

REPUBLIC OF SOUTH AFRICA

REVENUE LAWS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 77);
(The English text is the official text of the Bill)*

(MINISTER OF FINANCE)

[B 39—2023]

ISBN 978-1-4850-0917-7

No. of copies printed150

1. (1) Section 1 of the Income Tax Act, 1962, is hereby amended—
- (a) by the insertion in subsection (1) in the definition of “gross income” after paragraph (eC) of the following paragraph:
 “(eD) a savings withdrawal benefit;”;
 - (b) by the insertion in subsection (1) after the definition of “JSE Limited Listings Requirements” of the following definition:
 “**“legacy retirement annuity policy”** means any policy held by a retirement annuity fund entered into before 1 March 2025 with a pre-universal life or universal life construct, subject to such conditions that the Financial Sector Conduct Authority may determine;”;
 - (c) by the insertion in subsection (1) after the definition of “Medical Schemes Act” of the following definitions:
 “**“member’s interest in the retirement component”** includes—
 - (a) any amount allocated to the retirement component as contemplated in the definition of “retirement component”;
 - (b) any amount credited to the retirement component on or after 1 March 2025;
 - (c) any fund return as defined in section 1 of the Pension Funds Act in relation to amounts contemplated in paragraphs (a) and (b); and
 - (d) reduced proportionally by any amount determined in terms of section 37D of the Pension Funds Act, which amount is deemed to be a lump sum benefit contemplated in paragraph 2(1)(b) of the Second Schedule,
 as determined in terms of the rules of the fund;**“member’s interest in the savings component”** includes—
 - (a) any amount allocated to the savings component as contemplated in the definition of “savings component”;
 - (b) any amount credited to the savings component on or after 1 March 2025;
 - (c) any fund return as defined in section 1 of the Pension Funds Act in relation to amounts contemplated in paragraphs (a) and (b);
 - (d) reduced by any amount as contemplated in the definition of “savings withdrawal benefit”; and
 - (e) reduced proportionally by any amount determined in terms of section 37D of the Pension Funds Act, which amount is deemed to be a lump sum benefit contemplated in paragraph 2(1)(b) of the Second Schedule,
 as determined in terms of the rules of the fund;**“member’s interest in the vested component”** includes—
 - (a) the value of the member’s interest in the fund that exists immediately prior to 1 March 2025;
 - (b) any amount credited to the member’s vested component on or after 1 March 2025;
 - (c) any fund return as defined in section 1 of the Pension Funds Act in relation to amounts contemplated in paragraphs (a) and (b);
 - (d) reduced by any amount as contemplated in paragraph (a) of the definition of “savings component”; and
 - (e) reduced proportionally by any amount determined in terms of section 37D of the Pension Funds Act, which amount is deemed to be a lump sum benefit contemplated in paragraph 2(1)(b) of the Second Schedule;
 as determined in terms of the rules of the fund;”;
 - (d) by the substitution in subsection (1) in the definition of “pension fund” for paragraph (i) of the proviso of the following paragraph:
 “(i) that the fund is a permanent fund *bona fide* established for the purpose of providing annuities 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 the definition of “savings withdrawal benefit”, paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and”;

- (e) by the substitution in subsection (1) in the definition of “pension fund” in subparagraph (dd) of paragraph (ii) of the proviso for the words preceding the proviso of the following words:
- “that not more than one-third of the **[total value]** portion of the **[retirement]** member’s interest in the vested component may be commuted for a single payment, and that the remainder, calculated together with the member’s interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the member’s total **[value]** interest in the vested component, calculated together with the member’s total interest in the retirement component, does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund;”;
- (f) by the addition in subsection (1) in the definition of “pension fund” of the following further proviso:
- “: Provided further that the Commissioner may approve or recognise a fund contemplated in—
- (i) paragraph (a), (b), (c) or (d) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide—
- (aa) for the creation of the “savings component”, “retirement component” and “vested component” as defined in section 1;
- (bb) that an employee may, prior to his or her retirement date, elect to receive the payment of—
- (A) an amount from the retirement component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—
- (AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021;
- (BB) departed from the Republic at the expiry of a visa obtained for the purposes of—
- (AAA) working as contemplated in paragraph (i) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002);
- (BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director-General, as defined in that Act; or
- (CC) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of application for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; or
- (B) an amount from the vested component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—

- (AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021;
- (BB) departed from the Republic at the expiry of a visa obtained for the purposes of—
- (AAA) working as contemplated in paragraph (i) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
- (BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director-General, as defined in that Act; or
- (CC) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of application for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for delivery of currency on or before 28 February 2022; or
- (ii) paragraph (a), (b) or (d) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide that not more than one-third of the employee’s retirement interest in the vested component may be commuted for a single payment and that the remainder, calculated together with the employee’s interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the employee’s interest in the vested component calculated together with the employee’s interest in the retirement component, does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or retirement annuity fund;”;
- (g) by the substitution in subsection (1) in the definition of “pension preservation fund” for item (aa) in paragraph (a)(i) of the proviso of the following item:
 “(aa) resignation, retrenchment or dismissal from employment and who elected to have any lump sum benefit that is payable as a result of the termination transferred to that fund, including lump sums transferred from the member’s vested component, savings component and retirement component in the previous fund to the member’s vested component, savings component and retirement component in this fund;”;
- (h) by the substitution in subsection (1) in the definition of “pension preservation fund” for subparagraph (ii)(bb) in paragraph (a) of the proviso of the following subparagraph:
 “(bb) if the member elected to have any lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule transferred to this pension preservation fund and who have made this election while they were members of that other fund, including lump sums transferred from the member’s vested component, savings component and retirement component in the previous fund to the member’s vested component, savings component and retirement component in this fund;”;
- (i) by the substitution in subsection (1) in the definition of “pension preservation fund” for subparagraph (v) in paragraph (a) of the proviso of the following subparagraph:

- “(v) former members of a pension fund, pension preservation fund, provident fund or provident preservation fund who have elected to have a lump sum benefit contemplated in paragraph 2(1)(c) of the Second Schedule transferred to this pension preservation fund and who have made this election while they were members of that other fund, including lump sums transferred from the member’s vested component, savings component and retirement component in the previous fund to the member’s vested component, savings component and retirement component in this fund;”;
- (j) by the substitution in subsection (1) in the definition of “pension preservation fund” for paragraph (b) of the proviso of the following paragraph:
 “(b) payments or transfers to the fund in respect of a member are limited to any amount allocated to the vested component, savings component or retirement component or an amount contemplated in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act that is paid or transferred to the fund by—”;
- (k) by the substitution in subsection (1) in the definition of “pension preservation fund” for subparagraph (i) of paragraph (c) of the proviso of the following subparagraph:
 “(i) this paragraph applies separately to each payment or transfer to the **[fund contemplated in paragraph (b)]** vested component or an amount in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act that is paid or transferred to the fund;”;
- (l) by the substitution in subsection (1) in the definition of “pension preservation fund” for subparagraph (ii) of paragraph (c) of the proviso of the following subparagraph:
 “(ii) a member shall, prior to his or her retirement date, be entitled to the payment of—
 (aa) a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where a member—
 [(aa)(A)] (a) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of applications for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of the currency on or before 28 February 2022; or
 [(B)] (b) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or
 [(bb)] (c) departed from the Republic at the expiry of a visa obtained for the purposes of—
 (AA) working as contemplated in paragraph (i) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
 (BB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of that Act by the Director-General, as defined in that Act; and

- (bb) an amount from the retirement component and vested component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—
- (A) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021;
 - (B) departed from the Republic at the expiry of a visa obtained for the purposes of—
 - (AA) working as contemplated in paragraph (i) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
 - (BB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director-General, as defined in that Act; or
 - (C) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of application for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; and”;
- (m) by the substitution in subsection (1) in the definition of “pension preservation fund” for subparagraph (iii) of paragraph (c) of the proviso of the following subparagraph:
- “(iii) a member who has transferred a retirement interest in terms of paragraph 2(1)(c) of the Second Schedule to this fund shall not be entitled to payment of a withdrawal benefit as contemplated in paragraph 2(1)(b)(ii) of the Second Schedule in respect of that transferred amount, except to the extent that it is an amount contemplated in subparagraph (ii) or a savings withdrawal benefit; and”;
- (n) 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]** portion of the retirement interest in the vested component may be commuted for a single payment, and that the remainder, calculated together with the member’s interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the member’s total [value] interest in their vested component, calculated together with the member’s total interest in their retirement component does not exceed R165 000, where the member is deceased or where the member elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund: Provided that in determining the value of the retirement interest an amount calculated as follows must not be taken into account—”;
- (o) by the addition in subsection (1) in the definition of “pension preservation fund” of the following further proviso:
- “: Provided further that the Commissioner may approve a fund in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide for the creation of the “savings component”, “retirement component” and “vested component” as defined in section 1;”;
- (p) by the substitution in subsection (1) in the definition of “provident fund” for paragraph (i) of the proviso of the following paragraph:
- “(i) that the fund is a permanent fund *bona fide* established solely for the purpose of providing benefits for employees on retirement

- date or solely for the purpose of providing **[benefits]** annuities 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 benefits other than annuities for the persons aforesaid or for the purpose of providing any benefit contemplated in the definition of “savings withdrawal benefit”, paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and”; 5
- (q) by the substitution in subsection (1) in the definition of “provident fund” in subparagraph (dd) of paragraph (ii) of the proviso of the words preceding the proviso of the following words: 10
- “that not more than one-third of the **[total value]** portion of the retirement interest that exists in an employee’s interest may be commuted for a single payment, and that the remainder calculated together with the employee’s interest in the retirement component must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the **[total value]** employee’s retirement interest in the vested component, calculated together with the employee’s interest in the retirement component, does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund;”;
- (r) by the addition in subsection (1) in the definition of “provident fund” of the following further proviso: 25
- “: Provided further that the Commissioner may approve or recognise a fund contemplated in—
- (iii) paragraph (a), (b) (c) or (d) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide— 30
- (aa) for the creation of the “savings component”, “retirement component” and “vested component” as defined in section 1;
- (bb) that an employee shall, prior to his or her retirement date, be entitled to the payment of an amount from the retirement component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member— 35
- (AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or
- (BB) departed from the Republic at the expiry of a visa obtained for the purposes of— 40
- (AAA) working as contemplated in paragraph (i) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
- (BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director-General, as defined in that Act; or 50
- (iv) paragraph (a), (b) or (c) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide that not more than one-third of an employee’s interest in the vested component may be commuted for a single payment and that the remainder, calculated together with the member’s interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the 60

- employee's interest in the vested component, calculated together with the employee's interest in the retirement component, does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident fund or retirement annuity fund;";
- (s) by the substitution in subsection (1) in the definition of "provident preservation fund" for item (aa) of paragraph (a)(i) of the proviso of the following item:
- “(aa) resignation, retrenchment or dismissal from employment and who elected to have any lump sum benefit that is payable as a result of the termination transferred to that fund, including lump sums transferred from the member's vested component, savings component and retirement component in the previous fund to the member's savings component and retirement component in this fund;”;
- (t) by the substitution in subsection (1) in the definition of "provident preservation fund" for item (bb) of paragraph (a)(ii) of the proviso of the following item:
- “(bb) if the member elected to have any lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule transferred to **[that]** this pension preservation fund and who made this election while they were members of that other fund, including lump sums transferred from the member's vested component, savings component and retirement component in the previous fund to the member's savings component and retirement component in this fund;”;
- (u) by the substitution in subsection (1) in the definition of "provident preservation fund" for subparagraph (v) of paragraph (a) of the proviso of the following subparagraph:
- “(v) former members of a pension fund, pension preservation fund, provident fund or provident preservation fund who have elected to have a lump sum benefit contemplated in paragraph 2(1)(c) of the Second Schedule transferred to this provident preservation fund and who made the election while they were members of that other fund, including lump sums transferred from the member's vested component, savings component and retirement component in the previous fund to the member's savings component and retirement component in this fund; or”;
- (v) by the substitution in subsection (1) in the definition of "provident preservation fund" for the words preceding subparagraph (i) of paragraph (b) of the proviso of the following words:
- “payments or transfers to the fund in respect of a member are limited to any amount allocated to the vested component, savings component or retirement component or an amount contemplated in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act that is paid or transferred to the fund by—”;
- (w) by the substitution in subsection (1) in the definition of "provident preservation fund" for subparagraph (i) of paragraph (c) of the proviso of the following subparagraph:
- “(i) this paragraph applies separately to each payment or transfer to the **[fund contemplated in paragraph (b)]** vested component or an amount contemplated in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any "unclaimed benefit" as defined in the Pension Funds Act that is paid or transferred to the fund;”;
- (x) by the substitution in subsection (1) in the definition of "provident preservation fund" for subparagraph (ii) of paragraph (c) of the proviso of the following subparagraph:
- “(ii) a member shall, prior to his or her retirement date, be entitled to the payment of—
(aa) a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where a member—

- [(*aa*)] (*a*) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of applications for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of the currency on or before 28 February 2022; [or]
- (*b*) is a person who is not resident for an uninterrupted period of three years or longer on or after 1 March 2021; or
- [(*bb*)] (*c*) departed from the Republic at the expiry of a visa obtained for the purposes of—
- (AA) working as contemplated in paragraph (*i*) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
- (BB) a visit as contemplated in paragraph (*b*) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (*b*) of the proviso to section 11 of the Act by the Director-General, as defined in that Act[.];
- [and]
- (*bb*) an amount from the retirement component or vested component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—
- (A) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or
- (B) departed from the Republic at the expiry of a visa obtained for the purposes of—
- (AA) working as contemplated in paragraph (*i*) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
- (BB) a visit as contemplated in paragraph (*b*) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (*b*) of the proviso to section 11 of the Act by the Director-General, as defined in that Act; or
- (C) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of application for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; and”;
- (y) by the substitution in subsection (1) in the definition of “provident preservation fund” for paragraph (iii) of the proviso to paragraph (*c*) of the proviso of the following paragraph:
- “(iii) a member who has transferred a retirement interest in terms of paragraph 2(1)(c) of the Second Schedule to this fund shall not be entitled to payment of a withdrawal benefit as contemplated in paragraph 2(1)(b)(ii) of the Second Schedule in respect of that transferred amount, except to the extent that it is an amount contemplated in subparagraph (ii) or a savings withdrawal benefit; and”;

- (z) by the substitution in subsection (1) in the definition of “provident preservation fund” in paragraph (e) of the proviso for the words preceding the proviso of the following words:
- “[that] not more than one-third of the [total value] portion of the [retirement] member’s interest in the vested component immediately prior to 1 March 2025 may be commuted for a single payment, and that the remainder, calculated together with the member’s interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the [total value] member’s total interest in their vested component, calculated together with the member’s total interest in their retirement component, does not exceed R165 000, where the member is deceased or where the member elects to transfer the retirement interest to a pension preservation fund, a provident preservation fund or a retirement annuity fund: ”;
- (zA) by the addition in subsection (1) in the definition of “provident preservation fund” of the following further proviso:
- “: Provided further that the Commissioner may approve a fund in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide for the creation of the “savings component”, “retirement component” and “vested component” as defined in section 1;”;
- (zB) by the substitution in subsection (1) in the definition of “retirement annuity fund” for paragraph (a) of the proviso of the following paragraph:
- “(a) that the fund is a permanent fund bona fide established for the sole purpose of providing life annuities for the members of the fund or annuities for the dependants or nominees of deceased members or for the purpose of providing any benefit contemplated in the “savings withdrawal benefit” in section 1; and”;
- (zC) by the substitution in subsection (1) of the definition of “retirement annuity fund” for subparagraph (ii) of paragraph (b) of the proviso for the words preceding the proviso of the following words:
- “that not more than one-third of the [total value of the retirement] member’s interest in the vested component may be commuted for a single payment, and that the remainder, calculated together with the total value of the member’s share standing to the credit of the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the total value of the member’s interest in the vested component plus the member’s interest in the retirement component does not exceed R165 000, or where the member is deceased or where the member elects to transfer the vested component to a retirement annuity fund: ”;
- (zD) by the substitution in subsection (1) in the definition of “retirement annuity fund” for item (dd) of paragraph (b)(x) of the proviso of the following item:
- “(dd) the payment of—
- (A) a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where that member—
- [(A)](AA) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of applications for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; [or]
- (BB) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

- ~~[(B)]~~(CC) departed from the Republic at the expiry of a visa obtained for the purposes of—
- (AAA) working as contemplated in paragraph (i) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
 - (BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director-General, as defined in section 1 of that Act;
- (B) an amount from the retirement component and vested component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—
- (AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021;
 - (BB) departed from the Republic at the expiry of a visa obtained for the purposes of—
 - (AAA) working as contemplated in paragraph (i) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
 - (BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director-General, as defined in that Act; or
 - (CC) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of applications for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; or
- (C) an amount from the vested component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—
- (AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021;
 - (BB) departed from the Republic at the expiry of a visa obtained for the purposes of—
 - (AAA) working as contemplated in paragraph (i) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
 - (BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director-General, as defined in that Act; or
 - (CC) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of applications for that

- recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022;”;
- (zE) by the addition in subsection (1) in the definition of “retirement annuity fund” of the following further proviso: 5
- “: Provided further that the Commissioner may approve a fund in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide for the creation of the “savings component”, “retirement component” and “vested component” as defined in section 1;”;
- (zF) by the insertion in subsection (1) after the definition of “retirement annuity fund” of the following definition: 10
- “ **“retirement component”** means a component established in terms of the rules of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund for a person who is a member of that fund: Provided that the rules of the fund provide that— 15
- (a) two-thirds of the total retirement contributions to a pension fund, provident fund or retirement annuity fund by or on behalf of that member on or after 1 March 2025 is allocated to this component: Provided that— 20
- (i) in determining the value of the contributions to this component an amount of charges and risk premiums deductible against such contributions must not be taken into account; 25
- (ii) in the case of funds with a defined benefit funding structure, the total value attributed to this component on or after 1 March 2025 is to be determined with reference to two-thirds of the member’s “pensionable service” as contemplated in the rules of that fund on or after 1 March 2025; and 30
- (iii) a fund with a defined benefit structure that is unable to allocate contributions as contemplated in paragraph (ii) may allocate contributions utilising a reasonable method of allocation as approved by the Financial Sector Conduct Authority; 35
- (b) payments or transfers from a similar component to a pension preservation fund or provident preservation fund by or on behalf that member on or after 1 March 2025 is allocated to this component; 40
- (c) any amounts transferred from a similar component of any other pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund on or after 1 March 2025 is allocated to this component; and 45
- (d) the total value of the member’s interest in the retirement component must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where the member’s interest in the retirement component calculated together with two-thirds of the member’s interest in the vested component does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund: Provided that this provision shall not apply to a “legacy retirement annuity policy” as defined in section 1 (that has been exempted from this provision, subject to the conditions that may be required by the Financial Sector Conduct Authority), a “beneficiary fund”, “unclaimed benefit fund” and “pensioner” as defined in section 1 of the Pension Funds Act, and any person who is or was a member of a provident fund or provident preservation fund and who was 55 years of age or older on 1 March 2021, unless such person has elected to contribute to the retirement component: Provided further that in determining the value of the member’s interest in the retirement component calculated together 50 55 60

with two-thirds of the member's interest in the vested component an amount calculated as follows must not be taken into account:

- (i) In the case of a person who is or was a member of a provident fund or provident preservation fund and who was 55 years of age or older on 1 March 2021 who has elected to contribute to the retirement component,
 - (aa) two-thirds of the members contribution to the vested component in a provident fund or transfers to the vested component in a provident preservation fund on or after 1 March 2025;
 - (bb) with the addition of any other amount credited to the member's individual account or minimum individual reserve of the vested component in the provident fund or provident preservation fund on or after 1 March 2025; and
 - (cc) any fund return, as defined in the Pension Funds Act, in relation to the contribution or transfers contemplated in item (aa) or amounts credited contemplated in item (bb);

(zG) by the substitution in subsection (1) for the definition of "retirement interest" of the following definition:

“**retirement interest**” means—

- (a) in relation to any period prior to 1 March 2025, 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 pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; or
- (b) in relation to any period commencing on 1 March 2025, 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 comprising the member's interest in the savings component, member's interest in the retirement component and member's interest in the vested component, on the date on which he or she elects to retire or transfer to a pension preservation fund, provident preservation fund or retirement annuity fund as contemplated in paragraph 2(1)(c) of the Second Schedule or transfer to a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as contemplated in paragraph 2(1)(d) of the Second Schedule;

(zH) by the insertion in subsection (1) after the definition of "return of capital" of the following definitions:

“**savings component**” means a component established in terms of the rules of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund for a person who is a member of that fund: Provided that the rules of the fund provide that—

- (a) a one-off amount of 10 per cent of the total value of the vested component as at 28 February 2025, as contemplated in paragraph (a) of the definition of "vested component", limited to R30 000, is allocated to this component on or after 1 March 2025: Provided further that—
 - (i) the amount may be determined on or after 1 March 2025, and the allocation must be backdated to that date; and
 - (ii) in the case of any person who is or was a member of a provident fund or provident preservation fund and who is or was 54 years of age or younger on 1 March 2021, the one-off amount is to be calculated proportionally from that member's retirement interest in that provident fund or provident preservation fund on 28 February 2021 and the increase in

- the value up to and including 28 February 2025 from that fund;
- (b) one-third of the total retirement contributions to a pension fund, provident fund or retirement annuity fund by or on behalf of that member on or after 1 March 2025 is allocated to this component: 5
 Provided that—
- (i) in determining the value of the contributions to this component an amount of charges and risk premiums deductible against such contributions must not be taken into account; 10
 - (ii) in the case of funds with a defined benefit funding structure, the total value attributed to this component on or after 1 March 2025 is to be determined with reference to one-third of the member’s “pensionable service” as contemplated in the rules of that fund on or after 1 March 2025; and 15
 - (iii) a fund with a defined benefit structure that is unable to allocate contributions as contemplated in subparagraph (ii) may allocate contributions utilising a reasonable method of allocation as approved by the Financial Sector Conduct Authority; 20
- (c) payments or transfers from a similar component to a pension preservation fund or provident preservation fund by or on behalf of that member on or after 1 March 2025 is allocated to this component;
- (d) any amounts transferred from a similar component of any other pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund on or after 1 March 2025 are allocated to this component if the member’s total interest in that fund is transferred in terms of the rules of the fund; 25
- (e) the member may elect to allocate the value of the member’s interest in this component into the member’s retirement component in that fund; 30
- (f) the member’s interest in this component or portion thereof may be paid in the form of a savings withdrawal benefit; and
- (g) on the death of the member or former member, or on retirement of the member, the member’s interest in this component may on election of the member or nominee be— 35
- (i) on the death of the member paid to a nominee or dependant of the deceased member or former member; or
 - (ii) on retirement, to the retired member and is deemed to be a lump sum benefit contemplated in paragraph 2(1)(a) of the Second Schedule and in the absence of a nominee or dependant, to the deceased’s estate as a lump sum benefit contemplated in paragraph 2(1)(a) of the Second Schedule: 40
- Provided further that this definition shall not apply to a “legacy retirement annuity policy” as defined in section 1, that has been approved for exemption by the Financial Sector Conduct Authority, a “beneficiary fund”, “unclaimed benefit fund” and “pensioner” as defined in section 1 of the Pension Funds Act, and any person who is or was a member of a provident fund or provident preservation fund and who is or was 55 years of age or older on 1 March 2021, unless such person has elected to contribute to the “savings component”; 45
- “**savings withdrawal benefit**” means a portion of the member’s share of the value in a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund that the member has elected to withdraw from the portion of his or her share allocated to the savings component provided by that fund before termination of membership of the fund: Provided that— 55
- (a) the member’s right is limited to one withdrawal during a year of assessment; 60

- (b) where a member has multiple contracts in the same fund, one withdrawal during a year of assessment may be made from each of the contracts; and
- (c) the value of each withdrawal, before taking into account any charges or transaction costs, may not be less than R2 000: Provided that where a member terminates their membership in their respective funds within any year of assessment and such member has made a withdrawal from that fund as contemplated in paragraphs (a) or (b) and the value of the member's interest in the savings component is less than R2 000, such member may be allowed a second withdrawal of the total balance in the savings component;";
- (zI) by the insertion in subsection (1) after the definition of "this Act" of the following definition:
 " **total retirement contribution**" means any amount contributed to any pension fund, provident fund or retirement annuity fund in terms of the rules of that fund on or after 1 March 2025 by a person who is a member of that fund or any other person on behalf of that member, excluding any charges or premiums thereon;"; and
- (zJ) by the insertion in subsection (1) after the definition of "Value-Added Tax Act" of the following definition:
 " **vested component**" means a component established in terms of the rules of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund for a person who is a member of that fund: Provided that the rules of the fund provide that—
- (a) the member's interest in this component, after taking into account the allocation of the amount contemplated in paragraph (a) of the definition of "savings component", is subject to and must be paid in accordance with the rules of the fund that exist immediately prior to 1 March 2025;
- (b) no contributions may be made to this component on or after 1 March 2025, except in the case of a person who was a member of a provident fund and is still a member of the same provident fund and who was 55 years of age or older on 1 March 2021: Provided that where the above-mentioned member has elected to make contributions to this component on or after 1 March 2025, that member may not be allowed to make contributions to the savings component or the retirement component;
- (c) the member may, in accordance with the rules of the fund that exist immediately prior to 1 March 2025, elect to transfer the value of this component into the member's vested component of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;
- (d) the member may elect to transfer the value of this component into the member's retirement component of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; and
- (e) the member may elect to transfer the value of this component into the member's retirement component of the pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;".

(2) Subsection (1) comes into operation on 1 March 2025 and applies in respect of years of assessment commencing on or after that date.

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, section 16 of Act 43 of 2014, section 18 of Act 17 of 2017, section 24 of Act 23 of 2018, section 14 of Act 34 of 2019 and section 12 of Act 23 of 2020

2. (1) Section 10C of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) in the definition of "qualifying annuity" for paragraph (d) of the following paragraph:

- “(d) as contemplated in paragraph (ii)(dd) of the proviso to the definition of “provident fund” in section 1(1); **[or]**”;
- (b) by the substitution in subsection (1) in the definition of “qualifying annuity” for paragraph (e) of the following paragraph:
 “(e) as contemplated in paragraph (e) of the definition of “provident preservation fund” in section 1(1)[.]; **or**”;
- (c) by the addition in subsection (1) in the definition of “qualifying annuity” after paragraph (e) of the following paragraphs:
 “(f) as contemplated in paragraph (ii) of the further proviso to the definition of ‘pension fund’ in section 1(1);
 (g) as contemplated in paragraph (d) of the definition of ‘retirement component’ in section 1(1); or
 (h) as contemplated in paragraph (ii) of the further proviso to the definition of ‘provident fund’ in section 1(1).”.
- (2) Subsection (1) comes into operation on 1 March 2025 and applies in respect of years of assessment commencing on or after that date.

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, section 92 of Act 22 of 2012, section 62 of Act 17 of 2017 and section 48 of Act 34 of 2019

- 3.** (1) Paragraph 2 (1) of the Second Schedule to the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in item (b) for the words following subitem (ii) of the following words:
 “less any deduction permitted under paragraph 6; **[and]**”;
- (b) by the substitution for item (c) of the following item:
 “(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[.]; **and**”;
- (c) by the addition after item (c) of the following item:
 “(d) any amount transferred for the benefit of that person within the same fund as contemplated in paragraph 6B(a), 6B(b) or 6B(f) and any amount transferred on termination of membership in that fund or as contemplated in paragraph 2(1)(b)(iA) to another fund for the benefit of that person as contemplated in paragraph 6B(c), 6B(d), or 6B(e), less any deductions permitted under the provisions of paragraph 6B.”.
- (2) Subsection (1) comes into operation on 1 March 2025 and applies in respect of years of assessment commencing on or after that date.

Addition of paragraph 6B to Second Schedule to Act 58 of 1962

- 4.** (1) The Second Schedule to the Income Tax Act, 1962, is hereby amended by the addition after paragraph 6A of the following paragraph:

**“TRANSFER BETWEEN THE COMPONENTS OF THE
RETIREMENT SYSTEM: DEDUCTIONS**

- 6B.** The deduction to be allowed from an amount contemplated in paragraph 2(1)(d) is equal to so much of that amount as is transferred for the benefit of a person from the—
- (a) savings component into the member’s retirement component in that same fund;
- (b) vested component into the member’s retirement component in that same fund;
- (c) savings component in that fund into the member’s or former spouse of that member’s savings component or member’s or former spouse of that member’s retirement component in another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;

- (d) vested component in that fund into the member's or former spouse of that member's vested component or member's or former spouse of that member's retirement component in another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; 5
- (e) retirement component into the member's or former spouse of that member's retirement component of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; and
- (f) vested component into the member's savings component in that same fund for purposes of the allocation as contemplated in paragraph (a) of the "savings component" definition: 10
- Provided that any transfers contemplated under item (c), (d) or (e) are only permissible on termination of membership in the transferor fund or as contemplated in paragraph 2(1)(b)(iA): Provided further that any transfers contemplated under item (c), (d) or (e) are only permissible if all the remaining components are transferred into the same transferee fund." 15

(2) Subsection (1) comes into operation on 1 March 2025 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962, as amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of Act 113 of 1993, section 16 of Act 140 of 1993, section 37 of Act 21 of 1995, section 34 of Act 36 of 1996, section 44 of Act 28 of 1997, section 52 of Act 30 of 1998, section 52 of Act 30 of 2000, section 53 of Act 59 of 2000, section 19 of Act 19 of 2001, section 32 of Act 30 of 2002, section 46 of Act 32 of 2004, section 49 of Act 31 of 2005, section 28 of Act 9 of 2006, section 39 of Act 20 of 2006, section 54 of Act 8 of 2007, section 64 of Act 35 of 2007, section 43 of Act 3 of 2008, section 66 of Act 60 of 2008, section 17 of Act 18 of 2009, section 18 of Act 8 of 2010, section 93 of Act 24 of 2011, section 271 of Act 28 of 2011, read with paragraph 77 of Schedule 1, section 7 of Act 44 of 2014, section 6 of Act 23 of 2015, section 5 of Act 16 of 2016, section 8 of Act 13 of 2017, section 4 of Act 22 of 2018, section 6 of Act 24 of 2020 and section 36 of Act 20 of 2021 20 25 30 35

5. (1) The Fourth Schedule to the Income Tax Act, 1962, in the definition of "remuneration" in paragraph 1 is hereby amended by the substitution for paragraph (a) of the following paragraph:

"(a) any amount referred to in paragraph (a), (c), (cA), (cB), (d), (e), (eA), (eD) or (f) of the definition of 'gross income' in section 1 of this Act;" 40

(2) Subsection (1) comes into operation on 1 March 2025 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 inserted 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 28 of Act 113 of 1977, 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 6 of Act 16 of 2016 and section 51 of Act 34 of 2019 45 50

6. (1) The Fourth Schedule to the Income Tax Act, 1962, is hereby amended in paragraph 2 by the addition after subparagraph (2B) of the following subparagraph: 55

"(2C) A pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund that pays a "savings withdrawal benefit" as defined in section 1 shall, when deducting or withholding employees' tax in respect of that savings withdrawal benefit, apply the fixed tax rate that the

Commissioner directs must be used in determining the amount of employees' tax to be withheld.”.

(2) Subsection (1) comes into operation on 1 March 2025 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 9 of Fourth Schedule to Act 58 of 1962, as amended by section 39 of Act 88 of 1971, section 32 of Act 103 of 1976, section 29 of Act 104 of 1980, section 46 of Act 101 of 1990, section 46 of Act 28 of 1997, section 55 of Act 59 of 2000, section 21 of Act 19 of 2001, section 41 of Act 20 of 2006, section 56 of Act 8 of 2007, sections 66 of Act 35 of 2007, section 68 of Act 60 of 2008, section 20 of Act 18 of 2009, section 95 of Act 24 of 2011, section 8 of Act 23 of 2015 and section 7 of Act 16 of 2016

7. (1) The Fourth Schedule to the Income Tax Act, 1962, in paragraph 9 is hereby amended by the substitution in subparagraph (3) for item (a) of the following item:

“(a) The amount to be deducted or withheld in respect of employees' tax from any lump sum to which paragraph (d), ~~[or] (e)~~ or any amount to which paragraph (eD) of the definition of “gross income” in section 1 or section 7A applies, or any transfers as contemplated in paragraph 2(1)(d) of the Second Schedule, shall be ascertained by the employer from the Commissioner before paying out such lump sum or before such transfers are effected, and the Commissioner's determination of the amount to be so deducted or withheld shall be final.”.

(2) Subsection (1) comes into operation on 1 March 2025 and applies in respect of years of assessment commencing on or after that date.

Short title

8. This Act is called the Revenue Laws Amendment Act, 2023. 25

Printed by Creda Communications

ISBN 978-1-4850-0917-7