

REPUBLIC OF SOUTH AFRICA

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**TAXATION LAWS  
AMENDMENT BILL**

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

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(MINISTER OF FINANCE)

**[B 38—2018]**

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**GENERAL EXPLANATORY NOTE:**

[                    ]     Words in bold type in square brackets indicate omissions from existing enactments.

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## **BILL**

To amend the Income Tax Act, 1962, so as to amend certain provisions; to make new provision; to repeal certain provisions; to amend the Customs and Excise Act, 1964, so as to make provision for continuations; to amend the Value-Added Tax Act, 1991, so as to amend certain provisions; to make new provision; to amend the Diamond Export Levy Act, 2007, so as to amend certain provisions; to amend the Mineral and Petroleum Resources Royalty Act, 2008, so as to amend a provision; 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, 2014, so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2015, so as to amend a provision; 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 certain provisions; to amend the Taxation Laws Amendment Act, 2017, so as to amend certain provisions; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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, section 5 of Act 15 of 2016 and section 2 of Act 17 of 2017

1. (1) Section 1 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) in paragraph (e) of the definition of “company” for subparagraph (iii) of the following subparagraph:
- “(iii) portfolio of a collective investment scheme in property that qualifies as a REIT as defined in **[paragraph 13.1(x) of the JSE Limited Listings Requirements]** the listing requirements of an exchange approved in consultation with the Minister and published by the Prudential Authority, as defined in section 1 of the Financial Markets Act, in terms of section 11 of that Act; or”;
- (b) by the substitution in subsection (1) in the definition of “dividend” for the words preceding paragraph (a) of the following words:
- “**‘dividend’** means any amount, other than a dividend consisting of a distribution of an asset *in specie* declared and paid as contemplated in section 31(3), transferred or applied by a company that is a resident for the benefit or on behalf of any person in respect of any share in that company, whether that amount is transferred or applied—”;
- (c) by the deletion in subsection (1) in the definition of “financial instrument” of the word “and” at the end of paragraph (d), the insertion of the word “and” at the end of paragraph (e) and the addition of the following paragraph:
- “(f) any cryptocurrency;”;
- (d) by the insertion in subsection (1) after the definition of “Financial Markets Act” of the following definition:
- “**‘Financial Sector Conduct Authority’** means the Financial Sector Conduct Authority as defined in section 1 of the Financial Sector Regulation Act;”;
- (e) by the deletion in subsection (1) of the definitions of “Financial Services Board” and “Financial Services Board Act”;
- (f) by the substitution in subsection (1) in the definition of “identical share” for paragraph (b) of the following paragraph:
- “(b) any other share that is substituted for **[that]** a listed share in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited **[Listing] Listings Requirements** in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listing Requirements;”;
- (g) by the insertion in subsection (1) after the definition of “Financial Markets Act” of the following definition:
- “**‘Financial Sector Regulation Act’** means the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017);”;
- (h) by the insertion in subsection (1) after the definition of “insolvent estate” of the following definition:
- “**‘Insurance Act’** means the Insurance Act, 2017 (Act No.18 of 2017);”;
- (i) by the substitution in subsection (1) for the definition of “official rate of interest” 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;”;
- (j) by the substitution in subsection (1) in paragraph (ii) of the proviso to paragraph (c) of the definition of “pension fund” for subparagraph (dd) of the following subparagraph: 5
- “(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, where the employee is deceased or where the employee elects to transfer the retirement interest to a retirement annuity fund;”;
- (k) by the substitution in subsection (1) in paragraph (ii) of the proviso to paragraph (c) of the definition of “pension fund” for subparagraph (dd) of the following subparagraph: 10 15
- “(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, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund or a retirement annuity fund;”;
- (l) by the deletion in subsection (1) in paragraph (a) of the proviso to the definition of “pension preservation fund” at the end of subparagraph (iii) of the word “or”, the insertion of the word “or” after subparagraph (iv) and the addition of the following subparagraph: 20 25
- “(v) former members of a pension fund or provident 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 made the election while they were members of that other fund;”;
- (m) by the substitution in subsection (1) for paragraph (b) of the proviso to the definition of “pension preservation fund” of the following paragraph: 30
- “(b) payments or transfers to the fund in respect of a member are limited to any amount contemplated in paragraph 2(1)(a)(ii) [or], (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—
- (i) a pension fund, provident fund, provident preservation fund or any other pension preservation fund of which such member was previously a member; or 40
- (ii) a pension fund, provident fund, pension preservation fund[,] or provident preservation fund of which such member’s former spouse is or was previously a member and such payment or transfer was made pursuant to an election by such member in terms of section 37D(4)(b)(ii) of the Pension Funds Act;”;
- (n) by the substitution in subsection (1) in the definition of “pension preservation fund” for the proviso to paragraph (c) of the following proviso: 45
- “: Provided that—
- (i) this paragraph applies separately to each payment or transfer to the fund contemplated in paragraph (b); 50
- (ii) a member shall, prior to his or her retirement date, be entitled to the payment of a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where a member—
- (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; or 55
- (bb) departed from the Republic at the expiry of a visa obtained for the purposes of—
- (A) 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 60
- (B) 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
- (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) in respect of that transferred amount, except to the extent that it is an amount contemplated in subparagraph (ii); and”;
- (o) by the substitution in subsection (1) in paragraph (a) of the proviso to the definition of “pension preservation fund” for subparagraphs (iii) and (iv) of the following subparagraphs:
- “(iii) former members of a pension fund, pension preservation fund, provident fund or provident preservation fund or nominees or dependants of that former member in respect of whom an ‘unclaimed benefit’ as defined in the Pension Funds Act is due or payable by that fund; or
- (iv) persons who have elected to transfer to that fund amounts awarded to those persons in terms of any court order contemplated in section 7(8) of the Divorce Act, 1979 (Act No. 70 of 1979), from any pension fund, **[or]** pension preservation fund, provident fund or provident preservation fund for the benefit of those persons;”;
- (p) by the substitution in subsection (1) in the proviso to the definition of “provident fund” for paragraph (b) of the following paragraph:
- “(b) that the rules of the fund—
- (i) contain provisions similar in all respects to those required to be contained in the rules of a pension fund in terms of subparagraphs (aa), (bb), (cc), (ee) and (ff) of paragraph (ii) of the proviso to paragraph (c) in the definition of ‘pension fund’; and
- (ii) may provide for the employee to elect to transfer the retirement interest to a retirement annuity fund; and”;
- (q) by the substitution in subsection (1) in paragraph (b) of the proviso to the definition of “provident fund” for subparagraph (ii) of the following subparagraph:
- “(ii) may provide for the employee to elect to transfer the retirement interest to a pension preservation fund, provident preservation fund or retirement annuity fund; and”;
- (r) by the deletion in subsection (1) in paragraph (a) of the proviso to the definition of “provident preservation fund” of the word “or” at the end of subparagraph (iii), the insertion of the word “or” at the end of subparagraph (iv) and the addition of the following subparagraph:
- “(v) former members of a provident 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”;
- (s) by the substitution in subsection (1) in paragraph (b) of the proviso to the definition of “provident preservation fund” for the words preceding subparagraph (i) of the following words:
- “payments or transfers to the fund in respect of a member are limited to any amount contemplated in paragraph 2(1)(a)(ii) **[or]**, (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—”;
- (t) by the substitution in subsection (1) in the definition of “provident preservation fund” for the proviso to paragraph (c) of the following proviso:
- “: Provided that—
- (i) this paragraph applies separately to each payment or transfer to the fund contemplated in paragraph (b); **[and]**

- (ii) a member shall, prior to his or her retirement date, be entitled to the payment of a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where a member—
- (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; or
- (bb) departed from the Republic at the expiry of a visa obtained for the purposes of—
- (A) 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
- (B) 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
- (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) in respect of that transferred amount, except to the extent that it is an amount contemplated in subparagraph (ii); and”;
- (u) by the substitution in subsection (1) in paragraph (b) of the definition of “REIT” for subparagraph (ii) of the following subparagraph:
- “(ii) as shares in a REIT as defined in the **[JSE Limited Listings Requirements]** listing requirements of an exchange approved in consultation with the Minister and published by the Prudential Authority, as defined in section 1 of the Financial Markets Act, in terms of section 11 of that Act;”;
- (v) by the substitution in subsection (1) for the definition of “relative” of the following definition:
- “‘**relative**’ in relation to any person, means the spouse of **[such]** that person or anybody related to **[him]** that person or **[his]** that person’s spouse within the third degree of consanguinity, or any spouse of anybody so related, and for the purpose of determining the relationship between any child referred to in the definition of ‘child’ in this section and any other person, **[such]** that child shall be deemed to be related to **[its]** the adoptive parent of that child within the first degree of consanguinity;”;
- (w) 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 paragraph 2(1)(a)(i) **[or (c)]** of the Second Schedule on or subsequent to attaining normal retirement age; or”;
- (x) 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 pension preservation fund, provident preservation fund or retirement annuity fund;”.
- (2) Paragraph (b) of subsection (1) commences on 1 January 2019 and applies in respect of years of assessment commencing on or after that date.
- (3) Paragraphs (d), (e) and (g) of subsection (1) are deemed to have come into operation on 1 April 2018.
- (4) Paragraphs (j), (p) and (w) of subsection (1) are deemed to have come into operation on 1 March 2018 and apply in respect of years of assessment commencing on or after that date.

(5) Paragraph (k) of subsection (1) comes into operation on 1 March 2019 and applies in respect of years of assessment commencing on or after that date.

(6) Paragraphs (l), (m), (n), (o), (q), (r), (s), (t) and (x) of subsection (1) come into operation on 1 March 2019.

**Amendment of section 3 of Act 58 of 1962, as amended by section 3 of Act 141 of 1992, section 3 of Act 21 of 1994, section 3 of Act 21 of 1995, section 20 of Act 30 of 1998, section 3 of Act 59 of 2000, section 6 of Act 5 of 2001, section 4 of Act 19 of 2001, section 18 of Act 60 of 2001, section 7 of Act 74 of 2002, section 13 of Act 45 of 2003, section 4 of Act 16 of 2004, section 2 of Act 21 of 2006, section 1 of Act 9 of 2007, section 3 of Act 36 of 2007, section 1 of Act 4 of 2008, section 5 of Act 60 of 2008, section 2 of Act 61 of 2008, section 14 of Act 8 of 2010, section 271 of Act 28 of 2011, read with paragraph 25 of Schedule 1 to that Act, section 2 of Act 39 of 2013, section 2 of Act 44 of 2014, section 1 of Act 23 of 2015 and section 1 of Act 16 of 2016**

2. (1) Section 3 of the Income Tax Act, 1962, is hereby amended— 15

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

“The Commissioner may, in writing, and on such conditions as may be agreed upon between the Commissioner and the **[executive officer of the Financial Services Board appointed in terms of section 13 of the Financial Services Board Act]** Financial Sector Conduct Authority delegate to **[that executive officer]** the Financial Sector Conduct Authority his or her power—”;

(b) by the substitution for subsection (6) of the following subsection:

“(6) Any person aggrieved by a decision of the **[executive officer]** Financial Sector Conduct Authority to approve or to withdraw an approval of a fund in terms of subsection (5) must, notwithstanding section **[26(2) of the Financial Services Board Act]** 219 of the Financial Sector Regulation Act, lodge his or her objection with the Commissioner in accordance with the provisions of Chapter 9 of the Tax Administration Act.”; and

(c) by the substitution for subsection (7) of the following subsection:

“(7) A decision by the **[executive officer]** Financial Sector Conduct Authority against which an objection has been lodged is, for the purpose of subsection (6), deemed to be a decision of the Commissioner.”. 35

(2) Subsection (1) is deemed to have come into operation on 1 April 2018.

**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 and section 5 of Act 31 of 2013, section 6 of Act 15 of 2016 and section 3 of Act 17 of 2017**

3. Section 5 of the Income Tax Act, 1962, is hereby amended—

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

“(b) If the Minister makes an announcement of an alteration contemplated in paragraph (a), that alteration comes into effect on the date or dates determined by the Minister in that announcement and continues to apply for a period of 12 months from that date or those dates subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.”; and 55

- (b) by the substitution in subsection (10) for paragraph (c) of the following paragraph:

“(c) ‘B’ represents the taxpayer’s taxable income (excluding any lump sum benefit or severance benefit) for the said year;”.

**Amendment of section 6 of Act 58 of 1962, as amended by section 4 of Act 90 of 1962, section 3 of Act 6 of 1963, section 5 of Act 72 of 1963, section 8 of Act 55 of 1966, section 7 of Act 95 of 1967, section 7 of Act 76 of 1968, section 8 of Act 89 of 1969, section 7 of Act 88 of 1971, section 5 of Act 104 of 1980, section 5 of Act 96 of 1981, section 5 of Act 91 of 1982, section 4 of Act 94 of 1983, section 4 of Act 121 of 1984, section 3 of Act 96 of 1985, section 4 of Act 85 of 1987, section 4 of Act 90 of 1988, section 4 of Act 70 of 1989, section 3 of Act 101 of 1990, section 4 of Act 129 of 1991, section 4 of Act 141 of 1992, section 5 of Act 21 of 1995, section 4 of Act 36 of 1996, section 3 of Act 28 of 1997, section 22 of Act 30 of 1998, section 5 of Act 32 of 1999, section 15 of Act 30 of 2000, section 6 of Act 19 of 2001, section 11 of Act 30 of 2002, section 35 of Act 12 of 2003, section 6 of Act 16 of 2004, section 3 of Act 9 of 2005, section 7 of Act 31 of 2005, section 20 of Act 9 of 2006, section 5 of Act 8 of 2007, section 1 of Act 3 of 2008, section 7 of Act 60 of 2008, section 6 of Act 17 of 2009, section 8 of Act 7 of 2010, sections 6(3) and 9 of Act 24 of 2011, section 2 of Act 13 of 2012, section 4 of Act 23 of 2013, section 3 of Act 42 of 2014, section 4 of Act 13 of 2015, section 4 of Act 25 of 2015, section 5 of Act 13 of 2016, section 4 of Act 14 of 2017 and section 3 of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2018**

4. Section 6 of the Income Tax Act, 1962, is hereby amended by the addition of the following subsection:

“(6) (a) The Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, that, with effect from a date or dates mentioned in that announcement, the amounts allowed to the natural person by way of rebates under subsection (2) will be altered to the extent mentioned in the announcement.

(b) If the Minister makes an announcement of an alteration contemplated in paragraph (a), that alteration comes into effect on the date or dates determined by the Minister in that announcement and continues to apply for a period of 12 months from that date or those dates subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.”.

**Amendment of section 6A of Act 58 of 1962, as inserted by section 10 of Act 24 of 2011 and amended by section 3 of Act 13 of 2012, section 6 of Act 22 of 2012, section 5 of Act 23 of 2013, sections 6 and 7 of Act 31 of 2013, section 4 of Act 42 of 2014, section 5 of Act 13 of 2015, section 6 of Act 13 of 2016, section 5 of Act 14 of 2017 and section 4 of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2018**

5. (1) Section 6A of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) In determining the normal tax payable by any natural person there must be deducted an amount, to be known as the medical scheme fees tax credit, equal to the sum of the amounts allowed to that natural person by way of rebates under subsection (2), subject to subsection (3A).”;

- (b) by the substitution in subsection (2)(a) after subparagraph (ii) for the full stop of a comma and by the addition after that subparagraph of the following words:

“that relate to benefits from that fund in respect of that person or of any person that is a dependant of that person.”;

- (c) by the substitution in subsection (2)(b) for subparagraphs (i), (ii) and (iii) of the following subparagraphs respectively:

“(i) (aa) R303, in respect of benefits to the person, or if the person is not a member of a medical scheme or fund in respect of benefits to a dependant who is a member of a medical scheme or fund or a dependant of a member of a medical scheme or fund;



[(ii)] *(bb)* R606, in respect of benefits to the person, and one dependant; or

[(iii)] *(cc)* R606, in respect of benefits to **[the person and one dependant , plus R204 in respect of benefits to each additional dependant,]** two dependants; and

*(ii)* R204, in respect of benefits to each additional dependant.”;

(d) by the insertion after subsection (3) of the following subsection:

“(3A) Where more than one person pays any fees in respect of benefits to a person or dependant, the amount allowed to be deducted in respect of the medical scheme fees tax credit under subsection (1) must be an amount that bears to the total amount in respect of that person or dependant contemplated in subsection (2)(b) the same ratio as the amount of the fees paid by that person bears to the total amount of the fees payable.”;

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

“(4) For the purposes of this section a ‘**dependant**’ in relation to a person means a ‘dependant’ as defined in section **[1 of the Medical Schemes Act] 6B(1)**.”; and

(f) by the addition after subsection (4) of the following subsection:

“(5) (a) The Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, that, with effect from a date or dates mentioned in that announcement, the amounts allowed to the natural person by way of rebates under subsection (2) will be altered to the extent mentioned in the announcement.

(b) If the Minister makes an announcement of an alteration contemplated in paragraph (a), that alteration comes into effect on the date or dates determined by the Minister in that announcement and continues to apply for a period of 12 months from that date or those dates subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2018 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 6B of Act 58 of 1962, as inserted by section 7 of Act 22 of 2012 and amended by section 3 of Act 43 of 2014, section 5 of Act 25 of 2015 and section 9 of Act 15 of 2016**

6. Section 6B of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) in the definition of “dependant” at the end of paragraph (c) for the word “and” of the word “or”; and

(b) by the addition after subsection (4) of the following subsection:

“(5) (a) The Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, that, with effect from a date or dates mentioned in that announcement, the amounts allowed to the natural person by way of rebates under subsection (3) will be altered to the extent mentioned in the announcement.

(b) If the Minister makes an announcement of an alteration contemplated in paragraph (a), that alteration comes into effect on the date or dates determined by the Minister in that announcement and continues to apply for a period of 12 months from that date or those dates subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.”.

**Amendment of section 6quat 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, section 10 of Act 15 of 2016 and section 4 of Act 17 of 2017**

7. (1) Section 6*quat* of the Income Tax Act, 1962, is hereby amended—

(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[,]—

(aa) any allowable deductions contemplated in [section] sections 11F and 18A must be deemed to have been incurred proportionately in respect of taxable income derived from sources within and outside the Republic;

(bb) the deduction under section 11F must be allocated in relation to the taxable income from sources within and outside the Republic before taking into account any deduction in terms of that section, subsection (1C) and section 18A; and

(cc) the deduction under section 18A must be allocated in relation to taxable income from sources within and outside the Republic before taking into account any deduction in terms of that section and subsection (1C);”;

(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] : Provided that in determining the amount of the taxable income that is attributable to that income—

(a) any allowable deductions contemplated in [section] sections 11F and 18A must be deemed to have been incurred proportionately in [the ratio that that income bears to total income] respect of attributable and non-attributable taxable income;

(b) the deduction under section 11F must be allocated in relation to the taxable income from attributable and non-attributable taxable income before taking into account any deduction in terms of that section, subsection (1C) and section 18A; and

(c) the deduction under section 18A must be allocated in relation to attributable and non-attributable taxable income before taking into account any deduction in terms of that section and subsection (1C).”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2018 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 7 of Act 58 of 1962, as amended by section 5 of Act 90 of 1962, section 8 of Act 88 of 1965, section 5 of Act 55 of 1966, section 7 of Act 94 of 1983, section 2 of Act 30 of 1984, section 5 of Act 90 of 1988, section 5 of Act 70 of 1989, section 4 of Act 101 of 1990, section 7 of Act 129 of 1991, section 5 of Act 141 of 1992, section 6 of Act 21 of 1995, section 23 of Act 30 of 1998, section 13 of Act 53 of 1999, section 5 of Act 59 of 2000, section 10 of Act 74 of 2002, section 17 of Act 45 of 2003, section 5 of Act 32 of 2004, section 9 of Act 31 of 2005, section 8 of Act 35 of 2007, section 4 of Act 3 of 2008, section 8 of Act 60 of 2008, section 10 of Act 17 of 2009, section 15 of Act 24 of 2011, section 8 of Act 31 of 2013 and section 4 of Act 43 of 2014**

8. (1) Section 7 of the Income Tax Act, 1962, is hereby amended by the insertion in subsection (8) after paragraph (a) of the following paragraph:

“(aA) In determining, for purposes of paragraph (a), whether an amount received by or that accrued to a person who is not a resident would have constituted income had that person been a resident, the provisions of section 10B(2)(a) must be disregarded in respect of a receipt or accrual consisting of or derived, directly or indirectly, from a foreign dividend—

- (i) paid or payable by a company if—
- (aa) more than 50 per cent of the total participation rights, as defined in section 9D(1), or of the voting rights in that company are directly or indirectly held or are exercisable, as the case may be, by that person whether alone or together with any one or more persons that are connected persons in relation to that person; and
  - (bb) the resident who made the donation, settlement or other disposition or any person that is a connected person in relation to that resident is a connected person in relation to the person who is not a resident; and
- (ii) to the extent to which that foreign dividend is not derived from an amount that must be included in the income of or that must be attributed as a capital gain to—
- (aa) the resident who made that donation, settlement or other disposition; or
  - (bb) a resident who is a connected person in relation to the resident referred to in item (aa).”.

(2) Subsection (1) comes into operation on 1 March 2019 and applies in respect of amounts received or accrued on or after that date.

**Amendment of section 7C of Act 58 of 1962, as inserted by section 12 of Act 15 of 2016 and amended by section 5 of Act 17 of 2017**

9. (1) Section 7C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1)(b)(ii) for the words following subparagraph (bb) of the following words:

“by **[the]** a trust referred to in subparagraph (i) **[or by a beneficiary of that trust]** whether alone or together with any person who is a beneficiary of that trust or the spouse of a beneficiary of that trust or any person related to that beneficiary or that spouse within the second degree of consanguinity.”.

(2) Subsection (1) is deemed to have come into operation on 19 July 2017 and applies 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.

**Substitution of section 7D of Act 58 of 1962, as inserted by section 6 of Act 17 of 2017**

10. The following section is hereby substituted for section 7D of the Income Tax Act, 1962:

“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—

(a) without regard to any rule of the common law or provision of any Act in terms of which—

[(a)] (i) 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)](ii) 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; and

(b) as simple interest calculated daily.”.

**Insertion of section 7F in Act 58 of 1962**

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

**“Deduction of interest repaid to SARS.**

7F. In determining the taxable income derived by any person during a year of assessment, any amount of interest paid by SARS to that person under a tax Act and deemed to have been accrued to that person in terms of section 7E that has to be repaid by that person to SARS, must be deducted

from that person's taxable income in the year of assessment during which that amount is repaid to SARS.”

(2) Subsection (1) is deemed to have come into operation on 1 March 2018 and applies to amounts of interest repaid to SARS on or after that date.

**Amendment of section 8E of Act 58 of 1962, as inserted by section 6 of Act 70 of 1989 and amended by section 19 of Act 45 of 2003, section 9 of Act 32 of 2004, section 7 of Act 8 of 2007, section 13 of Act 7 of 2010, section 20 of Act 24 of 2011, section 10 of Act 22 of 2012 and section 14 of Act 15 of 2016**

12. Section 8E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) in paragraph (b)(ii) of the definition of “hybrid equity instrument” for item (aa) of the following item:

“(aa) that share does not rank *pari passu* as regards its participation in dividends or foreign dividends with all other [ordinary] equity shares in the capital of the relevant company or, where the [ordinary] equity shares in such company are divided into two or more classes, with the shares of at least one of such classes; or”.

**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, section 15 of Act 15 of 2016 and section 10 of Act 17 of 2017**

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

“(2A) Where a preference share that was issued in terms of an agreement, all the terms of which were finally agreed to before 1 April 2012 by all the parties to that agreement, constitutes a third-party backed [instrument] share solely by reason of an enforcement right acquired in accordance with the terms of that agreement and that enforcement right is cancelled on or after 26 October 2016 and on or before 31 December 2017, the provisions of subsection (2) will not apply in respect of any dividend or foreign dividend that accrues in respect of that share after the date of cancellation of that enforcement right.”.

**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, section 16 of Act 15 of 2016 and section 11 of Act 17 of 2017**

14. (1) Section 8F 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:

“Any amount that is incurred by a company in respect of interest on or after the date that the [interest] instrument becomes [hybrid interest] a hybrid debt instrument is—”.

(2) Subsection (1) is deemed to have come into operation on 18 December 2017.

**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, section 17 of Act 15 of 2016 and section 12 of Act 17 of 2017**

15. (1) Section 8FA 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:

“Any amount that is incurred by a company in respect of interest on or after the date that the [instrument] interest becomes [a] hybrid [debt instrument] interest is—”.

(2) Subsection (1) is deemed to have come into operation on 18 December 2017.

**Amendment of section 9 of Act 58 of 1962, as substituted by section 22 of Act 24 of 2011 and amended by section 16 of Act 31 of 2013, section 10 of Act 43 of 2014, section 11 of Act 25 of 2015 and section 18 of Act 15 of 2016**

16. Section 9 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2)(k)(i) for item (aa) of the following item:

“(aa) that asset is not [attributable to] effectively connected with a permanent establishment of that person which is situated outside the Republic; and”.

**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, section 19 of Act 15 of 2016 and section 14 of Act 17 of 2017**

17. Section 9C of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) for the definition of “disposal” of the following definition: 10  
 “‘disposal’ means a disposal as defined in paragraph 1 of the Eighth Schedule [or any event treated as a disposal in terms of section 9H]”;
- (b) by the substitution in subsection (1) in the definition of “equity share” for the words preceding paragraph (a) of the following words: 15  
 “‘equity share’, includes a participatory interest in a portfolio of a collective investment scheme in securities and a portfolio of a hedge fund collective investment scheme excluding a share which at any time [during that period] prior to the disposal of that share was—”;
- (c) by the substitution for subsection (2A) of the following subsection: 20  
 “(2A) Subsection (2) does not apply in respect of so much of the amount received or accrued in respect of the disposal of an equity share contemplated in that subsection, other than an equity share held for longer than five years, as does not exceed the expenditure allowed in respect of that share in terms of section 12J(2).”; and
- (d) by the substitution for subsection (3) of the following subsection: 25  
 “(3) The provisions of this section shall not apply to any equity share if at the time of the [disposal] receipt or accrual of any amount (other than an amount constituting a dividend or foreign dividend) in respect of that share the taxpayer was a connected person in relation to the company that issued that share and— 30  
 (a) more than 50 per cent of the market value of the equity shares of that company was attributable directly or indirectly to immovable property other than— 35  
 (i) immovable property held directly or indirectly by a person that is not a connected person in relation to the taxpayer; or  
 (ii) immovable property held directly or indirectly for a [continuous period of more than] period of at least three years immediately prior to that [disposal] receipt or accrual; or  
 (b) that company acquired any asset during the period of three years immediately prior to that [disposal] receipt or accrual and amounts 40  
 were paid or payable by any person to any person other than that company for the use of that asset while that asset was held by that company during that period.”.

**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 50  
 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, section 20 of Act 15 of 2016 and section 15 of Act 17 of 2017**

18. Section 9D of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1) in the definition of “controlled foreign 55  
 company” for paragraph (b) of the following paragraph:  
 “(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[,];”;

- (b) by the substitution in the proviso to subsection (2A) for paragraph (k) of the following paragraph:  
 “(k) for the purposes of section 24I and paragraph 43 of the Eighth Schedule, ‘**local currency**’ of a controlled foreign company otherwise than in relation to a permanent establishment of that controlled foreign company, means the functional currency of that company; and”;
- (c) by the deletion in the further proviso to subsection (2A) in paragraph (ii) of subparagraph (cc); and
- (d) by the addition in the further proviso to subsection (2A) of the following paragraph:  
 “(iii) the normal tax that would have been payable as contemplated in paragraph (i) must be determined before taking into account any amount which would, had that controlled foreign company been a resident for that foreign tax year, have been included in the income of that controlled foreign company in terms of subsection (2) for that foreign tax year.”.

**Amendment of section 9HA of Act 58 of 1962, as inserted by section 15 of Act 25 of 2015 and amended by section 22 of Act 15 of 2016**

- 19.** Section 9HA of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:  
 “(a) assets disposed of [to] for the benefit of his or her surviving spouse as contemplated in subsection (2);”;
- (b) by the substitution in subsection (1) for the words following paragraph (c) of the following words:  
 “at the date of that person’s death for an amount received or accrued equal to the market value<sub>2</sub> as contemplated in paragraph [31] 1 of the Eighth Schedule<sub>2</sub> of those assets as at that date.”; and
- (c) by the substitution for subsection (3) of the following subsection:  
 “(3) If any asset that is treated as having been disposed of by a deceased person as contemplated in subsection (1) is transferred directly to an heir or legatee of that person, that heir or legatee must be treated as having acquired that asset for an amount of expenditure incurred equal to the market value<sub>2</sub> as contemplated in paragraph [31] 1 of the Eighth Schedule<sub>2</sub> of that asset as at the date of that deceased person’s death.”.

**Insertion of section 9HB in Act 58 of 1962**

**20.** The following section is hereby inserted in the Income Tax Act, 1962, after section 9HA:

**“Transfer of asset between spouses**

- 9HB.** (1) (a) A person (hereinafter referred to as ‘the transferor’) must disregard any capital gain or capital loss determined in respect of the disposal of an asset to his or her spouse (hereinafter referred to as ‘the transferee’).
- (b) The transferee must be treated as having—
- (i) acquired the asset on the same date that such asset was acquired by the transferor;
- (ii) incurred an amount of expenditure equal to the expenditure contemplated in paragraph 20 of the Eighth Schedule that was incurred by that transferor in respect of that asset;
- (iii) incurred that expenditure on the same date and in the same currency that it was incurred by the transferor;
- (iv) used that asset in the same manner that it was used by the transferor; and
- (v) received an amount equal to any amount received by or accrued to that transferor in respect of that asset that would have constituted proceeds

on disposal of that asset had that transferor disposed of it to a person other than the transferee.

(2) For the purposes of subsection (1)—

- (a) a person whose spouse dies must be treated as having disposed of an asset to that spouse immediately before the date of death of that spouse, if ownership of that asset is acquired by the deceased estate of that spouse in settlement of a claim arising under section 3 of the Matrimonial Property Act, 1984 (Act No. 88 of 1984); or
- (b) a person must be treated as having disposed of an asset to his or her spouse, if that asset is transferred to that spouse in consequence of a divorce order or, in the case of a union contemplated in paragraph (b) or (c) of the definition of ‘spouse’ in section 1, an agreement of division of assets which has been made an order of court.

(3) A person who disposes of an asset consisting of trading stock, livestock or produce contemplated in the First Schedule to his or her spouse, must be treated as having disposed of that asset for an amount received or accrued that is equal to the amount that was allowed as a deduction in respect of that asset for purposes of determining that person’s taxable income, before the inclusion of any taxable capital gain.

(4) Where a person acquires an asset consisting of trading stock, livestock or produce contemplated in the First Schedule from his or her spouse, that person and his or her spouse must, for purposes of determining any taxable income derived by that person, be deemed to be one and the same person with respect to the date of acquisition of that asset by that person and the amount and date of incurral by that spouse of any cost or expenditure incurred in respect of that asset as contemplated in section 11(a) or 22(1) or (2).

(5) This section must not apply in respect of the disposal of an asset by a person to his or her spouse who is not a resident, unless the asset disposed of is an asset contemplated in section 9J or in paragraph 2(1)(b) of the Eighth Schedule.”.

#### Insertion of section 9J in Act 58 of 1962

21. The following section is hereby inserted in the Income Tax Act, 1962, after section 9I:

#### “Interest of non-resident persons in immovable property 35

**9J.** (1) Any amount received or accrued in respect of the disposal by a person of trading stock consisting of—

- (a) immovable property situated in the Republic held by that person; or
- (b) any interest or right of whatever nature of that person to or in immovable property situated in the Republic,

shall be an amount received or accrued from a source within the Republic.

(2) For purposes of subsection (1), any interest or right in immovable property situated in the Republic includes—

- (a) rights to variable or fixed payments as consideration for the working of, or the right to work mineral deposits, sources and other natural resources; or

- (b) any equity shares held by a person in a company or ownership or the right to ownership of a person in any other entity or a vested interest of a person in any assets of any trust, if—

- (i) 80 per cent or more of the market value of those equity shares, ownership or right to ownership or vested interest, as the case may be, at the time of disposal thereof is attributable directly or indirectly to immovable property; and

- (ii) in the case of a company or other entity, that person (whether alone or together with any connected person in relation to that person), directly or indirectly, holds at least 20 per cent of the equity shares in that company or ownership or right to ownership of that other entity.”.

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 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 22 of 2012, section 23 of Act 31 of 2013, section 14 of Act 43 of 2014, section 16 of Act 25 of 2015, section 23 of Act 15 of 2016 and section 16 of Act 17 of 2017

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

(a) by the insertion in subsection (1) after paragraph (gI) of the following paragraph:

“(gJ) any amount received by or accrued to a person who is a member of a bargaining council that is established in terms of section 27 of the Labour Relations Act, 1995 (Act No. 66 of 1995), from a scheme or fund as contemplated in section 28(1)(g) of that Act, other than an amount from a pension fund or a provident fund;”;

(b) by the substitution in subsection (1)(h) for subparagraph (i) of the following subparagraph:

“(i) that person is a natural person who was physically present in the Republic for a period exceeding 183 days in aggregate during the twelve-month period preceding the date on which the interest is received by or accrues [by or] to that person; or”;

(c) by the substitution in paragraph (ii) of the proviso to subsection (1)(qA) for the words preceding subparagraph (aa) of the following words:

“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] Seventh Schedule, in respect of whom that employee is liable for family care and support, to study—”;

(d) by the substitution in subsection (1)(yA) for subparagraphs (aa) and (bb) of the following subparagraphs:

“(aa) that amount is received or accrued in relation to projects that are approved by the Minister [and]; and

(bb) that agreement provides that those receipts and accruals of that person must be exempt; [and]”;

(e) by the addition in subsection (1) after paragraph (zK) of the following paragraph:

“(zL) any amount received or accrued previously prohibited as a deduction during any year of assessment under section 23(o)(iii) that is recovered in any subsequent year of assessment;”.

(2) Paragraph (a) of subsection (1) comes into operation on 1 March 2019.

(3) Paragraph (c) of subsection (1) is deemed to have come into operation on 1 March 2018 and applies in respect of years of assessment commencing on or after that date.



(4) Paragraph (e) of subsection (1) comes into operation on 1 April 2019 and applies 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, section 15 of Act 43 of 2014, section 6 of Act 13 of 2015, section 25 of Act 15 of 2016 and section 8 of Act 14 of 2017** 5

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

(a) by the substitution in subsection (2)(c)(bb) for item (A) of the following item:

“(A) exempt from tax in terms of paragraph (a), [(b) or] (d) or (e); or”;

and

(b) by the addition after subsection (6) of the following subsection:

“(7) (a) The Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, that, with effect from a date or dates mentioned in that announcement, the numbers contemplated in subsection (3)(b)(ii)(aa) and (cc) will be altered to the extent mentioned in the announcement.

(b) If the Minister makes an announcement of an alteration contemplated in paragraph (a), that alteration comes into effect on the date or dates 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 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, and section 118 of Act 17 of 2017** 25

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

“in respect of any prior year of assessment.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2016. 30

**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 27 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, section 18 of Act 25 of 2015, section 26 of Act 15 of 2016 and section 19 of Act 17 of 2017** 35

25. (1) Section 11 of the Income Tax Act, 1962, is hereby amended— 55

(a) by the substitution in paragraph (f) for subparagraph (v) of the following subparagraph:

- “(v) the right of use of any pipeline, transmission line or cable or railway line contemplated in the definition of ‘affected asset’ in section 12D[:], other than an asset contemplated in paragraph (c) of that definition; or”;
- (b) by the addition in paragraph (f) after subparagraph (v) of the following subparagraph: 5  
 “(vi) the right of use of any line or cable used for the transmission of electronic communications contemplated in paragraph (c) of the definition of ‘affected asset’ in section 12D:”;
- (c) by the substitution in the proviso to paragraph (f) in paragraph (dd) for the words following subparagraph (B) of the following words: 10  
 “where the term of the right of use is [15] 10 years or more;”;
- (d) by the addition to the proviso to paragraph (f) after paragraph (dd) of the following paragraph: 15  
 “(ee) the allowance under subparagraph (vi) shall not exceed for any one year such portion of the amount of the premium or consideration so paid as is equal to the said amount divided by the number of years for which the taxpayer is entitled to the use or occupation, or one tenth of the said amount, whichever is the greater;”;
- (e) by the substitution for paragraph (j) of the following paragraph: 20  
 “(j) an allowance in respect of any debt due to the taxpayer, if that debt would have been allowed as a deduction under any other provision of this Part had that debt become bad, of an amount equal to— 25  
 (i) if IFRS 9 is applied to that debt by that person for financial reporting purposes, the sum of—  
 (aa) 40 per cent of the aggregate of—  
 (A) the loss allowance relating to impairment that is measured at an amount equal to the lifetime expected credit loss, as contemplated in IFRS 9, in respect of debt other than in respect of lease receivables as defined in IFRS 9; and 30  
 (B) the amounts of debts disclosed as bad debt written off for financial reporting purposes that have not been allowed as a deduction under section 11(i) for the current or any previous year of assessment and the debt is included in the income of the taxpayer in the current or any previous year of assessment; and 35  
 (bb) 25 per cent of the loss allowance relating to impairment, as contemplated in IFRS 9, in respect of debt other than in respect of lease receivables as defined in IFRS 9 or debt taken into account under item (aa); or 40  
 (ii) if IFRS is not applied to that debt by that person for financial reporting purposes, the sum of—  
 (aa) 40 per cent of so much of any debt, other than a debt contemplated in subparagraph (i), due to the taxpayer, if that debt is 120 days or more in arrears; and 45  
 (bb) 25 per cent of so much of any debt, other than a debt contemplated in subparagraph (i) or item (aa), due to the taxpayer, if that debt is 60 days or more in arrears: 50  
 Provided that an allowance under this paragraph must be included in the income of the taxpayer in the following year of assessment: Provided further that the Commissioner may, on application by a taxpayer, issue a directive that the percentage contemplated in subparagraph (i)(aa) or (ii)(aa) may be increased, to a percentage not exceeding 85 per cent after taking into account— 55  
 (A) the history of a debt owed to that taxpayer, including the number of repayments not met, and the duration of the debt; 60  
 (B) steps taken to enforce repayment of the debt;  
 (C) the likelihood of the debt being recovered;  
 (D) any security available in respect of that debt;

- (E) the criteria applied by the taxpayer in classifying debt as bad; and
- (F) such other considerations as the Commissioner may deem relevant;
- (f) by the substitution in paragraph (jA) for the words preceding the proviso of the following words: 5  
 “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, other than a person that is a holding company as defined in the Banks Act, as determined by applying the criteria in paragraphs (c)(i) to (iii) and (d) of the definition of “covered person” in section 24JB(1).”; 10
- (g) by the substitution for paragraph (l) of the following paragraph: 15  
 “(l) any amount contributed by a person that is an employer during the year of assessment for the benefit of or on behalf of any employee or former employee of the employer or for any dependant or nominee of a deceased employee or former employee of that employer to any pension fund, provident fund or retirement annuity fund in terms of the rules of that fund: Provided that for the purposes 20  
 of this paragraph a partner in a partnership must be deemed to be an employee of the partnership and a partnership must be deemed to be the employer of the partners in that partnership.”;
- (h) by the substitution for paragraph (nB) of the following paragraph: 25  
 “(nB) so much of any amount contemplated in paragraph (cA) or (cB) of the definition of “gross income” received by or accrued to any person as is refunded by that person.”; and
- (i) by the substitution in paragraph (o) for subparagraph (i) of the following subparagraph: 30  
 “(i) which qualified for an allowance or deduction in terms of section 11(e), **[11B,]** 11D, 12B, 12C, 12DA, 12E, **14, 14bis** or 37B(2)(a); and”.
- (2) Paragraph (a) of subsection (1) comes into operation on 1 April 2019 and applies in respect of assets brought into use on or after that date.
- (3) Paragraphs (c) and (d) of subsection (1) come into operation on 1 April 2019. 35
- (4) Paragraph (e) of subsection (1) comes into operation on 1 January 2019 and applies in respect of years of assessment commencing on or after that date.
- (5) Paragraph (f) of subsection (1) is deemed to have come into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.
- (6) Paragraph (g) of subsection (1) comes into operation on 1 March 2018. 40

**Amendment of section 11F of Act 58 of 1962, as inserted by section 21 of Act 17 of 2017**

- 26.** (1) Section 11F of the Income Tax Act, 1962, is hereby amended—
- (a) by the deletion in subsection (2) at the end of paragraph (a) of the word “or” and the insertion of the word “or” at the end of paragraph (b); 45
- (b) by the substitution in subsection (2)(b) for subparagraph (ii) of the following subparagraph: 50  
 “(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]** sections *6quat*(1C) and 18A.”;
- (c) by the substitution in subsection (2)(c) for the words preceding subparagraph (i) and that subparagraph of the following words and subparagraph: 55  
 “the taxable income (other than in respect of any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit) of that person before—  
 (i) allowing any deduction under this section and sections *6quat*(1C) and 18A; and”;

- (d) by the substitution in subsection (3) for paragraph (c) of the following paragraph:  
 “(c) taken into account in determining the amounts exempt under section 10C;”; and
- (e) by the substitution for subsection (4) of the following subsection: 5  
 “(4) Any amount paid or contributed by an employer of the person on behalf of or for the benefit of that person must be deemed—  
 (a) (i) 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 10 12D of that Schedule; or  
 (ii) if that amount is paid by an employer to a retirement annuity fund, to be equal to the amount of the cash equivalent of the value of the taxable benefit contemplated in paragraph 2(h) of the Seventh Schedule determined in accordance with paragraph 15 13 of that Schedule;  
 (b) to have been contributed by that person.”

(2) Paragraphs (a), (b), and (c) of subsection (1) come into operation on 1 March 2019.

**Amendment of section 12C of Act 58 of 1962, as inserted by section 14 of Act 101 of 20 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, 25 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, section 20 of Act 25 of 2015 and section 23 of Act 17 of 2017**

27. Section 12C of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for the heading of the following heading: 30  
**“Deduction in respect of assets used by manufacturers or [hotelkeepers] hotel keepers and in respect of aircraft and ships, and in respect of assets used for storage and packing of agricultural products.”;**
- (b) by the substitution in subsection (1) for paragraph (d) of the following 35 paragraph:  
 “(d) machinery, implement, utensil or article (other than any machinery, implement, utensil or article in respect of which an allowance has been granted to the taxpayer under paragraph (e)) owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement contemplated in paragraph (a) of the definition of ‘instalment credit agreement’ in section 1 of the Value-Added Tax Act and which was or is brought into use for the first time by the taxpayer for the purposes of the taxpayer’s trade as **[hotelkeeper] hotel keeper** and is used by the taxpayer in a hotel, except any 40 vehicle or equipment for offices or managers’ or servants’ rooms;”; and
- (c) by the substitution in subsection (1) for paragraph (e) of the following 45 paragraph:  
 “(e) machinery, implement, utensil or article (other than any machinery, 50 implement, utensil or article in respect of which an allowance has been granted to the taxpayer under paragraph (d)) owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement contemplated in paragraph (a) of the definition of ‘instalment credit agreement’ in section 1 of the Value-Added Tax 55 Act and which was or is let by the taxpayer and was or is brought into use for the first time by the lessee for the purposes of the lessee’s trade as **[hotelkeeper] hotel keeper** and used by the lessee in a hotel, except any vehicle or equipment for offices or managers’ or servants’ rooms;”. 60

**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, section 19 of Act 43 of 2014 and section 24 of Act 17 of 2017** 5

28. (1) Section 12D of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3) for paragraph (c) of the following paragraph:

“(c) [6.67] 10 per cent of the cost incurred in respect of any asset contemplated in paragraph (c) of the definition of ‘affected asset’.”

(2) Subsection (1) comes into operation on 1 April 2019 and applies in respect of 10 assets acquired on or after that date.

**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, 15 section 32 of Act 15 of 2016 and section 28 of Act 17 of 2017**

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

(a) by the substitution in subsection (1) in the definition of “qualifying company” for paragraph (b) of the following paragraph:

“(b) the company is not a controlled group company in relation to a group of companies of which a venture capital company to which that company has issued any share forms part;”;

(b) by the substitution in subsection (1) in the definition of “qualifying company” for paragraph (f) of the following paragraph:

“(f) during any year of assessment of that company that ends after the expiry of a period of 36 months commencing on the first date on which that company issued any share to a venture capital company—

(i) the sum of the investment income, as defined in section 12E(4)(c), derived by that company does not exceed an amount equal to 20 per cent of the gross income of that company for that year; and

(ii) not more than 50 per cent of the aggregate amount received by or that accrued to that company from the carrying on of any trade was derived, directly or indirectly, from a person—  
(aa) who holds a share in that venture capital company; or  
(bb) who is a connected person in relation to a person referred to in item (aa);”;

(c) by the deletion in subsection (1) at the end of paragraph (e) of the definition of “qualifying company” of the word “and” and by the addition of the following paragraph:

“(g) no person who holds a share in a venture capital company to which that company has issued any share holds, directly or indirectly and whether alone or together with any connected person in relation to that person, more than 50 per cent of the participation rights, as defined in section 9D(1), or of the voting rights in that company; and”;

(d) by the addition in subsection (1) to the definition of “qualifying company” of the following paragraph:

“(h) that company does not carry on any trade in relation to a venture, business or undertaking or part thereof that was acquired by that company, directly or indirectly, from a person—  
(i) who holds a share in a venture capital company to which that company has issued any share; or  
(ii) who is a connected person in relation to a person referred to in subparagraph (i).”;

(e) by the substitution in subsection (1) in the definition of “qualifying share” for paragraph (b) of the following paragraph:

“(b) would have constituted a hybrid equity instrument, as defined in section 8E(1), but for the three-year period requirement contem- 60

- plated in paragraph [(a)] (b)(i) of the definition of ‘hybrid equity instrument’ in that section; or”;
- (f) by the substitution in subsection (1) for the definition of “venture capital company” of the following definition:
- “**‘venture capital company’** means a company that has been approved by the Commissioner in terms of subsection (5) and in respect of which such approval has not been withdrawn in terms of subsection (3A), (3B), (6) or (6A);
- (g) by the substitution in subsection (1) in the definition of “venture capital share” for the words preceding paragraph (b) of the following words:
- “**‘venture capital share’** means an equity share held by a taxpayer in a venture capital company which **[is] was** issued to that taxpayer by that venture capital company, and does not include any share which—”;
- (h) by the substitution in subsection (1) in the definition of “venture capital share” for paragraph (b) of the following paragraph:
- “(b) would have constituted a hybrid equity instrument, as defined in section 8E(1), but for the three-year period requirement contemplated in paragraph [(a)](b)(i) of the definition of ‘hybrid equity instrument’ in that section; **[or]**”;
- (i) by the substitution in subsection (1) in the definition of “venture capital share” for the full stop after paragraph (c) of the expression “;or” and the addition of the following paragraph:
- “(d) was issued to that taxpayer solely in respect or by reason of services rendered or to be rendered by that taxpayer in respect of the incorporation, marketing, management or administration of that venture capital company or of any qualifying company in which that venture capital company holds or acquires any share.”;
- (j) by the insertion after subsection (3A) of the following subsection:
- “(3B) If any taxpayer holds, at the end of any year of assessment following the expiry of a period of 36 months commencing on the first date of the issue by a venture capital company of venture capital shares of any class, more than 20 per cent of the venture capital shares of that class—
- (a) no deduction must be allowed in terms of subsection (2) in respect of that year of assessment in respect of any expenditure incurred by the taxpayer in acquiring any venture capital share of that class issued to that taxpayer by that venture capital company;
- (b) the Commissioner must, after due notice to the venture capital company, withdraw any approval in terms of subsection (5) with effect from the commencement of that year of assessment; and
- (c) an amount equal to 125 per cent of the expenditure incurred by any person to acquire shares issued by the company must be included in the income of the company in the year of assessment in which the approval is withdrawn by the Commissioner under paragraph (b).”;
- (k) by the substitution in subsection (5) for paragraph (g) of the following paragraph:
- “(g) the company is licensed in terms of section [7] 8(5) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002).”; and
- (l) by the substitution in subsection (6A) for the words following paragraph (c) of the following words:
- “the Commissioner must after due notice to the company withdraw that approval with effect from **[the date of approval by the Commissioner of that company as a venture capital company]** the commencement of the year of assessment during which the period ends that is stated in that notice during which corrective steps acceptable to the Commissioner must be taken if corrective steps acceptable to the Commissioner are not taken by the company within **[a]** the period stated in [the] that notice.”.
- (2) Paragraphs (a), (e), (f), (g), (h), (k) and (l) of subsection (1) come into operation on 1 January 2019 and apply in respect of years of assessment commencing on or after that date.
- (3) Paragraphs (b) and (i) of subsection (1) are deemed to have come into operation on 24 October 2018.

(4) Paragraph (c) of subsection (1) comes into operation on 1 January 2019 and applies in respect of participation rights acquired on or after that date.

(5) Paragraph (d) of subsection (1) comes into operation on 1 January 2019 and applies in respect of any trade carried on which commenced on or after that date.

(6) Paragraph (j) of subsection (1) is deemed to have come into operation on 24 October 2018 and applies in respect of any share issued on or after that date. 5

**Amendment of section 12N of Act 58 of 1962, as inserted by section 29 of Act 7 of 2010 and amended by section 31 of Act 31 of 2013 and section 24 of Act 43 of 2014**

30. Section 12N of the Income Tax Act, 1962, is hereby amended by the substitution in subsection 1 for the words following paragraph (e) of the following words: 10

“the taxpayer must, for the purposes of any deduction contemplated in section 11D, 12B, 12C, 12D, 12F, 12I, 12S, 13, [13bis,] 13ter, 13quat, 13quin, 13sex or 36, and for the purposes of the Eighth Schedule, be deemed to be the owner of the improvement so completed.”.

**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, section 27 of Act 25 of 2015 and section 29 of Act 17 of 2017** 15

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

(a) by the substitution in subsection (1) for the definition of “international shipping income” of the following definition: 20

“**‘international shipping income’** means the receipts and accruals of a person derived from international shipping mainly from the operation of one or more ships contemplated in paragraph (a) of the definition of ‘South African Ship’;” and

(b) by the substitution in subsection (1) for the definition of “South African Ship” 25 of the following definition:

“**‘South African ship’** means a ship—

(a) which is registered in the Republic in accordance with Part 1 of Chapter 4 of the Ship Registration Act, 1998 (Act No. 58 of 1998); 30

or  
(b) another ship or ships used temporarily in lieu of the ship contemplated in paragraph (a) by virtue of that ship being subject to repair or maintenance.”.

(2) Subsection (1) comes into operation on 1 April 2019 and applies in respect of years of assessment commencing on or after that date. 35

**Amendment of section 12T of Act 58 of 1962, as amended by section 29 of Act 25 of 2015 and section 9 of Act 14 of 2017**

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

“(9) (a) The [Financial Services Board established under the Financial Services Board Act (hereafter Financial Services Board)] Financial Sector Conduct Authority shall be responsible for supervising and enforcing of compliance with any regulations made by the Minister in terms of subsection (8). 40

(b) The supervising and enforcing compliance contemplated in paragraph (a) shall form part of the legislative mandate of the [Financial Services Board] Financial Sector Conduct Authority. 45

(c) The [Financial Services Board] Financial Sector Conduct Authority, acting through the Registrar, as defined in section 1 of the Financial Institutions (Protection of Funds) Act, 2001 (Act No. 28 of 2001), in supervising and enforcing compliance as contemplated in paragraph (a), shall exercise any power afforded to the Registrar as defined in section 1 of that Act and in any of the Acts contemplated in the definition of “law” in section 1 of that Act.”. 50

(2) Subsection (1) is deemed to have come into operation on 1 April 2018 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 13bis of Act 58 of 1962, as inserted by section 15 of Act 88 of 1965 and amended by section 18 of Act 55 of 1966, section 14 of Act 95 of 1967, section 14 of Act 88 of 1971, section 14 of Act 69 of 1975, section 13 of Act 94 of 1983, section 46 of Act 97 of 1986, section 13 of Act 90 of 1988, section 13 of Act 113 of 1993, section 12 of Act 21 of 1994, section 21 of Act 59 of 2000, section 4 of Act 4 of 2008, section 31 of Act 7 of 2010 and section 31 of Act 25 of 2015** 5

33. Section 13bis of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) for paragraph (e) of the following paragraph:

“(e) of such portion of any building improvements (other than repairs 10  
and other than improvements in respect of the cost of which, or of  
any portion thereof, an allowance under the preceding provisions  
of this subsection is or was deductible from the income of the  
taxpayer for the current or any previous year of assessment)  
commenced on or after 1 January 1964, as was during the year of 15  
assessment in question used by the taxpayer for the purposes of  
[his] the taxpayer’s trade of [hotelkeeper] hotel keeper or was  
during the year of assessment in question let by the taxpayer and  
used by the lessee for the purposes of the lessee’s trade of  
[hotelkeeper] hotel keeper.”; 20

(b) by the deletion of subsection (1A); and

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

“The allowance under subsection (2) in respect of the cost (as reduced in 25  
terms of that subsection) of any building (or portion thereof) or of any  
improvements (or a portion thereof) shall be such percentage of such cost  
as may be fixed by the Minister of Finance by regulation under  
subsection (4) for the grade of hotel which is, in terms of a determination  
of the board referred to in subsection (2), applicable in respect of the 30  
hotel in question on the last day of the year of assessment: Provided that  
where such hotel is graded by the said board for the first time during any  
year of assessment (hereinafter referred to as the subsequent year)  
subsequent to any year of assessment (hereinafter referred to as the  
earlier year) during which such building (or the relevant portion thereof) 35  
or such improvements (or the relevant portion thereof) was or were used  
in carrying on the trade of [hotelkeeper] hotel keeper, and the taxpayer  
is entitled to the said allowance in respect of the subsequent year, the  
allowance for the subsequent year (as determined in accordance with the  
said regulation) shall, if—”.

**Amendment of section 13quat of Act 58 of 1962, as inserted by section 33 of Act 45 40  
of 2003 and amended by section 12 of Act 16 of 2004, section 19 of Act 32 of  
2004, section 23 of Act 31 of 2005, section 16 of Act 8 of 2007, section 5 of Act 4 of  
2008, section 29 of Act 60 of 2008, sections 29 and 106 of Act 17 of 2009, section 33  
of Act 7 of 2010, section 41 of Act 24 of 2011, section 34 of Act 22 of 2012, section 48  
of Act 31 of 2013, section 32 of Act 25 of 2015 and section 38 of Act 15 of 2016** 45

34. Section 13quat of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (7) for paragraph (bA) of the following paragraph:

“(bA) Where a municipality has a population of less than 1 million persons, the 50  
Minister may by notice in the *Gazette* approve that municipality for the purposes of  
paragraph (b) in terms of subsection (6)[(c)] (b).”.

**Amendment of section 18A of Act 58 of 1962, as substituted by section 24 of Act 30 55  
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, section 34 of Act 15 of 2015 and section 31 of Act 17 of 2017**

35. (1) Section 18A of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (B) of the following paragraph: 5
- “(B) in any other case, ten per cent of the taxable income (excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit) of the taxpayer as calculated before allowing any deduction under this section or section 6quat(1C).”; 10
- (b) by the substitution in subsection (2)(a) for the words preceding subparagraph (i) of the following words:
- “a receipt issued by the public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation or the department concerned, **[on which the following details are given, namely]** containing—” 15
- (c) by the substitution in subsection (2)(a) for subparagraphs (i), (iii) and (vi) of the following subparagraphs respectively:
- “(i) the reference number of the public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation or the department issued by the Commissioner for the purposes of this section; 20
- (iii) the name of the public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation or the department which received the donation, together with an address to which enquiries may be directed in connection therewith; 25
- (vi) a certification to the effect that the receipt is issued for the purposes of section 18A of the Income Tax Act, 1962, and that the donation has been or will be used exclusively for the object of the public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation concerned or, in the case of a department in carrying on the relevant public benefit activity; or” 30
- (d) by the substitution in subsection (3A) for paragraph (d) of the formula of the following paragraph: 35
- “(d) ‘D’ represents [**66,6**] 60 per cent in the case of a natural person or special trust or [**33,3**] 20 per cent in any other case.”;
- (e) by the substitution in subsection (3B) for paragraph (b) of the following paragraph: 40
- “(b) issued by [**a financial institution**] an eligible financial institution as defined in section 1 of the [Financial Services Board] Financial Sector Regulation Act.”; and
- (f) by the substitution for subsection (5) of the following subsection: 45
- “(5) If the Commissioner has reasonable grounds for believing that any person who is in a fiduciary capacity responsible for the management or control of the income or assets of any public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation (other than an institution, board or body in respect of which subsection (5B) applies) has— 50
- (a) in any material way failed to ensure that the objects for which the public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation was established are carried out or has expended moneys belonging to the public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation for purposes not covered by such objects; 55
- (b) issued or allowed a receipt to be issued to any taxpayer for the purposes of this section in respect of any fees or other emoluments payable to that organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation by that taxpayer; or 60

- (c) issued or allowed a receipt to be issued in contravention of subsection (2A) or utilised a donation in respect of which a receipt was issued for any purpose other than the purpose contemplated in that subsection,

the Commissioner may by notice in writing addressed to that person direct that— 5

- (i) any donation in respect of which a receipt was issued by that public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation during any year of assessment specified in that notice, will be deemed to be taxable income of that public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation in that year; and 10
- (ii) if corrective steps are not taken by that public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation within a period stated by the Commissioner in that notice, any receipt issued by that public benefit organisation, institution, board, body or agency, programme, fund, High Commissioner, office, entity or organisation in respect of any donation made on or after the date specified in that notice shall not qualify as a valid receipt for purposes of subsection (2).” 15 20

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on 1 March 2018.

(3) Paragraph (b) of subsection (1) is deemed to have come into operation on 1 March 2017. 25

(4) Paragraph (e) of subsection (1) is deemed to have come into operation on 1 April 2018.

#### **Amendment of section 19 of Act 58 of 1962, as substituted by section 32 of Act 17 of 2017**

**36.** (1) Section 19 of the Income Tax Act, 1962, is hereby amended— 30

- (a) by the substitution in subsection (1) for the definition of “concession or compromise” of the following definition:

“**‘concession or compromise’** means any arrangement in terms of which—

- (a) a debt is— 35

(i) cancelled or waived; or

(ii) extinguished by—

(aa) redemption of the claim in respect of that debt by the person owing that debt or by any person that is a connected person in relation to that person; or 40

(bb) merger by reason of the acquisition by the person owing that debt of the claim in respect of that debt,

otherwise than as the result or by reason of the implementation of an arrangement described in paragraph (b);

- (b) a debt owed by a company is settled, directly or indirectly— 45

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

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

- (b) by the substitution in subsection (1) for the definition of “debt” of the following definition: 50

“**‘debt’** means any amount that is owed by a person in respect of—

(a) expenditure incurred by that person; or

(b) a loan, advance or credit that was used, directly or indirectly, to fund any expenditure incurred by that person, but does not include a tax debt as defined in section 1 of the Tax Administration Act;”;

- (c) by the substitution in subsection (1) for the definition of “debt benefit” of the following definition: 55

“**‘debt benefit’**, in respect of a debt owed by a person to another person, means— 60

- (a) in the case of an arrangement described in paragraph (a)(i) of the definition of ‘concession or compromise’, the amount cancelled or waived;
- (b) in the case of the extinction of that debt by means of an arrangement described in paragraph (a)(ii) of the definition of ‘concession or compromise’, the amount by which the face value of the claim in respect of that debt held by the person to whom the debt is owed prior to the entering into of that arrangement exceeds the expenditure incurred in respect of—
- (i) the redemption of that debt; or
  - (ii) the acquisition of the claim in respect of that debt;
- (c) in the case of the settling of that debt by means of an arrangement described in paragraph (b) of the definition of ‘concession or compromise’, where the person who acquired shares in a company in terms of that arrangement did not hold an effective interest in the shares of that company prior to the entering into of that arrangement, the amount by which the face value of the claim held in respect of that debt prior to the entering into of that arrangement exceeds the market value of the shares acquired by reason or as a result of the implementation of that arrangement; or
- (d) in the case of the settling of that debt by means of an arrangement described in paragraph (b) of the definition of ‘concession or compromise’, where the person who acquired shares in a company in terms of that arrangement held an effective interest in the shares of that company prior to the entering into of that arrangement, the amount by which the face value of the claim held in respect of that debt prior to the entering into of that arrangement exceeds the amount by which the market value of any effective interest held by that person in the shares of that company immediately after the implementation of that arrangement exceeds, solely as a result of the implementation of that arrangement, the market value of the effective interest held by that person in the shares of that company immediately prior to the entering into of that arrangement;”;
- (d) by the insertion in subsection (1) after the definition of “group of companies” of the following definitions:
- “‘**market value**’ in relation to shares acquired or held by reason or as a result of implementing a concession or compromise in respect of a debt means the market value of those shares immediately after the implementation of that concession or compromise.”;
- (e) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs:
- “(a) a debt benefit in respect of a debt owed by a person arises in respect of a year of assessment by reason or as a result of a concession or compromise in respect of that debt during that year of assessment; and
- (b) the amount of that debt is owed by that person in respect of or 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.”;
- (f) by the substitution in subsections (3) and (4) for paragraph (b) of the following paragraph:
- “(b) the amount of that debt is owed in respect of or 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,”;
- (g) by the substitution in subsection (5) for paragraph (b) of the following paragraph:
- “(b) the amount of that debt is owed in respect of or was used as contemplated in paragraph (b) of that subsection to fund expenditure other than expenditure incurred—”;

- (h) by the substitution in subsection (6) for paragraph (b) of the following paragraph:  
 “(b) the amount of that debt is owed in respect of or was used as contemplated in paragraph (b) of that subsection to fund expenditure incurred in respect of an allowance asset that was not disposed of in a year of assessment prior to that in which that debt benefit arises.”; 5
- (i) by the insertion after subsection (6) of the following subsection:  
 “(6A) Where—  
 (a) a debt benefit arises during any year of assessment in respect of a debt owed by a person as contemplated in subsection (2); and  
 (b) the amount of that debt is owed in respect of or was used as contemplated in paragraph (b) of that subsection to fund expenditure incurred in respect of an allowance asset that was disposed of in a year of assessment prior to that in which that debt benefit arises, that person must, if the amount determined in respect of that disposal as a recovery or recoupment of a deduction or allowance is less than the amount that would have been so determined had that debt benefit been taken into account in the year of assessment in which the disposal occurred, treat the amount of that difference as an amount recovered or recouped for purposes of section 8(4)(a) in the year of assessment in which that debt benefit arises.”; 10 15 20
- (j) by the substitution in subsection (8) for paragraph (b) of the following paragraph:  
 “(b) to the extent that the debt is reduced by way of— 25  
 (i) a donation as defined in section 55 (1); or  
 (ii) any transaction to which section 58 applies; **or** in respect of which donations tax is payable; or”; and
- (k) by the deletion in subsection (8) of the word “or” after paragraph (d), the insertion of the word “or” after paragraph (e) and the addition of the following paragraph: 30  
 “(f) to the extent that the debt so owed—  
 (i) is settled by means of an arrangement described in paragraph (b) of the definition of ‘concession or compromise’, and  
 (ii) does not consist of or represent an amount owed by that person in respect of any interest incurred by that person during any year of assessment.”. 35

(2) Paragraphs (a) to (h) and (k) of subsection (1) are deemed to have come into operation on 1 January 2018 and apply in respect of years of assessment commencing on or after that date. 40

(3) Paragraphs (i) and (j) of subsection (1) come into operation on 1 January 2019 and apply in respect of years of assessment commencing on or after that date.

**Amendment of section 20A of Act 58 of 1962, as inserted by section 36 of Act 45 of 2003 and amended by section 27 of Act 31 of 2005 and section 33 of Act 17 of 2009**

37. Section 20A of the Income Tax Act, 1962, is hereby amended by the deletion in subsection (2)(b) at the end of subparagraph (vii) of the word “or”, by the substitution at the end of subparagraph (viii) for the full stop of the expression “; or” and by the addition of the following paragraph: 45

“(ix) the acquisition or disposal of any cryptocurrency.”.

**Amendment of section 22B of Act 58 of 1962, as substituted by section 34 of Act 17 of 2017** 50

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

- (a) by the insertion in subsection (1) before the definition of “exempt dividend” of the following definition:  
 “**‘deferral transaction’** means a transaction in respect of which the provisions of PART III of this Chapter were applied;” 55

- (b) by the substitution in subsection (1) for paragraph (a) of the definition of “extraordinary dividend” of the following paragraph:  
 “(a) a preference share, so much of the amount of any dividend received or accrued in respect of that share as exceeds the amount that would have accrued in respect of that share had that amount been determined with reference to the consideration for which that share was issued by applying an interest rate of 15 per cent per annum for the period in respect of which that dividend was received or accrued;”;
- (c) by the insertion in subsection (1) after the definition of “extraordinary dividend” of the following definition:  
 “‘**preference share**’ means a preference share as defined in section 8EA(1);”;
- (d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:  
 “Subject to subsection (3), where a company disposes of shares in another company in terms of a transaction that is not a deferral transaction 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—”; and
- (e) by the addition after subsection (2) of the following subsection:  
 “(3) Where a company disposes of shares in terms of a transaction that is not a deferral transaction within a period of 18 months after having acquired those shares in terms of a deferral transaction, other than an unbundling transaction and—  
 (a) within a period of 18 months prior to the disposal of those shares by that company an exempt dividend in respect of those shares accrued to or was received by a person that—  
 (i) disposed of those shares in terms of a deferral transaction; and  
 (ii) was a connected person in relation to that company at any time within that period,  
 that dividend must for purposes of this section be treated as a dividend that accrued to or was received by that company in respect of those shares within the period during which that company held those shares; and  
 (b) if that company acquired those shares (hereinafter referred to as ‘new shares’) in terms of that deferral transaction in return for or by virtue of the holding, by that company, of other shares (hereinafter referred to as ‘old shares’) that were disposed of in terms of that deferral transaction and an exempt dividend in respect of the old shares, other than a dividend consisting of new shares, accrued to or was received by that company within a period of 18 months prior to the disposal by that company of the new shares, that dividend must for purposes of this section be treated as an amount that accrued to or was received by that company as an exempt dividend in respect of the new shares.”.
- (2) Paragraphs (a), (d) and (e) of subsection (1) come into operation on 1 January 2019 and apply in respect of disposals on or after that date.
- (3) Paragraphs (b) and (c) of subsection (1) are deemed to have come into operation on 19 July 2017 and apply in respect of disposals on or after that date.

**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, section 33 of Act 43 of 2014 and section 35 of Act 17 of 2017**

39. (1) Section 23 of the Income Tax Act, 1962, is hereby amended by the deletion in paragraph (o) of the word “or” at the end of subparagraph (i), the insertion of the word “or” at the end of subparagraph (ii) and the addition of the following subparagraph: 5

“(iii) any expenditure incurred constituting fruitless and wasteful expenditure as defined in section 1 of the Public Finance Management Act, determined in accordance with that Act;”.

(2) Subsection (1) comes into operation on 1 April 2019 and applies in respect of years of assessment commencing on or after that date. 10

**Amendment of section 23G of Act 58 of 1962, as inserted by section 16 of Act 28 of 1997 and amended by section 30 of Act 31 of 2005 and section 35 of Act 35 of 2007**

40. Section 23G of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) such lessor shall, notwithstanding the provisions of this Act, not be entitled to any deduction in terms of section 11(e), (f) [or], (gA)[,] or (gC)[,] or sections 12B, 12C, 12DA, 13 or 13quin in respect of an asset which is the subject matter of such sale and leaseback arrangement.”. 15

**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, section 41 of Act 15 of 2016 and section 39 of Act 17 of 2017** 20

41. Section 23M of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) in the definition of “adjusted taxable income” for the words preceding paragraph (a) of the following words:

“**‘adjusted taxable income’** means taxable income calculated before applying this section—”; 25

(b) by the substitution in subsection (1) in paragraph (a) of the definition of “adjusted taxable income” for subparagraph (i) of the following subparagraph:

“(i) any amount of interest received or accrued that forms part of taxable income;”; 30

(c) by the substitution in subsection (1) in paragraph (b) of the definition of “adjusted taxable income” for subparagraph (i) of the following subparagraph:

“(i) any amount of interest incurred that has been allowed as a deduction from income;”; and 35

(d) by the substitution in subsection (6) for paragraph (ii) of the following paragraph:

“(ii) that interest is determined with reference to a rate of interest that does not exceed the official rate of interest plus 100 basis points; **or**.”. 40

**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, section 42 of Act 15 of 2016 and section 40 of Act 17 of 2017**

42. (1) Section 23N of the Income Tax Act, 1962, is hereby amended— 45

(a) by the substitution in subsection (1) in the definition of “adjusted taxable income” for the words preceding paragraph (a) of the following words:

“**‘adjusted taxable income’** means taxable income calculated before applying this section—”; 50

(b) by the substitution in subsection (1) in paragraph (a) of the definition of “adjusted taxable income” for subparagraph (i) of the following subparagraph:

“(i) any amount of interest received or accrued that forms part of taxable income;”; 55

- (c) by the substitution in subsection (1) in paragraph (b) of the definition of “adjusted taxable income” for subparagraph (i) of the following subparagraph:

“(i) any amount of interest incurred that has been allowed as a deduction from income;”; and

- (d) by the deletion of subsection (5).

(2) Paragraph (d) of subsection (1) comes into operation on 1 January 2019 and applies in respect of amounts incurred on or after that date.

**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, section 44 of Act 15 of 2016 and section 42 of Act 17 of 2017**

43. (1) Section 24I of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for subsection (4) of the following subsection:

“(4) Subject to section 11, in determining the taxable income of any person contemplated in subsection (2) in respect of a debt owing to that person as referred to in paragraph (b) of the definition of ‘exchange item’—

(a) to the extent that on realisation the debt was irrecoverable by reason of becoming bad; or

(b) the realisation of the debt resulted in a loss determined in the foreign currency due to a decline in the market value of that debt, the amount of—

(i) any foreign exchange gain, relating to the debt as described in paragraph (a) or (b), that is or was included in the income of that person in the current or any previous year of assessment must be deducted from the income of that person; and

(ii) the amount of any foreign exchange loss, relating to the debt as described in paragraph (a) or (b), that is or was deducted from the income of that person in the current or any previous year of assessment must be included in the income of that person.”; and

- (b) by the substitution in subsection (7)(a) for subparagraph (ii) of the following subparagraph:

“(ii) the devising, developing, creation, production, acquisition or restoration of any invention, patent, design, trade mark, copyright or other similar property or knowledge contemplated in section 11[(gA) or] (gC)[, as the case may be];”.

(2) Paragraph (a) of subsection (1) comes into operation on 1 January 2019 and applies in respect of years of assessment commencing on or after that date.

**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, section 46 of Act 15 of 2016 and section 44 of Act 17 of 2017**

44. (1) Section 24JB of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (2A) of the following subsection:

“(2A) A covered person must include in or deduct from income for a year of assessment a realised gain or a realised loss that is recognised in a statement of other comprehensive income as contemplated in IFRS 9 if that realised gain or realised loss is attributable to a change in the credit risk of the financial liability as contemplated in IFRS 9 and that instrument was issued in any year of assessment commencing on or after 1 January 2018.”.

(2) Subsection (1) is deemed to have come into operation on 1 January 2018 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 24L of Act 58 of 1962, as inserted by section 28 of Act 53 of 1999**

45. (1) Section 24L of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3) for the words preceding the proviso of the following words: 5

“The amount of any premium or like consideration received or receivable by a person in terms of an option contract, other than an amount of a capital nature, shall for the purposes of this Act be deemed to have accrued to such person on a day to day basis during the term of such option contract.”.

(2) Subsection (1) comes into operation on 1 January 2019 and applies in respect of 10 years of assessment commencing on or after that date.

**Amendment of section 24O of Act 58 of 1962, as substituted by section 46 of Act 25 of 2015**

46. (1) Section 24O of the Income Tax Act, 1962, is hereby amended—  
(a) by the substitution in subsection (1) in the definition of “operating company” 15 for paragraph (a) of the following paragraph:

“(a) at least 80 per cent of the **[receipts and accruals constitute]** aggregate amount received by or that accrued to that company during a year of assessment constitutes income in the hands of that company; and”;

(b) by the substitution in subsection (1) in paragraph (b) of the definition of “operating company” for subparagraph (ii) of the following subparagraph:

“(ii) in the course or furtherance of **[providing]** which goods or **[rendering]** services **[for consideration]** are provided or rendered by that company for consideration.”;

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

“(2) Subject to subsection (3), where during any year of assessment any interest is incurred by a company in respect of a debt issued, assumed or used by that company—

(a) for the purpose of financing the acquisition by that company, in terms of an acquisition transaction, of an equity share; or

(b) in substitution for a debt issued, assumed or used as contemplated in paragraph (a),

the interest incurred by that company in respect of that debt must, to the extent to which the amount thereof relates to a period during which—

(i) that company held that equity share; and

(ii) that equity share constituted a qualifying interest in an operating company, as determined—

(aa) in the case of an equity share held by that company at the end of that year, at the date on which that year ends; or

(bb) if that equity share was disposed of by that company during that year, at the date of that disposal,

be deemed to have been so incurred in the production of the income of that company and laid out or expended by that company for the purposes of trade.”;

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

“An equity share in a company constitutes a qualifying interest in an operating company **[, on the date of acquisition,]** if that equity share is an equity share on the date referred to in subsection (2) in—”;

(e) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) a company that qualified as an operating company in its latest year of assessment that ended prior to or on the date referred to in subsection (2); or”;

(f) by the substitution in subsection (3)(b) for the words preceding subparagraph (i) of the following words:

“any other company, to the extent that the value of that equity share is derived from an equity share or equity shares held by that company in



[an operating] a company or [operating] companies described in paragraph (a)—”; and

(g) by the deletion of subsection (4).

(2) Subsection (1) comes into operation on 1 January 2019 and applies in respect of years of assessment ending on or after that date.

**Amendment of section 25 of Act 58 of 1962, as substituted by section 22 of Act 113 of 1993, section 48 of Act 25 of 2015 and section 47 of Act 15 of 2016**

47. Section 25 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) A deceased estate must—

(a) other than for the purposes of section 6, section 6A and section 6B, be treated as if that estate were a natural person; and

(b) if the deceased person was a resident at the time of his or her death, be treated as if that estate were a resident.”.

**Amendment of section 25B of Act 58 of 1962, as substituted by section 27 of Act 32 of 2004**

48. (1) Section 25B of the Income Tax Act, 1962, is hereby amended—

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

“(a) that capital [arose] consists of or is derived, directly or indirectly, from any receipts and accruals of such trust which would have constituted income if such trust had been a resident, in any previous year of assessment during which that resident had a contingent right to that amount; and”;

(b) by the insertion after subsection (2A) of the following subsection:

“(2B) In determining, for purposes of subsection (2A), whether an amount received by or that accrued to a trust which is not a resident would have constituted income had that trust been a resident, the provisions of section 10B(2)(a) must be disregarded in respect of an amount received or accrued consisting of or derived, directly or indirectly, from a foreign dividend—

(i) paid or payable by a company if—

(aa) more than 50 per cent of the total participation rights, as defined in section 9D(1), or of the voting rights in that company are directly or indirectly held or are exercisable, as the case may be, by that trust whether alone or together with any one or more persons that are connected persons in relation to that trust; and

(bb) that resident or any person that is a connected person in relation to that resident is a connected person in relation to that trust; and

(ii) to the extent to which that foreign dividend is not derived from an amount that must be included in the income of or that must be attributed as a capital gain to—

(aa) the resident who acquired the vested right to the amount referred to in subsection (2A); or

(bb) a resident who is a connected person in relation to the resident referred to in item (aa).”.

(2) Subsection (1) comes into operation on 1 March 2019 and applies in respect of any year 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, section 48 of Act 15 of 2016 and section 45 of Act 17 of 2017**

49. 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 paragraph (a) of the following paragraph:

- “(a) that year of assessment is the first year of assessment and at least 75 per cent of the gross income received by or accrued to a company during [the] that first year of assessment that the company qualifies as a REIT or controlled company, consists of rental income; [or] and”; and 5
- (b) by the substitution in subsection (2A) for the words following paragraph (a) of the following words: 5
- “so much of any amount of tax on income proved to be payable by that trust to the government of a country other than the Republic as is attributable to the interest of that REIT or controlled company in that trust, without any right of recovery of that tax by any person, other than a right of recovery in terms of any entitlement to carry back losses arising during any year of assessment, limited to the amount of taxable income that is attributable to those amounts, must be allowed to be deducted by that REIT or controlled company before taking into account any deduction in terms of subsection (2)(a).” 10 15

**Amendment of section 28 of Act 58 of 1962, as amended by section 17 of Act 90 of 1962, section 22 of Act 55 of 1966, section 24 of Act 89 of 1969, section 21 of Act 88 of 1971, section 19 of Act 65 of 1973, section 19 of Act 91 of 1982, section 22 of Act 94 of 1983, section 17 of Act 65 of 1986, section 23 of Act 90 of 1988, section 13 of Act 70 of 1989, section 25 of Act 101 of 1990, section 29 of Act 129 of 1991, section 24 of Act 113 of 1993, section 19 of Act 21 of 1994, section 33 of Act 30 of 2000, section 42 of Act 35 of 2007, section 40 of Act 60 of 2008, section 40 of Act 17 of 2009, section 51 of Act 7 of 2010, section 61 of Act 22 of 2012, section 76 of Act 31 of 2013, section 52 of Act 25 of 2015 and section 49 of Act 15 of 2016** 20 25

- 50.** (1) Section 28 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for the definition of “short-term insurance business” of the following definition: 30
- “**‘short-term insurance business’** means—
- (a) short-term insurance business as defined in the Short-term Insurance Act; 30
- (b) micro-insurance business as defined in section 1 of the Insurance Act; or
- (c) business conducted by a foreign reinsurer as contemplated in paragraph (c) of the definition of ‘short-term insurer’;” 35
- (b) by the substitution in subsection (1) for the definition of “short-term insurer” of the following definition: 35
- “**‘short-term insurer’** means—
- (a) a short-term insurer as defined in the Short-term Insurance Act; 40
- (b) a micro-insurer as defined in section 1 of the Insurance Act; or
- (c) a foreign reinsurer conducting insurance business through a branch in the Republic in terms of section 6 of the Insurance Act;” 40
- (c) by the substitution in subsection (1) for the definition of “short-term policy” of the following definition: 45
- “**‘short-term policy’** means—
- (a) a short-term policy as defined in the Short-term Insurance Act; 45
- (b) a policy issued by a micro-insurer as defined in section 1 of the Insurance Act; or
- (c) a policy issued by a foreign reinsurer as contemplated in paragraph (c) in the definition of ‘short-term insurer’.” 50
- (d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 50
- “For the purpose of determining the taxable income derived during a year of assessment by any short-term insurer [**that is a resident**] from carrying on short-term insurance business—”; and 55
- (e) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 55
- “Notwithstanding section 23(e), for the purpose of determining the taxable income derived during any year of assessment by any short-term insurer [**that is a resident**] from carrying on short-term insurance business, there shall be allowed as a deduction from the income of that 60

short-term insurer an amount equal to the sum of liabilities on investment contracts relating to short-term insurance business in accordance with IFRS as reported by that short-term insurer in its audited annual financial statements, and amounts recognised as insurance liabilities, in accordance with IFRS by that short-term insurer in its audited annual financial statements, relating to—”.

(2) Subsection (1) is deemed to have come into operation on 1 July 2018 and applies in respect of years of assessment ending on or after that date.

**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, section 50 of Act 15 of 2016 and section 46 of Act 17 of 2017**

51. Section 29A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (15) for the proviso of the following proviso:

“: Provided that the reduction of negative liabilities recognised as an asset must **[only]** apply only where the positive liabilities reduced by the negative liabilities result in a net asset for that fund which is **[disclosed]** recognised for financial reporting purposes.”.

**Amendment of section 30C of Act 58 of 1962, as inserted by section 49 of Act 43 of 2014 and amended by section 55 of Act 25 of 2015**

52. (1) Section 30C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1)(d) for item (vi) of the following item:

“(vi) the small business funding entity must **[during any]** within 12 months after the end of the relevant year of assessment distribute or incur the obligation to distribute at least 25 per cent of all amounts received or accrued in respect of assets held, other than any amount received or accrued in respect of the disposal of any of those assets, during that year of assessment;”.

(2) Subsection (1) comes into operation on 1 January 2019.

**Amendment of section 37D of Act 58 of 1962, as inserted by section 53 of Act 43 of 2014 and amended by section 53 of Act 15 of 2016**

53. Section 37D of the Income Tax Act, 1962, is hereby amended—

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

“(b) land in respect of which an endorsement is effected to the title deed of that land that reflects the declaration contemplated in paragraph (a) and has a duration of at least 99 years;”;

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

“if that expenditure is not less than the lower of market value or municipal value of that declared land; or”;

(c) by the substitution in subsection (2) for the words following paragraph (b) of the following words:

“if the lower of market value of the declared land or municipal value of that declared land exceeds the expenditure contemplated in paragraph (a).”; and

(d) by the substitution for subsection (3) of the following subsection:

“(3) If a person retains a right of use of the declared land, the deduction to be allowed in terms of this section must be limited to an amount that bears to the amount determined as contemplated in subsection (2) the same ratio as the market value of the declared land subject to the right of use bears to the market value of the declared land had that declared land not been subject to that right of use.”.

**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, section 54 of Act 15 of 2016 and section 50 of Act 17 of 2017**

**54.** (1) Section 41 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection: 10

“(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, 25BB(4) and 103, Part IIA of Chapter III and paragraphs 11(1)(g) and 43A of the Eighth Schedule.”; and 15

(b) by the substitution for subsection (2) of the following subsection: 20

“(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, 25BB(4) and 103, Part IIA of Chapter III and [paragraphs] paragraph 11(1)(g) [and 43A] of the Eighth Schedule.”. 25

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on 18 December 2017.

(3) Paragraph (b) of subsection (1) comes into operation on 1 January 2019. 30

**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, section 62 of Act 25 of 2015 and section 51 of Act 17 of 2017**

**55.** Section 42 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: 40

“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 or an allowance asset—”; 45

(b) by the substitution in subsection (3)(a)(ii) for item (bb) of the following item: 50

“(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;”; 50

(c) by the substitution in subsection (3A) for the words preceding paragraph (a) of the following words: 55

“For the purposes of the definition of ‘contributed tax capital’, if an asset is disposed of by a person to a company in terms of an asset-for-share transaction contemplated in paragraph (a) of the definition of ‘asset-for-share transaction’ and that person at the close of the day on which that asset is disposed of holds a qualifying interest in that company as contemplated in paragraph [(a)(iii)] (c) of the definition of ‘qualifying interest’, or is a natural person who will be engaged on a full-time basis in the business of that company or a controlled group company in 60

relation to that company of rendering a service, the amount received by or accrued to the company for the issue of the shares is deemed to be equal to—”; and

- (d) by the substitution in subsection (8) for paragraph (B) of the following paragraph:

“(B) where that equity share is held as trading stock, as **[income]** an amount to be included in that person’s income for the year of assessment during which that equity share is disposed of by that person.”.

- (2) Paragraphs (a) and (b) of subsection (1) are deemed to have come into operation on 18 December 2017.

**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, section 55 of Act 15 of 2016 and section 52 of Act 17 of 2017**

- 56.** (1) 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]** for that amalgamated **[company’s hands]** company 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 or an allowance 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;”;

- (c) by the deletion of subsection (9).

- (2) Paragraphs (a) and (b) of subsection (1) are deemed to have come into operation on 18 December 2017.

**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, section 64 of Act 25 of 2015 and section 53 of Act 17 of 2017**

- 57.** (1) Section 45 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]** for that transferor **[company’s hands]** company to a transferee company in terms of an intra-group transaction contemplated in paragraph (a) of the definition of ‘intra-group transaction’ and that transferee company acquires that asset as an allowance asset or that transferee company is a REIT or a controlled company, as defined in section 25BB (1), that acquires that asset as a capital asset or an allowance 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 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);]**”.

- (2) Subsection (1) is deemed to have come into operation on 18 December 2017.

**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 2012, section 66 of Act 25 of 2015 and section 55 of Act 17 of 2017** 5

58. (1) Section 47 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (3)(a) for the words preceding paragraph (i) of the following words: 10
- “an asset that constitutes an allowance asset **[in]** for that liquidating **[company’s hands]** company to its holding company in terms of a liquidation distribution and that holding company acquires that asset as an allowance asset or that holding company is a REIT or a controlled company, as defined in section 25BB(1), that acquires that asset as a capital asset or allowance asset—”; and 15
- (b) by the substitution in subsection (3)(a)(ii) for item (bb) of the following item: 20
- “(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”.
- (2) Subsection (1) is deemed to have come into operation on 18 December 2017.

**Amendment of section 50D of Act 58 of 1962, as inserted by section 98 of Act 31 of 2013, amended by section 71 of Act 25 of 2015 and section 56 of Act 15 of 2016**

59. Section 50D of the Income Tax Act, 1962, is hereby amended by the deletion in subsection (1) at the end of paragraph (c) of the word “or”, by the substitution at the end of paragraph (d) for the full stop of the expression “; or” and by the addition of the following paragraph: 25
- “(e) included in the income of a resident as is attributable to a donation, settlement or other disposition made by a resident as contemplated in section 7(8)(a).” 30

**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—
- (a) by the substitution in subsection (1) in the definition of “dividend” for the words preceding paragraph (a) of the following words: 35
- “**‘dividend’** means any dividend or foreign dividend as defined in section 1, including any amount contemplated in section 31(3)(i), that is—”; and
- (b) by the deletion in subsection (1) of the definitions of “dividend cycle” and “STC credit”. 40
- (2) Paragraph (a) of subsection (1) comes into operation on 1 January 2019 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 64EB of Act 58 of 1962, as inserted by section 85 of Act 22 of 2012, amended by section 103 of Act 31 of 2013, section 69 of Act 43 of 2014 and section 74 of Act 25 of 2015** 45

61. (1) Section 64EB of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding the proviso of the following words: 50
- “For the purposes of this Part, where—
- (a) a person **[that is]** contemplated in section 64F(1) acquires the right to a dividend in respect of a share, including a dividend that has not yet been declared or has not yet accrued, by way of cession; and
- (b) **[that]** an amount in respect of that dividend [is either announced or declared before that acquisition] is received by or accrues to the person who acquired that right, 55

the person ceding that right is deemed to be the beneficial owner of that dividend.”;

- (b) by the substitution in subsection (2)(a) for the words following subparagraph (xiv) of the following words:  
 “[**borrows**] holds a share in a listed company that was borrowed from another person or acquired in terms of a collateral arrangement entered into with another person.”; 5
- (c) by the substitution in subsection (2) for paragraph (b) of the following paragraph:  
 “(b) a dividend in respect of that share is received by or accrues to that person.”; 10
- (d) by the substitution in subsection (2) for the words following paragraph (b) of the following words:  
 “any amount paid by that person to that other person not exceeding that dividend in respect of that [**borrowed**] share is deemed to be a dividend paid by that person for the benefit of that other person.”; 15
- (e) by the substitution in subsection (3) for subparagraph (a) of the following subparagraph:  
 “(a) a person that is contemplated in section 64F (1) acquires a share in a listed company (or any right in respect of that share) from another person [**after a dividend is announced or declared in respect of that share**]; and”; and 20
- (f) by the deletion in subsection (3) at the end of paragraph (a) of the word “and”, by the substitution for the comma at the end of paragraph (b) of the expression “; and” and by the addition after paragraph (b) of the following paragraph:  
 “(c) a dividend in respect of that share is received by or accrues to that person.”. 25

(2) Subsection (1) comes into operation on 1 January 2019 and applies in respect of years of assessment commencing on or after that date. 30

**Amendment of section 64F of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 and amended by sections 72 and 148 of Act 7 of 2010, section 78 of Act 24 of 2011, section 86 of Act 22 of 2012, section 104 of Act 31 of 2013 and section 75 of Act 25 of 2015**

62. Section 64F of the Income Tax Act, 1962, is hereby amended— 35
- (a) by the substitution for the heading of the following heading:  
 “**Exemption from tax in respect of dividends other than dividends comprising distribution of assets in specie**”;
- (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:  
 “Any dividend is exempt from the dividends tax to the extent that it does not consist of a dividend that comprises a distribution of an asset *in specie* if the beneficial owner is—”; 40
- (c) by the deletion in subsection (1) of paragraph (k); and
- (d) by the substitution for subsection (2) of the following subsection: 45  
 “(2) Any dividend paid by a REIT or a controlled company, as defined in section 25BB, and received or accrued before 1 January 2014 is exempt from the dividends tax to the extent that the dividend does not consist of a dividend that comprises a distribution of an asset *in specie*.”.

**Repeal of section 64J of Act 58 of 1962** 50

63. Section 64J of the Income Tax Act, 1962, is hereby repealed.

**Amendment of paragraph 12 of First Schedule to Act 58 of 1962, as amended by section 27 of Act 55 of 1966, section 42 of Act 89 of 1969, section 24 of Act 113 of 1977, section 24 of Act 104 of 1980, section 27 of Act 96 of 1981, section 28 of Act 91**

**of 1982, section 39 of Act 90 of 1988, section 45 of Act 113 of 1993, section 80 of Act 45 of 2003, section 2 of Act 8 of 2007 and section 57 of Act 60 of 2008**

**64.** Paragraph 12 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (3) of the following subparagraph:

“(3) The amount by which the total expenditure incurred by any farmer during any year of assessment in respect of the matters referred to in items (c) to [(j)] (i), inclusive, of subparagraph (1) exceeds the taxable income (as calculated before allowing the deduction of such expenditure and before the inclusion as hereinafter provided of the said amount in the farmer’s income) derived by him from farming operations during that year of assessment shall be included in his income from such operations for that year and be carried forward and be deemed for the purposes of subparagraph (1) to be expenditure which has been incurred by him during the next succeeding year of assessment in respect of the matters referred to in the said items.”.

**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, section 87 of Act 25 of 2015 and section 64 of Act 17 of 2017**

**65.** (1) Paragraph 6 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1)(a)(i) for sub-subitem (dd) of the following sub-subitem:

“(dd) provident preservation fund into any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; and”;

(b) by the substitution in subparagraph (1)(a)(ii) for sub-subitem (dd) of the following sub-subitem:

“(dd) provident preservation fund into any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; and”;

(c) by the substitution in subparagraph (1)(b)(v) for sub-subitem (bb) of the following sub-subitem:

“(bb) transferred into a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund directly from a fund contemplated in subitem (aa) for the person’s benefit, less the amount represented by symbol A when applying that formula,”.

(2) Paragraphs (a) and (b) of subsection (1) come into operation on 1 March 2019.

(3) Paragraph (c) of subsection (1) is deemed to have come into operation on 1 March 2018.

**Amendment of paragraph 6A of Second Schedule to Act 58 of 1962, as inserted by section 65 of Act 17 of 2017**

**66.** (1) Paragraph 6A of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subparagraphs (a) and (b) of the following subparagraphs respectively:

“(a) pension fund into a pension preservation fund or a retirement annuity fund; or

(b) provident fund into a pension preservation fund, provident preservation fund or a retirement annuity fund[,]”;

(b) by the substitution for the words following paragraph (b) of the following words:

“into **[any]** a retirement annuity fund.”; and

(c) by the deletion of the words following subparagraph (b).

(2) Paragraphs (a) and (c) of subsection (1) come into operation on 1 March 2019 and apply 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 2018.



**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 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**

- 67.** (1) Paragraph 2 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (4) for item (bA) of the following item:
- “(bA) any contribution made or amount paid by the employer to any retirement annuity fund on behalf of or for the benefit of the employee, but limited to the deduction to which the employee is entitled under section 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 2018.

**Amendment of paragraph 1 of Sixth Schedule to Act 58 of 1962, as amended by section 85 of Act 7 of 2010, section 88 of Act 25 of 2015 and section 64 of Act 15 of 2016**

- 68.** Paragraph 1 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) in the definition of “investment income” for paragraph (i) of the following paragraph:
- “(i) any income in the form of annuities, dividends, foreign dividends, interest, rental derived in respect of immovable property, royalties, or income of a similar nature; and”.

**Amendment of paragraph 2 of Seventh Schedule to Act 58 of 1962, as inserted by section 46 of Act 121 of 1984 and amended by section 27 of Act 96 of 1985, section 56 of Act 101 of 1990, section 49 of Act 28 of 1997, section 54 of Act 30 of 1998, section 50 of Act 32 of 2004, section 55 of Act 31 of 2005, section 64 of Act 17 of 2009, section 102 of Act 24 of 2011, section 100 of Act 22 of 2012, section 118 of Act 31 of 2013 and section 94 of Act 25 of 2015**

- 69.** (1) Paragraph 2 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for subparagraph (l) of the following paragraph and proviso:
- “(l) the employer has made any contribution for the benefit of any employee to any pension fund[,], or provident fund [or retirement annuity fund]: Provided that this subparagraph shall not apply to the transfer of any surplus as contemplated in section 15E(1)(b), (d) and (e) of the Pension Funds Act.”; and
- (b) by the deletion at the end of paragraph (k) of the word “or”, by the substitution after subparagraph (l) for the full stop of the expression “or;” and by the addition of the following subparagraph:
- “(m) the employer has made any contribution for the benefit of any employee to any bargaining council established under section 27 of the Labour Relations Act, 1995 (Act No. 66 of 1995), in respect of a scheme or fund as contemplated in section 28(1)(g) of that Act, other than any payment to a pension fund or provident fund as contemplated in paragraph (l).”.
- (2) Paragraph (a) of subsection (1) is deemed to have come into operation on 1 March 2017 and applies in respect of years of assessment commencing on or after that date.
- (3) Paragraph (b) of subsection (1) comes into operation on 1 March 2019 and applies in respect of years of assessment commencing on or after that date.

**Amendment of paragraph 11 of Seventh Schedule to Act 58 of 1962, as amended by section 33 of Act 96 of 1985, section 35 of Act 65 of 1986, section 48 of Act 21 of 1995, section 2 of Act 8 of 2007, section 1 of Act 3 of 2008, and section 98 of Act 25 of Act 2015**

70. (1) Paragraph 11 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (4) after item (b) for the full stop of a semi-colon and the addition of the following item: 5

“(c) a debt owed to his or her employer in consequence of a loan by that employer to that employee as does not exceed the amount of R450 000 if— 10

- (i) the debt was assumed for the purposes of acquiring immovable property by the employee;
- (ii) the market value of the immovable property acquired does not exceed R450 000 in relation to the year of assessment during which the property is acquired;
- (iii) the remuneration proxy of the employee does not exceed R250 000 in relation to the year of assessment during which the loan is granted; and 15
- (vi) the employee is not a connected person in relation to the employer.”.

(2) Subsection (1) comes into operation on 1 March 2019 and applies in respect of years of assessment commencing on or after that date.

**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, section 69 of Act 15 of 2016 and section 69 of Act 17 of 2017** 20

71. (1) Paragraph 12D of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the deletion in subparagraph (4) of the word “or” at the end of item (b) and the addition of the following items: 25

“(c) where an error occurred in calculating the fund member category factor contemplated in subparagraph (5)(a), a corrected contribution certificate must be supplied to the employer and that corrected certificate will have effect from the first day of the month following the month during which that corrected certificate was received; or 30

(d) where the fund member category factor changed during the year of assessment, the contribution certificate must be supplied to the employer no later than one month after the day on which those changes become effective.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2018 and applies in respect of years of assessment commencing on or after that date. 35

**Insertion of paragraph 12E in Seventh Schedule to Act 58 of 1962**

72. (1) The following paragraph is hereby inserted in the Seventh Schedule to the Income Tax Act, 1962, after paragraph 12D:

**“Contribution to bargaining council**

**12E.** (1) The cash equivalent of the value of the taxable benefit contemplated in paragraph 2(m) is the amount of any contribution or payment made by the employer in respect of a year of assessment, directly or indirectly, to any bargaining council that is established in terms of section 27 of the Labour Relations Act, 1995 (Act No. 66 of 1995), in respect of a scheme or fund as contemplated in section 28(1)(g) of that Act. 40 45

(2) Where an appropriate portion of any expenditure contemplated in subparagraph (1) cannot be attributed to the employee for whose benefit the amount is paid, the amount of that expenditure in relation to that employee is deemed, for the purposes of subparagraph (1), to be an amount equal to the total expenditure incurred by the employer during that year of assessment for the benefit of all employees divided by the number of employees in respect of whom the expenditure is incurred.”. 50

(2) Subsection (1) comes into operation on 1 March 2019 and applies in respect of years of assessment commencing on or after that date.

**Amendment of paragraph 1 of Eighth Schedule to Act 58 of 1962, as amended by section 65 of Act 60 of 2001, section 63 of Act 74 of 2002, section 90 of Act 45 of 2003, section 25 of Act 16 of 2004, section 51 of Act 32 of 2004, section 63 of Act 31 of 2005, section 49 of Act 3 of 2008, section 102 of Act 22 of 2012 and section 78 of Act 43 of 2014**

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73. Paragraph 1 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for the definition of “disposal” of the following definition:  
 “‘**disposal**’ means an event, act, forbearance or operation of law envisaged in paragraph 11 or an event, act, forbearance or operation of law which is in terms of this [**Schedule**] Act treated as the disposal of an asset, and ‘**dispose**’ must be construed accordingly;”;
- (b) by the insertion after the definition of “insurer” of the following definition:  
 “‘**market value**’ means market value as defined in paragraph 31;”.

**Amendment of paragraph 2 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 25 of Act 19 of 2001, section 66 of Act 60 of 2001, section 64 of Act 74 of 2002, section 91 of Act 45 of 2003, section 52 of Act 32 of 2004, section 64 of Act 31 of 2005, section 93 of Act 7 of 2010 and section 102 of Act 25 of 2015**

74. Paragraph 2 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (2) for item (a) of the following item:

- “(a) 80 per cent or more of the market value of those equity shares, ownership or right to ownership or vested interest, as the case may be, at the time of disposal thereof is attributable directly or indirectly to immovable property held [**otherwise than as trading stock**]; and”.

**Amendment of paragraph 5 of Eighth Schedule to Act 58 of 1962, as amended by section 32 of Act 9 of 2006, section 2 of Act 8 of 2007, section 1 of Act 3 of 2008, section 67 of Act 17 of 2009, section 107 of Act 24 of 2011 and section 8 of Act 13 of 2012**

75. Paragraph 5 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the addition after subparagraph (2) of the following subparagraph:

- “(3) (a) The Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act that, with effect from a date or dates mentioned in that announcement, the annual exclusion of the person mentioned in subparagraph (1) or (2) will be altered to the extent mentioned in the announcement.
- (b) If the Minister makes an announcement of an alteration contemplated in item (a), that alteration comes into effect on the date or dates determined by the Minister in that announcement and continues to apply for a period of 12 months from that date or those dates subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.”.

**Amendment of paragraph 10 of Eighth Schedule to Act 58 of 1962, as amended by section 66 of Act 74 of 2002, section 9 of Act 13 of 2012, section 105 of Act 22 of 2012, section 79 of Act 43 of 2012 and section 12 of Act 13 of 2016**

76. Paragraph 10 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for the words preceding subparagraph (a) of the following words:  
 “(1) A person’s taxable capital gain for the year of assessment is—”;  
 and
- (b) by the addition of the following subparagraph:  
 “(2) (a) The Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act that, with effect from a date or dates mentioned in that announcement, the percentage used in determining a person’s taxable capital gain for the

year of assessment under subparagraph (1) will be altered to the extent mentioned in the announcement.

(b) If the Minister makes an announcement of an alteration contemplated in item (a), that alteration comes into effect on the date or dates determined by the Minister in that announcement and continues to apply for a period of 12 months from that date or those dates subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.”.

**Amendment of paragraph 12A of Eighth Schedule to Act 58 of 1962, as substituted by section 70 of Act 17 of 2017**

77. (1) Paragraph 12A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1) for the definition of “concession or compromise” of the following definition:

“**‘concession or compromise’** means any arrangement in terms of which—

(a) a debt is—

(i) cancelled or waived; or

(ii) extinguished by—

(aa) redemption of the claim in respect of that debt by the person owing that debt or by any person that is a connected person in relation to that person; or

(bb) merger by reason of the acquisition, by the person owing that debt, of the claim in respect of that debt,

otherwise than as the result or by reason of the implementation of an arrangement described in paragraph (b);

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

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

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

(b) by the substitution in subparagraph (1) for the definition of “debt” of the following definition:

“**‘debt’** means any amount that is owed by a person in respect of—

(a) expenditure incurred by that person; or

(b) a loan, advance or credit that was used, directly or indirectly, to fund any expenditure incurred by that person,

but does not include a tax debt as defined in section 1 of the Tax Administration Act;”;

(c) by the substitution in subparagraph (1) for the definition of “debt benefit” of the following definition:

“**‘debt benefit’**, in respect of a debt owed by a person to another person, means—

(a) in the case of an arrangement described in paragraph (a)(i) of the definition of ‘concession or compromise’, the amount cancelled or waived;

(b) in the case of the extinction of that debt by means of an arrangement described in paragraph (a)(ii) of the definition of ‘concession or compromise’, the amount by which the face value of the claim in respect of that debt held by the person to whom the debt is owed prior to the entering into of that arrangement exceeds the expenditure incurred in respect of—

(i) the redemption of that debt; or

(ii) the acquisition of the claim in respect of that debt;

(c) in the case of the settling of that debt by means of an arrangement described in paragraph (b) of the definition of ‘concession or compromise’, where the person who acquired shares in a company in terms of that arrangement held no effective interest in the shares of that company prior to the entering into of that arrangement, the amount by which the face value of the claim held in respect of that

- debt prior to the entering into of that arrangement exceeds the market value of the shares acquired by reason or as a result of the implementation of that arrangement; or
- (d) in the case of the settling of that debt by means of an arrangement described in paragraph (b) of the definition of ‘concession or compromise’, where the person who acquired shares in a company in terms of that arrangement held an effective interest in the shares of that company prior to the entering into of that arrangement, the amount by which the face value of the claim held in respect of that debt prior to the entering into of that arrangement exceeds the amount by which the market value of the effective interest held by that person in the shares of that company immediately after the implementation of that arrangement exceeds, solely as a result of the implementation of that arrangement, the market value of the effective interest held by that person in the shares of that company immediately prior to the entering into of that arrangement;”;
- (d) by the insertion in subparagraph (1) after the definition of “debt benefit” of the following definition:  
“**‘market value’** in relation to shares acquired or held by reason or as a result of implementing a concession or compromise in respect of a debt means the market value of those shares immediately after the implementation of that concession or compromise.”;
- (e) by the substitution in subparagraph (2) for items (a) and (b) of the following items:  
“(a) a debt benefit in respect of a debt owed by a person arises in respect of a year of assessment by reason or as a result of a concession or compromise in respect of that debt during that year of assessment; and  
(b) the amount of that debt is owed by that person in respect of or was used by that person to fund, directly or indirectly, any expenditure, other than expenditure in respect of trading stock in respect of which a deduction or allowance was granted in terms of this Act.”;
- (f) by the substitution in subparagraph (3) for item (b) of the following item:  
“(b) the amount of that debt is owed in respect of or was used as contemplated in [paragraph] item (b) of that [subsection] subparagraph to fund expenditure incurred in respect of an asset that **[is held and]** was not disposed of by that person **[at the time]** in a year of assessment prior to that in which **[the]** that debt benefit arises.”;
- (g) by the substitution in subparagraph (4) for item (b) of the following item:  
“(b) the amount of that debt is owed in respect of or was used as contemplated in item (b) of that subparagraph to fund expenditure incurred in respect of an asset that was disposed of in a year of assessment prior to that in which that debt benefit arises, that person must if the amount determined in respect of that disposal as—  
(i) a capital gain; or  
(ii) a capital loss,  
differs from the amount that would have been determined, whether as a capital gain or as a capital loss, in respect of that disposal had that debt benefit been taken into account in the year of the disposal of that asset, treat that absolute difference as a capital gain to be taken into account in respect of the year of assessment in which the debt benefit arises: Provided that in taking that debt benefit into account in respect of the year of disposal of that asset that person must take into account the extent to which the expenditure in respect of that asset has been reduced by any other debt benefit taken into account, in terms of this subparagraph, in respect of that disposal.”;
- (h) by the substitution in subparagraph (6) for item (b) of the following item:  
“(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[;],  
in respect of which donations tax is payable;” and

- (i) by the deletion in subparagraph (6) of the word “or” after item (e), the insertion of the word “or” after item (f) and the insertion of the following item after item (f):

“(g) to the extent that the debt so owed—

- (i) is settled by means of an arrangement described in paragraph (b) of the definition of ‘concession or compromise’; and  
 (ii) does not consist of or represent an amount owed by that person in respect of any interest incurred by that person during any year of assessment.”

(2) Paragraphs (a) to (f) and (i) of subsection (1) are deemed to have come into operation on 1 January 2018 and apply in respect of years of assessment commencing on or after that date.

(3) Paragraphs (g) and (h) of subsection (1) come into operation on 1 January 2019 and apply in respect of years of assessment commencing on or after that date.

**Amendment of paragraph 35 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 86 of Act 60 of 2001, section 133 of Act 31 of 2013 and section 111 of Act 25 of 2015**

78. Paragraph 35 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the deletion of subsection (1A).

**Amendment of paragraph 39 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 88 of Act 60 of 2001, section 100 of Act 45 of 2003, section 26 of Act 16 of 2004 and section 73 of Act 31 of 2015**

79. Paragraph 39 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the addition after subparagraph (4) of the following subparagraph:

“(5) For the purposes of subparagraph (1), where a company redeems its shares, the holder of those shares must be treated as having disposed of them to that company.”

**Amendment of paragraph 43A of Eighth Schedule to Act 58 of 1962, as substituted by section 72 of Act 17 of 2017**

80. (1) Paragraph 43A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subparagraph (1) for the words preceding the definition of “exempt dividend” of the following words:

“For purposes of this [section] paragraph—”;

- (b) by the insertion in subparagraph (1) before the definition of “exempt dividend” of the following definition:

“‘**deferral transaction**’ means a transaction in respect of which the provisions of PART III of Chapter II were applied;”;

- (c) by the substitution in subparagraph (1) for paragraph (a) of the definition of “extraordinary dividend” of the following paragraph:

“(a) a preference share, so much of the amount of any dividend received or accrued in respect of that share as exceeds the amount that would have accrued in respect of that share had it been determined with reference to the consideration for which that share was issued by applying an interest rate of 15 per cent per annum for the period in respect of which that dividend was received or accrued;”;

- (d) by the insertion in subparagraph (1) after the definition of “extraordinary dividend” of the following definition:

“‘**preference share**’ means a preference share as defined in section 8EA(1); and”;

- (e) by the substitution in subparagraph (2) for the words preceding item (a) of the following words:

“Subject to subparagraph (3), where a company disposes of shares in another company in terms of a transaction that is not a deferral transaction 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—”; and
- (f) by the addition after subparagraph (2) of the following subparagraph:
- “(3) Where a company disposes of shares in terms of a transaction that is not a deferral transaction within a period of 18 months after having acquired those shares in terms of a deferral transaction, other than an unbundling transaction and—
- (a) within a period of 18 months prior to the disposal of those shares by that company an exempt dividend in respect of those shares accrued to or was received by a person that—
- (i) disposed of those shares in terms of a deferral transaction; and
- (ii) was a connected person in relation to that company at any time within that period or immediately after that disposal,
- that dividend must for purposes of this paragraph be treated as a dividend that accrued to or was received by that company in respect of those shares within the period during which that company held those shares; and
- (b) if that company acquired those shares (hereinafter referred to as ‘new shares’) in terms of that deferral transaction in return for or by virtue of the holding, by that company, of other shares (hereinafter referred to as ‘old shares’) that were disposed of in terms of that deferral transaction and an exempt dividend in respect of the old shares, other than a dividend consisting of new shares, accrued to or was received by that company within a period of 18 months prior to the disposal of the new shares, that dividend must for purposes of this paragraph be treated as an amount that accrued to or was received by that company as an exempt dividend in respect of the new shares.”.

(2) Paragraphs (b), (e) and (f) of subsection (1) come into operation on 1 January 2019 and apply in respect of disposals on or after that date.

(3) Paragraphs (c) and (d) of subsection (1) are deemed to have come into operation on 19 July 2017 and apply in respect of disposals on or after that date.

**Amendment of paragraph 45 of Eighth Schedule to Act 58 of 1962, as substituted by section 93 of Act 60 of 2001 and amended by section 33 of Act 9 of 2006, section 2 of Act 8 of 2007, section 73 of Act 17 of 2009, section 103 of Act 7 of 2010 and section 10 of Act 13 of 2012**

**81.** Paragraph 45 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the addition after subparagraph (1) of the following subparagraph:

“(1A) (a) The Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, that, with effect from a date or dates mentioned in that announcement, the amount of the capital gain or capital loss determined in terms of subparagraph (1)(a) or the amount of the capital gain determined in terms of subparagraph (1)(b) will be altered to the extent mentioned in the announcement.

(b) If the Minister makes an announcement of an alteration contemplated in paragraph (a), that alteration comes into effect on the date or dates determined by the Minister in that announcement and continues to apply for a period of 12 months from that date or those dates subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.”.

**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, section 115 of Act 25 of 2015 and section 73 of Act 17 of 2017**

**82.** Paragraph 55 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in paragraph (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 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—”.

**Amendment of paragraph 57 of Eighth Schedule to Act 58 of 1962, as amended by section 89 of Act 74 of 2002, section 34 of Act 9 of 2006, section 115 of Act 24 of 2011 and section 11 of Act 13 of 2013** 5

83. Paragraph 57 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the addition of the following subparagraph:

“(7) (a) The Minister may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, that, with effect from a date or dates mentioned in that announcement, the market value of all assets referred to in the definition of ‘small business’ in subparagraph 1, the sum of the amounts referred to in subparagraph (3) or the total market value of all assets referred to in subparagraph (6) will be altered to the extent mentioned in the announcement. 10 15

(b) If the Minister makes an announcement of an alteration contemplated in paragraph (a), that alteration comes into effect on the date or dates determined by the Minister in that announcement and continues to apply for a period of 12 months from that date or those dates subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.”. 20

**Amendment of paragraph 64B of Eighth Schedule to Act 58 of 1962, as substituted by section 123 of Act 22 of 2012 and amended by section 144 of Act 31 of 2013 and section 117 of Act 25 of 2017**

84. Paragraph 64B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3)(c)(iii) for sub-subitem (bb) of the following sub-subitem: 25

“(bb) by means of a distribution by a company, unless the full amount of that distribution[—

- (A) was subject to or would, but for the provisions of section 64B(5)(f), have been subject to secondary tax on companies; or 30
- (B) was included in the income of a holder of shares in that company or would, but for the provisions of section 10B(2)(a) or (b), have been so included; and”.

**Repeal of paragraph 67 of Eighth Schedule to Act 58 of 1962**

85. Paragraph 67 of the Eighth Schedule to the Income Tax Act, 1962, is hereby repealed. 35

**Substitution of paragraph 72 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 94 of Act 54 of 2002, section 112 of Act 45 of 2003 and section 80 of Act 31 of 2005**

86. (1) The following paragraph is hereby substituted for paragraph 72 of the Eighth Schedule to the Income Tax Act, 1962: 40

**“Attribution of capital gain and other amounts vesting in person that is not a resident.**

72. (1) This paragraph applies where—

- (a) a resident has made a donation, settlement or other disposition to any person (other than an entity, which is not resident and which is similar to a public benefit organisation contemplated in section 30); 45
- (b) a capital gain (including any amount that would have constituted a capital gain had that person been a resident) attributable to that donation, settlement or other disposition has arisen during a year of assessment; and 50
- (c) an amount consisting of or derived, directly or indirectly, from—
  - (i) that capital gain; or



(ii) the amount that would have constituted a capital gain, has during that year vested in or is treated as having vested in any person who is not a resident (other than a controlled foreign company, in relation to that resident).

(2) In determining, for purposes of subparagraph (1), whether an amount would have constituted a capital gain had a person been a resident, the provisions of paragraph 64B(1) and (4) must be disregarded in respect of an amount derived by that person, directly or indirectly, from the disposal of an equity share in a foreign company if—

- (a) more than 50 per cent of the total participation rights, as defined in section 9D(1), or of the voting rights in that company are directly or indirectly held or are exercisable, as the case may be, by that person whether alone or together with any one or more persons that are connected persons in relation to that person; and
- (b) the resident who made the donation, settlement or other disposition or any person that is a connected person in relation to that resident is a connected person in relation to the person who is not a resident; and
- (c) to the extent to which that amount is not included in the income of or attributed as a capital gain to—
  - (i) the resident who made that donation, settlement or other disposition; or
  - (ii) a resident who is a connected person in relation to the resident referred to in sub-item (i).

(3) An amount that is equal to so much of the amount described in item (c) of subparagraph (1) that has vested in or is treated as having vested in the person who is not a resident as consists of or is derived, directly or indirectly, from—

- (a) the capital gain must be disregarded when determining the aggregate capital gain or aggregate capital loss of that person; and
- (b) the capital gain or the amount that would have constituted a capital gain must be taken into account as a capital gain when determining the aggregate capital gain or aggregate capital loss of the resident who made the donation, settlement or other disposition described in subparagraph (1).”.

(2) Subsection (1) comes into operation on 1 March 2019 and applies in respect of amounts vesting on or after that date.

**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, section 123 of Act 25 of 2015 and section 75 of Act 17 of 2017**

**87.** (1) The following paragraph is hereby substituted for paragraph 80 of the Eighth Schedule to the Income Tax Act, 1962:

**“Capital gain attributed to beneficiary**

**80.** (1) Subject to paragraphs 68, 69 [,] and 71 [and 72], where a [capital gain is determined in respect of the vesting by a trust of an asset in a trust beneficiary] trust vests an asset in a beneficiary of that trust (other than any person contemplated in paragraph 62(a) to (e) or a person who acquires that asset as an equity instrument as contemplated in section 8C(1)) who is a resident, [that gain] and determines a capital gain in respect of that disposal or, if that trust is not a resident, would have determined a capital gain in respect of that disposal had it been a resident—

- (a) that capital gain must be disregarded for the purpose of calculating the aggregate capital gain or aggregate capital loss of the trust; and
- (b) that capital gain or the amount that would have been determined as a capital gain must be taken into account as a capital gain for the purpose of calculating the aggregate capital gain or aggregate capital loss of the beneficiary to whom that asset was so disposed of.

(2) Subject to paragraphs 64E, 68, 69 and 71, where a trust determines a capital gain (or, if that trust is not a resident, would have determined a capital gain had it been a resident) in respect of the disposal of an asset **[by a trust]** in a year of assessment during which a **[trust]** beneficiary of that trust (other than any person contemplated in paragraph 62(a) to (e)) who is a resident has a vested right or acquires a vested right (including a right created by the exercise of a discretion) to an amount derived, directly or indirectly, from that capital gain or from the amount that would have been determined as a capital gain had that trust been a resident but not to the asset disposed of, **[the disposal of which gave rise to the capital gain,]** an amount that is equal to so much of **[the capital gain as is equal to]** the amount to which that **[trust]** beneficiary of that trust is entitled in terms of that right as consists of or is derived, directly or indirectly, from—

- (a) that capital gain must be disregarded for the purpose of calculating the aggregate capital gain or aggregate capital loss of the trust; and
- (b) that capital gain or the amount that would have been determined as a capital gain must be taken into account as a capital gain for the purpose of calculating the aggregate capital gain or aggregate capital loss of **[the]** that beneficiary **[who is entitled to that amount]**.

(3) Where during any year of assessment any resident acquires a vested right to any amount representing capital of any trust which is not a resident, and—

- (a) that capital **[arose]** consists of or is derived, directly or indirectly, from an amount—
  - (i) determined as a capital gain of that trust; or
  - (ii) **[any amount]** which would have **[constituted]** been determined as a capital gain of that trust had that trust been a resident,

**[determined]** in any previous year of assessment during which that resident had a contingent right to that capital; and

- (b) that capital gain or the amount that would have been determined as a capital gain has not been subject to tax in the Republic in terms of the provisions of this Act,

that amount must be taken into account as a capital gain when determining the aggregate capital gain or aggregate capital loss of that resident in respect of the year of assessment in which that resident acquired that vested right.

(4) In determining, for purposes of subparagraph (1), (2) or (3), whether an amount would have constituted a capital gain had the trust been a resident, the provisions of paragraph 64B(1) and (4) must be disregarded in respect of an amount derived by that trust, directly or indirectly, from the disposal of an equity share in a foreign company if—

- (a) more than 50 per cent of the total participation rights, as defined in section 9D(1), or of the voting rights in that company are directly or indirectly held or are exercisable, as the case may be, by that trust whether alone or together with any one or more persons that are connected persons in relation to that trust; and
- (b) to the extent to which that amount is not derived from an amount that must be included in the income of or attributed to—
  - (i) the resident to whom an amount is attributed in terms of subparagraph (1), (2) or (3); or
  - (ii) a resident who is a connected person in relation to the resident referred to in sub-item (i).”

(2) Subsection (1) comes into operation on 1 March 2019 and applies in respect of disposals on or after that date.

#### Continuation of certain amendments of Schedules to Act 91 of 1964

**88.** 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 2017 up to and including 30 September 2018, 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, section 83 of Act 15 of 2016 and section 77 of 17 of 2017

89. Section 1 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution in subsection (1) for the definition of “inbound insurance policy” 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] into the Republic or between two places in [South Africa] the Republic as part of an international journey;”;
- (b) by the substitution in subsection (1) for the definition of “international journey” of the following definition:
- “**international journey**” means a journey commencing from the ‘point of departure’ in [South Africa] the Republic to a destination outside [South Africa] the Republic (and *vice versa*), including (where applicable) stopovers en route to the destination, time spent in the destination country and the return journey”; and
- (c) by the substitution in subsection (1) for the definition of “outbound insurance policy” of the following definition:
- “**outbound insurance policy**” means a travel policy which provides insurance cover in respect of a passenger transported from [South Africa] the Republic to a destination in an export country or from a place outside [South Africa] the Republic to another destination outside [South Africa] the Republic as part of an international journey;”.

Amendment of section 2 of Act 89 of 1991, as amended by section 22 of Act 136 of 1991, paragraph 2 of Government Notice 2695 of 8 November 1991, section 13 of Act 136 of 1992, section 10 of Act 20 of 1994, section 19 of Act 37 of 1996, section 24 of Act 27 of 1997, section 87 of Act 30 of 1998, section 82 of Act 53 of 1999, section 149 of Act 60 of 2001, section 115 of Act 74 of 2002, section 44 of Act 16 of 2004, section 93 of Act 32 of 2004, section 41 of Act 9 of 2006 and section 130 of Act 24 of 2011

90. (1) Section 2 of the Value-Added Tax Act, 1991, is hereby amended—

- (a) by the substitution in subsection (1) at the end of paragraph (n) for the colon of a semi-colon and by the addition of the following paragraph:
- “(o) the issue, acquisition, collection, buying or selling or transfer of ownership of any cryptocurrency;”;
- (b) by the substitution in subsection (1) for the proviso of the following proviso:
- “: Provided that the activities contemplated in paragraphs (a), (b), (c), (d) [and], (f) and (o) shall not be deemed to be financial services to the extent that the consideration payable in respect thereof is any fee, commission, merchant’s discount or similar charge, excluding any discount cost.”.

(2) Subsection (1) comes into operation on 1 April 2019.

Amendment of section 22 of Act 89 of 1991, as amended by section 33 of Act 136 of 1991, paragraph 13 of Government Notice 2695 of 8 November 1991, section 27 of Act 136 of 1992, section 25 of Act 37 of 1996, section 36 of Act 27 of 1997, section 95

**of Act 30 of 1998, section 177 of Act 45 of 2003, section 110 of Act 31 of 2005, section 86 of Act 20 of 2006, section 140 of Act 24 of 2011 and section 177 of Act 31 of 2013**

**91.** (1) Section 22 of the Value-Added Tax Act, 1991, is hereby amended by the addition after subsection (6) of the following subsection:

“(7) For purposes of this section, **‘face value means’** the amount of the account receivable at the time of transfer less the amount written off by the seller, after adjustments have been made for debit and credit notes and amounts already written off as irrecoverable by the vendor.”

(2) Subsection (1) comes into operation on 1 April 2019.

**Special exemption in respect of goods or services supplied by International Telecommunication Union**

**92.** (1) The supply of any goods or services by the International Telecommunication Union in connection with “Telecom World 2018 exhibition” shall be exempt from value-added tax imposed in terms of section 7(1)(a) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).

(2) Subsection (1) is deemed to have come into operation on 1 September 2018.

**Amendment of section 8 of Act 15 of 2007**

**93.** Section 8 of the Diamond Export Levy Act, 2007, is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) the sum of the producer’s total gross sales described in section 11(1)(b) during those assessment periods described in paragraph (a) do not exceed **[R3 billion]** USD 295 million.”

**Amendment of section 9 of Act 15 of 2007**

**94.** Section 9 of the Diamond Export Levy Act, 2007, is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) the sum of a producer’s total gross sales described in section 11(1)(b) during the assessment period and the immediately preceding assessment period do not exceed **[R20 million]** USD 2.2 million.”

**Amendment of section 6 of Act 28 of 2008, as amended by section 99 of Act 17 of 2009 and section 133 of Act 7 of 2010**

**95.** (1) Section 6 of the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended—

(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph—

“(c) as mentioned in paragraph **[(b) or]** (c) of the definition of ‘transfer’ in section 1 is the amount that would have been received or accrued during the year of assessment in respect of the transfer of that mineral resource had that mineral resource been transferred in the condition specified in Schedule 1 for that mineral resource in terms of a transaction entered into at arm’s length.”;

(b) by the substitution in subsection (2) for paragraph (c) of the following paragraph:

“(c) as mentioned in paragraph **[(b) or]** (c) of the definition of ‘transfer’ in section 1 is the amount that would have been received or accrued during the year of assessment in respect of the transfer of that mineral resource had that mineral resource been transferred in the condition specified in Schedule 2 for that mineral resource in terms of a transaction entered into at arm’s length.”; and

(c) by the substitution in subsection (3) for paragraphs (a) and (b) of the following paragraphs:

“(a) For purposes of subsection (1), gross sales is determined **[without regard to]** after deducting any expenditure actually incurred in respect of, insurance and handling of a refined mineral resource after that

mineral resource was refined to the condition specified in Schedule 1 for that mineral resource or any amount received or accrued to effect the disposal of that mineral resource.

(b) For purposes of subsection (2), gross sales is determined [**without regard to**] after deducting any expenditure actually incurred in respect of transport, insurance and handling of an unrefined mineral resource after that mineral resource was brought to the condition specified in Schedule 2 for that mineral resource or any expenditure actually incurred in respect of transport, insurance and handling to effect the disposal of that mineral resource.”.

(2) Subsection (1) comes into operation on 1 January 2019.

**Amendment of section 6A of Act 28 of 2008, as inserted by section 134 of Act 7 of 2010 and substituted by section 185 of Act 31 of 2013**

**96.** Section 6A of the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended—

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

“(b) is transferred [**at**] in a condition beyond the condition specified in Schedule 2 for that mineral resource, the mineral resource must be treated as having been transferred [**at**] in the higher of the condition specified for that mineral resource or the condition in which that mineral resource was extracted.”;

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

“(a) [**at**] in a condition below the minimum of the range of conditions specified in Schedule 2 for that mineral resource, the mineral resource must be treated as having been brought to the minimum of the range of conditions specified for that mineral resource;”;

(c) by the substitution in subsection (1A) for paragraph (c) of the following paragraph:

“(c) [**at**] in a condition above the maximum range of conditions specified in Schedule 2, the mineral resource must be treated as having been transferred at the maximum of the range of conditions specified for that mineral resource.”.

**Substitution of section 8 of Act 28 of 2008**

**97.** The following section is hereby substituted for section 8 of the Mineral and Petroleum Resources Royalty Act, 2008:

**“Exemption for sampling**

**8.** An extractor is exempt from the royalty imposed in respect of mineral resources won or recovered by the extractor for purposes of testing, identification, analysis and sampling mentioned in section 20 of the Mineral and Petroleum Resources Development Act pursuant to a prospecting right or an exploration right as defined in section 1 of that Act if the gross sales in respect of those mineral resources [**does**] do not exceed R100 000 during a year of assessment.”.

**Amendment of section 13 of Act 31 of 2013, as amended by section 144 of Act 25 of 2015, section 98 of Act 15 of 2016 and section 93 of Act 17 of 2017**

**98.** (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 2020 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, as amended by section 145 of Act 25 of 2015, section 99 of Act 15 of 2016 and section 94 of Act 17 of 2017**

99. (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 2020 and applies in respect of amounts incurred on or after that date.” 5

(2) Subsection (1) is deemed to have come into operation on 12 December 2013.

**Amendment of section 62 of Act 31 of 2013**

100. (1) Section 62 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection: 10

“(2) Subsection (1) comes into operation on 1 January 2020 and applies in respect of amounts of interest incurred on or after that date.”

(2) Subsection (1) is deemed to have come into operation on 12 December 2013.

**Amendment of section 1 of Act 26 of 2013, as amended by section 112 of Act 43 of 2014 and section 93 of Act 15 of 2016** 15

101. (1) Section 1 of the Employment Tax Incentive Act, 2013, is hereby amended by the substitution in section 1 for paragraph (a) of the definition of “employee” of the following definition:

“(a) who works [directly] for another person; and”

(2) Subsection (1) is deemed to have come into operation on 26 July 2018. 20

**Substitution of section 12 of Act 26 of 2013**

102. The following section is hereby substituted for section 12 of the Employment Tax Incentive Act, 2013:

**“Cessation of employment tax incentive**

12. An employer may not receive the employment tax incentive after 25  
[28 February 2019] 29 February 2029.”

**Amendment of section 3 of Act 25 of 2015**

103. (1) Section 3 of the Taxation Laws Amendment Act, 2015, is hereby amended—  
(a) by the substitution in subsection (1) for paragraph (f) of the following paragraph: 30

“(f) by the substitution in subsection (1) in the definition of ‘connected person’ in paragraph (d)(vi) for item (bb) of the following item:  
‘[(vi)] (bb) any relative of such member or any trust (other than a portfolio of a collective investment scheme [in securities or a portfolio of a collective investment scheme in property]) which is a connected person in relation to such member; and’;” 35

(b) by the deletion in subsection (1) of paragraph (i); and

(c) by the deletion of subsection (5).

(2) Subsection (1) is deemed to have come into operation on 8 January 2016. 40

**Amendment of section 13 of Act 25 of 2015**

104. (1) Section 13 of the Taxation Laws Amendment Act, 2015, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) [comes] is deemed to have come into operation on [the date on which the Insurance Act, 2016, comes into operation] 1 July 2018.” 45

(2) Subsection (1) is deemed to have come into operation on 8 January 2016.

### Amendment of section 16 of Act 25 of 2015

**105.** (1) Section 16 of the Taxation Laws Amendment Act, 2015, is hereby amended by the substitution in the Afrikaans text in subsection (1) for paragraph (f) of the following paragraph:

“(f) deur in subartikel (1) in paragraaf (k) in paragraaf (hh) van die voorbehoudsbepaling subparagraaf (B) deur die volgende subparagraaf te vervang:

‘(B) die bedrag van daardie uitgawes of vermindering [**bepaal word**] direk of indirek met verwysing na die dividend ten opsigte van ‘n identiese aandeel [van dieselfde soort en van dieselfde of gelykstaande kwaliteit] as daardie aandeel bepaal word.’;”.

(2) Subsection (1) is deemed to have come into operation on 8 January 2016.

### Amendment of section 18 of Act 25 of 2015

**106.** Section 18 of the Taxation Laws Amendment Act, 2015, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) by the substitution in paragraph (e) for the words preceding the proviso of the following words:

‘save as provided in paragraph 12(2) of the First Schedule, such sum as **[the Commissioner may think just and reasonable as representing]** represents the amount by which the value of any machinery, plant, implements, utensils and articles (other than machinery, plant, implements, utensils and articles in respect of which a deduction may be granted under section 12B, 12C, 12DA, 12E(1), 12U or 37B) owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement contemplated in paragraph (a) of the definition of ‘instalment credit agreement’ in section 1 of the Value-Added Tax Act and used by the taxpayer for the purpose of his or her trade has been diminished by reason of wear and tear or depreciation during the year of assessment, which amount must be determined on the basis of the periods of use listed for this purpose in a public notice issued by the Commissioner, or a shorter period of use approved by the Commissioner on application in the prescribed form and manner by the taxpayer.’;”.

### Amendment of section 52 of Act 25 of 2015

**107.** (1) Section 52 of the Taxation Laws Amendment Act, 2015, is hereby amended—

(a) by the deletion in subsection (1) of paragraph (a), (b) and (c) respectively; and  
(b) by the substitution for subsections (2) and (3) of the following subsections respectively:

“(2) Paragraphs (a), (b) and (c) of subsection (1) come into operation on the date on which an insurer qualifies as a micro-insurer as defined in the Insurance Act[, **2016,**] in terms of that Act and apply to years of assessment ending on or after that date.

(3) Paragraphs (d) and (e) of subsection (1) [**comes**] are deemed to have come into operation on [the date on which the Insurance Act, 2016, comes into operation] 1 July 2018 and apply to years of assessment ending on or after that date.”.

(2) Subsection (1) is deemed to have come into operation on 8 January 2016.

### Amendment of section 53 of Act 25 of 2015

**108.** (1) Section 53 of the Taxation Laws Amendment Act, 2015, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Paragraphs (a) and (c) of subsection (1) [**comes**] are deemed to have come into operation on [the date on which the Insurance Act, 2016, comes into operation] 1 July 2018 and apply in respect of years of assessment ending on or after that date.”.

(2) Subsection (1) is deemed to have come into operation on 8 January 2016.

**Repeal of section 78 of Act 25 of 2015**

- 109.** (1) Section 78 of the Taxation Laws Amendment Act, 2015, is hereby repealed.  
 (2) Subsection (1) is deemed to have come into operation on 8 January 2016.

**Amendment of section 1 of Act 2 of 2016, as amended by section 97 of Act 17 of 2017**

- 110.** (1) Section 1 of the Revenue Laws Amendment Act, 2016 is hereby amended— 5  
 (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) in the definition of ‘pension fund’  
 of the following proviso:  
 ‘: Provided that in respect of any fund contemplated in 10  
 paragraph (a) or (b)—  
 (a) the fund is a permanent fund *bona fide* established for the  
 purpose of providing annuities for employees on retire- 15  
 ment 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 20  
 (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; 25  
 (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 or  
 her employment on or after the date upon which— 30  
 (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 determin- 40  
 ing 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 2021— 45  
 (A) any amount contributed to a provident  
 fund of which that person is a member  
 on 1 March 2021;  
 (B) with addition of any other amounts  
 credited to the member’s individual 50  
 account of the provident fund prior to 1  
 March 2021; and  
 (iii) any fund return, as defined in the  
 Pension Funds Act, in relation to the  
 contributions contemplated in subitem 55  
 (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 60



- fund prior to 1 March 2021;
- (B) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2021; 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;
- (c) that a partner is regarded as an employee of the partnership;
- (d) 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 2021—
- (i) any amount contributed to a provident fund of which that person is a member on 1 March 2021;
- (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2021; 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 2021;
- (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2021; 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

- class or classes specified therein who enter his or her 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 2021—
    - (A) any amount contributed to a provident fund of which that person is a member on 1 March 2021;
    - (B) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2021; 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 2021;
    - (B) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2021; 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;
- (v) that a partner is regarded as an employee of the partnership;
- (vi) that the rules of the fund have been complied with;
- (d) by the substitution in subsection (1) in the definition of 'provident preservation fund' for paragraph (e) 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 2021—
- (i) any amount contributed to a provident fund of which that person is a member on 1 March 2021;
  - (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2021; 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 2021;
  - (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2021; 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 the definition of 'retirement annuity fund' in paragraph (b) of the proviso 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 2021—
- (i) any amount contributed to a provident fund of which that person is a member on 1 March 2021;
  - (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2021; 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 2021;
  - (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2021; 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 2021 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 2020, in respect of the results of the deliberations contemplated in paragraph (a).”.
- (2) Subsection (1) is deemed to have come into operation on 20 May 2016.

#### **Amendment of section 3 of Act 2 of 2016, as amended by section 98 of Act 17 of 2017**

- 111.** (1) 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 2021 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 29 of Act 15 of 2016**

- 112.** (1) Section 29 of the Taxation Laws Amendment Act, 2016, is hereby amended by the substitution for subsection (2) of the following subsection:  
“(2) Subsection (1) [comes] is deemed to have come into operation on [the date on which the Insurance Act, 2016, comes into operation] 1 July 2018 and applies in respect of years of assessment ending on or after that date.”.
- (2) Subsection (1) is deemed to have come into operation on 19 January 2017.

#### **Amendment of section 50 of Act 15 of 2016**

- 113.** (1) Section 50 of the Taxation Laws Amendment Act, 2016, is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (h) of the following paragraph:  
“(h) by the addition of the following subsections:  
“(14) The amount referred to in the definition of adjusted IFRS value in respect of the phasing-in amount is in respect of—  
(a) the first year of assessment ending on or after 1 July 2018, which will be 83.3 per cent of the phasing-in amount;  
(b) the second year of assessment ending on or after 1 July 2018, which will be 66.7 per cent of the phasing-in amount;  
(c) the third year of assessment ending on or after 1 July 2018, which will be 50 per cent of the phasing-in amount;  
(d) the fourth year of assessment ending on or after 1 July 2018, which will be 33.3 per cent of the phasing-in amount; and  
(e) the fifth year of assessment ending on or after 1 July 2018, which will be 16.7 per cent of the phasing-in amount.  
(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 (adjusted to the manner of disclosure of policy liabilities and assets in the audited annual financial statements for the 2015 year), exceeds the amount of negative liabilities that has been recognised in determining the value of liabilities (adjusted to the manner of disclosure of policy liabilities for tax purposes for the 2015 year of assessment) relating to policies allocated to that fund in respect of the year of assessment of the insurer ending during 2016, 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 of disclosure of policy liabilities for tax purposes for the 2015 year 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 2016, reduced by negative liabilities recognised as an asset (adjusted to the manner of disclosure of policy liabilities and assets in the audited annual financial statements for the 2015 year), the amount of that excess.

(16) For purposes of this section, other than for the purposes of subsection (15), ‘asset’ excludes—

- (a) negative liabilities;  
 (b) policies of reinsurance;  
 (c) a deferred tax asset; or  
 (d) goodwill,  
 recognised as an asset in accordance with IFRS as annually reported by the insurer to shareholders in the audited financial statements’.”. and

- (b) by the substitution for subsection (2) of the following subsection:

“(2) Paragraphs (a) and (h) of subsection (1) [come] are deemed to have come into operation on [the date on which the Insurance Act, 2016, comes into operation] 1 July 2018 and apply in respect of years of assessment ending on or after that date.”.

- (2) Subsection (1) is deemed to have come into operation on 19 January 2017.

#### **Amendment of section 46 of Act 17 of 2017**

**114.** (1) Section 46 of the Taxation Laws Amendment Act, 2017, is hereby amended—

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

“(2) Paragraphs (a), (b), (e) and (f) of subsection (1) [come] are deemed to have come into operation on [the date on which the Insurance Act, 2016, comes into operation] 1 July 2018 and apply in respect of years of assessment ending on or after that date.”; and

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

“(3) Paragraph (c) of subsection (1) [comes] is deemed to have come into operation on 1 January [2018] 2016 and applies in respect of years of assessment commencing on or after that date.”.

- (2) Subsection (1) is deemed to have come into operation on 18 December 2017.

#### **Amendment of section 105 of Act 17 of 2017**

**115.** (1) Section 105 of the Taxation Laws Amendment Act, 2017, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The exemption contemplated in section [96] 101 and the bargaining council levy contemplated in section [101] 103 do not apply in respect of any amount to the extent that tax in respect of that amount was—”.

(2) Subsection (1) is deemed to have come into operation on 18 December 2017.

**Short title**

**116.** This Act is called the Taxation Laws Amendment Act, 2018.



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