

REPUBLIC OF SOUTH AFRICA

**TAXATION LAWS
AMENDMENT BILL**

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

(MINISTER OF FINANCE)

[B 29—2015]

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GENERAL EXPLANATORY NOTE:

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

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

BILL

To amend the Income Tax Act, 1962, so as to amend, delete and insert definitions; to repeal provisions; to amend provisions; to make new provision; to amend the Customs and Excise Act, 1964, so as to make new provision; to amend the Value-Added Tax Act, 1991, so as to amend provisions and schedules; to amend the Securities Transfer Tax Act, 2007, so as to amend provisions and to make new provision; to amend the Employment Tax Incentive Act, 2013, so as to amend provisions; to amend the Taxation Laws Amendment Act, 2013, so as to amend provisions; to amend the Taxation Laws Amendment Act, 2014, so as to amend 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 2 of Act 40 of 1949, as amended by section 1 of Act 59 of 1951, section 1 of Act 31 of 1953, section 1 of Act 32 of 1954, section 2 of Act 77 of 1964, section 1 of Act 56 of 1966, section 2 of Act 66 of 1973, section 3 of Act 88 of 1974, section 5 of Act 106 of 1980, section 3 of Act 87 of 1988, section 2 of Act 136 of 1992, section 3 of Act 97 of 1993, section 1 of Act 37 of 1995, section 9 of Act 37 of 1996, section 2 of Act 32 of 1999, section 2 of Act 30 of 2002, section 31 of Act 12 of 2003, section 1 of Act 16 of 2004, section 1 of Act 9 of 2005, section 1 of Act 31 of 2005, section 14 of Act 9 of 2006 section 2 of Act 18 of 2009 and section 2 of Act 24 of 2011

1. (1) Section 2 of the Transfer Duty Act, 1949, is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:
 “(a) the [rate] rates of transfer duty contemplated in subsection (1) will be [reduced] altered to the extent mentioned in the announcement; or”.
- (2) Subsection (1) is deemed to have come into operation on 1 March 2015 and applies in respect of any property acquired or interest or restriction in any property renounced on or after that date.

Amendment of section 3 of Act 45 of 1955, as amended by section 2 of Act 65 of 1960, section 8 of Act 77 of 1964, section 2 of Act 81 of 1965, section 4 of Act 92 of 1971, section 3 of Act 89 of 1972, section 3 of Act 102 of 1979, section 10 of Act 106 of 1980, section 2 of Act 92 of 1983, section 4 of Act 81 of 1985, section 9 of Act 87

of 1988, section 7 of Act 97 of 1993, section 6 of Act 27 of 1997, section 13 of Act 30 of 1998, section 7 of Act 30 of 2000, section 5 of Act 31 of 2005 and section 2 of Act 60 of 2008

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

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

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of the estate of a person who dies on or after that date in respect of contributions made on or after 1 March 2015.

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 and section 1 of Act 43 of 2014

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

(a) by the insertion in subsection (1) after the definition of “close corporation” of the following definition:

“‘**collateral arrangement**’ means a collateral arrangement as defined in section 1 of the Securities Transfer Tax Act, 2007 (Act No. 25 of 2007);”;

(b) by the substitution in subsection (1) in the definition of “company” in paragraph (e) 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 [Listing] Listings Requirements; or”;

(c) by the substitution in subsection (1) in the definition of “connected person” in paragraph (a) for subparagraph (ii) of the following subparagraph:

“(ii) any trust (other than a portfolio of a collective investment scheme [in securities or a portfolio of a collective investment scheme in property]) of which such natural person or such relative is a beneficiary;”;

- (d) by the substitution in subsection (1) in the definition of “connected person” in paragraph (b) for the words preceding subparagraph (i) of the following words:
 “in relation to a trust (other than a portfolio of a collective investment scheme **[in securities or a portfolio of a collective investment scheme in property]**)—”; 5
- (e) by the substitution in subsection (1) in the definition of “connected person” for paragraph (bA) for the following paragraph:
 “(bA) in relation to a connected person in relation to a trust (other than a portfolio of a collective investment scheme **[in property or a portfolio of a collective investment scheme in securities]**), includes any other person who is a connected person in relation to such trust;”; 10
- (f) by the substitution in subsection (1) in the definition of “connected person” in paragraph (d)(vi) for item (bb) of the following item: 15
 “(vi) 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”;
- (g) by the substitution in subsection (1) in the definition of “foreign partnership” in paragraph (a) for subparagraph (ii) of the following subparagraph: 20
 “(ii) the partnership, association, body of persons or entity is not liable for or subject to any tax on income, other than a tax levied by a municipality, local authority or a comparable authority, in that country; or”; 25
- (h) by the insertion in subsection (1) after the definition of “hotel keeper” of the following definitions:
 “**‘identical security’** means in respect of a listed security, as defined in the Securities Transfer Tax Act, 2007 (Act No. 25 of 2007), that is the subject of a securities lending arrangement— 30
 (a) a security of the same class in the same company as that security; or
 (b) if that security constitutes a security in an amalgamated company as contemplated in section 44, a security in a resultant company acquired by virtue of that security held in that amalgamated company as contemplated in subsection (6) of that section; 35
‘identical share’ means in respect of a share—
 (a) a share of the same class in the same company as that share; or
 (b) if that share constitutes a share in an amalgamated company as contemplated in section 44, a share in a resultant company acquired by virtue of that share held in that amalgamated company as contemplated in subsection (6) of that section;” 40
- (i) by the insertion in subsection (1) after the definition of “insolvent estate” of the following definition:
 “**‘Insurance Act’** means the Insurance Act, 2016;”; 45
- (j) by the substitution in the Afrikaans text in subsection (1) in the definition of “maatskappy” for paragraph (f) of the following paragraph: 45
 “(f) ’n beslote korporasie;”;
- (k) by the substitution in subsection (1) in paragraph (a) of the definition of “pension fund” for subparagraph (i) of the following subparagraph:
 “(i) any pension, provident or dependants’ fund or pension scheme 50
 established by law, other than the Government Employees Pension Fund, as contemplated in the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996);”; 50
- (l) by the substitution in subsection (1) in paragraph (a) of the definition of “pension fund” for subparagraph (ii) of the following subparagraph: 55
 “(ii) any pension[, **provident**] or dependants’ fund or pension scheme established for the benefit of the employees of any municipality or of any local authority (as defined in the definition of ‘local authority’ in this section prior to the coming into operation of section 3(1)(h) of the Revenue Laws Amendment Act, 2006 (Act No. 20 of 2006), that was established prior to the date that section so came into operation); or”; 60

- (m) by the substitution in subsection (1) in the definition of “pension fund” for paragraph (b) of the following paragraph:
 “(b) with effect from a date determined by the Commissioner in relation to any fund hereinafter referred to (not being a date earlier than 4 December 1981), any pension fund established for the benefit of employees of a control board as defined in section 1 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), or for the benefit of employees of the Development Bank of Southern Africa, if [the Commissioner is satisfied that] the rules of such fund are in all material respects identical to those of the Government Employees’ Pension Fund; or;”;
- (n) 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:
 “(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 [R50 000] R165 000 or where the employee is deceased;”;
- (o) by the addition in subsection (1) in the definition of “pension fund” after paragraph (c) of the following paragraph:
 “(d) the Government Employees Pension Fund, as contemplated in the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996);”;
- (p) 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 paragraph (a) or (b)—
 (a) the fund is a permanent fund *bona fide* established for the purpose of providing annuities for employees on retirement from employment or for the dependants or nominees of deceased employees, or mainly for the said purpose and also for the purpose of providing benefits other than annuities for the persons aforesaid or for the purpose of providing any benefit contemplated in paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and
 (b) the rules of the fund provide—
 (i) that all annual contributions of a recurrent nature to the fund shall be in accordance with specified scales;
 (ii) that membership of the fund throughout the period of employment shall be a condition of the employment by the employer of all persons of the class or classes specified therein who enter his employment on or after the date upon which—
 (aa) the fund comes into operation; or
 (bb) the employer becomes a participant in that fund;
 (iii) that persons who immediately prior to the said date were employed by the employer and who on the said date fall within the said class or classes may, on application made within a period of not more than 12 months as from the said date, be permitted to become members of the fund on such conditions as may be specified in the rules;
 (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:
 (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 2018—

- (i) any amount contributed to a provident fund of which that person is a member on 1 March 2018;
- (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2018; 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 2018;
- (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2018; 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) that a partnership is regarded as an employee of the partnership;
- (d) that the rules of the fund have been complied with;”;
- (q) by the substitution in subsection (1) in the definition of “pension preservation fund” in paragraph (a) of the proviso for the words preceding subparagraph (ii) of the following words:
“former members of any other pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; or”;
- (r) by the substitution in subsection (1) in the definition of “pension preservation fund” in paragraph (b) of the proviso for subparagraph (i) of the following subparagraph:
“(i) a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund of which that member was previously a member; or”;
- (s) 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 [R50 000] R165 000 or where the member is deceased;”;
- (t) 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 2018—
- (i) any amount contributed to a provident fund of which that person is a member on 1 March 2018;
- (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2018; and
- (iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subpara-

- graph (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 2018;
 - (ii) with addition of any other amounts credited to the member’s individual account of the provident fund prior to 1 March 2018; 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;”;
- (u) by the substitution in subsection (1) in the definition of “provident fund” for the words preceding the proviso of the following words:
- “**‘provident fund’** means—
- (a) any fund (other than a pension fund, pension preservation fund, provident preservation fund, benefit fund or retirement annuity fund) which is approved by the Commissioner in respect of the year of assessment in question and, in the case of any such fund established on or after 1 July 1986, is registered under the provisions of the Pension Funds Act; or
 - (b) any provident fund established for the benefit of the employees of any municipality or of any local authority (as defined in the definition of “local authority” in this section prior to the coming into operation of section 3(1)(h) of the Revenue Laws Amendment Act, 2006 (Act No. 20 of 2006), that was established prior to the date that section so came into operation);
 - (c) any fund contemplated in subparagraph (b), which includes as members employees of any municipal entity created in accordance with the provisions of the Municipal Systems Act, 2000 (Act No. 32 of 2000), over which one or more municipalities or local authorities (as defined in section 1 prior to the coming into operation of section 3(1)(h) of the Revenue Laws Amendment Act, 2006, and that was established prior to the date that section so came into operation) exercise ownership control as contemplated by that Act, where such fund was established—
 - (aa) on or before 14 November 2000, and such employees were employees of a local authority (as defined in section 1 prior to the coming into operation of section 3(1)(h) of the Revenue Laws Amendment Act, 2006, and that was established prior to the date that section so came into operation) immediately prior to becoming employees of such municipal entity; or
 - (bb) after 14 November 2000, and such fund has been approved by the Commissioner subject to such limitations, conditions and requirements as contemplated in paragraph (c) of the definition of ‘pension fund’;”;
- (v) by the substitution in the definition of “provident fund” for paragraph (b) of the proviso of the following paragraph:
- “(b) the rules of the fund provide—
- (i) that all annual contributions of a recurrent nature to the fund shall be in accordance with specified scales;
 - (ii) that membership of the fund throughout the period of employment shall be a condition of the employment by the employer of all persons of the class or classes specified therein who enter his employment on or after the date upon which—
 - (aa) the fund comes into operation; or
 - (bb) the employer becomes a participant in that fund;
 - (iii) that persons who immediately prior to the said date were employed by the employer and who on the said date fall within

- the said class or classes may, on application made within a period of not more than 12 months as from the said date, be permitted to become members of the fund on such conditions as may be specified in the rules;
- (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—
- (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 2018—
- (i) any amount contributed to a provident fund of which that person is a member on 1 March 2018;
- (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2018; and
- (iii) 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
- (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 2018;
- (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2016; and
- (iii) 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 partnership is regarded as an employee of the partnership;
- (vi) that the rules of the fund have been complied with;”;
- (w) by the substitution in subsection (1) in the definition of “provident preservation fund” in paragraph (a)(ii) of the proviso for the words preceding subparagraph (aa) of the following words:
- “(i) former members of any other pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;”;
- (x) by the substitution in subsection (1) in the definition of “provident preservation fund” in paragraph (a)(ii) of the proviso for the words preceding subparagraph (aa) of the following words:
- “(i) former members of any other pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;”;
- (y) by the substitution in subsection (1) in the definition of “provident preservation fund” in paragraph (b) of the proviso for subparagraph (i) of the following subparagraph:
- “(i) a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund of which that member was previously a member; or”;
- (z) 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 employee 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 2018—

(i) any amount contributed to a provident fund of which that person is a member on 1 March 2018;

(ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2018; 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 2018;

(ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2018; 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;”;

(zA) by the substitution in subsection (1) in the definition of “remuneration proxy” for the words preceding the proviso of the following words:

“**‘remuneration proxy’**, in relation to a year of assessment, means the remuneration, as defined in paragraph 1 of the Fourth Schedule, derived by an employee from an employer during the year of assessment immediately preceding that year of assessment, other than the cash equivalent of the value of a taxable benefit derived from the occupation of residential accommodation as contemplated in paragraph 9(3) of the Seventh Schedule:”;

(zB) 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 taken in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed ~~[R50 000]~~ R165 000 or where the member is deceased;”;

(zC) 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 employee 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 2018—

(i) any amount contributed to a provident fund of which that person is a member on 1 March 2018;

- (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2018; 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 2018;
- (ii) with addition of any other amounts credited to the member's individual account of the provident fund prior to 1 March 2018; 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;
- (zD) by the substitution in subsection (1) in the definition of "retirement annuity fund" in paragraph (b)(x) of the proviso for item (dd) of the following item:
- “(dd) the payment of a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where that member—
- (A) ceases to be a resident; or
- (B) departed from the Republic at the expiry of a visa obtained for the purposes of—
- (AA) working as contemplated in paragraph (i) of the definition of 'visa' in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), or
- (BB) a visit as contemplated in paragraph (b) of the definition of 'visa' in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (b) to the proviso of section 11 of that Act by the Director-General, as defined in section 1 of that Act;”;
- (zE) by the substitution in subsection (1) for paragraph (c) of the definition of "spouse" of the following paragraph:
- “(c) in a same-sex or heterosexual union which [**the Commissioner is satisfied**] is intended to be permanent,”.
- (2) Paragraph (a) of subsection (1) comes into operation on 1 January 2016 and applies in respect of collateral arrangements entered into on or after that date.
- (3) Paragraph (g) of subsection (1) is deemed to have come into operation on 31 December 2015 and applies in respect of years of assessment ending on or after that date.
- (4) Paragraph (h) of subsection (1) comes into operation on 1 January 2016.
- (5) Paragraph (i) of subsection (1) comes into operation on the date on which the Insurance Act, 2016, comes into operation
- (6) Paragraphs (m), (n), (s), (zB) and (zD) of subsection (1) come into operation on 1 March 2016 and apply in respect of years of assessment commencing on or after that date.
- (7) Paragraphs (k), (l), (o), (p), (q), (r), (t), (u), (v), (w), (x), (y), (z) and (zC) come into operation on 1 March 2018 and apply in respect of years of assessment commencing on or after that date.

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 and section 3 of Act 42 of 2014 5

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

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

“(1) [There shall be deducted from] In determining the normal tax payable by any natural person, other than normal tax in respect of any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit or severance benefit, there shall be deducted an amount equal to the sum of the amounts allowed to the [taxpayer] natural person by way of rebates under subsection (2).”; and 10

(b) by the deletion of subsection (5). 15

(2) Paragraph (a) of subsection (1) comes into operation on 1 March 2016 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

5. Section 6B of the Income Tax Act, 1962, is hereby amended by the substitution in the Afrikaans text in subsection (3) for paragraph (c) of the following paragraph: 20

“(c) in enige ander geval, indien die totaal van—

(i) die bedrag van die fooie betaal deur die persoon aan ‘n mediese skema of fonds beoog in artikel 6A(2)(a) wat vier maal die bedrag van die belastingkrediet vir mediese skemafooie waarop daardie person kragtens artikel 6A(2)(b) geregtig is, oorskry; en 25

(ii) die bedrag van kwalifiserende mediese onkoste deur die persoon betaal,

[wat] 7,5 persent van die persoon se belasbare inkomste (behalwe enige uitreefonds enkelbedragvoordeel, uitreefonds enkelbedragonttrekkings- voordeel en skeidingsvoordeel) oorskry, 25 persent van die oorskryding.”. 30

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 and section 3 of Act 22 of 2012 35

6. Section 6quat of the Income Tax Act is hereby amended—

(a) by the substitution for subsection (1C) of the following subsection: 40

“(1C) (a) For the purpose of determining the taxable income derived by any resident from carrying on any trade, there may at the election of the resident be allowed as a deduction from the income of such resident so derived the sum of any taxes on income (other than taxes contemplated in subsection (1A)) paid or proved to be payable by that resident to any sphere of government of any country other than the Republic, without any right of recovery by any person other than in terms of a mutual agreement procedure in terms of an international tax agreement or a right of recovery in terms of any entitlement to carry back losses arising during any year of assessment to any year of assessment prior to such year of assessment. 45

(b) Where, during any year of assessment, any amount was deducted in terms of this section from the normal tax payable by a resident and, in any year of assessment subsequent to that year of assessment, that resident receives any amount by way of refund in respect of the amount so deducted or is discharged from any liability in respect of that amount, so much of the amount so received or so much of the amount of that discharge as does not exceed that amount must be deemed to be an 55

amount of normal tax payable by that resident in respect of that subsequent year of assessment.”;

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

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

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

“(4) For the purpose of this section the amount of any foreign tax proved to be payable as contemplated in subsection (1A) or any amount paid or proved to be payable as contemplated in subsection (1C) in respect of any amount which is included in the taxable income of any resident during any year of assessment, shall be translated to the currency of the Republic on the last day of that year of assessment by applying the average exchange rate for that year of assessment.”.

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 6quin of Act 58 of 1962, as inserted by section 12 of Act 24 of 2011 and amended by section 13 of Act 24 of 2011, section 4 of Act 21 of 2012 and section 3 of Act 31 of 2013

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

(a) by the deletion of subsections (1) to (4);

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

“(5) Where, during any year of assessment, a rebate was deducted in terms of this section from the normal tax payable by a resident and, in any year of assessment subsequent to that year of assessment, that resident receives any amount by way of refund in respect of the amount so deducted or is discharged from any liability in respect of that amount, so much of the amount so received or so much of the amount of that discharge as does not exceed that rebate must be deemed to be an amount of normal tax payable by that resident in respect of that subsequent year of assessment.”.

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of years commencing on or after that date.

Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act 101 of 1990, section 9 of Act 129 of 1991, section 6 of Act 141 of 1992, section 4 of Act 113 of 1993, section 6 of Act 21 of 1994, section 8 of Act 21 of 1995, section 6 of Act 36 of 1996, section 6 of Act 28 of 1997, section 24 of Act 30 of 1998, section 14 of Act 53 of 1999, section 17 of Act 30 of 2000, section 6 of Act 59 of 2000, section 7 of Act 19 of 2001, section 21 of Act 60 of 2001, section 12 of Act 30 of 2002, section 11 of Act 74 of 2002, section 18 of Act 45 of 2003, section 6 of Act 32 of 2004, section 4 of Act 9 of 2005, section 21 of Act 9 of 2006, section 5 of Act 20 of 2006, section 6 of Act 8 of 2007, section 9 of Act 35 of 2007, sections 1 and 5 of Act 3 of 2008, section 9 of Act 60 of 2008, section 11 of Act 17 of 2009, section 10 of Act 7 of 2010, section 16 of Act 24 of 2011, section 271 of Act 28 of 2011, read with paragraph 30 of Schedule 1 to that Act, section 9 of Act 22 of 2012, section 9 of Act 31 of 2013, section 5 of Act 42 of 2014 and section 5 of Act 43 of 2014

8. Section 8 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (5) for paragraph (b) of the following paragraph:
- “(b) Where any amount has been paid by any person for the right of use or occupation of any property which is thereafter acquired by that or any other person for a consideration which [**in the opinion of the Commissioner is not an adequate consideration or for no consideration**] is less than the fair market value of such property, it shall for the purposes of paragraph (a) be deemed[, **unless the Commissioner having regard to the circumstances of the case otherwise decides,**] that the said amount, or so much thereof as does not exceed the fair market value of such property less the amount of the consideration, if any, for which it has been acquired as aforesaid, has been applied in reduction or towards settlement of the purchase price of such property.”; and
- (b) by the substitution in subsection (5)(bA) for the words following subparagraph (ii) of the following words:
- “the former lessee shall be deemed for the purposes of paragraph (b) to have acquired the property for no consideration and, if the property was owned by the former lessor, the fair market value thereof shall[, **unless and until that value is otherwise determined to the satisfaction of the Commissioner,**] be deemed for the said purposes to be the cost to the former lessor of the property (or, where the said lease was a financial lease contemplated in paragraph (b) of the definition of ‘instalment credit agreement’ in section 1 of the Value-Added Tax Act, the cash value as defined in that Act of the property, less a depreciation allowance calculated in accordance with paragraph (bB)(i) for the period from the commencement to the termination of the lease.”.

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

9. (1) Section 8F of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) in the definition of “hybrid debt instrument” for paragraph (c) for the words and subparagraphs preceding the proviso of the following words:
- “that company owes the amount to a connected person in relation to that company and is not obliged to redeem the instrument, excluding any instrument payable on demand, within 30 years from the date of issue of that instrument;”; and
- (b) by the substitution in subsection (1) for the definition of “interest” of the following definition:
- “**‘interest’** means interest as defined in section 24J(1)”.
- (2) Paragraph (a) of subsection (1) comes into operation on 1 January 2016.

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 and section 9 of Act 43 of 2014

10. Section 8FA of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the definition of “interest” of the following definition:
- “**‘interest’** means interest as defined in section 24J(1)”.

Amendment of section 9 of Act 58 of 1962, as substituted by section 22 of Act 24 of 2011, amended by section 16 of Act 31 of 2013 and section 10 of Act 43 of 2014

11. Section 9 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4) for paragraph (b) of the following paragraph:
- “(b) constitutes interest as defined in section 24J(1) [**or deemed interest as contemplated in section 8E(2)**] received by or accrued to that person that is not from a source within the Republic in terms of subsection (2)(b);”.

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 and section 11 of Act 43 of 2014

12. (1) Section 9C of the Income Tax Act, 1962, is hereby amended— 5
- (a) by the insertion in subsection (1) after the definition of “connected person” 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) for the definition of “equity share” of the following definition: 10
- “**‘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 was— 15
- (a) a share in a share block company as defined in section 1 of the Share Blocks Control Act;
- (b) a share in a company which was not a resident, other than a company contemplated in paragraph (a) of the definition of “listed company”; or 20
- (c) a hybrid equity instrument as defined in section 8E;”;
- (c) by the deletion in subsection (1) of the definition of “qualifying share”;
- (d) by the substitution for subsection (2) of the following subsection: 25
- “(2) Any amount received or accrued (other than a dividend or foreign dividend) or any expenditure incurred in respect of an equity share must be deemed to be of a capital nature if that equity share had, at the time of the receipt or accrual of that amount or incurrance of that expenditure, been held for a period of at least three years.”;
- (e) by the substitution for subsection (2A) of the following subsection: 30
- “(2A) Subsection (2) does not apply in respect of so much of the amount received or accrued in respect of the disposal of **[a qualifying]** an equity share contemplated in that subsection as does not exceed the expenditure allowed in respect of that share in terms of section 12J(2).”;
- (f) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 35
- “**The provisions of this section shall not apply to any [qualifying] equity share if at the time of the disposal of that share the taxpayer was a connected person in relation to the company that issued that share and—**”;
- (g) by the substitution for subsection (4) of the following section: 40
- “(4) For purposes of this section, where any share has been transferred by a lender to a borrower in terms of a securities lending arrangement, and an identical share has been returned by the borrower to the lender, in terms of that securities lending arrangement, that share and that other share shall be deemed to be one and the same share in the hands of the lender.”; 45
- (h) by the insertion after subsection (4) of the following subsection: 50
- “(4A) For purposes of this section, where any share has been transferred by a transferor to a transferee in terms of a collateral arrangement and an identical share has in turn been transferred by the transferee to the transferor in terms of that collateral arrangement, that share and that other share shall be deemed to be one and the same share in the hands of the transferor.”;
- (i) by the substitution for subsection (5) for the words preceding the proviso of the following words: 55
- “**There shall in the year of assessment in which any [qualifying] equity share held for a period of at least three years is disposed of by the taxpayer be included in the taxpayer’s income any expenditure or losses incurred in respect of such [qualifying] equity share and allowed as a deduction from the income of the taxpayer during that or any previous** 60
- year of assessment in terms of section 11”;**

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

“(6) Where the taxpayer holds **[identical]** shares of the same class in the same company which were acquired by the taxpayer on different dates and the taxpayer has disposed of any of those shares, the taxpayer shall for the purposes of this section be deemed to have disposed of the shares held by the taxpayer for the longest period of time.”; and

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

“(7) The provisions of section 22(8) shall not apply on or after the date that an equity share has been held for a period exceeding three years.”.

(2) Paragraphs (a), (b), (c), (d), (f), (i), (j) and (k) of subsection (1) come into operation on 1 January 2016 and apply in respect of years of assessment commencing on or after that date.

(3) Paragraph (g) of subsection (1) comes into operation on 1 January 2016 and applies in respect of securities lending arrangements entered into on or after that date.

(4) Paragraph (h) of subsection (1) comes into operation on 1 January 2016 and applies in respect of collateral arrangements entered into on or after that date.

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

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

(a) by the substitution in subsection (2A) for the words preceding the proviso of the following words:

“For the purposes of this section the ‘net income’ of a controlled foreign company in respect of a foreign tax year is an amount equal to the taxable income of that company determined in accordance with the provisions of this Act as if that controlled foreign company had been a taxpayer, and as if that company had been a resident for purposes of the definition of ‘gross income’, sections 7(8), 10(1)(h), 25B, 28 and paragraphs 2(1)(a), 24, 70, 71, 72 and 80 of the Eighth Schedule.”;

(b) by the substitution in subsection (9A)(a) for subparagraph (i) of the following subparagraph:

“(i) is derived from the sale of goods by that controlled foreign company to any connected person (in relation to that controlled foreign company) who is a resident, unless—

(aa) that controlled foreign company purchased those goods within the country of residence of that controlled foreign company from any person who is not a connected person in relation to that controlled foreign company;

(bb) the creation, extraction, production, assembly, repair or improvement of goods undertaken by that controlled foreign company amount to more than minor assembly or adjustment, packaging, repackaging and labelling;

(cc) that controlled foreign company sells a significant quantity of goods of the same or a similar nature to persons who are not connected persons in relation to that controlled foreign company, at comparable prices (after accounting for the level of the market, volume discounts and costs of delivery); or

(dd) that controlled foreign company purchases the same or similar goods mainly within the country of residence of that controlled foreign company from persons who are not connected persons in relation to that controlled foreign company.”;

(c) by the insertion in subsection (9A)(a) after subparagraph (i) of the following subparagraph:

“(iA) is derived from the sale of goods by that controlled foreign company to a person, other than a connected person (in relation to that

controlled foreign company) who is a resident, where that controlled foreign company initially purchased those goods or any tangible intermediary inputs thereof from one or more connected persons (in relation to that controlled foreign company) who are residents, unless—

- (aa) those goods or tangible intermediary inputs thereof purchased from connected persons (in relation to such controlled foreign company) who are residents amount to an insignificant portion of the total goods or tangible intermediary inputs of those goods;
- (bb) the creation, extraction, production, assembly, repair or improvement of goods undertaken by that controlled foreign company amount to more than minor assembly or adjustment, packaging, repackaging and labelling; or
- (cc) the products are sold by that controlled foreign company to a person who is not a connected person in relation to that controlled foreign company, for physical delivery to a customer's premises situated within the country of residence of that controlled foreign company;
- (dd) products of the same or similar nature are sold by that controlled foreign company mainly to persons who are not connected persons in relation to that controlled foreign company for physical delivery to customers' premises situated within the country of residence of that controlled foreign company;"; and

(d) by the deletion in subsection (9A)(b) of subparagraphs (i) and (ii).

(2) Paragraph (a) of subsection (1) comes into operation on the date on which the Insurance Act, 2016, comes into operation.

(3) Paragraphs (b), (c) and (d) of subsection (1) come into operation on 1 January 2016 and apply in respect of foreign tax years of controlled foreign companies ending during years of assessment commencing on or after that date.

Amendment of section 9H of Act 58 of 1962, as substituted by section 17 of Act 22 of 2012 and amended by section 21 of Act 31 of 2013 and section 13 of Act 43 of 2014

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

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

“(i) disposed of each of that person's assets to a person that is a resident on the date immediately before the day on which that person so ceases to be a resident for an amount received or accrued equal to the market value of the asset on that date; and”;

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

“(a) Where a company that is a resident ceases during any year of assessment of that company to be a resident or where a company that is a resident becomes a headquarter company in respect of a year of assessment, that company must be treated as having—

(i) disposed of each of that company's assets to a person that is a resident on the date immediately before the day on which that company so ceased to be a resident or became a headquarter company; and

(ii) reacquired each of those assets on the day on which that company so ceased to be a resident or became a headquarter company, for an amount equal to the market value of each of those assets.

(b) Where a controlled foreign company ceases, otherwise than by way of becoming a resident, to be a controlled foreign company during any foreign tax year of that controlled foreign company, that controlled foreign company must be treated as having—

(i) disposed of each of the assets of that controlled foreign company, to a person that is a resident, on the date immediately before the day on which that controlled foreign company so ceased to be a controlled foreign company; and

- (ii) reacquired each of the assets disposed of as contemplated in subparagraph (i) on the day on which that controlled foreign company so ceased to be a controlled foreign company, for an amount equal to the market value of each of those assets.”; and
 (c) by the addition to subsection (3) after paragraph (d) of the following paragraphs: 5

“(e) Where a company ceases to be a resident as contemplated in paragraph (a), the amount of any capital gain disregarded in terms of paragraph 64B of the Eighth Schedule that was determined in respect of a disposal of an equity share by that company within three years immediately preceding the date on which that company ceases to be a resident, must be deemed, in respect of the year of assessment of that company ending as contemplated in paragraph (c), to be an amount of net capital gain derived by that company from that capital gain. 10

(f) Where a company ceases to be a resident as contemplated in paragraph (a), the amount of any foreign dividend that was exempt from normal tax only in terms of section 10B(2)(a) within the three years immediately preceding the date on which that company ceases to be a resident, must be deemed to be a foreign dividend received by or accrued to that company in respect of the year of assessment of that company ending as contemplated in paragraph (c) that is not exempt in terms of section 10B(2).” 15 20

(2) Subsection (1) is deemed to have come into operation on 5 June 2015 and applies in respect of—

- (a) (i) any person that ceases to be a resident; or 25
 (ii) any controlled foreign company that ceases to be a controlled foreign company in relation to a resident,
 on or after that date; and
 (b) any person that becomes a headquarter company during years of assessment commencing on or after that date. 30

Insertion of section 9HA in Act 58 of 1962

15. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 9H:

“Disposal by deceased person

9HA. (1) A deceased person must be treated as having disposed of his or her assets, other than— 35

- (a) assets disposed of to his or her surviving spouse as contemplated in subsection (2);
 (b) a long-term insurance policy of the deceased, if any capital gain or capital loss that would have been determined in respect of a disposal that resulted in proceeds of that policy being received by or accruing to the deceased would have been disregarded in terms of paragraph 55 of the Eighth Schedule; or
 (c) an interest of the deceased in— 40
 (i) a pension, pension preservation, provident, provident preservation or retirement annuity fund in the Republic; or 45
 (ii) a fund, arrangement or instrument situated outside the Republic which provides benefits similar to a pension, pension preservation, provident, provident preservation or retirement annuity fund, 50
 if any capital gain or capital loss that would have been determined in respect of a disposal of that interest that resulted in a lump sum benefit being received by or accruing to the deceased would have been disregarded in terms of paragraph 54 of the Eighth Schedule, 55
 at the date of that person’s death for an amount received or accrued equal to the market value as contemplated in paragraph 31 of the Eighth Schedule of those assets as at that date.

(2) A deceased person must, if his or her surviving spouse is a resident, be treated—

- (a) as having disposed of an asset to that surviving spouse if that asset is acquired by that surviving spouse—
- (i) by *ab intestato* or testamentary succession;
 - (ii) as a result of a redistribution agreement between the heirs and legatees of that person in the course of liquidation or distribution of the deceased estate of that person; or
 - (iii) in settlement of a claim arising under section 3 of the Matrimonial Property Act, 1984 (Act No. 88 of 1984); and
- (b) as having disposed of that asset for an amount received or accrued equal to—
- (i) the expenditure incurred by that person in respect of that asset that was allowed in terms of sections 11(a) or 22 as a deduction for purposes of determining that person's taxable income for the year of assessment ending on the date of that person's death; or
 - (ii) the base cost of that asset, as contemplated in paragraph 20 of the Eighth Schedule, as at the date of that person's death.
- (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 as contemplated in paragraph 31 of the Eighth Schedule of that asset as at the date of that deceased person's death.”.

(2) Subsection (1) comes into operation on 1 March 2016, and applies in respect of a person who dies on or after that date.

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996, section 1 of Act 49 of 1996, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998, section 18 of Act 53 of 1999, section 21 of Act 30 of 2000, section 13 of Act 59 of 2000, sections 9 and 78 of Act 19 of 2001, section 26 of Act 60 of 2001, section 13 of Act 30 of 2002, section 18 of Act 74 of 2002, section 36 of Act 12 of 2003, section 26 of Act 45 of 2003, sections 8 and 62 of Act 16 of 2004, section 14 of Act 32 of 2004, section 5 of Act 9 of 2005, section 16 of Act 31 of 2005, section 23 of Act 9 of 2006, sections 10 and 101 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 paragraph 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 and section 14 of Act 43 of 2014

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

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

“(gI) any amount received or accrued in respect of a policy of insurance relating to the death, disablement, illness or unemployment of any person who is insured in terms of that policy of insurance, including the policyholder or an employee of the policyholder in respect of that policy of insurance to the extent to which the benefits in terms of that policy are paid as a result of

- death, disablement, illness or unemployment other than any policy of which the benefits are paid or payable by a retirement fund;”;
- (b) by the substitution in subsection (1) for paragraph (j) of the following paragraph:
- “(j) the receipts and accruals of any bank, if **[the Commissioner is satisfied that]** such bank is not resident in the Republic and is entrusted by the Government of a territory outside the Republic with the custody of the principal foreign exchange reserves of that territory, and the Minister of Finance decides to apply the provisions of this paragraph to that bank in respect of the year of assessment under charge;”;
- (c) by the substitution in the Afrikaans text in subsection (1)(l) for subparagraph (ii) of the following subparagraph:
- “(ii) die immateriële goedere of die kennis of die inligting ten opsigte waarvan daardie tantième betaal is, effektief verbonde is **[toeskryfbaar]** aan ‘n permanente saak van daardie persoon in die Republiek;”;
- (d) by the substitution in subsection (1) in subparagraph (ii)(bb) of the proviso to paragraph (q) for item (A) of the following item:
- “(A) R10 000 in respect of—
- (AA) grade R to grade twelve as contemplated in the definition of ‘school’ in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996); or
- (BB) a qualification to which an NQF level from 1 up to and including 4 has been allocated in accordance with Chapter 2 of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008); and”;
- (e) by the substitution in subsection (1) in proviso to paragraph (k) for paragraph (gg) of the following paragraph :
- “(gg) to any dividends received by or accrued to a company in respect of a share held by that company to the extent that the aggregate of those dividends does not exceed an amount equal to the aggregate of any amounts incurred by that company as compensation for any distributions in respect of any other share borrowed by the company, other than a share in respect of which any dividends were received by or accrued to that company as contemplated in paragraph (ff), where the share so borrowed and the share so held are **[of the same kind and of the same or equivalent quality]** identical shares: Provided that where the company borrowing the share has lent out any other share **[of the same kind and of the same or equivalent quality as]** that is an identical share to the share so borrowed, the aggregate amount so incurred must be reduced by the amount accrued to that company as compensation for any distribution in respect of the share so lent;”;
- (f) by the substitution in subsection (1) in paragraph (k) in paragraph (hh) of the proviso for subparagraph (B) of the following subparagraph:
- “(B) the amount of that expenditure or reduction is determined directly or indirectly with reference to the dividend in respect of **[a share of the same kind and of the same or equivalent quality as]** an identical share to that share;”;
- (g) by the addition in subsection (1)(k) to paragraph (hh) of the proviso of the following proviso:
- “: Provided that the deductible expenditure so incurred or the amount of the reduction must be reduced by any amount of income accrued to the company in respect of any distribution in respect of any other share that is an identical share in relation to that share;”;
- (h) by the substitution in subsection (1)(nB) for subparagraph (ii) of the following subparagraph:
- “(ii) of **[such]** the costs [as the Commissioner may allow] which have been incurred by the employee in respect of the sale of his or her previous residence and in settling in permanent residential accommodation at his or her new place of residence; or”;

- (i) by the insertion in subsection (1) after paragraph (u) of the following paragraph:

“(y) any government grant or government scrapping payment received or accrued in terms of any programme or scheme which has been approved in terms of the national annual budget process and has been identified by the Minister by notice in the *Gazette* with effect from a date specified by the Minister in that notice (including any date that precedes the date of such notice) for purposes of this paragraph, having regard to—

(i) whether the programme or scheme meets government policy priorities and objectives with respect to—

(aa) the encouragement of economic growth and investment;

(bb) the promotion of employment creation;

(cc) the development of public infrastructure and transport;

(dd) the promotion of public health;

(ee) the development of innovation and technology;

(ff) the provision of housing and basic services; or

(gg) the provision of relief in the case of natural disasters;

(ii) the extent to which the programme or scheme will support the policy priorities and objectives contemplated in subparagraph (i);

(iii) the financial implications for government should government grants or government scrapping payments in terms of that programme or scheme be exempt from tax; and

(iv) whether the tax implications were taken into account in determining the appropriation or payment in respect of that programme or scheme;”;

- (j) by the deletion in subsection (1) of paragraph (zI).

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on 1 March 2015 and applies in respect of years of assessment commencing on or after that date.

(3) Paragraph (d) of subsection (1) is deemed to have come into operation on 1 March 2013 and applies in respect of years of assessment commencing on or after that date.

(4) Paragraphs (e), (f), (g) and (h) of subsection (1) come into operation on 1 January 2016 and apply in respect of amounts received during years of assessment commencing on or after that date.

(5) Paragraph (j) of subsection (1) comes into operation on 1 January 2016 and applies in respect of grants received or expenditure incurred on or after that date.

Amendment of section 10A of Act 58 of 1962, as inserted by section 8 of Act 65 of 1973 and amended by section 11 of Act 85 of 1974, section 8 of Act 113 of 1993, section 11 of Act 21 of 1995, section 11 of Act 28 of 1997, section 19 of Act 53 of 1999, section 14 of Act 59 of 2000, section 11 of Act 5 of 2001, section 15 of Act 32 of 2004, section 17 of Act 31 of 2005, section 17 of Act 60 of 2008, section 271 of Act 28 of 2011, read with item 32 of Schedule 1 to that Act and section 24 of Act 31 of 2013

17. Section 10A of the Income Tax Act, 1962, is hereby amended by the deletion of subsection (8).

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994, section 12 of Act 21 of 1995, section 9 of Act 36 of 1996, section 12 of Act 28 of 1997, section 30 of Act 30 of 1998, section 20 of Act 53 of 1999, section 22 of Act 30 of 2000, section 15 of Act 59 of 2000, section 10 of Act 19 of 2001, section 27 of Act 60 of 2001, section 14 of Act 30 of 2002,

section 19 of Act 74 of 2002, section 27 of Act 45 of 2003, section 9 of Act 16 of 2004, section 16 of Act 32 of 2004, section 6 of Act 9 of 2005, section 18 of Act 31 of 2005, section 11 of Act 20 of 2006, section 11 of Act 8 of 2007, section 17 of Act 35 of 2007, sections 1 and 10 of Act 3 of 2008, section 18 of Act 60 of 2008, section 14 of Act 17 of 2009, section 19 of Act 7 of 2010, sections 30 and 161 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 33 of Schedule 1 to that Act, section 22 of Act 22 of 2012, section 27 of Act 31 of 2013 and section 17 of Act 43 of 2014

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

(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) 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:”;

(b) by the deletion in paragraph (e) of paragraph (iii) of the proviso;

(c) by the substitution in paragraph (e) for subparagraphs (v), (vii) and (ix) of the proviso of the following paragraphs, respectively:

“(v) the value of any machinery, implements, utensils or articles used by the taxpayer for the purposes of his trade shall be increased by the amount of any expenditure (other than expenditure referred to in paragraph (a)) which is **[proved to the satisfaction of the Commissioner to have been]** incurred by the taxpayer in moving such machinery, implements, utensils or articles from one location to another;

(vii) where the value of any such machinery, implements, utensils and articles acquired by the taxpayer on or after 15 March 1984 is for the purposes of this paragraph to be determined having regard to the cost of such machinery, implements, utensils and articles, such cost shall be deemed to be the cost which, **in the opinion of the Commissioner,** a person would, if he had acquired such machinery, implements, utensils and articles under a cash transaction concluded at arm’s length on the date on which the transaction for the acquisition of such machinery, implements, utensils and articles was in fact concluded, have incurred in respect of the direct cost of the acquisition of such machinery, implements, utensils and articles, including the direct cost of the installation or erection thereof; and

(ix) where any such machinery, plant, implement, utensil or article was used by the taxpayer during any previous year of assessment or years of assessment for the purposes of any trade carried on by such taxpayer, the receipts and accruals of which were not included in the income of such taxpayer during such year or years, **the Commissioner shall take into account** the period in use of such asset during such previous year or years shall be taken into account in determining the amount by which the value of such machinery, plant, implement, utensil or article has been diminished;”;

(d) by the substitution in paragraph (f) for paragraphs (bb) and (cc) of the proviso of the following paragraphs:

“(bb) if the taxpayer is entitled to such use or occupation for an indefinite period, or if, in the case of any such right of use or occupation granted under an agreement concluded on or after 1 July 1983, the taxpayer or the person by whom such right of use or occupation

- was granted holds a right or option to extend or renew the original period of such use or occupation, he shall be deemed, for the purposes of this paragraph, to be entitled to such use or occupation for **[such period as in the opinion of the Commissioner represents]** the period of the probable duration of such use or occupation; and 5
- (cc) the allowance under sub-paragraph (iv) shall not exceed for any one year such portion (not being less than one twenty-fifth) of the amount of the premium or consideration so paid as **[the Commissioner may allow]** may be determined having regard to the period during which the taxpayer will enjoy the right to use such film, sound recording, advertising matter, patent, design, trade mark, copyright or other property as aforesaid and any other circumstances which **[in the opinion of the Commissioner]** are relevant;” 10 15
- (e) by the substitution in paragraph (f) for the words following paragraph (dd)(B) of the proviso of the following words: 15
- “where the term of the right of use is **[20] 15** years or more;”;
- (f) by the substitution in paragraph (g) for subparagraphs (i) and (iii) of the proviso of the following subparagraphs: 20
- “(i) the aggregate of the allowances under this paragraph shall not exceed the amount stipulated in the agreement as the value of the improvements or as the amount to be expended on the improvements or, if no amount is so stipulated, an amount representing **[in the opinion of the Commissioner]** the fair and reasonable value of the improvements; 25
- (iii) if—
- (aa) the taxpayer is entitled to such use or occupation for an indefinite period; or
- (bb) the taxpayer or the person by whom such right of use or occupation was granted holds a right or option to extend or renew the original period of such use or occupation, the taxpayer shall for the purposes of this paragraph be deemed to be entitled to such use or occupation for such period as **[in the opinion of the Commissioner]** represents the probable duration of such use or occupation;” 30 35
- (g) by the substitution in paragraph (aa) of the proviso to paragraph (gA) for subparagraph (A) of the following subparagraph: 40
- “(A) before 29 October 1999, the allowance shall not exceed for any one year such portion of the amount of the expenditure as is equal to such amount divided by the number of years, which **[in the opinion of the Commissioner,]** represents the probable duration of use of the invention, patent, design, trade mark, copyright, other property or knowledge, or four per cent of the said amount, whichever is the greater;” 45
- (h) by the substitution in paragraph (gA) for paragraph (bb) of the proviso of the following paragraph: 50
- “(bb) where such expenditure was incurred before the commencement of the year of assessment in question the allowance shall be calculated on the amount of such expenditure, less an amount equivalent to the sum of the allowances to which the taxpayer was entitled under this paragraph and the allowances to which, **in the opinion of the Commissioner,** the taxpayer would have been entitled under this paragraph if this paragraph had been applicable, in respect of such expenditure in respect of previous years of assessment, including any year of assessment under any previous Income Tax Act;” 55
- (i) by the substitution for paragraph (j) of the following paragraph: 60
- “(j) an allowance as may be made each year **[by the Commissioner]** in respect of so much of any debt due to the taxpayer as **[the Commissioner considers to be]** is considered doubtful according to criteria set out in this regard in a public notice issued by the Commissioner, if that debt would have been allowed as a deduction

under any other provisions of this Part had that debt become bad: Provided that such allowance shall be included in the income of the taxpayer in the following year of assessment;”;

- (j) by the substitution for paragraph (k) of the following paragraph: 5
 “(k) any amount contributed during a year of assessment to any pension fund or retirement annuity fund in terms of the rules of that fund by a person who is a member of that fund: Provided that—
- (i) the total deduction to be allowed in terms of this paragraph after taking into account the deduction under paragraph (kA) must not in the year of assessment exceed the lesser of— 10
 - (aa) R350 000; or
 - (bb) 27,5 per cent of the higher of that person’s—
 - (A) remuneration as defined in paragraph 1 of the Fourth Schedule (other than in respect of any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit); or 15
 - (B) 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 paragraph and section 18A, but not exceeding R350 000; 20
 - (ii) any amount so contributed in any previous year of assessment which has been disallowed solely by reason of the fact that it exceeds the amount of the deduction allowable in respect of that year of assessment is deemed to be an amount so contributed in the current year of assessment, except to the extent that the amount so contributed has been— 25
 - (aa) allowed as a deduction against income in any year of assessment; 30
 - (bb) accounted for under paragraph 5(1)(a) or 6(1)(b)(i) of the Second Schedule; or
 - (cc) exempted under section 10C;
 - (iii) any amount so contributed by an employer of a person for the benefit of that person must, to the extent that the amount has been included in the income of that person as a taxable benefit in terms of the Seventh Schedule, be deemed to have been contributed by that person; and 35
 - (iv) for the purposes 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 a partner in that partnership;”;
- (k) by the insertion after paragraph (k) of the following paragraph: 40
 “(kA) any amount contributed during a year of assessment to a provident fund in terms of the rules of that fund by a person who is a member of that fund: Provided that— 45
- (i) the total deduction to be allowed in terms of this paragraph must not in the year of assessment exceed the higher of— 50
 - (aa) up to R30 000; or
 - (bb) 27.5 per cent of the higher of that person’s—
 - (A) remuneration as defined in paragraph 1 of the Fourth Schedule (other than in respect of any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit); or 55
 - (B) 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 paragraph and section 18A, but not exceeding R350 000; 60

- (ii) any amount so contributed by an employer of a person for the benefit of that person must, to the extent that the amount has been included in the income of that person as a taxable benefit in terms of the Seventh Schedule, be deemed to have been contributed by that person; 5
- (iii) for the purposes 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 a partner in that partnership;”;
- (l) by the substitution in paragraph (kA)(i)(bb) for the words preceding subitem (A) of the following words: 10
 “[27.5] ten per cent of the higher of that person’s—”;
- (m) by the substitution in paragraph (kA)(i)(bb) for the words following subitem (B) of the following words: 15
 “but not exceeding [R350 000] R125 000;”;
- (n) by the substitution in paragraph (o) for paragraph (aa) of the proviso of the following paragraph: 20
 “(aa) the cost of any plant, machinery, implements, utensils or articles shall be deemed to be the actual cost plus the amount by which the value of such plant, machinery, implements, utensils or articles has been increased in terms of paragraph (v) of the proviso to paragraph (e) [less the amount by which such value has been reduced in terms of paragraph (iv) of that proviso];” and
- (o) by the deletion in paragraph (o) of paragraphs (cc) and (dd) of the proviso. 25
- (2) Paragraph (j) and (k) of subsection (1) comes into operation on 1 March 2016 and applies in respect of years of assessment commencing on or after that date.
- (3) Paragraph (e) of subsection (1) comes into operation on 1 April 2016.
- (4) Paragraphs (l) and (m) come into operation on 1 March 2017.

Amendment of section 12B of Act 58 of 1962, as inserted by section 11 of Act 90 of 1988 and amended by section 13 of Act 101 of 1990, section 10 of Act 113 of 1993, section 6 of Act 140 of 1993, section 13 of Act 28 of 1997, section 17 of Act 59 of 2000, section 11 of Act 16 of 2004, section 7 of Act 9 of 2005, section 19 of Act 31 of 2005, section 21 of Act 35 of 2007, section 18 of Act 17 of 2009, section 23 of Act 22 of 2012 and section 31 of Act 31 of 2013 30

- 19.** (1) Section 12B of the Income Tax Act, 1962, is hereby amended— 35
- (a) by the substitution in subsection (1)(h) for subparagraph (ii) of the following subparagraph: 40
 “(ii) (aa) photovoltaic solar energy of more than 1 megawatt;
 (bb) photovoltaic solar energy not exceeding 1 megawatt; or
 (cc) concentrated solar energy;”;
- (b) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs: 45
 “(a) in the case of an asset other than an asset contemplated in paragraph (b)—
 (i) in respect of the year of assessment during which the asset is so brought into use, 50 per cent of such cost;
 (ii) in respect of the second year, 30 per cent of such cost; and
 (iii) in respect of the third year, 20 per cent of such cost;
 (b) in the case of an asset contemplated in subsection (1)(h)(ii)(bb), 100 per cent of such cost.”;
- (c) by the substitution in subsection (4) for paragraph (c) of the following paragraph: 50
 “(c) any asset brought into use by any company during any year of assessment if such asset was previously brought into use by any other company during such year and both such companies are managed, controlled or owned by substantially the same persons, and a deduction under this section [section 12(1) or section 27(2)(d)] was previously granted to such other company;”;
- (d) by the substitution for subsection (6) of the following subsection: 55
 “(6) Where a lessor of any asset under a lease contemplated in subsection (4)(a) has within the period contemplated in subparagraph (ii) 60

of that paragraph, reckoned from the commencement of the period for which the asset is let under that lease, disposed of the whole or a portion of that lessor's interest in the lease or of his or her right to receive rent under the lease, there must be included in that lessor's income for the year of assessment during which the disposal is made a sum equal to the aggregate of any deductions allowed to that lessor under this section, **[section 12(1) or section 27(2)(d), less such amount as the Commissioner may allow]** less a proportionate amount in respect of the expired portion of the lease or any portion of that interest or right which has not been disposed of by the lessor.”

(2) Paragraphs (a) and (b) of subsection (1) come into operation on 1 January 2016 and apply in respect of years of assessment commencing on or after that date

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

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

(a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively:

“(a) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (b)) 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 (other than mining or farming) and is used by the taxpayer directly in a process of manufacture carried on by the taxpayer or any other process carried on by the taxpayer which **[in the opinion of the Commissioner]** is of a similar nature;

(b) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (a)) 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 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 (other than mining or farming) and is used by the lessee directly in a process of manufacture carried on by the lessee or any other process carried on by the lessee which **[in the opinion of the Commissioner]** is of a similar nature;”;

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

“(bA) machinery or plant 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 made available for use by the taxpayer in terms of a contract to another person for no consideration and was or is brought into use for the first time by that other person for the purposes of that other person's trade (other than mining or farming) and is used by that other person solely for the benefit of that taxpayer for the purposes of the performance of that other person's obligations under that contract in a process of manufacture under the Automotive Production and Development Programme administered by the Department of Trade and Industry or Automotive Incentive Scheme administered by that Department;” and

- (c) by the substitution in paragraph (c) of the proviso to subsection (1) for subparagraph (ii) of the following subparagraph:

“(ii) brought into use by the taxpayer on or after that date in a process of manufacture or process which **[in the opinion of the Commissioner]** is of a similar nature, carried on by that taxpayer in the course of its business (other than banking, financial services, insurance or rental business),”.

- (2) Paragraph (b) of subsection (1) comes into operation on 1 January 2016 and applies in respect of years of assessment ending on or after that date.

Amendment of section 12E of Act 58 of 1962, as inserted by section 12 of Act 19 of 2001 and amended by section 17 of Act 30 of 2002, section 21 of Act 74 of 2002, section 37 of Act 12 of 2003, section 31 of Act 45 of 2003, section 9 of Act 9 of 2005, section 21 of Act 31 of 2005, section 24 of Act 9 of 2006, section 14 of Act 20 of 2006, section 15 of Act 8 of 2007, section 25 of Act 35 of 2007, section 13 of Act 3 of 2008, section 23 of Act 60 of 2008, section 21 of Act 17 of 2009, section 23 of Act 7 of 2010, section 34 of Act 24 of 2011, section 25 of Act 22 of 2012, section 7 of Act 23 of 2013, section 35 of Act 31 of 2013 and section 20 of Act 43 of 2014

21. Section 12E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) is used by that taxpayer directly in a process of manufacture (or any other process which **[in the opinion of the Commissioner]** is of a similar nature) carried on by that taxpayer,”.

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

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

- (a) by the insertion in subsection (1) after the definition of “brownfield project” of the following definition:

“**‘compliance period’ means the period—**

- (a) commencing at the beginning of the year of assessment following the year of assessment in which assets are first brought into use; and
(b) ending at the end of the year of assessment three years after the year of assessment in which assets are first brought into use;”;

- (b) by the substitution for subsection (5) of the following subsection:

“(5) (a) The cost of training contemplated in subsection (4) must be incurred by the end of the compliance period.

(b) Notwithstanding subsection (2), there must be allowed to be deducted, not earlier than the year of assessment preceding the year in which the asset is brought into use, any amount in respect of the additional training allowance.

(c) The additional training allowance contemplated in subsection (4) allowed to a company may not exceed R36 000 per employee.

(d) The additional training allowance contemplated in subsection (4) allowed to a company at the end of the compliance period from the date of approval may not exceed—

- (i) R30 million in the case of an industrial policy project with preferred status; and

(ii) R20 million in the case of any other industrial policy project.”;

- (c) by the deletion in subsection (7)(a) of subparagraph (iv);

- (d) by the substitution in subsection (7) for paragraph (d) of the following paragraph:

“(d) the application for approval of the project by the company is received by the Minister of Trade and Industry not later than 31 December **[2015] 2017**, in such form and containing such information as the Minister of Trade and Industry may prescribe.”;

- (e) by the substitution for subsection (11) of the following subsection:

“(11) Within 12 months after the close of each year of assessment, starting with the year in which approval is granted in terms of subsection

(8), a company carrying on an industrial policy project must report until the end of the compliance period to the adjudication committee with respect to the progress of the industrial policy project in terms of the requirements of subsections (7) and (8) within such time, in such form and in such manner as the Minister of Finance may prescribe.”; 5

(f) by the substitution in subsection (12) for paragraph (a) of the following paragraph:

“(a) (i) during any year of assessment—

(aa) any material fact changes; or

(bb) the company fails to comply with any requirement contemplated in subsection (7), which would have had the effect that approval in terms of subsection (8) would not have been granted had such change in fact or such failure been known to the Minister of Trade and Industry at the time of granting approval; or 10

(ii) the company fails to comply with any requirement contemplated in subsection (8) at the end of the compliance period;” 15
and

(g) by the deletion of subsection (20).

(2) Paragraphs (a), (c), (e) and (f) of subsection (1) are deemed to have come into operation on 8 January 2009. 20

(3) Paragraphs (b) and (d) of subsection (1) come into operation on 1 January 2016.

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 and section 23 of Act 43 of 2014 25

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

(a) by the substitution in subsection (6A)(b) for the words preceding subparagraph (i) of the following words:

“**[at least]** less than 80 per cent of the expenditure incurred by the company to acquire assets held by the company was incurred to acquire qualifying shares issued to the company by qualifying companies, each of which, immediately after the issue, held assets with a book value not exceeding—”; and 30

(b) by the substitution in subsection (6A) for paragraph (c) of the following paragraph: 35

“(c) **[not]** more than 20 per cent of any amounts received in respect of the issue of shares in the company was utilised to acquire qualifying shares issued to the company by any one qualifying company.”. 40

(2) Subsection (1) is deemed to have come into operation on 1 January 2015. 40

Amendment of section 12L of Act 58 of 1962, as substituted by section 29 of Act 22 of 2012 and amended by section 38 of Act 31 of 2013

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

“(2) The amount of the deduction contemplated in subsection (1) must be calculated at **[45]** 95 cents per kilowatt hour or kilowatt hour equivalent of energy efficiency savings.”. 45

(2) Subsection (1) is deemed to have come into operation on 1 March 2015 and applies in respect of years of assessment commencing on after that date.

Amendment of section 12O of Act 58 of 1962, as inserted by section 39 of Act 24 of 2011 and amended by section 32 of Act 22 of 2012 50

25. (1) Section 12O of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (5) for paragraph (a) of the following paragraph:

“(a) **[A]** Notwithstanding section 23(f), a taxpayer may deduct from the income of the taxpayer an amount in respect of any expenditure incurred to acquire exploitation rights in respect of a film in accordance with paragraph (b).” 55

(2) Subsection (1) is deemed to have come into operation on 1 January, 2012 and applies in respect of receipts and accruals in respect of films of which principal photography commences on or after that date but before 1 January 2022.

Amendment of section 12P of Act 58 of 1962, as inserted by section 33 of Act 22 of 2012

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

(a) by the insertion after subsection (2) of the following subsection:

“(2A) Notwithstanding subsection (2), there must be exempt from normal tax any amount received by or accrued to or in favour of any person from the Government in the national, provincial or local sphere, where—

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(a) that amount is granted for the performance by that person of its obligations pursuant to a Public Private Partnership; and

(b) to the extent that person is required in terms of that Public Private Partnership to expend an amount at least equal to that amount in respect of any improvements on land or to buildings owned by any sphere of government or over which any sphere of government holds a servitude.”;

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

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“Where during any year of assessment any amount is received by or accrues to a person by way of a government grant as contemplated in subsection (2) or (2A), other than a government grant in kind, for the acquisition, creation or improvement, or as a reimbursement for expenditure incurred in respect of the acquisition, creation or improvement of—”;

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(c) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“Where any amount is received by or accrues to a person by way of a government grant as contemplated in subsection (2) or 2A for the acquisition, creation or improvement of an allowance asset or as a reimbursement for expenditure incurred in respect of that acquisition, creation or improvement, the aggregate amount of the deductions or allowances allowable to that person in respect of that allowance asset may not exceed an amount equal to the aggregate of the expenditure incurred in the acquisition, creation or improvement of that allowance asset, reduced by an amount equal to the sum of—”;

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35

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

“Where during any year of assessment any amount is received by or accrues to a person by way of a government grant as contemplated in subsection (2) or (2A), other than a government grant in kind—”;

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(e) by the substitution in subsection (6)(a) for subparagraph (i) of the following subparagraph:

“(i) any amount is received by or accrues to a person by way of a government grant as contemplated in subsection (2) or (2A), other than a government grant in kind; and”.

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(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of grants received or expenditure incurred on or after that date.

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

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27. Section 12Q of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the definition of “South African ship” of the following definition:

“‘**South African ship**’ means a ship which is registered in the Republic in accordance with [section 15] Part 1 of Chapter 4 of the Ship Registration Act, 1998 (Act No. 58 of 1998).”.

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

- 28.** (1) Section 12R of the Income Tax Act, 1962, is hereby amended—
- (a) by the deletion in subsection (4)(a) at the end of subparagraph (vi) of the word “and”; 5
 - (b) by the substitution in subsection (4) at the end of paragraph (b) for the full stop of the expression “;or”; and
 - (c) by the addition in subsection (4) after paragraph (b) of the following paragraph: 10
 - “(c) subsection (2) does not apply to any qualifying company if— 10
 - (i) more than 20 per cent of expenditure that is deductible under this Act is incurred; or
 - (ii) more than 20 per cent of the income of that company is received or accrued; in respect of transactions with any connected person in relation to that company if that connected person— 15
 - (aa) is a resident; or
 - (bb) is not a resident and those transactions are attributable to a permanent establishment of that connected person in the Republic.”. 20
- (2) Subsection (1) comes into operation on the date on which the Special Economic Zones Act, 2014 (Act No. 16 of 2014), comes into operation.

Amendment of section 12T of Act 58 of 1962, as inserted by section 28 of Act 58 of 2014

- 29.** Section 12T of the Income Tax Act, 1962, is hereby amended— 25
- (a) by the substitution for subsection (2) of the following subsection:
 - “(2) There shall be exempt from normal tax any amount received by or accrued to a natural person or deceased estate or insolvent estate of that person in respect of a tax free investment.”;
 - (b) by the substitution in subsection (7) for paragraph (a) of the following paragraph: 30
 - “(a) If during any year of assessment any person contributes in excess of the amount of R30 000 in respect of tax free investments, an amount equal to 40 per cent of that excess is deemed to be an amount of normal tax payable by [that] the person contemplated in subsection 1(b) in respect of that year of assessment.”; and 35
 - (c) by the substitution in subsection (7) for paragraph (b) of the following paragraph:
 - “(b) If any person contributes in excess of R500 000 in aggregate in respect of tax free investments, an amount equal to 40 per cent of so much of that excess as has not previously been taken into account in terms of this subsection shall be deemed to be an amount of normal tax payable by the person contemplated in subsection 1(b) in respect of the year of assessment in which the excess is contributed.”. 40
- (2) Subsection (1) is deemed to have come into operation on 1 March 2015. 45

Amendment of section 13 of Act 58 of 1962, as amended by section 12 of Act 90 of 1962, section 5 of Act 6 of 1963, section 11 of Act 72 of 1963, section 12 of Act 90 of 1964, section 14 of Act 88 of 1965, section 17 of Act 55 of 1966, section 13 of Act 52 of 1970, section 13 of Act 88 of 1971, section 12 of Act 90 of 1972, section 13 of Act 65 of 1973, section 16 of Act 85 of 1974, section 13 of Act 69 of 1975, section 7 of Act 101 of 1978, section 10 of Act 104 of 1980, section 14 of Act 96 of 1981, section 10 of Act 96 of 1985, section 12 of Act 85 of 1987, section 12 of Act 90 of 1988, section 12 of Act 113 of 1993, section 11 of Act 46 of 1996, section 22 of Act 53 of 1999, section 20 of Act 59 of 2000, section 13 of Act 19 of 2001, section 30 of Act 60 of 2001, section 3 of Act 4 of 2008, section 30 of Act 7 of 2010, section 40 of Act 24 of 2011 and section 45 of Act 31 of 2013

30. Section 13 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraphs (b), (d) and (dA) of the following paragraphs, respectively:

- “(b) any building the erection of which was commenced by the taxpayer on or after the fifteenth day of March, 1961, if such building was wholly or mainly used by the taxpayer during the year of assessment for the purpose of carrying on therein in the course of his trade (other than mining or farming) any process of manufacture, research and development or any other process which [**in the opinion of the Commissioner**] is of a similar nature, or such building was let by the taxpayer and was wholly or mainly used by a tenant or subtenant for the purpose of carrying on therein any process as aforesaid in the course of any trade (other than mining or farming); or
- (d) any building the erection of which was commenced on or after the fifteenth day of March, 1961, if such building has been acquired by the taxpayer by purchase from any other person who was entitled to an allowance in respect thereof under paragraph (b) or this paragraph or the corresponding provisions of any previous Income Tax Act, and such building was wholly or mainly used during the year of assessment by the taxpayer for the purpose of carrying on therein in the course of his trade (other than mining or farming) a process of manufacture, research and development or any other process which [**in the opinion of the Commissioner**] is of a similar nature, or such building was let by the taxpayer and was wholly or mainly used by a tenant or subtenant for the purpose of carrying on therein in the course of any trade (other than mining or farming) any process as aforesaid; or
- (dA) any building that has never been used, if such building has been acquired by the taxpayer by purchase from any other person and such building was wholly or mainly used during the year of assessment by the taxpayer for the purpose of carrying on therein in the course of his trade (other than mining or farming) a process of manufacture, research and development or any other process which [**in the opinion of the Commissioner**] is of a similar nature, or such building was let by the taxpayer and was wholly or mainly used by a tenant or subtenant for the purpose of carrying on therein in the course of any trade (other than mining or farming) any process as aforesaid; or”.

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 46 of Act 31 of 2013

31. (1) Section 13bis of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1)(d) for subparagraph (ii) of the following subparagraph:
 - “(ii) of any improvements (other than repairs) to any building referred to in this paragraph [**or paragraph (a) or (b)**], if such improvements were commenced on or after the first day of January, 1964; or”;
- (b) by the substitution for subsection (5) of the following subsection:
 - “(5) The deductions which may be allowed or deemed to have been allowed in terms of this section and any other provision of this Act in

respect of the cost of any building or improvement shall not in the aggregate exceed the amount of such cost.”.

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 13^{quat} of Act 58 of 1962, as inserted by section 33 of Act 45 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 and section 48 of Act 31 of 2013

32. Section 13^{quat} of the Income Tax Act, 1962, is hereby amended—

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

“(a) that area is a developed urban location with the municipality of Buffalo City, Cape Town, **[Ekuthuleni]** Ekurhuleni, Emalahleni, Emfuleni, eThekweni, Johannesburg, **[Mafikeng]** Mahikeng, Mangaung, Matjhabeng, Mbombela, Msunduzi, Nelson Mandela, Polokwane, Sol Plaatje or Tshwane;”;

(b) by the substitution in subsection (7)(b) for the words preceding subparagraph (i) of the following words:

“Where that municipality has a population of **[2 million]** 1 million persons or more, the municipal council may demarcate two areas in lieu of the one area demarcated in terms of subsection (6) **[provided that—]** : Provided that—”;

(c) by the insertion in subsection (7) after paragraph (b) of the following paragraph:

“(bA) Where a municipality has a population of less than 1 million persons the Minister may by notice in the *Gazette* approve that municipality for the purposes of paragraph (b).”;

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

“(c) For purposes of this subsection, the population of a municipality shall be the population figures as determined by Statistics South Africa in the Census for **[2001]** 2011 and the total population of that municipality must be rounded to the nearest multiple of 100 000.”.

(2) Paragraphs (b) and (c) of subsection (1) come into operation on 1 January 2016.

Amendment of section 15 of Act 58 of 1962, as amended by section 20 of Act 55 of 1966, section 18 of Act 129 of 1991, section 16 of Act 141 of 1992, section 24 of Act 31 of 2005, section 15 of Act 20 of 2006 and section 29 of Act 35 of 2007

33. Section 15 of the Income Tax Act, 1962, is hereby amended by the substitution in the proviso to paragraph (b) for subparagraphs (i) and (ii) of the following subparagraphs, respectively:

“(i) except in the case of any person who derives income from mining for diamonds in the Republic, **[the Commissioner may determine that]** any expenditure referred to in this paragraph shall be deducted in a series of annual instalments, so that only a portion of such expenditure is deducted in the year of assessment in which it is incurred, and the residue in such subsequent years of assessment and in such proportions as **[the Commissioner may determine]** may be determined by public notice issued by the Commissioner, until the expenditure is extinguished;

(ii) in the case of any company which derives income from different classes of mining operations, the deduction under this paragraph shall be made from the income derived from such class or classes of mining operations and in such proportions as **[the Commissioner may determine]** may be determined by public notice issued by the Commissioner;”.

Amendment of section 18A of Act 58 of 1962, as substituted by section 24 of Act 30 of 2000 and amended by section 72 of Act 59 of 2000, section 20 of Act 30 of 2002, section 34 of Act 45 of 2003, section 26 of Act 31 of 2005, section 16 of Act 20 of 2006, section 18 of Act 8 of 2007, section 31 of Act 35 of 2007, section 1 of Act 3 of 2008, section 6 of Act 4 of 2008, section 34 of Act 60 of 2008, section 37 of Act 7 of 2010, section 44 of Act 24 of 2011, section 7 of Act 21 of 2012, section 52 of Act 31 of 2013, section 29 of Act 43 of 2014 and section 3 of Act 44 of 2014 5

34. Section 18A of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (5C) of the following subsection:

“(5C) If [**the Commissioner has reasonable grounds for believing that**] any public benefit organisation contemplated in subsection (1)(b), has not distributed amounts as contemplated in subsection (2D), or has not incurred the obligation to distribute those amounts received in respect of investment assets held by it, those amounts shall be deemed to be taxable income of that public benefit organisation in that year of assessment.”. 15

Amendment of section 19 of Act 58 of 1962, as inserted by section 36 of Act 22 of 2012 and amended by 53 of Act 31 of 2013

35. Section 19 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (7) for the words preceding paragraph (a) of the following words:

“Where a debt owed by a person that was used to fund expenditure incurred in respect of [**the acquisition, creation or improvement of**] an allowance asset is reduced, the aggregate amount of the deductions and allowances allowable to that person in respect of that allowance asset may not exceed an amount equal to the aggregate of the expenditure incurred in the acquisition of that allowance asset, reduced by an amount equal to the sum of—”. 25

Amendment of section 20C of Act 58 of 1962, as substituted by section 39 of Act 22 of 2012

36. Section 20C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the definition of “royalty” of the following definition:

“**‘royalty’** means any amount that is, before taking into account section [49D(b)] 49D(c), subject to the withholding tax on royalties in terms of Part IVA.”. 30

Amendment of section 22 of Act 58 of 1962, as amended by section 8 of Act 6 of 1963, section 14 of Act 90 of 1964, section 21 of Act 89 of 1969, section 23 of Act 85 of 1974, section 20 of Act 69 of 1975, section 15 of Act 103 of 1976, section 20 of Act 94 of 1983, section 19 of Act 121 of 1984, section 14 of Act 65 of 1986, section 5 of Act 108 of 1986, section 21 of Act 101 of 1990, section 22 of Act 129 of 1991, section 17 of Act 113 of 1993, section 1 of Act 168 of 1993, section 19 of Act 21 of 1995, section 12 of Act 36 of 1996, section 25 of Act 53 of 1999, section 27 of Act 30 of 2000, section 12 of Act 5 of 2001, section 24 of Act 74 of 2002, section 37 of Act 45 of 2003, section 16 of Act 3 of 2008, section 36 of Act 60 of 2008, section 39 of Act 7 of 2010, section 45 of Act 24 of 2011, section 40 of Act 22 of 2012, section 55 of Act 31 of 2013 and section 32 of Act 43 of 2014 35

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

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 45

“(a) in the case of trading stock other than trading stock contemplated in paragraph (b), the cost price to such person of such trading stock, less such amount [**as the Commissioner may think just and reasonable as representing**] as represents the amount by which the value of such trading stock, not being any financial instrument, has been diminished by reason of damage, deterioration, change of fashion, decrease in the market value or for any other reason [**satisfactory to the Commissioner**] listed in a public notice issued by the Commissioner; and”; 50

- (b) by the substitution in subsection (3)(a) for subparagraph (iii) of the following subparagraph:
- “(iii) in the case of—
- (aa) a right in a controlled foreign company held directly by a resident, include an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph 10 of the Eighth Schedule) of that company and of any other controlled foreign company in which that controlled foreign company and that resident directly or indirectly have an interest, which was included in the income of that resident in terms of section 9D during any year of assessment, **[less] reduced by** the amount of any foreign dividend distributed by that company to that resident during any year of assessment which was exempt from tax in terms of section 10B(2)(a) or (c); or
- (bb) a right in a controlled foreign company held directly by another controlled foreign company, include an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph 10 of the Eighth Schedule) of that first-mentioned controlled foreign company and of any other controlled foreign company in which both the first- and second-mentioned controlled foreign companies directly or indirectly have an interest, which during any year of assessment would have been included in the income of that second-mentioned controlled foreign company in terms of section 9D had it been a resident, **[less] reduced by** the amount of any foreign dividend distributed by that first-mentioned controlled foreign company to the second-mentioned controlled foreign company if that dividend would have been exempt from tax in terms of section 10B(2)(a) or (c) had that second-mentioned controlled foreign company been a resident;”;
- (c) by the substitution in subsection (4A) for paragraph (b) of the following paragraph:
- “(b) another security **[of the same kind and of the same or equivalent quantity and quality]** that is an identical security has been returned by such borrower to such lender, such other security shall be deemed not to have been acquired by such lender.”;
- (d) by the insertion after subsection (4A) of the following subsection:
- “(4B) For the purposes of subsection (4), where—
- (a) any share has been transferred by a transferor to a transferee in terms of a collateral arrangement, that share shall be deemed not to have been acquired by that transferee; or
- (b) a share that is an identical share to the share contemplated in paragraph (a) has been returned by that transferee to that transferor in terms of that collateral arrangement, the share so returned shall be deemed not to have been acquired by that transferor.”;
- (e) by the deletion of subsection (5A);
- (f) by the substitution in subsection (8)(b) for subparagraph (ii) of the following subparagraph:
- “(ii) taxpayer has disposed of trading stock, other than in the ordinary course of his or her trade or has disposed of an asset to his or her surviving spouse as contemplated in section 9HA(2), for a consideration less than the market value thereof;”;
- (g) by the substitution in subsection (9)(a) for subparagraph (iii) of the following subparagraph:
- “(iii) a security **[of the same kind and of the same or equivalent quantity and quality]** that is an identical security has not been returned by the borrower to such person at the end of such year of assessment;”;
- (h) by the deletion in subsection (9) at the end of paragraph (a) of the word “or”;

- (i) by the substitution in subsection (9)(b) for subparagraph (iii) of the following subparagraph:
- “(iii) a security **[of the same kind and of the same or equivalent quantity and quality]** that is an identical security has not been returned by such other person to such lender at the end of such year of assessment.”;
- (j) by the substitution in subsection (9) after paragraph (b) for the full stop of the expression “; or”; and
- (k) by the addition in subsection (9) after paragraph (b) of the following paragraphs:
- “(c) (i) the trading stock of any person during any year of assessment includes any share;
- (ii) that person has, during that year of assessment, transferred that share to a transferee in terms of a collateral arrangement; and
- (iii) a share that is an identical share to the share contemplated in subparagraph (ii) has not been returned by the transferee to that person at the end of that year of assessment,
- such share shall, for the purposes of this section, be deemed to be trading stock held and not disposed of by that person at the end of that year of assessment; or
- (d) (i) the trading stock of any transferee during any year of assessment includes any share;
- (ii) that transferee has, during such year of assessment, acquired such share from a transferor in terms of a collateral arrangement; and
- (iii) a share that is an identical share to the share contemplated in subparagraph (ii) has not been returned by such transferee to such transferor at the end of such year of assessment,
- such share shall, for the purposes of this section, be deemed not to be trading stock held and not disposed of, by such transferee at the end of such year of assessment.”.

(2) Paragraphs (c), (g), (h) and (i) of subsection (1) come into operation on 1 January 2016.

(3) Paragraphs (d), (j) and (k) of subsection (1) come into operation on 1 January 2016 and apply in respect of any collateral arrangement entered into on or after that date.

(4) Paragraph (f) of subsection (1) comes into operation on 1 January 2016 and applies in respect of a person who dies on or after that date.

Amendment of section 23H of Act 58 of 1962, as inserted by section 31 of Act 30 of 2000 and amended by section 29 of Act 59 of 2000, section 34 of Act 60 of 2001, section 36 of Act 35 of 2007, section 19 of Act 3 of 2008, section 43 of Act 7 of 2010, section 46 of Act 22 of 2012 and section 35 of Act 43 of 2014

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

- “(2) If **[the Commissioner is]** in any case **[satisfied that]** the apportionment of the expenditure in accordance with subsection (1) does not reasonably represent a fair apportionment of such expenditure in respect of the goods, services or benefits to which it relates, **[he may direct that]** such apportionment must be made in such other manner as **[to him appears]** is fair and reasonable.”.

Amendment of section 23K of Act 58 of 1962, as inserted by section 49 of Act 24 of 2011 and amended by section 50 of Act 24 of 2011, sections 49 and 171 of Act 22 of 2012 and section 59 of Act 31 of 2013

39. Section 23K of the Income Tax Act, 1962, is hereby amended—

- (a) by the insertion in subsection (10) at the end of paragraph (a) of the word “or”;
- (b) by the substitution in subsection (10) at the end of paragraph (b) for the expression “; or” of a full stop; and
- (c) by the deletion in subsection (10) of paragraph (c).

Amendment of section 23N of Act 58 of 1962, as inserted by section 63 of Act 31 of 2013 and amended by section 38 of Act 43 of 2014

40. (1) Section 23N of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) in the definition of “acquisition transaction” for paragraphs (a) and (b) of the following paragraphs: 5

“(a) in terms of which an acquiring company acquires an equity share in an acquired company that is **[an operating]** a company as **[defined]** contemplated in paragraph (a) or (b) of the definition of ‘acquisition transaction’ in section **[24O]** 24O(1); and

(b) as a result of which that acquiring company, as at the **[close]** end of the day of that transaction, becomes a controlling group company in relation to that **[operating]** acquired company;”.

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of years of assessment ending on or after that date.

Amendment of section 24 of Act 58 of 1962, as amended by section 6 of Act 108 of 1986, section 23 of Act 101 of 1990, section 17 of Act 28 of 1997 and section 31 of Act 31 of 2005

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

“(2) In the case of such an agreement in terms of which at least 25 per cent of the said amount payable only becomes due and payable on or after the expiry of a period of not less than 12 months after the date of the said agreement, **[the Commissioner,]** taking into consideration any allowance **[he has]** made under section 11(j), **[may make]** there shall be made such further allowance as under the special circumstances of the trade of the taxpayer **[seems to him]**, as set out in a public notice issued by the Commissioner, is reasonable, in respect of all amounts which are deemed to have accrued under such agreements but which have not been received at the close of the taxpayer’s accounting period: Provided that any allowance so made shall be included as income in the taxpayer’s returns for the following year of assessment and shall form part of **[his]** the taxpayer’s income.”. 20 25 30

Amendment of section 24C of Act 58 of 1962, as inserted by section 18 of Act 104 of 1980

42. Section 24C of the Income Tax Act, 1962, is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) For the purposes of this section, ‘future expenditure’ in relation to any year of assessment means an amount of expenditure which **[the Commissioner is satisfied]** will be incurred after the end of such year—

(a) in such manner that such amount will be allowed as a deduction from income in a subsequent year of assessment; or

(b) in respect of the acquisition of any asset in respect of which any deduction will be admissible under the provisions of this Act. 40

(2) If the income of any taxpayer in any year of assessment includes or consists of an amount received by or accrued to him in terms of any contract and **[the Commissioner is satisfied that]** such amount will be **[utilized]** utilised in whole or in part to finance future expenditure which will be incurred by the taxpayer in the performance of **[his]** the taxpayer’s obligations under such contract, there shall be deducted in the determination of the taxpayer’s taxable income for such year such allowance (not exceeding the said amount) **[as the Commissioner may determine,]** in respect of so much of such future expenditure as **[in his opinion]** relates to the said amount.”. 45

Amendment of section 24D of Act 58 of 1962, as inserted by section 20 of Act 96 of 1981 and amended by section 22 of Act 121 of 1984 and section 16 of Act 85 of 1987

43. Section 24D of the Income Tax Act, 1962, is hereby amended—

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

“There shall be allowed to be deducted from the income of any taxpayer for any year of assessment so much of any expenditure actually incurred 55

- by the taxpayer **[as the Commissioner is satisfied was so incurred]** during such year—”; and
- (b) by the substitution in subsection (2) for the words following paragraph (b) of the following words:
- “and no **[claim by the taxpayer for the deduction of any]** expenditure **shall be deducted** under the provisions of this section **[shall be admitted by the Commissioner]** unless **[confirmation has been received by him from]** the Minister of Defence or any person or committee appointed by that Minister **[to the effect]** has confirmed in writing that it was deemed necessary or expedient that the expenditure in question be incurred by the taxpayer concerned.”.

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 and section 40 of Act 43 of 2014

44. Section 24I of the Income Tax Act, 1962, is hereby amended—
- (a) by the deletion in subsection (1) of the definition of “premium or discount on a forward exchange contract”;
- (b) by the substitution in subsection (1) in the definition of “ruling exchange rate” for the proviso of the following proviso:
- “: Provided that the Commissioner may, having regard to the particular circumstances of the case, prescribe an alternative rate to any of the aforementioned prescribed rates to be applied by a person in such particular circumstances, if such alternative rate is used **[for accounting purposes in terms of generally accepted accounting practice]** for the purposes of financial reporting pursuant to IFRS;”;
- (c) by the substitution in subsection (7) for the words preceding paragraph (a) of the following words:
- “Notwithstanding the provisions of subsection (3), but subject to the provisions of **[sections 36 and 37E]** section 36—”;
- (d) by the substitution in the proviso to subsection (7) for the words preceding paragraph (a) of the following words:
- “Provided that where **[the Commissioner is satisfied that]** during any year of assessment subsequent to the year of assessment during which such exchange difference arose or such premium or other consideration was paid or became payable—”; and
- (e) by the substitution in the Afrikaans text in subsection (10)(a)(ii) for item (aa) of the following item:
- “(aa) of enige gedeelte daarvan nie vir daardie persoon ‘n **[lopende bate]** bedryfsbate of ‘n **[lopende las]** bedryfslas by die toepassing van finansiële verslaggewing ooreenkomstig IFRS verteenwoordig nie; en”.

Amendment of section 24JA of Act 58 of 1962, as inserted by section 48 of Act 7 of 2010 and amended by sections 54, 159 and 172 of Act 24 of 2011, section 55 of Act 22 of 2012, section 70 of Act 31 of 2013 and section 42 of Act 43 of 2014

45. (1) Section 24JA of the Income Tax Act, 1962, is hereby amended—
- (a) by the insertion in subsection (1) after the definition of “diminishing musharaka” of the following definition:
- “**‘listed company’** means a listed company as contemplated in paragraph (a) of the definition of “listed company” in section 1(1);”;
- (b) by the substitution in subsection (1) in the definition of “murabaha” for the words preceding paragraph (a) of the following words:

“**‘murabaha’** means a sharia arrangement between a financier and a client of that financier, one of which is a bank or a listed company, whereby—”;

- (c) by the substitution in subsection (1) for paragraphs (a) and (b) of the definition of “sukuk” of the following paragraphs: 5
- “(a) the government of the Republic [or], any public entity that is listed in Schedule 2 to the Public Finance Management Act or a listed company disposes of an interest in an asset to a trust; and
- (b) the disposal of the interest in the asset to the trust by the government [or], the public entity or the listed company contemplated in paragraph (a) is subject to an agreement in terms of which the government [or], that public entity or that listed company undertakes to reacquire on a future date from that trust the interest in the asset disposed of at a cost equal to the cost paid by the trust to the government [or], to that public entity or to that listed company to obtain the asset.”; 10 15
- (d) by the substitution for subsection (2) of the following subsection:
- “(2) Any amount received by or accrued to a client in terms of a mudaraba is deemed to be interest as **[defined in section 24J(1)] contemplated in paragraph (a) of the definition of ‘interest’ in section 24J(1).**”;
- (e) by the substitution in subsection (3) for paragraph (d) of the following paragraph:
- “(d) the difference between the amount of consideration paid for the asset by the financier to the seller and the consideration payable to the financier by the client to acquire the asset as contemplated in paragraph (b)(ii) of the definition of “murabaha” is deemed to be a premium **[paid for the purposes of section 24J] payable or receivable contemplated in paragraph (a) of the definition of ‘interest’ in section 24J(1); and**”;
- (f) by the substitution in subsection (7) for paragraphs (a), (b) and (c) of the following paragraphs, respectively: 20 25 30
- “(a) the trust is deemed not to have acquired the asset from the government of the Republic [or], the public entity that is listed in Schedule 2 to the Public Finance Management Act or the listed company under the sharia arrangement; 35
- (b) the government [or], that public entity or that listed company is deemed not to have disposed of or reacquired the asset; and
- (c) any consideration paid by the government [or], that public entity or that listed company in respect of the use of the asset held by the trust is deemed to be interest as **[defined in section 24J (1)] contemplated in paragraph (a) of the definition of ‘interest’ in section 24J(1).**” 40

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of years of assessment commencing on or after that date. 45

Substitution of section 24O of Act 58 of 1962

46. (1) The following section is hereby substituted for section 24O of the Income Tax Act, 1962:

“Incurral of interest in respect of certain debts deemed to be in the production of income 50

24O. (1) For the purposes of this section—

‘acquisition transaction’ means any transaction in terms of which a company acquires an equity share—

- (a) in another company— 55
- (i) that is an operating company; and
- (ii) as a result of which, at the end of the day of that transaction—
- (aa) that company is a controlling group company in relation to that other company; and

- (bb) that company and that other company form part of the same group of companies as defined in section 41(1); or
- (b) in another company—
- (i) that is a controlling group company in relation to an operating company that forms part of the same group of companies, as defined in section 41(1), as that controlling group company; and
 - (ii) as a result of which, at the end of the day of that transaction,
 - (aa) that company is a controlling group company in relation to that other controlling group company; and
 - (bb) that company and that other company form part of the same group of companies as defined in section 41(1);
- ‘operating company’** means a company of which—
- (a) at least 80 per cent of the receipts and accruals constitute income in the hands of that company; and
 - (b) the income contemplated in paragraph (a) is derived—
 - (i) from a business carried on continuously by that company; and
 - (ii) in the course or furtherance of providing goods or rendering of services for consideration by that company.
- (2) Subject to subsections (3) and (4), where during any year of assessment a debt is issued, assumed or used by a company—
- (a) for the purpose of financing the acquisition by that company of an equity share in terms of an acquisition transaction; or
 - (b) in substitution for a debt issued, assumed or used as contemplated in paragraph (a), any interest incurred by that company in respect of that debt must, to the extent to which that equity share constitutes a qualifying interest in an operating company, be deemed to have been—
 - (i) so incurred in the production of the income of that company; and
 - (ii) laid out or expended by that company for the purposes of trade.
- (3) 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 in—
- (a) an operating company; or
 - (b) 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 company or operating companies—
 - (i) in relation to which that company is a controlling group company; and
 - (ii) that form part, with that company, of a group of companies, as defined in section 41(1): Provided that if at least 90 per cent of the value of that equity share is so derived, that equity share must be treated as an equity share in an operating company.
- (4) A determination of the extent to which an equity share acquired in terms of an acquisition transaction constitutes a qualifying interest in an operating company—
- (a) must apply, for purposes of subsection (2), until any of the following events occurs in relation to a company taken into account in making that determination:
 - (i) a controlling group company ceases to be a controlling group company in relation to any operating company;
 - (ii) an operating company ceases to be an operating company; or
 - (iii) any company ceases to form part of the group of companies contemplated in paragraph (a)(ii) or (b)(ii) of the definition of ‘acquisition transaction’ in subsection (1); and
 - (b) must, if any of the events contemplated in paragraph (a) occurs, be determined as if that equity share had been acquired on the date of that event and must apply, for purposes of subsection (2), from that date.”.
- (2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of years of assessment ending on or after that date.

Amendment of section 24P of Act 58 of 1962, as inserted by section 44 of Act 43 of 2014

47. Section 24P of the Income Tax Act, 1962, is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

- “(1) **[There]** Notwithstanding section 23(e) there must be allowed to be deducted from the income of any person an amount of expenditure on repairs to any ship **[as, notwithstanding section 23(e), the Commissioner allows]** in respect of each year of assessment if **[that person]**—
- (a) that person is a resident;
 - (b) that person carries on any business as owner or charterer of any ship; and
 - (c) **[satisfies the Commissioner that]** within five years of that year of assessment, that person is likely to incur an amount of expenditure on repairs to any ship used by that person for the purposes of that person’s trade.
- (2) In determining the amount of the deduction under subsection (1) **[the Commissioner must have]** regard must be had to—
- (a) the estimated cost of those repairs; and
 - (b) the date on which those costs are likely to be incurred.”.

Substitution of section 25 of Act 58 of 1962

48. (1) The following section is hereby substituted for section 25 of the Income Tax Act, 1962:

“Taxation of deceased estates

25. (1) Any—

- (a) income received by or accrued to or in favour of any person in his or her capacity as the executor of the estate of a deceased person; and
- (b) amount received or accrued as contemplated in paragraph (a) which would have been income in the hands of that deceased person had that amount been received by or accrued to or in favour of that deceased person during his or her lifetime,

must be treated as income of the deceased estate of that deceased person.

(2) Where the deceased estate of a person acquires an asset from that person, that deceased estate must, if that asset is an asset—

- (a) other than an asset contemplated in section 9HA(2), be treated as having acquired that asset for an amount of expenditure incurred equal to the market value of that asset as at the date of the death of that deceased person; and
- (b) contemplated in section 9HA(2), be treated as having acquired that asset for an amount of expenditure incurred equal to the amount contemplated in section 9HA(2)(b).

(3) Where the deceased estate of a person disposes of an asset to an heir or legatee of that person—

- (a) that deceased estate must be treated as having disposed of that asset for an amount received or accrued equal to the amount of expenditure incurred by the deceased estate in respect of that asset; and
- (b) the heir or legatee must be treated as having acquired that asset for an amount of expenditure incurred equal to the expenditure incurred by the deceased estate in respect of that asset.

(4) Where the deceased estate of a person disposes of an asset contemplated in section 9HA(2) to the surviving spouse of that person, that spouse must be treated as having—

- (a) acquired that asset on the date that the deceased person acquired that asset; and
- (b) incurred—
 - (i) the expenditure incurred by that deceased person in respect of that asset as contemplated in section 9HA(2)(b); and
 - (ii) any expenditure, other than the expenditure contemplated in subsection (2)(b), incurred by that deceased estate in respect of that asset,

- on the same date and in the same currency in which it was incurred by the deceased person or the deceased estate, as the case may be; and
- (c) used that asset in the same manner as the manner in which that asset had been used by the deceased person and the deceased estate.
- (5) A deceased estate must, other than for the purposes of section 6, section 6A and section 6B, be treated as if that estate were a natural person.
- (6) Where—
- (a) the tax determined in terms of this Act, which relates to the taxable capital gain derived by a deceased person from assets disposed of by that person as contemplated in section 9HA, exceeds 50 per cent of the net value of the estate of that person, as determined in terms of section 4 of the Estate Duty Act for purposes of that Act, before taking into account the amount of that tax so determined; and
- (b) the executor of the estate is required to dispose of any asset of the estate for purposes of paying the amount of the tax contemplated in paragraph (a),
- any heir or legatee of the estate who would have been entitled to that asset contemplated in paragraph (b) had there been no liability for tax, may elect that that asset be distributed to that heir or legatee if the amount of tax which exceeds 50 per cent of that net value be paid by that heir or legatee within a period of three years after the date that the estate has become distributable in terms of section 35(12) of the Administration of Estates Act, 1965 (Act No. 66 of 1965).
- (7) Any amount of tax payable by an heir or legatee as contemplated in subsection (6), becomes a debt due to the state and must be treated as an amount of tax chargeable in terms of this Act which is due by that person.”.
- (2) Subsection (1) comes into operation on 1 March 2016 and applies in respect of persons who die on or after that date.

Substitution of section 25A of Act 58 of 1962, as inserted by section 21 of Act 55 of 1966 and amended by section 271 of Act 28 of 2011 read with paragraph 41 of Schedule 1 to that Act

49. The following section is hereby substituted for section 25A of the Income Tax Act, 1962:

“Determination of taxable incomes of permanently separated spouses

“(1) Where during any period of assessment any taxpayer who is married in community of property has lived apart from his or her spouse in circumstances which[, in the opinion of the Commissioner,] indicate that the separation is likely to be permanent, his or her taxable income for such period shall be determined at [such amount as the Commissioner, having regard to the circumstances of the case, determines to be] the amount at which such taxpayer’s taxable income would have been determined under the provisions of this Act if such taxpayer had not been married in community of property.”.

Amendment of section 25BB of Act 58 of 1962, as substituted by section 74 of Act 31 of 2013 and amended by section 54 of Act 43 of 2014

50. (1) 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) at least 75 per cent of the gross income received by or accrued to a company during the first year of assessment that the company qualifies as a REIT or controlled company, consists of rental income; or”;
- (b) by the insertion after subsection (2) of the following subsection:
- “(2A) For the purposes of calculating the taxable income in respect of a year of assessment of a REIT or a controlled company as contemplated in subsection (2)(b)—

- (a) where—
- (i) a REIT or a controlled company is a beneficiary of a vesting trust that is not a resident; and
 - (ii) the trust contemplated in subparagraph (i) is liable for or subject to tax on income in the country in which that trust is established or formed,
- so much of any amount of tax 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, must be allowed to be deducted by that REIT or controlled company before taking into account any deduction in terms of subsection (2)(a);
- (b) there must be allowed as a deduction from the income of that REIT or that controlled company the sum of any taxes on income proved to be payable by that REIT or that controlled company to any sphere of government of any country other than the Republic, without any right of recovery by any person other than a right of recovery in terms of any entitlement to carry back losses arising during any year of assessment to any year of assessment prior to such year of assessment before taking into account any deduction in terms of subsection (2)(a); and
- (c) where during any year of assessment a REIT or controlled company has made a *bona fide* donation to any organisation as contemplated in section 18A(1)(a) or (b) there must be allowed to be deducted an amount equal to the amount of that donation: Provided that the deduction so allowed may not exceed 10 per cent of the taxable income of that REIT or controlled company after taking into account any deduction in terms of paragraph (a) and (b) but before taking into account any deduction in terms of subsection (2)(a).”;
- (c) by the deletion of subsection (3); and
- (d) by the substitution in subsection (6) for paragraphs (a) and (b) of the following paragraphs, respectively:

“(a) Any amount of interest received by or accrued to a company that is a REIT or a controlled company during a year of assessment in respect of a debenture forming part of a linked unit held by that company in a property company must if the property company is a resident be deemed to be a dividend, **[if the property company is a resident or foreign dividend]** or if the property company is a foreign company be deemed to be a foreign dividend, received by or accrued to that company during that year of assessment if that company is a REIT or a controlled company that is a resident at the time of that receipt or accrual.

(b) Any amount of interest received by or accrued to a company that is a REIT or a controlled company that is a resident during a year of assessment in respect of a debenture forming part of a linked unit held by that company in a property company must if the property company is a resident be deemed to be a dividend, **[if the property company is a resident or foreign dividend]** or if the property company is a foreign company be deemed to be a foreign dividend, received by or accrued to that company during that year of assessment if that company is a REIT or a controlled company that is a resident at the time of that receipt or accrual.”.

(2) Paragraphs (a), (c) and (d) of subsection (1) are deemed to have come into operation on 1 April 2013 and apply in respect of years of assessment commencing on or after that date.

(3) Paragraph (b) of subsection (1) comes into operation on 1 January 2016 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 27 of Act 58 of 1962, as amended by section 17 of Act 113 of 1977, section 11 of Act 101 of 1978, section 19 of Act 104 of 1980, section 21 of Act 96 of 1981, section 15 of Act 96 of 1985, section 18 of Act 85 of 1987, section 22 of Act 90 of 1988, section 28 of Act 129 of 1991, section 23 of Act 141 of 1992, section

23 of Act 113 of 1993, section 15 of Act 36 of 1996, section 34 of Act 59 of 2000, section 29 of Act 74 of 2002 and section 7 of Act 4 of 2008

51. (1) Section 27 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for paragraph (g) of the following paragraph:

“(g) [such] an allowance in respect of the year of assessment [as the Commissioner may make] in respect of losses suffered by such agricultural co-operative in consequence of physical damage to or deterioration of pastoral, agricultural and other farm products held by such agricultural co-operative on behalf of any control board established under the provisions of the Marketing Act, 1968 (Act No. 59 of 1968): Provided that such allowance shall be included in the income of such agricultural co-operative in the following year of assessment; and”.

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 and section 76 of Act 31 of 2013

52. 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:
- “**‘short-term insurance business’** means short-term insurance business as defined in the Short-term Insurance Act and micro-insurance business as defined in section 1 of the Insurance Act.”;
- (b) by the substitution in subsection (1) for the definition of “short-term insurer” of the following definition:
- “**‘short-term insurer’** means a short-term insurer as defined in the Short-term Insurance Act and a micro-insurer as defined in section 1 of the Insurance Act;”;
- (c) by the substitution in subsection (1) for the definition of “short-term policy” of the following definition:
- “**‘short-term policy’** means a short-term policy as defined in the Short-term Insurance Act and a policy issued by a micro-insurer as defined in section 1 of the Insurance Act;”;
- (d) by the substitution for subsection (3) of the following subsection:
- “(3) 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 short-term insurer an amount equal to the sum of amounts recognised as insurance liabilities, in accordance with IFRS by that short-term insurer in its audited annual financial statements, relating to—
- (a) premiums; and
- (b) claims,
- reduced by—
- (i) the amounts recognised as recoverable under policies of reinsurance in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements, other than any amount that is receivable from an owner as contemplated in the definition of ‘cell structure’ section 1 of the Insurance Act, in respect of a third party risk as defined in that section of that Act; and
- (ii) the amounts recognised as deferred acquisition costs in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements; and”;

(e) by the deletion of subsections (7), (8), (9), (10) and (11).

(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) come into operation on the date on which the Insurance Act, 2016, comes into operation and apply to years of assessment ending on or after that date. 5

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 and section 47 of Act 43 of 2014 10

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

(a) by the substitution in subsection (1) for the definition of “adjusted IFRS value” of the following definition: 15

“**‘adjusted IFRS value’** means in respect of—

(a) a risk policy fund an amount equal to the amount of the liabilities of the insurer in respect of long-term insurance policies determined in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements adjusted so that no policy has a liability of less than zero for policies issued during any year of assessment commencing on or after 1 January 2016 other than policies that the insurer have elected in terms of subsection 13B, reduced by the amount recognised as recoverable under policies of reinsurance as reported by the insurer to shareholders in the audited annual financial statements in accordance with IFRS; and 20 25

(b) a policyholder fund, an amount equal to the sum of— 30

(i) the amount of the liabilities of the insurer in respect of long-term insurance policies determined in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements in respect of policies allocated to that policy holder fund; and

(ii) the amount in respect of deferred tax liabilities, determined in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements, in respect of assets allocated to that policyholder fund, 35

reduced by—

(aa) the amount recognised as recoverable under policies of reinsurance in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements in respect of that policy holder fund; and 40

(bb) the amount calculated in terms of subsection (13C); and”;

(b) by the insertion in subsection (1) after the definition of “market value” of the following definition: 45

“**‘negative liability’** means, in respect of a long-term policy, the amount by which the expected present value of future premiums exceeds the expected present value of future benefits and expenses;”;

(c) by the substitution in subsection (1) for the definition of “risk policy” of the following definition: 50

“**‘risk policy’** means—

(a) any class of policy issued by the insurer during any year of assessment of that insurer commencing on or after 1 January 2016 under which the benefits payable cannot exceed the amount of premiums receivable, except where all or substantially the whole of the policy benefits are [solely] payable due to death, disablement, illness or unemployment and excludes a contract of insurance in terms of which annuities are being paid; or 55

- (b) any policy in respect of which an election has been made as contemplated in subsection (13B);”;
- (d) by the substitution in subsection (1) for the definition of “value of liabilities” of the following definition:
- “**‘value of liabilities’** means, in respect of a policyholder fund and a risk policy fund the adjusted IFRS value plus so much of the expenditure allocated to that fund that has not been paid by the last day of the year of assessment and has not been taken into account in determining the adjusted IFRS value;”;
- (e) by the substitution in subsection (11)(a) for item (C) of the formula of the following item:
- “(C) ‘U’ represents the amount determined under subitem (DD) of item (D) multiplied by 0,333 in the case of the individual policyholder fund and 0,666 in the case of the company policyholder fund; and”;
- (f) by the substitution in subsection (11) for paragraph (g) of the following paragraph:
- “(g) (i) premiums and claims in respect of a policy entered into between that insurer and a person other than a resident other than premiums and claims in respect of a risk policy;
- (ii) premiums and reinsurance claims received and claims and reinsurance premiums paid in respect of policies, other than policies contemplated in subparagraph (i) or risk policies;
- shall be disregarded: Provided that where an amount in respect of a claim is received by or accrues to an insurer in respect of a policy (other than a policy that would have constituted a risk policy had that policy been concluded on 1 January 2016) entered into between that insurer and a person other than a resident, there must be included in the gross income of the policyholder fund associated with that policy an amount equal to that claim less the aggregate amount of premiums incurred or paid in terms of that policy which relates to that claim;”;
- and
- (g) by the insertion after subsection (13A) of the following subsections:
- “(13B) (a) An insurer may elect that all policies or a number of policies that share substantial similar contractual rights and obligations that would have constituted risk policies under paragraph (a) of the definition of ‘risk policy’ in subsection (1) had those policies been issued during any year of assessment commencing on or after 1 January 2016 be allocated to the risk policy fund with effect from the first day of the year of assessment commencing on or after 1 January 2016, which election—
- (i) is binding for the duration of the policies in respect of which the election is made; and
- (ii) must be in a manner and form as the Commissioner may prescribe.
- (b) Assets with a value equal to the value of liabilities, as determined at the end of the previous year of assessment in respect of policies allocated to the risk policy fund in terms of paragraph (a), must be allocated to the risk policy fund with effect from the first day of the year of assessment commencing on or after 1 January 2016.
- (c) The amount of assets as contemplated in paragraph (b) shall not be deducted from the income of the policyholder fund from which it is transferred and shall not be included in the income of the risk policy fund to which it is transferred.
- (d) Where as a result of the election as contemplated in paragraph (a) an asset as defined in paragraph 1 of the Eighth Schedule, other than an asset that is trading stock, is disposed of by the policyholder fund to a risk policy fund—
- (i) the policyholder fund that disposes of that asset must be deemed to have disposed of that asset for an amount equal to the base cost of that asset on the date of that disposal; and
- (ii) the policyholder fund that disposes of that asset and that the risk policy fund that acquires that asset must, for purposes of determining any capital gain or capital loss by the risk policy fund that acquires that asset in respect of a disposal of that asset, be deemed to be one and the same person with respect to—

(aa) the date of acquisition of that asset by the policyholder fund that disposes of that asset and the amount and date of incurral of any expenditure by the policyholder fund that disposes of that asset in respect of that asset allowable in terms of paragraph 20 of the Eighth Schedule; and 5

(bb) any valuation of that asset effected by the policyholder fund of that asset as contemplated in paragraph 29(4) of the Eighth Schedule.

(e) Where as a result of the election as contemplated in paragraph (a) a policyholder fund disposes of an asset that is held as trading stock to a risk policy fund that acquires that asset as trading stock— 10

(i) that asset must be deemed to have been disposed of in an amount equal to the amount taken into account in terms of section 11(a) or 22(1) or (2) in respect of that asset by the policyholder fund; and

(ii) the policyholder fund and the risk policy fund must, for purposes of determining any taxable income derived by the risk policy fund, be deemed to be one and the same person with respect to the date of acquisition of that asset and the amount and date of incurral of any cost or expenditure incurred in respect of that asset as contemplated in section 11(a) or 22 (1) or (2). 15 20

“(13C) The amount to be reduced in terms of paragraph (b)(ii)(bb) of the definition of adjusted IFRS value is—

(a) for the first year of assessment ending on or after the date on which the Insurance Act comes into operation, an amount equal to 75 per cent of the phasing-in amount; 25

(b) for the second year of assessment ending on or after the date on which the Insurance Act comes into operation, an amount equal to 50 per cent of the phasing-in amount; and

(c) for the third year of assessment ending on or after the date on which the Insurance Act comes into operation, an amount equal to 25 per cent of the phasing-in amount. 30

(13D) For purposes of subsection (13C) ‘**phasing-in amount**’ in relation to a policyholder fund means the difference between—

(a) the amount of negative liabilities that has not been taken into account in determining the liabilities of the insurer, as reported by the insurer to shareholders in the audited annual financial statements in respect of the year of assessment of the insurer ending during 2014, relating to long-term insurance policies allocated to that policy holder fund; and 35

(b) the amount of negative liabilities that has not been taken into account in respect of that year of assessment relating to those policies calculated on the basis as was determined by the Chief Actuary of the Financial Services Board in consultation with the Commissioner: 40

Provided that if the amount under paragraph (b) exceeds the amount under paragraph (a), the difference must be treated to be zero.”. 45

(2) Paragraphs (a), (b) and (d) of subsection (1) come into operation on the date on which the Insurance Act, 2016, comes into operation and apply in respect of years of assessment ending on or after that date.

(3) Paragraphs (c), (f) and (g) of subsection (1) come into operation on 1 January 2016 and apply in respect of years of assessment commencing on or after that date. 50

(4) Paragraph (e) of subsection (1) is deemed to have come into operation on 1 January 2013 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 30 of Act 58 of 1962, as inserted by section 35 of Act 30 of 2000 and amended by sections 36 and 73 of Act 59 of 2000, section 16 of Act 19 of 2001, section 22 of Act 30 of 2002, section 31 of Act 74 of 2002, section 45 of Act 45 of 2003, section 16 of Act 16 of 2004, section 28 of Act 32 of 2004, section 36 of Act 31 of 2005, section 24 of Act 20 of 2006, section 25 of Act 8 of 2007, section 43 of Act 35 of 2007, section 22 of Act 3 of 2008, section 41 of Act 60 of 2008, section 41 of Act 17 of 2009, section 53 of Act 7 of 2010, section 8 of Act 21 of 2012, section 79 of Act 31 of 2013 and section 48 of Act 43 of 2014 5

54. Section 30 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (5A) for paragraph (b) of the following paragraph: 10

“(b) fails to notify the Commissioner where it [become] becomes aware of any material failure by any public benefit organisation over which it exercises control to comply with any provision of this section.”.

Amendment of section 30C of Act 58 of 1962, as inserted by section 49 of Act 43 of 2014 15

55. (1) Section 30C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) that entity is a trust [or], an association of persons or a non-profit company as defined in section 1 of the Companies Act that has been incorporated, formed or established in the Republic;”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2015. 20

Amendment of section 31 of Act 58 of 1962, as substituted by section 57 of Act 24 of 2011, amended by section 64 of Act 22 of 2012, section 82 of Act 31 of 2013 and section 50 of Act 43 of 2014

56. Section 31 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3)(b) for subparagraph (ii) of the following subparagraph: 25

“(ii) if that resident is a person other than a company, be deemed, for purposes of Part V, to be a donation made by that resident to that other person.”.

Amendment of section 35A of Act 58 of 1962, as inserted by section 30 of Act 32 of 2004 and amended by section 5 of Act 32 of 2005, section 3 of Act 61 of 2008 and section 59 of Act 24 of 2011 30

57. Section 35A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (14) for paragraph (b) of the following paragraph:

“(b) in respect of any deposit paid by a purchaser for purposes of securing the disposal of the immovable property by the seller to that purchaser, until the agreement for that disposal has [been entered into] become unconditional, in which case any amount which would have been required to be withheld from the amount of that deposit, must be withheld from the first following payments made by that purchaser in respect of that disposal.”. 35

Amendment of section 38 of Act 58 of 1962, as amended by section 21 of Act 90 of 1962, section 16 of Act 90 of 1964, section 28 of Act 89 of 1969, section 31 of Act 85 of 1974, section 27 of Act 94 of 1983, section 24 of Act 121 of 1984, section 32 of Act 53 of 1999, section 36 of Act 30 of 2000, section 43 of Act 60 of 2001, section 34 of Act 74 of 2002, section 213 of Act 45 of 2003, section 30 of Act 8 of 2007, section 24 of Act 3 of 2008, section 45 of Act 17 of 2009 and section 59 of Act 7 of 2010 40 45

58. Section 38 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (2)(a) for the words preceding subparagraph (i) of the following words:

“any company all classes of whose equity shares are publicly quoted on the specified date by a stock exchange in the list issued under its authority, provided [the Commissioner is satisfied]—”; 50

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

- “(b) any other company, not being a private company as defined in section 1 of the Companies Act[, 2008 (Act No. 71 of 2008)], nor a close corporation, **[in respect of which the Commissioner is satisfied]** if—
- (i) **[that]** the general public was throughout the year of assessment in question interested either directly as shareholders in the company or indirectly as shareholders in any other company, in more than fifty per cent of every class of equity shares issued by the company; and
 - (ii) **[that]** the business of the company is conducted and its profits are distributed in such a manner that no person enjoys or receives or is entitled to enjoy or receive, by reason of shareholding, participation in the management or otherwise, any advantage which would not be enjoyed or received by him if the company had been under the control of a board of directors acting in the best interests of all its shareholders and had been one which could have been recognized as a public company under paragraph (a);”;
- (c) by the substitution in subsection (4)(a) for subparagraph (ii) of the following subparagraph:
- “(ii) any relative of any director of the company, unless **[it is shown to the satisfaction of the Commissioner that]** such relative, if he is not the spouse or minor child of such director, has at all relevant times **[which the Commissioner considers relevant]** exercised his rights as a shareholder in the company or in any other company through which such relative is interested in the shares of the company, independently of such director; or”;
- (d) by the substitution in subsection (4)(b) for subparagraph (i) of the following subparagraph:
- “(i) any benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund or any trust or institution which **[in the opinion of the Commissioner]** is of a public character; and”;
- (e) by the substitution in subsection (4)(c) for the words following subparagraph (ii) of the following words:
- “by virtue of the said person being a shareholder in any private company and such interest is not attributable to a direct or indirect interest of such private company in the equity shares in a public company, the said person shall be deemed to be interested in only that portion of such shares as **[the Commissioner is satisfied]** such person would be entitled to receive if every company through which that person is interested in those shares were to be wound up or liquidated and the assets of each such company were, without regard to its liabilities, to be distributed among its shareholders;”;
- (f) by the substitution in subsection (4) for paragraph (d) of the following paragraph:
- “(d) where persons are jointly interested, whether directly or indirectly, but otherwise than through a direct or indirect interest in the equity shares of a public company, in the shares of any company, each such person shall be deemed to be interested in only such proportion of those shares as **[the Commissioner is satisfied]** he would be entitled to receive if the joint interest of all such persons in such shares were to be divided between such persons.”.

Substitution of section 40C of Act 58 of 1962, as substituted by section 87 of Act 31 of 2013

59. The following section is hereby substituted for section 40C of the Income Tax Act, 1962:

“Issue of shares or granting of options or rights for no consideration 5

40C. Where a company issues a share or grants an option or other right in respect of the issue of a share to a person for no consideration, the expenditure actually incurred by the person to acquire that share, option or right must be deemed to be nil.”.

Insertion of section 40E in Act 58 of 1962 10

60. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 40D:

“Ceasing to be controlled foreign company

40E. Where a controlled foreign company ceases to be a controlled foreign company during any foreign tax year of that controlled foreign company prior to 5 June 2015 solely by reason of the coming into operation of the Taxation Laws Amendment Act, 2015, section 9H (3)(b) must not apply.”. 15

(2) Subsection (1) is deemed to have come into operation on 31 December 2015 and applies in respect of years of assessment ending on or after that date. 20

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, sections 48 and 128 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 and section 54 of Act 43 of 2014 25

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

(a) by the substitution in subsection (1) for the definition of “company” of the following definition: 30

“**‘company’** does not include a headquarter company and, for the purposes of sections 42 and 44, includes any portfolio of a collective investment scheme in securities or any portfolio of a hedge fund collective investment scheme;” and

(b) by the substitution in subsection (1) for the definition of “equity share” of the following definition: 35

“**‘equity share’**, for the purposes of sections 42 and 44, includes a participatory interest in a portfolio of a collective investment scheme in securities or in a portfolio of a hedge fund collective investment scheme;” 40

(2) Subsection (1) is deemed to have come into operation on 1 April 2015.

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 and section 55 of Act 43 of 2014 45

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

(a) by the substitution in subsection (1) in the definition of “asset-for-share transaction” for the proviso to paragraph (a)(ii) of following proviso: 50

“:Provided that this subparagraph does not apply in respect of any transaction which meets the requirements of subparagraph (i) in terms of which a person disposes of—

- (i) an equity share in a listed company or in a portfolio of a collective investment scheme in securities or in a portfolio of a hedge fund collective investment scheme to any other company and after that disposal, together with any other transaction that is concluded—
- (aa) on the same terms as that transaction; and
- (bb) within a period of 90 days after that disposal, that other company holds—
- (A) at least 35 per cent of the equity shares of that listed company or portfolio; or
- (B) at least 25 per cent of the equity shares of that listed company or portfolio if no person other than that other company holds an equal or greater amount of equity shares in the listed company or portfolio; or
- (ii) an asset to a portfolio of a hedge fund collective investment scheme; or”;
- (b) by the addition in subsection (1) to the definition of “qualifying interest” after paragraph (d) of the following paragraph:
- “(e) any equity share held in a portfolio of a hedge fund collective investment scheme.”;
- (c) by the substitution in subsection (3) for paragraph (c) of the following paragraph:
- (c) a contract to a company as part of a disposal of a business as a going concern in terms of an asset-for-share transaction and **[that contract imposes an obligation on that person in respect of which]** an allowance in terms of section 24 or 24C was allowable to that person in respect of that contract for the year preceding that in which that contract is transferred or would have been allowable to that person for the year of that transfer had that contract not been so transferred—
- (i) no allowance allowed to that person **[in respect of that obligation]** under those sections must be included in that person’s income for the year of that transfer; and
- (ii) that person and that company must be deemed to be one and the same person for purposes of determining the amount of any allowance—
- (aa) to which that company may be entitled **[in respect of that obligation]** under those sections; or
- (bb) that is to be included in the income of that company **[in respect of that obligation]** under those sections.”;
- (d) by the substitution in the proviso to subsection (3A) for the words preceding subparagraph (i) of the following words:
- “:Provided that this subsection does not apply in respect of any asset-for-share transaction in terms of which a person disposes of—
- (i) an equity share in a listed company or in a portfolio of a collective investment scheme in securities to any other company and after that disposal, together with any other asset-for-share transaction that is concluded—
- (aa) on the same terms as that asset-for-share transaction; and
- (bb) within a period of 90 days after that disposal, that other company holds—
- (A) at least 35 per cent of the equity shares of that listed company or portfolio; or
- (B) at least 25 per cent of the equity shares of that listed company or portfolio if no person other than that other company holds an equal or greater amount of equity shares in the listed company or portfolio; or
- (ii) an asset to a portfolio of a hedge fund collective investment scheme.”; and
- (e) by the substitution in subsection (5) for the words following paragraph (b) of the following words:

“that person must, **[be deemed to have disposed of that share as trading stock]** to the extent that any amount received by or accrued to that person in respect of the disposal of that share is less than or equal to the market value of that share at the beginning of such period of 18 months, include that amount in that person’s income.” 5

(2) Paragraphs (a), (b), (d) and (e) of subsection (1) are deemed to have come into operation on 1 April 2015.

(3) Paragraph (c) of subsection (1) comes into operation on 1 January 2016 and applies in respect of years of assessment ending on or after that date.

Amendment of section 44 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 52 of Act 45 of 2003, section 40 of Act 31 of 2005, section 34 of Act 8 of 2007, section 55 of Act 35 of 2007, section 27 of Act 3 of 2008, sections 50 and 129 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 and section 57 of Act 43 of 2014 10 15

63. (1) Section 44 of the Income Tax Act, 1962, is hereby amended—

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

“(b) a contract to a resultant company as part of a disposal of a business as a going concern in terms of an amalgamation transaction and **[that contract imposes an obligation on that amalgamated company in respect of which]** an allowance in terms of section 24 or 24C was allowable to that amalgamated company in respect of that contract for the year preceding that in which that contract is transferred or would have been allowable to that amalgamated company for the year of that transfer had that contract not been so transferred— 20 25

(i) no allowance allowed to that amalgamated company **[in respect of that obligation]** under those sections must be included in that amalgamated company’s income for the year of that transfer; and (ii) that amalgamated company and that resultant company must be deemed to be one and the same person for purposes of determining the amount of any allowance— 30

(aa) to which that resultant company may be entitled **[in respect of that obligation]** under those sections; or 35

(bb) that is to be included in the income of that resultant company **[in respect of that obligation]** under those sections.”; and 40

(b) by the insertion in subsection (14) after paragraph (bA) of the following paragraph: 40

“(bB) in respect of any transaction if the resultant company is a portfolio of a hedge fund investment scheme and the amalgamated company is not a portfolio of a hedge fund collective investment scheme;” 45

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of years of assessment ending on or after that date.

Amendment of section 45 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 53 of Act 45 of 2003, section 35 of Act 32 of 2004, section 41 of Act 31 of 2005, section 35 of Act 8 of 2007, section 56 of Act 35 of 2007, section 28 of Act 3 of 2008, section 51 of Act 60 of 2008, section 64 of Act 7 of 2010, section 70 of Act 24 of 2011, section 77 of Act 22 of 2012 and section 94 of Act 31 of 2013 50

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

(a) by the substitution in subsection (3) for paragraph (b) of the following paragraph: 55

“(b) a contract to a transferee company as part of a disposal of a business as a going concern in terms of an intra-group transaction contemplated in paragraph (a) of the definition of ‘intra-group transaction’

and **[that contract imposes an obligation on that transferor company in respect of which]** an allowance in terms of section 24 or 24C was allowable to that transferor company in respect of that contract for the year preceding that in which that contract is transferred or would have been allowable to that transferor company for the year of that transfer had that contract not been so transferred—

- (i) no allowance allowed to that transferor company **[in respect of that obligation]** under those sections must be included in that transferor company's income for the year of that transfer; and
 - (ii) that transferor company and that transferee company must be deemed to be one and the same person for purposes of determining the amount of any allowance—
 - (aa) to which that transferee company may be entitled **[in respect of that obligation]** under those sections; or
 - (bb) that is to be included in the income of that transferee company **[in respect of that obligation]** under those sections.”; and
- (b) by the substitution in subsection (3A) for paragraph (c) of the following paragraph:

“(c) Where an amount, other than an amount of interest or an amount previously taken into account as interest, is received by or accrues to a holder in respect of a debt contemplated in paragraph (a) from any company that forms part of the same group of companies, as defined in section 1, as that holder and that amount is applied by the holder in settlement of the amount outstanding in respect of that debt, that amount must be disregarded in determining the aggregate capital gain or the taxable income of that holder to the extent that that amount reduces the liability of the issuer of that debt to that holder.”.

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of years of assessment ending on or after that date.

Amendment of section 46 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 54 of Act 45 of 2003, section 36 of Act 32 of 2004, section 42 of Act 31 of 2005, section 36 of Act 8 of 2007, section 57 of Act 35 of 2007, section 29 of Act 3 of 2008, section 52 of Act 60 of 2008, section 65 of Act 7 of 2010, section 71 of Act 24 of 2011, section 78 of Act 22 of 2012, section 95 of Act 31 of 2013 and section 58 of Act 43 of 2014

65. Section 46 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (6A) of the following subsection:

“(6A) This section does not apply in respect of an unbundling transaction where the unbundling company is a REIT or a controlled company as defined in section 25BB(1).”.

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 and section 59 of Act 43 of 2012

66. (1) Section 47 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) a contract to its holding company as part of a disposal of a business as a going concern in terms of a liquidation distribution and **[that contract imposes an obligation on that liquidating company in respect of which]** an allowance in terms of section 24 or 24C was allowable to that liquidating company in respect of that contract for the year preceding that in which that contract is transferred or would have been allowable to that liquidating company for the year of that transfer had that contract not been so transferred—

- (i) no allowance allowed to that liquidating company [**in respect of that obligation**] under those sections must be included in that liquidating company's income for the year of that transfer; and
- (ii) that liquidating company and that holding company must be deemed to be one and the same person for purposes of determining the amount of any allowance—
 - (aa) to which that holding company may be entitled [**in respect of that obligation**] under those sections; or
 - (bb) that is to be included in the income of that holding company [**in respect of that obligation**] under those sections.”.

Amendment of section 48C of Act 58 of 1962, as inserted by section 54 of Act 60 of 2008

67. (1) Section 48C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for the words following paragraph (c) of the following words:

“[20] ten per cent of that amount must be included in the taxable income of that person for the year of assessment in which it is received.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2015.

Amendment of section 49D of Act 58 of 1962, as substituted by section 60 of Act 43 of 2014

68. Section 49D of the Income Tax Act, 1962, is hereby amended—

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

“A foreign person is exempt from the withholding tax on royalties if—”;
and

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

“(b) the property in respect of which that royalty is paid is effectively connected with a permanent establishment of that foreign person in the Republic if that foreign person is registered as a taxpayer [**for the purposes of this Act**] in terms of Chapter 3 of the Tax Administration Act; or”.

Amendment of section 49E of Act 58 of 1962, as inserted by section 12 of Act 21 of 2012 and amended by section 61 of Act 43 of 2014

69. Section 49E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) if the foreign person to or for the benefit of which that payment is to be made has—

- (i) by a date determined by the person making the payment; or
- (ii) if the person making the payment did not determine a date as contemplated in subparagraph (i), by the date of the payment, submitted to the person making the payment a declaration in such form as may be prescribed by the Commissioner that the foreign person is, in terms of section 49D(a) or (b), exempt from the withholding tax on royalties in respect of that payment.”.

Amendment of section 50A of Act 58 of 1962, as inserted by section 98 of Act 31 of 2013 and amended by section 64 of Act 43 of 2014

70. (1) Section 50A of the Income Tax Act, 1962, is hereby amended by the insertion in subsection (1) after the definition “Industrial Development Corporation” of the following definition:

“**‘interest’** means interest as contemplated in paragraph (a) or (b) of the definition of “interest” in section 24J(1);”.

(2) Subsection (1) comes into operation on 1 March 2016 and applies in respect of interest that is paid or that becomes due and payable on or after that date.

Amendment of section 50D of Act 58 of 1962, as inserted by section 98 of Act 31 of 2013

71. (1) Section 50D of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (1)(a)(i) for item (cc) of the following item: 5
 “(cc) a headquarter company in respect of the granting of financial assistance as defined in section 31(1) to which section 31 does not apply as a result of the [exclusions] exclusion contained in section 31(5)(a); or”; and
- (b) by the deletion in subsection (1) of the word “or” at the end of paragraph (a), addition of that word at the end of paragraph (b), and by the addition of the following paragraph: 10
 “(c) paid to a foreign person in respect of a debt owed by another foreign person unless—
- (i) the other foreign 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 paid; or 15
- (ii) the debt claim in respect of which that interest is paid is effectively connected with a permanent establishment of that other foreign person in the Republic if that other foreign person is registered as a taxpayer in terms of Chapter 3 of the Tax Administration Act.”. 20

(2) Subsection (1) is deemed to have come into operation on 1 March 2015 and applies in respect of interest that is paid or that becomes due and payable on or after that date. 25

Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964, section 25 of Act 55 of 1966, section 33 of Act 89 of 1969, section 38 of Act 85 of 1974, section 21 of Act 113 of 1977, section 13 of Act 101 of 1978, section 23 of Act 96 of 1981, section 31 of Act 94 of 1983, section 4 of Act 30 of 1984, section 28 of Act 121 of 1984, section 18 of Act 96 of 1985, section 21 of Act 85 of 1987, section 26 of Act 90 of 1988, section 28 of Act 141 of 1992, section 32 of Act 113 of 1993, section 18 of Act 36 of 1996, section 39 of Act 30 of 1998, section 38 of Act 30 of 2000, section 41 of Act 59 of 2000, section 45 of Act 60 of 2001, section 24 of Act 30 of 2002, section 35 of Act 74 of 2002, section 56 of Act 45 of 2003, section 38 of Act 32 of 2004, section 45 of Act 31 of 2005, section 27 of Act 9 of 2006, section 38 of Act 8 of 2007, section 67 of Act 7 of 2010 and section 67 of Act 43 of 2014 30

72. Section 56 of the Income Tax Act, 1962, is hereby amended by the substitution in the Afrikaans text in subsection (1)(k) for subparagraph (ii) of the following subparagraph:

- “(ii) die wins waarvan kragtens artikel 8A, 8B of 8C by die inkomste van die [skenker] begiftigde ingesluit moet word;”. 40

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 and section 102 of Act 31 of 2013

73. (1) Section 64D of the Income Tax Act, 1962, is hereby amended by the deletion at the end of paragraph (e) of the definition of “regulated intermediary” of the word “or”, addition of that word at the end of paragraph (f) and by the addition of the following paragraph: 45

- “(g) a portfolio of a hedge fund collective investment scheme; or”.

(2) Subsection (1) is deemed to have come into operation on 1 April 2015. 50

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 and section 69 of Act 43 of 2014

74. Section 64EB of the Income Tax Act, 1962 is hereby amended by the deletion in subsection (2)(a) of subparagraphs (viii), (ix) and (xii).

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 and section 104 of Act 31 of 2013

75. (1) Section 64F of the Income Tax Act, 1962 is hereby amended by the substitution in subsection (1) for paragraph (o) of the following paragraph: 5

“(o) a natural person or deceased estate or insolvent estate of that person in respect of a dividend paid in respect of a tax free investment as contemplated in section 12T(1).”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2015.

Substitution of paragraph 7 of First Schedule to Act 58 of 1962, as amended by section 23 of Act 113 of 1977

76. The following paragraph is hereby substituted for paragraph 7 of the First Schedule to the Income Tax Act, 1962:

“7. The exercise of an option under subparagraph (1)(b)(ii), (1)(c)(ii) or (1)(d)(ii) of paragraph 6 shall be binding upon the farmer in respect of all subsequent returns for income tax purposes, and no standard value fixed by any farmer whether under this Act or any previous Income Tax Act may be varied by him in respect of any subsequent year of assessment[**, save with the consent and approval of the Commissioner and upon such terms as the Commissioner may require**].”.

Substitution of paragraph 9 of First Schedule to Act 58 of 1962

77. The following paragraph is hereby substituted for paragraph 9 of the First Schedule to the Income Tax Act, 1962:

“9. The value to be placed upon produce included in any return shall be [such] a fair and reasonable value [**as the Commissioner may fix**].”.

Amendment of paragraph 11 of First Schedule to Act 58 of 1962, as amended by section 33 of Act 96 of 1985, section 35 of Act 65 of 1986 and section 48 of Act 21 of 1995

78. Paragraph 11 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (3) of the following subparagraph: 30

“(3) [**With the consent of the Commissioner a**] A different method of calculation of the said cash equivalent or portions thereof may be employed if the Commissioner [**is satisfied**] decides, on application by the taxpayer, that such method achieves substantially the same result as the methods provided in subparagraphs (1) and (2).”.

Amendment of paragraph 13 of First Schedule to Act 58 of 1962, as substituted by section 21 of Act 90 of 1972 and amended by section 17 of Act 101 of 1978, section 43 of Act 94 of 1983 and section 271 of Act 28 of 2011 read with paragraph 74 of Schedule 1 to that Act

79. Paragraph 13 of the First Schedule to the Income Tax Act, 1962, is hereby amended— 40

(a) by the substitution for subparagraphs (1) and (3) of the following subparagraphs:

- “(1) If [**it is proved to the satisfaction of the Commissioner**]—
- (a) [**that**] any farmer— 45
- (i) has in any year of assessment sold livestock on account of drought, stock disease or damage to grazing by fire or plague; and
- (ii) has within four years after the close of the said year of assessment purchased livestock to replace the livestock so sold; or 50
- (b) [**that**] any farmer—
- (i) has in any year of assessment (other than a year of assessment in respect of which the normal tax chargeable in the case of

such farmer is required to be determined under paragraph 19) sold livestock by reason of his participation in a livestock reduction scheme **[organized]** organised by the Government; and

- (ii) has within nine years after the close of the said year of assessment purchased livestock to replace the livestock so sold,

the cost of the livestock so purchased shall, notwithstanding anything in this Schedule contained, be allowed, at the option of such farmer, as a deduction in the determination of his taxable income for the year of assessment during which the livestock was so sold, provided the claim for such deduction is made within five years after the close of that year of assessment in the case of a farmer referred to in item (a), or within ten years after the close of that year of assessment in the case of a farmer referred to in item (b).

(3) Every farmer who desires to claim a deduction in terms of subparagraph (1), shall for the year of assessment in which he or she sold livestock on account of conditions of drought or stock disease or by reason of his or her participation in a livestock reduction scheme **[organized]** organised by the Government notify the Commissioner accordingly in such form and within such time as may be prescribed and obtain and retain full particulars in regard to the livestock so sold.”; and

- (b) by the deletion of subsection (4).

Amendment of paragraph 14 of First Schedule to Act 58 of 1962

80. Paragraph 14 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (2) for item (b) of the following item:

“(b) failing such agreement, be such portion of the consideration payable in respect of the disposal of the land and the plantation as **[in the opinion of the Commissioner]** represents the consideration payable for the plantation.”.

Amendment of paragraph 19 of the First Schedule to Act 58 of 1962, as added by section 28 of Act 95 of 1967, amended by section 33 of Act 88 of 1971, section 22 of Act 90 of 1972, section 32 of Act 69 of 1975, section 30 of Act 103 of 1976, section 16 of Act 104 of 1979, section 25 of Act 104 of 1980, section 29 of Act 91 of 1982, section 45 of Act 94 of 1983, section 42 of Act 129 of 1991, section 34 of Act 21 of 1995, section 40 of Act 28 of 1997, section 81 of Act 45 of 2003, section 44 of Act 8 of 2007 and section 271 of Act 28 of 2011 read with paragraph 75 of Schedule 1 to that Act

81. Paragraph 19 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (2) for item (a) of the following item:

“(a) where the taxpayer or his spouse carried on farming operations before the commencement of the relevant period, such amount **[as the Commissioner may determine as representing]** as represents the taxpayer’s annual average taxable income (if any) from farming in respect of the periods of assessment—

(aa) for which the taxpayer was assessable under this Act and which fall within the period of five years ending on the last day of the relevant period; and

(bb) during which such farming operations were carried on or farming income was derived by the taxpayer:

Provided that any excess farming profits derived by the taxpayer in any of the said periods of assessment **[, as determined by the Commissioner under paragraph 20(3)(a),]** shall not be taken into account in the determination of such annual average taxable income: Provided further that in the case of the estate of **[a deceased or]** an insolvent person any farming operations carried on by such person prior to **[his death or]** insolvency, any income derived by him from such operations and any deductions allowable against such income under this Act shall, so far as such estate is concerned, be deemed for the purposes of this item to be respectively operations, income or deductions of such estate, and the annual average taxable income derived by such estate from farming shall be determined

accordingly[, but subject to such adjustments as the Commissioner may make]; or”.

Amendment of paragraph 20 of the First Schedule to Act 58 of 1962, as added by section 33 of Act 69 of 1975, amended by section 31 of Act 103 of 1976, section 25 of Act 113 of 1977, section 26 of Act 104 of 1980, section 30 of Act 91 of 1982, section 43 of Act 129 of 1991, section 45 of Act 8 of 2007 and section 271 of Act 28 of 2011 read with paragraph 76 of Schedule 1 to that Act 5

82. Paragraph 20 of the First Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subparagraphs (1), (1A) and (2) of the following 10 subparagraphs:

“(1) If a taxpayer (other than a company) who derives income from farming operations makes an election as provided in subparagraph (6) and if **[so required proves to the satisfaction of the Commissioner]**— 15

(a) **[that his]** the taxpayer’s income was in whole or in part derived 15 from farming operations carried on on any land acquired—

(i) by the State (including the Railways Administration and any provincial administration) or any local authority as defined in section 1 of the Expropriation Act, 1975 (Act No. 63 of 1975); 20 or

(ii) by any juristic person or body mentioned in section 3(2) of the said Act, if such juristic person or body acquired the land by expropriation or, where the owner of the land agreed to dispose of it, the Minister referred to in subparagraph (6)(b)(ii) has given a certificate as contemplated therein; 25

(b) **[that]** in consequence of the acquisition of such land as aforesaid the farming undertaking on such land (hereinafter referred to as the undertaking) has been or is being wound up; and

(c) **[that]** the taxpayer’s income for any year of assessment (being the year of assessment during which the said land was acquired as 30 aforesaid or the first or the second year of assessment succeeding the first-mentioned year of assessment) includes any abnormal farming receipts or accruals referred to in subparagraph (2) which relate to the aforesaid farming operations,

the normal tax chargeable (as determined before the deduction of any 35 rebate) in respect of the taxpayer’s taxable income for such year of assessment shall, notwithstanding any other provisions of this Act to the contrary, be determined at an amount equal to the sum of—

(i) an amount equal to the taxpayer’s excess farming profits for the year of assessment (as determined in accordance with subparagraph 40 (3)(a)) multiplied by the relevant rate of tax fixed for the year of assessment in terms of section 5(2) in respect of the first rand of taxable income; and

(ii) an amount equal to the amount of normal tax (as determined before 45 the deduction of any rebate) which would have been payable by the taxpayer in respect of the year of assessment if his or her taxable income for that year had been an amount equal to the balance of his or her taxable income for that year (as determined in accordance with, subparagraph (4)).

(1A) Where **[it is shown by the taxpayer to the satisfaction of the Commissioner that]** the land referred to in subparagraph (1) was 50 acquired as contemplated in item (a) of that subparagraph within the period of twelve months after the owner accepted an offer to purchase the land, it shall be deemed for purposes of that subparagraph that such land was acquired on the date on which the offer was accepted. 55

(2) For the purposes of subparagraph (1)(c), the taxpayer’s abnormal farming receipts or accruals for any year of assessment referred to in subparagraph (1)(c) shall be deemed to be such amounts as **[are proved to the satisfaction of the Commissioner to]** consist of—

- (a) any amounts derived from disposals, in the course of the winding-up of the undertaking, of livestock normally held for the purposes of the undertaking; or
- (b) any amounts derived from the disposal of any plantation together with the land referred to in subparagraph (1)(a) or from the disposal in the course of the winding-up of the undertaking of any plantation on such land or any forest produce from such plantation.”; and
- (b) by the substitution in subparagraph (3) for item (f) of the following item:
 - “(f) If by reason of disposals of livestock otherwise than in the ordinary course of farming or because of any unusual circumstances **[the Commissioner is of opinion that]** the taxpayer’s livestock profits or loss for any year of assessment cannot be determined in a satisfactory manner under item (d) or **[that]** the taxpayer’s average livestock profits for the years of assessment referred to in item (c) cannot be determined in a satisfactory manner under item (e), **[the Commissioner shall determine]** such livestock profits or loss or such average livestock profits shall be determined by the Commissioner on application by the taxpayer **[in such other manner as he may consider appropriate]**.”.

Amendment of paragraph 3 of Second Schedule to Act 58 of 1962, as amended by section 47 of Act 94 of 1983, section 50 of Act 30 of 1998, section 50 of Act 8 of 2007, section 40 of Act 3 of 2008, section 62 of Act 60 of 2008, section 59 of Act 17 of 2009, section 81 of Act 7 of 2010 and section 94 of Act 22 of 2012

83. Paragraph 3 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in the proviso for paragraph (v) of the following paragraph:

- “(v) where any such lump sum benefit is paid to a pension preservation fund or provident preservation fund as an unclaimed benefit as defined in the Pension Funds Act[, 1956 (Act No. 24 of 1956)], no lump sum benefit shall be deemed to have so accrued.”.

Amendment of paragraph 3A of Second Schedule to Act 58 of 1962, as inserted by section 82 of Act 7 of 2010 and amended by section 96 of Act 22 of 2012

84. Paragraph 3A of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in the proviso for paragraph (iv) of the following paragraph:

- “(iv) where any such lump sum benefit is paid to a pension preservation fund or provident preservation fund as an unclaimed benefit as defined in the Pension Funds Act[, 1956 (Act No. 24 of 1956)], no lump sum benefit shall be deemed to have so accrued.”.

Amendment of paragraph 4 of Second Schedule to Act 58 of 1962, as amended by section 20 of Act 72 of 1963, section 24 of Act 90 of 1964, section 36 of Act 21 of 1995, section 41 of Act 3 of 2008, section 63 of Act 60 of 2008, section 60 of Act 17 of 2009, section 83 of Act 7 of 2010, section 91 of Act 24 of 2011, and section 97 of Act 22 of 2012 and section 71 of Act 44 of 2014

85. Paragraph 4 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subparagraph (1) for item (b) of the following item:
 - “(b) on which any amount is deducted from the benefit in terms of section 37D(1)(a), (b) or (c) of the Pension Funds Act[, 1956 (Act No. 24 of 1956)]”; and
- (b) by the substitution for subparagraph (3) of the following subparagraph:
 - “(3) If a person who is a member of a provident fund retires from such fund before he or she reaches the age of 55 years on grounds other than ill-health, any lump sum benefits received by or accrued to such person in consequence of or following upon such retirement shall, unless the Commissioner on application by the person and having regard to the circumstances of the case otherwise directs, be assessed to tax not in accordance with the provisions of paragraph 5 but in accordance with the provisions of paragraph 6 as though it were a lump sum benefit derived

by such person in consequence of or following upon such person's withdrawal or resignation from such fund.”.

Amendment of paragraph 5 of Second Schedule to Act 58 of 1962, as substituted by section 61 of Act 17 of 2009 and amended by section 98 of Act 22 of 2012 and section 112 of Act 31 of 2013

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86. Paragraph 5 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subparagraph (1) for item (b) of the following item:
 - “(b) any amount transferred for the benefit of the person to any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as a result of an election made in terms of section 37D(4)(b)(ii) of the Pension Funds Act[, 1956 (Act No. 24 of 1956)];”;
- (b) by the substitution in subparagraph (1) for item (d) of the following item:
 - “(d) any amount, to the extent that that amount was paid or transferred to a pension preservation fund or provident preservation fund as an unclaimed benefit as defined in section 1 of the Pension Funds Act[, 1956 (Act No. 24 of 1956),] and was subject to tax prior to that transfer or payment; and”.

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 and section 113 of Act 31 of 2013

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87. Paragraph 6 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subparagraph (1)(b) for subitem (ii) of the following subitem:
 - “(ii) any amount transferred for the benefit of the person to any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as a result of an election made as contemplated in section 37D(4)(b)(ii)(cc) of the Pension Funds Act[, 1956 (Act No. 24 of 1956)];”;
- (b) by the substitution in subparagraph (1)(b) for subitem (iv) of the following subitem:
 - “(iv) any amount, to the extent that that amount was paid or transferred to a pension preservation fund or provident preservation fund as an unclaimed benefit as defined in section 1 of the Pension Funds Act[, 1956 (Act No. 24 of 1956),] and was subject to tax prior to that transfer or payment; and”.

Amendment of paragraph 1 of Sixth Schedule to Act 58 of 1962, as inserted by section 71 of Act 60 of 2008 and amended by section 85 of Act 7 of 2010

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88. Paragraph 1 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in the definition of “qualifying turnover” for paragraph (b) of the following paragraph:

- “(b) amount exempt from normal tax in terms of [section 10(1)(y), 10(1)(zA), 10(1)(zG), and 10(1)(zH)] section 12P;”.

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Amendment of paragraph 3 of Sixth Schedule to Act 58 of 1962, as inserted by section 71 of Act 60 of 2008 and amended by section 63 of Act 17 of 2009, section 86 of Act 7 of 2010, section 97 of Act 24 of 2011 and section 114 of Act 31 of 2013

89. Paragraph 3 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended—

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- (a) by the deletion in subparagraph (f) of the word “or” at the end of item (iv); and
- (b) by the addition in subparagraph (f) after item (v) of the following item:
 - “(vi) it is an association approved by the Commissioner in terms of section 30B; or

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- (vii) it is a small business funding entity approved by the Commissioner in terms of section 30C.”

Amendment of paragraph 10 of Sixth Schedule to Act 58 of 1962, as amended by section 100 of Act 24 of 2011 and section 116 of Act 31 of 2013

90. Paragraph 10 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (3) of the following subparagraph: 5

“(3) **[The Commissioner may direct that a person remains a registered micro business if the Commissioner is satisfied that]** If the increase in the qualifying turnover of that person to an amount greater than the amount described in paragraph 2 is of a nominal and temporary nature, the person must apply to the Commissioner for a decision whether the person must remain a registered micro business or not.” 10

Amendment of paragraph 11 of Sixth Schedule to Act 58 of 1962

91. Paragraph 11 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (2) of the following subparagraph: 15

“(2) The estimate described in paragraph (1)(a) may not be less than the taxable turnover of the previous year of assessment unless the Commissioner, on application by the taxpayer and having regard to the circumstances, [agrees to accept the] approves a lower estimate.”

Amendment of paragraph 13 of Sixth Schedule to Act 58 of 1962 20

92. Paragraph 13 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the words preceding item (a) of the following words:

“The total amount received from carrying on business activities by a connected person in relation to a person described in paragraph 2(1)(a) or (b) must be included in the qualifying turnover of that person for purposes of applying paragraph 2, where **[the Commissioner is satisfied that]**—” 25

Amendment of paragraph 1 of Seventh Schedule to Act 58 of 1962, as amended by section 26 of Act 96 of 1985, section 33 of Act 65 of 1986, section 28 of Act 85 of 1987, section 24 of Act 70 of 1989, section 55 of Act 101 of 1990, section 49 of Act 129 of 1991, section 35 of Act 141 of 1992, section 52 of Act 113 of 1993, section 30 of Act 21 of 1994, section 40 of Act 36 of 1996, section 54 of Act 30 of 2000, section 59 of Act 59 of 2000, section 62 of Act 74 of 2002, section 47 of Act 3 of 2008, section 90 of Act 7 of 2010, section 101 of Act 24 of 2011, section 117 of Act 31 of 2013 and section 73 of Act 43 of 2014 30

93. Paragraph 1 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended— 35

- (a) by the deletion of the definition of “loan”; and
 (b) by the substitution in the definition of “official rate of interest” for paragraphs (a) and (b) of the following paragraphs: 40
 “(a) in the case of a **[loan]** 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 **[loan]** 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.” 45

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 and section 118 of Act 31 of 2013 50

94. Paragraph 2 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (h) of the following subparagraph:

“(h) the employer has, whether directly or indirectly, paid any debt owing by the employee to any third person (other than an amount in respect of which item (i) or (j) applies), without requiring the employee to reimburse the employer for the amount paid or the employer has released the employee from an obligation to pay any debt owing by the employee to the employer: Provided that where any debt owing by the employee to the employer has been extinguished by prescription the employer shall be deemed to have released the employee from his or her obligation to pay the amount of such debt if the employer could have recovered the debt owing or caused the running of the prescription to be interrupted, unless **[it is shown to the satisfaction of the Commissioner that]** the employer’s failure to recover the debt owing or to cause the running of the prescription to be interrupted was not due to any intention of the employer to confer a benefit on the employee; or”.

Amendment of paragraph 6 of Seventh Schedule to Act 58 of 1962, as amended by section 29 of Act 96 of 1985 and section 72 of Act 60 of 2008

95. Paragraph 6 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (4) for item (b) of the following item:

“(b) the asset consists of any equipment or machine which the employer concerned allows his employees in general to use from time to time for short periods and **[the Commissioner is satisfied that]** the value of the private or domestic use of the asset, as determined under subparagraph (2), **[is negligible] as does not exceed an amount determined on a basis as set out in a public notice issued by the Commissioner;**”.

Amendment of paragraph 7 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 30 of Act 96 of 1985, section 10 of Act 108 of 1986, Government Notice 956 of 11 May 1988, section 44 of Act 90 of 1988, Government Notice R.715 of 14 April 1989, section 25 of Act 70 of 1989, Government Notice R.764 of 29 March 1990, section 58 of Act 101 of 1990, section 50 of Act 129 of 1991, section 36 of Act 141 of 1992, section 32 of Act 21 of 1994, section 47 of Act 21 of 1995, section 50 of Act 28 of 1997, section 45 of Act 53 of 1999, section 56 of Act 31 of 2005, section 91 of Act 7 of 2010, section 103 of Act 24 of 2011, section 101 of Act 22 of 2012 and section 75 of Act 43 of 2014

96. Paragraph 7 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraphs (6), (7) and (8) of the following subparagraphs:

“(6) Where more than one motor vehicle is made available by an employer to a particular employee at the same time and **[the Commissioner is satisfied that]** each such vehicle was used by the employee during the year of assessment primarily for business purposes, the value to be placed on the private use of all the said vehicles shall be deemed to be the value of the private use of the vehicle having the highest value of private use or such other vehicle as the Commissioner may **[direct] decide, on application by the taxpayer:** Provided that the preceding provisions of this subparagraph shall not apply where the provisions of subparagraph (7) or (8) are applied.

(7) Where **[it is proved to the satisfaction of the Commissioner that]** accurate records of distances travelled for business purposes in such vehicle are kept, **[the Commissioner must]** upon the assessment of the employee’s liability for normal tax for the year of assessment **[reduce]** the value placed on the private use of the vehicle, calculated under subparagraph (4), **must be reduced** by an amount that bears to that calculated value the same ratio as the number of kilometres travelled for business purposes bears to the total amount of kilometres travelled in such vehicle during that year of assessment.

(8) Where **[it is proved to the satisfaction of the Commissioner that]** accurate records of distances travelled for private purposes in such vehicle (other than a vehicle acquired as contemplated in subparagraph (4)(a)(ii)) are kept and the employee bears—

(a) (i) the full cost of the licence for such vehicle, **[the Commissioner must]** upon the assessment of the employee’s liability for normal tax for the year of assessment **[reduce]** the value placed on the private use of such

vehicle calculated under subparagraph (4) must be reduced by an amount that bears to the amount of the cost of the licence for such vehicle the same ratio as the number of kilometres travelled for private purposes bears to the total number of kilometres travelled in such vehicle during that year of assessment;

- (ii) the full cost of the insurance of such vehicle, **[the Commissioner must]** upon the assessment of the employee's liability for normal tax for the year of assessment **[reduce]** the value placed on the private use of such vehicle calculated under subparagraph (4) must be reduced by an amount that bears to the amount of the cost of the insurance for such vehicle the same ratio as the number of kilometres travelled for private purposes bears to the total number of kilometres travelled in such vehicle during that year of assessment; or
 - (iii) the full cost of the maintenance of such vehicle, **[the Commissioner must]** upon the assessment of the employee's liability for normal tax for the year of assessment **[reduce]** the value placed on the private use of such vehicle calculated under subparagraph (4) must be reduced by an amount that bears to the amount of the cost of the maintenance for such vehicle the same ratio as the number of kilometres travelled for private purposes bears to the total number of kilometres travelled in such vehicle during that year of assessment;
- (b) the full cost of fuel for private use of such vehicle, **[the Commissioner must]** upon the assessment of the employee's liability for normal tax for the year of assessment **[reduce]** the value placed on the private use of the vehicle during that year of assessment calculated under subparagraph (4) must be reduced by an amount determined for the total kilometres travelled for private purposes by applying the rate per kilometre for fuel fixed by the Minister in the *Gazette* for the purposes of section 8(1)(b)(ii) and (iii)."

Amendment of paragraph 9 of Seventh Schedule to Act 58 of 1962, as amended by section 31 of Act 96 of 1985, section 34 of Act 65 of 1986, section 29 of Act 85 of 1987, section 59 of Act 101 of 1990, section 53 of Act 113 of 1993, section 33 of Act 21 of 1994, section 51 of Act 28 of 1997, section 55 of Act 30 of 1998, section 55 of Act 30 of 2000, section 57 of Act 31 of 2005, section 29 of Act 9 of 2006, section 2 of Act 8 of 2007, section 68 of Act 35 of 2007, sections 1 and 48 of Act 3 of 2008, section 65 of Act 17 of 2009, section 104 of Act 24 of 2011, section 7 of Act 13 of 2012 and section 121 of Act 31 of 2013

97. Paragraph 9 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the deletion in subsection (1) of the definition of "remuneration";
- (b) by the substitution for subparagraph (2) of the following subparagraph:
 - "(2) The cash equivalent of the value of the taxable benefit derived from the occupation of residential accommodation as contemplated in paragraph (2)(d) shall be the rental value of such accommodation (as determined under subparagraph (3), **[(3A)]** (4) or (5) of this paragraph in respect of the year of assessment) less any rental consideration given by the employee for such accommodation in respect of such year. Any rental consideration given by him in respect of household goods supplied with such accommodation and any charge made to the employee by the employer in respect of power or fuel provided with the accommodation.";
- (c) by the substitution in subparagraph (3) for the words preceding the formula of the following words:
 - "Subject to the provisions of subparagraph **[(3A)]** (3C) and (4), the rental value to be placed on such accommodation for any year of assessment shall be an amount determined in accordance with the formula."; and
- (d) by the deletion of subparagraph (3A).

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 and section 48 of Act 21 of 1995

98. Paragraph 11 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for the heading of the following heading: 5
 “BENEFITS IN RESPECT OF INTEREST ON [LOANS] DEBT”;
- (b) by the substitution for subparagraph (1) of the following subparagraph:
 “(1) The cash equivalent of the value of the taxable benefit derived in consequence of the [grant of a loan to] debt owed by an employee in the circumstances contemplated in paragraph 2(f) shall be the amount of interest that would have been payable on the amount owing in respect of the [loan] debt in respect of the year of assessment if the employee had been obliged to pay interest on such amount during such year at the official rate of interest, less the amount of interest (if any) actually 10
 incurred by the employee in respect of the [loan] debt in respect of such year.”;
- (c) by the substitution in subparagraph (2)(a) for items (i) and (ii) of the following items:
 “(i) where interest [on the loan] in respect of the debt in question 20
 becomes payable by the employee at regular intervals, on each date during the year of assessment on which interest becomes so payable for a portion of such year;
 (ii) where interest [on the loan] in respect of the debt in question 25
 becomes payable by the employee at irregular intervals or where interest on the loan is not payable by him or her, on the last day of each period during the year of assessment in respect of which any cash remuneration becomes payable by the employer to the employee; and”;
- (d) by the substitution in subparagraph (2)(b) for the words preceding the proviso 30
 of the following words:
 “the said portion shall be determined by calculating interest at the official rate of interest for the portion of the year referred to in subparagraph (2)(a)(i) or the period referred to in subparagraph (2)(a)(ii), as the case may be, and deducting therefrom so much of the amount of interest (if 35
 any) payable by him or her on the [loan] debt as relates to the said portion of a year or the said period, as the case may be.”;
- (e) by the substitution for subparagraph (3) of the following subparagraph:
 “(3) [With the consent of the Commissioner a] A different method of calculation of the said cash equivalent or portions thereof may be employed if the Commissioner [is satisfied] decides, on application by the taxpayer, that such method achieves substantially the same result as the methods provided in subparagraphs (1) and (2).”;
- (f) by the substitution in subparagraph (4) for items (a) and (b) of the following items: 45
 “(a) a debt owed by any employee to his or her employer if such debt or the aggregate of such debts does not exceed the sum of R3 000 at any relevant time; or
 (b) the debt owed to any employer by an employee incurred for the purpose of enabling that employee to further his or her own 50
 studies.”; and
- (g) by the substitution for subparagraph (5) of the following subparagraph:
 “(5) Where any amount, being the cash equivalent as determined under the provisions of this paragraph, of the value of a taxable benefit derived by any taxpayer in consequence of a [loan granted to him] debt 55
 owed by him or her, has been included in such taxpayer’s taxable income in any year of assessment, such amount shall for the purposes of section 11(a) of this Act be deemed to be interest actually incurred by him or her in that year of assessment in respect of the said [loan] debt where such amount, had it been actually incurred as interest, would have been 60
 incurred by the taxpayer in the production of his or her income.”.

Amendment of paragraph 12 of Seventh Schedule to Act 58 of 1962, as substituted by section 49 of Act 21 of 1995

99. Paragraph 12 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the heading of the following heading:

“SUBSIDIES IN RESPECT OF [LOANS] DEBT”.

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Amendment of paragraph 12A of the Seventh Schedule to Act 58 of 1962, as inserted by section 56 of Act 30 of 1998 and amended by section 59 of Act 31 of 2005, sections 2 and 59 of Act 8 of 2007, section 1 of Act 3 of 2008, section 66 of Act 17 of 2009, section 105 of Act 24 of 2011, section 271 of Act 28 of 2011 read with paragraph 103 of Schedule 1 to that Act and section 122 of Act 31 of 2013

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

“(3) If [the Commissioner is in any case satisfied that] the apportionment of the contribution or payment amongst all employees in accordance with subparagraph (2) does not reasonably represent a fair apportionment of that contribution or payment amongst the employees, [he or she may direct] the Commissioner may, on application by the taxpayer, decide that the apportionment be made in such other manner as [to him or her appears] is fair and reasonable.”.

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Amendment of paragraph 12D of Seventh Schedule to Act 58 of 1962, as substituted by section 77 of Act 43 of 2014

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101. (1) Paragraph 12D of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3) in the formula for paragraph (c) of the following paragraph:

“(c) ‘B’ represents the amount of the retirement funding [employment] income of the employee;”.

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(2) Subsection (1) comes into operation on 1 March 2016.

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 and section 93 of Act 7 of 2010

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102. (1) Paragraph 2 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1)(b) for subitems (i) and (ii) of the following subitems:

“(i) immovable property situated in the Republic held by that person or any interest or right of whatever nature of that person to or in immovable property situated in the Republic including 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

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(ii) any asset [which is attributable to] effectively connected with a permanent establishment of that person in the Republic.”.

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(2) Subsection (1) comes into operation on 1 January 2016.

Amendment of paragraph 3 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 67 of Act 60 of 2001, section 52 of Act 32 of 2004 and section 103 of Act 31 of 2013

103. Paragraph 3 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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(a) by the deletion at the end of subparagraph (a) of the word “or”;

(b) by the substitution in subparagraph (b) for the words preceding item (i) of the following words:

“(b) in a previous year of assessment, other than a disposal contemplated in subparagraph (c), is equal to—”;

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(c) by the substitution at the end of subparagraph (b)(iii)(bb) for the full stop of the expression “; or”; and

(d) by the addition after subparagraph (b) of the following subparagraph:

“(c) in a previous year of assessment that has been reacquired as contemplated in paragraph 20(4), is equal to any capital loss determined in respect of that disposal.”.

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of disposals during any year of assessment commencing on or after that date.

Amendment of paragraph 4 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 68 of Act 60 of 2001, section 65 of Act 74 of 2002 and section 54 of Act 32 of 2004

104. Paragraph 4 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the deletion at the end of subparagraph (a) of the word “or”;

(b) by the substitution in subparagraph (b) for the words preceding item (i) of the following words:

“in a previous year of assessment, other than a disposal contemplated in subparagraph (c), is equal to—”;

(c) by the substitution at the end of subparagraph (b)(iii)(bb) for the full stop of the expression “; or”; and

(d) by the addition after subparagraph (b) of the following subparagraph:

“(c) in a previous year of assessment that has been reacquired as contemplated in paragraph 20(4), is equal to any capital gain determined in respect of that disposal.”.

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of disposals during any year of assessment commencing on or after that date.

Amendment of paragraph 11 of Eighth Schedule to Act 58 of 1962, as amended by section 71 of Act 60 of 2001, section 67 of Act 74 of 2002, section 92 of Act 45 of 2003, section 55 of Act 32 of 2004, section 66 of Act 31 of 2005, section 44 of Act 20 of 2006, section 74 of Act 60 of 2008, section 106 of Act 22 of 2012, section 126 of Act 31 of 2013 and section 80 of Act 43 of 2014

105. (1) Paragraph 11 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (2) for item (b) of the following item:

“(b) by a company in respect of—

(i) the issue, cancellation or extinction of a share in the company; or

(ii) the granting of an option to acquire a share in or certificate acknowledging or creating a debt owed by that company;”;

(b) by the deletion in subparagraph (2) of item (j);

(c) by the substitution in subparagraph (2) at the end of item (m) for the full stop of a semi-colon;

(d) by the addition to subparagraph (2) after item (m) of the following item:

“(n) by a transferor to a transferee or by a transferee to a transferor where any share has been transferred in terms of a collateral arrangement;”;

(e) by the addition to subparagraph (2) after item (n) of the following item:

“(o) by a person that—

(i) disposed of an asset to another person in terms of an agreement; and

(ii) reacquired that asset from that other person by reason of the cancellation or termination, during the year of assessment during which that asset was so disposed of, of that agreement and the restoration of both persons to the position they were in prior to entering into that agreement.”.

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on 1 April 2014 and applies in respect of shares issued, cancelled or options granted on or after that date.

(3) Paragraph (b) of subsection (1) comes into operation on 1 March 2016 and applies in respect of years of assessment commencing on or after that date.

(4) Paragraphs (c) and (d) of subsection (1) come into operation on 1 January 2016 and apply in respect of any collateral arrangement entered into on or after that date.

(5) Paragraph (e) of subsection (1) comes into operation on 1 January 2016 and applies in respect of disposals on or after that date.

Amendment of paragraph 12A of Eighth Schedule to Act 58 of 1962, as inserted by section 108 of Act 22 of 2012 and amended by section 127 of Act 31 of 2013 and section 82 of Act 43 of 2014

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106. Paragraph 12A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subparagraph (4) of the following subparagraphs:

“(4) Where—

(a) a debt owed by a person is reduced as contemplated in subparagraph (2); and 10

(b) the amount of that debt was used as contemplated in item (a) of that subparagraph to fund expenditure incurred in respect of an asset (other than an allowance asset) that is—

(i) held by that person at the time of the reduction of the debt, and subparagraph (3) has been applied to reduce any expenditure in respect of that asset to the full extent of that expenditure; or 15

(ii) no longer held by that person at the time of the reduction of that debt,

the reduction amount in respect of that debt, less any amount that has been applied to reduce any amount of expenditure as contemplated in subparagraph (3), must be applied to reduce any assessed capital loss of that person for the year of assessment in which the reduction takes place.”; and 20

(b) by the substitution in subparagraph (6)(a) for subitem (iii) of the following subitem: 25

“(iii) the amount by which the debt is reduced by the deceased estate forms part of the property of the deceased estate for the purposes of the Estate Duty Act[, 1955 (Act No. 45 of 1955)];”.

Amendment of paragraph 13 of Eighth Schedule to Act 58 of 1962, as amended by section 69 of Act 74 of 2002, section 57 of Act 32 of 2004, section 51 of Act 3 of 2008, section 76 of Act 60 of 2008, section 68 of Act 17 of 2009, section 109 of Act 22 of 2012 and section 128 of Act 31 of 2013

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107. (1) Paragraph 13 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the insertion in subparagraph (1)(a) after subitem (iiA) of the following subitem: 35

“(iiB) the granting by a trust to a beneficiary of an equity instrument contemplated in section 8C, the time that equity instrument vests in that beneficiary as contemplated in that section;”.

(2) Subsection (1) comes into operation on 1 March 2016 and applies in respect of years of assessment commencing on or after that date. 40

Amendment of paragraph 20 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 26 of Act 19 of 2001, section 75 of Act 60 of 2001, section 71 of Act 74 of 2002, section 95 of Act 45 of 2003, section 58 of Act 32 of 2004, section 68 of Act 31 of 2005, section 45 of Act 20 of 2006, section 60 of Act 8 of 2007, section 73 of Act 35 of 2007, section 52 of Act 3 of 2008, section 77 of Act 60 of 2008, section 95 of Act 7 of 2010, section 110 of Act 24 of 2011, section 111 of Act 22 of 2012, section 130 of Act 31 of 2013 and section 84 of Act 43 of 2014

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108. (1) Paragraph 20 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended— 50

(a) by the substitution in subparagraph (1)(c) for subitem (iii) of the following subitem:

“(iii) stamp duty, transfer duty, tax payable in terms of the Securities Transfer Tax Act, 2007 (Act No. 25 of 2007), or similar duty or tax;”;

(b) by the substitution in subparagraph (1)(h)(iii) for sub-subitems (aa) and (bb) of the following sub-subitems: 55

- “(aa) a right in a controlled foreign company held directly by a resident, an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph 10) of that company and of any other controlled foreign company in which that controlled foreign company and that resident directly or indirectly have an interest, which was included in the income of that resident in terms of section 9D during any year of assessment, [less] reduced by the amount of any foreign dividend distributed by that company to that resident during any year of assessment which was exempt from tax in terms of section 10B(2)(a) or [(b)](c); or
- (bb) a right in a controlled foreign company held directly by another controlled foreign company, an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph 10) of that first-mentioned controlled foreign company and of any other controlled foreign company in which both the first- and second-mentioned controlled foreign companies directly or indirectly have an interest, which during any year of assessment would have been included in the income of that second-mentioned controlled foreign company in terms of section 9D had it been a resident, [less] reduced by the amount of any foreign dividend distributed by that first-mentioned controlled foreign company to the second-mentioned controlled foreign company if that dividend would have been exempt from tax in terms of section 10B(2)(a) or [(b)](c) had that second-mentioned controlled foreign company been a resident;”;

(c) by the addition after subparagraph (3) of the following subparagraph:

“(4) A person who—

- (a) disposed of an asset to another person in terms of an agreement; and
- (b) reacquired that asset from that other person by reason of the cancellation or termination of that agreement and the restoration of both persons to the position they were in prior to entering into that agreement,
- must be treated as having acquired that asset for an amount equal to—
- (i) the base cost of that asset prior to that disposal; and
- (ii) so much of any expenditure incurred in respect of that asset by that other person that has been recovered from that person as would have constituted expenditure contemplated in subparagraph (1)(e) had it been incurred by that person.”.

(2) Paragraph (c) of subsection (1) comes into operation on 1 January 2016 and applies in respect of disposals during any year of assessment commencing on or after that date.

Amendment of paragraph 29 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 81 of Act 60 of 2001, section 38 of Act 30 of 2002, section 76 of Act 74 of 2002, section 47 of Act 20 of 2006, section 61 of Act 8 of 2007, section 96 of Act 7 of 2010 and section 30 of Act 44 of 2014

109. Paragraph 29 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (5) for the words following item (c) of the following words:

“that person may only adopt the market value as the valuation date value of that asset if that person has furnished proof of that valuation to the Commissioner in the form as the Commissioner may prescribe, with the first return submitted by that person after the date or period contemplated in subparagraph (4).”.

Amendment of paragraph 31 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 83 of Act 60 of 2001, section 78 of Act 74 of 2002, section 49 of Act 20 of 2006, section 62 of Act 8 of 2007, section 97 of Act 7 of 2010, section 131 of Act 31 of 2013 and section 86 of Act 43 of 2014

110. Paragraph 31 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: 5

“(a) the annual value of the right of enjoyment of any asset which is subject to any fiduciary, usufructuary or other like interest, means an amount equal to 12 per cent of the market value of the full ownership of the asset: Provided that where **[the Commissioner is satisfied that]** the asset which is subject to that interest **[could not]** cannot reasonably be expected to produce an annual yield equal to 12 per cent on that value of the asset, the Commissioner **[may fix]** must decide, on application by the taxpayer, such sum as **[representing]** reasonably represents the annual yield **[as may seem reasonable]**, and the sum so fixed must for the purposes of subparagraph (1)(d) be treated as being the annual value of the right of enjoyment of that asset; and” 10 15

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 and section 133 of Act 31 of 2013

111. (1) Paragraph 35 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended— 20

(a) by the substitution in subparagraph (3) for the words preceding item (a) of the following words:

“The proceeds from the disposal, during a year of assessment, of an asset by a person, as contemplated in subparagraph (1) must be reduced by—”; and 25

(b) by the substitution in subparagraph (3) for items for paragraphs (b) and (c) of the following:

“(b) any amount of the proceeds that has during that year of assessment been repaid or has become repayable to the person to whom that asset was disposed of; or 30

(c) any reduction, as the result of the cancellation, termination or variation of an agreement or due to the prescription or waiver of a claim or release from an obligation or any other event during that year, of an accrued amount forming part of the proceeds of that disposal.” 35

(2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of disposals during any year of assessment commencing on or after that date.

Amendment of paragraph 40 of Eighth Schedule to Act 58 of 1962, as amended by section 89 of Act 60 of 2001, section 82 of Act 74 of 2002, section 50 of Act 20 of 2006, section 54 of Act 3 of 2008, section 79 of Act 60 of 2008 and section 71 of Act 17 of 2009 40

112. (1) Paragraph 40 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for the words preceding item (i) of the following words: 45

“A **[deceased]** person who dies before 1 January 2016 must be treated as having disposed of his or her assets, other than—”.

(2) Subsection (1) comes into operation on 1 January 2016.

Amendment of paragraph 41 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 83 of Act 74 of 2002 and section 87 of Act 43 of 2014 50

113. (1) Paragraph 41 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for the words preceding item (a) of the following words:

“Where a person dies before 1 January 2016 and—” 55

(2) Subsection (1) comes into operation on 1 January 2016.

Amendment of paragraph 43 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 91 of Act 60 of 2001, section 84 of Act 74 of 2002, section 101 of Act 45 of 2003, section 75 of Act 31 of 2005, section 51 of Act 20 of 2006, section 76 of Act 35 of 2007, section 100 of Act 7 of 2010, section 111 of Act 24 of 2011, section 117 of Act 22 of 2012, section 136 of Act 31 of 2013 and section 88 of Act 43 of 2014 5

114. Paragraph 43 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subparagraph (5) for item (b) of the following item:
 - “(b) the expenditure incurred by **[that] the person [to acquire] acquiring** 10
that asset must for purposes of paragraphs 12, 38 and 40 be treated as being denominated in that currency.”; and
- (b) by the substitution for subparagraph (6) of the following subparagraph:
 - “(6) Where a person has adopted the market value as the valuation 15
date value of any asset contemplated in this paragraph, that market value must be determined in the currency of the expenditure incurred to acquire that asset and for purposes of the application of subparagraph (1A) be translated to the local currency by applying the spot rate on valuation date.”.

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 and section 114 of Act 24 of 2011 20

115. Paragraph 55 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1)(a) for item (ii) of the following item: 25

- “(ii) is the spouse, nominee, dependant as contemplated in the Pension Funds Act[**1956 (Act No. 24 of 1956),**] or deceased estate of the original beneficial owner of the relevant policy and no amount was paid or is payable or will become payable, whether directly or indirectly, in respect of any cession of that policy from the beneficial owner of that policy to that spouse, nominee or 30
dependant; or”.

Substitution of paragraph 57A of Eighth Schedule to Act 58 of 1962

116. The following paragraph is hereby substituted for paragraph 57A of the Eighth Schedule to the Income Tax Act, 1962:

“**Disposal of micro business assets** 35

57A. A registered micro business as defined in terms of the Sixth Schedule must disregard any capital gain or capital loss in respect of the disposal by that business of any asset used mainly for business purposes.”.

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 40

117. (1) Paragraph 64B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

- “(b) that interest is disposed of to any person that is not a resident (other than a controlled foreign company or any person that is a connected person in relation to the person disposing of that interest) for an amount that is equal to or exceeds the market value of the interest.”. 45

(2) Subsection (1) is deemed to have come into operation on 5 June 2015 and applies in respect of disposals made on or after that date.

Insertion of paragraph 64C in Eighth Schedule to Act 58 of 1962

118. (1) The following paragraph is hereby inserted in the Eighth Schedule to the Income Tax Act, 1962, after paragraph 64B:

“Disposal of restricted equity instruments

64C. A person must disregard any capital gain or capital loss determined in respect of the disposal of any restricted equity instrument as contemplated in section 8C(4)(a), (5)(a) or (c).” 5

(2) Subsection (1) comes into operation on 1 March 2016 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 65 of Eighth Schedule to Act 58 of 1962, as amended by section 103 of Act 60 of 2001, section 106 of Act 45 of 2003, section 27 of Act 16 of 2004 and section 78 of Act 35 of 2007 10

119. (1) Paragraph 65 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1)(d) for subitem (ii) of the following subitem: 15

“(ii) all the replacement assets constitute assets contemplated in section 9(2)(j) or (k);” and

(b) by the substitution in subparagraph (1)(d) for the proviso of the following proviso: 20

“: Provided that the Commissioner may, on application by the taxpayer, decide to extend the period within which the contract must be concluded or asset brought into use by no more than six months if all reasonable steps were taken to conclude those contracts or bring those assets into use; and” 25

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on 1 January 2012 and applies in respect of disposals made during years of assessment commencing on or after that date.

Amendment of paragraph 66 of Eighth Schedule to Act 58 of 1962, as amended by section 33 of Act 17 of 2001, section 107 of Act 45 of 2003, section 67 of Act 8 of 2007, section 79 of Act 35 of 2007 and section 125 of Act 22 of 2012 30

120. Paragraph 66 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1)(e) for the proviso of the following proviso:

“: Provided that the Commissioner may, on application by the taxpayer, decide to extend the period by which the contracts must be concluded or assets brought into use by no more than six months if all reasonable steps were taken to conclude those contracts or bring those assets into use; and” 35

Amendment of paragraph 67 of Eighth Schedule to Act 58 of 1962, as amended by section 104 of Act 60 of 2001, section 108 of Act 45 of 2003, section 57 of Act 20 of 2006 and section 80 of Act 35 of 2007 40

121. (1) Paragraph 67 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1)(b) for subitems (ii) to (iv) of the following subitems: 45

“(ii) incurred an amount of expenditure equal to the expenditure contemplated in paragraph 20 that was incurred by that transferor **[and the executor of the deceased estate of the 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 **[or the executor of the deceased estate of the transferor]**; 50

- (iv) used that asset in the same manner that it was used by the transferor **[and the executor of the deceased estate of the transferor]; and**”; and
- (b) by the substitution in subparagraph (2) for items (a) and (b) of the following items: 5
- “(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 10
- (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 of this Act, an agreement of division of assets which has been made an order of court.”. 15

(2) Paragraph (a) of subsection (1) comes into operation on 1 January 2016.

(3) Paragraph (b) of subsection (1) comes into operation on 1 January 2016 and applies in respect of transfers made on or after that date.

Amendment of paragraph 76B of Eighth Schedule to Act 58 of 1962, as inserted by section 12I of Act 24 of 2011 and amended by section 134 of Act 22 of 2012 20

122. Paragraph 76B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (2) for the words following item (b) of the following words:

“the holder of that share must reduce the expenditure in respect of the share by the amount of that cash or the market value of that asset on the date that the asset or that cash is received by or accrues to the holder of that share.”. 25

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 and section 150 of Act 31 of 2013 30

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

- (a) by the substitution in subparagraph (1) for the words preceding item (a) of the following words: 35

“Subject to paragraphs 68, 69, 71 and 72, where a capital gain is determined in respect of the vesting by a trust of an asset in a trust beneficiary (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 40

- (b) by the insertion, after subparagraph (2), of the following subparagraph:

“(2A) Where a beneficiary of a trust holds an equity instrument to which section 8C applies, the provisions of subparagraph (2) do not apply in respect of a capital gain that is vested by that trust in that beneficiary by reason of— 45

- (a) the vesting of that equity instrument in that beneficiary, as contemplated in that section; or
- (b) the disposal, by that beneficiary, of that equity instrument, as contemplated in subsection (4)(a) or (5)(c) of that section.”.

(2) Paragraph (a) of subsection (1) comes into operation on 1 March 2016 and applies in respect of years of assessment commencing on or after that date. 50

Amendment of paragraph 8 of Tenth Schedule to Act 58 of 1962, as substituted by section 89 of Act 35 of 2007 and amended by section 125 of Act 24 of 2011, section 160 of Act 31 of 2013 and section 93 of Act 43 of 2014

124. (1) Paragraph 8 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for item (c) of the following item: 55

- “(c) If an oil and gas company jointly holds with another oil and gas company an exploration right, as defined in section 1 of the Mineral and Petroleum Resources Development Act, and any one of those oil and gas companies has concluded an agreement as contemplated in subparagraph (1) in respect of that right, all of the fiscal stability rights in terms of that agreement relating to that exploration right apply in respect of both of those companies.” 5
- (2) Subsection (1) is deemed to have come into operation on 1 April 2015.

Substitution of Eleventh Schedule to Act 58 of 1962

125. (1) The following schedule is hereby substituted for the Eleventh Schedule to the Income Tax Act, 1962: 10

“ELEVENTH SCHEDULE

GOVERNMENT GRANTS EXEMPT FROM NORMAL TAX

(Section 12P)

- | | |
|---|----|
| 1. Automotive Production and Development Programme received or accrued from the Department of Trade and Industry; | 15 |
| 2. Automotive Investment Scheme received or accrued from the Department of Trade and Industry; | |
| 3. Black Business Supplier Development Programme received or accrued from the Department of Trade and Industry; | |
| 4. Business Process Services received or accrued from the Department of Trade and Industry; | 20 |
| 5. Capital Projects Feasibility Programme received or accrued from the Department of Trade and Industry; | |
| 6. Capital Restructuring Grant received or accrued from the Department of Human Settlements; | 25 |
| 7. Clothing and Textiles Competitiveness Programme received or accrued from the Department of Trade and Industry; | |
| 8. Co-operative Incentive Scheme received or accrued from the Department of Trade and Industry; | |
| 9. Critical Infrastructure Programme received or accrued from the Department of Trade and Industry; | 30 |
| 10. Eastern Cape Jobs Stimulus Fund received or accrued from the Department of Economic Development, Environmental Affairs and Tourism of the Eastern Cape; | |
| 11. Enterprise Investment Programme received or accrued from the Department of Trade and Industry; | 35 |
| 12. Equity Fund received or accrued from the Department of Science and Technology; | |
| 13. Export Marketing and Investment Assistance received or accrued from the Department of Trade and Industry; | 40 |
| 14. Film Production Incentive received or accrued from the Department of Trade and Industry; | |

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|---|----|
| 15. Food Fortification Grant received or accrued from the Department of Health; | |
| 16. Idea Development Fund received or accrued from the Department of Science and Technology; | |
| 17. Industrial Development Zone Programme received or accrued from the Department of Trade and Industry; | 5 |
| 18. Industry Matching Fund received or accrued from the Department of Science and Technology; | |
| 19. Integrated National Electrification Programme Grant: Non-grid electrification service providers received or accrued from the Department of Energy; | 10 |
| 20. Integrated National Electrification Programme: Electricity connection to households received or accrued from the Department of Energy; | |
| 21. Jobs Fund received or accrued from the National Treasury; | 15 |
| 22. Manufacturing Competitiveness Enhancement Programme received or accrued from the Department of Trade and Industry; | |
| 23. Sector Specific Assistance Scheme received or accrued from the Department of Trade and Industry; | |
| 24. Small, Medium Enterprise Development Programme received or accrued from the Department of Trade and Industry; | 20 |
| 25. Small/Medium Manufacturing Development Programme received or accrued from the Department of Trade and Industry; | |
| 26. South African Research Chairs Initiative received or accrued from the Department of Science and Technology; | 25 |
| 27. Support Programme for Industrial Innovation received or accrued from the Department of Trade and Industry; | |
| 28. Taxi Recapitalisation Programme received or accrued from the Department of Transport; | |
| 29. Technology Development Fund received or accrued from the Department of Science and Technology; | 30 |
| 30. Technology and Human Resources for Industry Programme received or accrued from the Department of Trade and Industry; | |
| 31. Transfers to the South African National Taxi Council received or accrued from the Department of Transport; | 35 |
| 32. Transfers to the University of Pretoria, University of KwaZulu-Natal and University of Stellenbosch received or accrued from the Department of Transport; | |
| 33. Youth Technology Innovation Fund received or accrued from the <u>Department of Science and Technology.</u> ”. | 40 |

Amendment of section 20 of Act 91 of 1964, as amended by section 4 of Act 95 of 1965, section 8 of Act 105 of 1969, section 1 of Act 86 of 1982, section 6 of Act 84 of 1987, section 14 of Act 59 of 1990, section 14 of Act 45 of 1995, section 59 of Act 30

of 1998, section 41 of Act 19 of 2001, section 88 of Act 31 of 2005 and section 10 of Act 32 of 2014

126. (1) Section 20 of the Customs and Excise Act, 1964, is hereby amended by the addition after subsection (6) of the following subsection:

- “(7) (a) Where fuel levy goods are imported and not removed to a customs and excise manufacturing warehouse as contemplated in section 19A(4), those goods must, after due entry for warehousing be offloaded into a licensed customs and excise storage warehouse.
- (b) The duty payable in terms of Part 1 of Schedule No. 1 must be paid at the time and in accordance with the procedures as may be prescribed by rule.
- (c) Provisions in this Act, Schedule No. 6 and the rules for administering locally produced fuel levy goods must, except to the extent that that Schedule, any other Schedule or a rule may otherwise provide, be applied to imported fuel levy goods.
- (d) If the imported fuel levy goods become mixed with locally produced fuel levy goods during transport by pipeline or in any tank to any extent, the duty paid in terms of Part 1 of Schedule No. 1 is not refundable in circumstances where any provision of this Act provides for a refund of other duties paid on such goods.
- (e) Any allowance in terms of section 75(18) is only applicable on importation of the fuel levy goods as provided in section 75(18)(d).
- (f) The Commissioner may make rules—
- (i) in connection with all matters required or permitted in this section to be prescribed by rule;
 - (ii) adapting any other rule for the purposes of this subsection; and
 - (iii) regarding any other matter which the Commissioner may reasonably consider to be necessary and useful to achieve the efficient and effective administration of the subsection.”

(2) Subsection (1) comes into operation on a date determined by the Minister by notice in the *Gazette*.

Continuation of certain amendments of Schedules to Act 91 of 1964

127. 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 2014 up to and including 30 September 2015, 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 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 and section 95 of Act 43 of 2014

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

- (a) by the substitution in subsection (1) in the definition of “commercial accommodation” for paragraph (a) of the following paragraph:
- “(a) lodging or board and lodging, together with domestic goods and services, in any house, flat, apartment, room, hotel, motel, inn, guest house, boarding house, residential establishment, holiday accommodation unit, chalet, tent, caravan, camping site, houseboat, or similar establishment, which is regularly or systematically supplied [and where the total annual receipts from the supply thereof exceeds R60 000 in a period of 12 months or is reasonably

- expected to exceed that amount in a period of 12 months,] but excluding a dwelling supplied in terms of an agreement for the letting and hiring thereof;”;
- (b) by the substitution in subsection (1) in the definition of “connected person” in paragraph (d) for subparagraph (ii) of the following subparagraph; 5
- “(ii) any other company the shareholders in which [(being shareholders as contemplated in the definition of ‘shareholder’ in section 1 of the Income Tax Act)] are substantially the same persons as the shareholders in the first-mentioned company, or which is controlled by the same persons who control the first-mentioned company; or”; 10
- (c) by the deletion in the definition of “domestic goods and services” at end of paragraph (f) of the word “or”;
- (d) by the insertion in the definition of “domestic goods and services” at the end of paragraph (g) of the word “or”;
- (e) by the addition in the definition of “domestic goods and services” after paragraph (g) of the following paragraph: 15
- “(h) water”;
- (f) by the substitution in subsection (1) in the definition of “enterprise” for paragraph (ix) of the proviso of the following paragraph: 20
- “(ix) where a person carries on or intends carrying on an enterprise or activity supplying commercial accommodation as contemplated in paragraph (a) of the definition of “commercial accommodation” in section 1, and the total value of taxable supplies made by that person in respect of that enterprise or activity in the preceding period of 12 months or which it can reasonably be expected that that person 25 will make in a period of 12 months, as the case may be, will not exceed [R60 000], R120 000 shall be deemed not to be the carrying on of [an] that enterprise;”
- (g) by the substitution in subsection 1 in the definition of “grant” for paragraph (b) of the following paragraph: 30
- “(b) a payment made to or on behalf of a vendor in terms of the national housing programme contemplated in the Housing Act, 1997 (Act No. 107 of 1997);” and
- (h) by the insertion in subsection 1 after the definition of “Share Blocks Control Act” of the following definition: 35
- “‘shareholder’—
- (a) in relation to any company referred to in paragraph (a), (b) or (d) of the definition of ‘company’ in section 1(1) of the Income Tax Act, means the registered shareholder in respect of any share, except that where some person other than the registered shareholder is entitled, whether by virtue of any provision in the memorandum or articles of association of the company or under the terms of any agreement or contract, or otherwise, to all or part of the benefit of the rights of participation in the profits, income or capital attaching to the share so registered, that other person shall, to the extent that such person is entitled to such benefit, also be deemed to be a shareholder; or 40
- (b) in relation to any close corporation, means a member of such corporation; or
- (c) in relation to any co-operative, means a member of such co-operative;” 45
- (2) Paragraphs (a), (c), (d), (e), (f) of subsection (1) come into operation on 1 April 2016.
- (3) Paragraph (g) of subsection (1) comes into operation on 1 April 2017.
- (4) Paragraph (b) and (h) of subsection (1) is deemed to have come into operation on 1 April 2016. 50

Amendment of section 8 of Act 89 of 1991, as amended by section 24 of Act 136 of 1991, paragraph 4 of Government Notice 2695 of 8 November 1991, section 15 of Act 136 of 1992, section 24 of Act 97 of 1993, section 11 of Act 20 of 1994, section 20 of Act 46 of 1996, section 25 of Act 27 of 1997, section 83 of Act 53 of 1999, section 67 of Act 19 of 2001, section 151 of Act 60 of 2001, section 166 of Act 45 of 2003, section 95 of Act 32 of 2004, section 102 of Act 31 of 2005, section 172 of Act 34 of 2005, section 42 of Act 9 of 2006, section 79 of Act 20 of 2006, section 27 of Act 36 60

of 2007, section 106 of Act 60 of 2008, section 91 of Act 17 of 2009, section 120 of Act 7 of 2010, section 131 of Act 24 of 2011, section 146 of Act 22 of 2012, section 166 of Act 31 of 2013 and section and section 21 of Act 44 of 2014

129. (1) Section 8 of the Value-Added Tax Act, 1991, is hereby amended by the deletion of subsection (23). 5

(2) Subsection (1) comes into operation on 1 April 2017.

Amendment of section 9 of Act 89 of 1991, as amended by section 25 of Act 136 of 1991, section 25 of Act 97 of 1993, section 21 of Act 46 of 1996, section 26 of Act 27 of 1997, section 167 of Act 45 of 2003, section 96 of Act 32 of 2004, section 103 of Act 31 of 2005, section 172 of Act 34 of 2005, section 28 of Act 36 of 2007, section 27 of Act 8 of 2010 and section 167 of Act 39 of 2013 10

130. (1) Section 9 of the Value-Added Tax Act, 1991, is hereby amended by the addition in subsection (2) to paragraph (a) of the following further proviso:

“: Provided further that this paragraph shall not apply where the whole of the consideration or part thereof for such supply of goods or services cannot be determined at the time the goods are removed or made available or at the time the services are performed, and the recipient would have been entitled under section 16(3) at that time to make a deduction of the full amount of tax in respect of that supply, in which case the provisions of subsection (1) shall apply;” 15

(2) Subsection (1) comes into operation on 1 April 2016. 20

Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, paragraph 5 of Government Notice 2695 of 8 November 1991, section 16 of Act 136 of 1992, section 26 of Act 97 of 1993, section 12 of Act 20 of 1994, section 21 of Act 37 of 1996, section 22 of Act 46 of 1996, section 27 of Act 27 of 1997, section 84 of Act 53 of 1999, section 68 of Act 19 of 2001, section 152 of Act 60 of 2001, section 168 of Act 45 of 2003, section 97 of Act 32 of 2004, section 104 of Act 31 of 2005, section 43 of Act 9 of 2006, section 80 of Act 20 of 2006, section 82 of Act 8 of 2007, section 107 of Act 60 of 2008, section 122 of Act 7 of 2010, section 133 of Act 24 of 2011 and section 168 of Act 39 of 2013 25

131. (1) Section 10 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (4) for paragraph (a) of the following paragraph: 30

“(a) a supply is made by a person for no consideration or for a consideration in money which is less than the open market value of the supply or the consideration cannot be determined at the time of supply;”

(2) Subsection (1) comes into operation on 1 April 2016. 35

Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 17 of Act 136 of 1992, section 27 of Act 97 of 1993, section 13 of Act 20 of 1994, section 28 of Act 27 of 1997, section 89 of Act 30 of 1998, section 85 of Act 53 of 1999, section 77 of Act 30 of 2000, section 43 of Act 5 of 2001, section 153 of Act 60 of 2001, section 169 of Act 45 of 2003, section 46 of Act 16 of 2004, section 98 of Act 32 of 2004, section 21 of Act 9 of 2005, section 105 of Act 31 of 2005, section 44 of Act 9 of 2006, section 81 of Act 20 of 2006, section 105 of Act 35 of 2007, section 29 of Act 36 of 2007, Government Notice R.1024 in Government Gazette 32664 of 30 October 2009, section 134 of Act 24 of 2011, section 169 of Act 31 of 2013 and section 96 of 43 of 2014 40 45

132. (1) Section 11 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), is hereby amended—

(a) by the substitution in subsection (1)(a)(ii) for the words preceding the proviso of the following words:

“the goods have been exported by the recipient and the supplier has elected to supply the goods at the zero rate as contemplated in Part 2 of **[an export incentive scheme]** the regulation referred to in paragraph (d) of the definition of ‘exported’ in section 1:” 50

(b) by the substitution in subsection (1)(a)(ii) paragraph (bb) of the proviso of the following paragraph: 55

- “(bb) where the goods have been removed from the Republic by the recipient in accordance with the **[provisions of an export incentive scheme]** regulation referred to in paragraph (d) of the definition of ‘exported’ in section 1, such tax shall be refunded to the recipient in accordance with the provisions of section 44 (9); or”;
- (c) by the substitution in subsection (1)(m) for subparagraph (ii) of the following subparagraph:
- “(ii) by a **[VAT registered]** cartage contractor, whose **[main activity is that of]** activities include transporting goods and who is engaged by the supplier to deliver the goods and that supplier is liable for the full cost relating to that delivery”;
- (d) by the substitution in subsection (2) for paragraph (r) of the following paragraph and by the addition of the following proviso:
- “(r) the services comprise of the vocational training of employees (other than educational services contemplated in section 12(h)) for the benefit of an employer who is not a resident of the Republic and who is not a vendor; Provided that this paragraph shall not apply where the supply is made to a person who is a resident of the Republic or a vendor; or”;
- (e) by the deletion in subsection (2) of paragraph (s).
- (2) Paragraphs (c) and (d) of subsection (1) come into operation on 1 April 2016.
- (3) Paragraph (e) of subsection (1) comes into operation on 1 April 2017.

Amendment of section 12 of Act 89 of 1991, as amended by section 18 of Act 136 of 1992, section 14 of Act 20 of 1994, section 22 of Act 37 of 1996, section 69 of Act 19 of 2001 section 154 of Act 60 of 2001, section 117 of Act 74 of 2002, section 99 of Act 32 of 2004, section 45 of Act 9 of 2006, section 82 of Act 20 of 2006, section 109 of Act 60 of 2008, section 147 of Act 22 of 2012, section 170 of Act 31 of 2013 and section 97 of Act 43 of 2014

- 133.** (1) Section 12 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in paragraph (h) for subparagraph (ii) of the following paragraph:
- “(ii) the supply by a school, university, technikon or college solely or mainly for the benefit of its learners or students of goods or services (including domestic goods and services) necessary for and subordinate and incidental to the supply of services referred to in subparagraph (i) of this paragraph, if such goods or services are supplied for a consideration in the form of school fees, tuition fees or payment for lodging or board and lodging; or”.
- (2) Subsection (1) comes into operation on 1 April 2016.

Amendment of section 15 of Act 89 of 1991, as amended by paragraph 8 of Government Notice 2695 of 8 November 1991, section 20 of Act 136 of 1992, section 31 of Act 27 of 1997, section 90 of Act 30 of 1998, section 46 of Act 9 of 2006, section 37 of Act 21 of 2006, section 13 of Act 9 of 2007, section 271 read with paragraph 114 of Schedule 1 of Act 28 of 2011 and section 172 of Act 31 of 2013

- 134.** (1) Section 15 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the deletion in subsection (2)(a) of subparagraph (iii);
- (b) by the deletion in subsection (2)(a) at the end of subparagraph (vi) of the word “or”;
- (c) by the addition in subsection (2)(a) after subparagraph (vii) of the following subparagraph:
- “(viii) the South African Broadcasting Corporation Limited contemplated in section 8A of the Broadcasting Act, 1999 (Act No. 4 of 1999); or”.
- (2) Subsection (1) comes into operation on 1 April 2016.

Amendment of section 18 of Act 89 of 1991, as amended by section 32 of Act 136 of 1991, section 23 of Act 136 of 1992, section 32 of Act 97 of 1993, section 18 of Act 20 of 1994, section 34 of Act 27 of 1997, section 93 of Act 30 of 1998, section 89 of Act 53 of 1999, section 174 of Act 45 of 2003, section 103 of Act 32 of 2004, section 109 of Act 31 of 2005, section 49 of Act 9 of 2006, section 85 of Act 20 of 2006, section 112

of Act 60 of 2008, section 123 of Act 7 of 2010, section 138 of Act 24 of 2011 and section 149 of Act 22 of 2012

135. Section 18 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (6) for the words preceding the proviso of the following words:

“For the purposes of subsections (2) and (5), any reduction or increase in the extent of the application or use of goods or services shall be deemed to take place on the last day of the vendor’s ‘year of assessment’, as defined in section 1 of the Income Tax Act, or, if the vendor is not a taxpayer as defined in that section, on the last day of February.”

Amendment of section 21 of Act 89 of 1991, as amended by section 26 of Act 136 of 1992, section 34 of Act 97 of 1993, section 176 of Act 45 of 2003, section 48 of Act 16 of 2004, section 36 of Act 18 of 2009 and section 150 of Act 22 of 2012

136. (1) Section 21 of the Value-Added Tax Act, 1991, is hereby amended—

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

“(6) Where any recipient, being a registered vendor, has been issued with a credit note in terms of subsection (3)(a), or has written or other notice or otherwise knows that any tax invoice which the vendor holds is incorrect as a result of any one or more of the events specified in any of paragraphs (a), (b), (c) [or], (d) or (e) of subsection (1) and has made a deduction of any amount of input tax in any tax period in respect of the supply of goods or services to which the credit note or that notice or other knowledge, as the case may be, relates, either the amount of the excess referred to in subsection (3)(a) shall be deemed to be tax charged in relation to a taxable supply made by the recipient attributable to the tax period in which the credit note was issued, or that notice or, as the case may be, other knowledge was received, or the amount of input tax deducted in terms of section 16(3) in the last-mentioned tax period shall be reduced by the amount of the said excess, to the extent that the input tax deducted in the first-mentioned tax period exceeds the output tax properly charged.”

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

Amendment of section 1 of Act 25 of 2007, as amended by section 145 of Act 24 of 2011, section 153 of Act 22 of 2012 and section 110 of Act 43 of 2014

137. (1) Section 1 of the Securities Transfer Tax Act, 2007, is hereby amended—

(a) by the insertion after the definition of “closing price” of the following definition:

“**‘collateral arrangement’** means any arrangement in terms of which—

- (a) a person (hereafter the transferor) transfers a listed share to another person (hereafter the transferee) for the purposes of providing security in respect of an amount owed by the transferor to the transferee;
- (b) the transferor can demonstrate that the arrangement was not entered into for the purposes of the avoidance of tax and was not entered into for the purposes of keeping any position open for more than 12 months;
- (c) that transferee in return contractually agrees in writing to deliver an identical share, as defined in section 1 of the Income Tax Act, to that transferor within a period of 12 months from the date of transfer of that listed share from the transferor to the transferee;
- (d) that transferee is contractually required to compensate that transferor for any distributions in respect of the listed share (or a share in a resultant company acquired by virtue of a listed share held in an amalgamated company as contemplated in section 44(6) of the Income Tax Act) which that transferor would have been entitled to receive during that period had that arrangement not been entered into; and

- (e) that arrangement does not affect the transferor's benefits or risks arising from fluctuations in the market value of that listed share (or a share in a resultant company acquired by virtue of a listed share held in an amalgamated company as contemplated in section 44(6) of the Income Tax Act),
 but does not include an arrangement where the transferee has not transferred the identical share contemplated in paragraph (b) to the transferor within the period referred to in that paragraph;";
- (b) by the substitution in the definition of "lending arrangement" for paragraphs (b), (c) and (d) of the following paragraphs, respectively:
- “(b) that borrower in return contractually agrees in writing to deliver [**a listed security of the same kind and quality**] an identical security, as defined in section 1 of the Income Tax Act, to that lender within a period of 12 months from the date of transfer of that listed security from the lender to the borrower [**in terms of that arrangement**];
- (c) that borrower is contractually required to compensate that lender for any distributions in respect of the listed security (or a security in a resultant company acquired by virtue of a listed security held in an amalgamated company as contemplated in section 44(6) of the Income Tax Act) which that lender would have been entitled to receive during that period had that arrangement not been entered into; and
- (d) that arrangement does not affect the lender's benefits or risks arising from fluctuations in the market value of the listed security (or a security in a resultant company acquired by virtue of a listed security held in an amalgamated company as contemplated in section 44(6) of the Income Tax Act),”;
- (c) by the substitution in the definition of "lending arrangement" for subparagraph (ii) of the following subparagraph:
- “(ii) returned the [**listed**] identical security contemplated in paragraph (b) to the lender within the period referred to in that paragraph;”; and
- (d) by the insertion after the definition of "listed security" of the following definition:
- “**'listed share'** means any share or depositary receipt in a company that is listed on an exchange;”.
- (2) Paragraph (a) of subsection (1) comes into operation on 1 January 2016 and applies in respect of any collateral arrangement entered into on or after that date.
- (3) Paragraphs (b) and (c) of subsection (1) come into operation on 1 January 2016 and apply in respect of any lending arrangement entered into on or after that date.

Amendment of section 8 of Act 25 of 2007, as amended by section 127 of Act 60 of 2008, section 97 of Act 17 of 2009, section 127 of Act 7 of 2010, section 248 of Act 24 of 2011 and section 183 of Act 31 of 2013

- 138.** (1) Section 8 of the Securities Transfer Tax Act, 2007 (Act No. 25 of 2007), is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
- “(b) if the transfer is from a lender to a borrower, or *vice versa*, in terms of a lending arrangement and the person to whom that security has been transferred has certified to the member or participant that the change is in terms of that lending arrangement;”;
- (b) by the substitution in subsection (1) at the end of paragraph (t) for the full stop of a semi-colon; and
- (c) by the addition in subsection (1) after paragraph (t) of the following paragraph:
- “(u) if the transfer is from a transferor to a transferee, or *vice versa*, in terms of a collateral arrangement and the person to whom that security has been transferred has certified to the member or participant that the change is in terms of that collateral arrangement.”.
- (2) Subsection (1) comes into operation on 1 January 2016 and applies in respect of any collateral arrangement entered into on or after that date.

Amendment of section 3 of Act 23 of 2013

139. (1) Section 3 of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) Subsection (1) is deemed to have come into operation on 1 April 2013 and applies—
- (a) in the case of a unit contemplated in section 13*quat*, in respect of any unit erected or extension, addition or improvement to such unit, brought into use on or after that date;
 - (b) in the case of a unit contemplated in section 13*sex*, in respect of any unit acquired on or after that date or any improvement to such unit effected on or after that date; and
 - (c) in the case of a unit contemplated in section 13*sept* or 36, in respect of any unit disposed of on or after that date.”.
- (2) Subsection (1) is deemed to have come into operation on 2 December 2013.

Amendment of section 7 of Act 23 of 2013

140. (1) Section 7 of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) Subsection (1) is deemed to have come into operation on 1 April 2013 and applies in respect of years of assessment ending during the period of 12 months ending on 31 March 2014 and of years of assessment ending after 31 March 2014.”.
- (2) Subsection (1) is deemed to have come into operation on 2 December 2013.

Amendment of section 4 of Act 26 of 2013, as amended by section 113 of Act 43 of 2014

141. (1) Section 4 of the Employment Tax Incentive Act, 2013, is hereby amended by the substitution in subsection (1)(b) for subparagraph (i) of the following subparagraph:

- “(i) where the employee is employed for **[more than]** at least 160 hours in a month, the amount of R2 000 in respect of a month; or”.
- (2) Subsection (1) comes into operation on 1 January 2016.

Amendment of section 10 of Act 26 of 2013, as amended by section 118 of Act 43 of 2014

142. (1) Section 10 of the Employment Tax Incentive Act, 2013, is hereby amended by the substitution in subsection (4) for paragraphs (a) and (b) of the following paragraphs:

- “(a) has failed to submit any return contemplated in section **[8(1)(a)]** 8(a); or
- (b) has any tax debt contemplated in section **[8(1)(b)]** 8(b).”.
- (2) Subsection (1) is deemed to have come into operation on 1 January 2014.

Amendment of section 4 of Act 31 of 2013, as amended by section 113 of Act 43 of 2014

143. Section 4 of the Taxation Laws Amendment Act, 2013, is hereby amended—

- (a) by the deletion in subsection (1) of paragraphs (zE), (zJ), (zO), (zV), (zT), (zU), (zV) and (zZc);
 - (b) by the deletion of subsection (10)
- (2) Subsection (1) is deemed to have come into operation on 12 December 2013.

Amendment of section 13 of Act 31 of 2013

144. (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 **[2016]** 2017 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

145. (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 [2016] 2017 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 16 of Act 31 of 2013

146. (1) Section 16 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Paragraph (a) of subsection (1) is deemed to have come into operation—

(a) in the case of [dividends or foreign dividends] interest received in cash by any person during any year of assessment of that person that commences on or after 1 January 2013, on 1 April 2012 and applies in respect of any [dividend or foreign dividend] interest so received if that [dividend or foreign dividend] interest—

(i) accrued to that person on or after 1 April 2012; and
(ii) is received by that person on or after a date three months after the date on which that [dividend or foreign dividend] interest accrued to that person; or

(b) in the case of [dividends or foreign dividends] interest—
(i) received by or accrued to any person; and
(ii) that are not received by and accrued to that person as contemplated in paragraph (a),

on 1 January 2013 and applies in respect of any [dividend or foreign dividend] interest so received and accrued during years of assessment of that person that commence on or after that date.”.

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

Amendment of section 21 of Act 31 of 2013

147. Section 21 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 the date of promulgation of this Act and applies in respect of any person that—

(a) ceases to be a resident;
(b) becomes a headquarter company; or
(c) ceases to be a controlled foreign company [in relation to that resident], on or after that date.”.

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

Amendment of section 62 of Act 31 of 2013

148. (1) Section 62 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 [2016] 2017 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 99 of Act 31 of 2013, as amended by section 66 of Act 43 of 2014

149. (1) Section 99 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 [2016] 2017 and applies in respect of service fees that are paid or become due and payable on or after that date.”.

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

Amendment of section 16 of Act 43 of 2014

150. (1) Section 16 of the Taxation Laws Amendment Act, 2014, is hereby amended by the substitution for subsection (2) of the following subsection:

“Subsection (1) comes into operation on 1 March [2016] 2018”.

(2) Subsection (1) is deemed to have come into operation on 20 January 2015. 5

Amendment of section 22 of Act 43 of 2014

151. (1) Section 22 of the Taxation Laws Amendment Act, 2014, is hereby amended by the substitution in subsection (1) for the instruction of the following instruction:

“(a) by the substitution in subsection (1) in the definition of ‘**industrial project**’ for paragraphs (a) and (b), the words following paragraph (b) and paragraphs (i) to (vi) of the following paragraphs and words:” 10

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

Amendment of section 47 of Act 43 of 2014

152. (1) Section 47 of the Taxation Laws Amendment Act, 2014, is hereby amended by the substitution for subsection (2) of the following subsection: 15

“(2) Paragraphs (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (l), (m), (o), (p), (q), (r), (s), (t) and (u) of subsection (1) come into operation on 1 January 2016 and apply in respect of years of assessment commencing on or after that date.”

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

Amendment of section 64 of Act 43 of 2014 20

153. (1) The following section is hereby substituted for section 64 the Taxation Laws Amendment Act, 2014:

“**64.** (1) Section 50A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (a) of the definition of “bank” of the following paragraph: 25

(a) any bank or branch as defined in section 1 of the Banks Act respectively;’

(2) Subsection (1) comes into operation on 1 March 2015 and applies in respect of interest that is paid or that becomes due and payable on or after that date.”

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

Amendment of section 65 of Act 43 of 2014 30

154. (1) Section 65 of the Taxation Laws Amendment Act, 2014, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) comes into operation on 1 [January] March 2015 and applies in respect of interest that is paid or that becomes due and payable on or after that date.” 35

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

Repeal of section 119 of Act 43 of 2014

155. (1) Section 119 of the Taxation Laws Amendment Act, 2014, is hereby repealed.

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

Repeal of section 120 of Act 43 of 2014 40

156. (1) Section 120 of the Taxation Laws Amendment Act, 2014, is hereby repealed.

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

Substitution of section 121 of Act 43 of 2014

157. (1) The following section is hereby substituted for Section 121 of the Taxation Laws Amendment Act, 2014: 45

“**121.** Section 26 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 March 2018 and applies in respect of contributions made during years of assessment commencing on or after that date.’ ”.

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

Substitution of section 127 of Act 43 of 2014

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158. (1) The following section is hereby substituted for Section 127 of the Taxation Laws Amendment Act, 2014:

“**127.** Section 26 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 March 2018 and applies in respect of amounts received or accrued on or after that date.’ ”.

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

Substitution of section 128 of Act 43 of 2014

159. (1) The following section is hereby substituted for Section 121 of the Taxation Laws Amendment Act, 2014:

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“**128.** Section 113 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 March 2018 and applies in respect of contributions made on or after that date.’ ”.

(2) Subsection (1) is deemed to have come into operation on 20 January 2015.

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Amendment of section 132 of Act 43 of 2014

160. (1) The following section is hereby substituted for section 132 of the Taxation Laws Amendment Act, 2014:

“**Amendment of section 171 of Act 31 of 2013**

132. (1) Section 171 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection:

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‘(2) Subsection (1) comes into operation on 1 January 2014.’

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

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(2) Subsection (1) is deemed to have come into operation on 20 January 2015

Short title

161. This Act is called the Taxation Laws Amendment Act, 2015.

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