

DRAFT
REPUBLIC OF SOUTH AFRICA

**REVENUE LAWS
AMENDMENT BILL**

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

(MINISTER of FINANCE)

9 JUNE 2023

[Bxx—2023]

GENERAL EXPLANATORY NOTE:

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

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Income Tax Act, 1962, so as to amend certain definitions; to amend certain provisions; and to provide for matters connected therewith.

BE 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, section 2 of Act 17 of 2017, section 1 of Act 23 of 2018, section 34 of Act 34 of 2019, section 2 of Act 23 of 2020, section 4 of Act 20 of 2021 and section 1 of Act 20 of 2022

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

(a) by the insertion after the definition of “**JSE Limited Listings Requirement**” of the following definitions:

“**legacy retirement annuity funds**” means any policy that was entered into before 1 January 2022, is held with a retirement annuity fund and the terms of the policy provide that:

(a) a member of the policy must purchase the sum insured and share investment returns at portfolio level through reversionary bonuses, with no concept of a fund value; and

(b) on termination of the policy, the member will be subject to early termination charges and claw back provisions;

Provided that the following provisions: definition of “member’s interest in the retirement component”; definition of “member’s interest in the savings component”; definition of “members interest in the vested component”; definition of “savings component”; definition of “savings withdrawal benefit”; paragraph (eD) of the definition of “gross income”; paragraph (i) of the proviso to the definition of “pension fund”; subparagraph (dd) of paragraph (ii) of the proviso to the definition of “pension fund”; further proviso to the definition of “pension fund”; subparagraph (i)(aa) of paragraph (a) of the proviso to the definition of “pension preservation fund”; subparagraph (ii)(bb) of paragraph (a) of the proviso to the definition of “pension preservation fund”; subparagraph (v) of paragraph (a) of the proviso to the definition of “pension preservation fund”; paragraph (b) of the definition of “pension preservation fund”; subparagraph (i) of paragraph (c) of the definition of “pension preservation fund”; subparagraph (ii) of paragraph (c) of the definition of “pension preservation fund”; subparagraph (iii) of paragraph (c) of the definition of “pension preservation fund”; paragraph (e) of the definition of “pension preservation fund”; further proviso to the definition of “pension preservation fund”; definition of “retirement component”; paragraph (i) of the proviso to the definition of “provident fund”; subparagraph (dd) of paragraph (ii) of the proviso to the definition of “provident fund”; further proviso to the definition of “provident fund”;

subparagraph (i)(aa) of paragraph (a) of the definition of “provident preservation fund”; subparagraph (v) of paragraph (a) of the definition of “provident preservation fund”; paragraph (b) of the definition of “provident preservation fund”; subparagraph (i) of paragraph (c) of the definition of “provident preservation fund”; subparagraph (ii) of paragraph (c) of the definition “provident preservation fund”; subparagraph (iii) of paragraph (c) of the definition of “provident preservation fund”; paragraph (e) of the definition of “provident preservation fund”; further proviso to the definition of “provident preservation fund” paragraph (a) of the proviso to the definition of “retirement annuity fund”; subparagraph (i) of paragraph (b) of the proviso to the definition of “retirement annuity fund”; subparagraph (x)(dd) of paragraph (b) of the proviso to the definition of “retirement annuity fund”; further proviso to the definition of “retirement annuity fund”; definition of “retirement interest”; definition of “total retirement contribution”; definition of “vested component”; paragraph (f) of the definition of “qualifying annuity” in section 10C(1); item (d) of paragraph 2(1) of the Second Schedule; paragraph 6B of the Second Schedule, reference to paragraph (eD) of the definition of “gross income” contained in paragraph (a) of the definition of “remuneration” in paragraph 1 of the Fourth Schedule do not apply to this policy, if the policy contains the following features:

- (a) it is a pre-universal life policy or a conventional policy with or without profits;
- (b) it is a universal life policy with life or lump sum disability cover; or
- (c) the term “reversionary bonus” or “universal life policy” in the legacy policy is defined in accordance with the Insurance Act”.

(b) by the insertion after the definition of “**Medical Schemes Act**” of the following definitions:

““**member’s interest in the retirement component**” includes:

- (a) any amount allocated to the retirement component as contemplated in the definition of “retirement component”;

(b) any amount credited to the retirement component on or after 1 March 2024; and

(c) any fund return as defined in section 1 of the Pension Funds Act in relation to amounts contemplated in paragraphs (a) and (b); determined in terms of the rules of the fund and reduced proportionally with respect to member's interest in the retirement component, by an amount permitted to be deducted from the retirement component on or after 1 March 2024 in terms of section 37D of the Pension Funds Act and is deemed to be a lump sum benefit contemplated in paragraph 2(1)(b) of the Second Schedule".

“member's interest in the savings component” includes:

(a) any amount allocated to the savings component as contemplated in the definition of “savings component”;

(b) any amount credited to the savings component on or after 1 March 2024; and

(c) any fund return as defined in section 1 of the Pension Funds Act in relation to amounts contemplated in paragraphs (a) and (b); determined in terms of the rules of the fund;”;

“member's interest in the vested component” includes:

(a) the value of the member's interest in the fund that exists immediately prior to 1 March 2024;

(b) any amount credited to the member's vested component on or after 1 March 2024; and

(c) any fund return as defined in section 1 of the Pension Funds Act in relation to amounts contemplated in paragraphs (a) and (b); determined in terms of the rules of the fund and reduced proportionally with respect to member's interest in the vested component, by an amount permitted to be deducted from the vested component on or after 1 March 2024 in terms of section 37D of the Pension Funds Act and is deemed to be a lump sum benefit contemplated in paragraph 2(1)(b) of the Second Schedule”.

(c) by the insertion after the definition of “return of capital” of the following definitions:

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

- (a) an amount of 10 percent of the total value of the vested component as at 29 February 2024, as contemplated in paragraph (a) of the definition of “vested component”, limited to R25 000, is allocated to this component on or after 1 March 2024;
- (b) one-third of the total retirement contributions to a pension fund, provident fund or retirement annuity fund by that member on or after 1 March 2024 is allocated to this component: Provided that in determining the value of the contributions to this component an amount of charges and risk premiums deductible against such contributions must not be taken into account: Provided further that in the case of funds with a defined benefit funding structure, the total value attributed to this component on or after 1 March 2024 is to be determined with reference to one-third of the member’s “pensionable service” as contemplated in the rules of that fund on or after 1 March 2024,
- (c) payments or transfers from a similar component to a pension preservation fund or provident preservation fund by that member on or after 1 March 2024 is allocated to this component;
- (d) any amounts transferred from a similar component of any other pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund on or after 1 March 2024 is allocated to this component if the member’s total interest in that fund is transferred in terms of the rules of the fund;
- (e) the member may elect to allocate the value of the member’s interest in this component into the member’s retirement component in that fund;
- (f) the member’s interest in this component or portion thereof may be paid in the form of a savings withdrawal benefit; and

(g) on the death of the member or former member, or on retirement of the member, the member's interest in this component may be:

(i) paid to a nominee or dependant of the member or former member or to the retired member and is deemed to be a lump sum benefit contemplated in paragraph 2(1)(a) of the Second Schedule and in the absence of a nominee or dependant, to the deceased's estate as a lump sum benefit contemplated in paragraph 2(1)(a) of the Second Schedule; or

(ii) allocated to the retirement component of that fund and paid to a nominee or dependant of the member or former member or to the retired member in the manner as contemplated in paragraph (e) of the definition of "retirement component";

“**savings withdrawal benefit**” means a portion of the member's share of the value in a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund that the member has elected to withdraw from the portion of his or her share allocated to the savings component provided by that fund before termination of membership of the fund: Provided that:

(a) the member's right is limited to one withdrawal during a year of assessment;

(b) where a member has multiple contracts in the same fund, one withdrawal during a year of assessment may be made from each of the contracts; and

(c) the value of each withdrawal, before taking into account any charges or transaction costs, may not be less than R2000: Provided that where a member resigns from employment within any year of assessment and such member has made a withdrawal as contemplated in paragraphs (a) or (b) and the value of the member's interest in the savings component is less than R2000, such member may be allowed a second withdrawal of the total balance in the savings component;”;

(d) by the addition after paragraph (eC) of the definition of “gross income” of the following paragraph:

“(eD) a “savings withdrawal benefit” other than any amount included under paragraph (a), (e) or (eA);”;

(e) by the substitution in paragraph (i) of the proviso to the definition of “pension fund” of the following paragraph:

“(i) that the fund is a permanent fund *bona fide* established for the purpose of providing annuities on retirement date or for the dependants or nominees of deceased employees, or mainly for the said purpose and also for the purpose of providing benefits other than annuities for the persons aforesaid or for the purpose of providing any benefit contemplated in “savings withdrawal benefit” in section 1, paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and”

(f) by the substitution in paragraph (ii) of the proviso to the definition of “pension fund” for subparagraph (dd) of the following subparagraph:

“(dd) that not more than one-third of the **[total value of the]** portion of the retirement interest that exists in that member’s vested component immediately prior to 1 March 2024 may be commuted for a single payment and that the remainder, calculated together with the member’s interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the member’s interest in the vested component [total value] calculated together with the member’s interest in the retirement component, does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund;”;

(g) by the addition to the definition of “pension fund” of the following further proviso:

“Provided further that the Commissioner may approve or recognise a fund contemplated in—

(i) paragraph (a), (b) (c) or (d) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide—

(aa) for the creation of the “savings component”, “retirement component” and “vested component ” as defined in section 1;

(bb) that a member may, prior to his or her retirement date, elect to receive the payment of—

(A) an amount from the retirement component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—

(AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(BB) departed from the Republic at the expiry of a visa obtained for the purposes of

(AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act;

(CC) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South

African Reserve Bank for purposes of exchange control in respect of application for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; or

(B) an amount from the vested component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—

(AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(BB) departed from the Republic at the expiry of a visa obtained for the purposes of

(AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act;

(CC) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of application for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised

dealer in foreign exchange for the delivery of currency on or before 28 February 2022; or

- (ii) paragraph (a), (b) or (d) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide that not more than one-third of the member's interest in the vested component immediately prior to 1 March 2024 may be commuted for a single payment and that the remainder, calculated together with the member's interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the member's interest in the vested component calculated together with the member's interest in the retirement component, does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident fund or retirement annuity fund;";

(h) by the substitution in paragraph (a) of the proviso of the definition of "pension preservation fund" for subparagraph (i)(aa) of the following subparagraph:

"(aa) resignation, retrenchment or dismissal from employment and who elected to have any lump sum benefit that is payable as a result of the termination transferred to that fund including lump sums transferred from the member's savings component and retirement component in the previous fund to the member's savings component and retirement component in this fund ;"

(i) by the substitution in paragraph (a) of the proviso of the definition of "pension preservation fund" for subparagraph (ii)(bb) of the following subparagraph:

"(bb) if the member elected to have any lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule transferred to this pension preservation fund and who have made this election while they were members of that other fund including lump sums transferred from

the member's savings component and retirement component in the previous fund to the member's savings component and retirement component in this fund;";

(j) by the substitution in paragraph (a) of the proviso of the definition of "pension preservation fund" for subparagraph (v) of the following subparagraph:

"(v) former members of a pension fund, pension preservation fund, provident fund or provident preservation fund who have elected to have a lump sum benefit contemplated in paragraph 2(1)(c) of the Second Schedule transferred to this pension preservation fund and who have made this election while they were members of that other fund including lump sums transferred from the member's savings component and retirement component in the previous fund to the member's savings component and retirement component in this fund;";

(k) by the substitution in paragraph (b) of the definition of "pension preservation fund" of the following paragraph:

"(b) payments or transfers to the fund in respect of a member are limited to any amount allocated to the savings component or retirement component or contemplated in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act that is paid or transferred to the fund by—";

(l) by the substitution in paragraph (c) of the definition of "pension preservation fund" for subparagraph (i) of the following subparagraph:

"(i) this paragraph applies separately to each payment or transfer to the **[fund contemplated in paragraph (b)]** vested component or in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act that is paid or transferred to the fund—";

(m) by the substitution in paragraph (c) of the proviso to the definition of "pension preservation fund" for subparagraph (ii) of the following subparagraph:

“(ii) a member shall, prior to his or her retirement date, be entitled to the payment of—

(aa) a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where a member—

(A) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes on exchange control in respect of applications for that recognition received or on before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of the currency on or before 28 February 2022; or

(B) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(C) departed from the Republic at the expiry of a visa obtained for the purposes of

(AA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; and

(bb) an amount from the retirement component and vested component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—

(A) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(B) departed from the Republic at the expiry of a visa obtained for the purposes of

(AA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002);

(BB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; or

(C) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of application for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; and

(n) by the substitution in paragraph (c) of the proviso to the definition of “pension preservation fund” for subparagraph (iii) of the following subparagraph:

“(iii) a member who has transferred a retirement interest in terms of paragraph 2(1)(c) of the Second Schedule to this fund shall not be entitled to payment of a withdrawal benefit as contemplated in paragraph 2(1)(b)(ii) of the Second Schedule in respect of that transferred amount, except to the extent that it is an amount contemplated in subparagraph (ii) or the savings component of that fund; and;”;

(o) by the substitution in paragraph (e) of the definition of “pension preservation fund” of the following paragraph:

“(e) not more than one-third of the portion of the [total value of the] retirement interest that exists in a vested component immediately prior to 1 March 2024 may be commuted for a single payment and that the remainder, calculated together with the member’s interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the member’s interest in the vested component, calculated together with the member’s interest in the

retirement component [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, provident preservation fund or a retirement annuity fund;”;

(p) by the addition to the definition of “pension preservation fund” of the following further proviso:

“Provided further that the Commissioner may approve a fund in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide for the creation of the “savings component”, “retirement component” and “vested component” as defined in section 1.”;

(q) by the insertion after the definition of “prescribed rate” of the following definition:

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

(a) two-thirds of the total retirement contributions to a pension fund, provident fund or retirement annuity fund by that member on or after 1 March 2024 is allocated to this component: Provided that in determining the value of the contributions to this component an amount of charges and risk premiums deductible against such contributions must not be taken into account. Provided further that in the case of funds with a defined benefit funding structure, the total value attributed to this component on or after 1 March 2024 is to be determined with reference to two-thirds of the member’s “pensionable service” as contemplated in the rules of that fund on or after 1 March 2024,

(b) payments or transfers from a similar component to a pension preservation fund or provident preservation fund by that member on or after 1 March 2024 is allocated to this component;

- (c) any amounts transferred from a similar component of any other pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund on or after 1 March 2024 is allocated to this component;
- (d) the total value of the member's interest in the retirement component must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where the member's interest in the retirement component calculated together with two-thirds of the member's interest in the vested component does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund: Provided that in determining the value of the member's interest in the retirement component calculated together with two thirds of the member's interest in the vested component an amount calculated as follows must not be taken into account—
- (i) in the case of a person who is or was a member of a provident fund or provident preservation fund and who is or was 55 years of age or older on 1 March 2021,
- (aa) two-thirds of the members contribution to the vested component in a provident fund or transfers to the vested component in a provident preservation fund on or after 1 March 2024;
- (bb) with the addition of any other amount credited to the member's individual account or minimum individual reserve of the vested component in provident fund or provident preservation fund on or after 1 March 2024;
and
- (cc) any fund return, as defined in the Pension Funds Act, in relation to the contribution or transfers contemplated in item (aa) or amounts credited contemplated in item (bb);

(e) the member may elect to transfer the value in this component into the member's retirement component of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund:

(r) by the substitution in paragraph (i) of the proviso to the definition of "provident fund" of the following paragraph:

"(i) that the fund is a permanent fund *bona fide* established solely for the purpose of providing benefits for employees on retirement date or solely for the purposes of providing **[benefits]** annuities for the dependants or nominees of deceased employees or deceased former employees or solely for a combination of such purposes or mainly for the said purpose and also for the purpose of providing benefits other than annuities for the persons aforesaid or for the purpose of providing any benefit contemplated in "savings withdrawal benefit" in section 1, paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and"

(s) by the substitution in paragraph (ii) of the proviso to the definition of "provident fund" for subparagraph (dd) of the following subparagraph:

"(dd) that not more than one-third of the portion of the **[total value of the]** retirement interest that exists in a vested component immediately prior to 1 March 2024 may be commuted for a single payment and that the remainder, calculated together with the member's interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the member's interest in the vested component calculated together with the member's interest in the retirement component **[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, provident preservation fund or a retirement annuity fund;";

(t) by the addition to the definition of “provident fund” of the following further proviso:

“Provided further that the Commissioner may approve or recognise a fund contemplated in—

(i) paragraph (a), (b) (c) or (d) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide—

(aa) for the creation of the “savings component”, “retirement component” and “vested component” as defined in section 1;

(bb) that a member shall, prior to his or her retirement date, be entitled to the payment of—

(A) an amount from the retirement component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—

(AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(BB) departed from the Republic at the expiry of a visa obtained for the purposes of

(AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act;

(ii) paragraph (a), (b) or (c) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide

that not more than one-third of the portion of the total value of the retirement interest that exists in a vested component immediately prior to 1 March 2024 may be commuted for a single payment and that the remainder, calculated together with the member's interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the member's interest in the vested component, calculated together with the member's interest in the retirement component does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident fund or retirement annuity fund;”;

(u) by the substitution in paragraph (a) of the definition of “provident preservation fund” for subparagraph (i)(aa) of the following subparagraph:

“(aa) resignation, retrenchment or dismissal from employment and who elected to have any lump sum benefit that is payable as a result of the termination transferred to that fund including lump sums transferred from the member's savings component and retirement component in the previous fund to the member's savings component and retirement component in this fund;

(v) by the substitution in paragraph (a) of the definition of “provident preservation fund” for subparagraph (ii)(bb) of the following subparagraph:

“(bb) if the member elected to have any lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule transferred to this pension preservation fund and who have made this election while they were members of that other fund including lump sums transferred from the member's savings component and retirement component in the previous fund to the member's savings component and retirement component in this fund;”;

(w) by the substitution in paragraph (a) of the definition of “provident preservation fund” for subparagraph (v) of the following subparagraph:

“(v) former members of a pension fund, pension preservation fund, provident fund or provident preservation fund who have elected to have a lump sum benefit contemplated in paragraph 2(1)(c) of the Second Schedule transferred to this pension preservation fund and who have made this election while they were members of that other fund including lump sums transferred from the member’s savings component and retirement component in the previous fund to the member’s savings component and retirement component in this fund;”;

(x) by the substitution in paragraph (b) of the definition of “provident preservation fund” of the following paragraph:

“(b) payments or transfers to the fund in respect of a member are limited to any amount allocated to the savings component or retirement component or contemplated in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act that is paid or transferred to the fund by—”;

(y) by the substitution in paragraph (c) of the definition of “provident preservation fund” for subparagraph (i) of the following subparagraph:

“(i) this paragraph applies separately to each payment or transfer to the **[fund contemplated in paragraph (b)]** vested component or contemplated in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any “unclaimed benefit” as defined in the Pension Funds Act that is paid or transferred to the fund—”;

(z) by the substitution in paragraph (c) of the definition of “provident preservation fund” for subparagraph (ii) of the following subparagraph:

“(ii) a member shall, prior to his or her retirement date, be entitled to the payment of—
(aa) a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where a member—

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

(aa) by the substitution in paragraph (c) of the definition of “provident preservation fund” for subparagraph (iii) of the following subparagraph:

“(iii) a member who has transferred a retirement interest in terms of paragraph 2(1)(c) of the Second Schedule to this fund shall not be entitled to payment of a withdrawal benefit as contemplated in paragraph 2(1)(b)(ii) of the Second Schedule in respect of that transferred amount, except to the extent that it is an amount contemplated in subparagraph (ii) or the savings component of that fund; and;”;

(bb) by the substitution in paragraph (e) of the definition of “provident preservation fund” of the following subparagraph:

“(e) not more than one-third of the portion of the [total value of the] retirement interest that exists in a vested component immediately prior to 1 March 2024 may be commuted for a single payment and that the remainder, calculated together with the member’s interest in the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the member’s interest in the vested component, calculated together with the member’s interest in the retirement component [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, provident preservation fund or a retirement annuity fund;”;

(cc) by the addition to the definition of “provident preservation fund” of the following further proviso:

“Provided further that the Commissioner may approve a fund in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide for the creation of the “savings component”, “retirement component” and “vested component” as defined in section 1;”;

(dd) by the substitution in paragraph (a) of the proviso to the definition of “retirement annuity fund” of the following paragraph:

“(a) that the fund is a permanent fund *bona fide* established for the sole purpose of providing life annuities for the members of the fund or annuities for the dependants or nominees of deceased members or for the purpose of providing any benefit contemplated in “savings withdrawal benefit” in section 1; and”

(ee) by the substitution in paragraph (b) of the proviso to the definition of “retirement annuity fund” for subparagraph (ii) of the following subparagraph:

“(ii) that not more than one-third of the total value of the member’s vested component that exists immediately prior to 1 March 2024 may be commuted for a single payment and that the remainder, calculated together with the total value of the member’s share standing to the credit of the retirement component, must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the vested component to a retirement annuity fund;”;

(ff) by the substitution in paragraph (b) of the proviso to the definition of “retirement annuity fund” for subparagraph (x)(dd) of the following subparagraph:

“(dd) the payment of—

(A) a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where that 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 on exchange control in respect of applications for that recognition received or on before 28 February 2021 and approved by the South African Reserve Bank or an

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

control in respect of applications for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; and

(C) an amount from the vested component, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—

(AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021;

or

(BB) departed from the Republic at the expiry of a visa obtained for the purposes of

(AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002);

(BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; or

(CC) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of applications for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022”

(gg) by the addition to the definition of “retirement annuity fund” of the following further proviso:

“Provided further that the Commissioner may approve a fund in respect of any year of assessment, if the Commissioner is satisfied that the rules

of the fund provide for the creation of the “savings component”, “retirement component” and “vested component” as defined in section 1.”;

(hh) by the substitution for the definition of “retirement interest” of the following definition:

“**retirement interest**’ means—

- (a) in relation to any year of assessment ending on 1 March 2024, 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; or
- (b) in relation to any year of assessment commencing on or after 1 March 2024, a member's share of the value of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as determined in terms of the rules of the fund comprising the member's interest in the savings component, member's interest in the retirement component and member's interest in the vested component; on the date on which he or she elects to retire or transfer to a pension preservation fund, provident preservation fund or retirement annuity fund as contemplated in paragraph 2(1)(c) of the Second Schedule or transfer to a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as contemplated in paragraph 2(1)(d) of the Second Schedule.”;

(ii) by the insertion after the definition of “this Act” of the following definition:

“**total retirement contribution**’ means any amount contributed to any pension fund, provident fund or retirement annuity fund in terms of the rules of that fund on or after 1 March 2024 by a person that is a member of that fund or any other person on behalf of that member, excluding any charges or premiums thereon.”; and

(jj) by the insertion after the definition of “Value-Added Tax Act” of the following definition:

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

- (a) the member’s interest in this component is subject to and must be paid in accordance with the rules of the fund that exist immediately prior to 1 March 2024;
- (b) no contributions may be made to this component on or after 1 March 2024, except in the case of a person who was a member of a provident fund and is still a member of the same provident fund and who was 55 years of age or older on 1 March 2021; Provided that where the above-mentioned member has elected to make contributions to this component on or after 1 March 2024, that member may not be allowed to make contributions to the savings component or the retirement component;
- (c) the member may, in accordance with the rules of the fund that exist immediately prior to 1 March 2024, elect to transfer the value of this component into the member’s vested component of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; and
- (d) the member may elect to transfer the value of this component into the member’s retirement component of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;

(2) Subsection (1) comes into operation on 1 March 2024 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 10C of Act 58 of 1962, as inserted by section 21 of Act 22 of 2012 and amended by section 26 of Act 31 of 2013, section 16 of Act 43 of 2014, section 118 of Act 17 of 2017, section 24 of Act 23 of 2018 and section 14 of Act 34 of 2019 and section 12 of Act 23 of 2020

2. (1) Section 10C of the Income Tax Act, 1962, is hereby amended by the addition in subsection (1) of the definition of “qualifying annuity” after paragraph (e) of the following paragraphs:

“(f) as contemplated in paragraph (ii) of the further proviso to the definition of ‘pension fund’ in section 1(1);

(g) as contemplated in paragraph (d) of the definition of ‘retirement component’ in section 1(1); or

(h) as contemplated in paragraph (ii) of the further proviso to the definition of ‘provident fund’ in section 1(1).”.

(2) Subsection (1) comes into operation on 1 March 2024 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 2 of Second Schedule to Act 58 of 1962, as substituted by section 57 of Act 17 of 2009 and amended by section 80 of Act 7 of 2010, section 92 of Act 22 of 2012, section 62 of Act 17 of 2017 and section 48 of Act 34 of 2019

3. (1) Paragraph 2 (1) of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the addition after item (c) of the following item:

“(d) any amount transferred for the benefit of that person within the same fund as contemplated in paragraphs 6B(a) or 6B(b) and any amount transferred on termination of membership in that fund to another fund for the benefit of that person as contemplated in paragraphs 6B(c), 6B(d), or 6B(e), less any deductions permitted under the provisions of paragraph 6B.”.

(2) Subsection (1) comes into operation on 1 March 2024 and applies in respect of years of assessment commencing on or after that date.

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

4. (1) The following paragraph is hereby added to the Second Schedule to the Income Tax Act, 1962:

“TRANSFER BETWEEN THE COMPONENTS OF THE RETIREMENT SYSTEM: DEDUCTIONS

“6B. The deduction to be allowed from an amount contemplated in paragraph 2(1)(d) is equal to so much of that amount as is transferred for the benefit of a person from the —

- (a) savings component into the member’s retirement component in that same fund;
- (b) vested component into the member’s retirement component in that same fund;
- (c) from the savings component in that fund into the member’s savings component or member’s retirement component in another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;
- (d) from the vested component in that fund into the member’s vested component or member’s retirement component in another in another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; and
- (e) retirement component into the member’s retirement component of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund.

Provided that any transfers contemplated under items (c), (d), or (e), are only permissible on termination of membership in the transferor fund. Provided further that any transfers contemplated under items (c), (d), or (e), are only permissible if all the remaining components are transferred into the same transferee fund.

(2) Subsection (1) comes into operation on 1 March 2024 and applies in respect of years of assessment commencing on or after that date.

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

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

“(a) any amount referred to in paragraph (a), (c), (cA), (cB), (d), (e), (eA), (eD) or (f) of the definition of ‘gross income’ in section 1 of this Act;” and

(2) Subsection (1) comes into operation on 1 March 2024 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 9 of Fourth Schedule to Act 58 of 1962, as amended by section 39 of Act 88 of 1971, section 32 of Act 103 of 1976, section 29 of Act 104 of 1980, section 46 of Act 101 of 1990, section 46 of Act 28 of 1997, section 55 of Act 59 of 2000, section 21 of Act 19 of 2001, section 41 of Act 20 of 2006, section 56 of Act 8 of 2007, sections 66 and 116 of Act 35 of 2007, section 66 of

Act 3 of 2008, section 68 of Act 60 of 2008, section 20 of Act 18 of 2009, section 95 of Act 24 of 2011, section 8 of Act 23 of 2015 and section 7 of Act 16 of 2016

6 (1) Paragraph 9 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (2) for item (a) of the following item:

“(a) The amount to be deducted or withheld in respect of employees’ tax from any lump sum to which paragraph (d), ~~or (e)~~ or (eD) of the definition of “gross income” in section 1 or section 7A applies, shall be ascertained by the employer from the Commissioner before paying out such lump sum, and the Commissioner’s determination of the amount to be deducted or withheld shall be final;”;

(2) Subsection (1) comes into operation on 1 March 2024 and applies in respect of years of assessment commencing on or after that date.

Short title

7. This Act is called the Revenue Laws Amendment Act, 2023.