 per cent of the participation rights or voting rights in a foreign company, if—

(aa) in the case of a listed company or a foreign company the participation rights of which are held by that person indirectly through a listed company, that person holds less than five per cent of the participation rights of that listed company; or

(bb) in the case of a scheme or arrangement contemplated in paragraph *(e)*(ii) of the definition of ''company'' in section 1 or a foreign company the participation rights of which are held and the voting rights of which may be exercised by that person indirectly through such a scheme or arrangement, that person—

(A) holds less than five per cent of the participation rights of that scheme or arrangement; and

(B) may not exercise at least five per cent of the voting rights in that scheme or arrangement,

unless more than 50 per cent of the participation rights or voting rights of that foreign company or other foreign company are held by persons who are connected persons in relation to each other; and

(b) any foreign company where the financial results of that foreign company are reflected in the consolidated financial statements, as contemplated in IFRS 10, of any company that is a resident,''; and

(b) by the addition in subsection (2) to the proviso of the following further proviso:

'': Provided further that for purposes of applying this subsection to a foreign company that is a controlled foreign company only in terms of paragraph *(b)* of the definition of 'controlled foreign company', the percentage of the participation rights of a resident in relation to that controlled foreign company is equal to the net percentage of the financial results of that foreign company that are included in the consolidated financial statements, as contemplated in IFRS 10, for the year of assessment of the resident, that is a holding company, as defined in the Companies Act;''.

(2) Subsection (1) comes into operation on 1 January 2018 and applies in respect of any year of assessment commencing on or after that date.

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996, section 1 of Act 49 of 1996, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998, section 18 of Act 53 of 1999, section 21 of Act 30 of 2000, section 13 of Act 59 of 2000, sections 9 and 78 of Act 19 of 2001, section 26 of Act 60 of 2001, section 13 of Act 30 of 2002, section 18 of Act 74 of 2002, section 36 of Act 12 of 2003, section 26 of Act 45 of 2003, sections 8 and 62 of Act 16 of 2004, section 14 of Act 32 of 2004, section 5 of Act 9 of 2005, section 16 of Act 31 of 2005, section 23 of Act 9 of 2006, sections 10 and 101

(iii) 'n persoon geag word nie 'n inwoner te wees nie vir doeleindes om te bepaal of inwoners direk of indirek meer as 50 persent van die deelnemende belange of stemreg in 'n buitelandse maatskappy hou, indien—

(aa) in die geval van 'n genoteerde maatskappy of 'n buitelandse maatskappy waarvan die deelnemende belange indirek deur daardie persoon deur 'n genoteerde maatskappy gehou word, daardie persoon minder as vyf persent van die deelnemende belange van daardie genoteerde maatskappy hou; of

(bb) in die geval van 'n skema of reëling in paragraaf *(e)*(ii) van die omskrywing van 'maatskappy' in artikel 1 bedoel of 'n buitelandse maatskappy waarvan die deelnemende belange gehou word en waarvan die stemreg deur daardie persoon indirek deur so 'n skema of reëling, uitgeoefen mag word, daardie persoon—

(A) minder as vyf persent van die deelnemende belange in daardie skema of reëling hou; en

(B) nie minstens vyf persent van die stemreg in daardie skema of reëling mag uitoefen nie,

tensy meer as 50 persent van die deelnemende belange of stemreg van daardie buitelandse maatskappy of ander buitelandse maatskappy deur persone wat verbonde persone met betrekking tot mekaar is, gehou word; en

(b) enige buitelandse maatskappy waar die finansiële resultate van daardie buitelandse maatskappy weerspieël word in die gekonsolideerde finansiële state, soos beoog in IFRS 10, van enige maatskappy wat 'n inwoner is,"; en

(b) deur in subartikel (2) die volgende verdere voorbehoudsbepaling tot die voorbehoudsbepaling by te voeg:

": Met dien verstande voorts dat by toepassing van hierdie subartikel op 'n buitelandse maatskappy wat 'n beheerde buitelandse maatskappy is slegs ingevolge paragraaf *(b)* van die omskrywing van 'beheerde vreemde maatskappy', die persentasie van die deelnemende regte van 'n inwoner met betrekking tot 'n beheerde buitelandse maatskappy gelykstaande is aan die netto persentasie van die finansiële resultate van daardie buitelandse maatskappy wat ingesluit word in die gekonsolideerde finansiële state, soos beoog in IFRS 10, vir die jaar van aanslag van die inwoner, wat 'n houermaatskappy, soos omskryf in die Maatskappywet;".

(2) Subartikel (1) tree op 1 Januarie 2018 in werking en is van toepassing ten opsigte van enige jaar van aanslag wat op of na daardie datum begin.

Wysiging van artikel 10 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 90 van 1962, artikel 7 van Wet 72 van 1963, artikel 8 van Wet 90 van 1964, artikel 10 van Wet 88 van 1965, artikel 11 van Wet 55 van 1966, artikel 10 van Wet 95 van 1967, artikel 8 van Wet 76 van 1968, artikel 13 van Wet 89 van 1969, artikel 9 van Wet 52 van 1970, artikel 9 van Wet 88 van 1971, artikel 7 van Wet 90 van 1972, artikel 7 van Wet 65 van 1973, artikel 10 van Wet 85 van 1974, artikel 8 van Wet 69 van 1975, artikel 9 van Wet 103 van 1976, artikel 8 van Wet 113 van 1977, artikel 4 van Wet 101 van 1978, artikel 7 van Wet 104 van 1979, artikel 7 van Wet 104 van 1980, artikel 8 van Wet 96 van 1981, artikel 6 van Wet 91 van 1982, artikel 9 van Wet 94 van 1983, artikel 10 van Wet 121 van 1984, artikel 6 van Wet 96 van 1985, artikel 7 van Wet 65 van 1986, artikel 3 van Wet 108 van 1986, artikel 9 van Wet 85 van 1987, artikel 7 van Wet 90 van 1988, artikel 36 van Wet 9 van 1989, artikel 7 van Wet 70 van 1989, artikel 10 van Wet 101 van 1990, artikel 12 van Wet 129 van 1991, artikel 10 van Wet 141 van 1992, artikel 7 van Wet 113 van 1993, artikel 4 van Wet 140 van 1993, artikel 9 van Wet 21 van 1994, artikel 10 van Wet 21 van 1995, artikel 8 van Wet 36 van 1996, artikel 9 van Wet 46 van 1996, artikel 1 van Wet 49 van 1996, artikel 10 van Wet 28 van 1997, artikel 29 van Wet 30 van 1998, artikel 18 van Wet 53 van 1999, artikel 21 van Wet 30 van 2000, artikel 13 van Wet 59 van 2000, artikels 9 en 78 van Wet 19 van 2001, artikel 26 van

of Act 20 of 2006, sections 2, 10, 88 and 97 of Act 8 of 2007, section 2 of Act 9 of 2007, section 16 of Act 35 of 2007, sections 1 and 9 of Act 3 of 2008, section 2 of Act 4 of 2008, section 16 of Act 60 of 2008, sections 13 and 95 of Act 17 of 2009, section 18 of Act 7 of 2010, sections 28 and 160 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 31 of Schedule 1 to that Act, sections 19, 144, 157 and 166 of Act 22of 2012, section 23 of Act 31 of 2013, section 14 of Act 43 of 2014, section 16 of Act 25 of 2015 and section 23 of Act 15 of 2016

16. (1) Section 10 of the Income Tax Act, 1962, is hereby amended—

(a) by the addition in subsection (1) to paragraph *(c*P*)* of the following proviso:

“: Provided that this paragraph does not apply where—

(a) the constitution of a company or the instrument establishing a trust does not comply with section 37A(5)*(a)*; and

(b) the person contemplated in section 37A(5)*(b)* does not furnish the Commissioner with a written undertaking as contemplated in that section;”;

(b) by the substitution in subsection (1)*(g*C) for subparagraph (ii) of the following subparagraph:

“(ii) lump sum, pension or annuity received by or accrued to any resident from a source outside the Republic as consideration for past employment outside the Republic other than from any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as defined in section 1(1) or a company that is a resident and that is registered in terms of the Long-term Insurance Act as a person carrying on long-term insurance business excluding any amount transferred to that fund or that insurer from a source outside the Republic in respect of that member;”;

(c) by the substitution in subsection (1)*(g*H*)* for subparagraph (i) of the following paragraph:

“(i) the policy relates to death, disablement or **[severe]** illness of an employee or director, or former employee or director, of the person that is the policyholder; and;”;

(d) by the substitution in subsection (1)*(h)* for the words preceding subparagraph (i) of the following words:

“any amount of the interest which is received by or accrues **[by or]** to any person that is not a resident, unless—”;

(e) by the substitution in the proviso to subsection (1)*(k)*(i) for paragraph *(jj)* of the following paragraph:

“*(jj)* notwithstanding the provisions of paragraphs *(dd)* and *(ii)*, to any dividend in respect of a restricted equity instrument as defined in section 8C that was acquired in the circumstances contemplated in section 8C(1) if that dividend **[is derived directly or indirectly from, or]** constitutes—

(A) an amount transferred or applied by a company as consideration for the acquisition or redemption of any share in that company;

(B) an amount received or accrued in anticipation or in the course of the winding up, liquidation, deregistration or final termination of a company; or

(C) an equity instrument that **[is]** does not qualify, at the time of the receipt or accrual of that dividend, as **[not]** a restricted equity instrument as defined in section 8C **[that will, on vesting be subject to that section]**; or”;

Wet 60 van 2001, artikel 13 van Wet 30 van 2002, artikel 18 van Wet 74 van 2002, artikel 36 van Wet 12 van 2003, artikel 26 van Wet 45 van 2003, artikels 8 en 62 van Wet 16 van 2004, artikel 14 van Wet 32 van 2004, artikel 5 van Wet 9 van 2005, artikel 16 van Wet 31 van 2005, artikel 23 van Wet 9 van 2006, artikels 10 en 101 van Wet 20 van 2006, artikels 2, 10, 88 en 97 van Wet 8 van 2007, artikel 2 van Wet 9 van 2007, artikel 16 van Wet 35 van 2007, artikels 1 en 9 van Wet 3 van 2008, artikel 2 van Wet 4 van 2008, artikel 16 van Wet 60 van 2008, artikels 13 en 95 van Wet 17 van 2009, artikel 18 van Wet 7 van 2010, artikels 28 en 160 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 31 van Bylae 1 by daardie Wet, artikels 19, 144, 157 en 166 van Wet 22 van 2012, artikel 23 van Wet 31 van 2013, artikel 14 van Wet 43 van 2014, artikel 16 van Wet 25 van 2015 en artikel 23 van Wet 15 van 2016

16. (1) Artikel 10 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die volgende voorbehoudsbepaling tot paragraaf *(c*P*)* by te voeg:

“: Met dien verstande dat hierdie paragraaf nie van toepassing is nie waar—

(a) die grondwet van ’n maatskappy of die instrument wat ’n trust oprig nie aan artikel 37A(5)*(a)* voldoen nie; en

(b) die persoon beoog in artikel 37A(5)*(b)* nie die Kommissaris voorsien van ’n geskrewe onderneming nie soos in daardie artikel beoog;”;

(b) deur in subartikel (1)*(g*C*)* subparagraaf (ii) deur die volgende subparagraaf te vervang:

“(ii) enkelbedrag, pensioen of jaargeld ontvang deur of toegeval aan enige inwoner uit ’n bron buite die Republiek as vergoeding vir dienste in die verlede buite die Republiek gelewer buiten vanaf enige pensioenfonds, pensioenbewaringsfonds, voorsorgfonds, voorsorgbewaringsfonds of uittredingsannuïteitsfonds soos omskryf in artikel 1(1) of ’n maatskappy wat ’n inwoner is en wat kragtens die Langtermynversekeringswet geregistreer is as ’n persoon wat langtermynversekeringsbesigheid bedryf, uitgesluit enige bedrag oorgedra na daardie fonds of daardie versekeraar van ’n bron buite die Republiek ten opsigte van daardie lid;”;

(c) deur in subartikel (1)*(g*H*)* subparagraaf (i) deur die volgende subparagraaf te vervang:

“(i) die polis betrekking het op dood, gestremdheid of **[ernstige]** siekte van ’n werknemer of direkteur, of gewese werknemer of direkteur, van die persoon wat die polishouer is; en;”;

(d) deur in die Engelse teks in subartikel (1)*(h)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“any amount van die interest which is received by or accrues **[by or]** to any person that is not a resident, unless—”;

(e) deur in die voorbehoudsbepaling tot subartikel (1)*(k)*(i) paragraaf *(jj)* deur die volgende item te vervang:

“*(jj)* ondanks die bepalings van paragrawe *(dd)* en *(ii)*, aan enige dividend ten opsigte van ’n beperkte ekwiteitsinstrument soos omskryf in artikel 8C wat verkry is in die omstandighede beoog in artikel 8C(1) as daardie dividend **[direk of indirek verkry is van, of]—**

(A) ’n bedrag uitmaak oorgedra of aangewend deur ’n maatskappy as vergoeding vir die verkryging of aflossing van enige aandeel in daardie maatskappy; of

(B) ’n bedrag uitmaak ontvang of toegeval in afwagting of in die verloop van die likwidasie, deregistrasie of finale beëindiging van ’n maatskappy; of

(C) ’n ekwiteitsinstrument uitmaak wat nie kwalifiseer, ten tye van die ontvangs of toevalling van daardie dividend, as ’n beperkte ekwiteitsinstrument is soos in artikel 8C omskryf nie, **[wat by vestiging aan daardie artikel onderhewig sal wees]** of;”;

(f) by the addition in the proviso to subsection (1)*(k)*(i) after paragraph *(jj)* of the following paragraph:

"*(kk)* notwithstanding the provisions of paragraphs *(dd)* and *(ii)*, to any dividend in respect of a restricted equity instrument as defined in section 8C that was acquired in the circumstances contemplated in section 8C(1) if that dividend is derived directly or indirectly from—

(A) an amount transferred or applied by a company as consideration for the acquisition or redemption of any share in that company; or

(B) an amount received or accrued in anticipation or in the course of the winding up, liquidation, deregistration or final termination of a company;";

(g) by the substitution in subsection (1)*(o)*(ii) for the words preceding item *(aa)* of the following words:

"to the extent to which that remuneration does not exceed one million Rand in respect of a year of assessment and is received by or **[accrued]** accrues to any employee during any year of assessment by way of any salary, leave pay, wage, overtime pay, bonus, gratuity, commission, fee, emolument or allowance, including any amount referred to in paragraph *(i)* of the definition of gross income in section 1 or an amount referred to in section 8, 8B or 8C, in respect of services rendered outside the Republic by that employee for or on behalf of any employer, if that employee was outside the Republic—";

(h) by the substitution in subsection (1) for the words preceding the proviso in paragraph *(q)* of the following words:

"any *bona fide* scholarship or bursary, other than any scholarship or bursary contemplated in paragraph *(q*A*)*, granted to enable or assist any person to study at a recognized educational or research institution:";

(i) by the insertion in subsection (1) after paragraph *(q)* of the following paragraph:

"*(q*A*)* any *bona fide* scholarship or bursary granted to enable or assist any person who is a person with a disability as defined in section 6B(1) to study at a recognised educational or research institution: Provided that if any such scholarship or bursary has been so granted by an employer or an associated institution (as respectively defined in paragraph 1 of the Seventh Schedule) to an employee (as defined in the said paragraph) who is a person with a disability as defined in section 6B(1) or to any person with a disability as defined in section 6B(1) who is a member of the family of an employee (as defined in paragraph 1 of the Seventh Schedule) in respect of whom that employee is liable for family care and support, the exemption under this paragraph shall not apply—

(i) in the case of a scholarship or bursary granted to so enable or assist an employee, who is a person with a disability as defined in section 6B(1), unless that employee agrees to reimburse the employer for any scholarship or bursary granted to that employee if that employee fails to complete his or her studies for reasons other than death, ill-health or injury;

(ii) in the case of a scholarship or bursary granted to enable or assist a person with a disability as defined in section 6B(1) who is a member of the family of an employee, as defined in paragraph 1 of the Fourth Schedule, in respect of whom that employee is liable for family care and support, to study—

(aa) if the remuneration proxy derived by the employee in relation to a year of assessment exceeded R600 000; and

(bb) to so much of any scholarship or bursary contemplated in this subparagraph as in the case of any such member of the family of that employee, during the year of assessment, exceeds—

(f) deur in die voorbehoudsbepaling tot subartikel (1)*(k)*(i) na paragraaf *(jj)* die volgende paragraaf by te voeg:

"*(kk)* ondanks die bepalings van paragrawe *(dd)* en *(ii)*, aan enige dividend ten opsigte van beperkte ekwiteitsinstrument soos omskryf in artikel 8C wat verkry is in die omstandighede in artikel 8C(1) beoog indien daardie dividend direk of indirek verkry word van—

(A) 'n bedrag oorgedra of aangewend deur 'n maatskappy as vergoeding vir die verkryging of aflossing van enige aandeel in daardie maatskappy; of

(B) 'n bedrag ontvang of toegeval in afwagting of in die loop van die likwidasie, deregistrasie of finale beëindiging van 'n maatskappy;";

(g) deur in subartikel (1)*(o)*(ii) die woorde wat item *(aa)* voorafgaan deur die volgende woorde te vervang:

"tot die mate wat daardie besoldiging nie een miljoen Rand oorskry nie ten opsigte van 'n jaar van aanslag ontvang deur of toegeval aan 'n werknemer gedurende enige jaar van aanslag by wyse van enige salaris, verlofgratifikasie, loon, besoldiging vir oortydwerk, bonus, gratifikasie, kommissie, fooi, vergoeding of toelaag, waarby ingesluit enige bedrag in paragraaf (i) van die omskrywing van bruto inkomste in artikel 1 bedoel of 'n bedrag in artikel 8, 8B of 8C bedoel, ten opsigte van dienste buite die Republiek deur daardie werknemer gelewer vir of namens enige werkgewer, indien daardie werknemer buite die Republiek was—";

(h) deur in subartikel (1) die woorde wat die voorbehoudsbepaling in paragraaf *(q)* voorafgaan deur die volgende woorde te vervang:

"enige *bona fide*-studiebeurs, buiten enige studiebeurs beoog in paragraaf *(q*A*)*, toegeken om 'n persoon in staat te stel of aan hom hulp te verleen om by 'n erkende opvoedkundige of navorsingsinrigting te studeer:";

(i) deur in subartikel (1) na paragraaf *(q)* die volgende paragraaf in te voeg:

"*(q*A*)* enige *bona fide*-studiebeurs toegeken om 'n persoon wat 'n persoon met 'n gestremdheid is soos omskryf in artikel 6B(1) in staat te stel of by te staan om by 'n erkende opvoedkundige of navorsingsinrigting te studeer: Met dien verstande dat indien enige bedoelde studiebeurs aldus toegeken was deur 'n werkgewer of 'n verwante inrigting (soos onderskeidelik in paragraaf 1 van die Sewende Bylae omskryf) aan 'n werknemer (soos in genoemde paragraaf omskryf) wat 'n persoon met 'n gestremdheid is soos omskryf in artikel 6B(1), of aan 'n familielid van daardie werknemer, is die vrystelling ingevolge hierdie paragraaf nie van toepassing nie—

(i) in die geval van 'n studiebeurs toegeken om sodanige werknemer wat 'n persoon met 'n gestremdheid is soos omskryf in artikel 6B(1) in staat te stel of by te staan, tensy die werknemer onderneem om die werkgewer te vergoed vir enige studiebeurs toegeken aan daardie werknemer indien daardie werknemer weens 'n rede anders as dood, siekte of besering versuim om sy of haar studies te voltooi;

(ii) in die geval van 'n studiebeurs toegeken om 'n persoon met 'n gestremdheid soos omskryf in artikel 6B(1) wat 'n familielid van 'n werknemer is, soos in paragraaf 1 van die Vierde Bylae omskryf, ten opsigte van wie daardie werknemer vir gesinsversorging en ondersteuning verantwoordelik is, in staat te stel of by te staan om aldus te studeer—

(aa) indien die besoldigingsplaasvervanger deur die werknemer verkry vir 'n jaar van aanslag R600 000 te bowe gaan; en

(bb) op soveel van 'n studiebeurs in hierdie subparagraaf bedoel as wat in die geval van so 'n familielid, gedurende die jaar van aanslag—

(A) R30 000 in respect of—

(AA) grade R to grade twelve as contemplated in the definition of "school" in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996); or

(BB) a qualification to which an NQF level from 1 up to and including 4 has been allocated in accordance with Chapter 2 of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008); and

(B) R90 000 in respect of a qualification to which an NQF level from 5 up to and including 10 has been allocated in accordance with Chapter 2 of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008);";

(j) by the substitution in subsection (1)*(y*A) for subparagraph *(aa)* of the following subparagraph:

"*(aa)* that amount is received or accrued in relation to projects that are approved by the Minister **[after consultation with the Minister of Foreign Affairs]** and;"; and

(k) by the deletion in subsection (1)*(y*A) of subparagraph *(cc)*.

(2) Paragraph *(b)* of subsection (1) comes into operation on 1 March 2018 and applies in respect of years of assessment commencing on or after that date.

(3) Paragraph *(g)* of subsection (1) comes into operation on 1 March 2020 and applies in respect of years of assessment commencing on or after that date.

(4) Paragraphs *(h)* and *(i)* of subsection (1) come into operation on 1 March 2018 and apply in respect of years of assessment commencing on or after that date.

Amendment of section 10B of Act 58 of 1962, as inserted by section 29 of Act 24 of 2011 and amended by section 4 of Act 13 of 2012, section 20 of Act 22 of 2012, section 25 of Act 31 of 2013 and section 15 of Act 43 of 2014

17. Section 10B of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subsection (5) of the following subsection:

"(5) The exemptions from tax provided by **[subsection]** subsections (2) and (3) do not apply in respect of any portion of an annuity or extend to any payments out of any foreign dividend received by or accrued to any person."; and

(b) by the substitution in subsection (6) for subparagraph (ii) of paragraph *(b)* of the following subparagraph:

"(ii) an equity instrument that **[is]** does not qualify, at the time of the receipt or accrual of that foreign dividend, as a restricted equity instrument as defined in section 8C **[that will, on vesting, be subject to that section]**.".

Amendment of section 10C of Act 58 of 1962, as inserted by section 21 of Act 22 of 2012 and amended by section 26 of Act 31 of 2013 and section 16 of Act 43 of 2014

18. (1) Section 10C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:

"There shall be exempt from normal tax in respect of the aggregate of compulsory annuities payable to a person an amount equal to so much of the person's own contributions to any pension fund, provident fund and retirement annuity fund that did not rank for a deduction against the person's income in terms of section **[11*(k)*]** 11F as has not previously been—".

(2) Subsection (1) is deemed to have come into operation on 1 March 2016.

(A) die bedrag van R30 000 te bowe gaan ten opsigte van—

(AA) graad R tot graad 12 soos beoog in die omskrywing van 'skool' in artikel 1 van die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996); of

(BB) 'n kwalifikasie waaraan 'n 'NQF level' van 1 tot en met 4 ooreenkomstig Hoofstuk 2 van die 'National Qualifications Framework Act, 2008' (Wet No. 67 van 2008), toegeken is; en

(B) R90 000 te bowe gaan ten opsigte van 'n kwalifikasie waaraan 'n 'NQF level' (NKR-vlak) van 5 tot en met 10 ooreenkomstig Hoofstuk 2 van die 'National Qualifications Framework Act, 2008' (Wet No. 67 van 2008), toegeken is;'';

(j) deur in subartikel (1)*(y*A*)* subparagraaf *(aa)* deur die volgende subparagraaf te vervang:

''*(aa)* daardie bedrag ontvang is of toegeval het met betrekking tot projekte wat deur die Minister **[na oorlegpleging met die Minister van Buitelandse Sake]** goedgekeur is; en;''; en

(k) deur in subartikel (1)*(y*A*)* subparagraaf *(cc)* te skrap.

(2) Paragraaf *(b)* van subartikel (1) tree in werking op 1 Maart 2018 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragraaf *(g)* van subartikel (1) tree in werking op 1 Maart 2020 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(4) Paragrawe *(h)* en *(i)* van subartikel (1) tree in werking op 1 Maart 2018 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 10B van Wet 58 van 1962, soos ingevoeg deur artikel 29 van Wet 24 van 2011 en gewysig deur artikel 4 van Wet 13 van 2012, artikel 20 van Wet 22 van 2012, artikel 25 van Wet 31 van 2013 en artikel 15 van Wet 43 van 2014

17. Artikel 10B van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subartikel (5) deur die volgende subartikel te vervang:

''(5) Die vrystellings van belasting waarvoor in **[subartikel]** subartikels (2) en (3) voorsiening gemaak word, word nie toegepas ten opsigte van enige gedeelte van 'n annuïteit of uitgebrei nie tot enige betalings uit 'n buitelandse dividend ontvang deur of toegeval aan 'n persoon.''; en

(b) deur in subartikel (6) subparagraaf (ii) van paragraaf *(b)* deur die volgende subparagraaf te vervang:

''(ii) 'n ekwiteitsinstrument wat nie kwalifiseer, ten tye van die ontvangs of toevalling van daardie buitelandse dividend as 'n beperkte ekwiteitsinstrument soos omskryf in artikel 8C **[is]** nie **[wat, by vestiging, aan daardie artikel onderworpe sal wees]**.''.

Wysiging van artikel 10C van Wet 58 van 1962, soos ingevoeg deur artikel 21 van Wet 22 van 2012 en gewysig deur artikel 26 van Wet 31 van 2013 en artikel 16 van Wet 43 van 2014

18. (1) Artikel 10C van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (2) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

''Daar word vrygestel van normale belasting ten opsigte van die totaal van verpligte annuïteite betaalbaar aan 'n persoon 'n bedrag gelyk aan soveel van die persoon se eie bydraes tot enige pensioenfonds, voorsorgsfonds en uittredingannuïteitsfonds wat nie vir 'n aftrekking in aanmerking gekom het nie teen die persoon se inkomste ingevolge artikel **[11*(k)*]** 11F as wat nie voorheen—''.

(2) Subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994, section 12 of Act 21 of 1995, section 9 of Act 36 of 1996, section 12 of Act 28 of 1997, section 30 of Act 30 of 1998, section 20 of Act 53 of 1999, section 22 of Act 30 of 2000, section 15 of Act 59 of 2000, section 10 of Act 19 of 2001, section 27 of Act 60 of 2001, section 14 of Act 30 of 2002, section 19 of Act 74 of 2002, section 27 of Act 45 of 2003, section 9 of Act 16 of 2004, section 16 of Act 32 of 2004, section 6 of Act 9 of 2005, section 18 of Act 31 of 2005, section 11 of Act 20 of 2006, section 11 of Act 8 of 2007, section 17 of Act 35 of 2007, sections 1 and 10 of Act 3 of 2008, section 18 of Act 60 of 2008, section 14 of Act 17 of 2009, section 19 of Act 7 of 2010, sections 30 and 161 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 33 of Schedule 1 to that Act, section 22 of Act 22 of 2012, section 27 of Act 31 of 2013, section 17 of Act 43 of 2014 and section 18 of Act 25 of 2015

19. (1) Section 11 of the Income Tax Act, 1962, is hereby amended—

(a) by the insertion after paragraph *(j)* of the following paragraph:

"*(j*A*)* notwithstanding paragraph *(j)*, an allowance equal to 25 per cent of the loss allowance relating to impairment, as contemplated in IFRS 9, other than in respect of lease receivables as defined in IFRS 9, if the person is a covered person as determined by applying the criteria in paragraphs *(c)*(i) to (iii) and *(d)* of the definition of 'covered person' in section 24JB(1): Provided that the allowance must be increased—

(a) to 85 per cent of so much of that loss allowance relating to impairment as is equal to the amount that is in default, as determined by applying to any credit exposure, including any retail exposure, the criteria in paragraphs *(a)*(ii) to (vi) and *(b)* of the definition of 'default' as defined in Regulation 67 of the regulations issued in terms of section 90 of the Banks Act (contained in Government Notice No. R.1029 published in Government *Gazette* No. 35950 of 12 December 2012); and

(b) to 40 per cent of so much of that loss allowance relating to impairment as is equal to the difference between—

(i) the amount of the loss allowance relating to impairment that is measured at an amount equal to the lifetime expected credit losses; and

(ii) the amount that is in default as determined under paragraph *(a)*:

Provided further that the allowance must be included in the income of that person in the following year of assessment;";

(b) by the deletion of paragraph *(k)*;

(c) by the substitution in paragraph *(w)* for the words preceding subparagraph (i) of the following words:

"expenditure incurred by a taxpayer in respect of any premiums payable under a policy of insurance (other than a policy of insurance that relates

Wysiging van artikel 11 van Wet 58 van 1962, soos gewysig deur artikel 9 van Wet 90 van 1962, artikel 8 van Wet 72 van 1963, artikel 9 van Wet 90 van 1964, artikel 11 van Wet 88 van 1965, artikel 12 van Wet 55 van 1966, artikel 11 van Wet 95 van 1967, artikel 9 van Wet 76 van 1968, artikel 14 van Wet 89 van 1969, artikel 10 van Wet 52 van 1970, artikel 10 van Wet 88 van 1971, artikel 8 van Wet 90 van 1972, artikel 9 van Wet 65 van 1973, artikel 12 van Wet 85 van 1974, artikel 9 van Wet 69 van 1975, artikel 9 van Wet 113 van 1977, artikel 5 van Wet 101 van 1978, artikel 8 van Wet 104 van 1979, artikel 8 van Wet 104 van 1980, artikel 9 van Wet 96 van 1981, artikel 7 van Wet 91 van 1982, artikel 10 van Wet 94 van 1983, artikel 11 van Wet 121 van 1984, artikel 46 van Wet 97 van 1986, artikel 10 van Wet 85 van 1987, artikel 8 van Wet 90 van 1988, artikel 8 van Wet 70 van 1989, artikel 11 van Wet 101 van 1990, artikel 13 van Wet 129 van 1991, artikel 11 van Wet 141 van 1992, artikel 9 van Wet 113 van 1993, artikel 5 van Wet 140 van 1993, artikel 10 van Wet 21 van 1994, artikel 12 van Wet 21 van 1995, artikel 9 van Wet 36 van 1996, artikel 12 van Wet 28 van 1997, artikel 30 van Wet 30 van 1998, artikel 20 van Wet 53 van 1999, artikel 22 van Wet 30 van 2000, artikel 15 van Wet 59 van 2000, artikel 10 van Wet 19 van 2001, artikel 27 van Wet 60 van 2001, artikel 14 van Wet 30 van 2002, artikel 19 van Wet 74 van 2002, artikel 27 van Wet 45 van 2003, artikel 9 van Wet 16 van 2004, artikel 16 van Wet 32 van 2004, artikel 6 van Wet 9 van 2005, artikel 18 van Wet 31 van 2005, artikel 11 van Wet 20 van 2006, artikel 11 van Wet 8 van 2007, artikel 17 van Wet 35 van 2007, artikels 1 en 10 van Wet 3 van 2008, artikel 18 van Wet 60 van 2008, artikel 14 van Wet 17 van 2009, artikel 19 van Wet 7 van 2010, artikels 30 en 161 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 33 van Bylae 1 by daardie Wet, artikel 22 van Wet 22 van 2012, artikel 27 van Wet 31 van 2013, artikel 17 van Wet 43 van 2014 en artikel 18 van Wet 25 van 2015

19. (1) Artikel 11 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die volgende paragraaf na paragraaf *(j)* in te voeg:

"*(j*A) ondanks paragraaf *(j)*, 'n toelae gelykstaande aan 25 persent van die 'loss allowance' (afskryfbare verlies) met betrekking tot 'impairment' (aantasting), soos beoog in IFRS 9, buiten ten opsigte van 'lease receivables' soos omskryf in IFRS 9, indien die persoon 'n gedekte persoon is soos bepaal deur die kriteria in paragrawe *(c)*(i) tot (iii) en *(d)* van die omskrywing van 'gedekte persoon' in artikel 24JB(1) toe te pas: Met dien verstande dat die toelae vermeerder word—

(a) tot 85 persent van soveel van daardie afskryfbare verlies met betrekking tot aantasting as wat gelyk is aan die bedrag wat in verstek is, soos bereken word deur die kriteria in paragrawe *(a)*(ii) tot (vi) en *(b)* van die omskrywing van 'default' *(verstek)* soos omskryf in regulasie 67 van die regulasies ingevolge artikel 90 van die Bank Wet (vervat in Goewermentskennisgewing, Kennisgewing No. R.1029 gepubliseer in *Staatskoerant* No. 35950 van 12 Desember 2012) op enige kredietblootstelling, insluitende enige kleinhandelblootstelling toe te pas; en

(b) tot 40 persent van soveel van daardie afskryfbare verlies met betrekking tot aantasting soos wat gelykstaande is aan die verskil tussen—

(i) die bedrag van die afskryfbare verlies met betrekking tot aantasting wat gemeet word teen 'n bedrag gelykstaande aan die lewenslange verwagte krediet verliese; en

(ii) die bedrag wat in verstek is soos bereken ingevolge paragraaf *(a)*:

Met dien verstande voorts dat die totale ingesluit word in die inkomste van daardie persoon in die volgende jaar van aanslag;";

(b) deur paragraaf *(k)* te skrap;

(c) deur in paragraaf *(w)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

"uitgawes aangegaan deur 'n belastingpligtige ten opsigte van enige premies betaalbaar ingevolge 'n versekeringspolis (behalwe 'n

to the death, disablement or **[severe]** illness of an employee or director of the taxpayer arising solely out of and in the course of employment of such employee or director) of which the taxpayer is the policyholder, where—'';

(d) by the substitution in paragraph *(w)*(i) for item *(aa)* of the following item:

''*(aa)* the policy relates to the death, disablement or **[severe]** illness of an employee or director of the taxpayer; and''; and

(e) by the substitution in paragraph *(w)*(ii)*(aa)* for item *(aa)* of the following item:

''*(aa)* the taxpayer is insured against any loss by reason of the death, disablement or **[severe]** illness of an employee or director of the taxpayer;''.

(2) Paragraph *(a)* of subsection (1) comes into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

(3) Paragraph *(b)* of subsection (1) is deemed to have come into operation on 1 March 2016.

Amendment of section 11A of Act 58 of 1962, as inserted by section 28 of Act 45 of 2003 and amended by section 12 of Act 8 of 2007 and section 15 of Act 17 of 2009

20. Section 11A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph *(b)* of the following paragraph:

''*(b)* which would have been allowed as a deduction in terms of section 11 (other than section 11*(x)*), **[11B,]** 11D or 24J, had the expenditure or losses been incurred after that person commenced carrying on that trade; and''.

Insertion of section 11F in Act 58 of 1962

21. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 11E:

''**Deduction in respect of contributions to retirement funds**

11F. (1) Notwithstanding section 23*(g)*, for the purposes of determining the taxable income of a natural person in respect of any year of assessment there must be allowed as a deduction from the income of that person any amount contributed during a year of assessment to any pension fund, provident fund or retirement annuity fund in terms of the rules of that fund by a person that is a member of that fund.

(2) The total deduction allowed in terms of subsection (1) must not in a year of assessment exceed the lesser of—

(a) R350 000; or

(b) 27,5 per cent of the higher of the person's—

(i) remuneration (other than in respect of any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit) as defined in paragraph 1 of the Fourth Schedule; or

(ii) taxable income (other than in respect of any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit) as determined before allowing any deduction under this section and section 18A;

(c) the taxable income of that person before—

(i) allowing any deduction under this section; and

(ii) the inclusion of any taxable capital gain.

(3) Any amount contributed to a pension fund, provident fund or retirement annuity fund in any previous year of assessment which has been disallowed solely by reason of the fact that the amount that was contributed

versekeringspolis wat betrekking het op die dood, ongeskikstelling of **[ernstige]** siekte van 'n werknemer of direkteur van die belastingpligtige wat slegs voortspruit uit en in die loop van indiensneming van sodanige werknemer of direkteur) waarvan die belastingpligtige die polishouer is, waar—'';

(d) deur in paragraaf *(w)*(i) item *(aa)* deur die volgende item te vervang:

''*(aa)* die polis betrekking het op die dood, ongeskikstelling of **[ernstige]** siekte van 'n werknemer of direkteur van die belastingpligtige; en''; en

(e) deur in paragraaf *(w)*(ii)*(aa)* item *(aa)* deur die volgende item te vervang:

''*(aa)* die belastingpligtige verseker word teen enige verlies ten gevolge van die dood, ongeskikstelling of **[ernstige]** siekte van 'n werknemer of direkteur van die belastingpligtige;''.

(2) Paragraaf *(a)* van subartikel (1) tree in werking op 1 Januarie 2018 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragraaf *(b)* van subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

Wysiging van artikel 11A van Wet 58 of 1962, soos ingevoeg deur artikel 28 van Wet 45 van 2003 en gewysig deur artikel 12 van Wet 8 van 2007 en artikel 15 van Wet 17 of 2009

20. Artikel 11A van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) paragraaf *(b)* deur die volgende paragraaf te vervang:

''*(b)* wat as 'n aftrekking toelaatbaar sou wees ingevolge artikel 11 (behalwe artikel 11*(x)*), **[11B,]** 11D of 24J, indien die onkoste of verliese deur daardie persoon aangegaan is na die beoefening van daardie bedryf 'n aanvang geneem het; en''.

Invoeging van artikel 11F in Wet 58 van 1962

21. (1) Die volgende artikel word hierby na artikel 11E in die Inkomstebelastingwet, 1962, ingevoeg:

''**Aftrekking ten opsigte van bydraes aan uittreefondse**

11F. (1) Ondanks artikel 23*(g)*, by die bepaling van die belasbare inkomste van 'n natuurlike persoon ten opsigte van enige jaar van aanslag moet toegelaat word dat enige bedrag van die inkomste van daardie persoon bygedra gedurende 'n jaar van aanslag tot enige pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds ingevolge die reëls van daardie fonds deur 'n persoon wat 'n lid van daardie fonds is, afgetrek word.

(2) Die totale aftrekking ingevolge hierdie paragraaf toegelaat moet in die jaar van aanslag nie die minste van—

(a) R350 000; of

(b) 27,5 persent van die hoogste van die persoon se—

(i) besoldiging (buiten ten opsigte van enige uittreefondsenkelbedragvoordeel, uittreefondsenkelbedragonttrekkingsvoordeel en skeidingsvoordeel) soos omskryf in paragraaf 1 van die Vierde Bylae; of

(ii) belasbare inkomste (buiten ten opsigte van enige uittreefondsenkelbedragvoordeel, uittreefondsenkelbedragonttrekkingsvoordeel en skeidingsvoordeel) soos bepaal voordat enige aftrekking kragtens hierdie artikel enartikel 18A toegelaat word;

(c) die belasbare inkomste van daardie persoon voor—

(i) enige aftrekking ingevolge hierdie artikel toegelaat word; en

(ii) die insluiting van enige belasbare kapitaalwins,

te bowe gaan nie.

(3) Enige bedrag bygedra tot 'n pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds in enige vorige jaar van aanslag wat nie toegelaat is nie slegs omrede dit die bedrag van die aftrekking toelaatbaar ten opsigte

exceeds the amount of the deduction allowable in respect of that year of assessment is deemed to be an amount contributed in the current year of assessment, except to the extent that the amount contributed has been—

(a) allowed as a deduction against income in any year of assessment;

(b) accounted for under paragraph 5(1)*(a)* or 6(1)*(b)*(i) of the Second Schedule; or

(c) exempted under section 10C.

(4) Any amount contributed by an employer of the person for the benefit of that person must be deemed—

(a) to be equal to the amount of the cash equivalent of the value of the taxable benefit contemplated in paragraph 2*(l)* of the Seventh Schedule determined in accordance with paragraph 12D of that Schedule; and

(b) to have been contributed by that person.

(5) For the purposes of this section—

(a) a partner in a partnership must be deemed to be an employee of the partnership; and

(b) a partnership must be deemed to be the employer of the partners in that partnership.''.

(2) Subsection (1) is deemed to have come into operation on 1 March 2016.

Amendment of section 12B of Act 58 of 1962, as inserted by section 11 of Act 90 of 1988 and amended by section 13 of Act 101 of 1990, section 10 of Act 113 of 1993, section 6 of Act 140 of 1993, section 13 of Act 28 of 1997, section 17 of Act 59 of 2000, section 11 of Act 16 of 2004, section 7 of Act 9 of 2005, section 19 of Act 31 of 2005, section 21 of Act 35 of 2007, section 18 of Act 17 of 2009, section 23 of Act 22 of 2012, section 31 of Act 31 of 2013, section 19 of Act 25 of 2015 and section 28 of Act 15 of 2016

22. Section 12B of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:

''The deduction contemplated in subsection (1) shall be calculated on the cost to the taxpayer of the asset**[, as referred to in subsection (3),]** and the rate of the allowance shall be—''; and

(b) by the substitution of subsection (3) of the following subsection:

''(3) For purposes of this section the cost to a taxpayer of any asset acquired by that taxpayer shall be deemed to be the lesser of the actual cost to the taxpayer or the cost which a person would, if he or she had acquired the asset under a cash transaction concluded at arm's length on the date which the transaction for the acquisition of the asset was in fact concluded, have incurred in respect of the direct cost of acquisition of the asset, including the direct cost of the installation or erection thereof **[or, where the asset has been acquired to replace an asset which has been damaged or destroyed, such cost less any amount which has been recovered or recouped in respect of the damaged or destroyed asset and had been excluded from the taxpayer's income in terms of section 8(4)*(e)*, whether in the current or any previous year of assessment]**.''.

Amendment of section 12C of Act 58 of 1962, as inserted by section 14 of Act 101 of 1990 and amended by section 11 of Act 113 of 1993, section 7 of Act 140 of 1993, section 11 of Act 21 of 1994, section 13 of Act 21 of 1995, section 10 of Act 46 of 1996, section 18 of Act 59 of 2000, section 11 of Act 19 of 2001, section 15 of Act 30 of 2002, section 30 of Act 45 of 2003, section 8 of Act 9 of 2005, section 20 of Act 31 of 2005, section 14 of Act 8 of 2007, section 22 of Act 35 of 2007, section 20 of Act 60 of 2008, section 19 of Act 17 of 2009, section 33 of Act 24 of 2011, section 24 of Act 22 of 2012, section 32 of Act 31 of 2013 and section 20 of Act 25 of 2015

23. Section 12C of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection:

van daardie jaar van aanslag te bowe gaan, geag word 'n bedrag aldus bygedra—

(a) as 'n aftrekking teen inkomste in enige jaar van aanslag toegelaat;

(b) kragtens paragraaf 5(1)*(a)* of 6(1)*(b)*(i) van die Tweede Bylae in berekening gebring is; of

(c) kragtens artikel 10C vrygestel is.

(4) Enige bedrag bygedra deur die werkgewer van die persoon ten behoewe van die persoon word geag—

(a) gelyk te wees aan die bedrag van die kontantekwivalent van die waarde van die belasbare voordeel beoog in paragraaf 2*(l)* van die Sewende Bylae bereken ooreenkomstig paragraaf 12D van daardie Bylae; en

(b) deur daardie persoon bygedra te wees.

(5) By die toepassing van hierdie artikel—

(a) word 'n vennoot in 'n vennootskap geag 'n werknemer van die vennootskap te wees; en

(b) word 'n vennootskap geag die werkgewer van die vennote in daardie vennootskap te wees.''.

(2) Subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

Wysiging van artikel 12B van Wet 58 van 1962, soos ingevoeg deur artikel 11 van Wet 90 van 1988 en gewysig deur artikel 13 van Wet 101 van 1990, artikel 10 van Wet 113 van 1993, artikel 6 van Wet 140 van 1993, artikel 13 van Wet 28 van 1997, artikel 17 van Wet 59 van 2000, artikel 11 van Wet 16 van 2004, artikel 7 van Wet 9 van 2005, artikel 19 van Wet 31 van 2005, artikel 21 van Wet 35 van 2007, artikel 18 van Wet 17 van 2009, artikel 23 van Wet 22 van 2012, artikel 31 van Wet 31 van 2013, artikel 19 van Wet 25 van 2015 en artikel 28 van Wet 15 van 2016

22. Artikel 12B van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (2) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

''Die aftrekking beoog in subartikel (1) word bereken op die koste vir die belastingpligtige van die bate**[, soos bedoel in subartikel (3),]** en die skaal van die vermindering is—''; en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

''(3) By die toepassing van hierdie artikel word die koste vir 'n belastingpligtige van 'n bate deur daardie belastingpligtige verkry geag te wees die minste van die werklike koste vir die belastingpligtige of die koste wat iemand, indien hy of sy bedoelde bate verkry het ingevolge 'n kontanttransaksie waarin die uiterste voorwaardes beding is, aangegaan op die datum waarop die transaksie vir die verkryging van bedoelde bate inderdaad aangegaan is, sou aangegaan het ten opsigte van die regstreekse koste van die verkryging van die bate, met inbegrip van die regstreekse koste van die installering of oprigting daarvan **[of, waar die bate verkry is ter vervanging van 'n bate wat beskadig of vernietig is, bedoelde koste min enige bedrag wat ten opsigte van die beskadigde of vernietigde bate teruggekry of vergoed is en ingevolge artikel 8(4)*(e)* van die belastingpligtige se inkomste uitgesluit is, hetsy in die lopende of 'n vorige jaar van aanslag]**.''.

Wysiging van artikel 12C van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 101 van 1990 en gewysig deur artikel 11 van Wet 113 van 1993, artikel 7 van Wet 140 van 1993, artikel 11 van Wet 21 van 1994, artikel 13 van Wet 21 van 1995, artikel 10 van Wet 46 van 1996, artikel 18 van Wet 59 van 2000, artikel 11 van Wet 19 van 2001, artikel 15 van Wet 30 van 2002, artikel 30 van Wet 45 van 2003, artikel 8 van Wet 9 van 2005, artikel 20 van Wet 31 van 2005, artikel 14 van Wet 8 van 2007, artikel 22 van Wet 35 van 2007, artikel 20 van Wet 60 van 2008, artikel 19 van Wet 17 van 2009, artikel 33 van Wet 24 of 2011, artikel 24 van Wet 22 van 2012, artikel 32 van Wet 31 van 2013 en artikel 20 van Wet 25 van 2015

23. Artikel 12C van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) For purposes of this section the cost to a taxpayer of any asset shall be deemed to be the lesser of the actual cost to the taxpayer to acquire that asset or the cost which a person would, if he had acquired that asset under a cash transaction concluded at arm's length on the date which the transaction for the acquisition of that asset was in fact concluded, have incurred in respect of the direct cost of acquisition of the asset, including the direct cost of the installation or erection thereof **[or, where the asset has been acquired to replace an asset which has been damaged or destroyed, such cost less any amount which has been recovered or recouped in respect of the damaged or destroyed asset and had been excluded from the taxpayer's income in terms of section 8(4)*(e)*, whether in the current or any previous year of assessment]**.".

Amendment of section 12D of Act 58 of 1962, as amended by section 23 of Act 30 of 2000, section 19 of Act 59 of 2000, section 28 of Act 60 of 2001, section 16 of Act 30 of 2002, section 23 of Act 35 of 2007, section 12 of Act 3 of 2008, section 21 of Act 60 of 2008, section 20 of Act 17 of 2009, section 22 of Act 7 of 2010, section 33 of Act 31 of 2013 and section 19 of Act 43 of 2014

24. Section 12D of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) For the purposes of this section the cost to a taxpayer of any affected asset shall be deemed to be the lesser of—

(a) the actual cost of the asset incurred by the taxpayer; or

(b) the cost which the taxpayer would, if the taxpayer had acquired or improved the said asset under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition or improvement of the said asset was in fact concluded, have incurred in respect of the direct cost of acquisition or improvement of the asset (including the direct cost of the installation or erection thereof).".

Amendment of section 12DA of Act 58 of 1962, as inserted by section 24 of Act 35 of 2007 and amended by section 22 of Act 60 of 2008 and section 34 of Act 31 of 2013

25. Section 12DA of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) For purposes of this section the cost to a taxpayer of any rolling stock shall be deemed to be the lesser of the actual cost to the taxpayer or the cost which a person would, if that person had acquired or improved the rolling stock under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition or improvement of rolling stock was in fact concluded, have incurred in respect of the direct cost of acquisition or improvement of the rolling stock **[or, where the rolling stock has been acquired to replace rolling stock which has been damaged or destroyed, such cost less any amount which has been recovered or recouped in respect of the damaged or destroyed rolling stock and had been excluded from the taxpayer's income in terms of section 8(4)*(e)*, whether in the current or any previous year of assessment]**.".

Amendment of section 12E of Act 58 of 1962, as inserted by section 12 of Act 19 of 2001 and amended by section 17 of Act 30 of 2002, section 21 of Act 74 of 2002, section 37 of Act 12 of 2003, section 31 of Act 45 of 2003, section 9 of Act 9 of 2005, section 21 of Act 31 of 2005, section 24 of Act 9 of 2006, section 14 of Act 20 of 2006, section 15 of Act 8 of 2007, section 25 of Act 35 of 2007, section 13 of Act 3 of 2008, section 23 of Act 60 of 2008, section 21 of Act 17 of 2009, section 23 of Act 7 of 2010, section 34 of Act 24 of 2011, section 25 of Act 22 of 2012, section 7 of Act 23 of 2013,

"(2) By die toepassing van hierdie artikel word die koste vir 'n belastingpligtige van 'n bate geag die minste te wees van die werklike koste vir die belastingpligtige om daardie bate te verkry of die koste wat iemand, indien hy daardie bate verkry het ingevolge 'n kontanttransaksie waarin die uiterste voorwaardes beding is, aangegaan op die datum waarop die transaksie vir die verkryging van daardie bate inderdaad aangegaan is, sou aangegaan het ten opsigte van die regstreekse koste van die verkryging van die bate, met inbegrip van die regstreekse koste van die installering of oprigting daarvan **[of, waar die bate verkry is ter vervanging van 'n bate wat beskadig of vernietig is, daardie koste min enige bedrag wat ten opsigte van die beskadigde of vernietigde bate teruggekry of vergoed is en ingevolge artikel 8(4)*(e)* van die belastingpligtige se inkomste uitgesluit is, hetsy in die lopende of 'n vorige jaar van aanslag]**.".

Wysiging van artikel 12D van Wet 58 van 1962, soos gewysig deur artikel 23 van Wet 30 van 2000, artikel 19 van Wet 59 van 2000, artikel 28 van Wet 60 van 2001, artikel 16 van Wet 30 van 2002, artikel 23 van Wet 35 van 2007, artikel 12 van Wet 3 van 2008, artikel 21 van Wet 60 van 2008, artikel 20 van Wet 17 van 2009, artikel 22 van Wet 7 van 2010, artikel 33 van Wet 31 van 2013 en artikel 19 van Wet 43 van 2014

24. Artikel 12D van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

"(4) By die toepassing van hierdie artikel word die koste vir die belastingpligtige van enige geaffekteerde bate geag die minste te wees van—

(a) die werklike koste van die bate deur die belastingpligtige aangegaan; of

(b) die koste wat die belastingpligtige, indien die belastingpligtige bedoelde bate verkry of verbeter het ingevolge 'n kontanttransaksie waarin die uiterste voorwaardes beding is, aangegaan op die datum waarop die transaksie vir die verkryging of verbetering van bedoelde bate inderdaad aangegaan is, aangegaan het ten opsigte van die regstreekse koste van die verkryging of verbetering van die bate (met inbegrip van die regstreekse koste van die installering of oprigting daarvan).".

Wysiging van artikel 12DA van Wet 58 van 1962, soos ingevoeg deur artikel 24 van Wet 35 van 2007 en gewysig deur artikel 22 van Wet 60 van 2008 en artikel 34 van Wet 31 van 2013

25. Artikel 12DA van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

"(3) By die toepassing van hierdie artikel word die koste vir enige belastingpligtige ten opsigte van enige spoorvoertuig geag die minste te wees van die werklike koste vir die belastingpligtige of die koste wat 'n persoon sou aangegaan het, indien daardie persoon die spoorvoertuig verkry of verbeter het ingevolge 'n kontanttransaksie onder uiterste voorwaardes beding op die datum wat die transaksie vir die verkryging of verbetering van die spoorvoertuig werklik aangegaan is, ten opsigte van die **[regstreekste]** regstreekse koste van die verkryging of verbetering van die spoorvoertuig**[, of waar die spoorvoertuig verkry is om spoorvoertuig wat beskadig of vernietig is te vervang, sodanige koste verminder deur enige bedrag wat vergoed of verhaal is ten opsigte van die beskadigde of vernietigde spoorvoertuig en kragtens artikel 8(4)*(e)* van die inkomste van die belastingpligtige uitgesluit is, hetsy gedurende die huidige of enige vorige jaar van aanslag]**.".

Wysiging van artikel 12E van Wet 58 van 1962, soos ingevoeg deur artikel 12 van Wet 19 van 2001 en gewysig deur artikel 17 van Wet 30 van 2002, artikel 21 van Wet 74 van 2002, artikel 37 van Wet 12 van 2003, artikel 31 van Wet 45 van 2003, artikel 9 van Wet 9 van 2005, artikel 21 van Wet 31 van 2005, artikel 24 van Wet 9 van 2006, artikel 14 van Wet 20 van 2006, artikel 15 van Wet 8 van 2007, artikel 25 van Wet 35 van 2007, artikel 13 van Wet 3 van 2008, artikel 23 van Wet 60 van 2008, artikel 21 van Wet 17 van 2009, artikel 23 van Wet 7 van 2010, artikel 34 van Wet 24 van 2011, artikel 25 van Wet 22 van 2012, artikel 7 van Wet 23 van 2013,

section 35 of Act 31 of 2013, section 20 of Act 43 of 2014, section 21 of Act 25 of 2015 and section 29 of Act 15 of 2016

26. Section 12E of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

"(2) For purposes of this section the cost to a taxpayer of any asset shall be deemed to be the lesser of the actual cost to the taxpayer to acquire that asset or the cost which a person would, if he had acquired the said asset under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition of the asset was in fact concluded, have incurred in respect of the direct cost of acquisition of the asset, including the direct cost of the installation or erection thereof **[or, where the asset has been acquired to replace an asset which has been damaged or destroyed, such cost less any amount which has been recovered or recouped in respect of the damaged or destroyed asset and has been excluded from the taxpayer's income in terms of section 8(4)*(e)*, whether in the current or any previous year of assessment]**.";

(b) by the substitution in subsection (4) in the definition of "small business corporation" for the proviso to paragraph (i) of the following proviso:

": Provided that where the close corporation, co-operative or company during the relevant year of assessment carries on any trade, **[for purposes of which any asset contemplated in this section is used,]** for a period which is less than 12 months, that amount shall be reduced to an amount which bears to that amount, the same ratio as the number of months (in the determination of which a part of a month shall be reckoned as a full month), during which that company, co-operative or close corporation carried on that trade bears to 12 months;"; and

(c) by the substitution in subsection (4) in the definition of "personal service" for paragraph (i) of the following paragraph:

"(i) that service is performed personally by any person who holds an interest in that company, co-operative or close corporation or by any person that is a connected person in relation to any person holding such an interest; and".

Amendment of section 12I of Act 58 of 1962, as inserted by section 26 of Act 60 of 2008 and amended by section 24 of Act 17 of 2009, section 26 of Act 7 of 2010, section 37 of Act 24 of 2011, section 28 of Act 22 of 2012, section 22 of Act 43 of 2014, section 22 of Act 25 of 2015 and section 31 of Act 15 of 2016

27. (1) Section 12I of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (7) for paragraph *(d)* of the following paragraph:

"*(d)* the application for approval of the project by the company is received by the Minister of Trade and Industry not later than **[31 December 2017]** 31 March 2020 , in such form and containing such information as the Minister of Trade and Industry may prescribe.".

(2) Subsection (1) is deemed to have come into operation on 31 March 2017.

Amendment of section 12J of Act 58 of 1962, as inserted by section 27 of Act 60 of 2008 and amended by section 25 of Act 17 of 2009 and section 38 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 37 of Schedule 1 to that Act, section 36 of Act 31 of 2013, section 23 of Act 43 of 2014, section 23 of Act 25 of 2015 and section 32 of Act 15 of 2016

28. (1) Section 12J of the Income Tax Act, 1962, is hereby amended by substitution for subsection (9) of the following subsection:

"(9) Notwithstanding section 8(4), no amount shall be recovered or recouped in respect of the disposal of a venture capital share or in respect of a return of capital

artikel 35 van Wet 31 van 2013, artikel 20 van Wet 43 van 2014, artikel 21 van Wet 25 van 2015 en artikel 29 van Wet 15 van 2016

26. Artikel 12E van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) By die toepassing van hierdie artikel word die koste vir 'n belastingpligtige van enige bate geag die minste te wees van die werklike koste vir die belastingpligtige om daardie bate te verkry of die koste wat iemand, indien hy daardie bate verkry het ingevolge 'n kontanttransaksie waarin die uiterste voorwaardes beding is, aangegaan op die datum waarop die transaksie vir die verkryging van daardie bate inderdaad aangegaan is, sou aangegaan het ten opsigte van die regstreekse koste van die verkryging van die bate, met inbegrip van die regstreekse koste van die installering of oprigting daarvan of**[, waar die bate verkry is ter vervanging van 'n bate wat beskadig of vernietig is, daardie koste min enige bedrag wat ten opsigte van die beskadigde of vernietigde bate teruggekry of vergoed is en ingevolge artikel 8(4)*(e)* van die belastingpligtige se inkomste uitgesluit is, hetsy in die lopende of enige vorige jaar van aanslag]**.";

(b) deur in subartikel (4) in paragraaf *(a)* van die omskrywing van "kleinsake-korporasie" die voorbehoudsbepaling tot subparagraaf (i) deur die volgende voorbehoudsbepaling te vervang:

": Met dien verstande dat waar die beslote korporasie, koöperasie of maatskappy gedurende die betrokke jaar van aanslag 'n bedryf beoefen,**[waarvoor enige bate in hierdie artikel gebruik word,]** vir 'n tydperk wat minder as 12 maande is, daardie bedrag verminder word na 'n bedrag wat tot daardie bedrag in dieselfde verhouding staan, as wat die aantal maande (in die berekening waarvan 'n deel van 'n maand as 'n volle maand gereken sal word) waartydens daardie maatskappy, koöperasie of beslote korporasie daardie bedryf beoefen het, tot 12 maande staan;"; en

(c) deur in subartikel (4) in die omskrywing van "persoonlike diens" subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) daardie diens persoonlik deur 'n persoon wat 'n belang in daardie maatskappy, koöperasie of beslote korporasie hou, uitgevoer word of deur enige persoon wat 'n verbode persoon is ten opsigte van enige persoon wat 'n bedoelde belang hou; en".

Wysiging van artikel 12I van Wet 58 van 1962, soos ingevoeg deur artikel 26 van Wet 60 van 2008 en gewysig deur artikel 24 van Wet 17 van 2009, artikel 26 van Wet 7 van 2010, artikel 37 van Wet 24 van 2011, artikel 28 van Wet 22 van 2012, artikel 22 van Wet 43 van 2014, artikel 22 van Wet 25 van 2015 en artikel 31 van Wet 15 van 2016

27. (1) Artikel 12I van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (7) paragraaf *(d)* deur die volgende paragraaf te vervang:

"*(d)* die aansoek van die maatskappy om goedkeuring van die projek nie later nie as **[31 Desember 2017]** 31 Maart 2020 in die vorm deur die Minister van Handel en Nywerheid voorgeskryf deur daardie Minister ontvang word en die inligting bevat wat deur die Minister van Handel en Nywerheid voorgeskryf word.".

(2) Subartikel (1) word geag op 31 Maart 2017 in werking te getree het.

Wysiging van artikel 12J van Wet 58 van 1962, soos ingevoeg deur artikel 27 van Wet 60 van 2008 en gewysig deur artikel 25 van Wet 17 van 2009, artikel 38 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 37 van Bylae 1 by daardie Wet, artikel 36 van Wet 31 van 2013, artikel 23 van Wet 43 van 2014, artikel 23 van Wet 25 van 2015 en artikel 32 van Wet 15 van 2016

28. (1) Artikel 12J van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (9) deur die volgende subartikel te vervang:

"(9) Ondanks artikel 8(4) moet geen bedrag afgetrek of verreken word ten opsigte van die beskikking van 'n waagkapitaalaandeel of ten opsigte van 'n

if that share has been held by the taxpayer for a period longer than five years.''.

(2) Subsection (1) comes into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 12Q of Act 58 of 1962, as inserted by section 41 of Act 31 of 2013 and amended by section 42 of Act 31 of 2014 and section 27 of Act 25 of 2015

29. Section 12Q of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the definition of ''international shipping company'' of the following definition:

'' **'international shipping company'** means a company that is a resident that **[holds a share or shares in]** operates one or more South African ships that are utilised in international shipping;''.

Amendment of section 12R of Act 58 of 1962, as inserted by section 43 of Act 31 of 2013 and amended by section 26 of Act 43 of 2014, section 28 of Act 31 of 2013 and section 34 of Act 15 of 2016

30. (1) Section 12R of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) in the definition of ''qualifying company'' for paragraphs *(b)*, *(c)* and *(d)* of the following paragraphs respectively:

''*(b)* that carries on **[business]** a trade in a special economic zone designated by the Minister of Trade and Industry in terms of the Special Economic Zones Act and approved by the Minister of Finance after consultation with the Minister of Trade and Industry for the purposes of **[subsection (2)]** this section by notice in the *Gazette*;

(c) if the **[business or services]** trade contemplated in paragraph *(b)* **[are]** is carried on **[or provided]** from a fixed place of business situated within a special economic zone; and

(d) if not less than 90 per cent of the income of that company is derived from the carrying on of **[business or provision of services]** a trade within one or more special economic zones;''; and

(b) by the substitution in subsection (5) for paragraph *(b)* of the following paragraph:

''*(b)* 10 years after the commencement of the carrying on of **[business]** a trade in a special economic zone.''.

(2) Subsection (1) is deemed to have come into operation on 9 February 2016.

Amendment of section 18A of Act 58 of 1962, as substituted by section 24 of Act 30 of 2000 and amended by section 72 of Act 59 of 2000, section 20 of Act 30 of 2002, section 34 of Act 45 of 2003, section 26 of Act 31 of 2005, section 16 of Act 20 of 2006, section 18 of Act 8 of 2007, section 31 of Act 35 of 2007, section 1 of Act 3 of 2008, section 6 of Act 4 of 2008, section 34 of Act 60 of 2008, section 37 of Act 7 of 2010, section 44 of Act 24 of 2011, section 7 of Act 21 of 2012, section 52 of Act 31 of 2013, section 29 of Act 43 of 2014, section 3 of Act 44 of 2014 and section 34 of Act 15 of 2015

31. Section 18A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraphs *(a)*, *(b)*, *(b*A*)* and *(c)* of the following paragraphs respectively:

''*(a)* any—

(i) public benefit organisation contemplated in paragraph *(a)*(i) of the definition of 'public benefit organisation' in section 30(1) approved by the Commissioner under section 30; or

(ii) institution, board or body contemplated in section 10(1)*(c*A*)*(i), which—

(aa) carries on in the Republic any public benefit activity contemplated in Part II of the Ninth Schedule, or any other activity determined from time

teruggawe van kapitaal indien daardie aandeel deur die belastingpligtige gehou is vir 'n tydperk van langer as vyf jaar.''.

(2) Subartikel (1) tree in werking op 1 Januarie 2018 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 12Q van Wet 58 van 1962, soos ingevoeg deur artikel 41 van Wet 31 van 2013 en gewysig deur artikel 42 van Wet 31 van 2014 en artikel 27 van Wet 25 van 2015

29. Artikel 12Q van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) die omskrywing van ''internasionale skeepvaartmaatskappy'' deur die volgende omskrywing te vervang:

'' **'internasionale skeepvaartmaatskappy'** 'n maatskappy wat 'n inwoner is wat **['n aandeel of aandele hou in]** een of meer Suid-Afrikaanse skepe bedryf wat in internasionale skeepvaart gebruik word;''.

Wysiging van artikel 12R van Wet 58 van 1962, soos ingevoeg deur artikel 43 van Wet 31 van 2013 en gewysig deur artikel 26 van Wet 43 van 2014 en artikel 34 van Wet 15 van 2016

30. (1) Artikel 12R van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) in die omskrywing van ''kwalifiserende maatskappy'' paragrawe *(b)*, *(c)* en *(d)* deur die volgende paragrawe onderskeidelik te vervang:

''*(b)* wat 'n **[saak]** bedryf beoefen in 'n spesiale ekonomiese sone aangewys deur die Minister van Handel en Nywerheid ingevolge die ''Special Economic Zones Act'' en goedgekeur deur die Minister van Finansies na oorleg met die Minister van Handel en Nywerheid by die toepassing van **[subartikel (2)]** hierdie artikel by kennisgewing in die *Staatskoerant*;

(c) indien die **[saak of dienste]** bedryf beoog in paragraaf *(b)* **[bedryf of gelewer]** beoefen word vanaf 'n vaste plek van besigheid geleë binne 'n spesiale ekonomiese sone; en

(d) indien minstens 90 persent van die inkomste van daardie maatskappy verkry word uit die beoefening van 'n bedryf **[van 'n saak of lewering van dienste]** binne een of meer spesiale ekonomiese sones;''; en

(b) deur in subartikel (5) paragraaf *(b)* deur die volgende paragraaf te vervang:

''*(b)* 10 jaar na die aanvang van die **[voortsetting van besigheid]** beoefening van 'n bedryf in 'n spesiale ekonomiese sone.''.

(2) Subartikel (1) word geag op 9 Februarie 2016 in werking te getree het.

Wysiging van artikel 18A van Wet 58 van 1962, soos vervang deur artikel 24 van Wet 30 van 2000 en gewysig deur artikel 72 van Wet 59 van 2000, artikel 20 van Wet 30 van 2002, artikel 34 van Wet 45 van 2003, artikel 26 van Wet 31 van 2005, artikel 16 van Wet 20 van 2006, artikel 18 van Wet 8 van 2007, artikel 31 van Wet 35 van 2007, artikel 1 van Wet 3 van 2008, artikel 6 van Wet 4 van 2008, artikel34 van Wet 60 van 2008, artikel 37 van Wet 7 van 2010, artikel 44 van Wet 24 van 201, artikel 7 van Wet 21 van 2012, artikel 52 van Wet 31 van 2013, artikel 3 van Wet 44 van 2014 en artikel 34 van Wet 15 van 2015

31. Artikel 18A van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) paragrawe *(a)*, *(b)*, *(b*A*)* en *(c)* onderskeidelik deur die volgende paragrawe te vervang:

''*(a)* enige—

(i) openbare weldaadsorganisasie in paragraaf *(a)*(i) van die omskrywing van 'openbare weldaadsorganisasie' in artikel 30(1) bedoel wat ingevolge artikel 30 deur die Kommissaris goedgekeur is; of

(ii) instelling, raad of liggaam in artikel 10(1)*(c*A*)*(i) bedoel,

wat—

(aa) enige openbare weldaadsaktiwiteit in Deel II van die Negende Bylae bedoel, of enige ander aktiwiteit wat die Minister van tyd tot tyd by

to time by the Minister by notice in the *Gazette* for the purposes of this section; **[and]**

(bb) complies with the requirements contemplated in subsection (1C), if applicable, and any additional requirements prescribed by the Minister in terms of subsection (1A); and

(cc) has been approved by the Commissioner for the purposes of this section;

(b) any public benefit organisation contemplated in paragraph *(a)*(i) of the definition of 'public benefit organisation' in section 30(1) approved by the Commissioner under section 30, which provides funds or assets to any public benefit organisation, institution, board or body contemplated in paragraph *(a)* and which has been approved by the Commissioner for the purposes of this section; or

*(b*A*)* (i) any agency contemplated in the definition of 'specialized agencies' in section 1 of the Convention on the Privileges and Immunities of the Specialized Agencies, 1947, set out in Schedule 4 to the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001)**[, which—]**;

(ii) the United Nations Development Programme (UNDP);

(iii) the United Nations Children's Fund (UNICEF);

(iv) the United Nations High Commissioner for Refugees (UNHCR);

(v) the United Nations Population Fund (UNFPA);

(vi) the United Nations Office on Drugs and Crime (UNODC);

(vii) the United Nations Environmental Programme (UNEP);

(viii) the United Nations Entity for Gender, Equality and the Empowerment of Women (UN Women);

(ix) the International Organisation for Migration (IOM);

(x) the Joint United Nations Programme on HIV/AIDS (UNAIDS);

(xi) the Office of the High Commissioner for Human Rights (OHCHR); or

(xii) the United Nations Office for the Coordination of Humanitarian Affairs (OCHA),

if that agency, programme, fund, High Commissioner, office, entity or organisation—

[(i)] *(aa)* carries on in the Republic any public benefit activity contemplated in Part II of the Ninth Schedule, or any other activity determined from time to time by the Minister by notice in the *Gazette* for the purposes of this section;

[(ii)] *(bb)* furnishes the Commissioner with a written undertaking that such agency will comply with the provisions of this section; and

[(iii)] *(cc)* waives diplomatic immunity for the purposes of subsection (5)(i); or

(c) any department of government of the Republic in the national, provincial or local sphere as contemplated in section 10(1)*(a)*, which has been approved by the Commissioner for the purposes of this section, to be used for purpose of any activity contemplated in Part II of the Ninth Schedule,''.

Substitution of section 19 of Act 58 of 1962, as inserted by section 36 of Act 22 of 2012 and amended by 53 of Act 31 of 2013 and section 35 of Act 25 of 2015

32. (1) The following section is hereby substituted for section 19 of the Income Tax Act, 1962:

''**Concession or compromise in respect of a debt**

19. (1) For the purposes of this section—

'allowance asset' means a capital asset in respect of which a deduction or allowance is allowable in terms of this Act for purposes other than the determination of any capital gain or capital loss;

kennisgewing in die *Staatskoerant* vir doeleindes van hierdie artikel bepaal, in die Republiek beoefen; **[en]**

(bb) aan die vereistes in subartikel (1C) bedoel, indien van toepassing, en enige addisionele vereistes wat die Minister ingevolge subartikel (1A) voorskryf, voldoen; en

(cc) deur die Kommissaris goedgekeur is by die toepassing van hierdie artikel;

(b) enige openbare weldaadsorganisasie in paragraaf *(a)*(i) van die omskrywing van 'openbare weldaadsorganisasie' in artikel 30(1) bedoel wat ingevolge artikel 30 deur die Kommissaris goedgekeur is, wat fondse of bates voorsien aan enige openbare weldaadsorganisasie, instelling, raad of liggaam in paragraaf *(a)* bedoel en deur die Kommissaris goedgekeur is by die toepassing van hierdie artikel; of

*(b*A) (i) enige agentskap beoog in die omskrywing van ‚gespesialiseerde agentskappe'' in afdeling 1 van die Konvensie op die Voorregte en Immuniteite van die Gespesialiseerde Agentskappe, 1947, uiteengesit in Bylae 4 by die Wet op Diplomatieke Immuniteite en Voorregte, 2001 (Wet No. 37 van 2001)**[, wat—]**;

(ii) die 'United Nations Development Programme (UNDP)';

(iii) die 'United Nations Children's Fund (UNICEF)';

(iv) die 'United Nations High Commissioner for Refugees (UNHCR)';

(v) die 'United Nations Population Fund (UNFPA)';

(vi) die 'United Nations Office on Drugs and Crime (UNODC)';

(vii) die 'United Nations Environmental Programme (UNEP)';

(viii) die 'United Nations Entity for Gender, Equality and the Empowerment of Women (UN Women)';

(ix) die 'International Organisation for Migration (IOM)';

(x) die 'Joint United Nations Programme on HIV/AIDS (UNAIDS)';

(xi) die 'Office of the High Commissioner for Human Rights (OHCHR)'; en

(xii) die 'United Nations Office for the Coordination of Humanitarian Affairs (OCHA)',

indien daardie agenstkap, program, fonds, Hoe Kommissaris, kantoor, entiteit of organisasie—

[(i)] *(aa)* enige openbare weldaadsaktiwiteite beoog in Deel II van die Negende Bylae, of enige ander aktiwiteit van tyd tot tyd deur die Minister by kennisgewing in die Staatskoerant bepaal vir die doeleindes van hierdie artikel in die Republiek beoefen; en

[(ii)] *(bb)* die Kommissaris voorsien van 'n skriftelike onderneming edat sodanige agentskap aan die bepalings van hierdie artikel sal voldoen; en

[(iii)] *(cc)* vir doeleindes van subartikel (5)*(i)* van diplomatieke immuniteit afstand doen; of

(c) enige **[departement van regering]** regeringsdepartement van die Republiek in die nasionale, provinsiale of plaaslike sfeer in artikel 10(1)*(a)* bedoel, wat deur die Kommissaris goedgekeur is by die toepassing van hierdie artikel, wat gebruik staan te word vir doeleindes van enige aktiwiteit in Deel II van die Negende Bylae bedoel,''.

Vervanging van artikel 19 van Wet 58 van 1962, soos ingevoeg deur artikel 36 van Wet 22 van 2012 en gewysig deur artikel 53 van Wet 31 van 2013 en artikel 35 van Wet 25 van 2015

32. (1) Artikel 19 van die Inkomstebelastingwet, 1962, word hierby deur die volgende artikel vervang:

''**Toegewing of kompromis ten opsigte van skuld**

19. (1) By die toepassing van hierdie artikel beteken—

'afskryfbare bate' 'n kapitaalbate ten opsigte waarvan 'n aftrekking of afskrywing ingevolge hierdie Wet toelaatbaar is vir doeleindes buiten die bepaling van enige kapitaalwins of kapitaalverlies;

'capital asset' means an asset as defined in paragraph 1 of the Eighth Schedule that is not trading stock;

'concession or compromise' means any arrangement in terms of which—

(a) any—

(i) term or condition applying in respect of a debt is changed or waived; or

(ii) obligation is substituted, whether by means of novation or otherwise, for the obligation in terms of which that debt is owed; or

(b) a debt owed by a company is settled, directly or indirectly, by—

(i) being converted to or exchanged for shares in that company; or

(ii) applying the proceeds from shares issued by that company;

'debt' means any amount that is owed by a person but does not include—

(a) a tax debt as defined in section 1 of the Tax Administration Act; or

(b) an amount of interest;

'debt benefit', in respect of a debt owed by a person to another person, means any amount by which the face value of the claim held by that other person in respect of that debt, prior to the entering into of any arrangement in respect of that debt, exceeds—

(a) in the case of an arrangement—

(i) described in paragraph *(a)* of the definition of 'concession or compromise', the market value of the claim in respect of that debt; or

(ii) described in paragraph *(b)* of the definition of 'concession or compromise', where the person who subscribed for or acquired shares in a company in terms of that arrangement did not hold shares in that company prior to the entering into of that arrangement, the market value of the shares,

held or acquired by reason or as a result of the implementation of that arrangement; or

(b) in the case of an arrangement described in paragraph *(b)* of the definition of 'concession or compromise', where the person who subscribed for or acquired shares in a company in terms of that arrangement held shares in that company prior to the entering into of that arrangement, the amount by which the market value of the shares held by that person in that company after the implementation of that arrangement exceeds the market value of the shares held by that person in that company prior to the entering into of that arrangement,

reduced, in the case of a debt owed by a company to a person who holds shares in another company that forms part of the same group of companies as that company, by so much of any increase in the market value of the shares so held by that person as is attributable solely to the implementation of that arrangement; and

'group of companies' means a group of companies as defined in section 41.

(2) Subject to subsection (8), this section applies where—

(a) a debt benefit in respect of a debt owed by a person arises by reason or as a result of a concession or compromise in respect of that debt; and

(b) the amount of that debt was used by that person to fund, directly or indirectly, any expenditure in respect of which a deduction or allowance was granted in terms of this Act.

(3) Where—

(a) a debt benefit arises in respect of a debt owed by a person as contemplated in subsection (2); and

(b) the amount of that debt was used as contemplated in paragraph *(b)* of that subsection to fund expenditure incurred in respect of trading stock

'groep van maatskappye 'n groep van maatskappye soos omskryf in artikel 41;

'kapitaalbate' 'n bate soos omskryf in paragraaf 1 van die Agtste Bylae wat nie handelsvoorraad is nie;

'skuld' enige bedrag wat deur 'n persoon verskuldig is, maar nie ook—

(a) 'n belastingskuld soos omskryf in artikel 1 van die Wet op Belasting-administrasie nie; of

(b) 'n bedrag rente nie;

'skuldvoordeel, ten opsigte van 'n skuld deur 'n persoon verskuldig aan 'n ander persoon, enige bedrag waardeur die sigwaarde van die eis gehou deur daardie persoon ten opsigte van daardie skuld, voor die aangaan van enige reëling ten opsigte van daardie skuld—

(a) in die geval van 'n reëling—

(i) in paragraaf *(a)* van die omskrywing van 'toegewing of kompromis' beskryf, die markwaarde van die eis ten opsigte van daardie skuld oorskry; of

(ii) in paragraaf *(b)* van die omskrywing van 'toegewing of kompromis' beskryf, waar die persoon wat ingeteken het vir of aandele verkry het in 'n maatskappy ingevolge van daardie reëling nie voor die aangaan van daardie reëling aandele in daardie maatskappy gehou het, die markwaarde van die aandele oorskry,

gehou of verkry uit hoofde van of as gevolg van die nakoming van daardie reëling; of

(b) in die geval van 'n reëling in paragraaf *(b)* van die omskrywing van 'toegewing of kompromis' beskryf, waar die persoon wat voor die aangaan van daardie reëling ingevolge daardie reëling ingeteken het op of aandele verkry het in 'n maatskappy nie aandele in daardie maatskappy gehou het nie, die markwaarde oorskry van die aandele voor die aangaan van daardie reëling deur daardie persoon in daardie maatskappy gehou;

verminder, in die geval van 'n skuld deur 'n maatskappy verskuldig aan 'n persoon wat aandele hou in 'n ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie maatskappy, deur soveel van enige verhoging in die markwaarde van die aandele aldus gehou deur daardie persoon soos alleenlik aan die nakoming van daardie ooreenkoms toegeskryf kan word; en

'toegewing of kompromis' enige reëling ingevolge waarvan—

(a) enige—

(i) bepaling of voorwaarde van toepassing ten opsigte van 'n skuld verander word of van afstand gedoen word; of

(ii) verpligting vervang word, hetsy deur middel van novasie of andersins, vir die verpligting ten opsigte waarvan daardie skuld verskuldig is; of

(b) 'n skuld verskuldig deur 'n maatskappy vereffen word, direk of indirek, deur—

(i) omskep te word in of verruil te word vir aandele in daardie maatskappy; of

(ii) die opbrengs aan te wend van die aandele deur daardie maatskappy uitgereik.

(2) Behoudens subartikel (8), is hierdie artikel van toepassing waar—

(a) 'n skuldvoordeel ten opsigte van 'n skuld verskuldig deur 'n persoon ontstaan op grond van of as 'n resultaat van 'n toegewing of kompromis ten opsigte van daardie skuld; en

(b) die bedrag van daardie skuld deur daardie persoon aangewend is, direk of indirek, om enige uitgawes aangegaan te befonds ten opsigte waarvan 'n aftrekking of toelae ingevolge hierdie Wet toegelaat was.

(3) Waar—

(a) 'n skuldvoordeel ten opsigte van 'n skuld verskuldig deur 'n persoon ontstaan soos beoog in subartikel (2); en

(b) die bedrag van daardie skuld gebruik is soos in paragraaf *(b)* van daardie subartikel om uitgawes te befonds aangegaan ten opsigte van

that is held and not disposed of by that person at the time the debt benefit arises,

the debt benefit in respect of that debt must, to the extent that an amount is taken into account by that person in respect of that trading stock in terms of section 11*(a)* or 22(1) or (2) for the year of assessment in which the debt benefit arises, be applied to reduce the amount so taken into account in respect of that trading stock.

(4) Where—

(a) a debt benefit arises in respect of a debt owed by a person as contemplated in subsection (2);

(b) the amount of that debt was used as contemplated in paragraph *(b)* of that subsection to fund expenditure incurred in respect of trading stock that is held and not disposed of by that person at the time the debt benefit arises; and

(c) subsection (3) has been applied to reduce an amount taken into account by that person in respect of trading stock as contemplated in that subsection to the full extent of that amount so taken into account,

the debt benefit in respect of that debt, less any amount of that debt benefit that has been applied to reduce an amount as contemplated in subsection (3) must, to the extent that a deduction or allowance was granted in terms of this Act to that person in respect of that expenditure, be deemed, for the purposes of section 8(4)*(a)*, to be an amount that has been recovered or recouped by that person for the year of assessment in which the debt benefit arises.

(5) Where—

(a) a debt benefit arises in respect of a debt owed by a person as contemplated in subsection (2); and

(b) the amount of that debt was used as contemplated in paragraph *(b)* of that subsection to fund any expenditure other than expenditure incurred—

(i) in respect of trading stock that is held and not disposed of by that person at the time the debt benefit arises; or

(ii) in respect of an allowance asset,

the debt benefit in respect of that debt must, to the extent that a deduction or allowance was granted in terms of this Act to that person in respect of that expenditure, be deemed, for the purposes of section 8(4)*(a)*, to be an amount that has been recovered or recouped by that person for the year of assessment in which the debt benefit arises.

(6) Where—

(a) a debt benefit arises in respect of a debt owed by a person as contemplated in subsection (2); and

(b) the amount of that debt was used as contemplated in paragraph *(b)* of that subsection to fund expenditure incurred in respect of an allowance asset,

the debt benefit in respect of that debt must, to the extent that—

(i) a deduction or allowance was granted in terms of this Act to that person in respect of that expenditure; and

(ii) the debt benefit has not been applied as contemplated in paragraph 12A of the Eighth Schedule to reduce the amount of expenditure as contemplated in paragraph 20 of that Schedule in respect of that allowance asset,

be deemed, for the purposes of section 8(4)*(a)*, to be an amount that has been recovered or recouped by that person for the year of assessment in which the debt benefit arises.

(7) Where a debt benefit arises in respect of a debt owed by a person that was used to fund expenditure incurred in respect of an allowance asset, the aggregate amount of the deductions and allowances allowable to that person in respect of that allowance asset may not exceed an amount equal

handelsvoorraad gehou en nie oor beskik is deur daardie persoon nie ten tye wat die skuldvoordeel ontstaan,

word die skuldvoordeel ten opsigte van daardie skuld, tot die mate wat 'n bedrag deur daardie persoon in berekening gebring is ten opsigte van daardie handelsvoorraad ingevolge artikel 11*(a)* of 22(1) of (2) vir die jaar van aanslag waarin die skuldvoordeel ontstaan, aangewend word om die bedrag aldus in berekening gebring te verminder ten opsigte van daardie handelsvoorraad.

(4) Waar—

(a) 'n skuldvoordeel ontstaan ten opsigte van 'n skuld verskuldig deur 'n persoon soos beoog in subartikel (2);

(b) die bedrag van daardie skuld gebruik is soos beoog in paragraaf *(b)* van daardie subartikel om uitgawes aangegaan ten opsigte van handelsvoorraad wat gehou word en nie oor beskik is deur daardie persoon nie ten tye wat die skuldvoordeel ontstaan; en

(c) subartikel (3) toegepas is om 'n bedrag deur daardie persoon in berekening gebring ten opsigte van handelsvoorraad soos beoog in daardie subartikel te verminder tot die volle bedrag aldus in berekening gebring,

word die skuldvoordeel ten opsigte van daardie skuld, verminder deur enige bedrag van daardie skuldvoordeel wat aangewend is om 'n bedrag te verminder soos beoog in subartikel (3), tot die mate wat 'n aftrekking of toelae ingevolge hierdie Wet aan daardie persoon toegelaat is ten opsigte van daardie uitgawes, geag, by die toepassing van 8(4)*(a)*, om 'n bedrag te wees wat vergoed of verhaal is deur daardie persoon vir die jaar van aanslag waarin die skuldvoordeel ontstaan.

(5) Waar—

(a) 'n skuldvoordeel ontstaan ten opsigte van 'n skuld verskuldig deur 'n persoon soos beoog in subartikel (2); en

(b) die bedrag van daardie skuld gebruik is soos beoog in paragraaf *(b)* van daardie subartikel om enige uitgawes te befonds buiten uitgawes aangegaan—

(i) ten opsigte van handelsvoorraad wat gehou word en nie oor beskik is deur daardie persoon nie ten tye wat die skuldvoordeel ontstaan; of

(ii) ten opsigte van 'n afskryfbare bate,

word die skuldvoordeel ten opsigte van daardie skuld, tot die mate wat 'n aftrekking of toelae ingevolge hierdie Wet aan daardie persoon toegelaat is ten opsigte van daardie uitgawes, geag, by die toepassing van artikel 8(4)*(a)*, om 'n bedrag te wees wat vergoed of verhaal is deur daardie persoon vir die jaar van aanslag waarin die skuldvoordeel ontstaan.

(6) Waar—

(a) 'n skuldvoordeel ontstaan ten opsigte van 'n skuld verskuldig deur 'n persoon soos beoog in subartikel (2); en

(b) die bedrag van daardie skuld gebruik soos beoog in paragraaf *(b)* van daardie subartikel om uitgawes aangegaan ten opsigte van 'n afskryfbare bate te befonds,

word die skuldvoordeel ten opsigte van daardie skuld, tot die mate wat—

(i) 'n aftrekking of toelae ingevolge hierdie Wet aan daardie persoon toegelaat is ten opsigte van daardie uitgawes; en

(ii) die skuldvoordeel nie toegepas is soos beoog in paragraaf 12A van die Agtste Bylae nie om die bedrag van uitgawes te verminder nie soos beoog in paragraaf 20 van daardie Bylae ten opsigte van daardie afskryfbare bate,

geag, by die toepassing van artikel 8(4)*(a)*, 'n bedrag te wees wat vergoed of verhaal is deur daardie persoon vir die jaar van aanslag waarin die skuldvoordeel ontstaan.

(7) Waar 'n skuldvoordeel ontstaan ten opsigte van 'n skuld verskuldig deur 'n persoon wat aangewend is om uitgawes aangegaan ten opsigte van 'n afskryfbare bate te befonds, mag die totale bedrag van die aftrekkings en toelaes teolaatbaar aan daardie persoon ten opsigte van daardie afskryfbare bate nie 'n bedrag oorskry gelykstaande aan die totaal van die uitgawes

to the aggregate of the expenditure incurred in the acquisition of that allowance asset, reduced by an amount equal to the sum of—

(a) the debt benefit in respect of that debt; and

(b) the aggregate amount of all deductions and allowances previously allowed to that person in respect of that allowance asset.

(8) This section must not apply to a debt benefit in respect of any debt owed by a person—

(a) that is an heir or legatee of a deceased estate, to the extent that—
  - (i) the debt is owed to that deceased estate;
  - (ii) the debt is reduced by the deceased estate; and
  - (iii) the amount by which the debt is reduced by the deceased estate forms part of the property of the deceased estate for the purposes of the Estate Duty Act;

(b) to the extent that the debt is reduced by way of—
  - (i) a donation as defined in section 55(1); or
  - (ii) any transaction to which section 58 applies; or

(c) to an employer of that person, to the extent that the debt is reduced in the circumstances contemplated in paragraph 2*(h)* of the Seventh Schedule;

(d) to another person where the person that owes that debt is a company if—
  - (i) that company owes that debt to a company that forms part of the same group of companies as that company; and
  - (ii) that company has not carried on any trade,

  during the year of assessment in which that debt benefit arises as well as during the immediately preceding year of assessment: Provided that this paragraph must not apply in respect of any debt—
  - *(aa)* incurred, directly or indirectly by that company to fund expenditure incurred in respect of any asset that was subsequently disposed of by that company by way of an asset-for-share, intra-group or amalgamation transaction or a liquidation distribution in respect of which the provisions of section 42, 44, 45 or 47, as the case may be, applied; or
  - *(bb)* incurred or assumed by that company in order to settle, take over, refinance or renew, directly or indirectly, any debt incurred by—
    - (A) any other company that forms part of the same group of companies; or
    - (B) any company that is a controlled foreign company in relation to any company that forms part of the same group of companies; or

(e) to another person where the person that owes that debt is a company that—
  - (i) owes that debt to a company that forms part of the same group of companies as that company; and
  - (ii) reduces or settles that debt, directly or indirectly, by means of shares issued by that company:

  Provided that this paragraph must not apply in respect of any debt that was incurred or assumed by that company in order to settle, take over, refinance or renew, directly or indirectly, any debt incurred by another company which—
  - *(aa)* did not form part of that same group of companies at the time that that other company incurred that debt; or
  - *(bb)* does not form part of that same group of companies at the time that that company reduces or settles that debt, directly or indirectly, by means of shares issued by that company.''.

aangegaan in die verkryging van daardie afskryfbare bate nie, verminder deur 'n bedrag gelykstaande aan die som van—

(a) die skuldvoordeel ten opsigte van daardie skuld; en

(b) die totale bedrag van alle aftrekkings en toelaes voorheen toegelaat aan daardie persoon ten opsigte van daardie afskryfbare bate.

(8) Hierdie artikel is nie van toepassing nie op 'n skuldvoordeel ten opsigte van enige skuld verskuldig deur 'n persoon—

(a) wat 'n erfgenaam of legataris is van 'n bestorwe boedel, tot die mate wat—

(i) die skuld aan daardie bestorwe boedel verskuldig is;

(ii) die skuld verminder word deur die bestorwe boedel; en

(iii) die bedrag waarmee die skuld deur die bestorwe boedel verminder word deel uitmaak van die eiendom van die bestorwe boedel by die toepassing van die Boedelbelastingwet;

(b) tot die mate wat die skuld verminder word by wyse van—

(i) 'n skenking soos omskryf in artikel 55(1); of

(ii) enige transaksie waarop artikel 58 van toepassing is; of

(c) aan 'n werkgewer van daardie persoon, tot die mate wat die skuld verminder word in die omstandighede beoog in paragraaf 2*(h)* van die Sewende Bylae.

(d) aan 'n ander persoon waar die persoon wat die skuld verskuldig is 'n maatskappy is indien—

(i) daardie maatskappy die skuld verskuldig is aan 'n maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie maatskappy; en

(ii) daardie maatskappy nie enige handel gedryf het nie,

gedurende die jaar van aanslag waarin daardie skuldvoordeel ontstaan sowel as gedurende die onmiddellik voorafgaande jaar van aanslag: Met dien verstande dat hierdie paragraaf nie van toepassing is nie ten opsigte van enige skuld—

(aa) aangegaan, direk of indirek deur daardie maatskappy om uitgawes te befonds aangegaan ten opsigte van enige bate wat later deur daardie maatskappye oor beskik is deur middel van 'n bate-vir-aandeel, intra-groep of amalgamasietransaksie of 'n likwidasiedistribusie ten opsigte waarvan die bepalings van artikel 42, 44, 45 of 47, na gelang van die geval, van toepassing is; of

(bb) aangegaan of aangeneem deur daardie maatskappy ten einde enige skuld te vereffen, oor te neem, te herfinansier, direk of indirek, aangegaan deur—

(A) enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye; of

(B) enige maatskappy wat 'n buitelandse beheerde maatskappy is met betrekking tot enige maatskappy wat deel uitmaak van dieselfde groep van maatskappye; of

(e) aan enige ander persoon waar die persoon wat die skuld verskuldig is 'n maatskappy is wat—

(i) daardie skuld verskuldig is aan 'n maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie maatskappy; en

(ii) daardie skuld verminder of vereffen, direk of indirek, deur middel van aandele uitgereik deur daardie maatskappy:

Met dien verstande dat hierdie paragraaf nie van toepassing is nie ten opsigte van skuld wat aangegaan of aangeneem is deur daardie maatskappy ten einde enige skuld te vereffen, oor te neem, te herfinansier of hernu, direk of indirek, enige skuld wat aangegaan is deur 'n ander maatskappy wat—

(aa) nie deel uitgemaak het van dieselfde groep van maatskappye toe daardie ander maatskappy daardie skuld aangegaan het nie; of

(bb) nie deel uitgemaak het van dieselfde groep van maatskappye ten tye wat daardie maatskappy daardie skuld verminder of vereffen het nie, direk of indirek, deur middel van aandele in daardie maatskappy uitgereik.''.

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(2) Subsection (1) comes into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 22 of Act 58 of 1962, as amended by section 8 of Act 6 of 1963, section 14 of Act 90 of 1964, section 21 of Act 89 of 1969, section 23 of Act 85 of 1974, section 20 of Act 69 of 1975, section 15 of Act 103 of 1976, section 20 of Act 94 of 1983, section 19 of Act 121 of 1984, section 14 of Act 65 of 1986, section 5 of Act 108 of 1986, section 21 of Act 101 of 1990, section 22 of Act 129 of 1991, section 17 of Act 113 of 1993, section 1 of Act 168 of 1993, section 19 of Act 21 of 1995, section 12 of Act 36 of 1996, section 25 of Act 53 of 1999, section 27 of Act 30 of 2000, section 12 of Act 5 of 2001, section 24 of Act 74 of 2002, section 37 of Act 45 of 2003, section 16 of Act 3 of 2008, section 36 of Act 60 of 2008, section 39 of Act 7 of 2010, section 45 of Act 24 of 2011, section 40 of Act 22 of 2012, section 55 of Act 31 of 2013, section 32 of Act 43 of 2014, section 37 of Act 25 of 2015 and section 40 of Act 15 of 2016

33. (1) Section 22 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (3A) for the words preceding paragraph *(a)* of the following words:

"For the purposes of this section the cost price of trading stock referred to in subsection (2A) shall be the sum of the cost to the taxpayer of material used by **[him]** the taxpayer in effecting the relevant improvements, and such further costs incurred by **[him]** the taxpayer as in accordance with **[generally accepted accounting practice]** IFRS are to be regarded as having been incurred directly in connection with the relevant contract, and such portion of any other costs incurred by **[him]** the taxpayer in connection with the relevant contract and other contracts as in accordance with **[generally accepted accounting practice]** IFRS are to be regarded as having been incurred in connection with the relevant contract, less a deduction of so much of—";

(b) by the substitution for subsection (4) of the following subsection:

"(4) If any trading stock has been acquired by any person for no consideration or for a consideration which is not measurable in terms of money, other than a government grant in kind, such person shall for the purposes of subsection (3), unless subsection (3)*(a)*(iA) applies, be deemed to have acquired such trading stock at a cost equal to the current market price of such trading stock on the date on which it was acquired by such person.";

(c) by the substitution in subsection (9)*(a)* for subparagraph (i) of the following subparagraph:

"(i) the trading stock of any person during any year of assessment includes any—

(aa) security or any bond issued by the government of the Republic in the national or local sphere; or

(bb) bond issued by any sphere of government of any country other than the Republic,

if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule;";

(d) by the substitution in subsection (9)*(b)* for subparagraph (i) of the following subparagraph:

"(i) the trading stock of any other person during any year of assessment includes any—

(aa) security or any bond issued by the government of the Republic in the national or local sphere; or

(bb) bond issued by any sphere of government of any country other than the Republic,

if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule;";

(2) Subartikel (1) tree op 1 Januarie 2018 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 22 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 6 van 1963, artikel 14 van Wet 90 van 1964, artikel 21 van Wet 89 van 1969, artikel 23 van Wet 85 van 1974, artikel 20 van Wet 69 van 1975, artikel 15 van Wet 103 van 1976, artikel 20 van Wet 94 van 1983, artikel 19 van Wet 121 van 1984, artikel 14 van Wet 65 van 1986, artikel 5 van Wet 108 van 1986, artikel 21 van Wet 101 van 1990, artikel 22 van Wet 129 van 1991, artikel 17 van Wet 113 van 1993, artikel 1 van Wet 168 van 1993, artikel 19 van Wet 21 van 1995, artikel 12 van Wet 36 van 1996, artikel 25 van Wet 53 van 1999, artikel 27 van Wet 30 van 2000, artikel 12 van Wet 5 van 2001, artikel 24 van Wet 74 van 2002, artikel 37 van Wet 45 van 2003, artikel 16 van Wet 3 van 2008, artikel 36 van Wet 60 van 2008, artikel 39 van Wet 7 van 2010, artikel 45 van Wet 24 van 2011, artikel 40 van Wet 22 van 2012, artikel 55 van Wet 31 van 2013, artikel 32 van Wet 43 van 2014, artikel 37 van Wet 25 van 2015 en artikel 40 van Wet 15 van 2016

33. (1) Artikel 22 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (3A) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

“By die toepassing van hierdie artikel is die kosprys van handelsvoorraad bedoel in subartikel (2A) die som van die koste vir die belastingpligtige van materiaal deur **[hom]** die belastingpligtige gebruik by die aanbring van die betrokke verbeterings, en bedoelde verdere koste deur **[hom]** die belastingpligtige aangegaan soos wat ooreenkomstig **[algemeen aanvaarde rekeningkundige praktyk]** IFRS beskou word regstreeks aangegaan te gewees het in verband met die betrokke kontrak, en bedoelde gedeelte of enige ander koste deur **[hom]** die belastingpligtige aangegaan in verband met die betrokke kontrak en ander kontrakte soos wat ooreenkomstig **[algemeen aanvaarde rekeningkundige praktyk]** IFRS beskou word aangegaan te gewees het in verband met die betrokke kontrak, min ’n aftrekking van soveel van—”;

(b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Indien handelsvoorraad deur ’n persoon verkry is sonder vergoeding of teen ’n vergoeding wat nie in geld bepaal kan word nie, buiten ’n staatstoekenning in goedere, word so ’n persoon by die toepassing van subartikel (3), tensy subartikel (3)*(a)*(*i*A) van toepassing is, geag bedoelde handelsvoorraad te verkry het teen ’n koste gelyk aan die heersende markprys van bedoelde handelsvoorraad op die datum waarop bedoelde persoon dit verkry het.”;

(c) deur in subartikel (9)*(a)* subparagraaf (i) deur die volgende subparagraaf te vervang:

“(i) die handelsvoorraad van ’n persoon gedurende ’n jaar van aanslag ’n—

(aa) aandeel of verband uitgereik deur die regering van die Republiek in die nasionale, of plaaslike sfeer; of

(bb) verband uitgereik deur enige regeringsfeer van ’n land buiten die Republiek,

indien daardie verband gelys is op ’n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae, insluit;”;

(d) deur in subartikel (9)*(b)* subparagraaf (i) deur die volgende subparagraaf te vervang:

“(i) die handelsvoorraad van ’n persoon gedurende ’n jaar van aanslag ’n—

(aa) aandeel of verband uitgereik deur die regering van die Republiek in die nasionale, of plaaslike sfeer; of

(bb) verband uitgereik deur enige regeringsfeer van ’n land buiten die Republiek,

indien daardie verband gelys is op ’n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae, insluit;”;

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(e) by the substitution in subsection (9)*(c)* for subparagraph (i) of the following subparagraph:

"(i) the trading stock of any person during any year of assessment includes any—

(aa) share or any bond issued by the government of the Republic in the national or local sphere; or

(bb) bond issued by any sphere of government of any country other than the Republic,

if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule:"; and

(f) by the substitution in subsection (9)*(d)* for subparagraph (i) of the following subparagraph:

"(i) the trading stock of any transferee during any year of assessment includes any—

(aa) share or any bond issued by the government of the Republic in the national or local sphere; or

(bb) bond issued by any sphere of government of any country other than the Republic,

if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule;".

(2) Paragraphs *(c)*, *(d)*, *(e)* and *(f)* of subsection (1) come into operation on 1 January 2018 and apply in respect of collateral arrangements and lending arrangements entered into on or after that date.

Substitution of section 22B of Act 58 of 1962

34. (1) The following section is hereby substituted for section 22B of the Income Tax Act, 1962:

"**Dividends treated as income on disposal of certain shares**

22B. (1) For the purposes of this section—

'exempt dividend' means any dividend or foreign dividend to the extent that the dividend or foreign dividend is—

(a) not subject to tax under Part VIII of Chapter II; and

(b) exempt from normal tax in terms of section 10(1)*(k)*(i) or section 10B(2)*(a)* or *(b)*;

'extraordinary dividend' means, in relation to—

(a) a preference share the dividends in respect of which are determined with reference to a rate of interest, so much of the amount of any dividend received or accrued as exceeds an amount determined at a rate of 15 per cent;

(b) any other share, so much of the amount of any dividend received or accrued:

(i) within a period of 18 months prior to the disposal of that share; or

(ii) in respect, by reason or in consequence of that disposal,

as exceeds 15 per cent of the higher of the market value of that share as at the beginning of the period of 18 months and as at the date of disposal of that share; and

'qualifying interest' means an interest held by a company in another company, whether alone or together with any connected persons in relation to that company, that constitutes—

(a) if that other company is not a listed company, at least—

(i) 50 per cent of the equity shares or voting rights in that other company; or

(e) deur in subartikel (9)*(c)* subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) die handelsvoorraad van 'n persoon gedurende 'n jaar van aanslag 'n—

(aa) aandeel of verband uitgereik deur die regering van die Republiek in die nasionale, of plaaslike sfeer; of

(bb) verband uitgereik deur enige regeringsfeer van 'n land buiten die Republiek,

indien daardie verband gelys is op 'n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae, insluit;";

(f) deur in subartikel (9)*(d)* subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) die handelsvoorraad van 'n persoon gedurende 'n jaar van aanslag 'n—

(aa) aandeel of verband uitgereik deur die regering van die Republiek in die nasionale, of plaaslike sfeer; of

(bb) verband uitgereik deur enige regeringsfeer van 'n land buiten die Republiek,

indien daardie verband gelys is op 'n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae, insluit;".

(2) Paragrawe *(c)*, *(d)*, *(e)* en *(f)* van subartikel (1) tree op 1 Januarie 2018 in werking en is van toepassing ten opsigte kollaterale reëlings en leningsooreenkomste aangegaan op of na daardie datum.

Vervanging van artikel 22B van Wet 58 van 1962

34. (1) Artikel 22B van die Inkomstebelastingwet, 1962, word hierby deur die volgende artikel vervang:

"**Dividende behandel as inkomste by beskikking oor sekere aandele**

22B. (1) By die toepassing van hierdie artikel beteken—

'buitengewone dividend', met betrekking tot—

(a) 'n voorkeuraandeel ten opsigte waarvan die dividende bepaal word met verwysing na 'n rentekoers, soveel van die bedrag van enige dividend ontvang of toegeval wat nie 'n bedrag oorskry nie bereken teen 'n koers van 15 persent;

(b) enige ander aandeel, soveel van die bedrag van enige dividend ontvang of toegeval—

(i) binne 'n tydperk van 18 maande voor die beskikking oor daardie aandeel; of

(ii) ten opsigte van, of as gevolg van daardie beskikking, as wat 15 persent oorskry van die hoogste van die markwaarde van daardie aandeel aan die begin van die tydperk van 18 maande en op die datum van beskikking oor daardie aandeel; en

'kwalifiserende belang' enige belang gehou deur 'n maatskappy in 'n ander maatskappy, hetsy alleen of gesamentlik met enige verbonde persone met betrekking tot daardie maatskappy wat—

(a) indien daardie ander maatskappy nie 'n genoteerde maatskappy is nie, ten minste—

(i) 50 persent van die ekwiteitsaandele of stemregte in daardie ander maatskappy uitmaak; of

(ii) 20 per sent van die ekwiteitsaandele of stemregte in daardie ander maatskappy uitmaak indien geen ander persoon (hetsy alleen of gesamentlik met enige verbonde persone met betrekking tot daardie maatskappy) die meerderheid van die ekwiteitsaandele of stemregte in daardie ander maatskappy hou; of

(b) indien daardie ander maatskappy 'n genoteerde maatskappy is, ten minste 10 persent van die ekwiteitsaandele of stemregte in daardie ander maatskappy uitmaak;

(ii) 20 per cent of the equity shares or voting rights in that other company if no other person (whether alone or together with any connected person in relation to that person) holds the majority of the equity shares or voting rights in that other company; or

(b) if that other company is a listed company, at least 10 per cent of the equity shares or voting rights in that other company.

(2) Where a company disposes of shares in another company and that company held a qualifying interest in that other company at any time during the period of 18 months prior to that disposal, the amount of any exempt dividend received by or that accrued to that company in respect of the shares disposed of must—

(a) to the extent that the exempt dividend constitutes an extraordinary dividend; and

(b) if that company immediately before that disposal held the shares disposed of as trading stock,

be included in the income of that company in the year of assessment in which those shares are disposed of or, where that dividend is received or accrues after that year of assessment, the year of assessment in which that dividend is received or accrues.''.

(2) Subsection (1) is deemed to have come into operation on 19 July 2017 and applies in respect of any disposal on or after that date other than a disposal in terms of an agreement all the terms of which were finally agreed to before that date by all the parties to that agreement.

Amendment of section 23 of Act 58 of 1962, as amended by section 18 of Act 65 of 1973, section 20 of Act 121 of 1984, section 23 of Act 129 of 1991, section 20 of Act 141 of 1992, section 18 of Act 113 of 1993, section 15 of Act 21 of 1994, section 28 of Act 30 of 2000, section 21 of Act 30 of 2002, section 38 of Act 45 of 2003, section 13 of Act 16 of 2004, section 28 of Act 31 of 2005, section 17 of Act 20 of 2006, section 20 of Act 8 of 2007, section 37 of Act 60 of 2008, section 41 of Act 7 of 2010, sections 47 and 162 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 38 of Schedule 1 to that Act, section 42 of Act 22 of 2012, section 56 of Act 31 of 2013 and section 33 of Act 43 of 2014

35. (1) Section 23 of the Income Tax Act, 1962, is hereby amended by the substitution in paragraph *(m)* for subparagraph (i) of the following subparagraph:

''(i) any contributions to a pension fund, provident fund or retirement annuity fund as may be deducted from the income of that person in terms of section **[11*(k)*]** 11F;''.

(2) Subsection (1) is deemed to have come into operation on 1 March 2016.

Amendment of section 23B of Act 58 of 1962, as inserted by section 25 of Act 129 of 1991 and amended by section 16 of Act 21 of 1994, section 29 of Act 30 of 2000, section 39 of Act 45 of 2003, section 18 of Act 20 of 2006, section 42 of Act 7 of 2010, section 48 of Act 24 of 2011, section 43 of Act 22 of 2012 and section 34 of Act 43 of 2014

36. Section 23B of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (5) of the following subsection:

''(5) No deduction shall be allowed under section 11*(a)* in respect of any expenditure incurred by a person in respect of any premium paid under a policy of insurance, where the policy relates to death, disablement or **[severe]** illness of an employee or director, or former employee or director, of the person that is the policyholder (other than a policy that relates to death, disablement or **[severe]** illness arising solely out of and in the course of employment of the employee or director).''.

'vrygestelde dividend' enige dividend of buitelandse dividend tot die mate wat die dividend of buitelandse dividend—

(a) nie aan belasting kragtens Deel VIII van Hoofstuk II onderhewig is nie; en *(b)* ingevolge artikel 10(1)*(k)*(i) of artikel 10B(2)*(a)* of

(b) van normale belasting vrygestel is.

(2) Waar 'n maatskappy oor aandele in 'n ander maatskappy beskik en daardie ander maatskappy het 'n kwalifiserende belang in daardie ander maatskappy gehou te eniger tyd gedurende die tydperk van 18 maande voor daardie beskikking, word die bedrag van enige vrygestelde dividend ontvang deur of toegeval aan daardie maatskappy ten opsigte van die aandele oor beskik—

(a) tot die mate wat die vrygestelde dividend 'n buitengewone dividend uitmaak; en

(b) indien daardie maatskappy onmiddellik voor daardie beskikking die aandele as handelsvoorraad gehou het,

ingesluit in die inkomste van daardie maatskappy in die jaar van aanslag waarin daardie aandele oor beskik word of, waar daardie dividend ontvang is of toeval na daardie jaar van aanslag, die jaar van aanslag waarin daardie dividend ontvang is of toeval.''.

(2) Subartikel (1) word geag op 19 Julie 2017 in werking te getree het en is van toepassing ten opsigte van enige beskikking op of na daardie datum buiten 'n beskikking ingevolge 'n ooreenkoms waarvan al die bedinge voor daardie datum finaal deur al die partye tot daardie ooreenkoms op ooreengekom is.

Wysiging van artikel 23 van Wet 58 van 1962, soos gewysig deur artikel 18 van Wet 65 van 1973, artikel 20 van Wet 121 van 1984, artikel 23 van Wet 129 van 1991, artikel 20 van Wet 141 van 1992, artikel 18 van Wet 113 van 1993, artikel 15 van Wet 21 van 1994, artikel 28 van Wet 30 van 2000, artikel 21 van Wet 30 van 2002, artikel 38 van Wet 45 van 2003, artikel 13 van Wet 16 van 2004, artikel 28 van Wet 31 van 2005, artikel 17 van Wet 20 van 2006, artikel 20 van Wet 8 van 2007, artikel 37 van Wet 60 van 2008, artikel 41 van Wet 7 van 2010, artikels 47 en 162 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 38 van Bylae 1 by daardie Wet, artikel 42 van Wet 22 van 2012, artikel 56 van Wet 31 van 2013 en artikel 33 van Wet 43 van 2014

35. (1) Artikel 23 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in paragraaf *(m)* subparagraaf (i) deur die volgende subparagraaf te vervang:

''(i) enige bydrae tot 'n pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds wat ingevolge artikel **[11*(k)*]** 11F van die inkomste van daardie persoon afgetrek kan word;''.

(2) Subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

Wysiging van artikel 23B van Wet 58 van 1962, soos ingevoeg deur artikel 25 van Wet 129 van 1991 en gewysig deur artikel 16 van Wet 21 van 1994, artikel 29 van Wet 30 van 2000, artikel 39 van Wet 45 van 2003, artikel 18 van Wet 20 van 2006, artikel 42 van Wet 7 van 2010, artikel 48 van Wet 24 van 2011 en artikel 43 van Wet 22 van 2012 en artikel 34 van Wet 23 van 2014

36. Artikel 23B van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

''(5) Geen aftrekking word kragtens artikel 11*(a)* toegelaat nie ten opsigte van enige uitgawes aangegaan deur ''n persoon ten opsigte van enige premie betaal kragtens ''n versekeringspolis, waar die polis betrekking het op die dood, ongeskikstelling of **[ernstige]** siekte van ''n werknemer of direkteur, of voormalige werknemer of direkteur, van die persoon wat die polishouer is (behalwe ''n polis wat betrekking het op dood, ongeskikstelling of **[ernstige]** siekte wat slegs voortspruit uit en in die loop van indiensneming van die werknemer of direkteur).''.

Amendment of section 23H of Act 58 of 1962, as inserted by section 31 of Act 30 of 2000 and amended by section 29 of Act 59 of 2000, section 34 of Act 60 of 2001, section 36 of Act 35 of 2007, section 19 of Act 3 of 2008, section 43 of Act 7 of 2010, section 46 of Act 22 of 2012, section 35 of Act 43 of 2014 and section 38 of Act 25 of 2015

37. Section 23H of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph *(aa)* of the proviso of the following paragraph:

''*(aa)* where all the goods or services are to be supplied or rendered within six months after the end of the year of assessment during which the expenditure was incurred, or such person will have the full enjoyment of such benefit in respect of which the expenditure was incurred within such period, unless the expenditure is allowable as a deduction in terms of section **[11D(1)]** <u>11D(2)</u>; or''.

Amendment of section 23I of Act 58 of 1962, as substituted by section 38 of Act 60 of 2008 and amended by section 36 of Act 17 of 2009, section 44 of Act 7 of 2010, section 47 of Act 22 of 2012, section 58 of Act 31 of 2013 and section 36 of Act 43 of 2014

38. (1) Section 23I of the Income Tax Act, 1962, is hereby amended by the addition of the following subsection:

''<u>(4) Subsection (2) must not apply where the aggregate amount of taxes on income payable to all spheres of government of any country other than the Republic by a controlled foreign company contemplated in that subsection in respect of the foreign tax year of that controlled foreign company is at least 75 per cent of the amount of normal tax that would have been payable in respect of any taxable income of the controlled foreign company had the controlled foreign company been a resident for that foreign tax year: Provided that the aggregate amount of tax payable by a controlled foreign company in respect of a foreign tax year of that controlled foreign company must be determined—</u>

(a) <u>after taking into account any applicable agreement for the prevention of double taxation and any credit, rebate or other right of recovery of tax from any sphere of government of any country other than the Republic; and</u>

(b) <u>after disregarding any loss in respect of a year other than that foreign tax year or from a company other than that controlled foreign company.</u>''.

(2) Subsection (1) comes into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 23M of Act 58 of 1962, as inserted by section 16 of Act 31 of 2013 and amended by section 37 of Act 43 of 2014 and section 41 of Act 15 of 2016

39. Section 23M of the Income Tax Act, 1962, is hereby amended—

(a) by the deletion in subsection (1) of the definition of ''issue'';

(b) by the substitution in subsection (2)*(b)* for subparagraph (ii) of the following subparagraph:

''(ii) disallowed under <u>section</u> 23N,''; and

(c) by the substitution in subsection (6)*(a)* for subparagraph (ii) of the following subparagraph:

''(ii) that interest is determined with reference to a rate of interest that does not exceed the official rate of interest **[as defined in paragraph 1 of the Seventh Schedule]** plus 100 basis points; or''.

Wysiging van artikel 23H van Wet 58 van 1962, soos ingevoeg deur artikel 31 van Wet 30 van 2000 en gewysig deur artikel 29 van Wet 59 van 2000, artikel 34 van Wet 60 van 2001, artikel 36 van Wet 35 van 2007, artikel 19 van Wet 3 van 2008, artikel 43 van Wet 7 van 2010 en artikel 46 van Wet 22 van 2012, artikel 35 van Wet 43 van 2014 en artikel 38 van Wet 25 van 2015

37. Artikel 23H van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) paragraaf *(aa)* van die voorbehoudsbepaling deur die volgende paragraaf te vervang:

"*(aa)* waar al die goed of dienste verskaf of gelewer staan te word binne ses maande na die einde van die jaar van aanslag waartydens die onkoste aangegaan is, of bedoelde persoon binne bedoelde tydperk die volle genot van daardie voordeel ten opsigte waarvan die onkoste aangegaan is, sal hê, tensy die onkoste as 'n vermindering kragtens artikel **[11D(1)]** 11D(2) toelaatbaar is; of".

Wysiging van artikel 23I van Wet 58 van 1962, soos vervang deur artikel 38 van Wet 60 van 2008 en gewysig deur artikel 36 van Wet 17 van 2009, artikel 44 van Wet 7 van 2010, artikel 47 van Wet 22 van 2012, artikel 58 van Wet 31 van 2013 en artikel 36 van Wet 43 van 2014

38. (1) Artikel 23I van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende artikel by te voeg:

"(4) Subartikel (2) word nie toegepas nie waar die totale bedrag van belasting op inkomste betaalbaar aan alle regeringsfere van enige land behalwe die Republiek deur die beheerde buitelandse maatskappy in daardie subartikel beoog ten opsigte van die buitelandse belastingjaar van daardie beheerde buitelandse maatskappy minstens 75 persent is van die bedrag van normale belasting wat ten opsigte van belasbare inkomste van die beheerde buitelandse maatskappy betaalbaar sou gewees het indien die beheerde buitelandse maatskappy gedurende daardie buitelandse belastingjaar 'n inwoner was: Met dien verstande dat die totale bedrag van belasting betaalbaar deur 'n beheerde buitelandse maatskappy ten opsigte van 'n buitelandse belastingjaar van daardie beheerde buitelandse maatskappy bereken moet word—

(a) na verrekening van enige toepaslike ooreenkoms vir die voorkoming van dubbele belasting en enige krediet, korting of ander reg van verhaal van belasting van enige regeringsfeer van enige land behalwe die Republiek;

(b) nadat enige verlies ten opsigte van 'n ander jaar as daardie buitelandse belastingjaar buite rekening gelaat is of van 'n ander maatskappy as daardie beheerde buitelandse maatskappy.".

(2) Subartikel (1) tree op 1 Januarie 2018 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 23M van Wet 58 of 1962, soos ingevoeg deur artikel 16 van Wet 31 van 2013 en gewysig deur artikel 37 van Wet 43 van 2014 en artikel 41 van Wet 15 van 2016

39. Artikel 23M van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die omskrywing van "uitreik" te skrap;

(b) deur in subartikel (2)*(b)* subparagraaf (ii) deur die volgende subparagraaf te vervang:

"(ii) nie toegelaat is kragtens artikel 23N nie,"; en

(c) deur in subartikel (6)*(a)* subparagraaf (ii) deur die volgende subparagraaf te vervang:

"(ii) daardie rente bepaal word met verwysing na 'n rentekoers wat nie die amptelike rentekoers **[soos omskryf in paragraaf 1 van die Sewende Bylae]** plus 100 basispunte oorskry nie; of".

Amendment of section 23N of Act 58 of 1962, as inserted by section 63 of Act 31 of 2013, amended by section 38 of Act 43 of 2014, section 40 of Act 25 of 2015 and section 42 of Act 15 of 2016

40. Section 23N of the Income Tax Act, 1962, is hereby amended—

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

''*(b)* the highest of the amounts determined by multiplying the percentage determined under subsection (4) by the adjusted taxable income of the acquiring company for each of the years of assessment—

(i) in which the acquisition transaction or reorganisation transaction is entered into;

(ii) in which the amount of interest is incurred by that acquiring company; or

(iii) immediately prior to the year of assessment contemplated in subparagraph (i),''; and

(b) by the substitution in subsection (5) for paragraph *(c)* of the following paragraph:

''*(c)* at the end of the previous year of assessment 80 per cent or more of the value of the assets of that acquiring company, reflected in the annual financial statements prepared in accordance with the Companies Act for the previous year of assessment, is directly or indirectly attributable to immovable property.''.

Amendment of section 23O of Act 58 of 1962, as inserted by section 39 of Act 43 of 2012 and amended by section 43 of Act 15 of 2016

41. Section 23O of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4) for paragraph *(a)* of the following paragraph:

''*(a)* the amount so received **[by]** or accrued **[to from a small business funding entity]** that is applied for that purpose; and''.

Amendment of section 24I of Act 58 of 1962, as inserted by section 21 of Act 113 of 1993 and amended by section 11 of Act 140 of 1993, section 18 of Act 21 of 1994, section 13 of Act 36 of 1996, section 18 of Act 28 of 1997, section 35 of Act 30 of 1998, section 26 of Act 53 of 1999, section 31 of Act 59 of 2000, section 36 of Act 60 of 2001, section 27 of Act 74 of 2002, section 42 of Act 45 of 2003, section 23 of Act 32 of 2004, section 33 of Act 31 of 2005, section 26 of Act 9 of 2006, section 19 of Act 20 of 2006, section 23 of Act 8 of 2007, section 40 of Act 35 of 2007, section 20 of Act 3 of 2008, section 38 of Act 17 of 2009, section 47 of Act 7 of 2010, section 52 of Act 24 of 2011, section 53 of Act 22 of 2012, section 68 of Act 31 of 2013, section 40 of Act 43 of 2014, section 44 of Act 25 of 2015 and section 44 of Act 15 of 2016

42. Section 24I of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the definition of ''affected contract'' of the following definition:

'' **'affected contract'** means any foreign currency option contract or forward exchange contract to the extent that the foreign currency option contract or forward exchange contract has been entered into by any person during any year of assessment to serve as a hedge in respect of a debt, where—

(a) that debt—

(i) is to be utilised by that person for the purposes of acquiring any asset or for financing any expenditure; or

(ii) will arise from the sale of any asset or supply of any services,

in terms of an agreement entered into by that person in the ordinary course of the person's trade prior to the end of the current year of assessment; and

(b) that debt has not yet been incurred by such person or the amount payable in respect of such debt has not yet accrued during that current year of assessment;''.

Wysiging van artikel 23N van Wet 58 van 1962, soos ingevoeg deur artikel 63 van Wet 31 van 2013, gewysig deur artikel 38 van Wet 43 van 2014, artikel 40 van Wet 25 van 2015 en artikel 42 van Wet 15 van 2016

40. Artikel 23N van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (3) paragraaf *(b)* deur die volgende paragraaf te vervang:

"*(b)* die hoogste van die bedrae bereken deur die persentasie bepaal kragtens subartikel (4) te vermenigvuldig met die aangepaste belasbare inkomste van die verkrygende maatskappy vir elk van die jare van aanslag—

(i) waarin die verkrygingstransaksie of reorganisasietransaksie aangegaan is;

(ii) waarin die bedrag van rente aangegaan is deur daardie verkrygende maatskappy; of

(iii) wat die jaar van aanslag beoog in subparagraaf (i) onmiddellik voorafgaan,"; en

(b) deur in die Engelse teks in subartikel (5) paragraaf *(c)* deur die volgende paragraaf te vervang:

"*(c)* at the end van die previous year of assessment 80 per cent or more van die value van die assets of that acquiring company, reflected in the annual financial statements prepared in accordance with the Companies Act for the previous year of assessment, is directly or indirectly attributable to immovable property.".

Wysiging van artikel 23O van Wet 58 van 1962, soos ingevoeg deur artikel 39 van Wet 43 van 2012 en gewysig deur artikel 43 van Wet 15 van 2016

41. Artikel 23O van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (4) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* die bedrag so ontvang **[deur]** of toegeval [**aan vanaf 'n kleinsake befondsingsentiteit**]; en".

Wysiging van artikel 24I van Wet 58 van 1962, soos ingevoeg deur artikel 21 van Wet 113 van 1993 en gewysig deur artikel 11 van Wet 140 van 1993, artikel 18 van Wet 21 van 1994, artikel 13 van Wet 36 van 1996, artikel 18 van Wet 28 van 1997, artikel 35 van Wet 30 van 1998, artikel 26 van Wet 53 van 1999, artikel 31 van Wet 59 van 2000, artikel 36 van Wet 60 van 2001, artikel 27 van Wet 74 van 2002, artikel 42 van Wet 45 van 2003, artikel 23 van Wet 32 van 2004, artikel 33 van Wet 31 van 2005, artikel 26 van Wet 9 van 2006, artikel 19 van Wet 20 van 2006, artikel 23 van Wet 8 van 2007, artikel 40 van Wet 35 van 2007, artikel 20 van Wet 3 van 2008, artikel 38 van Wet 17 van 2009, artikel 47 van Wet 7 van 2010, artikel 52 van Wet 24 van 2011, artikel 53 van Wet 22 van 2012, artikel 68 van Wet 31 van 2013, artikel 40 van Wet 43 van 2014, artikel 44 van Wet 25 van 2015 en artikel 44 van Wet 15 van 2016

42. Artikel 24I van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) die omskrywing van "geaffekteerde kontrak" deur die volgende omskrywing te vervang:

" **'geaffekteerde kontrak'** enige buitelandse valuta-opsiekontrak of valuta-termynkontrak tot die mate waartoe die buitelandse valuta-opsiekontrak of valuta-termynkontrak aangegaan is om as dekking te dien ten opsigte van 'n skuld, waar—

(a) daardie skuld—

(i) aangewend staan te word deur bedoelde persoon om 'n bate te verkry of om 'n enige uitgawes te finansier; of

(ii) sal ontstaan uit die verkoop van 'n bate of die lewering van enige dienste, ingevolge 'n ooreenkoms deur daardie persoon aangegaan in die gewone loop van die persoon se besigheid voor die einde van die huidige jaar van aanslag; en

(b) daardie skuld is nie aangegaan deur bedoelde persoon nie of die bedrag betaalbaar ten opsigte van bedoelde skuld het nog nie toegeval nie tydens daardie huidige jaar van aanslag;".

Amendment of section 24J of Act 58 of 1962, as inserted by section 21 of Act 21 of 1995 and amended by section 14 of Act 36 of 1996, section 19 of Act 28 of 1997, section 27 of Act 53 of 1999, section 24 of Act 32 of 2004, section 10 of Act 9 of 2005, section 20 of Act 20 of 2006, section 53 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 40 of Schedule 1 to that Act, section 54 of Act 22 of 2012, section 69 of Act 31 of 2013, section 41 of Act 43 of 2014 and section 45 of Act 15 of 2016

43. Section 24J of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the definition of ''alternative method'' of the following definition:

'' **'alternative method'** means a method of calculating interest in relation to any class of instruments which—

(a) **[conforms with generally accepted accounting practice]** is in accordance with IFRS;

(b) is consistently applied in respect of all such instruments **[(excluding any instrument as contemplated in subsection (9))]** for all financial reporting purposes; and

(c) method achieves a result in so far as the timing of the accrual and incurral of interest is concerned which **[does not differ significantly from]** produces substantially the same result achieved by the application of the provisions of subsections (2)*(a)* and (3)*(a)*;''.

Amendment of section 24JB of Act 58 of 1962, as inserted by section 56 of Act 22 of 2012, as substituted by section 71 of Act 31 of 2013 and amended by section 43 of Act 43 of 2014 and section 46 of Act 15 of 2016

44. (1) Section 24JB of the Income Tax Act, 1962, is hereby amended—

(a) by the addition in subsection (1) in paragraph *(d)* of the definition of ''covered person'' of the following subparagraph:

''(iv) any subsidiary, as defined in section 1 of the Companies Act, of a company contemplated in subparagraph (i) or (ii);'';

(b) by the substitution in subsection (1) for the definition of ''derivative'' of the following definition:

'' **'derivative'** means a derivative as defined in and within the scope of IFRS 9;'';

(c) by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:

''Subject to sections 8F, 8FA and subsection (4), there must be included in or deducted from the income, as the case may be, of any covered person for any year of assessment all amounts in respect of financial assets and financial liabilities of that covered person that are recognised in profit or loss in the statement of comprehensive income in respect of financial assets and financial liabilities of that covered person that are **[recognized]** measured at fair value in profit or loss in terms of **[International Accounting Standard 39 of]** IFRS 9 **[or any other standard that replaces that standard]** or, in the case of commodities, at fair value less cost to sell in profit or loss in terms of IFRS for that year of assessment, excluding any amount in respect of—'';

(d) by the substitution in subsection (2)*(a)* for the words following subparagraph (v) of the following words:

''if that financial asset does not constitute trading stock; or'';

(e) by the addition after subsection (2) of the following subsections:

''(2A) A covered person must include in or deduct from income for a year of assessment a realised gain or realised loss that is recognised in a statement of other comprehensive income as contemplated in IFRS if that realised gain or realised loss is attributable to a change in the credit risk of the financial liability as contemplated in IFRS.

(2B) Where a covered person has, during any year of assessment preceding the year of assessment commencing on or after 1 January 2018, included in or deducted from income any amount attributable to a

Wysiging van artikel 24J van Wet 58 van 1962, soos ingevoeg deur artikel 21 van Wet 21 van 1995 en gewysig deur artikel 14 van Wet 36 van 1996, artikel 19 van Wet 28 van 1997, artikel 27 van Wet 53 van 1999, artikel 24 van Wet 32 van 2004, artikel 10 van Wet 9 van 2005, artikel 20 van Wet 20 van 2006, artikel 53 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 40 van Bylae 1 by daardie Wet, artikel 54 van Wet 22 van 2012, artikel 69 van Wet 31 van 2013, artikel 41 van Wet 43 van 2014 en artikel 45 van Wet 15 van 2016

43. Artikel 24J van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) die omskrywing van ''alternatiewe metode'' deur die volgende omskrywing te vervang:

'' **'alternatiewe metode'** 'n metode om rente te bereken met betrekking tot 'n klas instrumente—

(a) **[wat aan algemeen aanvaarde rekeningkundige praktyk voldoen]** wat in ooreenstemming is met IFRS;

(b) wat konsekwent toegepas word ten opsigte van alle bedoelde instrumente **[(uitgesonderd enige instrument soos beoog in subartikel (9))]** vir alle finansiële verslagdoeningsdoeleindes; en

(c) welke metode die uitwerking het vir sover dit die tydsberekening van die toevalling of aangaan van rente betref wat **[nie noemenswaardig verskil nie van die]** wesenlik dieselfde uitwerking het as wat die toepassing van subartikels (2)*(a)* en (3)*(a)* het;''.

Wysiging van artikel 24JB van Wet 58 van 1962, soos ingevoeg deur artikel 56 van Wet 22 van 2012, vervang deur artikel 71 van Wet 31 van 2013 en gewysig deur artikel 43 van Wet 43 van 2014 en artikel 46 van Wet 15 van 2016

44. (1) Artikel 24JB van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) in paragraaf *(d)* van die omskrywing van ''gedekte persoon'' na subparagraaf (iii) die volgende subparagraaf by te voeg:

''(iv) enige filiaal, soos omskryf in artikel 1 van die Maatskappywet, van 'n maatskappy beoog in subparagraaf (i) of (ii);'';

(b) deur in subartikel (1) die omskrywing van ''afgeleide instrument'' deur die volgende omskrywing te vervang:

'' **'afgeleide instrument'** 'n 'derivative' soos omskryf in en binne die omvang van of IFRS 9;'';

(c) deur in subartikel (2) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

''Behoudens artikels 8F, 8FA en subartikel (4) word daar ingesluit by of afgetrek van die inkomste, na gelang van die geval, van enige gedekte persoon vir enige jaar van aanslag alle bedrae ten opsigte van finansiële bates en finansiële laste van daardie gedekte persoon wat erken word in wins of verlies in die staat van volledige inkomste ten opsigte van finansiële bates en finansiële laste van daardie gedekte persoon wat teen billike waarde in wins of verlies ingevolge **['International Accounting Standard 39' van]** IFRS 9 **[of enige ander standaard wat daardie standaard vervang]** of, in die geval van kommoditeite, teen billike waarde minus koste om te verkoop in wins of verlies ingevolge IFRS vir daardie jaar van aanslag **[erken]** gemeet word, uitsluitend enige bedrag ten opsigte van—'';

(d) deur in subartikel (2)*(a)* die woorde wat op subparagraaf (v) volg deur die volgende woorde te vervang:

''indien daardie finansiële bate nie handelsvoorraad uitmaak nie; of'';

(e) deur na subartikel (2) die volgende subartikel by te voeg:

''(2A) 'n Gedekte persoon moet van inkomste aftrek of insluit vir 'n jaar van aanslag 'n gerealiseerde wins of gerealiseerde verlies wat erken is in 'n staat van ander omvattende inkomste soos beoog in IFRS indien daardie gerealiseerde wins of gerealiseerde verlies toeskryfbaar is aan 'n verandering in die in krediet risiko van die finansiële las soos beoog in IFRS.

(2B) Waar 'n gedekte persoon, tydens enige jaar van aanslag wat die jaar van aanslag voorafgaan wat begin op of na 1 Januarie 2018, enige bedrag ingesluit het of afgetrek het van inkomste wat toeskryfbaar is aan

change in the credit risk of a financial liability issued by that covered person measured at fair value through profit or loss in terms of subsection (2), such covered person must include in or deduct from income, as the case may be, any amount in respect of a change in credit risk of that financial liability recognised in other comprehensive income during any year of assessment commencing on or after 1 January 2018.''; and

(f) by the addition of the following subsection:

''(9) Where a financial asset held by or financial liability owed by a covered person at the end of the year of assessment immediately preceding the year of assessment commencing on or after 1 January 2018 would have ceased to be subject to tax or would have become subject to tax in terms of subsection (2), had IFRS 9 applied on the last day of that immediately preceding year of assessment, that covered person is deemed to have—

(a) disposed of that financial asset or redeemed that financial liability; and

(b) immediately reacquired that financial asset or incurred that financial liability,

for an amount equal to the market value of that financial asset or financial liability on that day.''.

(2) Subsection (1) comes into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 25BB of Act 58 of 1962, as inserted by section 59 of Act 22 of 2012, substituted by section 74 of Act 31 of 2013 and amended by section 45 of Act 43 of 2014, section 50 of Act 25 of 2015 and section 48 of Act 15 of 2016

45. Section 25BB of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) in the definition of ''qualifying distribution'' for the words preceding paragraph *(a)* of the following words:

'' **'qualifying distribution'**, in respect of a year of assessment of a company that is a REIT or a controlled company as at the end of a year of assessment, means any dividend (other than a dividend contemplated in paragraph *(b)* of the definition of 'dividend') paid or payable, or interest incurred in respect of a debenture forming part of a linked unit in that company, if the amount thereof is determined with reference to the financial results of that company as reflected in the financial statements prepared for that year of assessment if—''; and

(b) by the substitution in subsection (7) for paragraphs *(a)* and *(b)* of the following paragraphs, respectively:

''*(a)* that year of assessment of that REIT or controlled company is deemed to end on the day preceding the date on which that company ceases to be either a REIT or a controlled company; and

(b) the following year of assessment of that company is deemed to commence on the day on which that company ceased to be either a REIT or a controlled company.''.

Amendment of section 29A of Act 58 of 1962, as inserted by section 30 of Act 53 of 1999 and amended by section 36 of Act 59 of 2000, section 15 of Act 5 of 2001, section 15 of Act 19 of 2001, section 39 of Act 60 of 2001, section 30 of Act 74 of 2002, section 16 of Act 16 of 2004, section 23 of Act 20 of 2006, section 21 of Act 3 of 2008, section 52 of Act 7 of 2010, section 62 of Act 22 of 2012, section 77 of Act 31 of 2013, section 47 of Act 43 of 2014, section 53 of Act 25 of 2015 and section 50 of Act 15 of 2016

46. (1) Section 29A of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) for the definition of ''adjusted IFRS value'' of the following definition:

die verandering in die kredietrisiko van die finansiële las uitgereik deur daardie gedekte persoon gemeet teen billike waarde in wins of verlies kragtens subartikel (2), moet bedoelde gedekte persoon in inkomste insluit of van inkomste aftrek, na gelang van die geval, enige bedrag ten opsigte van 'n verandering in kredietrisiko van daardie finansiële verlies erken in ander omvattende inkomste tydens enige jaar van aanslag wat begin op of na 1 Januarie 2018.''; en

(f) deur na subartikel (8) die volgende subartikel by te voeg:

''(9) Waar 'n finansiële bate gehou deur of 'n finansiële las verskuldig is deur 'n gedekte persoon aan die einde van die jaar van aanslag wat die jaar van aanslag wat begin op na 1 Januarie 2018 voorafgaan sou ophou om onderworpe te wees aan belasting of onderworpe sou word aan belasting kragtens subartikel (2), sou IFRS 9 op die laaste dag van daardie onmiddellik voorafgaande jaar van aanslag, word daardie gedekte persoon geag—

(a) oor daardie finansiële bate te beskik het of daardie finansiële las af te gelos het; en

(b) onmiddellik daardie finansiële bate herverkry het of daardie finansiële las aan te gegaan het,

vir 'n bedrag gelykstaande aan die markwaarde van daardie finansiële bate of daardie finansiële las op daardie dag.''.

(2) Subartikel (1) tree op 1 Januarie 2018 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 25BB van Wet 58 van 1962, soos ingevoeg deur artikel 59 van Wet 22 van 2012, vervang deur artikel 74 van Wet 31 van 2013 en gewysig deur artikel 45 van Wet 43 van 2014, artikel 50 van Wet 25 van 2015 en artikel 48 van Wet 15 van 2016

45. Artikel 25BB van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) in die omskrywing van ''kwalifiserende uitkering'' die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

'' **'kwalifiserende uitkering'**, ten opsigte van 'n jaar van aanslag van 'n maatskappy wat 'n EIT of 'n beheerde maatskappy is aan die einde van 'n jaar van aanslag, enige dividend (buiten 'n dividend beoog in paragraaf *(b)* van die omskrywing van 'dividend') betaal of betaalbaar, of rente aangegaan ten opsigte van 'n obligasie wat deel uitmaak van 'n gekoppelde eenheid in daardie maatskappy, indien die bedrag daarvan bepaal word met verwysing na die finansiële uitslae van daardie maatskappy soos weergegee in die finansiële state voorberei vir daardie jaar van aanslag indien—''; en

(b) deur in subartikel (7) paragrawe *(a)* en *(b)* deur die volgende paragraaf te vervang:

''*(a)* daardie jaar van aanslag van daardie EIT of beheerde maatskappy word geag om te eindig op die dag wat die datum voorafgaan waarop daardie maatskappy ophou om of 'n EIT of 'n beheerde maatskappy te wees; en

(b) die volgende jaar van aanslag van daardie EIT of beheerde maatskappy word geag om te begin op die dag waarop daardie maatskappy ophou om of 'n EIT of 'n beheerde maatskappy te wees.''.

Wysiging van artikel 29A van Wet 58 van 1962, soos ingevoeg deur artikel 30 van Wet 53 van 1999 en gewysig deur artikel 36 van Wet 59 van 2000, artikel 15 van Wet 5 van 2001, artikel 15 van Wet 19 van 2001, artikel 39 van Wet 60 van 2001, artikel 30 van Wet 74 van 2002, artikel 16 van Wet 16 van 2004, artikel 23 van Wet 20 van 2006, artikel 21 van Wet 3 van 2008, artikel 52 van Wet 7 van 2010, artikel 62 van Wet 22 van 2012, artikel 77 van Wet 31 van 2013, artikel 47 van Wet 43 van 2014, artikel 53 van Wet 25 van 2015 en artikel 50 van Wet 15 van 2016

46. (1) Artikel 29A van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die omskrywing van ''aangepaste IFRS-waarde'' deur die volgende omskrywing te vervang:

" **'adjusted IFRS value'**, in respect of a policyholder fund or the risk policy fund, means an amount, which may not be less than zero, and which must be calculated in accordance with the formula—

$$I = (L + DL + PF) - PT - DC + DR$$

in which formula—

(a) 'I' represents the amount to be determined;

(b) 'L' represents the amount of the liabilities in respect of policies of the insurer, net of amounts recognised as—

(i) recoverable under policies of reinsurance; and

(ii) negative liabilities,

the amounts of which are determined in accordance with IFRS as annually reported by the insurer to shareholders in the audited annual financial statements in respect of policies allocated to that fund;

(c) 'DL' represents for a policyholder fund the amount of deferred tax liabilities, determined in accordance with IFRS as annually reported by the insurer to shareholders in the audited annual financial statements, in respect of assets allocated to that policyholder fund;

(d) 'PF' represents the amount calculated in terms of subsection (14) if a phasing-in amount is determined in terms of subsection (15)*(a)*;

(e) 'PT' represents the amount calculated in terms of subsection (14) if a phasing-in amount is determined in terms of subsection (15)*(b)*;

(f) 'DC' represents for a policyholder fund the amount of deferred acquisition costs determined in accordance with IFRS as annually reported by the insurer to shareholders in the audited financial statements; and

(g) 'DR' represents for a policyholder fund the amount of deferred revenue determined in accordance with IFRS as annually reported by the insurer to shareholders in the audited financial statements;'';

(b) by the substitution in subsection (1) for the definition of ''negative liability'' of the following definition:

" **'negative liability'**, in respect of a long-term policy, means the amount by which the expected present value of future premiums exceeds the expected present value of future benefits to policyholders and expenses;'';

(c) by the substitution in subsection (11) for paragraph *(b*A) of the following paragraph:

''*(b*A) a deduction is allowed in determining the taxable income of the risk policy fund of an amount equal to the **[amount of the transfer from the risk policy fund to the corporate fund in respect of that year of assessment, but not exceeding the taxable income of the risk policy fund before deducting an amount in terms of this paragraph]** taxable income before allowing a deduction under this paragraph: Provided that the risk policy fund is deemed not to have incurred any assessed loss during the year of assessment;'';

(d) by the substitution in subsection (13A) for paragraph *(a)* of the following paragraph:

''*(a)* Notwithstanding section 23*(e)*, in the determination of the taxable income derived by an insurer in respect of its risk policy fund in respect of any year of assessment, there shall be allowed as a deduction from the income of the risk policy fund an amount equal to the **[adjusted IFRS]** value of liabilities for the year of assessment in respect of risk policies.'';

(e) by the substitution for subsection (15) of the following subsection:

''(15) For the purposes of subsection (14) **'phasing-in amount'** in relation to a policyholder fund or the risk policy fund, means—

(a) if the amount of negative liabilities that has been recognised in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements relating to policies allocated to that fund, reduced by negative liabilities recognised as an asset

" **'aangepaste IFRS-waarde'** ten opsigte van 'n polishouerfonds of die risikopolisfonds, 'n bedrag wat nie minder as nul mag wees nie, wat nie minder as nul mag wees nie, en wat bereken moet word ooreenkomstig die formule—

$$I = (L + DL + PF) - PT - DC + DR$$

in welke formule—

(a) 'I' die bedrag bepaal te word verteenwoordig;

(b) 'L' verteenwoordig die bedrag ten opsigte die laste van die versekeraar, netto van bedrae—

(i) verhaalbaar kragtens herversekeringspolisse; en

(ii) negatiewe laste,

waarvan die bedrae bepaal word ingevolge IFRS soos jaarliks deur die versekeraar in die geouditeerde finansiële jaarstate aan aandeelhouers gerapporteer ten opsigte van polisse toegeken aan daardie fonds;

(c) 'DL' verteenwoordig vir 'n polishouerfonds die bedrag van uitgestelde belastingverpligtinge, bepaal ooreenkomstig IFRS soos jaarliks deur die versekeraar in die geouditeerde finansiële jaarstate aan aandeelhouers gerapporteer ten opsigte van bates toegeken aan daardie polishouerfonds;

(d) 'PF' verteenwoordig die bedrag bereken kragtens subartikel (14) indien 'n infaseringsbedrag bepaal is kragtens subartikel (15)*(a)*;

(e) 'PT' verteenwoordig die bedrag bereken kragtens subartikel (14) indien 'n infaseringsbedrag bepaal is kragtens subartikel (15)*(b)*; en

(f) 'DC' verteenwoordig vir 'n polishouerfonds die bedrag van uitgestelde verkrygingskoste bepaal ingevolge IFRS soos jaarliks deur die versekeraar in die geouditeerde finansiële jaarstate aan aandeelhouers gerapporteer;

(g) 'DR' verteenwoordig vir 'n polishouerfonds die bedrag van of uitgestelde inkomste bepaal ingevolge IFRS soos jaarliks deur die versekeraar in die geouditeerde finansiële jaarstate aan aandeelhouers gerapporteer.";

(b) deur in subartikel (1) die omskrywing van ''negatiewe verpligting'' deur die volgende omskrywing te vervang:

" **'negatiewe verpligting'**, ten opsigte van 'n langtermynpolis, die bedrag waardeur die verwagte huidige waarde van toekomstige premies die verwagte huidige waarde van toekomstige voordele aan polishouers en uitgawes oorskry;";

(c) deur in subartikel (11) paragraaf *(b*A*)* deur die volgende paragraaf te vervang:

"*(b*A*)* 'n aftrekking word toegelaat in die bepaling van die belasbare inkomste van die risikopolisfonds van 'n bedrag gelykstaande aan die **[bedrag van die oordrag vanaf die risikopolisfonds na die korporatiewe fonds ten opsigte van daardie jaar van aanslag, maar wat nie die belasbare inkomste van die risikopolisfonds te bowe gaan nie voor 'n bedrag ingevolge hierdie paragraaf afgetrek word]** belasbare inkomste voor 'n aftrekking kragtens hierdie subparagraaf toegelaat word: Met dien verstande dat die risikopolisfonds geag word nie tydens die jaar van aanslag enige vasgestelde verlies aan te gegaan het nie;";

(d) deur in subartikel (13A) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* Ondanks artikel 23*(e)*, by die vasstelling van die belasbare inkomste verkry deur enige versekeraar ten opsigte van sy risikopolisfonds ten opsigte van enige jaar van aanslag word daar as 'n aftrekking teen die inkomste van die risikopolisfonds toegelaat 'n bedrag gelykstaande aan die **[aangepaste IFRS-waarde]** waarde van verpligtinge vir die jaar van aanslag ten opsigte van risikopolisse **[in die daaropvolgende jaar van aanslag]**.";

(e) deur subartikel (15) deur die volgende subartikel te vervang:

"(15) By die toepassing van subartikel (14) beteken **'infaseringsbedrag'** met betrekking tot 'n polishouerfonds of die risikopolisfonds—

(a) indien die bedrag van negatiewe verpligtinge wat erken is ooreenkomstig IFRS soos deur die versekeraar in die geouditeerde jaarlikse finansiële state aan aandeelhouers gerapporteer met

(adjusted to the manner in which negative liabilities were taken into account for purposes of determining assets and liabilities as recognised in the audited annual financial statements for 2015), exceeds the amount of negative liabilities that has been recognised in determining the value of liabilities (adjusted to the manner of recognition of policy liabilities for tax purposes for 2015 years of assessment) relating to policies allocated to that fund in respect of the year of assessment of the insurer ending during 2017, the amount of that excess; or

(b) if the amount of negative liabilities that has been recognised in determining the value of liabilities (adjusted to the manner in which negative liabilities were taken into account for purposes of determining assets and liabilities as recognised for tax purposes for 2015 years of assessment) relating to policies allocated to that fund exceeds the amount of negative liabilities that has been recognised in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements relating to policies allocated to that fund in respect of the year of assessment of the insurer ending during 2017, reduced by negative liabilities recognised as an asset (adjusted to the manner of recognition of policy liabilities and assets in the audited annual financial statements for 2015), the amount of that excess:

Provided that the reduction of negative liabilities recognised as an asset must only apply where the positive liabilities reduced by the negative liabilities result in a net asset which is disclosed for financial reporting purposes.''; and

(f) by the deletion in subsection (16) after paragraph *(c)* of the word ''or'', the substitution after paragraph *(d)* for the comma of the expression ''; or'' and the addition of the following paragraph:

''*(e)* any amount of deferred acquisition costs determined in accordance with IFRS as annually reported by the insurer to shareholders in the audited financial statements,''.

(2) Paragraphs *(a)*, *(b)*, *(e)* and *(f)* of subsection (1) come into operation on the date on which the Insurance Act, 2016, comes into operation and apply in respect of years of assessment ending on or after that date.

(3) Paragraph *(c)* of subsection (1) comes into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

(4) Paragraph *(d)* of subsection (1) is deemed to have come into operation on 1 January 2016 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 35A of Act 58 of 1962, as inserted by section 30 of Act 32 of 2004 and amended by section 5 of Act 32 of 2005, section 59 of Act 24 of 2011, section 271 of Act 28 of 2011 read with paragraph 43 of Schedule 1 to that Act, section 2 of Act 23 of 2015 and section 2 of Act 16 of 2016

47. Section 35A of the Income Tax Act, 1962, is hereby amended—

(a) by the deletion in subsection (1) of the word ''and'' at the end of paragraph paragraph *(b)*, the insertion of the word ''and'' at the end of paragraph *(c)* and the addition of the following paragraph:

''*(d)* a percentage of the amount so payable as the Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, with effect from a date mentioned in that Announcement.''; and

(b) by the insertion after subsection (1) of the following subsection:

''(1A) If the Minister makes an announcement contemplated in subsection (1)*(d)*, that rate comes into effect on the date determined by the Minister in that announcement and continues to apply for a period of 12 months from that date subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.''.

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betrekking tot polisse toegeken aan daardie polishouerfonds, verminder deur negatiewe verpligtinge erken as 'n bate (aangepas tot die wyse van blootlegging van polisbates en -laste in die geouditeerde jaarlikse finansiële state vir 2015), die bedrag van negatiewe verpligtinge oorskry wat erken is in die berekening van die waarde van verpligtinge (aangepas tot die wyse van blootlegging van polislaste vir belastingdoeleindes vir 2015 jare van aanslag) met betrekking tot polisse toegeken aan daardie fonds ten opsigte van die jaar van aanslag van die versekeraar wat eindig tydens 2017, die bedrag van daardie oorskot; of

(b) indien die bedrag van negatiewe verpligtinge wat erken is in die berekening van waarde van verpligtinge (aangepas tot die wyse van blootlegging van polislaste vir belastingdoeleindes vir 2015 jare van aanslag) met betrekking tot polisse toegeken aan daardie fonds die bedrag van negatiewe verpligtinge oorskry wat toegeken is aan daardie fonds wat erken is ingevolge IFRS soos jaarliks deur die versekeraar in die geouditeerde jaarlikse finansiële state aan aandeelhouers gerapporteer met betrekking tot polisse toegeken aan daardie fonds ten opsigte van die jaar van aanslag van die versekeraar wat eindig tydens 2017, verminder deur negatiewe verpligtinge erken as 'n bate (aangepas tot die wyse van blootlegging van polisbates en -laste in die geouditeerde jaarlikse finansiële state vir 2015), die bedrag van daardie oorskot:

Met dien verstande dat die vermindering van negatiewe verpligtinge erken as 'n bate slegs van toepassing is waar die positiewe verpligtinge verminder deur die negatiewe verpligtinge die gevolg het van 'n netto bate wat blootgelê word vir doeleindes van finansiële verslagdoening.''; en

(f) deur in subartikel (16) na paragraaf *(c)* die woord ''of'' te skrap, na paragraaf *(d)* die komma deur die uitdrukking ''; of'' te vervang, en deur die volgende paragraaf by te voeg:

''*(e)* enige bedrag van uitgestelde verkrygingskoste bepaal ingevolge IFRS soos jaarliks gerapporteer aan die aandeelhouers in die geouditeerde finansiële jaarstate''.

(2) Paragrawe *(a)*, *(b)*, *(e)* en *(f)* van subartikel (1) tree in werking op die datum waarop die Versekeringswet, 2017, in werking tree en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum eindig.

(3) Paragraaf *(c)* van subartikel (1) tree op 1 Januarie 2018 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(4) Paragraaf *(d)* van subartikel (1) word geag op 1 Januarie 2016 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 35A van Wet 58 van 1962, soos ingevoeg deur artikel 30 van Wet 32 van 2004 en gewysig deur artikel 5 van Wet 32 van 2005, artikel 59 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011 gelees met paragraaf 43 van Bylae 1 by daardie Wet, artikel 2 van Wet 23 van 2015 en artikel 2 van Wet 16 van 2016

47. Artikel 35A van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die woord ''en'' na paragraaf *(b)* te skrap, die woord ''en'' na paragraaf *(c)* in te voeg en die volgende paragraaf by te voeg:

''*(d)* 'n persentasie van die bedrag aldus betaalbaar wat die Minister in die nasionale jaarlikse begroting beoog in artikel 27(1) van die Wet op Openbare Finansiële Bestuur kan aankondig met ingang van 'n datum vermeld in daardie aankondiging.''; en

(b) deur na subartikel (1) die volgende subartikel in te voeg:

''(1A) Indien die Minister 'n aankondiging beoog in subartikel (1)*(d)* maak, word daardie koers van krag op die datum deur die Minister in daardie aankondiging bepaal en bly van toepassing vir 'n tydperk van 12 maande vanaf daardie datum, onderworpe daaraan dat die Parlement binne daardie tydperk van 12 maande wetgewing deurvoer om aan daardie aankondiging gevolg te gee.''.

Amendment of section 36 of Act 58 of 1962, as amended by section 12 of Act 72 of 1963, section 15 of Act 90 of 1964, section 20 of Act 88 of 1965, section 23 of Act 55 of 1966, section 16 of Act 95 of 1967, section 14 of Act 76 of 1968, section 26 of Act 89 of 1969, section 21 of Act 65 of 1973, section 28 of Act 85 of 1974, section 20 of Act 104 of 1980, section 25 of Act 94 of 1983, section 16 of Act 96 of 1985, section 14 of Act 70 of 1989, section 26 of Act 101 of 1990, section 30 of Act 129 of 1991, section 24 of Act 141 of 1992, section 29 of Act 113 of 1993, section 17 of Act 36 of 1996, section 41 of Act 60 of 2001, section 31 of Act 32 of 2004, section 26 of Act 20 of 2006, section 46 of Act 35 of 2007, section 23 of Act 3 of 2008, section 44 of Act 60 of 2008, section 43 of Act 17 of 2009, section 57 of Act 7 of 2010, section 60 of Act 24 of 2011, section 83 of Act 31 of 2013, section 51 of Act 43 of 2014 and section 52 of Act 15 of 2016

48. (1) Section 36 of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (7E) of the following subsection:

"(7EA) Subject to paragraph 12A(6)*(a)* to *(d)* and *(f)* of the Eighth Schedule, where a debt benefit, as defined in section 19, arises in respect of a debt that is owed by a person and that debt was used directly or indirectly to fund any amount of capital expenditure incurred, the debt benefit in respect of that debt must be applied to reduce any amount of capital expenditure incurred in the year of assessment that the debt benefit arises: Provided that any amount of the debt benefit that exceeds the capital expenditure incurred in the year of assessment that the debt benefit arises, must be treated as an amount received by or accrued to that person carrying on mining operations during that year of assessment in respect of a disposal of assets the cost of which has been included in capital expenditure incurred in respect of the mine to which that capital expenditure relates.".

(2) Subsection (1) comes into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 37A of Act 58 of 1962, as inserted by section 27 of Act 20 of 2006 and amended by section 28 of Act 8 of 2007, section 47 of Act 35 of 2007 and section 84 of Act 31 of 2013

49. Section 37A of the Income Tax Act, 1962, is hereby amended by the substitution for subsections (6), (7) and (8) of the following subsections:

"(6) If a company or trust holds a financial instrument or investment during any year of assessment—

(a) other than a financial instrument contemplated in subsection (2); or

(b) other than an investment contemplated in subsection (2)*(d)*,

an amount equal to 50 per cent of the highest market value of that other financial instrument or other investment during that year of assessment must be deemed to be an amount of normal tax payable by the person contemplated in subsection (1)*(d)*, subject to subsection (8), to the extent that the financial instrument or investment is directly or indirectly derived from any amount in cash paid by that person to that company or that trust.

(7) If a company or trust contemplated in subsection (1) during any year of assessment—

(a) distributes property from that company or trust for a purpose other than—

(i) rehabilitation upon premature closure;

(ii) decommissioning and final closure;

(iii) post closure coverage of any latent or residual environmental impacts; or

(iv) transfer to another company, trust, or account established for the purposes contemplated in subsection (1)*(a)*; or

(b) uses property from that company or trust as security for any debt for a purpose other than a purpose contemplated in paragraph *(a)*(i) or (ii),

an amount equal to 50 per cent of the highest market value during that year of assessment of the property so distributed or used as security must be deemed to be an amount of normal tax payable by the person contemplated in subsection (1)*(d)*, subject to subsection (8), in respect of that year of assessment.

Wysiging van artikel 36 van Wet 58 van 1962, soos gewysig deur artikel 12 van Wet 72 van 1963, artikel 15 van Wet 90 van 1964, artikel 20 van Wet 88 van 1965, artikel 23 van Wet 55 van 1966, artikel 16 van Wet 95 van 1967, artikel 14 van Wet 76 van 1968, artikel 26 van Wet 89 van 1969, artikel 21 van Wet 65 van 1973, artikel 28 van Wet 85 van 1974, artikel 20 van Wet 104 van 1980, artikel 25 van Wet 94 van 1983, artikel 16 van Wet 96 van 1985, artikel 14 van Wet 70 van 1989, artikel 26 van Wet 101 van 1990, artikel 30 van Wet 129 van 1991, artikel 24 van Wet 141 van 1992, artikel 29 van Wet 113 van 1993, artikel 17 van Wet 36 van 1996, artikel 41 van Wet 60 van 2001, artikel 31 van Wet 32 van 2004, artikel 26 van Wet 20 van 2006, artikel 46 van Wet 35 van 2007, artikel 23 van Wet 3 van 2008, artikel 44 van Wet 60 van 2008, artikel 43 van Wet 17 van 2009, artikel 57 van Wet 7 van 2010, artikel 60 van Wet 24 van 2011, artikel 83 van Wet 31 van 2013, artikel 51 van Wet 43 van 2014 en artikel 52 van Wet 15 van 2016

48. (1) Artikel 36 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel na subartikel (7E) in te voeg:

"(7EA) Behoudens paragraaf 12A(6)*(a)* tot *(d)* en *(f)* van die Agtste Bylae, waar 'n skuldvoordeel, soos omskryf in artikel 19, ontstaan ten opsigte van 'n skuld verskuldig deur 'n persoon en daardie skuld direk of indirek gebruik is om enige bedrag van kapitale uitgawes aangegaan te befonds, word die skuldvoordeel ten opsigte van daardie skuld toegepas om enige bedrag van kapitale uitgawes te verminder aangegaan in die jaar van aanslag waarin die skuldvoordeel ontstaan: Met dien verstande dat enige bedrag van die skuldvoordeel wat die kapitale uitgawes oorskry aangegaan in die jaar van aanslag waarin die skuldvoordeel ontstaan, behandel moet word as 'n bedrag ontvang of toegeval aan daardie persoon wat mynbou beoefen het tydens daardie jaar van aanslag ten opsigte van 'n beskikking van bates waarvan die koste ingesluit is in kapitale uitgawes aangegaan ten opsigte van die myn waarop daardie kapitale uitgawes betrekking het.".

(2) Subartikel (1) tree op 1 Januarie 2018 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 37A van Wet 58 van 1962, soos ingevoeg deur artikel 27 van Wet 20 van 2006 en gewysig deur artikel 28 van Wet 8 van 2007, artikel 47 van Wet 35 van 2007 en artikel 84 van Wet 31 van 2013

49. Artikel 37A van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikels (6), (7) en (8) deur die volgende subartikels te vervang:

"(6) Indien 'n maatskappy of trust 'n finansiële instrument of belegging hou gedurende enige jaar van aanslag—

(a) buiten 'n finansiële instrument beoog in subartikel (2); of
(b) buiten 'n belegging beoog in subartikel (2)*(d)*,

word 'n bedrag gelykstaande aan 50 persent van die hoogste markwaarde van daardie ander finansiële instrument of ander belegging gedurende daardie jaar van aanslag geag 'n bedrag normale belasting te wees betaalbaar deur die persoon beoog in subartikel (1)*(d)*, behoudens subartikel (8), tot die mate wat die finansiële instrument of belegging direk of indirek verkry is van enige bedrag in kontant betaal deur daardie persoon, daardie maatskappy of daardie trust.

(7) Indien 'n maatskappy of trust beoog in subartikel (1) tydens enige jaar van aanslag—

(a) eiendom van daardie maatskappy of trust uitkeer vir 'n doel buiten—
  (i) rehabilitasie by vroeë sluiting;
  (ii) buitediensstelling en finale sluiting;
  (iii) nasluitingsdekking van enige latente of oorblywende omgewingsinvloede; of
  (iv) oorplasing na 'n ander maatskappy, trust of rekening daargestel vir die doeleindes in subartikel (1)*(a)* beoog; of
(b) eiendom van daardie maatskappy of trust gebruik as sekuriteit vir enige skuld vir 'n doel buiten 'n doel beoog in paragrawe *(a)*(i) of (ii),

word 'n bedrag gelykstaande aan 50 persent van die hoogste markwaarde gedurende daardie jaar van aanslag van die eiendom aldus uitgekeer of gebruik as sekuriteit geag om 'n bedrag normale belasting betaalbaar te wees deur die persoon beoog in subartikel (1)*(d)*, behoudens subartikel (8), ten opsigte van daardie jaar van aanslag.

(8) Any amount deemed to be an amount of normal tax payable by the person contemplated in subsection (1)*(d)* in terms of subsection (6) or (7) must, to the extent that the amount cannot be recovered from that person, be recovered from the trust or company contemplated in this section.

(9) Subsection (7) does not apply in respect of any amount deemed to be an amount of normal tax that is paid to the Commissioner by a company or trust contemplated in this section.

(10) A company or trust contemplated in this section must—

(a) within three months after the end of any year of assessment submit a report to the Director-General of the National Treasury in respect of that year of assessment providing the Director-General of the National Treasury with information comprising—
  (i) the total amount of contributions to the company or the trust;
  (ii) the total amount of withdrawals from the company or the trust; and
  (iii) the purposes for which any amount of those withdrawals were applied; and

(b) within seven days after receiving a request from the Director-General of the National Treasury provide such information as the Director-General may require.''.

Amendment of section 41 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 49 of Act 45 of 2003, section 32 of Act 32 of 2004, section 37 of Act 31 of 2005, section 28 of Act 20 of 2006, sections 32 and 103 of Act 8 of 2007, section 52 of Act 35 of 2007, section 25 of Act 3 of 2008, section 48 of Act 60 of 2008, section 47 of Act 17 of 2009, section 61 of Act 7 of 2010, section 67 of Act 24 of 2011, section 73 of Act 22 of 2012, section 90 of Act 31 of 2013, section 54 of Act 43 of 2014, section 61 of Act 25 of 2015 and section 54 of Act 15 of 2016

50. Section 41 of the Income Tax Act, 1962, is hereby amended—

(a) by the insertion in subsection (1) after the definition of ''date of acquisition'' of the following definition:

'' **'debt'** includes any contingent liability;'';

(b) by the substitution for subsection (2) of the following subsection:

''(2) The provisions of this Part must, subject to subsection (3), apply in respect of an asset-for-share transaction, a substitutive share-for-share transaction, an amalgamation transaction, an intra-group transaction, an unbundling transaction and a liquidation distribution as contemplated in sections 42, 43, 44, 45, 46 and 47, respectively, notwithstanding any provision to the contrary contained in the Act, other than sections 22B, 24BA and 103, Part IIA of Chapter III and **[paragraph]** paragraphs 11(1)*(g)* and 43A of the Eighth Schedule.''; and

(c) by the addition after subsection (9) of the following subsection:

''(10) For the purposes of this Part, a contingent liability is deemed to be a debt actually incurred.''.

Amendment of section 42 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 50 of Act 45 of 2003, section 33 of Act 32 of 2004, section 38 of Act 31 of 2005, section 29 of Act 20 of 2006, section 33 of Act 8 of 2007, section 53 of Act 35 of 2007, section 26 of Act 3 of 2008, section 49 of Act 60 of 2008, section 48 of Act 17 of 2009, section 62 of Act 7 of 2010, section 68 of Act 24 of 2011, section 74 of Act 22 of 2012, section 91 of Act 31 of 2013, section 55 of Act 43 of 2014 and section 62 of Act 25 of 2015

51. (1) Section 42 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (2)*(a)*(ii) for the words preceding item *(aa)* of the following words:

''acquired the equity shares in that company on the date that such person acquired that asset (other than for purposes of determining whether that **[share is a 'qualifying share' as defined in]** asset had been held for at

(8) Enige bedrag geag om ’n bedrag normale belasting te wees betaalbaar deur die persoon beoog in subartikel (1)*(d)* kragtens subartikels (6) of (7) word, tot die mate wat die bedrag nie van daardie persoon verhaal kan word nie, van die maatskappy of trust beoog in hierdie artikel verhaal.

(9) Subartikel (7) is nie van toepassing nie ten opsigte van enige bedrag geag om ’n bedrag normale belasting te wees wat aan die Kommissaris betaal is deur ’n maatskappy of trust in hierdie artikel beoog.

(10) ’n Maatskappy of trust in hierdie artikel beoog, moet—

(a) binne drie maande na die einde van enige jaar van aanslag ’n verslag aan die Direkteur-generaal van die Nasionale Tesourie voorlê ten opsigte van daardie jaar van aanslag wat die Direkteur-generaal van die Nasionale Tesourie met inligting voorsien, bevattende—
  - (i) die totale bedrag van bydraes aan die maatskappy of die trust;
  - (ii) die totale bedrag van onttrekkings van die maatskappy of die trust; en
  - (iii) die doel waarvoor enige bedrag van daardie onttrekkings aangewend is; en

(b) binne sewe dae na ontvangs van ’n versoek van die Direkteur-generaal van die Nasionale Tesourie die inligting voorsien wat die Direkteur-generaal vereis.’’.

Wysiging van artikel 41 van Wet 58 van 1962, soos vervang deur artikel 34 van Wet 74 van 2002 en gewysig deur artikel 49 van Wet 45 van 2003, artikel 32 van Wet 32 van 2004, artikel 37 van Wet 31 van 2005, artikel 28 van Wet 20 van 2006, artikels 32 en 103 van Wet 8 van 2007, artikel 52 van Wet 35 van 2007, artikel 25 van Wet 3 van 2008, artikel 48 van Wet 60 van 2008, artikel 47 van Wet 17 van 2009, artikel 61 van Wet 7 van 2010, artikel 67 van Wet 24 van 2011, artikel 73 van Wet 22 van 2012, artikel 90 van Wet 31 van 2013, artikel 54 van Wet 43 van 2014, artikel 61 van Wet 25 van 2015 en artikel 54 van Wet 15 van 2016

50. Artikel 41 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) na die omskrywing van ‘‘ongenoteerde maatskappy’’ die volgende omskrywing in te voeg:

‘‘ **‘skuld’** sluit enige voorwaardelike verpligting in;’’;

(b) deur subartikel (2) deur die volgende subartikel te vervang:

‘‘(2) Die bepalings van hierdie Deel moet, behoudens subartikel (3), toegepas word ten opsigte van ’n bate-vir-aandeel-transaksie, ’n vervangende aandeel-vir-aandeel-transaksie, ’n amalgamasietransaksie, ’n intragroeptransaksie, ’n ontbondelingstransaksie en ’n likwidasie-uitkering soos onderskeidelik beoog in artikels 42, 43, 44, 45, 46 en 47, **[respektiewelik beoog,]** ondanks enige andersluidende bepaling vervat in hierdie Wet, behalwe artikels 22B, 24BA en 103, Deel IIA van Hoofstuk III en **[paragraaf]** paragrawe 11(1)*(g)* en 43A van die Agtste Bylae.’’; en

(c) deur na subartikel (9) die volgende subartikel by te voeg:

‘‘(10) By die toepassing van hierdie deel, word ’n voorwaardelike verpligting geag ’n werklik aangegaande skuld te wees.’’.

Wysiging van artikel 42 van Wet 58 van 1962, soos vervang deur artikel 34 van Wet 74 van 2002 en gewysig deur artikel 50 van Wet 45 van 2003, artikel 33 van Wet 32 van 2004, artikel 38 van Wet 31 van 2005, artikel 29 van Wet 20 van 2006, artikel 33 van Wet 8 van 2007, artikel 53 van Wet 35 van 2007, artikel 26 van Wet 3 van 2008, artikel 49 van Wet 60 van 2008, artikel 48 van Wet 17 van 2009, artikel 62 van Wet 7 van 2010, artikel 68 van Wet 24 van 2011, artikel 74 van Wet 22 van 2012, artikel 91 van Wet 31 van 2013, artikel 55 van Wet 43 van 2014, artikel 62 van Wet 25 van 2015

51. (1) Artikel 42 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (2)*(a)*(ii) die woorde wat item *(aa)* voorafgaan deur die volgende woorde te vervang:

‘‘die ekwiteitsaandele in daardie maatskappy te verkry het op die datum waarop daardie persoon daardie bate verkry het (anders as om te bepaal of ’n **[aandeel ’n ‘kwalifiserende aandeel’ is soos omskryf in]** bate gehou is vir ten minste drie jaar by die toepassing van artikel 9C(2) waar

least three years for purposes of section 9C(2) where that asset is not an equity share) and for a cost equal to—'';

(b) by the substitution in subsection (3)*(a)* for the words preceding subparagraph (i) of the following words:

''an asset that constitutes an allowance asset in that person's hands to a company as part of an asset-for-share transaction and that company acquires that asset as an allowance asset or that company is a REIT or a controlled company, as defined in section 25BB(1), that acquires that asset as a capital asset—'';

(c) by the substitution in subsection (3)*(a)*(ii) for item *(bb)* of the following item:

''*(bb)* that is to be recovered or recouped by or included in the income of that company, other than a company that is a REIT or a controlled company, as defined in section 25BB(1), in respect of that asset;'';

(d) by the substitution in subsection (3)*(c)* for the words preceding subparagraph (i) of the following words:

''a contract to a company as part of a disposal of a business as a going concern in terms of an asset-for-share transaction and an allowance in terms of section 24 **[or]**, 24C or 24P was allowable to that person in respect of that contract for the year preceding that in which that contract is transferred or would have been allowable to that person for the year of that transfer had that contract not been so transferred—''; and

(e) by the substitution in subsection (7)*(b)* for subparagraph (ii) of the following subparagraph:

''(ii) an allowance asset in the hands of that company, other than a company that is a REIT or a controlled company, as defined in section 25BB(1), so much of any allowance in respect of that asset that is recovered or recouped by or included in the income of that company as a result of that disposal as does not exceed the amount that would have been recovered had that asset been disposed of at the beginning of that period of 18 months for an amount equal to the market value of that asset as at that date,''.

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 January 2016 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 44 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 52 of Act 45 of 2003, section 40 of Act 31 of 2005, section 34 of Act 8 of 2007, section 55 of Act 35 of 2007, section 27 of Act 3 of 2008, section 50 of Act 60 of 2008, section 49 of Act 17 of 2009, section 63 of Act 7 of 2010, section 69 of Act 24 of 2011, section 76 of Act 22 of 2012, section 93 of Act 31 of 2013, section 57 of Act 43 of 2014, section 63 of Act 25 of 2015 and section 55 of Act 15 of 2016

52. Section 44 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (3)*(a)* for the words preceding subparagraph (i) of the following words:

''an asset that constitutes an allowance asset in that amalgamated company's hands to a resultant company as part of an amalgamation transaction and that resultant company acquires that asset as an allowance asset or that resultant company is a REIT or a controlled company, as defined in section 25BB(1), that acquires that asset as a capital asset—'';

(b) by the substitution in subsection (3)*(a)*(ii) for item *(bb)* of the following item:

''*(bb)* that is to be recovered or recouped by or included in the income of that resultant company, other than a resultant company that is a REIT or a controlled company, as defined in section 25BB(1), in respect of that asset;'';

daardie bate nie 'n ekwiteitsaandeel is nie) en vir 'n koste gelykstaande aan—'';

(b) deur in subartikel (3)*(a)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

" 'n bate wat 'n afskryfbare bate in daardie persoon se hande uitmaak aan 'n maatskappy as deel van 'n bate-vir-aandeel transaksie en daardie maatskappy daardie bate as 'n afskryfbare bate verkry of daardie maatskappy is 'n EIT of beheerde maatskappy, soos omskryf in artikel 25BB(1), wat daardie bate as 'n kapitale bate verkry—'';

(c) deur in subartikel (3)*(a)*(ii) item *(bb)* deur die volgende item te vervang:

''*(bb)* wat verhaal of vergoed of ingesluit moet word by die inkomste van die maatskappy, buiten 'n maatskappy wat 'n EIT of beheerde maatskappy is, soos omskryf in artikel 25BB(1), ten opsigte van daardie bate;'';

(d) deur in subartikel (3)*(c)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

" 'n kontrak aan 'n maatskappy as deel van 'n beskikking oor 'n besigheid as 'n lopende saak ingevolge 'n bate-vir-aandeel transaksie en 'n toelae ingevolge artikel 24 **[of]**, 24C of 24P vir daardie persoon toelaatbaar was ten opsigte van die jaar wat die jaar waarin die kontrak aangegaan is, voorafgegaan het of wat vir daardie persoon ten opsigte van daardie kontrak toelaatbaar sou gewees het vir die jaar van daardie oordrag indien die kontrak nie aldus oorgedra is nie—''; en

(e) deur in subartikel (7)*(b)* subparagraaf (ii) deur die volgende subparagraaf te vervang:

''(ii) 'n afskryfbare bate in die hande van die maatskappy uitmaak, buiten 'n maatskappy wat 'n EIT is of 'n beheerde maatskappy, soos omskryf in artikel 25BB(1), word soveel van enige toelae ten opsigte van daardie bate as wat verhaal of vergoed is deur of in die inkomste van daardie maatskappy ingesluit is as gevolg van daardie beskikking as wat nie die bedrag wat vergoed sou gewees het indien daar oor daardie bate beskik is aan die begin van daardie tydperk van 18 maande vir 'n bedrag gelykstaande aan die markwaarde van daardie bate soos op daardie datum oorskry nie,''.

(2) Paragraaf *(a)* van subartikel (1) word geag op 1 Januarie 2016 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 44 van Wet 58 van 1962, soos vervang deur artikel 34 van Wet 74 van 2002 en gewysig deur artikel 52 van Wet 45 van 2003, artikel 40 van Wet 31 van 2005, artikel 34 van Wet 8 van 2007, artikel 55 van Wet 35 van 2007, artikel 27 van Wet 3 van 2008, artikel 50 van Wet 60 van 2008, artikel 49 van Wet 17 van 2009, artikel 63 van Wet 7 van 2010, artikel 69 van Wet 24 van 2011, artikel 76 van Wet 22 van 2012, artikel 93 van Wet 31 van 2013, artikel 57 van Wet 43 van 2014, artikel 63 van Wet 25 van 2015 en artikel 55 van Wet 15 van 2016

52. Artikel 44 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (3)*(a)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

" 'n bate wat 'n afskryfbare bate in daardie geamalgameerde maatskappy se hande uitmaak, beskik aan 'n gevolglike maatskappy as deel van 'n amalgamasietransaksie en daardie gevolglike maatskappy daardie bate as 'n afskryfbare bate verkry of daardie gevolglike maatskappy is 'n EIT of beheerde maatskappy, soos omskryf in artikel 25BB(1), wat daardie bate as 'n kapitale bate verkry—'';

(b) deur in subartikel (3)*(a)*(ii) item *(bb)* deur die volgende item te vervang:

''*(bb)* wat verhaal of vergoed of ingesluit moet word by die inkomste van daardie gevolglike maatskappy, buiten 'n gevolglike maatskappy wat 'n EIT of beheerde maatskappy is, soos omskryf in artikel 25BB(1), ten opsigte van daardie bate;'';

(c) by the substitution in subsection (3)*(b)* for the words preceding subparagraph (i) of the following words:

''a contract to a resultant company as part of a disposal of a business as a going concern in terms of an amalgamation transaction and an allowance in terms of section 24 **[or]**, 24C or 24P was allowable to that amalgamated company in respect of that contract for the year preceding that in which that contract is transferred or would have been allowable to that amalgamated company for the year of that transfer had that contract not been so transferred—''; and

(d) by the substitution in subsection (5)*(b)* for subparagraph (ii) of the following subparagraph:

''(ii) an allowance asset in the hands of that resultant company other than a resultant company that is a REIT or a controlled company, as defined in section 25BB(1), so much of any allowance in respect of that asset that is recovered or recouped by or included in the income of that resultant company as a result of that disposal as does not exceed the amount that would have been recovered had that asset been disposed of at the beginning of that period of 18 months for an amount equal to the market value of that asset as at that date,''.

Amendment of section 45 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 53 of Act 45 of 2003, section 35 of Act 32 of 2004, section 41 of Act 31 of 2005, section 35 of Act 8 of 2007, section 56 of Act 35 of 2007, section 28 of Act 3 of 2008, section 51 of Act 60 of 2008, section 64 of Act 7 of 2010, section 70 of Act 24 of 2011, section 77 of Act 22 of 2012, section 94 of Act 31 of 2013 and section 64 of Act 25 of 2015

53. Section 45 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (3)*(a)*(ii) for item *(bb)* of the following item:

''*(bb)* that is to be recovered or recouped by or included in the income of that transferee company in respect of that asset other than a transferee company that is a REIT or a controlled company, as defined in section 25BB(1);'';

(b) by the substitution in subsection (3)*(b)* for the words preceding subparagraph (i) of the following words:

''a contract to a transferee company as part of a disposal of a business as a going concern in terms of an intra-group transaction contemplated in paragraph *(a)* of the definition of 'intra-group transaction' and an allowance in terms of section 24 **[or]**, 24C or 24P was allowable to that transferor company in respect of that contract for the year preceding that in which that contract is transferred or would have been allowable to that transferor company for the year of that transfer had that contract not been so transferred—''; and

(c) by the substitution in subsection (5)*(b)* for subparagraph (ii) of the following subparagraph:

''(ii) an allowance asset in the hands of that transferee company other than a transferee company that is a REIT or a controlled company, as defined in section 25BB(1), so much of any allowance in respect of that asset that is recovered or recouped by or included in the income of that transferee company as a result of that disposal as does not exceed the amount that would have been recovered had that asset been disposed of at the beginning of that period of 18 months for an amount equal to the market value of that asset as at that date,''.

(c) deur in subartikel (3)*(b)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

" 'n kontrak aan 'n gevolglike maatskappy beskik as deel van 'n beskikking oor 'n besigheid as 'n lopende saak ingevolge 'n amalgamasietransaksie en 'n toelae ingevolge artikel 24 **[of]**, 24C of 24P vir daardie geamalgameerde maatskappy ten opsigte van daardie kontrak toelaatbaar was ten opsigte van die jaar wat die jaar waarin die kontrak oorgeplaas is, voorafgegaan het of wat vir daardie geamalgameerde maatskappy toelaatbaar sou gewees het vir die jaar van daardie oordrag indien die kontrak nie aldus oorgedra is nie—"; en

(d) deur in subartikel (5)*(b)* subparagraaf (ii) deur die volgende subparagraaf te vervang:

"(ii) 'n afskryfbare bate in die hande van 'n gevolglike maatskappy buiten 'n gevolglike maatskappy wat 'n EIT of beheerde maatskappy is, soos omskryf in artikel 25BB(1), uitmaak, word soveel van enige toelae met betrekking tot daardie bate wat verhaal of vergoed is of ingesluit is by die inkomste van die gevolglike maatskappy as 'n gevolg van daardie beskikking as wat nie die bedrag oorskry wat verhaal sou gewees het as daar oor daardie bate aan die begin van die tydperk van 18 maande vir 'n bedrag gelykstaande aan die markwaarde van daardie bate op daardie tydstip beskik is nie,".

Wysiging van artikel 45 van Wet 58 van 1962, soos vervang deur artikel 34 van Wet 74 van 2002 en gewysig deur artikel 53 van Wet 45 van 2003, artikel 35 van Wet 32 van 2004, artikel 41 van Wet 31 van 2005, artikel 35 van Wet 8 van 2007, artikel 56 van Wet 35 van 2007, artikel 28 van Wet 3 van 2008, artikel 51 van Wet 60 van 2008, artikel 64 van Wet 7 van 2010, artikel 70 van Wet 24 van 2011, artikel 77 van Wet 22 van 2012, artikel 94 van Wet 31 van 2013 en artikel 64 van Wet 25 van 2015

53. Artikel 45 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (3)*(a)*(ii) item *(bb)* deur die volgende item te vervang:

"*(bb)* wat verhaal of vergoed of ingesluit moet word by die inkomste van die oordragnemende maatskappy ten opsigte van daardie bate buiten 'n oordragnemende maatskappy wat 'n EIT of beheerde maatskappy is, soos omskryf in artikel 25BB(1);";

(b) deur in subartikel (3)*(b)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

" 'n kontrak aan 'n oordragnemende maatskappy as deel van 'n beskikking oor 'n besigheid as 'n lopende saak ingevolge 'n intragroep-transaksie beoog in paragraaf *(a)* van die omskrywing van "intragroep-transaksie" oordra 'n toelae ingevolge artikel 24 **[of]**, 24C of 24P vir daardie oordraggewende maatskappy toelaatbaar was ten opsigte van die jaar wat die jaar waarin die kontrak oorgeplaas is, voorafgegaan het of wat vir daardie oordraggewende maatskappy ten opsigte van daardie kontrak toelaatbaar sou gewees het vir die jaar van daardie oordrag indien die kontrak nie aldus oorgedra was nie—"; en

(c) deur in subartikel (5)*(b)* subparagraaf (ii) deur die volgende subparagraaf te vervang:

"(ii) 'n afskryfbare bate in die hande van 'n oordragnemende maatskappy bate buiten 'n oordragnemende maatskappy wat 'n EIT of beheerde maatskappy is, soos omskryf in artikel 25BB(1), word soveel van enige toelae met betrekking tot daardie bate wat verhaal of vergoed is of ingesluit is by die inkomste van die oordragnemende maatskappy as 'n gevolg van daardie beskikking as wat nie die bedrag wat verhaal sou gewees het as daar oor daardie bate aan die begin van die tydperk van 18 maande vir 'n bedrag gelykstaande aan die markwaarde van daardie bate op daardie tydstip beskik is nie,".

Amendment of section 46 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 54 of Act 45 of 2003, section 36 of Act 32 of 2004, section 42 of Act 31 of 2005, section 36 of Act 8 of 2007, section 57 of Act 35 of 2007, section 29 of Act 3 of 2008, section 52 of Act 60 of 2008, section 65 of Act 7 of 2010, section 71 of Act 24 of 2011, section 78 of Act 22 of 2012, section 95 of Act 31 of 2013, section 58 of Act 43 of 2014 and section 65 of Act 25 of 2015

54. (1) Section 46 of the Income Tax Act, 1962, is hereby amended by substitution in subsection (3)*(a)* for subparagraph (ii) of the following subparagraph:

"(ii) the unbundled shares must, other than for purposes of determining whether a share **[is a 'qualifying share' as defined in]** has been held for at least three years for the purposes of section 9C(2), be deemed to have been acquired on the same date as the unbundling shares;".

(2) Subsection (1) is deemed to have come into operation on 1 January 2016.

Amendment of section 47 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 55 of Act 45 of 2003, section 37 of Act 32 of 2004, section 43 of Act 31 of 2005, section 31 of Act 20 of 2006, section 37 of Act 8 of 2007, section 58 of Act 35 of 2007, section 31 of Act 3 of 2008, section 53 of Act 60 of 2008, section 50 of Act 17 of 2009, section 66 of Act 7 of 2010, section 72 of Act 24 of 2011, section 79 of Act 22 of 2012, section 96 of Act 31 of 2013, section 59 of Act 43 of 2014 and section 66 of Act 25 of 2015

55. Section 47 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (3)*(a)*(ii) for item *(bb)* of the following item:

"*(bb)* that is to be recovered or recouped by or included in the income of that holding company, other than a holding company that is a REIT or a controlled company, as defined in section 25BB(1), in respect of that asset; or"; and

(b) by the substitution in subsection (4)*(b)* for subparagraph (ii) of the following subparagraph:

"(ii) an allowance asset in the hands of that holding company, so much of any allowance in respect of that asset that is recovered or recouped by or included in the income of that holding company, other than a holding company that is a REIT or a controlled company, as defined in section 25BB(1), as a result of that disposal as does not exceed the amount that would have been recovered had that asset been disposed of at the beginning of that period of 18 months for an amount equal to the market value of that asset as at that date,".

Amendment of section 47B of Act 58 of 1962, as inserted by section 44 of Act 31 of 2005

56. Section 47B of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) *(a)* The tax on foreign entertainers and sportspersons is a final tax and is levied—

(i) at a rate of 15 **[%]** per cent; or

(ii) at such a rate as the Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, with effect from a date mentioned in that Announcement,

on all amounts received by or accrued to a taxpayer as contemplated in subsection (1).

(b) If the Minister makes an announcement contemplated in paragraph *(a)*(ii), that rate comes into effect on the date determined by the Minister in that announcement and continues to apply for a period of 12 months from that date subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.".

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Wysiging van artikel 46 van Wet 58 van 1962, soos vervang deur artikel 34 van Wet 74 van 2002 en gewysig deur artikel 54 van Wet 45 van 2003, artikel 36 van Wet 32 van 2004, artikel 42 van Wet 31 van 2005, artikel 36 van Wet 8 van 2007, artikel 57 van Wet 35 van 2007, artikel 29 van Wet 3 van 2008, artikel 52 van Wet 60 van 2008, artikel 65 van Wet 7 van 2010, artikel 71 van Wet 24 van 2011, artikel 78 van Wet 22 van 2012, artikel 95 van Wet 31 van 2013, artikel 58 van Wet 43 van 2014 en artikel 65 van Wet 25 van 2015

54. (1) Artikel 46 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (3)*(a)* subparagraaf (ii) deur die volgende subparagraaf te vervang:

"(ii) word die ontbondelde aandele, behalwe om te bepaal of 'n aandeel **['n 'kwalifiserende aandeel' soos in]** gehou is vir ten minste drie jaar by die toepassing van artikel 9C**[omskryf, is]**, geag verkry te gewees het op dieselfde datum as die ontbondelende aandele;".

(2) Subartikel (1) word geag op 1 Januarie 2016 in werking te getree het.

Wysiging van artikel 47 van Wet 58 van 1962, soos vervang deur artikel 34 van Wet 74 van 2002 en gewysig deur artikel 55 van Wet 45 van 2003, artikel 37 van Wet 32 van 2004, artikel 43 van Wet 31 van 2005, artikel 31 van Wet 20 van 2006, artikel 37 van Wet 8 van 2007, artikel 58 van Wet 35 van 2007, artikel 31 van Wet 3 van 2008, artikel 53 van Wet 60 van 2008, artikel 50 van Wet 17 van 2009, artikel 66 van Wet 7 van 2010, artikel 72 van Wet 24 van 2011, artikel 79 van Wet 22 van 2012, artikel 96 van Wet 31 van 2013, artikel 59 van Wet 43 van 2014 en artikel 66 van Wet 25 van 2015

55. Artikel 47 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (3)*(a)*(ii) item *(bb)* deur die volgende item te vervang:

"*(bb)* wat ten opsigte van daardie bate verhaal of vergoed moet word of ingesluit moet word by die inkomste van daardie houermaatskappy buiten 'n houermaatskappy wat 'n EIT of beheerde maatskappy is, soos omskryf in artikel 25BB(1); of"; en

(b) deur in subartikel (4)*(b)* subparagraaf (ii) deur die volgende subparagraaf te vervang:

"(ii) 'n afskryfbare bate in die hande van daardie houermaatskappy daarstel, word soveel van enige toelaag ten opsigte van daardie bate wat vergoed of verhaal is of by die inkomste van daardie houermaatskappy, buiten 'n houermaatskappy wat 'n EIT of beheerde maatskappy is, soos omskryf in artikel 25BB(1) ingesluit is as gevolg van daardie beskikking, as wat nie die bedrag wat vergoed sou gewees het indien oor daardie bate beskik was aan die begin van daardie tydperk van 18 maande vir 'n bedrag gelyk aan die markwaarde van daardie bate op daardie datum, oorskry nie,".

Wysiging van artikel 47B van Wet 58 of 1962, soos ingevoeg deur artikel 44 van Wet 31 of 2005

56. Artikel 47B van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) *(a)* Die belasting op buitelandse vermaaklikheidskunstenaars en sportpersone is 'n finale belasting en word gehef teen 'n skaal—

(i) van 15 **[%]** persent; of

(ii) teen so 'n skaal as wat die Minister in die nasionale jaarlikse begroting beoog in artikel 27(1) van die Wet op Openbare Finansiële Bestuur aankondig met ingang van 'n datum vermeld in daardie aankondiging,

op alle bedrae ontvang deur of toegeval aan 'n belastingpligtige soos in subartikel (1) beoog.

(b) Indien die Minister 'n aankondiging beoog in paragraaf *(a)*(ii) maak, word daardie koers van krag op die datum deur die Minister in daardie aankondiging bepaal en bly van toepassing vir 'n tydperk van 12 maande vanaf daardie datum, onderworpe daaraan dat die Parlement binne daardie tydperk van 12 maande wetgewing deurvoer om aan daardie aankondiging gevolg te gee.".

Amendment of section 49B of Act 58 of 1962, as inserted by section 80 of Act 22 of 2012 and amended by section 97 of Act 31 of 2013

57. Section 49B of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) *(a)* There must be levied for the benefit of the National Revenue Fund a tax, to be known as the withholding tax on royalties, calculated—

(i) at the rate of 15 per cent; or

(ii) at such rate as the Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, with effect from a date mentioned in that Announcement,

of the amount of any royalty that is paid by any person to or for the benefit of any foreign person to the extent that the amount is regarded as having been received by or accrued to that foreign person from a source within the Republic in terms of section 9(2)*(c)*, *(d)*, *(e)* or *(f)*.

(b) If the Minister makes an announcement contemplated in paragraph *(a)*(ii), that rate comes into effect on the date determined by the Minister in that announcement and continues to apply for a period of 12 months from that date subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.".

Amendment of section 50B of Act 58 of 1962, as inserted by section 98 of Act 31 of 2013

58. Section 50B of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) *(a)* There must be levied for the benefit of the National Revenue Fund a tax, to be known as the withholding tax on interest, calculated—

(i) at the rate of 15 per cent; or

(ii) at such rate as the Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, with effect from a date mentioned in that Announcement,

of the amount of any interest that is paid by any person to or for the benefit of any foreign person to the extent that the amount is regarded as having been received or accrued from a source within the Republic in terms of section 9(2)*(b)*.

(b) If the Minister makes an announcement contemplated in paragraph *(a)*(ii), that rate comes into effect on the date determined by the Minister in that announcement and continues to apply for a period of 12 months from that date subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.".

Substitution of section 64 of Act 58 of 1962, as substituted by section 30 of Act 90 of 1988 and amended by section 19 of Act 36 of 1996 and section 17 of Act 5 of 2001

59. The following section is hereby substituted for section 64 of the Income Tax Act, 1962:

"**Rate of donations tax**

64. (1) The rate of the donations tax chargeable under section 54 in respect of the value of any property disposed of under a donation shall be—

(a) 20 per cent of such value; or

(b) such percentage of such value as the Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, with effect from a date mentioned in that Announcement.

Wysiging van artikel 49B van Wet 58 van 1962, soos ingevoeg deur artikel 80 van Wet 22 van 2012 en gewysig deur artikel 97 van Wet 31 van 2013

57. Artikel 49B van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) *(a)* Daar word gehef ten behoewe van die Nasionale Inkomstefonds 'n belasting, bekend te staan as die terughoudingsbelasting op tanti me, bereken teen die koers—

(i) van 15 persent; of

(ii) wat die Minister in die nasionale jaarlikse begroting beoog in artikel 27(1) van die Wet op Openbare Finansiële Bestuur, kan aankondig met ingang van 'n datum vermeld in daardie aankondiging,

van die bedrag van enige tanti me wat betaal word deur 'n persoon aan of ten behoewe van enige buitelandse persoon namate die bedrag beskou word as ontvang deur of toegeval aan daardie buitelandse persoon van 'n bron binne die Republiek ingevolge artikel 9(2)*(c)*, *(d)*, *(e)* of *(f)*.

(b) Indien die Minister 'n aankondiging beoog in paragraaf *(a)*(ii) maak, word daardie koers van krag op die datum deur die Minister in daardie aankondiging bepaal en bly van toepassing vir 'n tydperk van 12 maande vanaf daardie datum, onderworpe daaraan dat die Parlement binne daardie tydperk van 12 maande wetgewing deurvoer om aan daardie aankondiging gevolg te gee.".

Wysiging van Artikel 50B van Wet 58 of 1962, soos ingevoeg deur artikel 98 van Wet 31 van 2013

58. Artikel 50B van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) *(a)* Daar moet gehef word ten behoewe van die Nasionale Inkomstefonds 'n belasting, bekend te staan as die terughoudingsbelasting op rente, bereken teen die koers—

(i) van 15 persent; of

(ii) wat die Minister in die nasionale jaarlikse begroting beoog in artikel 27(1) van die Wet op Openbare Finansiële Bestuur, kan aankondig met ingang van 'n datum vermeld in daardie aankondiging,

van die bedrag van enige rente wat betaal word deur 'n persoon aan of ten behoewe van enige buitelandse persoon namate die bedrag ingevolge artikel 9(2)*(b)* as ontvang of toegeval van 'n bron binne die Republiek beskou word.

(b) Indien die Minister 'n aankondiging beoog in paragraaf *(a)*(ii) maak, word daardie koers van krag op die datum deur die Minister in daardie aankondiging bepaal en bly van toepassing vir 'n tydperk van 12 maande vanaf daardie datum, onderworpe daaraan dat die Parlement binne daardie tydperk van 12 maande wetgewing deurvoer om aan daardie aankondiging gevolg te gee.".

Vervanging van artikel 64 van Wet 58 van 1962, soos vervang deur artikel 30 van Wet 90 van 1988 en gewysig deur artikel 19 van Wet 36 van 1996 en artikel 17 van Wet 5 van 2001

59. Artikel 64 van die Inkomstebelastingwet, 1962, word hierby deur die volgende artikel vervang:

"**Skaal van belasting op geskenke**

64. (1) Die skaal van die belasting op geskenke wat ingevolge artikel 54 hefbaar is ten opsigte van die waarde van eiendom waaroor daar ingevolge 'n skenking beskik is, is—

(a) 20 persent van daardie waarde; of

(b) so 'n persentasie van daardie waarde as wat die Minister in die nasionale jaarlikse begroting beoog in artikel 27(1) van die Wet op Openbare Finansiële Bestuur, kan aankondig met ingang van 'n datum vermeld in daardie aankondiging.

(2) If the Minister makes an announcement contemplated in subsection (1)*(b)*, that rate comes into effect on the date determined by the Minister in that announcement and continues to apply for a period of 12 months from that date subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.''.

Amendment of section 64D of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 and amended by section 70 of Act 7 of 2010, section 75 of Act 24 of 2011, section 102 of Act 31 of 2013 and section 73 of Act 25 of 2015

60. Section 64D of the Income Tax Act, 1962, is hereby amended by the substitution in the definition of ''regulated intermediary'' after paragraph *(g)* for the expression ''; or'' of a full stop.

Amendment of section 64E of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 and amended by section 71 of Act 7 of 2010, section 76 of Act 24 of 2011, section 6 of Act 13 of 2012 and section 83 of Act 22 of 2012

61. Section 64E of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

''(1) *(a)* Subject to paragraph 3 of the Tenth Schedule, there must be levied for the benefit of the National Revenue Fund a tax, to be known as the dividends tax, calculated—

(i) at the rate of 20 per cent; or

(ii) at such rate as the Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, with effect from a date mentioned in that Announcement,

of the amount of any dividend paid by any company other than a headquarter company.

(b) If the Minister makes an announcement contemplated in paragraph *(a)*(ii), that rate comes into effect on the date determined by the Minister in that announcement and continues to apply for a period of 12 months from that date subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.''; and

(b) by the substitution in subsection (4) for paragraph *(d)* of the following paragraph:

''*(d)* For the purposes of this subsection, **'market-related interest'**, in relation to any debt owed to a company means the amount of interest that would be payable to that company on the amount owing to that company in respect of that debt for a period during a year of assessment if the debt had been owed for that period at the official rate of interest **[as defined in paragraph (1) of the Seventh Schedule]**.''.

Amendment of paragraph 2 of Second Schedule to Act 58 of 1962, as substituted by section 57 of Act 17 of 2009 and amended by section 80 of Act 7 of 2010 and section 92 of Act 22 of 2012

62. (1) Paragraph 2 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the deletion in subparagraph (1) of the word ''and'' at the end of item *(a)*, the insertion of the word ''and'' at the end item *(b)* and the addition of the following subparagraph:

''*(c)* any amount transferred for the benefit of that person on or after normal retirement age, as defined in the rules of the fund, but before retirement date, less any deductions permitted under the provisions of paragraph 6A.''.

(2) Subsection (1) comes into operation on 1 March 2018 and applies in respect of years of assessment commencing on or after that date.

(2) Indien die Minister ’n aankondiging beoog in subartikel (1)*(b)* maak, word daardie koers van krag op die datum deur die Minister in daardie aankondiging bepaal en bly van toepassing vir ’n tydperk van 12 maande vanaf daardie datum, onderworpe daaraan dat die Parlement binne daardie tydperk van 12 maande wetgewing deurvoer om aan daardie aankondiging gevolg te gee.’’.

Wysiging van artikel 64D van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009 en gewysig deur artikel 70 van Wet 7 van 2010, artikel 75 van Wet 24 van 2011, artikel 102 van Wet 31 van 2013 en artikel 73 van Wet 25 van 2015

60. Artikel 64D van die Inkomstebelastingwet, 1962, word hierby gewysig deur in die omskrywing van ‘‘gereguleerde tussenganger’’ na paragraaf *(g)* die woord ‘‘of’’ deur ’n punt te vervang.

Wysiging van artikel 64E van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009 en gewysig deur artikel 71 van Wet 7 van 2010, artikel 76 van Wet 24 van 2011, artikel 6 Wet 13 van 2012 en artikel 83 van Wet 22 van 2012

61. Artikel 64E van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

‘‘(1) *(a)* Behoudens paragraaf 3 van die Tiende Bylae moet daar ten bate van die Nasionale Inkomstefonds gehef word ’n belasting, die dividendbelasting genoem, bereken teen die koers —

(i) van 20 persent; of

(ii) teen so ’n koers as wat die Minister in die nasionale jaarlikse begroting beoog in artikel 27(1) van die Wet op Openbare Finansiële Bestuur, kan aankondig met ingang van ’n datum vermeld in daardie aankondiging,

van die bedrag van ’n dividend deur enige maatskappy buiten ’n hoofkwartiermaatskappy betaal.

(b) Indien die Minister ’n aankondiging beoog in paragraaf *(a)*(ii) maak, word daardie koers van krag op die datum deur die Minister in daardie aankondiging bepaal en bly van toepassing vir ’n tydperk van 12 maande vanaf daardie datum, onderworpe daaraan dat die Parlement binne daardie tydperk van 12 maande wetgewing deurvoer om aan daardie aankondiging gevolg te gee.’’; en

(b) deur in subartikel (4) paragraaf *(d)* deur die volgende paragraaf te vervang:

‘‘*(d)* By die toepassing van hierdie subartikel beteken ‘markverwante rente’, met betrekking tot enige skuld verskuldig aan ’n maatskappy, die bedrag van enige rente wat aan daardie maatskappy betaalbaar sou wees op die bedrag aan daardie maatskappy verskuldig ten opsigte van daardie skuld vir ’n tydperk gedurende ’n jaar van aanslag indien die skuld vir daardie tydperk teen die amptelike rentekoers **[soos omskryf in paragraaf (1) van die Sewende Bylae]** verskuldig is.’’.

Wysiging van paragraaf 2 van Tweede Bylae by Wet 58 van 1962, soos vervang deur artikel 57 van Wet 17 van 2009 en gewysig deur artikel 80 van Wet 7 van 2010 en artikel 92 van Wet 22 van 2012

62. (1) Paragraaf 2 van die Tweede Bylae by die Inkomstebelastingwet,1962, word hierby gewysig by deur in subparagraaf (1) van die woord ‘‘en’’ aan die einde van item *(a)* te skrap, die woord ‘‘en’’ na item *(b)* by te voeg en die volgende item by te voeg:

‘‘*(c)* enige bedrag oorgedra ten gunste van daardie persoon op of na normale uittree-ouderdom, soos omskryf in die reëls van die fonds, maar voor uittreedatum, verminder deur enige aftrekkings toegelaat kragtens die bepalings van paragraaf 6A.’’.

(2) Subartikel (1) tree op 1 Maart 2018 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Amendment of paragraph 5 of Second Schedule to Act 58 of 1962, as substituted by section 61 of Act 17 of 2009 and amended by section 98 of Act 22 of 2012, section 112 of Act 31 of 2013 and section 86 of Act 25 of 2015

63. (1) Paragraph 5 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1) for item *(a)* of the following item:

''*(a)* the person's own contributions that did not rank for a deduction against the person's income in terms of section **[11*(k)*]** 11F to any pension fund, pension preservation fund, provident fund, provident preservation fund and retirement annuity fund of which he or she is or previously was a member;''; and

(b) by the substitution in subparagraph (1) for item *(e)* of the following item:

''*(e)* any other amounts in respect of which the formula in paragraph 2A applies, which have been—

(i) paid into a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund for the person's benefit by a public sector fund; and

(ii) transferred into a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund directly from a fund contemplated in subitem (i) for the person's benefit,

less the amount represented by symbol A when so applying that formula,''.

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 March 2016.

(3) Paragraph *(b)* of subsection (1) comes into operation on 1 March 2018.

Amendment of paragraph 6 of Second Schedule to Act 58 of 1962, as substituted by section 62 of Act 17 of 2009 and amended by section 84 of Act 7 of 2010, section 92 of Act 24 of 2011, section 99 of Act 22 of 2012, section 113 of Act 31 of 2013 and section 87 of Act 25 of 2015

64. (1) Paragraph 6 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1)*(b)* for subitem (i) of the following subitem:

''(i) the person's own contributions that did not rank for a deduction against the person's income in terms of section **[11*(k)*]** 11F to any pension funds, pension preservation funds, provident funds, provident preservation funds and retirement annuity funds of which he or she is or previously was a member;''; and

(b) by the substitution in subparagraph (1)*(b)* for subitem (v) of the following subitem:

''(v) any other amounts in respect of which the formula in paragraph 2A applies, which have been—

(aa) paid into a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund for the person's benefit by a public sector fund; and

(bb) transferred into a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund from a fund contemplated in subitem *(aa)* for the person's benefit,

less the amount represented by symbol A when applying that formula,''.

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 March 2016.

(3) Paragraph *(b)* of subsection (1) comes into operation on 1 March 2018.

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Wysiging van paragraaf 5 van Tweede Bylae by Wet 58 van 1962, soos vervang deur artikel 61 van Wet 17 van 2009 en gewysig deur artikel 98 van Wet 22 van 2012, artikel 112 van Wet 31 van 2013 en artikel 86 van Wet 25 van 2015

63. (1) Paragraaf 5 van die Tweede Bylae by die Inkomstebelastingwet,1962, word hierby gewysig—

(a) deur in subparagraaf (1) item *(a)* deur die volgende item te vervang:

"*(a)* die persoon se eie bydraes wat nie vir 'n aftrekking teen die persoon se inkomste ingevolge artikel **[11*(k)*]** 11F in aanmerking gekom het nie aan enige pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds en uittredingannuïteitsfonds waarvan hy of sy 'n lid is of tevore was;"; en

(b) deur in subparagraaf (1) item *(e)* deur die volgende item te vervang:

"*(e)* enige ander bedrae ten opsigte waarvan die formule in paragraaf 2A van toepassing is wat—

(i) betaal is in 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds vir die persoon se voordeel deur 'n openbare sektor fonds; en

(ii) oorgedra is na 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds vir die persoon se voordeel deur 'n openbare sektor fonds direk vanaf 'n fonds beoog in subitem (i) vir die persoon se voordeel,

verminder deur die bedrag voorgestel deur simbool A wanneer daardie formule aldus toegepas word,".

(2) Paragraaf *(a)* van subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

(3) Paragraaf *(b)* van subartikel (1) tree op 1 Maart 2018 in werking.

Wysiging van paragraaf 6 van Tweede Bylae by Wet 58 van 1962, soos vervang deur artikel 62 van Wet 17 van 2009 en gewysig deur artikel 84 van Wet 7 van 2010, artikel 92 van Wet 24 van 2011, artikel 99 van Wet 22 van 2012, artikel 113 van Wet 31 van 2013 en artikel 87 van Wet 25 van 2015

64. (1) Paragraaf 6 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (1)*(b)* subitem (i) deur die volgende subitem te vervang:

"(i) die persoon se eie bydraes wat nie vir 'n aftrekking teen die persoon se inkomste ingevolge artikel **[11*(k)*]** 11F toegelaat word nie aan enige pensioenfondse, pensioenbewaringsfondse, voorsorgsfondse, voorsorgbewaringsfondse en uittredingannuïteitsfondse waarvan hy of sy 'n lid is of tevore was;"; en

(b) deur in subparagraaf (1)*(b)* subitem (v) deur die volgende subitem te vervang:

"(v) enige ander bedrae ten opsigte waarvan die formule in paragraaf 2A van toepassing is wat—

(aa) betaal is in 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds vir die persoon se voordeel deur 'n openbare sektor fonds; en

(bb) oorgedra is na 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds vir die persoon se voordeel deur 'n openbare sektor fonds direk vanaf 'n fonds beoog in subitem (i) vir die persoon se voordeel,

verminder deur die bedrag voorgestel deur simbool A wanneer daardie formule toegepas word,".

(2) Paragraaf *(a)* van subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

(3) Paragraaf *(b)* van subartikel (1) tree op 1 Maart 2018 in werking.

Addition of paragraph 6A to Second Schedule to Act 58 of 1962

65. (1) The following paragraph is hereby added to the Second Schedule to the Income Tax Act, 1962:

"**TRANSFER ON OR AFTER NORMAL RETIREMENT AGE BUT BEFORE RETIREMENT DATE: DEDUCTIONS**

6A. The deduction to be made from a lump sum benefit contemplated in paragraph 2(1)*(c)* is equal to so much of that lump sum benefit as is transferred for the benefit of a person from a—
(a) pension fund; or
(b) provident fund,
into any retirement annuity fund.".

(2) Subsection (1) comes into operation on 1 March 2018 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 2 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974, section 30 of Act 103 of 1976, section 28 of Act 113 of 1977, section 29 of Act 104 of 1980, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989, section 45 of Act 101 of 1990, section 45 of Act 129 of 1991, section 38 of Act 21 of 1995, section 45 of Act 28 of 1997, section 53 of Act 30 of 2000, section 54 of Act 59 of 2000, section 20 of Act 19 of 2001, section 21 of Act 16 of 2004, section 50 of Act 31 of 2005, section 40 of Act 20 of 2006, section 55 of Act 8 of 2007, section 65 of Act 35 of 2007, section 18 of Act 18 of 2009, section 94 of Act 24 of 2011, section 19 of Act 21 of 2012, section 13 of Act 26 of 2013, section 8 of Act 39 of 2013, section 68 of Act 44 of 2014 and section 6 of Act 16 of 2016

66. (1) Paragraph 2 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (4) for items *(a)*, *(b)* and *(b*A*)* of the following items, respectively:

"*(a)* any contribution by the employee concerned to any pension fund or provident fund which the employer is entitled or required to deduct from that remuneration, but limited to the deduction to which the employee is entitled under section **[11*(k)*]** 11F having regard to the remuneration and the period in respect of which it is payable;

(b) at the option of the employer, any contribution to a retirement annuity fund by the employee in respect of which proof of payment has been furnished to the employer, but limited to the deduction to which the employee is entitled under section **[11*(k)*]** 11F having regard to the remuneration and the period in respect of which it is payable;

*(b*A) any contribution made by the employer to any retirement annuity fund for the benefit of the employee, but limited to the deduction to which the employee is entitled under section **[11*(k)*]** 11F having regard to the remuneration and the period in respect of which it is payable;".

(2) Subsection (1) is deemed to have come into operation on 1 March 2016.

Amendment of paragraph 1 of Seventh Schedule to Act 58 of 1962, as amended by section 26 of Act 96 of 1985, section 33 of Act 65 of 1986, section 28 of Act 85 of 1987, section 24 of Act 70 of 1989, section 55 of Act 101 of 1990, section 49 of Act 129 of 1991, section 35 of Act 141 of 1992, section 52 of Act 113 of 1993, section 30 of Act 21 of 1994, section 40 of Act 36 of 1996, section 54 of Act 30 of 2000, section 59 of Act 59 of 2000, section 62 of Act 74 of 2002, section 47 of Act 3 of 2008, section 90 of Act 7 of 2010, section 101 of Act 24 of 2011, section 117 of Act 31 of 2013, section 73 of Act 43 of 2014 and section 93 of Act 25 of 2015

67. Paragraph 1 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the deletion of the definition of "official rate of interest".

Byvoeging van paragraaf 6A in Tweede Bylae by Wet 58 van 1962

65. (1) Die volgende paragraaf word hierby by die Tweede Bylae by die Inkomstebelastingwet, 1962, gevoeg:

"**OORDRAG OP OF NA NORMALE AFTREE-OUDERDOM MAAR VOOR AFTREEDATUM: AFTREKKINGS**

6A. Die aftrekking wat gemaak word van 'n enkelbedragvoordeel beoog in paragraaf 2(1)*(c)* is gelykstaande aan soveel van daardie enkelbedragvoordeel as wat oorgedra is vir die voordeel van 'n persoon vanaf 'n—

(a) pensioenfonds; of

(b) voorsorgfonds,

na enige uittredingannuïteitsfonds.".

(2) Subartikel (1) tree op 1 Maart 2018 in werking en is van toepassing op jare van aanslag wat op of na daardie datum begin.

Wysiging van paragraaf 2 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 23 van Wet 72 van 1963, artikel 29 van Wet 55 van 1966, artikel 38 van Wet 88 van 1971, artikel 48 van Wet 85 van 1974, artikel 30 van Wet 103 van 1976, artikel 28 van Wet 113 van 1977, artikel 29 van Wet 104 van 1980, artikel 40 van Wet 90 van 1988, artikel 21 van Wet 70 van 1989, artikel 45 van Wet 101 van 1990, artikel 45 van Wet 129 van 1991, artikel 38 van Wet 21 van 1995, artikel 45 van Wet 28 van 1997, artikel 53 van Wet 30 van 2000, artikel 54 van Wet 59 van 2000, artikel 20 van Wet 19 van 2001, artikel 21 van Wet 16 van 2004, artikel 50 van Wet 31 van 2005, artikel 40 van Wet 20 van 2006, artikel 55 van Wet 8 van 2007, artikel 65 van Wet 35 van 2007, artikel 18 van Wet 18 van 2009, artikel 94 van Wet 24 van 2011, artikel 19 van Wet 21 van 2012, artikel 13 van Wet 26 van 2013, artikel 8 van Wet 39 van 2013, artikel 68 van Wet 44 van 2014 en artikel 6 van Wet 16 van 2016

66. (1) Paragraaf 2 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (4) items *(a)*, *(b)* en *(b*A*)* deur die volgende items onderskeidelik te vervang:

"*(a)* enige bydrae deur die betrokke werknemer aan 'n pensioenfonds of voorsorgfonds wat die werkgewer geregtig of verplig is om van die besoldiging af te trek, maar beperk tot die aftrekking waartoe die werknemer kragtens artikel [**11*(k)***] 11F geregtig is, met inagneming van die besoldiging en die tydperk ten opsigte waarvan dit betaalbaar is;

(b) ter keuse van die werkgewer, enige bydrae aan 'n uittredingannuïteitsfonds deur die werknemer, ten opsigte waarvan bewys van betaling aan die werkgewer voorgelê is, maar beperk tot die aftrekking waartoe die werknemer kragtens artikel [**11*(k)***] 11F geregtig is, met inagneming van die besoldiging en die tydperk ten opsigte waarvan dit betaalbaar is;

*(b*A*)* enige bydrae deur die werkgewer aan enige uittredingannuïteitsfonds tot die voordeel van die werknemer gemaak, maar beperk tot die aftrekking waartoe die werknemer ingevolge artikel [**11*(k)***] 11F geregtig is met inagneming van die besoldiging en die tydperk ten opsigte waarvan dit betaalbaar is;".

(2) Subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

Wysiging van paragraaf 1 van Sewende Bylae by Wet 58 van 1962, soos gewysig deur artikel 26 van Wet 96 van 1985, artikel 33 van Wet 65 van 1986, artikel 28 van Wet 85 van 1987, artikel 24 van Wet 70 van 1989, artikel 55 van Wet 101 van 1990, artikel 49 van Wet 129 van 1991, artikel 35 van Wet 141 van 1992, artikel 52 van Wet 113 van 1993, artikel 30 van Wet 21 van 1994, artikel 40 van Wet 36 van 1996, artikel 54 van Wet 30 van 2000, artikel 59 van Wet 59 van 2000, artikel 62 van Wet 74 van 2002, artikel 47 van Wet 3 van 2008, artikel 90 van Wet 7 van 2010, artikel 101 van Wet 24 van 2011, artikel 117 van Wet 31 van 2013, artikel 73 van Wet 43 van 2014 en artikel 93 van Wet 25 van 2015

67. Paragraaf 1 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die omskrywing van "amptelike rentekoers" te skrap.

Amendment of paragraph 6 of Seventh Schedule to Act 58 of 1962, as amended by section 29 of Act 96 of 1985, section 72 of Act 60 of 2008 and section 95 of Act 25 of 2015

68. (1) Paragraph 6 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the addition to subparagraph (4)*(a)* of the following proviso:

''<u>: Provided that this item shall not apply in respect of clothing</u>''.

(2) Subsection (1) comes into operation on 1 March 2018.

Amendment of paragraph 12D of Seventh Schedule to Act 58 of 1962, as substituted by section 77 of Act 43 of 2014 and amended by section 101 of Act 25 of 2015 and section 69 of Act 15 of 2016

69. (1) Paragraph 12D of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1) for the definition of ''fund member category factor'' of the following definition:

'' **'fund member category factor'** means the fund member category factor contemplated in subparagraph **[(4)]** <u>(5)*(a)*</u>;'';

(b) by the substitution for subparagraph (2) of the following subparagraph:

''(2) The cash equivalent of the value of the <u>taxable</u> benefit contemplated in paragraph 2*(l)*, where the benefits payable to members in respect of a fund member category of a pension, provident or retirement annuity fund consists solely of defined contribution components, is the value of the amount contributed by the employer for the benefit of an employee who is a member of that fund.''; and

(c) by the substitution in subparagraph (3) for the words preceding the formula of the following words:

''Where the <u>taxable</u> benefits payable to members in respect of a fund member category of a pension, provident or retirement annuity fund consists of components other than only defined contribution components, the cash equivalent of the value of the <u>taxable</u> benefit contemplated in paragraph 2*(l)* is an amount that must be determined in accordance with the formula''.

(2) Subsection (1) is deemed to have come into operation on 1 March 2016.

Substitution of paragraph 12A of Eighth Schedule to Act 58 of 1962, as inserted by section 108 of Act 22 of 2012 and amended by section 127 of Act 31 of 2013, section 82 of Act 43 of 2014 and section 106 of Act 25 of 2015

70. (1) The following paragraph is hereby substituted for paragraph 12A of the Eighth Schedule to the Income Tax Act, 1962:

''**Concession or compromise in respect of a debt**

12A. (1) For the purposes of this paragraph—

'allowance asset' means a capital asset in respect of which a deduction or allowance is allowable in terms of this Act for purposes other than the determination of any capital gain or capital loss;

'capital asset' means an asset that is not trading stock;

'concession or compromise' means any arrangement in terms of which—

(a) any—

(i) term or condition applying in respect of any debt is changed or waived; or

(ii) obligation is substituted, whether by means of novation or otherwise, for the obligation in terms of which that debt is owed; or

(b) a debt owed by a company is settled, directly or indirectly, by—

(i) being converted to or exchanged for shares in that company; or

(ii) applying the proceeds from shares issued by that company;

Wysiging van paragraaf 6 van Sewende Bylae by Wet 58 van 1962, soos gewysig deur artikel 29 van Wet 96 van 1985, artikel 72 van Wet 60 van 2008, en artikel 95 van Wet 25 van 2015

68. (1) Paragraaf 6 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende voorbehoudsbepaling tot subparagraaf (4)*(a)* by te voeg:

''<u>: Met dien verstande dat hierdie item nie ten opsigte van klere van toepassing is nie;</u>''.

(2) Subartikel (1) tree op 1 Maart 2018 in werking.

Wysiging van paragraaf 12D van Sewende Bylae by Wet 58 van 1962, soos vervang deur artikel 77 van Wet 43 van 2014 en gewysig deur artikel 101 van Wet 25 van 2015 en artikel 69 van Wet 15 van 2016

69. (1) Paragraaf 12D van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (1) die omskrywing van ''fondslid kategoriefaktor'' deur die volgende omskrywing te vervang:

'' **'fondslid kategoriefaktor'** die fondslid kategoriefaktor beoog in subparagraaf **[(4)]** <u>(5)*(a)*</u>;'';

(b) deur subparagraaf (2) deur die volgende subparagraaf te vervang:

''(2) Die kontantekwivalent van die waarde van die <u>belasbare</u> voordeel beoog in paragraaf 2*(l)*, waar 'n pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds slegs uit omskrewe bydraekomponente bestaan, is die waarde van die bedrag bygedra deur die werkgewer ten bate van 'n werknemer wat 'n lid is van daardie fonds.''; en

(c) deur in subparagraaf (3) die woorde wat die formule voorafgaan deur die volgende woorde te vervang:

''Waar die <u>belasbare</u> voordele betaalbaar aan lede ten opsigte van 'n fondslidkategorie van 'n pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds uit komponente buiten slegs omskrewe bydraekomponente bestaan, is die kontantekwivalent van die waarde van die <u>belasbare</u> voordeel beoog in paragraaf 2*(l)* 'n bedrag wat bereken word ooreenkomstig die formule''.

(2) Subartikel (1) word geag op 1 Maart 2016 in werking te getree het.

Vervanging van paragraaf 12A van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 108 van Wet 22 van 2012 en gewysig deur artikel 127 van Wet 31 van 2013, artikel 82 van Wet 43 van 2014 en artikel 106 van Wet 25 van 2015

70. (1) Paragraaf 12A van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby deur die volgende paragraaf vervang:

''**Toegewing of kompromis ten opsigte van skuld**

12A. (1) By die toepassing van hierdie paragraaf beteken—

'afskryfbare bate' 'n kapitaalbate ten opsigte waarvan 'n aftrekking of toelae ingevolge hierdie Wet toelaatbaar is vir doeleindes buiten die bepaling van enige kapitaalwins of kapitaalverlies;

'groep van maatskappye 'n groep van maatskappye soos omskryf in artikel 41;

'kapitaalbate' 'n bate wat nie handelsvoorraad is nie;

'skuld' enige bedrag wat deur 'n persoon verskuldig is maar nie ook—

(a) 'n belastingskuld soos omskryf in artikel 1 van die Wet op Belastingadministrasie nie; of

(b) 'n bedrag rente nie;

'skuldvoordeel', ten opsigte van 'n skuld deur 'n persoon verskuldig aan 'n ander persoon, enige bedrag waardeur die sigwaarde van die eis gehou deur daardie persoon ten opsigte van daardie skuld, voor die aangaan van enige reëling ten opsigte van daardie skuld—

(a) in die geval van 'n reëling—

'debt' means any amount that is owed by a person but does not include—

(a) a tax debt as defined in section 1 of the Tax Administration Act; or

(b) an amount of interest;

'debt benefit', in respect of a debt owed by a person to another person, means any amount by which the face value of the claim held by that other person in respect of that debt, prior to the entering into of any arrangement in respect of that debt, exceeds—

(a) in the case of an arrangement—

(i) described in paragraph *(a)* of the definition of 'concession or compromise', the market value of the claim in respect of that debt; or

(ii) described in paragraph *(b)* of the definition of 'concession or compromise', where the person who subscribed for or acquired shares in a company in terms of that arrangement did not hold shares in that company prior to the entering into of that arrangement, the market value of the shares,

held or acquired by reason or as a result of the implementation of that arrangement; or

(b) in the case of an arrangement described in paragraph *(b)* of the definition of 'concession or compromise', where the person who subscribed for or acquired shares in a company in terms of that arrangement held shares in that company prior to the entering into of that arrangement, the amount by which the market value of the shares held by that person in that company after the implementation of that arrangement exceeds the market value of the shares held by that person in that company prior to the entering into of that arrangement,

reduced, in the case of a debt owed by a company to a person who holds shares in another company that forms part of the same group of companies as that company, by so much of any increase in the market value of the shares so held by that person as is attributable solely to the implementation of that arrangement; and

'group of companies' means a group of companies as defined in section 41.

(2) Subject to subparagraph (6), this paragraph applies where—

(a) a debt benefit in respect of a debt owed by a person arises by reason or as a result of a concession or compromise in respect of that debt; and

(b) the amount of that debt was used by that person to fund, directly or indirectly, any expenditure—

(i) other than expenditure in respect of which a deduction or allowance was granted in terms of this Act; or

(ii) incurred in respect of an allowance asset.

(3) Where—

(a) a debt benefit arises in respect of a debt owed by a person as contemplated in subparagraph (2); and

(b) the amount of that debt was used as contemplated in item *(b)* of that subparagraph to fund expenditure incurred in respect of an asset that is held by that person at the time the debt benefit arises,

the amount of expenditure so incurred in respect of that asset must, for the purposes of paragraph 20, be reduced by the debt benefit in respect of that debt.

(4) Where—

(a) a debt benefit arises in respect of a debt owed by a person as contemplated in subparagraph (2); and

(i) in paragraaf *(a)* van die omskrywing van 'toegewing of kompromis' beskryf, die markwaarde van die eis ten opsigte van daardie skuld oorskry; of

(ii) in paragraaf *(b)* van die omskrywing van 'toegewing of kompromis' beskryf, waar die persoon wat ingeteken het vir of aandele verkry het in 'n maatskappy ingevolge daardie reëling nie voor die aangaan van daardie reëling aandele in daardie maatskappy gehou het nie, die markwaarde van die aandele oorskry,

gehou of verkry uit hoofde van of as gevolg van die nakoming van daardie reëling; of

(b) in die geval van 'n reëling in paragraaf *(b)* van die omskrywing van 'toegewing of kompromis' beskryf, waar die persoon wat ingevolge daardie reëling ingeteken het op of aandele verkry het in 'n maatskappy nie voor die aangaan van daardie reëling aandele in daardie maatskappy gehou het nie, die markwaarde van die aandele gehou deur daardie persoon in daardie maatskappy voor die aangaan van daardie reëling oorskry;

verminder, in die geval van 'n skuld deur 'n maatskappy verskuldig aan 'n persoon wat aandele hou in 'n ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie maatskappy, deur soveel van enige verhoging in die markwaarde van die aandele aldus gehou deur daardie persoon soos alleenlik aan die nakoming van daardie ooreenkoms toegeskryf kan word; en

'toegewing of kompromis' enige reëling ingevolge waarvan—

(a) enige—

(i) bepaling of voorwaarde van toepassing ten opsigte van enige skuld verander word of van afstand gedoen word; of

(ii) verpligting vervang word, hetsy deur middel van novasie of andersins, vir die verpligting ten opsigte waarvan daardie skuld verskuldig is; of

(b) 'n skuld verskuldig deur 'n maatskappy vereffen word, direk of indirek, deur—

(i) omskep te word in of verruil te word vir aandele in daardie maatskappy; of

(ii) die opbrengs aan te wend van die aandele deur daardie maatskappy uitgereik.

(2) Behoudens subparagraaf (6), is hierdie paragraaf van toepassing waar—

(a) 'n skuldvoordeel ten opsigte van 'n skuld verskuldig deur 'n persoon ontstaan op grond van of as 'n resultaat van 'n toegewing of kompromis ten opsigte van daardie skuld; en

(b) die bedrag van daardie skuld deur daardie persoon aangewend is, regstreeks of onregstreeks, om enige uitgawes aangegaan te befonds—

(i) buiten uitgawes ten opsigte waarvan 'n aftrekking of toelae ingevolge hierdie Wet toegestaan is; of

(ii) aangegaan ten opsigte van 'n afskryfbare bate.

(3) Waar—

(a) 'n skuldvoordeel ten opsigte van 'n skuld verskuldig deur 'n persoon ontstaan soos beoog in subparagraaf (2); en

(b) die bedrag van daardie skuld gebruik is soos beoog in item *(b)* van daardie subparagraaf om uitgawes te befonds aangegaan ten opsigte van 'n bate wat gehou word deur daardie persoon ten tye wat die skuldvoordeel ontstaan,

word die bedrag van uitgawes aldus aangegaan ten opsigte van daardie bate, by die toepassing van paragraaf 20 verminder deur die skuldvoordeel te opsigte van daardie skuld.

(4) Waar—

(a) 'n skuldvoordeel ontstaan ten opsigte van 'n skuld verskuldig deur 'n persoon soos beoog in subparagraaf (2); en

(b) the amount of that debt was used as contemplated in item *(b)* of that subparagraph to fund expenditure incurred in respect of an asset (other than an allowance asset) that is—
  - (i) held by that person at the time the debt benefit arises and subparagraph (3) has been applied to reduce any expenditure in respect of that asset to the full extent of that expenditure; or
  - (ii) no longer held by that person at the time the debt benefit arises,

the debt benefit in respect of that debt, less any amount that has been applied to reduce any amount of expenditure as contemplated in subparagraph (3), must be applied to reduce any assessed capital loss of that person for the year of assessment in which the debt benefit arises.

(5) Where subparagraph (3) or (4) applies in respect of a debt that was used to fund expenditure in respect of a pre-valuation date asset of a person, for the purposes of determining the date of acquisition of that asset and the expenditure incurred in respect of that asset, that person must be treated as having—

(a) disposed of that asset at a time immediately before that debt benefit arose as contemplated in subparagraph (3)*(a)* or (4)*(a)*, as the case may be, for an amount equal to the market value of that asset at that time; and

(b) immediately reacquired that asset at that time at an expenditure equal to that market value—
  - (i) less any capital gain, and
  - (ii) increased by any capital loss,

that would have been determined had the asset been disposed of at market value at that time, which expenditure must be treated as an amount of expenditure actually incurred at that time for the purposes of paragraph 20(1)*(a)*.

(6) This paragraph must not apply to a debt benefit in respect of any debt owed by a person—

(a) that is an heir or legatee of a deceased estate, to the extent that—
  - (i) the debt is owed to that deceased estate;
  - (ii) the debt is reduced by the deceased estate; and
  - (iii) the amount by which the debt is reduced by the deceased estate forms part of the property of the deceased estate for the purposes of the Estate Duty Act;

(b) to the extent that the debt is reduced by way of—
  - (i) donation as defined in section 55(1); or
  - (ii) any transaction to which section 58 applies;

(c) to an employer of that person, to the extent that the debt is reduced in the circumstances contemplated in paragraph 2*(h)* of the Seventh Schedule;

(d) to another person where the person that owes that debt is a company, if—
  - (i) that company owes that debt to a company that forms part of the same group of companies as that company; and
  - (ii) that company has not carried on any trade,

  during the year of assessment during which that debt benefit arises and the immediately preceding year of assessment: Provided that this subitem must not apply in respect of any debt—

  (aa) incurred, directly or indirectly, by that company to fund expenditure incurred in respect of any asset that was subsequently disposed of by that company by way of an asset-for-share, intra-group or amalgamation transaction or a liquidation distribution in respect of which the provisions of section 42, 44, 45 or 47, as the case may be, applied; or

(b) die bedrag van daardie skuld gebruik is soos beoog in item *(b)* van daardie subparagraaf om uitgawes aangegaan te befonds ten opsigte van 'n bate (buiten 'n afskryfbare bate) wat—
   (i) gehou word deur daardie persoon ten tye wanneer die skuldvoordeel ontstaan en paragraaf (3) is toegepas om enige uitgawes te verminder ten opsigte van daardie bate tot die volle bedrag van daardie uitgawes;
   (ii) nie langer gehou word deur daardie persoon ten tye war die skuldvoordeel ontstaan nie,

word die skuldvoordeel ten opsigte van daardie skuld, wat aangewend is om enige uitgawes soos beoog in subparagraaf (3) te verminder, aangewend om enige vasgestelde kapitaalverlies van daardie persoon te verminder vir die jaar van aanslag waarin daardie skuldvoordeel ontstaan.

(5) Waar subparagraaf (3) of (4) van toepassing is ten opsigte van 'n skuld wat gebruik is om uitgawes te befonds ten opsigte van 'n voorwaardasiedatumbate van 'n persoon met die doel om die datum van verkryging van daardie bate en die uitgawes aangegaan ten opsigte van daardie bate te bepaal, word daardie persoon behandel asof—

(a) oor daardie bate beskik is op 'n tyd onmiddellik voor daardie skuldvoordeel ontstaan het soos beoog in subparagraaf (3)*(a)* of (4)*(a)*, vir 'n bedrag gelykstaande aan die markwaarde van daardie bate op daardie tydstip; en

(b) die persoon daardie bate onmiddellik herverkry het op daardie tydstip teen 'n uitgawe gelyk aan daardie markwaarde—
   (i) minus enige kapitaalwins; en
   (ii) vermeerder deur enige kapitaalverlies,

wat bepaal sou gewees het indien oor die bate beskik is teen markwaarde op daardie tydstip, welke uitgawe behandel word as 'n bedrag van uitgawes werklik aangegaan op daardie tydstip by die toepassing van paragraaf 20(1)*(a)*.

(6) Hierdie paragraaf is nie van toepassing nie op 'n skuldvoordeel ten opsigte van enige skuld verskuldig deur 'n persoon—

(a) wat 'n erfgenaam of legataris is van 'n bestorwe boedel, tot die mate wat—
   (i) die skuld aan daardie bestorwe boedel verskuldig is;
   (ii) die skuld deur die bestorwe boedel verminder word; en
   (iii) die bedrag waarmee die skuld deur die bestorwe boedel verminder word, deel uitmaak van die eiendom van die bestorwe boedel by die toepassing van die Boedelbelastingwet;

(b) tot die mate wat die skuld verminder word by wyse van—
   (i) 'n skenking soos omskryf in artikel 55(1); of
   (ii) enige transaksie waarop artikel 58 van toepassing is;

(c) aan 'n werkgewer van daardie persoon, tot die mate wat die skuld verminder word in die omstandighede beoog in paragraaf 2*(h)* van die Sewende Bylae.

(d) aan 'n ander persoon waar die persoon wat die skuld verskuldig is 'n maatskappy is indien—
   (i) daardie maatskappy die skuld verskuldig is aan 'n maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie maatskappy; en
   (ii) daardie maatskappy nie enige handel gedryf het nie,

   gedurende die jaar van aanslag waarin daardie skuldvoordeel ontstaan sowel as gedurende die onmiddellik voorafgaande jaar van aanslag: Met dien verstande dat hierdie subparagraaf nie van toepassing is nie ten opsigte van enige skuld—

   (aa) aangegaan, direk of indirek deur daardie maatskappy om uitgawes te befonds aangegaan ten opsigte van enige bate wat later oor beskik is deur daardie maatskappye deur middel van 'n bate-vir-aandeel, intra-groep of amalgamasietransaksie of 'n likwidasiedistribusie ten opsigte waarvan die bepalings van artikel 42, 44, 45 of 47, na gelang van die geval, van toepassing is; of

(bb) incurred or assumed by that company in order to settle, take over, refinance or renew, directly or indirectly, any debt incurred by—

(A) any other company that forms part of the same group of companies; or

(B) any company that is a controlled foreign company in relation to any company that forms part of the same group of companies;

(e) that is a company, where—

(i) that debt is reduced in the course, or in anticipation, of the liquidation, winding up, deregistration or final termination of the existence of that company; and

(ii) the person to whom the debt is owed is a connected person in relation to that company,

to the extent that debt benefit in respect of that debt does not, at the time that the debt benefit arises, exceed the amount of expenditure contemplated in paragraph 20 incurred in respect of that debt by the connected person: Provided that this subitem must not apply—

(a) if—

(i) the debt was reduced as part of any transaction, operation or scheme entered into to avoid any tax imposed by this Act; and

(ii) that company became a connected person in relation to the person to whom the debt is owed after the debt (or any debt issued in substitution of that debt) arose; or

(b) if that company—

(i) has not, within 36 months of the date on which the debt is reduced or such further period as the Commissioner may allow, taken the steps contemplated in section 41(4) to liquidate, wind up, deregister or finally terminate its existence;

(ii) has at any stage withdrawn any step taken to liquidate, wind up, deregister or finally terminate its corporate existence; or

(iii) does anything to invalidate any step contemplated in subparagraph (A), with the result that the company is or will not be liquidated, wound up, deregistered or finally terminate its existence; or

(f) to another person where the person that owes that debt is a company that—

(i) owes that debt to a company that forms part of the same group of companies as that company; and

(ii) reduces or settles that debt, directly or indirectly, by means of shares issued by that company:

Provided that this subitem must not apply in respect of any debt that was incurred or assumed by that company in order to settle, take over, refinance or renew, directly or indirectly, any debt incurred by another company which—

(aa) did not form part of that same group of companies at the time that that other company incurred that debt; or

(bb) does not form part of that same group of companies at the time that company reduces or settles that debt, directly or indirectly, by means of shares issued by that company.

(bb) aangegaan of aangeneem deur daardie maatskappy ten einde enige skuld te vereffen, oor te neem, te herfinansier, regstreeks of onregstreeks, aangegaan by—

(A) enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye; of

(B) enige maatskappy wat 'n buitelandse beheerde maatskappy is met betrekking tot enige maatskappy wat deel uitmaak van dieselfde groep van maatskappye; of

(e) wat 'n maatskappy is, waar—

(i) daardie skuld verminder is in afwagting of in die loop van die likwidasie, deregistrasie of finale beëindiging van 'n maatskappy; en

(ii) die persoon aan wie die skuld verskuldig is 'n verbonde persoon ten opsigte van daardie maatskappy is,

tot die mate wat die skuldvoordeel ten opsigte van daardie skuld nie, ten tye wat die skuldvoordeel ontstaan nie die bedrag van uitgawes beoog in paragraaf 20 aangegaan ten opsigte van daardie skuld deur die verbonde persoon oorskry nie: Met dien verstande dat hierdie subitem nie toegepas word nie—

(a) indien—

(i) die skuld verminder is as deel van enige transaksie, handeling of skema aangegaan om enige belasting deur hierdie Wet opgelê, te vermy; en

(ii) daardie maatskappy 'n verbonde persoon met betrekking tot die persoon waaraan die skuld verskuldig is, geword het nadat die skuld (of enige skuld uitgereik ter vervanging van daardie skuld) ontstaan het; of

(b) indien daardie maatskappy —

(i) nie binne 36 maande van die datum waarop die skuld verminder word of die verdere tydperk wat die Kommissaris toelaat, die stappe beoog in artikel 41(4) gedoen het om te likwideer, deregistreer of finaal sy bestaan te beëindig nie;

(ii) te eniger tyd enige stap geneem het om te likwideer, te deregistreer of finaal sy korporatiewe bestaan te beëindig; of

(iii) enigiets doen om enige stap beoog in subparagraaf (A) ongeldig te maak, met die gevolg dat die maatskappy nie gelikwideer of gederegistreer is of sal word nie of sy bestaan finaal beëindig is of sal word nie; of

(f) aan enige ander persoon waar die persoon wat die skuld verskuldig is 'n maatskappy is wat—

(i) daardie skuld verskuldig is aan 'n maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie maatskappy; en

(ii) daardie skuld verminder of vereffen, regstreeks of onregstreeks, deur middel van aandele uitgereik deur daardie maatskappy:

Met dien verstande dat hierdie paragraaf nie van toepassing is nie ten opsigte van skuld wat aangegaan of aangeneem is deur daardie maatskappy ten einde enige skuld te vereffen, oor te neem, te herfinansier of te hernu, regstreeks of onregstreeks, enige skuld wat aangegaan is deur 'n ander maatskappy wat—

(aa) nie deel uitgemaak het van dieselfde groep van maatskappye toe daardie ander maatskappy daardie skuld aangegaan het nie; of

(bb) nie deel uitgemaak het van dieselfde groep van maatskappye toe daardie maatskappy daardie skuld verminder of vereffen het nie, regstreeks of onregstreeks, deur middel van aandele uitgereik in daardie maatskappy.

(7) Any tax which becomes payable as a result of the application of paragraph *(b)* of the proviso to subparagraph (6)*(e)* must be recovered from the company and the connected person contemplated in that subparagraph who must be jointly and severally liable for that tax.''.

(2) Subsection (1) comes into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 35A of Eighth Schedule to Act 58 of 1962, as inserted by section 62 of Act 32 of 2004

71. Paragraph 35A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (2) of the following subparagraph:

''(2) So much of any consideration received by or **[accrues]** accrued to a person from the disposal of a claim contemplated in subparagraph (1)*(b)* as is attributable to any amount which has not yet accrued to that person as contemplated in subparagraph (1)*(c)*, must be treated as an amount of consideration which accrues to that person in respect of the disposal of the asset contemplated in subparagraph (1)*(a)*.''.

Substitution of paragraph 43A of Eighth Schedule to Act 58 of 1962, as substituted by section 112 of Act 24 of 2011 and amended by section 118 of Act 22 of 2012

72. (1) The following paragraph is hereby substituted for paragraph 43A of the Eighth Schedule to the Income Tax Act, 1962:

''**Dividends treated as proceeds on disposal of certain shares**

43A. (1) For the purposes of this section—

'exempt dividend' means any dividend or foreign dividend to the extent that the dividend or foreign dividend is—

(a) not subject to tax under Part VIII of Chapter II; and
(b) exempt from normal tax in terms of section 10(1)*(k)*(i) or section 10B(2)*(a)* or *(b)*;

'extraordinary dividend', in relation to—

(a) a preference share the dividends in respect of which are determined with reference to a rate of interest, means so much of the amount of any dividend received or accrued as exceeds an amount determined at a rate of 15 per cent;
(b) any other share, means so much of the amount of any dividend received or accrued—
  (i) within a period of 18 months prior to the disposal of that share; or
  (ii) in respect, by reason or in consequence of that disposal,

  as exceeds 15 per cent of the higher of the market value of that share as at the beginning of the period of 18 months and as at the date of disposal of that share; and

'qualifying interest' means an interest held by a company in another company, whether alone or together with any connected persons in relation to that company, that constitutes—

(a) if that other company is not a listed company, at least—
  (i) 50 per cent of the equity shares or voting rights in that other company; or
  (ii) 20 per cent of the equity shares or voting rights in that other company if no other person (whether alone or together with any connected person in relation to that person) holds the majority of the equity shares or voting rights in that other company; or

(7) Enige belasting wat betaalbaar word as gevolg van die toepassing van paragraaf *(bb)* van die voorbehoudsbepaling tot subparagraaf (6)*(e)* moet verhaal word van die maatskappy en die verbonde persoon beoog in daardie subparagraaf, wat gesamentlik en afsonderlik vir daardie belasting aanspreeklik is.''.

(2) Subartikel (1) tree op 1 Januarie 2018 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van paragraaf 35A van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 62 van Wet 32 van 2004

71. Paragraaf 35A van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (2) deur die volgende subparagraaf te vervang:

''(2) Soveel van enige vergoeding ontvang deur of **[wat toeval]** toegeval aan 'n persoon uit die beskikking oor 'n eis in subparagraaf (1)*(b)* bedoel wat aan enige bedrag wat nog nie aan daardie persoon toegeval het nie soos in subparagraaf (1)*(c)* bedoel, toeskryfbaar is, word geag 'n bedrag van vergoeding te wees wat toeval aan daardie persoon ten opsigte van die beskikking oor die bate in subparagraaf (1)*(a)* bedoel.''.

Vervanging van paragraaf 43A van Agtste Bylae by Wet 58 van 1962, soos vervang deur artikel 112 van Wet 24 van 2011 en gewysig deur artikel 118 van Wet 22 van 2012

72. (1) Paragraaf 43A van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby deur die volgende paragraaf vervang:

''**Dividende behandel soos opbrengs van beskikking oor sekere aandele.**

43A. (1) By die toepassing van hierdie artikel beteken—

'vrygestelde dividend' enige dividend of buitelandse dividend tot die mate die dividend of buitelandse dividend—

(a) nie aan belasting kragtens Deel VIII van Hoofstuk II onderhewig is nie; en *(b)* ingevolge artikel 10(1)*(k)*(i) of artikel 10B(2)*(a)* of

(b) van normale belasting vrygestel is.

'buitengewone dividend', met betrekking tot—

(a) 'n voorkeuraandeel ten opsigte waarvan die dividende bepaal word met verwysing na 'n rentekoers, soveel van die bedrag van enige dividend ontvang of toegeval wat nie 'n bedrag oorskry nie bereken teen 'n koers van 15 persent;

(b) enige ander aandeel, soveel van die bedrag van enige dividend ontvang of toegeval—

(i) binne 'n tydperk van 18 maande voor die beskikking van daardie aandeel; of

(ii) ten opsigte van, of as gevolg van daardie beskikking,

as wat 15 persent oorskry van die hoogste van die markwaarde van daardie aandeel aan die begin van die tydperk van 18 maande en op die datum van beskikking van daardie aandeel; en

'kwalifiserende belang' enige belang gehou deur 'n maatskappy in 'n ander maatskappy, hetsy alleen of gesamentlik met enige verbonde persone met betrekking tot daardie maatskappy wat—

(a) indien daardie ander maatskappy nie 'n genoteerde maatskappy is nie, ten minste—

(i) 50 persent van die ekwiteitsaandele of stemregte in daardie ander maatskappy uitmaak; of

(ii) 20 persent van die ekwiteitsaandele of stemregte in daardie ander maatskappy uitmaak indien geen ander persoon (hetsy alleen of gesamentlik met enige verbonde persone met betrekking tot daardie persoon) die meerderheid van die ekwiteitsaandele of stemregte in daardie ander maatskappy hou; of

(b) if that other company is a listed company, at least 10 per cent of the equity shares or voting rights in that other company.

(2) Where a company disposes of shares in another company and that company held a qualifying interest in that other company at any time during the period of 18 months prior to that disposal, the amount of any exempt dividend received by or that accrued to that company in respect of the shares disposed of must—

(a) to the extent that the exempt dividend constitutes an extraordinary dividend; and

(b) if that company immediately before that disposal held the shares disposed of as a capital asset (as defined in section 41),

be taken into account, in the year of assessment in which those shares are disposed of or, where that dividend is received or accrues after that year of assessment, the year of assessment in which that dividend is received or accrues as part of the proceeds from the disposal of those shares.''.

(2) Subsection (1) is deemed to have come into operation on 19 July 2017 and applies in respect of any disposal on or after that date other than a disposal in terms of an agreement all the terms of which were finally agreed to before that date by all the parties to that agreement.

Amendment of paragraph 55 of Eighth Schedule to Act 58 of 1962, as amended by section 31 of Act 19 of 2001, section 98 of Act 60 of 2001, section 87 of Act 74 of 2002, section 102 of Act 45 of 2003, section 76 of Act 31 of 2005, section 57 of Act 3 of 2008, section 114 of Act 24 of 2011 and section 115 of Act 25 of 2015

73. Paragraph 55 of Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1)*(c)* for the words preceding subitem (i) of the following words:

''in respect of a policy that was taken out to insure against the death, disability or **[severe]** illness of that person by any other person who was a partner of that person, or held any shares or similar interest in a company in which that person held any share or similar interest, for the purpose of enabling that other person to acquire, upon the death, disability or severe illness of that person, the whole or part of—''.

Insertion of paragraph 64E in Eighth Schedule to Act 58 of 1962

74. (1) The following paragraph is hereby inserted in the Eighth Schedule to the Income Tax Act, 1962, after paragraph 64D:

''**Disposal by trust in terms of share incentive scheme**

64E. Where a capital gain is determined in respect of the disposal of an asset by a trust and a trust beneficiary has a vested right to an amount derived from that capital gain, that trust must disregard so much of that capital gain as is equal to that amount if that amount must in terms of section 8C be—

(a) included in the income of that trust beneficiary as an amount received or accrued in respect of a restricted equity instrument; or

(b) taken into account in determining the gain or loss in the hands of that trust beneficiary in respect of the vesting of a restricted equity instrument.''.

(2) Subsection (1) is deemed to have come into operation on 1 March 2017 and applies in respect of amounts received or accrued on or after that date.

(b) indien daardie ander maatskappy 'n genoteerde maatskappy is, ten minste 10 persent van die ekwiteitsaandele of stemregte in daardie ander maatskappy.

(2) Waar 'n maatskappy oor aandele in 'n ander maatskappy beskik en daardie ander maatskappy het te eniger tyd gedurende die tydperk van 18 maande voor daardie beskikking 'n kwalifiserende belang in daardie ander maatskappy gehou, word die bedrag van enige vrygestelde dividend ontvang deur of toegeval aan daardie maatskappy ten opsigte van die aandele oor beskik—

(a) tot die mate wat die vrygestelde dividend 'n buitengewone dividend uitmaak; en

(b) indien daardie maatskappy onmiddellik voor daardie beskikking die aandele gehou het as 'n kapitaalbate (soos omskryf in artikel 41),

in ag geneem in die jaar van aanslag waarin oor daardie aandele beskik word of, waar daardie dividend ontvang word of toeval na daardie jaar van aanslag, die jaar van aanslag waarin daardie dividend ontvang word of toeval as deel van die opbrengs van daardie aandele.".

(2) Subartikel (1) word geag op 19 Julie 2017 in werking te getree het en is van toepassing ten opsigte van enige beskikking op of na daardie datum buiten 'n beskikking ingevolge 'n ooreenkoms waarvan al die bedinge finaal op ooreengekom is voor daardie datum deur al die partye tot daardie ooreenkoms.

Wysiging van paragraaf 55 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 31 van Wet 19 van 2001, artikel 98 van Wet 60 van 2001, artikel 87 van Wet 74 van 2002, artikel 102 van Wet 45 van 2003, artikel 76 van Wet 31 van 2005, artikel 57 van Wet 3 van 2008, artikel 114 van Wet 24 van 2011 en artikel 115 van Wet 25 van 2015

73. Paragraaf 55 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (1)*(c)* die woorde wat item (1) voorafgaan deur die volgende item te vervang:

"ten opsigte van 'n polis wat verseker teen die dood, ongeskiktheid of **[ernstige]** siekte van daardie persoon, wat uitgeneem is deur 'n ander persoon wat die vennoot van daardie persoon was, of wat enige aandeel of soortgelyke belang gehou het in 'n maatskappy waarin daardie persoon enige aandeel of soortgelyke belang gehou het, met die doel om daardie ander persoon in staat te stel om, na die afsterwe of weens die ongeskiktheid of **[ernstige]** siekte van daardie persoon, die geheel of 'n gedeelte te verkry van—".

Invoeging van paragraaf 64E in Agtste Bylae by Wet 58 van 1962

74. (1) Die volgende paragraaf word hierby ingevoeg in die Agtste Bylae by die Inkomstebelastingwet, 1962, na paragraaf 64D:

"**Beskikking deur trust ingevolge aandele-aansporingskema**

64E. Waar 'n kapitaalwins bepaal word ten opsigte van die beskikking van 'n bate deur 'n trust en 'n trustbegunstigde het 'n gevestigde reg op 'n bedrag van daardie kapitaalwins, moet daardie trust soveel van daardie kapitaalwins verontagsaam as wat gelyk is aan daardie bedrag indien daardie bedrag kragtens artikel 8C—

(a) ingesluit word in die inkomste van daardie trustbegunstigde as 'n bedrag ontvang of toegeval ten opsigte van 'n beperkte ekwiteitsinstrument; of

(b) in ag geneem by die berekening van die wins of verlies in die hande van daardie trustbegunstigde ten opsigte van die vestiging van 'n beperkte ekwiteitsinstrument.".

(2) Subartikel (1) word geag op 1 Maart 2017 in werking te getree het en is van toepassing ten opsigte van bedrae ontvang of toegeval op of na daardie datum.

Amendment of paragraph 80 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 108 of Act 60 of 2001, section 58 of Act 20 of 2006, section 62 of Act 3 of 2008, section 86 of Act 60 of 2008, section 80 of Act 17 of 2009, section 150 of Act 31 of 2013 and section 123 of Act 25 of 2015

75. (1) Paragraph 80 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subparagraph (2) of the following subparagraph:

''(2) Subject to paragraphs 64E, 68, 69**[,]** and 71 **[and 72]**, where a capital gain is determined in respect of the disposal of an asset by a trust in a year of assessment during which a trust beneficiary (other than any person contemplated in paragraph 62 *(a)* to *(e)*) who is a resident has a vested **[interest]** right or acquires a vested **[interest]** right (including **[an interest caused]** a right created by the exercise of a discretion) **[in]** to an amount derived from that capital gain but not **[in]** to the asset, the disposal of which gave rise to the capital gain, **[the whole or the portion]** so much of the capital gain **[so vested]** as is equal to the amount to which that trust beneficiary is entitled in terms of that right—

(a) must be disregarded for the purpose of calculating the aggregate capital gain or aggregate capital loss of the trust; and

(b) must be taken into account for the purpose of calculating the aggregate capital gain or aggregate capital loss of the beneficiary **[in whom the gain vests]** who is entitled to that amount.''; and

(b) by the deletion of subparagraph (2A).

(2) Subsection (1) is deemed to have come into operation on 1 March 2017 and applies in respect of amounts received or accrued on or after that date.

Continuation of certain amendments of Schedules to Act 91 of 1964

76. Every amendment or withdrawal of or insertion in Schedules No. 1 to 6, 8 and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56, 56A, 57, 60 or 75(15) of that Act during the period 1 September 2016 up to and including 30 September 2017, shall not lapse by virtue of section 48(6), 49(5A), 56(3), 56A(3), 57(3), 60(4) or 75(16) of that Act.

Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, paragraph 1 of Government Notice 2695 of 8 November 1991, section 12 of Act 136 of 1992, section 1 of Act 61 of 1993, section 22 of Act 97 of 1993, section 9 of Act 20 of 1994, section 18 of Act 37 of 1996, section 23 of Act 27 of 1997, section 34 of Act 34 of 1997, section 81 of Act 53 of 1999, section 76 of Act 30 of 2000, section 64 of Act 59 of 2000, section 65 of Act 19 of 2001, section 148 of Act 60 of 2001, section 114 of Act 74 of 2002, section 47 of Act 12 of 2003, section 164 of Act 45 of 2003, section 43 of Act 16 of 2004, section 92 of Act 32 of 2004, section 8 of Act 10 of 2005, section 101 of Act 31 of 2005, section 40 of Act 9 of 2006, section 77 of Act 20 of 2006, sections 81 and 108 of Act 8 of 2007, section 104 of Act 35 of 2007, section 68 of Act 3 of 2008, section 104 of Act 60 of 2008, section 33 of Act 18 of 2009, section 119 of Act 7 of 2010, section 26 of Act 8 of 2010, section 129 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 108 of Schedule 1 to that Act, section 145 of Act 22 of 2012, section 165 of Act 31 of 2013, section 95 of Act 43 of 2014, section 128 of Act 25 of 2015 and section 83 of Act 15 of 2016

77. (1) Section 1 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in subsection (1) for paragraph *(b)* of the definition of ''grant'' of the following paragraph:

''*(b)* a payment contemplated in section 8(23);'';

(b) by the insertion in subsection (1) after the definition of ''imported services'' of the following definition:

'' **'inbound insurance policy'** means a travel policy which provides insurance cover in respect of a passenger transported from an export country to South Africa or between two places in South Africa as part of an international journey;'';

Wysiging van paragraaf 80 van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001 en gewysig deur artikel 108 van Wet 60 van 2001, artikel 58 van Wet 20 van 2006, artikel 62 van Wet 3 van 2008, artikel 86 van Wet 60 van 2008, artikel 80 van Wet 17 van 2009, artikel 150 van Wet 31 van 2013 en artikel 123 van Wet 25 van 2015

75. (1) Paragraaf 80 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subparagraaf (2) deur die volgende subparagraaf te vervang:

"(2) Behoudens paragrawe 64E, 68, 69**[,]** en 71 **[en 72]**, waar 'n kapitaalwins bepaal word ten opsigte van die beskikking oor 'n bate deur 'n trust in 'n jaar van aanslag waartydens 'n trustbegunstigde (buiten 'n persoon beoog in paragraaf 62*(a)* tot *(e)*) wat 'n inwoner is 'n gevestigde **[belang]** reg het of 'n gevestigde **[belang]** reg verkry (ingesluit 'n **[belang wat ontstaan]** reg geskep weens die uitoefening van 'n diskresie) **[in]** op 'n bedrag verkry van daardie kapitaalwins maar nie **[in]** op die bate, die beskikking waaroor tot die kapitaalwins aanleiding gegee het, nie, moet **[die geheel of gedeelte]** soveel van die kapitale wins as wat **[aldus vestig]** gelykstaande is aan die bedrag waarop daardie trustbegunstigde geregtig is kragtens daardie reg—

(a) vir doeleindes van die vasstelling van die trust se totale kapitaalwins of totale kapitaalverlies verontagsaam word; en

(b) in berekening gebring word vir doeleindes van die vasstelling van die totale kapitaalwins of totale kapitaalverlies van die begunstigde **[in wie daardie belang vestig]** wat geregtig is op daardie bedrag."; en

(b) deur subparagraaf (2A) te skrap.

(2) Subartikel (1) word geag op 1 Maart 2017 in werking te getree het en is van toepassing ten opsigte van bedrae ontvang of toegeval op of na daardie datum.

Voortduring van sekere wysigings van Bylaes by Wet 91 van 1964

76. Geen wysiging aan of intrekking van of invoeging in Bylae No. 1 tot 6, 8 en 10 by die Doeane- en Aksynswet, 1964, wat aangebring is kragtens artikel 48, 49, 56, 56A, 57, 60 of 75(15) van daardie Wet gedurende die tydperk 1 September 2016 tot en met en insluitende 30 September 2017, verval uit hoofde van artikel 48(6), 49(5A), 56(3), 56A(3), 57(3), 60(4) of 75(16) van daardie Wet nie.

Wysiging van artikel 1 van Wet 89 van 1991, soos gewysig deur artikel 21 van Wet 136 van 1991, paragraaf 1 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 12 van Wet 136 van 1992, artikel 1 van Wet 61 van 1993, artikel 22 van Wet 97 van 1993, artikel 9 van Wet 20 van 1994, artikel 18 van Wet 37 van 1996, artikel 23 van Wet 27 van 1997, artikel 34 van Wet 34 van 1997, artikel 81 van Wet 53 van 1999, artikel 76 van Wet 30 van 2000, artikel 64 van Wet 59 van 2000, artikel 65 van Wet 19 van 2001, artikel 148 van Wet 60 van 2001, artikel 114 van Wet 74 van 2002, artikel 47 van Wet 12 van 2003, artikel 164 van Wet 45 van 2003, artikel 43 van Wet 16 van 2004, artikel 92 van Wet 32 van 2004, artikel 8 van Wet 10 van 2005, artikel 101 van Wet 31 van 2005, artikel 40 van Wet 9 van 2006, artikel 77 van Wet 20 van 2006, artikels 81 en 108 van Wet 8 van 2007, artikel 104 van Wet 35 van 2007, artikel 68 van Wet 3 van 2008, artikel 104 van Wet 60 van 2008, artikel 33 van Wet 18 van 2009, artikel 119 van Wet 7 van 2010, artikel 26 van Wet 8 van 2010, artikel 129 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 108 van Bylae 1 by daardie Wet, artikel 145 van Wet 22 van 2012, artikel 165 van Wet 31 van 2013, artikel 95 van Wet 43 van 2014, artikel 128 van Wet 25 van 2015 en artikel 83 van Wet 15 van 2016

77. (1) Artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur in subartikel (1) na die omskrywing van "ingevoerde dienste" die volgende omskrywing in te voeg:

" **'inkomende versekeringspolis'** 'n reispolis wat versekeringsdekking voorsien ten opsigte van 'n passasier vervoer vanaf 'n uitvoerland na Suid-Afrika of tussen twee plekke in Suid-Afrika as deel van 'n internasionale reis;";

(c) by the insertion in subsection (1) after the definition of ''insurance'' of the following definition:

'' **'international journey'** means a journey commencing from the 'point of departure' in South Africa to a destination outside South Africa (and vice versa), including (where applicable) stopovers en route to the destination, time spent in the destination country and the return journey''; and

(d) by the insertion in subsection (1) after the definition of ''open market value'' of the following definition:

'' **'outbound insurance policy'** means a travel policy which provides insurance cover in respect of a passenger transported from South Africa to a destination in an export country or from a place outside South Africa to another destination outside South Africa as part of an international journey;''.

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 April 2017.

(3) Paragraphs *(b)*, *(c)* and *(d)* of subsection (1) come into operation on 1 April 2018.

Amendment of section 8 of Act 89 of 1991, as amended by section 24 of Act 136 of 1991, paragraph 4 of Government Notice 2695 of 8 November 1991, section 15 of Act 136 of 1992, section 24 of Act 97 of 1993, section 11 of Act 20 of 1994, section 20 of Act 46 of 1996, section 25 of Act 27 of 1997, section 83 of Act 53 of 1999, section 67 of Act 19 of 2001, section 151 of Act 60 of 2001, section 166 of Act 45 of 2003, section 95 of Act 32 of 2004, section 102 of Act 31 of 2005, section 172 of Act 34 of 2005, section 42 of Act 9 of 2006, section 79 of Act 20 of 2006, section 27 of Act 36 of 2007, section 106 of Act 60 of 2008, section 91 of Act 17 of 2009, section 120 of Act 7 of 2010, section 131 of Act 24 of 2011, section 146 of Act 22 of 2012, section 166 of Act 31 of 2013, section 21 of Act 44 of 2014 and section 129 of Act 25 of 2015

78. (1) Section 8 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the insertion after subsection (22) of the following subsection:

''(23) For the purposes of this Act a vendor shall be deemed to supply services to any public authority or municipality to the extent of any payment made to or on behalf of that vendor in terms of a national housing programme contemplated in the Housing Act, 1997 (Act No. 107 of 1997).''; and

(b) by the addition of the following subsections:

''(28) Where a municipality transfers any assets, liabilities, rights and obligations to another municipality pursuant to the merger, creation, adjustment or disestablishment of municipalities as a result of any municipal boundary change as envisaged under the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)—

(a) the transferring municipality and the recipient municipality shall be regarded as being one and the same person if such municipalities are merged into a single municipality; and

(b) the transferring municipality shall not be deemed to have made a supply to the recipient municipality if both municipalities continue to exist after such municipal boundary change.

(29) For the purposes of this Act, a supply of leasehold improvements by a vendor, being a lessee, shall be deemed to be a supply of goods in the course or furtherance of the lessee's enterprise to the extent that the leasehold improvements are made for no consideration: Provided that this subsection shall not apply where such leasehold improvements are wholly for consumption, use or supply in the course of making other than taxable supplies by the lessee.''.

(b) deur in subartikel (1) na die omskrywing van ''insetbelasting'' die volgende omskrywing in te voeg:

'' **'internasionale reis'** 'n reis wat 'n aanvang neem vanaf die ''vertrekpunt'' in Suid-Afrika na 'n bestemming buite Suid-Afrika (en andersom), insluitend (waar van toepassing) stilhouplekke op pad na die bestemming, tyd deurgebring in die land van bestemming en die reis terug;''; en

(c) deur in subartikel (1) na die omskrywing van ''tweedehandse goed'' die volgende omskrywing in te voeg:

'' **'uitgaande versekeringspolis'** 'n reispolis wat versekeringsdekking voorsien ten opsigte van 'n passasier wat vervoer word vanaf Suid-Afrika na 'n bestemming in 'n uitvoerland of vanaf 'n plek binne Suid-Afrika na 'n ander bestemming buite Suid-Afrika as deel van 'n internasionale reis;''.

(2) Paragraaf *(a)* van subartikel (1) word geag op 1 April 2017 in werking te getree het.

(3) Paragrawe *(b)*, *(c)* en *(d)* van subartikel (1) tree op 1 April 2018 in werking.

Wysiging van artikel 8 van Wet 89 van 1991, soos gewysig deur artikel 24 van Wet 136 van 1991, paragraaf 4 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 15 van Wet 136 van 1992, artikel 24 van Wet 97 van 1993, artikel 11 van Wet 20 van 1994, artikel 20 van Wet 46 van 1996, artikel 25 van Wet 27 van 1997, artikel 83 van Wet 53 van 1999, artikel 67 van Wet 19 van 2001, artikel 151 van Wet 60 van 2001, artikel 166 van Wet 45 van 2003, artikel 95 van Wet 32 van 2004, artikel 102 van Wet 31 van 2005, artikel 172 van Wet 34 van 2005, artikel 42 van Wet 9 van 2006, artikel 79 van Wet 20 van 2006, artikel 27 van Wet 36 van 2007, artikel 106 van Wet 60 van 2008, artikel 91 van Wet 17 van 2009, artikel 120 van Wet 7 van 2010, artikel 131 van Wet 24 van 2011, artikel 146 van Wet 22 van 2012, artikel 166 van Wet 31 van 2013, artikel 21 van Wet 44 van 2014 en artikel 129 van Wet 25 van 2015

78. (1) Artikel 8 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur na subartikel (22) die volgende subartikel in te voeg:

''(23) By die toepassing van hierdie Wet, sal 'n ondernemer geag word dienste te lewer aan 'n openbare bestuur of munisipaliteit tot die mate wat enige betaling gemaak aan of ten behoewe van daardie ondernemer ingevolge 'n nasionale behuisingsprogram beoog in die Behuisingswet, 1997 (Wet No. 107 van 1997).''; en

(b) deur die volgende subartikels na subartikel (27) in te voeg:

''(28) Waar 'n Munisipaliteit enige bates, laste, regte en verpligtinge na 'n ander Munisipaliteit oordra ter uitvoering van die samesmelting, skepping, aanpassing of afskaffing van munisipaliteite as gevolg van enige munisipale grensverandering soos beoog kragtens die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No.117 of 1998)—

(a) word die oordraggewende munisipaliteit en die ontvangermunisipaliteit geag een en dieselfde persoon te wees indien bedoelde munisipaliteite saamgesmelt word in 'n enkele munisipaliteit; en

(b) word die oordraggewende munisipaliteit nie geag om 'n lewering te gemaak het aan die ontvangermunisipaliteit nie indien beide munisipaliteite na bedoelde grensverandering voortgaan om te bestaan.

(29) By die toepassing van hierdie Wet, word 'n lewering van of pagbesitverbeteringe deur 'n ondernemer, wat 'n huurder is, geag om 'n lewering van goedere te wees in die verloop en bevordering van die huurder se onderneming namate pagbesit verbeteringe gemaak word vir geen vergoeding: Met dien verstande dat hierdie subartikel nie van toepassing is nie waar sulke pagbesitverbeteringe in die geheel vir verbruik, gebruik of lewering in die loop van die maak van buiten belasbare lewerings deur die huurder.''.

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 April 2017.

(3) Paragraph *(b)* of subsection (1) comes into operation on 1 April 2018.

Amendment of section 9 of Act 89 of 1991, as amended by section 25 of Act 136 of 1991, section 25 of Act 97 of 1993, section 21 of Act 46 of 1996, section 26 of Act 27 of 1997, section 167 of Act 45 of 2003, section 96 of Act 32 of 2004, section 103 of Act 31 of 2005, section 172 of Act 34 of 2005, section 28 of Act 36 of 2007, section 27 of Act 8 of 2010, section 167 of Act 39 of 2013 and section 130 of Act 25 of 2015

79. (1) Section 9 of the Value-Added Tax Act, 1991, is hereby amended by the addition after subsection (11) of the following subsection:

"(12) Where any supply of goods is deemed to be made as contemplated in section 8 (29), that supply shall be deemed to take place at the time the leasehold improvements are completed.".

(2) Subsection (1) comes into operation on 1 April 2018.

Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, paragraph 5 of Government Notice 2695 of 8 November 1991, section 16 of Act 136 of 1992, section 26 of Act 97 of 1993, section 12 of Act 20 of 1994, section 21 of Act 37 of 1996, section 22 of Act 46 of 1996, section 27 of Act 27 of 1997, section 84 of Act 53 of 1999, section 68 of Act 19 of 2001, section 152 of Act 60 of 2001, section 168 of Act 45 of 2003, section 97 of Act 32 of 2004, section 104 of Act 31 of 2005, section 43 of Act 9 of 2006, section 80 of Act 20 of 2006, section 82 of Act 8 of 2007, section 107 of Act 60 of 2008, section 122 of Act 7 of 2010, section 133 of Act 24 of 2011, section 168 of Act 39 of 2013 and section 131 of Act 25 of 2015

80. (1) Section 10 of the Value-Added Tax Act, 1991, is hereby amended by the addition of the following subsection:

"(28) Where a supply of goods is deemed to be made as contemplated in section 8(29), the value of such supply shall be deemed to be nil.".

(2) Subsection (1) comes into operation on 1 April 2018.

Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 17 of Act 136 of 1992, section 27 of Act 97 of 1993, section 13 of Act 20 of 1994, section 28 of Act 27 of 1997, section 89 of Act 30 of 1998, section 85 of Act 53 of 1999, section 77 of Act 30 of 2000, section 43 of Act 5 of 2001, section 153 of Act 60 of 2001, section 169 of Act 45 of 2003, section 46 of Act 16 of 2004, section 98 of Act 32 of 2004, section 21 of Act 9 of 2005, section 105 of Act 31 of 2005, section 44 of Act 9 of 2006, section 81 of Act 20 of 2006, section 105 of Act 35 of 2007, section 29 of Act 36 of 2007, Government Notice R.1024 in Government *Gazette* 32664 of 30 October 2009, section 134 of Act 24 of 2011, section 169 of Act 31 of 2013, section 96 of Act 43 of 2014 and section 132 of Act 25 of 2015

81. (1) Section 11 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in subsection (1)*(b)* for the words preceding subparagraph (i) of the following words:

"the goods have been supplied in the course of repairing, renovating, modifying, **[or]** treating, processing, cleaning, reconditioning or manufacture of any goods to which subsection (2)*(g)* (ii) or (iv) refers and the goods supplied—";

(b) by the substitution in subsection (2) for paragraph *(d)* of the following paragraph:

"*(d)* (i) the services comprise the—

(aa) insuring;

(bb) arranging of the insurance; or

(cc) arranging of the transport,

of passengers or goods to which any provisions of paragraph *(a)*, *(b)* or *(c)* apply; or

(2) Paragraaf *(a)* van subartikel (1) word geag op 1 April 2017 in werking te getree het.

(3) Paragraaf *(b)* van subartikel (1) tree in werking op 1 April 2018.

Wysiging van artikel 9 van Wet 89 van 1991, soos gewysig deur artikel 25 van Wet 136 van 1991, artikel 25 van Wet 97 van 1993, artikel 21 van Wet 46 van 1996, artikel 26 van Wet 27 van 1997, artikel 167 van Wet 45 van 2003, artikel 96 van Wet 32 van 2004, artikel 103 van Wet 31 van 2005, artikel 172 van Wet 34 van 2005, artikel 28 van Wet 36 van 2007, artikel 27 van Wet 8 van 2010, artikel 167 van Wet 39 van 2013 en artikel 130 van Wet 25 van 2015

79. (1) Artikel 9 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur na subartikel (11) die volgende artikel in te voeg:

> "(12) Waar die lewering van enige goedere geag word gemaak te wees soos beoog in artikel 8(29), word daardie lewering geag plaas te gevind het ten tye wat die pagbesit voltooi is.".

(2) Subartikel (1) tree op 1 April 2018 in werking.

Wysiging van artikel 10 van Wet 89 van 1991, soos gewysig deur artikel 26 van Wet 136 van 1991, paragraaf 5 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 16 van Wet 136 van 1992, artikel 26 van Wet 97 van 1993, artikel 12 van Wet 20 van 1994, artikel 21 van Wet 37 van 1996, artikel 22 van Wet 46 van 1996, artikel 27 van Wet 27 van 1997, artikel 84 van Wet 53 van 1999, artikel 68 van Wet 19 van 2001, artikel 152 van Wet 60 van 2001, artikel 168 van Wet 45 van 2003, artikel 97 van Wet 32 van 2004, artikel 104 van Wet 31 van 2005, artikel 43 van Wet 9 van 2006, artikel 80 van Wet 20 van 2006, artikel 82 van Wet 8 van 2007, artikel 107 van Wet 60 van 2008, artikel 122 van Wet 7 van 2010, artikel 133 van Wet 24 van 2011, artikel 168 van Wet 39 van 2013 en artikel 131 van Wet 25 van 2015

80. (1) Artikel 10 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende subartikel by te voeg:

> "(28) Waar die lewering van enige goedere geag word gemaak te wees soos beoog in artikel 8(29), word die waarde van bedoelde lewering geag om nul te wees.".

(2) Subartikel (1) tree op 1 April 2018 in werking.

Wysiging van artikel 11 van Wet 89 van 1991, soos gewysig deur artikel 27 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 17 van Wet 136 van 1992, artikel 27 van Wet 97 van 1993, artikel 13 van Wet 20 van 1994, artikel 28 van Wet 27 van 1997, artikel 89 van Wet 30 van 1998, artikel 85 van Wet 53 van 1999, artikel 77 van Wet 30 van 2000, artikel 43 van Wet 5 van 2001, artikel 153 van Wet 60 van 2001, artikel 169 van Wet 45 van 2003, artikel 46 van Wet 16 van 2004, artikel 98 van Wet 32 van 2004, artikel 21 van Wet 9 van 2005, artikel 105 van Wet 31 van 2005, artikel 44 van Wet 9 van 2006, artikel 81 van Wet 20 van 2006, artikel 105 van Wet 35 van 2007, artikel 29 van Wet 36 van 2007, Goewermentskennisgewing R.1024 in *Staatskoerant* 32664 van 30 Oktober 2009, artikel 134 van Wet 24 van 2011, artikel 169 van Wet 31 van 2013, artikel 96 van 43 van 2014 en artikel 132 van Wet 25 van 2015

81. (1) Artikel 11 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur in subartikel (1)*(b)* die woorde wat paragraaf (i) voorafgaan deur die volgende woorde te vervang:

> "*(b)* die goed gelewer is in die loop van die herstel, hernuwing, modifisering **[of]**, behandeling, verwerking, skoonmaak, opknapping of vervaardiging van goed waarop subartikel (2)*(g)*(ii) of (iv) betrekking het en die gelewerde goed—";

(b) deur in subartikel (2) paragraaf *(d)* deur die volgende paragraaf te vervang:

> "*(d)* (i) die dienste omvat die—
>
> *(aa)* versekering;
> *(bb)* organisering van die versekering; of
> *(cc)* organisering van die vervoer,
>
> van passasiers of goedere waarop enige van die bepalings van paragraaf *(a)*, *(b)* of *(c)* van toepassing is; of

(ii) insuring or the arranging of the insurance of passengers on an international journey, where the insurance of those passengers is provided under a single inbound or outbound insurance policy in respect of which a single premium is levied; or'';

(c) by the substitution in subsection (2)*(g)* for subparagraph (i) of the following subparagraph:

''(i) movable property (excluding debt securities, equity securities or participatory securities, as respectively defined in section 2(2), listed on an exchange as defined in section 1 of the Financial Markets Act, 2012 (Act No. 19 of 2012) and licensed under section 9 of that Act) situated in any export country at the time the services are rendered; or;''; and

(d) by the insertion in subsection (2) after paragraph *(r)* of the following paragraph:

''*(s)* the services are deemed to be supplied to a public authority or municipality in terms of section 8 (23); or''.

(2) Paragraphs *(a)*, *(b)* and *(c)* of subsection (1) come into operation on 1 April 2018.

(3) Paragraph *(d)* of subsection (1) is deemed to have come into operation on 1 April 2017.

Amendment of section 13 of Act 89 of 1991, as amended by section 29 of Act 136 of 1991, section 19 of Act 136 of 1992, section 15 of Act 20 of 1994, section 30 of Act 27 of 1997, section 34 of Act 34 of 1997, section 86 of Act 53 of 1999, section 70 of Act 19 of 2001, section 155 of Act 60 of 2001, section 170 of Act 45 of 2003, section 100 of Act 32 of 2004, section 106 of Act 31 of 2005, section 110 of Act 60 of 2008, section 135 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 112 of Schedule 1 to that Act and section 171 of Act 31 of 2013

82. (1) Section 13 of the Value-Added Tax Act, 1991, is hereby amended by the deletion of subsection (2A).

(2) Subsection (1) is deemed to have come into operation on 10 January 2012.

Amendment of section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991, section 21 of Act 136 of 1992, section 30 of Act 97 of 1993, section 16 of Act 20 of 1994, section 23 of Act 37 of 1996, section 32 of Act 27 of 1997, section 91 of Act 30 of 1998, section 87 of Act 53 of 1999, section 71 of Act 19 of 2001, section 156 of Act 60 of 2001, section 172 of Act 45 of 2003, section 107 of Act 31 of 2005, section 47 of Act 9 of 2006, section 83 of Act 20 of 2006, section 83 of Act 8 of 2007, section 106 of Act 35 of 2007, section 30 of Act 36 of 2007, section 29 of Act 8 of 2010, section 137 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 115 of Schedule 1 to that Act, section 148 of Act 22 of 2012, section 173 of Act 31 of 2013 and section 98 of Act 43 of 2014

83. Section 16 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (3) for paragraph *(k)* of the following paragraph:

''*(k)* an amount of input tax as determined by the Commissioner paid by a vendor to a supplier of pastoral, agricultural or other farming products who is not a vendor, in terms of a scheme operated by the controlling body of an industry for the development of small-scale farmers approved by the Minister with the concurrence of the [**Minister of Agriculture and Land Affairs]** Cabinet member responsible for agriculture to compensate that supplier for tax incurred in the production of such goods;''.

Insertion of section 18C in Act 89 of 1991

84. (1) The following section is hereby inserted in the Value-Added Tax Act, 1991, after section 18B:

''**Adjustments for leasehold improvements**

18C. Where goods have been supplied to a vendor, being a lessor, as contemplated in section 8(29), the lessor shall be deemed to have made a taxable supply in the course or furtherance of the lessor's enterprise, and

(ii) versekering of organisering van die versekering van passasiers op 'n internasionale reis, waar die versekering van daardie passasiers voorsien word kragtens 'n enkele inkomende of uitgaande versekeringspolis ten opsigte waarvan 'n enkele premie gehef word: of'';

(c) deur in subartikel (2)*(g)* subparagraaf (i) deur die volgende subparagraaf te vervang:

''(i) roerende eiendom (buiten skuldobligasies, ekwiteitseffekte of deelnemende sekuriteite, soos onderskeidelik omskryf in artikel 2(2), genoteer op 'n exchange soos omskryf in artikel 1 van die ''Financial Markets Act'', 2012 (Wet No. 19 van 2012) en gelisensieer kragtens artikel 9 van daardie Wet) geleë in enige uitvoerland ten tye wat die dienste gelewer word; of;''; en

(2) Subartikel (1) tree op 1 April 2018 in werking.

(3) Paragraaf *(d)* van subartikel (1) word geag op 1 April 2017 in werking te getree het.

Wysiging van artikel 13 van Wet 29 van 1991, soos gewysig deur artikel 29 van Wet 136 van 1991, artikel 19 van Wet 136 van 1992, artikel 15 van Wet 20 van 1994, artikel 30 van Wet 27 van 1997, artikel 34 van Wet 34 van 1997, artikel 86 van Wet 53 van 1999, artikel 70 van Wet 19 van 2001, artikel 155 van Wet 60 van 2001, artikel 170 van Wet 45 van 2003, artikel 100 van Wet 32 van 2004, artikel 106 van Wet 31 van 2005, artikel 110 van Wet 60 van 2008, artikel 135 van Wet 24 van 2011, artikel 271 van Wet 28 van 2011, saamgelees met item 112 van Bylae 1 by daardie Wet en artikel 171 van Wet 31 van 2013

82. (1) Artikel 13 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur subartikel (2A) te skrap.

(2) Subartikel (1) word geag op 10 Januarie 2012 in werking te getree het.

Wysiging van artikel 16 van Wet 89 van 1991, soos gewysig deur artikel 30 van Wet 136 van 1991, artikel 21 van Wet 136 van 1992, artikel 30 van Wet 97 van 1993, artikel 16 van Wet 20 van 1994, artikel 23 van Wet 37 van 1996, artikel 32 van Wet 27 van 1997, artikel 91 van Wet 30 van 1998, artikel 87 van Wet 53 van 1999, artikel 71 van Wet 19 van 2001, artikel 156 van Wet 60 van 2001, artikel 172 van Wet 45 van 2003, artikel 107 van Wet 31 van 2005, artikel 47 van Wet 9 van 2006, artikel 83 van Wet 20 van 2006, artikel 83 van Wet 8 van 2007, artikel 106 van Wet 35 van 2007, artikel 30 van Wet 36 van 2007, artikel 29 van Wet 8 van 2010, artikel 137 van Wet 24 van 2011, artikel 148 van Wet 22 van 2012, artikel 173 van Wet 31 van 2013 en artikel 98 van Wet 43 van 2014

83. Artikel 16 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (3) paragraaf *(k)* deur die volgende paragraaf te vervang:

''*(k)* 'n bedrag aan insetbelasting soos deur die Kommissaris bepaal wat deur 'n ondernemer betaal is aan 'n leweraar van vee-, landbou- of ander boerderyprodukte wat nie 'n ondernemer is nie, ingevolge 'n skema bedryf deur die beherende liggaam van 'n nywerheid vir die ontwikkeling van kleinskaalboere goedgekeur deur die Minister met die instemming van die **[Minister van Landbou en Grondsake]** Kabinetslid verantwoordelik vir landbou, om die leweraar te vergoed vir belasting opgeloop by die produksie van die betrokke goed;''.

Invoeging van artikel 18C in Wet 89 van 1991

84. (1) Die volgende artikel word hierby in die Wet op Belasting op Toegevoegde Waarde, 1991, ingevoeg na artikel 18B:

''**Aanpassings vir pagbesitverbeteringe**

18C. Waar goedere gelewer is aan 'n ondernemer, wat 'n verhuurder is, soos beoog in artikel 8(29), word die verhuurder geag om 'n belasbare lewering in die loop of bevordering van die verhuurder se onderneming te

where a deduction of input tax would have been denied in terms of section 17(2), or to the extent that such goods are not wholly for consumption, use or supply in the course of making taxable supplies by that lessor, those goods shall be deemed to be supplied by the lessor at the time the leasehold improvements are completed, in accordance with the formula

A x B x C

in which formula—

'A' represents the tax fraction;

'B' represents the amount stipulated in the agreement or if no amount is stipulated, the open market value as stipulated in section 3 applies, and

'C' represents the percentage of the use or application of the goods for the purposes of making other than taxable supplies at the time the leasehold improvements are completed.''.

(2) Subsection (1) comes into operation on 1 April 2018.

Insertion of section 40D in Act 89 of 1991

85. (1) The following section is hereby inserted in the Value-Added Tax Act, 1991, after section 40C:

''**Liability for tax and limitation of refunds in respect of National Housing Programmes**

40D. (1) This section applies in respect of the supply of services deemed to be made by the vendor in terms of section 8(23) which services were supplied before 1 April 2017.

(2) Where the Commissioner issued any assessment relating to tax periods ending before 1 April 2017 for an amount of tax or additional tax in respect of any supply of services as contemplated in subsection (1) in respect of application of the provisions as contemplated in section 11(2)*(s)* in respect of that supply, the Commissioner must, on written application by the vendor, amend that assessment to the extent that the amount of tax, additional tax, penalty or interest that arose as a result of that assessment has not yet been paid on that date: Provided that the assessment does not result in a refund to the vendor.

(3) The Commissioner may not make any assessment for tax periods ending before 1 April 2017 in respect of the deemed supply of services contemplated in subsection (1).

(4) If the vendor has charged tax at the rate referred to in section 7(1) instead of the rate of tax in terms of section 11(2)*(s)* in respect of the supply contemplated in subsection (1), the Commissioner may not refund any such tax or any penalty or interest that arose as a result of the late payment of such tax, paid by the vendor to the Commissioner.''.

(2) Subsection (1) is deemed to have come into operation on 1 April 2017.

Amendment of section 68 of Act 89 of 1991, as amended by section 39 of Act 136 of 1992, section 26 of Act 20 of 1994 and section 107 of Act 32 of 2004

86. Section 68 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

''The Minister may, with the concurrence of the **[Minister of Foreign Affairs]** Cabinet member responsible for international relations and cooperation, authorize the granting of relief, by way of a refund, in respect of value-added tax paid or borne—''.

gemaak het, en waar 'n aftrekking van insetbelasting ontsê sou gewees het ingevolge artikel 17(2), of tot die mate wat bedoelde goedere nie in die geheel vir verbruik, gebruik of lewering in die loop van die doen van belasbare lewerings deur daardie verhuurder is nie, word daardie goedere geag gelewer te wees deur die verhuurder ten tye wat die pagbesitverbeteringe voltooi is, ingevolge die formule:

A x B x C

in welke formule—

'A' die belastingbreukdeel verteenwoordig;

'B' die bedrag in die ooreenkoms bepaal of indien geen bedrag bepaal is nie, die ope markwaarde soos bepaal in artikel 3, verteenwoordig, en

'C' die persentasie van die gebruik of aanwending van die goedere vir die doeleindes van die doen van lewerings buiten belasbare lewerings ten tye wat die pagbesitverbeteringe voltooi is, verteenwoordig.''.

(2) Subartikel (1) tree op 1 April 2018 in werking.

Invoeging van artikel 40D in Wet 89 van 1991

85. (1) Die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur die volgende artikel na artikel 40C in te voeg:

''**Aanspreeklikheid vir belasting en beperking van terugbetalings ten opsigte van Nasionale Behuisingsprogramme**

40D. (1) Hierdie artikel is van toepassing ten opsigte van die lewering van dienste geag om gedoen te wees deur die ondernemer ingevolge artikel 8(23) welke dienste voor 1 April 2017 gelewer is.

(2) Waar die Kommissaris enige aanslag uitgereik het met betrekking tot belastingtydperke wat voor 1 April 2017 eindig vir 'n bedrag belasting of addisionele belasting ten opsigte van die lewering van dienste soos beoog in subartikel (1) ten opsigte van die toepassing van die bepalings soos beoog in artikel 11(2)*(s)* ten opsigte van daardie lewering, moet die Kommissaris, op skriftelike versoek deur die ondernemer, daardie aanslag wysig namate die bedrag belasting, addisionele belasting, boete of rente as gevolg van daardie aanslag op daardie datum nog nie betaal is nie:

Met dien verstande dat die aanslag nie op 'n terugbetaling aan die ondernemer uitloop nie.

(3) Die Kommissaris mag nie 'n aanslag maak vir belastingtydperke wat voor 1 April 2017 eindig nie ten opsigte van die geagte lewering van dienste beoog in subartikel (1).

(4) Indien die ondernemer teen 'n koers in artikel 7(1) beoog in plaas van die belastingkoers ingevolge artikel 11(2)*(s)* ten opsigte van die lewering beoog in subartikel (1) gehef het, mag die Kommissaris nie sodanige belasting of enige boete of rente wat as gevolg van die laat betaling van sodanige belasting deur die ondernemer aan die Kommissaris ontstaan het, terugbetaal nie.''.

(2) Subartikel (1) word geag op 1 April 2017 in werking te getree het.

Wysiging van artikel 68 van Wet 89 van 1991, soos gewysig deur artikel 39 van Wet 136 of 1992, artikel 26 van Wet 20 of 1994 en artikel 107 van Wet 32 van 2004

86. Artikel 68 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (1) die woorde wat subartikel *(a)* voorafgaan, deur die volgende woorde te vervang:

''Die Minister kan, met die instemming van die **[Minister van Buitelandse Sake]** Kabinetslid verantwoordelik vir internasionale betrekkinge en samewerking, die verlening van verligting, by wyse van 'n terugbetaling, magtig ten opsigte van belasting op toegevoegde waarde betaal of gedra—''.

Amendment of Schedule 2 to Act 89 of 1991, as amended by section 49 of Act 136 of 1991, paragraph 25 of Government Notice 2695 of 8 November 1991, section 44 of Act 136 of 1992, section 45 of Act 97 of 1993, section 33 of Act 20 of 1994, section 104 of Act 30 of 1998, section 73 of Act 19 of 2001, section 56 of Act 16 of 2004 and section 108 of Act 43 of 2014

87. Schedule 2 to the Value-Added Tax Act, 1991, is hereby amended by the substitution in Part B for Item 1 of the following Item:

''Item 1 Brown bread as defined in Regulation 1 of the Regulations in terms of Government Notice No. **[R.577]** R.405 published in Government *Gazette* No. **[13074 of 15 March 1991]** 40828 of 5 May 2017;''.

Substitution of section 3 of Act 9 of 1999, as substituted by section 88 of Act 15 of 2016

88. (1) The following section is hereby substituted for section 3 of the Skills Development Levies Act, 1999:

''**Imposition of levy**

3. (1) Every employer must pay a skills development levy—

(a) (i) from 1 April 2000, at a rate of 0,5 per cent of the leviable amount; and

(ii) from 1 April 2001, at a rate of one per cent of the leviable amount; or

(b) at such a rate as the Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), with effect from a date mentioned in that Announcement.

(2) If the Minister makes the announcement contemplated in subsection (1)*(b)*, that rate comes into effect on the date determined by the Minister in that announcement and continues to apply for a period of 12 months from that date subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.

(3) For the purposes of subsections (1) and (2), but subject to subsection (4), the leviable amount means the total amount of remuneration, paid or payable, or deemed to be paid or payable, by an employer to its employees during any month, as determined in accordance with the provisions of the Fourth Schedule to the Income Tax Act for the purposes of determining the employer's liability for any employees' tax in terms of that Schedule, whether or not such employer is liable to deduct or withhold such employees' tax.

(4) The amount of remuneration referred to in subsection (3) does not include any amount—

(a) paid or payable to any person contemplated in paragraphs *(c)* and *(d)* of the definition of 'employee' in paragraph 1 of the Fourth Schedule to the Income Tax Act, to whom a certificate of exemption has been issued in terms of paragraph 2(5)*(a)* of that Schedule;

(b) paid or payable to any person by way of any pension, superannuation allowance or retiring allowance;

(c) contemplated in paragraph *(a)*, *(d)*, *(e)* or *(e*A*)* of the definition of 'gross income' in section 1 of the Income Tax Act;

(d) payable to a learner in terms of a contract of employment contemplated in section 18(3) of the Skills Development Act.

(5) Despite subsection (1), on the request of a SETA, the Minister may, in consultation with the Minister of Finance and by notice in the *Gazette*, determine from time to time a rate and basis for the calculation of a levy

Wysiging van Bylae 2 tot Wet 89 van 1991, soos gewysig deur artikel 49 van Wet 136 van 1991, paragraaf 25 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 44 van Wet 136 van 1992, artikel 45 van Wet 97 van 1993, artikel 33 van Wet 20 van 1994, artikel 104 van Wet 30 van 1998, artikel 73 van Wet 19 van 2001, artikel 56 van Wet 16 van 2004 en artikel 108 van Wet 43 van 2014

87. Bylae 2, Deel B by die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur Item 1 deur die volgende item te vervang:

"Item 1 Bruinbrood soos omskryf in Regulasie 1 van die Regulasies ingevolge Goewermentskennisgewing No. **[R.577]** R. 405 gepubliseer in Staatskoerant No. **[13074 van 15 Maart 1991]** 40828 van 5 Mei 2017.".

Ukufaka endaweni yesigaba sesi-3 soMthetho ka-1999

88. (1) Isigaba esilandelayo sifakwe endaweni yesigaba sesi-3 soMthetho Wezibizontela Wokuthuthukisa Amakhono, ka-1999:

"**Ukugidlela isibizontela**

3. (1) Wonke umqashi makakhokhe isibizontela sokuthuthukisa amakhono—

(a) (i) kusukela mhlaka 1 Apreli 2000, ngesilinganiso sephesenti elingu 0,5 lesamba esithelwayo; kanye

(ii) kusukela nomhlaka I Apreli 2001, ngesilinganiso sephesenti elilodwa lesamba esithelwayo; noma

(b) ngesilinganiso njengokuba uNgqongqoshe engamemezela kusabelo mali sonyaka sikazwelonke okukhulunywe ngaso esigabeni sama-27(1) soMthetho Wokuphathwa Kwezimali Zomphakathi, ka-1999 (uMthetho Woku-1 ka-1999), okuzoqaliswa ngosuku olushiwo kuleso simemezelo.

(2) Uma uNgqongqoshe enza isimemezelo okukhulunywe ngaso esigatshaneni soku-(1)*(b)*, ukuthi isilinganiso siqala ukusebenza ngosuku olunqunywe uNgqongaoshe kuleso simemezelo futhi iyaqhubeka nokusebenza esikhathini esiyizinyanga eziyi-12 kusukela osukwini oluncike ekuphasisweni yiPhalamende komthetho ovumela ukuqaliswa kwaleso simemezelo ezinyangeni eziyi-12.

(3) Ngezinhloso zesigatshana (1) kanye no (2) kodwa kuye ngesigatshana (4), isamba esithelwayo kusho umbumbatha lwesamba senkokhelo/seholo, olukhokhiwe noma olukhokhwayo, noma olucatshangwa ukuthi lukhokhiwe noma luyakhokhwa ngumqashi kubasebenzi bakhe noma ngayiphi inyanga, njengoba lunqunywe njengokuhambisana nezihlinzeko zeSheduli yesiNe kuMthetho weNtela wemali eNgenayo ngenhloso yokunquma ukukweleta kwanoma iyiphi intela yabasebenzi njengokuyala kwaleyo Sheduli, noma Iowa mqashi uyakukweleta ukususa noma ukugodla leyo ntela yabasebenzi.

(4) Isamba senkokhelo/seholo okubhekiswe kulo kusigatshana (3) asihlanganisi noma isiphi isamba—

(a) esikhokhiwe noma esikhokhwayo kunoma imuphi umuntu ocatshangwe ezindimeni *(c)* no *(d)* zencazelo "yomsebenzi" endimeni 1 yeSheduli yesiNe kuMthetho weNtela wemali eNgenayo, osekhishelwe isitifiketi sokuyekela njengokuyaIa kwendima 2(5)*(a)* yaleyo Sheduli;

(b) esikhokhiwe noma esikhokhwayo kunoma imuphi umuntu ngendlela yanoma iyiphi impesheni, inkokhelo enqunyelwe yobudala noma inkokhelo enqunyelwe yomhlalaphansi;

(c) ecatshangwe ezindimeni *(a)*, *(d)*, *(e)* noma (eA) zencazelo "yemali yonke engenayo" esigabeni 1 soMthetho weNtela wemali eNgenayo;

(d) esikhokhwayo kumfundi njengokuyala kwenkontileka yomsebenzi ecatshangwe esigabeni 18(3) soMthetho wokuThuthukisa aMakhono.

(5) Phezu kwesigatshana (1), esicelweni seSETA, uNgqongqoshe, ebonisana noNgqongqoshe wezeZimali futhi ngenothisi kuGazethi, anganquma ngezikhathi ngezikhathi isilinganiso nesisekelo sokubala

payable by employers within the jurisdiction or a part of the jurisdiction of a SETA, different from the rate and basis contemplated in subsection (1)*(a)* or *(b)*, but subject to subsection (7).

(6) The rate and basis determined in a notice in terms of subsection (5) may not have the result that the amount of the levies collected by virtue of such notice is less than the amount of the levies which would have been collected, based on the rate and basis contemplated in subsection (1)*(a)* or *(b)*.

(7) The Minister may, in consultation with the Minister of Finance, determine criteria for purposes of any determination contemplated in subsection (5).

(8) The notice referred to in subsection (5) must contain—

(a) the rate and basis for the calculation of the levy;

(b) the date on which the levy becomes payable;

(c) a description of the employers falling within the jurisdiction of the SETA or part of the jurisdiction of the SETA in respect of which the levy is payable; and

(d) any other matter necessary to ensure the effective collection of the levy.''.

(2) Subsection (1) is deemed to have come into operation on 19 January 2017.

Amendment of section 4 of Act 4 of 2002, as amended by section 208 of Act 45 of 2003, section 144 of Act 24 of 2011 and section 152 of Act 22 of 2012

89. (1) The Unemployment Insurance Contribution Act, 2002, is hereby amended by the deletion in section 4 of paragraphs *(b)* and *(d)*.

(2) Subsection (1) comes into operation on 1 March 2018.

Amendment of section 1 of Act 25 of 2007, as amended by section 145 of Act 24 of 2011, section 153 of Act 22 of 2012, section 110 of Act 43 of 2014, section 137 of Act 25 of 2015 and section 90 of Act 15 of 2016

90. (1) Section 1 of the Securities Transfer Tax Act, 2007, is hereby amended—

(a) by the substitution in subsection (1) for the definition of ''collateral arrangement'' of the following definition:

'' **'collateral arrangement'** means any arrangement in terms of which—

(a) a person (hereafter the transferor) transfers a listed share or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act to another person (hereafter the transferee) for the purposes of providing security in respect of an amount owed by the transferor to the transferee;

(b) the transferor can demonstrate that the arrangement was not entered into for the purposes of the avoidance of tax and was not entered into for the purposes of keeping any position open for more than 24 months;

(c) that transferee in return contractually agrees in writing to deliver an identical share, as defined in section 1 of the Income Tax Act, or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic that is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act to that transferor within a period of 24 months from the date of transfer of that listed share or bond from the transferor to the transferee;

isibizontela esikhokhwa ngabaqashi ngaphakathi kwendawo yamandla noma inxenye yendawo yamandla eSETA esahlukile kusilinganiso nesisekelo esicatshangwe kusigatshana (1)*(a)* noma *(b)*, kuye ngesimo, kodwa kuye ngesigatshana (7).

(6) Isilinganiso nesisekelo esinqunywe kunothisi njengokuyala, kwesigatshana (6) singebe nomphumela wokuthi isamba sezibizontela eziqoqiwe ngenxa yaleyo nothisi sibe ngaphansi kwesamba sezibizontela ezingabe zaqoqwa zisekelwe esilinganisweni nesisekelo esicatshangwe kusigatshana (1)*(a)* noma *(b)* kuye ngesimo.

(7) uNgqongqoshe, ebonisana noNgqongqoshe wezeZimali anganquma isimo sokunquma ngenhloso yanoma ikuphi ukunquma okucatshangwe kusigatshana (5).

(8) Inothisi okubhekiswe kuyo kusigatshana (6) mayiqukathe—

(a) isilinganiso nesisekelo sokubala isibizontela;
(b) usuku isibizontela esizokhokhwa ngalo;
(c) ukuchazwa kwabaqashi abazowela ngaphakathi kwamandla eSETA noma ingxenye yendawo yamandla eSITA maqondana nesibizontela esikhokhwayo;
(d) noma iluphi olunye udaba oludingekayo ukulungiselela ukuqoqwa kwesibizontela okusebenzayo kuphumelelayo.''.

(2) Isigatshana soku-(1) uthathwa ngokuthi uzoqala ukusebenza ziyi-19 ku-Januwari ka-2017.

Ukhwiṋiswa ha khethekanyo ya 4 ya Mulayo wa 4 wa 2002, saizwi wo khwiṋiswa nga khethekanyo ya 208 ya Mulayo wa 45 wa 2003, khethekanyo ya 144 ya Mulayo wa 24 wa 2011 na khethekanyo ya 152 ya Mulayo wa 22 wa 2012.

89. (1) *Mulayo wa Mbadelo dza Ndindakhombo ya vho Fhelelwaho nga Mushumo, wa 2002* u khou khwiṋiswa nga u thutha kha khethekanyo ya 4 ya dziphara dza *(b)* na *(d)*.

(2) Khethekanyo ṱhukhu ya (1) i ḓo thoma u shumiswa nga dzi 1 Ṱhafamuhwe 2018.

Wysiging van artikel 1 van Wet 25 van 2007, soos gewysig deur artikel 145 van Wet 24 van 2011, artikel 153 van Wet 22 van 2012, artikel 110 van Wet 43 van 2014, artikel 137 van Wet 25 van 2015 en artikel 90 van Wet 15 van 2016

90. (1) Artikel 1 van die Wet op Belasting op Oordrag van Sekuriteite, 2007, word hierby gewysig—

(a) deur in subartikel (1) die omskrywing van ''kollaterale reëling'' deur die volgende omskrywing te vervang:

'' **'kollaterale reëling'** 'n reëling ingevolge waarvan—

(a) 'n persoon (hierna die oordraggewer genoem) 'n genoteerde aandeel of verband uitgereik deur die regering van die Republiek in die nasionale of plaaslike sfeer of enige regeringsfeer van 'n land buiten die Republiek indien daardie verband gelys is op 'n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae by die Inkomstebelastingwet aan 'n ander persoon (hierna die oordragnemer genoem) leen ten einde sekuriteit te stel ten opsigte van enige bedrag verskuldig deur die oordraggewer aan die oordragnemer;

(b) die oordraggewer kan bewys dat die reëling nie aangegaan is ten einde belasting te vermy nie en nie aangegaan is met die doel om enige posisie vir langer as 24 maande oop te hou nie;

(c) daardie oordragnemer in ruil skriftelik kontraktueel onderneem om 'n identiese aandeel, soos omskryf in artikel 1 van die Inkomstebelastingwet of verband uitgereik deur die regering van die Republiek in die nasionale of plaaslike sfeer of enige regeringsfeer van 'n land buiten die Republiek welke verband gelys is op 'n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae binne 'n tydperk van 24 maande vanaf die datum van oordrag van daardie sekuriteit of daardie verband van die oordraggewer aan die oordragnemer, te lewer;

(d) that transferee is contractually required to compensate that transferor for any distributions in respect of the listed share (or any other share that is substituted for that listed share in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listing Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listing Requirements) or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic that is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act, which that transferor would have been entitled to receive during that period had that arrangement not been entered into; and

(e) that arrangement does not affect the transferor's benefits or risks arising from fluctuations in the market value of that listed share (or any other share that is substituted for that listed share in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listing Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listing Requirements) or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic that is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act,

but does not include an arrangement where the transferee has not transferred the identical share or bond contemplated in paragraph *(b)* to the transferor within the period referred to in that paragraph unless such failure to return such identical share or bond is due to an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listing Requirements in the Stock Exchange News Service as defined in the JSE Limited Listing Requirements;''; and

(b) by the substitution in subsection (1) for the definition of ''lending arrangement'' of the following definition:

'' **'lending arrangement'** means any arrangement in terms of which—

(a) a person (hereinafter referred to as the lender) lends a listed security or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act to another person (hereinafter referred to as the borrower) in order to enable that borrower to effect delivery (other than to any lender in relation to that borrower, unless the borrower can demonstrate that the arrangement was not entered into for the purposes of the avoidance of tax and was not entered into for the purposes of keeping any position open for more than 12 months) of that security or bond within 10 business days after the date of transfer of that security from the lender to the borrower in terms of that arrangement;

(b) that borrower in return contractually agrees in writing to deliver an identical security or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act, as defined in section 1 of the Income Tax Act, to that lender within a period of 12 months from the date of transfer of that listed security or bond from the lender to the borrower;

(c) that borrower is contractually required to compensate that lender for any distributions in respect of the listed security (or any other security that is substituted for that listed security in terms of an

(d) daardie oordragnemer kontraktueel verbind is om daardie oordraggewer te vergoed vir enige uitkerings ten opsigte van die genoteerde aandeel (of ander aandeel wat in plek gestel is van daardie genoteerde aandeel ingevolge ’n ooreenkoms wat aangekondig en verklaar word as ’n ‘corporate action’ soos beoog in die ‘JSE Limited Listing Requirements’ in die ‘SENS (Stock Exchange News Service)’ soos omskryf in die ‘JSE Limited Listing Requirements’) of verband uitgereik deur die regering van die Republiek in die nasionale of plaaslike sfeer of enige regeringsfeer van ’n land buiten die Republiek welke verband gelys is op ’n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae by die Inkomstebelastingwet wat daardie oordraggewer geregtig sou gewees het om gedurende daardie tydperk te ontvang indien daardie reëling nie aangegaan was nie; en

(e) daardie reëling nie die oordraggewer se voordele of risiko’s wat uit die veranderings in die markwaarde van die genoteerde aandeel voortvloei, affekteer nie (enige ander aandeel wat in plek gestel is van daardie genoteerde aandeel ingevolge ’n ooreenkoms wat aangekondig en verklaar word as ’n ‘corporate action’ soos beoog in die ‘JSE Limited Listing Requirements’ in die ‘SENS (Stock Exchange News Service)’ soos omskryf in die ‘JSE Limited Listing Requirements’, of verband uitgereik deur die regering van die Republiek in die nasionale of plaaslike sfeer of enige regeringsfeer van ’n land buiten die Republiek welke verband gelys is op ’n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae by die Inkomstebelastingwet,

maar sluit nie ’n reëling in waar daardie oordragnemer nie die identiese aandeel of verband beoog in paragraaf *(b)* aan die oordraggewer teruggelewer het binne die tydperk in daardie paragraaf bedoel nie, tensy bedoelde ingebrekeblywing om bedoelde aandeel of verband terug te lewer te wyte is aan ’n ooreenkoms wat aangekondig en verklaar word as ’n ‘corporate action’ soos beoog in die ‘JSE Limited Listing Requirements’ in die ‘SENS (Stock Exchange News Service)’ soos omskryf in die ‘JSE Limited Listing Requirements’;”; en

(b) deur in subartikel (1) die omskrywing van ‘‘leningsreëling’’ deur die volgende omskrywing te vervang:

‘‘ **‘leningsreëling’** ’n reëling ingevolge waarvan—

(a) ’n persoon (hierna die uitlener genoem) ’n genoteerde sekuriteit of verband uitgereik deur die regering van die Republiek in die nasionale of plaaslike sfeer of enige regeringsfeer van ’n land buiten die Republiek indien daardie verband gelys is op ’n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae by die Inkomstebelastingwet aan ’n ander persoon (hierna die lener genoem) leen ten einde daardie lener in staat te stel om lewering te bewerkstellig (behalwe aan enige uitlener met betrekking tot daardie lener, tensy die lener kan bewys dat die reëling nie aangegaan is ten einde belasting te vermy nie en nie aangegaan is met die doel om enige posisie vir langer as 12 maande oop te hou nie) van daardie sekuriteit of verband binne 10 besigheidsdae na die datum van oordrag van daardie sekuriteit van die uitlener aan die lener ingevolge daardie reëling;

(b) daardie lener in ruil skriftelik kontraktueel onderneem om ’n identiese sekuriteit, soos omskryf in artikel 1 van die Inkomstebelastingwet, of enige verband uitgereik deur die regering van die Republiek in die nasionale, of plaaslike sfeer of enige regeringsfeer van ’n land buiten die Republiek indien daardie verband gelys is op ’n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae by die Inkomstebelastingwet binne ’n tydperk van 12 maande vanaf die datum van oordrag van daardie genoteerde sekuriteit of verband van die uitlener aan die lener;

(c) daardie lener kontraktueel verbind is om daardie uitlener te vergoed vir enige uitkerings ten opsigte van die genoteerde sekuriteit (of ander aandeel wat in plek gestel is van daardie genoteerde aandeel

arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listing Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listing Requirements) or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act which that lender would have been entitled to receive during that period had that arrangement not been entered into; and

(d) that arrangement does not affect the lender's benefits or risks arising from fluctuations in the market value of the listed security (or any other security that is substituted for that listed security in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listing Requirements in the Stock Exchange News Service as defined in the JSE Limited Listing Requirements) or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act,

but does not include an arrangement where the borrower has not—

(i) on-delivered the listed security or bond within the period referred to in paragraph *(a)*; or

(ii) returned the identical security or bond contemplated in paragraph *(b)* to the lender within the period referred to in that paragraph other than if such failure to return such identical security or bond is due to an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listing Requirements in the Stock Exchange News Service as defined in the JSE Limited Listing Requirements;''.

(2) Subsection (1) comes into operation on 1 January 2018 and applies in respect of collateral arrangements and lending arrangements entered into on or after that date.

Amendment of section 4 of Act 26 of 2013, as amended by section 113 of Act 43 of 2014 and section 94 of Act 15 of 2016

91. (1) Section 4 of the Employment Tax Incentive Act, 2013, is hereby amended—

(a) by the substitution in subsection (1)*(b)* for subparagraph (ii) of the following subparagraph:

''(ii) where the employee is employed and paid remuneration for less than 160 hours in a month, an amount that bears to the amount of R2 000 the same ratio as 160 hours bears to the number of hours that the employee was employed for and paid remuneration by that employer in that month.''; and

(b) by the addition of the following subsection:

''(4) For the purposes of this section, 'hours' means 'ordinary hours' as defined in section 1 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997).''.

(2) Subsection (1) comes into operation on 1 March 2018.

Amendment of section 7 of Act 26 of 2013, as amended by section 116 of Act 43 of 2014 and section 95 of Act 15 of 2016

92. (1) Section 7 of the Employment Tax Incentive Act, 2013, is hereby amended by the substitution for subsection (1) of the following section:

ingevolge ’n ooreenkoms wat aangekondig en verklaar word as ’n ‘corporate action’ soos beoog in die ‘JSE Limited Listing Requirements’ in die ‘SENS (Stock Exchange News Service)’ soos omskryf in die ‘JSE Limited Listing Requirements’) of verband uitgereik deur die regering van die Republiek in die nasionale, of plaaslike sfeer <u>of enige regeringsfeer van ’n land buiten die Republiek</u> indien daardie verband gelys is op ’n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae) wat daardie uitlener geregtig sou gewees het om te ontvang gedurende daardie tydperk indien daardie reëling nie aangegaan was nie; en

(d) daardie reëling nie die uitlener se voordele of risiko’s wat uit die veranderings in die markwaarde van die genoteerde sekuriteit (of ander aandeel wat in plek gestel is van daardie genoteerde aandeel ingevolge ’n ooreenkoms wat aangekondig en verklaar word as ’n ‘corporate action’ soos beoog in die ‘JSE Limited Listing Requirements’ in die ‘SENS (Stock Exchange News Service)’ soos omskryf in die ‘JSE Limited Listing Requirements’) of verband uitgereik deur die regering van die Republiek in die nasionale of plaaslike sfeer <u>of enige regeringsfeer van ’n land buiten die Republiek</u> indien daardie verband gelys is op ’n erkende beurs soos omskryf in paragraaf 1 van die Agtste Bylae by die Inkomstebelastingwet) voortvloei, affekteer nie,

maar sluit nie ’n reëling in waar daardie lener nie—

(i) die genoteerde sekuriteit of verband verder gelewer het binne die tydperk in paragraaf *(a)* bedoel nie; of

(ii) die identiese sekuriteit of verband beoog in paragraaf *(b)* aan die uitlener teruggelewer het binne die tydperk in daardie paragraaf bedoel nie buiten indien bedoelde ingebrekeblywing om bedoelde aandeel of verband terug te lewer te wyte is aan ’n ooreenkoms wat aangekondig en verklaar word as ’n ‘corporate action’ soos beoog in die ‘JSE Limited Listing Requirements’ in die ‘SENS (Stock Exchange News Service)’ soos omskryf in die ‘JSE Limited Listing Requirements’ ”.

(2) Subartikel (1) tree op 1 Januarie 2018 in werking en is van toepassing ten opsigte van kollaterale reëlings en leningsooreenkomste aangegaan op of na daardie datum.

Antswiso wa xiyenge xa 4 xa Nawu wa 26 lembe ra 2013, tani hi loko xi antswisiwile hi xiyenge xa 113 xa Nawu wa 43 lembe ra 2014 na xiyenge xa 94 Nawu wa 15 lembe ra 2016

91. (1) Xiyenge xa 4 xa *Employment Tax Incentive Act, 2013*, hi lexi xi antswisiwaka—

(a) hi ku siviwa eka xiyengentsongo xa (1)*(b)* eka ndzimanantsongo ya (ii) xa ndzimanantsongo leyi yi landzelaka:

“(ii) laha mutirhi a thoriwaka atlhela a hakeriwa muholo eka tiawara leti ti nga hundziki 160 hi n’hweti, mali leyi yi byaraka ntikelo wa R2 000 yo fana na ringano wa 160 wa tiawara leti ti pfumelelaka ku ya ka nambara ya tiawara leti vatirhi a va thoriwile eka tona na muholo lowu va holeriweke hi muthori eka n’hweti yaleyo.”; na

(b) hi engetelo endzaku ka xiyengentsongo xa (3) xa xiyenge ntsongo lexi xi landzelaka:

“<u>(4) Eka swikongomelo swa xiyenge lexi, ‘tiawara’ swivula ‘tiawara ta ntolovelo’ tani hiloko swihlamuseriwile eka xiyenge xa 1 xa *Basic Conditions of Employment Act, 1997 (Nawu wa No. 75 lembe ra 1997).*</u>”.

(2) Xiyengentsongo xa (1) xi sungula ku tirha hi ti 1 Nyenyankulu 2018.

Antswiso wa xiyenge xa 7 xa Nawu wa 26 lembe ra 2013, tani hi loko xi antswisiwile hi xiyenge xa 116 xa Nawu wa 43 lembe ra 2014 na xiyenge xa 95 xa Nawu wa 15 lembe ra 2016

92. (1) Xieyenge xa 7 xa *Employment Tax Incentive Act, 2013*, hi lexi xi antswisiwaka hi ku siviwa ka xiyengentsongo xa (1) xa xiyenge lexi xi landzelaka:

"(1) During each month, commencing from 1 January 2014, that an employer employs a qualifying employee, the amount of the employment tax incentive available to that employer is the sum of the amounts determined in respect of each qualifying employee of that employer stipulated in subsections (2) and (3) and section 9**[, subject to subsection (6)]**.".

(2) Subsection (1) is deemed to have come into operation on 1 March 2017.

Amendment of section 13 of Act 31 of 2013

93. (1) Section 13 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Subsection (1) comes into operation on 1 January 2019 and applies in respect of amounts incurred on or after that date.".

(2) Subsection (1) is deemed to have come into operation on 12 December 2013.

Amendment of section 15 of Act 31 of 2013

94. (1) Section 15 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Subsection (1) comes into operation on 1 January 2019 and applies in respect of amounts incurred on or after that date.".

(2) Subsection (1) is deemed to have come into operation on 12 December 2013.

Amendment of section 150 of Act 25 of 2015, as amended by section 4 of Act 2 of 2016

95. (1) Section 150 of the Taxation Laws Amendment Act, 2015, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The following section is hereby substituted for section 150 of the Taxation Laws Amendment Act, 2015:

'**Amendment of section 16 of Act 43 of 2014**

150. (1) Section 16 of the Taxation Laws Amendment Act, 2014, is hereby amended by the substitution for subsection (2) of the following subsection:

'(2) Subsection (1) comes into operation on 1 March 2019 and applies in respect of amounts received on or after that date.'

(2) Subsection (1) is deemed to have come into operation on 20 January 2014.' ".

(2) Subsection (1) is deemed to have come into operation on 20 May 2016.

Amendment of section 159 of Act 25 of 2015, as amended by section 5 of Act 2 of 2016

96. (1) Section 159 of the Taxation Laws Amendment Act, 2015, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The following section is hereby substituted for section 159 of the Taxation Laws Amendment Act, **[2015]** 2014:

'**Substitution of section 128 of Act 43 of 2014**

159. (1) The following section is hereby substituted for section 128 of the Taxation Laws Amendment Act, 2014:

'**128.** (1) Section 113 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection:

'(2) Paragraph *(a)* of subsection (1) comes into operation on 1 March 2019 and applies in respect of contributions made on or after that date.'

(2) Subsection (1) is deemed to have come into operation on 20 January 2014.".

(2) Subsection (1) is deemed to have come into operation on 20 May 2016.

"(1) Eka n'hweti yin'wanana na yin'wana, ku sukela hi ti 1 Sunguti 2014, leswaku muthori u thola vatirhi lava va nga na swilaveko, hakelo ya xibalo xa muholo wa mutirhi lexi xi nga kona eka mutirhi yaloye i nhlanganiso wa tihakelo leti ti vekiweke mayelana na mutihiri un'wana na un'wana loyi a fikelelaka wa mutirhi yaloye lexi xi kongomisiweke eka swiyengentsongo swa (2) na (3) na xiyenge xa 9**, [nhlokomhaka eka xiyengentsongo xa (6)]**.".

(2) Xiyengentsongo xa (1) xi tekiwa ku va xi sunguli ku tirha hi ti 1 Nyenyankulu 2017.

Wysiging van artikel 13 van Wet 31 van 2013

93. (1) Artikel 13 van die Wysigingswet op Belastingwette, 2013, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"<u>(2) Subartikel (1) tree in werking op 1 Januarie 2019 en is van toepassing ten opsigte van bedrae aangegaan op of na daardie datum.</u>".

(2) Subartikel (1) word geag op 12 Desember 2013 in werking te getree het.

Wysiging van artikel 15 van Wet 31 van 2013

94. (1) Artikel 15 van die Wysigingswet op Belastingwette, 2013, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"<u>(2) Subartikel (1) tree in werking op 1 Januarie 2019 en is van toepassing ten opsigte van bedrae aangegaan op of na daardie datum.</u>".

(2) Subartikel (1) word geag op 12 Desember 2013 in werking te getree het.

Wysiging van artikel 150 van Wet 25 van 2015, soos gewysig deur artikel 4 van Wet 2 van 2016

95. Artikel 150 van die Wysigingswet op Belastingwette, 2015, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Artikel 150 van die Wysigingswet op Belastingwette, 2015, word hierby deur die volgende artikel vervang:

'**Wysiging van artikel 16 van Wet 43 van 2014**

<u>**150.** (1) Artikel 16 van die Wysigingswet op Belastingwette, 2014, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:</u>

<u>'(2) Subartikel (1) tree in werking op 1 Maart 2019 en is van toepassing ten opsigte van bedrae ontvang op of na daardie datum'.</u>

<u>(2) Subartikel (1) word geag op 20 Januarie 2014 in werking te getree het.</u>' ".

(2) Subartikel (1) word geag op 20 Mei 2016 in werking te getree het.

Wysiging van artikel 159 van Wet 25 van 2015, soos gewysig deur artikel 5 van Wet 2 van 2016

96. (1) Artikel 159 van die Wysigingswet op Belastingwette, 2015, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Artikel 159 van die Wysigingswet op Belastingwette, **[2015]** <u>2014</u>, word hierby deur die volgende artikel vervang:

"**Vervanging van artikel 128 van Wet 43 van 2014**

<u>**159.** (1) Artikel 128 van die Wysigingswet op Belastingwette, 2014, word hierby deur die volgende artikel vervang:</u>

<u>'**128.** (1) Artikel 113 van die Wysigingswet op Belastingwette, 2013, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:</u>

<u>'(2) Paragraaf *(a)* van subartikel (1) tree in werking op 1 Maart 2019 is van toepassing ten opsigte van bydraes gemaak op of na daardie datum.'</u>

<u>(2) Subartikel (1) word geag op 20 Januarie 2014 in werking te getree het.</u>".

(2) Subartikel (1) word geag op 20 Mei 2016 in werking te getree het.

Amendment of section 1 of Act 2 of 2016

97. (1) Section 1 of the Revenue Laws Amendment Act, 2016, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Section 1 of the Income Tax Act, 1962, is hereby amended—

(a) by the addition in subsection (1) to the definition of 'pension fund' of the following proviso:

'<u>: Provided that in respect of any fund contemplated in</u> paragraph *(a)* or *(b)*—

(a) the fund is a permanent fund *bona fide* established for the purpose of providing annuities for employees on retirement date or for the dependants or nominees of deceased employees, or mainly for the said purpose and also for the purpose of providing benefits other than annuities for the persons aforesaid or for the purpose of providing any benefit contemplated in paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and

(b) the rules of the fund provide—

(i) that all annual contributions of a recurrent nature to the fund shall be in accordance with specified scales;

(ii) that membership of the fund throughout the period of employment shall be a condition of the employment by the employer of all persons of the class or classes specified therein who enter his employment on or after the date upon which—

(aa) the fund comes into operation; or

(bb) the employer becomes a participant in that fund;

(iii) that not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000 or where the employee is deceased: Provided that in determining the value of the retirement interest an amount calculated as follows must not be taken into account:

(aa) in the case of a person who is a member of a provident fund and who is 55 years of age or older on 1 March 2019—

(A) any amount contributed to a provident fund of which that person is a member on 1 March 2019;

(B) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2019; and

(C) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subitem (A) or amounts credited contemplated in subitem (B); or

(bb) in any other case of a person who is a member of a provident fund—

(A) any amount contributed to a provident fund prior to 1 March 2019;

Wysiging van artikel 1 van Wet 2 van 2016

97. (1) Artikel 1 van die Wysigingswet op Inkomstewette, 2016, word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Artikel 1 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) in die omskrywing van 'pensioenfonds' die volgende voorbehoudsbepaling by te voeg:

': Met dien verstande dat ten opsigte van enige fonds in paragraaf *(a)* of *(b)* beoog—

(a) die fonds 'n permanente fonds is wat *bona fide* ingestel is met die oogmerk om vir werknemers by uitdienstreding of vir die afhanklikes of benoemdes van oorlede werknemers, jaargelde beskikbaar te stel, of hoofsaaklik met genoemde oogmerk en ook met die oogmerk om ander voordele as jaargelde vir voormelde persone beskikbaar te stel of met die oogmerk om enige voordeel beoog in paragraaf 2C van die Tweede Bylae of artikel 15A of 15E van die Wet op Pensioenfondse te voorsien;

(b) dat die reëls van die fonds bepaal—

(i) dat alle jaarlikse bydraes van terugkerende aard tot die fonds ooreenkomstig aangegewe skale moet wees;

(ii) dat lidmaatskap van die fonds gedurende die hele dienstermyn 'n voorwaarde is van die indiensneming deur die werkgewer van alle persone in die daarin vermelde kategorie of kategorieë wat op of na die datum waarop—

(aa) die fonds in werking tree; of

(bb) die werkgewer 'n deelnemer in daardie fonds word, by die werkgewer in diens gaan;

(iii) dat hoogstens een-derde van die totale waarde van die uittreebelang deur 'n enkele betaling vervang kan word en dat die restant in die vorm van 'n annuïteit (met inbegrip van 'n lewende annuïteit) betaal moet word, behalwe waar twee-derdes van die totale waarde nie R165 000 te bowe gaan nie of waar die werknemer oorlede is: Met dien verstande dat by die bepaling van die waarde van die uittreebelang word 'n bedrag as volg bereken nie in berekening gebring nie:

(aa) in die geval van 'n persoon wat 'n lid van 'n voorsorgfonds is en wat 55 jaar of ouer is op 1 Maart 2019—

(A) enige bydraes aan 'n voorsorgfonds waarvan daardie persoon op 1 Maart 2019 'n lid is;

(B) met die toevoeging van enige ander bedrae gekrediteer in die lid se individuele rekening van die voorsorgfonds voor 1 Maart 2019; en

(C) enige fondsopbrengs soos omskryf in die Wet op Pensioenfondse met betrekking tot die bydraes beoog in subparagraaf (i) of bedrae gekrediteer soos in subparagraaf (ii) beoog; of

(bb) in enige ander geval van 'n person wat 'n lid van 'n voorsorgfonds is—

(A) enige bydraes voor 1 Maart 2019 aan 'n voorsorgfonds gemaak;

(B) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2019; and

(C) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subitem (A) or amounts credited contemplated in subitem (B), reduced by any amounts permitted in terms of any law to be deducted from the member's individual account of the provident fund;

(iv) that a partner is regarded as an employee of the partnership; and

(c) that the rules of the fund have been complied with;';

(b) by the substitution in subsection (1) in the definition of 'pension preservation fund' for paragraph *(e)* of the proviso of the following paragraph:

'*(e)* not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000 or where the member is deceased: Provided that in determining the value of the retirement interest an amount calculated as follows must not be taken into account:

(a) in the case of a person who is a member of a provident fund and who is 55 years of age or older on 1 March 2019—

(i) any amount contributed to a provident fund of which that person is a member on 1 March 2019;

(ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2019; and

(iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subparagraph (i) or amounts credited contemplated in subparagraph (ii); or

(b) in any other case of a person who is a member of a provident fund—

(i) any amount contributed to a provident fund prior to 1 March 2019;

(ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2019; and

(iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subparagraph (i) or amounts credited contemplated in subparagraph (ii),

reduced by any amounts permitted in terms of any law to be deducted from the member's individual account of the provident fund;';

(c) by the substitution in subsection (1) in the definition of 'provident fund' for paragraph *(b)* of the proviso of the following paragraph:

'*(b)* that the rules of the fund provide—

(i) that all annual contributions of a recurrent nature to the fund shall be in accordance with specified scales;

(ii) that membership of the fund throughout the period of employment shall be a condition of the employment by the employer of all persons of the

(B) met die toevoeging van enige ander bedrae gekrediteer in die lid se individuele rekening van die voorsorgfonds voor 1 Maart 2019; en

(C) enige fondsopbrengs soos omskryf in die Wet op Pensioenfondse met betrekking tot die bydraes beoog in subparagraaf (i) of bedrae gekrediteer soos in subartikel (ii) beoog, verminder deur enige bedrae toegelaat ingevolge enige wet om afgetrek te word van die lid se individuele rekening van die voorsorgfonds;

(iv) dat 'n vennoot van 'n vennootskap as 'n werknemer van die vennootskap beskou word; en

(c) dat die reëls van die fonds nagekom is;';

(b) deur in subartikel (1) in die omskrywing van 'pensioenbewaringsfonds' paragraaf *(e)* van die voorbehoudsbepaling deur die volgende paragraaf te vervang:

'*(e)* dat hoogstens een-derde van die totale waarde van die uittreebelang deur 'n enkele betaling vervang kan word en dat die restant in die vorm van 'n annuïteit (met inbegrip van 'n lewende annuïteit) betaal moet word, behalwe waar twee-derdes van die totale waarde nie R165 000 te bowe gaan nie of waar die werknemer oorlede is: Met dien verstande dat by die bepaling van die waarde van die uittreebelang word 'n bedrag as volg bereken nie in berekening gebring nie:

(a) in die geval van 'n persoon wat 'n lid van 'n voorsorgfonds is en wat 55 jaar of ouer is op 1 Maart 2019—

(i) enige bydraes aan 'n voorsorgfonds gemaak waarvan daardie persoon op 1 Maart 2019 'n lid is;

(ii) met die toevoeging van enige ander bedrae gekrediteer in die lid se individuele rekening van die voorsorgfonds voor 1 Maart 2019; en

(iii) enige fondsopbrengs soos omskryf in die Wet op Pensioenfondse met betrekking tot die bydraes beoog in subparagraaf (i) of bedrae gekrediteer soos in subparagraaf (ii) beoog; of

(b) in enige ander geval van 'n person wat 'n lid van 'n voorsorgfonds is—

(i) enige bydraes voor 1 Maart 2019 aan 'n voorsorgfonds gemaak;

(ii) met die toevoeging van enige ander bedrae gekrediteer in die lid se individuele rekening van die voorsorgfonds voor 1 Maart 2019; en

(iii) enige fondsopbrengs soos omskryf in die Wet op Pensioenfondse met betrekking tot die bydraes beoog in subparagraaf (i) of bedrae gekrediteer soos in subparagraaf (ii) beoog,

verminder deur enige bedrae toegelaat ingevolge enige wet om afgetrek te word van die lid se individuele rekening van die voorsorgfonds;';

(c) deur in die omskrywing van 'voorsorgfonds' paragraaf *(b)* van die voorbehoudsbepaling deur die volgende paragraaf te vervang:

'*(b)* dat die reëls van die fonds bepaal—

(i) dat alle jaarlikse bydraes van terugkerende aard tot die fonds ooreenkomstig aangegewe skale moet wees;

(ii) dat lidmaatskap van die fonds gedurende die hele dienstermyn 'n voorwaarde is van die indiensneming deur die werkgewer van alle persone in

class or classes specified therein who enter his employment on or after the date upon which—

(aa) the fund comes into operation; or

(bb) the employer becomes a participant in that fund;

(iii) that persons who immediately prior to the said date were employed by the employer and who on the said date fall within the said class or classes may, on application made, be permitted to become members of the fund on such conditions as may be specified in the rules;

(iv) that not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000 or where the employee is deceased: Provided that in determining the value of the retirement interest an amount calculated as follows must not be taken into account—

(aa) in the case of a person who is a member of a provident fund and who is 55 years of age or older on 1 March 2019—

(A) any amount contributed to a provident fund of which that person is a member on 1 March 2019;

(B) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2019; and

(C) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subitem (A) or amounts credited contemplated in subitem (B); or

(bb) in any other case of a person who is a member of a provident fund—

(A) any amount contributed to a provident fund prior to 1 March 2019;

(B) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2019; and

(C) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subitem (A) or amounts credited contemplated in subitem (B),

reduced by any amounts permitted in terms of any law to be deducted from the member's individual account of the provident fund; and

(v) that a partner is regarded as an employee of the partnership;';

(d) by the addition in subsection (1) to the proviso to the definition of 'provident preservation fund' of the following paragraph:

'*(e)* not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000 or where the

die daarin vermelde kategorie of kategorieë wat op of na die datum waarop

(aa) die fonds in werking tree; of

(bb) die werkgewer 'n deelnemer in daardie fonds word,

by die werkgewer in diens gaan;

(iii) dat persone wat onmiddellik voor genoemde datum by die werkgewer in diens was en wat op genoemde datum in genoemde kategorie of kategorieë val, op aansoek toegelaat kan word om op die in die reëls vermelde voorwaardes lede van die fonds te word;

(iv) dat hoogstens een-derde van die totale waarde van die uittreebelang deur 'n enkele betaling vervang kan word en dat die restant in die vorm van 'n annuïteit (met inbegrip van 'n lewende annuïteit) betaal moet word, behalwe waar twee-derdes van die totale waarde nie R165 000 te bowe gaan nie of waar die werknemer oorlede is: Met dien verstande dat by die bepaling van die waarde van die uittreebelang word 'n bedrag as volg bereken nie in berekening gebring nie:

(aa) in die geval van 'n persoon wat 'n lid van 'n voorsorgfonds is en wat 55 jaar of ouer is op 1 Maart 2019—

(A) enige bydraes aan 'n voorsorgfonds gemaak waarvan daardie persoon op 1 Maart 2019 'n lid is;

(B) met die toevoeging van enige ander bedrae gekrediteer in die lid se individuele rekening van die voorsorgfonds voor 1 Maart 2019; en

(C) enige fondsopbrengs soos omskryf in die Wet op Pensioenfondse met betrekking tot die bydraes beoog in subparagraaf (i) of bedrae gekrediteer soos in subparagraaf (ii) beoog; of

(bb) in enige ander geval van 'n persoon wat 'n lid van 'n voorsorgfonds is—

(A) enige bydraes aan 'n voorsorgfonds gemaak voor 1 Maart 2019;

(B) met die toevoeging van enige ander bedrae gekrediteer in die lid se individuele rekening van die voorsorgfonds voor 1 Maart 2019; en

(C) enige fondsopbrengs soos omskryf in die Wet op Pensioenfondse met betrekking tot die bydraes beoog in subparagraaf (i) of bedrae gekrediteer soos in subparagraaf (ii) beoog,

verminder deur enige bedrae toegelaat ingevolge enige wet om afgetrek te word van die lid se individuele rekening van die voorsorgfonds;

(v) dat 'n vennoot van 'n vennootskap as 'n werknemer van die vennootskap beskou word;';

(d) deur in subartikel (1) in the omskrywing van 'voorsorgbewaringsfonds' paragraaf *(e)* deur die volgende paragraaf te vervang:

'*(e)* dat hoogstens een-derde van die totale waarde van die uittreebelang deur 'n enkele betaling vervang kan word en dat die restant in die vorm van 'n annuïteit (met inbegrip van 'n lewende annuïteit) betaal moet word, behalwe waar twee-derdes van die totale waarde nie

member is deceased: Provided that in determining the value of the retirement interest an amount calculated as follows must not be taken into account:

(a) in the case of a person who is a member of a provident fund and who is 55 years of age or older on 1 March 2019—

(i) any amount contributed to a provident fund of which that person is a member on 1 March 2019;

(ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2019; and

(iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subparagraph (i) or amounts credited contemplated in subparagraph (ii); or

(b) in any other case of a person who is a member of a provident fund—

(i) any amount contributed to a provident fund prior to 1 March 2019;

(ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2019; and

(iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subparagraph (i) or amounts credited contemplated in subparagraph (ii),

reduced by any amounts permitted in terms of any law to be deducted from the member's individual account of the provident fund;';

(e) by the substitution in subsection (1) in paragraph *(b)* of the proviso to the definition of 'retirement annuity fund' for subparagraph (ii) of the following subparagraph:

'(ii) that not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000 or where the member is deceased: Provided that in determining the value of the retirement interest an amount calculated as follows must not be taken into account:

(a) in the case of a person who is a member of a provident fund and who is 55 years of age or older on 1 March 2019—

(i) any amount contributed to a provident fund of which that person is a member on 1 March 2019;

(ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2019; and

(iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subparagraph (i) or amounts credited contemplated in subparagraph (ii); or

(b) in any other case of a person who is a member of a provident fund—

(i) any amount contributed to a provident fund prior to 1 March 2019;

R165 000 te bowe gaan nie of waar die werknemer oorlede is: Met dien verstande dat by die bepaling van die waarde van die uittreebelang word 'n bedrag as volg bereken nie in berekening gebring nie:

(a) in die geval van 'n persoon wat 'n lid van 'n voorsorgfonds is en wat 55 jaar of ouer is op 1 Maart 2019—

(i) enige bydraes aan die voorsorgfonds gemaak waarvan daardie persoon op 1 Maart 2019 'n lid is;

(ii) met die toevoeging van enige ander bedrae gekrediteer in die lid se individuele rekening van die voorsorgfonds voor 1 Maart 2019; en

(iii) enige fondsopbrengs soos omskryf in die Wet op Pensioenfondse met betrekking tot die bydraes beoog in subparagraaf (i) of bedrae gekrediteer soos in subparagraaf (ii) beoog; of

(b) in enige ander geval van 'n persoon wat 'n lid van 'n voorsorgfonds is—

(i) enige bydraes aan die voorsorgfonds gemaak voor 1 Maart 2019:

(ii) met die toevoeging van enige ander bedrae gekrediteer in die lid se individuele rekening van die voorsorgfonds voor 1 Maart 2019; en

(iii) enige fondsopbrengs soos omskryf in die Wet op Pensioenfondse met betrekking tot die bydraes beoog in subparagraaf (i) of bedrae gekrediteer soos in subparagraaf (ii) beoog,

verminder deur enige bedrae toegelaat ingevolge enige wet om afgetrek te word van die lid se <u>individuele rekening van die voorsorgfonds;</u>'; en

(e) deur in subartikel (1) in the omskrywing van 'uittredingsannuïteitsfonds' in paragraaf *(b)* van die voorbehoudsbepaling, subparagraaf (ii) deur die volgende paragraaf te vervang:

'(ii) dat hoogstens een-derde van die totale waarde van die uittreebelang deur 'n enkele betaling vervang kan word en dat die restant in die vorm van 'n annuïteit (met inbegrip van 'n lewende annuïteit) betaal moet word, behalwe waar twee-derdes van die totale waarde nie R165 000 te bowe gaan nie of waar die werknemer oorlede is: Met dien verstande dat by die bepaling van die waarde van die uittreebelang word 'n bedrag as volg bereken nie in berekening gebring nie:

(a) in die geval van 'n persoon wat 'n lid van 'n voorsorgfonds is en wat 55 jaar of ouer is op 1 Maart 2019—

(i) enige bydraes aan 'n voorsorgfonds gemaak waarvan daardie persoon op 1 Maart 2019 'n lid is;

(ii) met die toevoeging van enige ander bedrae gekrediteer in die lid se individuele rekening van die voorsorgfonds voor 1 Maart 2019; en

(iii) enige fondsopbrengs soos omskryf in die Wet op Pensioenfondse met betrekking tot die bydraes beoog in subparagraaf (i) of bedrae gekrediteer soos in subparagraaf (ii) beoog; of

(b) in enige ander geval van 'n persoon wat 'n lid van 'n voorsorgfonds is—

(i) enige bydraes aan 'n voorsorgfonds gemaak voor 1 Maart 2019;

(ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2019; and

(iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subparagraph (i) or amounts credited contemplated in subparagraph (ii),

reduced by any amounts permitted in terms of any law to be deducted from the member's individual account of the provident fund;'.'';

(b) by the substitution for subsection (2) of the following subsection:

''(2) Subsection (1) comes into operation on 1 March **[2018]** 2019 and applies in respect of years of assessment commencing on or after that date.''; and

(c) by the substitution in subsection (3) for paragraph *(c)* of the following paragraph:

''*(c)* The Minister of Finance shall table a report in the National Assembly, not later than 31 August **[2017]** 2018, in respect of the results of the deliberations contemplated in paragraph *(a)*.''.

(2) Subsection (1) is deemed to have come into operation on 1 April 2016.

Amendment of section 3 of Act 2 of 2016

98. (1) Section 3 of the Revenue Laws Amendment Act, 2016, is hereby amended by the substitution in subsection (1) for paragraph *(b)* of the following paragraph:

''*(b)* by the substitution for subsection (7) of the following subsection:

'(7) Paragraphs *(k)*, *(l)*, *(o)*, *(q)*, *(r)*, *(u)*, *(w)*, *(x)* and *(y)* of subsection (1) come into operation on 1 March 2019 and apply in respect of years of assessment commencing on or after that date.'; and''.

(2) Subsection (1) is deemed to have come into operation on 20 May 2016.

Amendment of section 21 of Act 15 of 2016

99. (1) Section 21 of the Taxation Laws Amendment Act, 2016 is hereby amended—

(a) by the substitution in paragraph *(a)* for the instruction of the following instruction:

''*(a)* by the substitution in subsection (3)*(c)* for the words preceding subparagraph (i) of the following words:''; and

(b) by the substitution in paragraph *(b)* for the instruction of the following instruction:

''*(b)* by the substitution in subsection (3)*(d)* for the words preceding subparagraph (i) of the following words:''.

(2) Subsection (1) is deemed to have come into operation on 19 January 2017.

Part II

Bargaining council tax relief

Definitions

100. For purposes of this Part, unless the context indicates otherwise, any meaning ascribed to a word or expression in the Income Tax Act, bears the meaning so ascribed, and—

''bargaining council'' means a bargaining council that is established in terms of section 27 of the Labour Relations Act;

''bargaining council levy'' means the bargaining council levy imposed by section 97;

''Income Tax Act'' means the Income Tax Act, 1962 (Act No. 58 of 1962);

''investment income'' means—

(i) any income in the form of dividends, foreign dividends, royalties, rental derived in respect of immovable property, annuities or income of a similar nature;

(ii) met die toevoeging van enige ander bedrae gekrediteer in die lid se individuele rekening van die voorsorgfonds voor 1 Maart 2019; en

(iii) enige fondsopbrengs soos omskryf in die Wet op Pensioenfondse met betrekking tot die bydraes beoog in subparagraaf (i) of bedrae gekrediteer soos in subparagraaf (ii) beoog,

verminder deur enige bedrae toegelaat ingevolge enige wet om afgetrek te word van die lid se individuele rekening van die voorsorgfonds;'.'';

(b) deur subartikel (2) deur die volgende subartikel te vervang:

''(2) Subartikel (1) tree in werking op 1 Maart **[2018]** 2019 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.''; en

(c) deur in subartikel (3) paragraaf *(c)* deur die volgende paragraaf te vervang:

''*(c)* Die Minister van Finansies moet 'n verslag in die Nasionale Vergadering ter tafel lê, nie later nie as 31 Augustus **[2017]** 2018, ten opsigte van die resultate van die beraadslagings in paragraaf *(a)* beoog.''.

(2) Subartikel (1) word geag op 20 Mei 2016 in werking te getree het.

Wysiging van artikel 3 van Wet 2 van 2016

98. (1) Artikel 3 van die Wysigingswet op Inkomstewette, 2016, word hierby gewysig deur in subartikel (1) paragraaf *(b)* deur die volgende paragraaf te vervang:

(b) deur subartikel (7) deur die volgende subartikel te vervang:

'(7) Paragrawe *(k)*, *(l)*, *(o)*, *(q)*, *(r)*, *(u)*, *(w)*, *(x)* en *(y)* van subartikel (1) tree in werking op 1 Maart 2019 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.'; en''.

(2) Subartikel (1) word geag op 20 Mei 2016 in werking te getree het.

Wysiging van artikel 21 van Wet 15 van 2016

99. (1) Artikel 21 van die Wysigingswet op Belastingwette, 2016, word hierby gewysig—

(a) deur in paragraaf *(a)* die instruksie deur die volgende instruksie te vervang:

''*(a)* deur in subartikel (3)*(c)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:''; en

(b) deur in paragraaf *(b)* die instruksie deur die volgende instruksie te vervang:

''*(b)* deur in subartikel (3)*(d)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:''.

(2) Subartikel (1) word geag op 19 Januarie 2017 in werking te getree het.

Deel II

Bedingingsraad-belastingverligting

Woordomskrywing

100. By toepassing van hierdie Deel, tensy uit die samehang anders blyk, dra 'n woord of uitdrukking waaraan 'n betekenis in die Inkomstebelastingwet, toegeskryf is die betekenis aldus toegeskryf, en beteken-

''bedingingsraad'' 'n bedingingsraad wat gestig is kragtens artikel 27 van die Wet op Arbeidsverhoudinge;

''bedingingsraadheffing'' die bedingingsraadheffing ingestel deur artikel 97;

''Inkomstebelastingwet'' die Inkomstebelastingwet, 1962 (Wet No. 58 of 1962);

''beleggingsinkomste—

(i) inkomste in die vorm van dividende, buitelandse dividende, tanti me, huurinkomste verkry uit onroerende eiendom, jaargelde of inkomste van 'n dergelike aard;

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PART 2 OF 2

THE PRESIDENCY

No. 1451 18 December 2017

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

Act No. 17 of 2017: Taxation Laws Amendment Act, 2017

DIE PRESIDENSIE

No. 1451 18 Desember 2017

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 17 van 2017: Wysigingswet op Belastingwette, 2017

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(ii) any interest as contemplated in section 24J of the Income Tax Act (other than any interest received by or accrued to any co-operative bank as contemplated in section 12E(4)*(a)*(ii)*(ff)*) of the Income Tax Act, any amount contemplated in section 24K of the Income Tax Act and any other income which, by the laws of the Republic administered by the Commissioner, is subject to the same treatment as income from money lent; and

(iii) any proceeds derived from investment or trading in financial instruments (including futures, options and other derivatives), marketable securities or immovable property;

"Labour Relations Act" means the Labour Relations Act, 1995 (Act No. 66 of 1995);

"member" means a member of a bargaining council; and

"qualifying period" means any year of assessment commencing on or after 1 March 2012 and ending on or before 28 February 2017.

Exemptions

101. There must be exempt from normal tax any amount received by or accrued to—

(a) any member during the qualifying period as sick pay or holiday pay from a scheme or fund as contemplated in section 28(1)*(g)* of the Labour Relations Act; and

(b) a bargaining council as investment income during the qualifying period.

Bargaining council levy

102. There must be levied, paid and collected for the benefit of the National Revenue Fund a levy, to be known as the bargaining council levy, in respect of any amount of income exempt in terms of section 101, calculated in terms of section 103.

Amount of bargaining council levy

103. The amount of the bargaining council levy must be calculated at a rate of 10 per cent on the sum of—

(a) any amount that should have been deducted or withheld by that bargaining council by way of employees' tax in respect of an amount contemplated in section 101*(a)* in respect of the liability for normal tax of that member as contemplated in paragraph 2 of the Fourth Schedule to the Income Tax Act.

(b) any amount contemplated in section 101*(b)*.

Payment of bargaining council levy

104. A bargaining council must submit a return and pay the bargaining council levy to the Commissioner on or before 1 September 2018.

Circumstances in which bargaining council tax relief does not apply

105. (1) The exemption contemplated in section 96 and the bargaining council levy contemplated in section 101 do not apply in respect of any amount to the extent that tax in respect of that amount was—

(a) withheld from an amount received by or accrued to a member;

(b) assessed by the Commissioner on or before 22 February 2017; or

(c) paid in respect of the qualifying period.

(2) The exemption contemplated in section 101 does not apply if the bargaining council levy is not paid on or before 1 September 2018.

Short title

106. This Act is called the Taxation Laws Amendment Act, 2017.

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(ii) enige rente in artikel 24J bedoel (behalwe enige rente ontvang deur of toegeval aan enige ‘‘co-operative bank’’ soos in artikel 12E(4)*(a)*(ii)*(ff)* van die Inkomstebelastingwet beoog), enige bedrag in artikel 24K bedoel en enige ander inkomste wat, ingevolge die wette van die Republiek wat deur die Kommissaris geadministreer word, aan dieselfde behandeling as inkomste van geleende geld onderhewig is; en

(iii) enige opbrengs verkry uit die belegging of handel dryf in finansiële instrumente (met inbegrip van termyntransaksies, opsies en ander afgeleide instrumente), handelseffekte of onroerende eiendom;

‘‘Wet op Arbeidsverhoudinge’’ the Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 of 1995);

‘‘lid’’ ’n lid van ’n bedingingsraad; en

‘‘kwalifiserende tydperk’’ enige jaar van aanslag wat begin op of na 1 Maart 2012 en eindig op of voor 28 Februarie 2017.

Vrystellings

101. Daar word vrygestel van normale belasting enige bedrag ontvang deur of toegeval aan—

(a) enige lid gedurende die kwalifiserende tydperk as siektebetaling of vakansiebetaling van ’n skema of fonds soos beoog in artikel 28(1)*(g)* van die Wet op Arbeidsverhoudinge; en

(b) ’n bedingingsraad as beleggingsinkomste gedurende die kwalifiserende tydperk.

Bedingingsraadheffing

102. Daar word gehef, betaal en ingevorder ten bate van die Nasionale Inkomstefonds ’n heffing, bekend as die bedingingsraadheffing, ten opsigte van enige bedrag van inkomste vrygestel kragtens artikel 101, bereken kragtens artikel 103.

Bedrag van bedingingsraadheffing

103. Die bedrag van die bedingingsraadheffing moet bereken word teen ’n koers van 10 persent op die somtotaal van—

(a) enige bedrag wat teruggehou of afgetrek moes word deur daardie bedingingsraad by wyse van werknemersbelasting ten opsigte van ’n bedrag beoog in artikel 101*(a)* ten opsigte van die aanspreeklikheid vir normale belasting van daardie lid soos beoog in paragraaf 2 van die Vierde Bylae by die Inkomstebelastingwet.

(b) enige bedrag beoog in artikel 101*(b)*.

Betaling van bedingingsraadheffing

104. ’n Bedingingsraad moet ’n opgawe indien en die bedingingsraadheffing op of voor 1 September 2018 aan die Kommissaris betaal.

Omstandighede waarin bedingingsraad-belastingverligting nie van toepassing is nie

105. (1) Die vrystelling beoog in artikel 101 en die bedingingsraadheffing beoog in artikel 97 is nie van toepassing nie ten opsigte van enige bedrag namate belasting ten opsigte van daardie bedrag—

(a) weerhou was van ’n bedrag ontvang of toegeval aan ’n lid;

(b) aangeslaan deur die Kommissaris op of voor 22 Februarie 2017; of

(c) betaal ten opsigte van the kwalifiserende tydperk.

(2) Die vrystelling beoog in artikel 101 is nie van toepassing nie indien die bedingingsraadheffing nie op of voor 1 September 2018 betaal is nie.

Kort titel

106. Hierdie Wet heet die Wysigingswet op Belastingwette, 2017.

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