

ANNEXURE C

## **CLAUSE BY CLAUSE**



**NATIONAL  
TREASURY**

**REPUBLIC OF SOUTH AFRICA**

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**CLAUSE BY CLAUSE EXPLANATION**

**OF THE**

**DRAFT TAXATION LAWS AMENDMENT BILL  
(TLAB) 2013**

**[4 July 2013]**

## **CLAUSE 1**

Effective dates in the Taxation Laws Amendment Bill often contain references to concepts defined in the specific provision of the Act to be amended. The interpretation clause ties the interpretation of these defined concepts to the context of the Act, in this case the Transfer Duty Act, 1949.

## **CLAUSE 2**

Transfer duty: Amendment to section 1

This amendment will exempt transfers of shares in a REIT from transfer duty.

## **CLAUSE 3**

Transfer duty: Amendment to section 9

These amendments provide exemption for substitutive share-for-share transactions (the exchanging of shares by the shareholders with new shares of the same company). This relief may be necessary if shares are being exchanged with a residential property company.

## **CLAUSE 4**

Effective dates in the Taxation Laws Amendment Bill often contain references to concepts defined in the specific provision of the Act to be amended. The interpretation clause ties the interpretation of these defined concepts to the context of the Act, in this case the Estate Duty Act, 1955.

## **CLAUSE 5**

Estate duty: Amendment to section 4

This amendment deletes an obsolete cross-reference.

## **CLAUSE 6**

Effective dates in the Taxation Laws Amendment Bill often contain references to concepts defined in the specific provision of the Act to be amended. The interpretation clause ties the interpretation of these defined concepts to the context of the Act, in this case the Income Tax Act, 1962.

## **CLAUSE 7**

Income Tax: Amendment to section 1

Subclause (a): The amendment proposes to standardize references to the Banks Act in the Income Tax Act.

Subclause (b): The amendment proposes to standardise references to the Medical Schemes Act in the Income Tax Act.

Subclause (c): The amendment proposes to standardise references to the Collective Investment Schemes Control Act in the Income Tax Act.

Subclause (d): The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

Subclause (e): The amendment proposes to standardise references to the Collective Investment Schemes Control Act in the Income Tax Act.

Subclause (f): This amendment updates the reference to a collective investment scheme in property to one that qualifies as a real estate investment trust (i.e. a REIT) so as to take account of the introduction of the REIT regime in 2012.

Subclause (g): This amendment updates the reference to partnership to include a foreign partnership (i.e. a definition added in 2010).

Subclauses (h) and (j): These amendments delete a superfluous word.

Subclause (i): The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

Subclause (k): This amendments change the word from “shareholder” to “holder of shares” as a matter of style consistency.

Subclause (l): The amendment proposes to standardise references to a foreign company in the Income Tax Act.

Subclause (m): The amendment proposes to standardise references to the Copyright Act in the Income Tax Act.

Subclause (n): The amendment proposes to standardise references to the Designs Act in the Income Tax Act.

Subclause (o): See notes on **CURRENCY RULES FOR DOMESTIC TREASURY MANAGEMENT COMPANIES.**

Subclause (p): The special currency tax rules relating to foreign equity instruments (mainly contained in section 9G) are deleted as obsolete (having generally ended in late 2005)).

Subclause (q): See notes on **SHARE SCHEMES INCOME RECOGNITION.**

Subclause (r): See notes on **SHARE SCHEMES INCOME RECOGNITION.**

Subclause (s): The amendment proposes to standardise references to the Patents Act, Designs Act, Trade Marks Act and the Copyright Act in the Income Tax Act.

Subclause (t): See notes on **REMOVAL OF DIVIDEND CHARACTER OVERLAP.**

Subclause (u): This amendment updates wording and deletes obsolete provisions.

Subclause (v): This amendment deletes a proviso based on an obsolete provision.

Subclause (w): The amendment proposes to standardise references to the Securities Services Act in the Income Tax Act.

Subclause (x): The amendment proposes to standardise references to the Securities Services Act in the Income Tax Act.

Subclause (y): The amendment proposes to standardise references to the Securities Services Act in the Income Tax Act.

Subclause (z): The amendment proposes to standardise references to the Long-term Insurance Act in the Income Tax Act.

Subclause (zA): The amendment proposes to standardise references to the Medical Schemes Act and the Petroleum Resources Development Act in the Income Tax Act.

Subclause (zB): The amendment proposes to standardise references to “municipal value” in the Income Tax Act.

Subclause (zC): The amendment proposes to standardise references to the Patents Act in the Income Tax Act.

Subclause (zD): The amendment proposes to standardize references to the Pension Funds Act.

Subclause (zE): The amendment proposed to standardize references to the Pension Funds Act.

Subclause (zF): See notes on **PROVIDENT FUND POST-RETIREMENT ANNUITY ALIGNMENT**.

Subclause (zG): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (zH): The amendment proposes to standardize references to the Pension Funds Act in the Income Tax Act.

Subclause (zI): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (zJ): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (zK): See notes on **PROVIDENT FUND POST-RETIREMENT ANNUITY ALIGNMENT**.

Subclause (zL): The amendment proposes to standardise references to the Collective Investment Schemes Act in the Income Tax Act.

Subclause (zM): The proposed amendment inserts definitions of “portfolio of collective investment scheme in a retail hedge fund” and “portfolio of collective investment scheme in restricted hedge fund”. See notes on **DEEMED ORDINARY TREATMENT IN THE CASE OF CERTAIN DISPOSALS OF PARTICIPATORY UNITS IN COLLECTIVE INVESTMENT SCHEME.**

Subclause (zN): The amendment proposes to standardise references to the Collective Investment Schemes Act in the Income Tax Act.

Subclause (zO): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (zP): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (zQ): See notes on **PROVIDENT FUND POST-RETIREMENT ANNUITY ALIGNMENT.**

Subclause (zR): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (zS): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (zT): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (zU): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (zV): See notes on **PROVIDENT FUND POST-RETIREMENT ANNUITY ALIGNMENT.**

Subclause (zW): See notes on **PROVIDENT FUND POST-RETIREMENT ANNUITY ALIGNMENT.**

Subclause (zX): See notes on **PROVIDENT FUND POST-RETIREMENT ANNUITY ALIGNMENT.**

Subclause (zY): The amendment proposes to standardise references to the Public Finance Management Act in the Income Tax Act.

Subclause (zZ): The amendment proposes to standardise references to the Public Finance Management Act in the Income Tax Act.

Subclause (zZa): The amendment proposes to standardise references to the Public Finance Management Act in the Income Tax Act.

Subclause (zZb): The amendment proposes to standardise references to the Securities Services Act in the Income Tax Act.

Subclause (zZc): See notes on **EMPLOYER PROVIDED ACCOMODATION – LOW-COST HOUSING**.

Subclause (zZd): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (zZe): See notes on **PROVIDENT FUND POST-RETIREMENT ANNUITY ALIGNMENT**.

Subclause (zZf): The amendment proposes to standardise references to the Long-term Insurance Act in the Income Tax Act.

Subclause (zZg): See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS**.

Subclause (zZh): The amendment proposes to standardise references to the Short-term Insurance Act in the Income Tax Act.

Subclause (zZi): The definition of “South African Reserve Bank” is inserted because this definition is now being used in more than one section.

Subclause (zZj): This amendment updates a cross-reference.

Subclause (zZk): The amendment proposes to standardise references to the Tax Administration Act in the Income Tax Act.

Subclause (zZl): The amendment proposes to standardise references to the Patents Act, Designs Act, Trade Marks and the Copyrights Act in the Income Tax Act.

Subclause (zZm): The amendment proposes to standardise references to the Trade Marks Act in the Income Tax Act.

Subclause (zZn): The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

Subclause (zZo): The amendment proposes to standardise references to the Public Finance Management Act in the Income Tax Act.

## **CLAUSE 8**

Income Tax: Amendment to section 5

The proposed amendment is consequential to the changes effected to the deductions in respect of retirement fund contributions. See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS**.

## **CLAUSE 9**

Income Tax: Amendment to section 6A

The amendment proposes to standardise references to the Medical Schemes Act.

#### **CLAUSE 10**

Income Tax: Amendment to section 6A

These amendments change the word from “taxpayer” to “person” as a matter of style consistency.

#### **CLAUSE 11**

Income Tax: Amendment to section 7

These amendments change the word from “shareholder” to “holder of shares” as a matter of style consistency. The amendment proposes to standardise references to the Patents Act, the Designs Act, the Trade Marks Act, the Copyright Act and the Pension Funds Act in the Income Tax Act.

#### **CLAUSE 12**

Income Tax: Amendment to section 8

Subclause (a): The reference is deleted as obsolete in light of the whole-scale changes to the old research and development provisions of section 11D. As a result, the general recoupment rules will apply to the former section 11D research and development provisions.

Subclause (b): The proposed amendment prevents a double recoupment because section 19 already gives rise to a recoupment for certain debt cancellations.

Subclause (c): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (d): See notes on **EXEMPTION FOR INTERNATIONAL SHIPPING TRANSPORT ENTITIES**.

Subclause (e): These amendments change the word from “shareholder” to “holder of shares” as a matter of style consistency.

Subclause (f): This form of recoupment of exempt grants is unnecessary given the tax cost reduction (and other anti-double benefit) rules associated grants under section 12P.

Subclauses (g) through (i): These amendments eliminate references to the obsolete Sales Tax, which was replaced by the Value-added Tax in the early 1990s.

#### **CLAUSE 13**

Income Tax: Repeal of section 8A

This amendment repeals the previous version of rules dealing with employee share schemes, which has since been replaced by section 8C (starting in late 2004).

#### **CLAUSE 14**

Income Tax: Amendment to section 8C

The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

#### **CLAUSE 15**

Income Tax: Amendment to section 8EA

Subclause (a): This amendment involves a grammar change.

Subclause (b): This amendment more properly links the purpose to the use of funds of the preference share issue as opposed to focusing on the preference share issue itself.

Subclauses (c) through (e): These amendments clarify the preference shares at issue (e.g. the initial preference share issue versus an additional preference share issue to refinance the first).

Subclauses (f) and (g): These amendments are designed to clarify the exception to the anti-avoidance rule by making the exception outright as opposed to a “proviso” to a definition.

#### **CLAUSE 16**

Income Tax: Amendment to section 8F

See notes on **ANTI-HYBRID DEBT INSTRUMENT RECHARACTERISATION RULES.**

#### **CLAUSE 17**

Income Tax: Amendment to section 8F

See notes on **ANTI-HYBRID DEBT INSTRUMENT RECHARACTERISATION RULES.**

#### **CLAUSE 18**

Income Tax: Amendment to section 8FA

See notes on **ANTI-HYBRID DEBT INSTRUMENT RECHARACTERISATION RULES.**

#### **CLAUSE 19**

Income Tax: Amendment to section 8FA

See notes on **ANTI-HYBRID DEBT INSTRUMENT RECHARACTERISATION RULES.**



## CLAUSE 20

Income Tax: Amendment to section 9

Subclause (a): The amendment deletes the reference to deemed interest under section 8E because the new section 8E creates deemed income. The source of deemed income arising from dividends (under sections 8E and 8EA) will be determined according to the common law.

Subclause (b): The amendment proposes to standardise references to the Public Finance Management Act in the Income Tax Act.

Subclause (c): The amendment aligns the source rule in respect of the disposal of immovable property to the wider definition of immovable property in the Eighth Schedule (capital gains tax). As a general matter, non-residents are liable for capital gains tax in respect of disposal of immovable property, including interest in such immovable property. The phrase, 'interest in immovable property' is specifically defined for capital gains tax purposes whilst the source rules merely refers to the phrase without providing a specific definition. There is no reason why the scope of normal tax on the disposal of interests in South African immovable property by non-residents should differ on revenue and capital gains side.

Subclause (d): The proposed amendment corrects a grammatical error.

Subclause (e): See notes on **EXIT CHARGE ON INTERESTS IN IMMOVABLE PROPERTY**.

## CLAUSE 21

Income Tax: Amendment to section 9B

The amendment deletes an obsolete provision (the anti-avoidance share incentive rules of section 9B have been fully replaced by section 8C).

## CLAUSE 22

Income Tax: Amendment to section 9C

Subclause (a): This amendments change the word from "shareholder" to "holder of shares" as a matter of style consistency.

Subclause (b): Amendment to definition of 'equity share' includes a participatory interest in a portfolio of a collective investment scheme in a retail hedge fund. See notes on **DEEMED ORDINARY TREATMENT IN THE CASE OF CERTAIN DISPOSALS OF PARTICIPATORY UNITS IN COLLECTIVE INVESTMENT SCHEME**.

## CLAUSE 23

Income Tax: Insertion of section 9CA

See notes on **DEEMED ORDINARY TREATMENT IN THE CASE OF CERTAIN DISPOSALS OF PARTICIPATORY UNITS IN COLLECTIVE INVESTMENT SCHEME.**

#### **CLAUSE 24**

Income Tax: Amendment to section 9D

Subclause (a) and (b): The proposed amendment corrects a grammatical error.

Subclause (c): See notes on **EXEMPTION FOR INTERNATIONAL SHIPPING TRANSPORT ENTITIES.**

Subclause (d): The amendment proposes to standardise references to the Long-term Insurance Act in the Income Tax Act.

Subclause (e): These amendments simplify the foreign currency rules (i.e. use of non-functional currencies) within a controlled foreign company. More specifically, these amendments eliminate the anti-avoidance rules for capital gains not attributable to the controlled foreign company's permanent establishment and in respect of foreign equity instruments. Only the hyper-inflationary currency rules remain.

Subclause (f): The amendment proposes to standardise references to the Long-term Insurance Act in the Income Tax Act.

Subclause (g): This amendment corrects a reference to a cross-section.

Subclause (h): See notes on **UNIFORM CROSS BORDER WITHHOLDING REGIME TO PREVENT BASE EROSION.**

Subclause (i): See notes on **CONTROLLED FOREIGN COMPANY AND THE WORDING CAPITAL EXEMPTION.**

#### **CLAUSE 25**

Income Tax: Repeal of section 9G

The special currency tax rules relating to foreign equity instruments are deleted as obsolete (having generally ended in late 2005).

#### **CLAUSE 26**

Income Tax: Amendment of section 9H

Subclause (a): See notes on **EXIT CHARGE ON INTERESTS IN IMMOVABLE PROPERTY.**

Subclause (b): As a general matter, an exit charge applies to all assets except, amongst others, assets that are attributable to a South African permanent establishment. The excluded assets remain within the domestic tax net, hence the exclusion from the exit charge. The amendment emphasises that in order for assets attributable to a permanent

establishment to fall under this exception, the permanent establishment must be registered as a taxpayer.

#### **CLAUSE 27**

Income Tax: Amendment of section 9I

This amendment changes the word from “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 28**

Income Tax: Amendment to section 10

Subclause (a): The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

Subclause (b): This amendment changes the word from “shareholder” to “holder of shares” as a matter of style consistency.

Subclause (c): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (d): See notes on **SIMPLIFICATION OF TAX REGIME FOR COLLECTIVE INVESTMENT SCHEMES IN NON-PROPERTY INVESTMENTS.**

Subclause (e): This amendment changes the word from “its shareholders” to “the holders of shares in that share block company” as a matter of style consistency, and for clarity.

Subclause (f): The proposed amendment deletes obsolete cross-references to other Acts.

Subclause (g): The amendment proposes to standardise references to the Pension Funds Act in the Income Tax Act.

Subclause (h): See notes on **ALIGNMENT OF THE TAX TREATMENT OF INDIVIDUAL – BASED INSURANCE POLICIES.**

Subclause (i): See notes on **ALIGNMENT OF THE TAX TREATMENT OF INDIVIDUAL – BASED INSURANCE POLICIES.**

Subclause (j): The proposed amendment updates wording to match the proposed wording in section 49D(3). See notes on the **UNIFORM CROSS-BORDER WITHHOLDING REGIME TO PREVENT BASE EROSION.**

Subclause (k): See notes on the **UNIFORM CROSS-BORDER WITHHOLDING REGIME TO PREVENT BASE EROSION.**

Subclause (l): The amendment clarifies under which circumstances a holder of a unit in a collective investment scheme in securities is exempt from tax.

Subclause (m): See notes on **SHARE SCHEMES INCOME RECOGNITION**.

Subclause (n): Dividends from REITs and controlled companies under section 25BB are treated as deductible for the payor and as ordinary revenue for the payee.

Subclause (o): See notes on **SHARE SCHEMES INCOME RECOGNITION**.

Subclause (p): Dividends acquired by way of cession are currently treated as ordinary revenue unless acquired as part of all rights attaching to the underlying share. The goal is to close dividend cession schemes as an exempt income shifting device. However, the exception should be expanded slightly so that the anti-avoidance rule does not apply whenever the cession results in the acquirer holding both the underlying share and all the rights attaching to that share. For instance, if a taxpayer owns a share without corresponding dividend rights, acquisition of those dividend rights by way of cession should not be viewed as an ordinary revenue event.

Subclause (q): See notes on **REMOVAL OF DIVIDEND EXEMPTION FOR DIVIDENDS APPLIED AGAINST DEDUCTIBLE FINANCIAL PAYMENTS**.

Subclause (r): The exemption has moved to section 10(1)(hB). See notes on **UNIFORM CROSS-BORDER WITHHOLDING REGIME TO PREVENT BASE EROSION**.

Subclause (s): See notes on **REMOVAL OF SOURCE FOCUS FOR COPYRIGHT AUTHORS**.

Subclause (t): See notes on **EXEMPTION FOR INTERNATIONAL SHIPPING TRANSPORT ENTITIES**.

Subclause (u): See notes on **BURSARIES OR SCHOLARSHIPS TO EMPLOYEE RELATIVES**.

Subclause (v): The proposed amendment updates a cross-reference.

## **CLAUSE 29**

Income Tax: Amendment to section 10A

The amendment proposes to standardise references to the Long-term Insurance Act in the Income Tax Act, and correct a grammatical error.

## **CLAUSE 30**

Income Tax: Amendment to section 10B

Subclause (a): The amendment corrects a grammatical error.

Subclauses (b) and (c): Under current law, cash dividends received in respect of foreign shares listed on the JSE are exempt from normal tax because these dividends potentially fall within the Dividends Tax. The proposed amendment extends the exemption to include *in specie* foreign dividends paid in respect of JSE listed shares if

those dividends are paid to domestic companies. This exemption matches the current exemption for *in specie* dividends in respect of domestic company JSE shares paid to domestic companies.

**Subclause (d): REFINEMENT OF PARTICIPATION EXEMPTION IN RESPECT OF FOREIGN DIVIDENDS DERIVED FROM NON-EQUITY SHARES.**

**CLAUSE 31**

Income Tax: Amendment to section 10C

This amendment is consequential to the changes effected to the deduction in respect of retirement fund contributions. See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS.**

**CLAUSE 32**

Income Tax: Amendment to section 11

Subclause (a): The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

Subclause (b): The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

Subclause (c): The amendment proposes to standardise references to the Patents Act, Designs Act, Trade Marks Act and the Copyright Act in the Income Tax Act.

Subclause (d): The amendment proposes to standardise references to the Patents Act, Designs Act, Trade Marks Act and the Copyright Act in the Income Tax Act.

Subclause (e): This amendment changes the word from “shareholder” to “holder of shares” as a matter of style consistency.

Subclause (f): The amendment proposes to standardise references to the Patents Act, Designs Act and the Trade Marks Act in the Income Tax Act.

Subclause (g): The amendment proposes to standardise references to the Patents Act, Designs Act, Trade Marks Act and the Copyright Act in the Income Tax Act.

Subclause (h): The amendment proposes to standardise references to the Public Finance Management Act in the Income Tax Act.

Subclause (i): This amendment changes the word from “shareholder” to “holder of shares” as a matter of style consistency, and amends the reference to “50” from a textual to a numerical wording.

Subclause (j): The proposed amendment is consequential to the changes effected to the deduction in respect of retirement fund contributions. See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS.**

Subclause (k): See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS.**

Subclause (l): See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS.**

Subclause (m): The proposed amendment is consequential to the changes effected to the deduction in respect of retirement fund contributions. See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS.**

Subclause (n): See notes on **SHARE SCHEMES INCOME RECOGNITION.**

#### **CLAUSE 33**

Income Tax: Repeal of section 11B

The proposed amendment deletes the provision as obsolete.

#### **CLAUSE 34**

Income Tax: Amendment of section 11D

See notes on **REFINEMENTS TO THE RESEARCH AND DEVELOPMENT INCENTIVE.**

#### **CLAUSE 35**

Income Tax: Amendment to section 11E

The proposed amendment deletes obsolete cross-references.

#### **CLAUSE 36**

Income Tax: Amendment to section 12B

The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

#### **CLAUSE 37**

Income Tax: Amendment to section 12C

Subclause (a): The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

Subclause (b): See notes on **EXEMPTION FOR INTERNATIONAL SHIPPING TRANSPORT ENTITIES.**

Subclause (c): See notes on **EXEMPTION FOR INTERNATIONAL SHIPPING TRANSPORT ENTITIES.**

Subclause (d): The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

#### **CLAUSE 38**

Income Tax: Amendment to section 12D

See notes on **ANCILLARY COMPONENTS OF PIPELINES.**

#### **CLAUSE 39**

Income Tax: Amendment to section 12DA

The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

#### **CLAUSE 40**

Income Tax: Amendment to section 12E

Subclause (a): The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

Subclause (b): This amendment changes the word “shareholder” to “holder of shares” as a matter of style consistency, and proposes to standardise references to the Companies Act in the Income Tax Act.

Subclause (c): This proposed amendment changes the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 41**

Income Tax: Amendment to section 12J

The amendment proposes to standardise references to the Banks Act, Long-term Insurance Act and the Short-term Insurance Act in the Income Tax Act.

#### **CLAUSE 42**

Income Tax: Amendment to section 12K

See notes on **EXEMPTION OF CERTIFIED EMISSION REDUCTIONS.**

#### **CLAUSE 43**

Income Tax: Amendment to section 12L

The proposed amendment remedies incorrect cross-references.

#### **CLAUSE 44**

Income Tax: Amendment to section 12M

The amendment proposes to standardise references to the Medical Schemes Act in the Income Tax Act.

#### **CLAUSE 45**

Income Tax: Amendment to section 12N

See notes on **TENANT CONSTRUCTION OR IMPROVEMENTS ON LEASED LAND.**

#### **CLAUSE 46**

Income Tax: Insertion of section 12Q

See notes on **EXEMPTION FOR INTERNATIONAL SHIPPING TRANSPORT ENTITIES.**

#### **CLAUSE 47**

Income Tax: Insertion of section 12Q

See notes on **EXEMPTION FOR INTERNATIONAL SHIPPING TRANSPORT ENTITIES.**

#### **CLAUSE 48**

Income Tax: Insertion of section 12R

See notes on **TAX INCENTIVES FOR SPECIAL ECONOMIC ZONES.**

#### **CLAUSE 49**

Income Tax: Insertion of section 12S

See notes on **TAX INCENTIVES FOR SPECIAL ECONOMIC ZONES.**

#### **CLAUSE 50**

Income Tax: Amendment to section 13

The proposed amendment deletes obsolete cross-references to depreciation provisions that no longer have any application.

#### **CLAUSE 51**

Income Tax: Amendment of section 13*bis*

The proposed amendment deletes obsolete cross-references to depreciation provisions that no longer have any application.



## CLAUSE 52

Income Tax: Amendment to section 13*ter*

These proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

## CLAUSE 53

Income Tax: Amendment of section 13*quat*

The proposed amendment moves the location of an “and” because the current location reflects the existence of an item no longer within the Income Tax Act.

## CLAUSE 54

Income Tax: Repeal of section 14

The proposed amendment deletes shipping allowances as obsolete. See notes on **EXEMPTION FOR INTERNATIONAL SHIPPING TRANSPORT.**

## CLAUSE 55

Income Tax: Repeal of section 14*bis*

The section has ceased to apply and has been deleted as obsolete.

## CLAUSE 56

Income Tax: Repeal of section 18

The proposed amendment deletes obsolete deductions for medical expenses (with deductions having been replaced with tax credits).

## CLAUSE 57

Income Tax: Amendment to section 18A

Subclause (a): The proposed amendment additionally excludes severance benefits because these benefits are taxed on the same basis as retirement and pre-retirement lump sums in terms of the retirement tax tables.

Subclause (b): The proposed amendment deletes a reference to an obsolete provision.

Subclause (c): See notes on **ROLLOVER TREATMENT FOR EXCESS DEDUCTIBLE DONATIONS.**

Subclause (d): The amendment proposes to standardise references to the Public Finance Management Act in the Income Tax Act.

Subclauses (e), (f) and (g): See notes on **DEDUCTIBLE DONATIONS OF APPRECIATED IMMOVABLE PROPERTY.**

Subclause (h) and (i): The amendment proposes to standardise references to the Public Finance Management Act in the Income Tax Act.

#### **CLAUSE 58**

Income Tax: Amendment to section 19

Subclause (a): The term “cancellation” is removed from the title because the term “reduction” includes a cancellation.

Subclauses (b),(c),(e) and (g): The nexus between the expenditure and the trading stock at issue has been expanded to cover the reduction of debt to fund any expenditure “in respect of” that trading stock (such as improvements o production), not just amounts incurred in the acquisition of trading stock.

Subclause (d): The words are moved for improved readability.

Subclause (f): A link to the recoupment provisions of section 8(4)(a) is added so as to be consistent with the other debt reduction rules within the section.

Subclause (h): The interaction between the debt reduction rules of section 19 and paragraph 12A is being clarified in the case of capital allowance assets. Paragraph 12A applies to reduce base cost in the first instance with excess reductions applied under section 19.

#### **CLAUSE 59**

Income Tax: Amendment to section 20

Subclause (a): See **RING-FENCING OF NET FOREIGN TRADE LOSSES.**

Subclause (b): The proposed amendment additionally excludes severance benefits because these benefits are taxed on the same basis as retirement and pre-retirement lump sums in terms of the retirement tax tables.

#### **CLAUSE 60**

Income Tax: Amendment to section 20C

The proposed amendment updates an incorrect cross-reference.

#### **CLAUSE 61**

Income Tax: Amendment to section 22

Subclause (a): The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

Subclause (b): The provision is deleted as obsolete.

Subclause (c): The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 62**

Income Tax: Amendment to section 23

Subclause (a): The amendment is consequential to the changes effected to the deduction in respect of retirement fund contributions. See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS**.

Subclause (b)-(e): See notes on **ALIGNMENT OF THE TAX TREATMENT OF INDIVIDUAL – BASED INSURANCE POLICIES**.

#### **CLAUSE 63**

Income Tax: Amendment to section 23C

Subclauses (a) and (b): The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

#### **CLAUSE 64**

Income Tax: Amendment to section 23I

Subclause (a): The amendment proposes to standardise references to the Patents Act, Designs Act, Trade Marks Act and the Copyright Act in the Income Tax Act.

Subclause (b): The proposed amendments update an incorrect cross reference.

#### **CLAUSE 65**

Income Tax: Amendment to section 23K

See notes on **DEDUCTIBLE INTEREST LIMITATION IN RESPECT OF ACQUISITION INDEBTEDNESS**.

#### **CLAUSE 66**

Income Tax: Amendment to section 23K

See notes on **DEDUCTIBLE INTEREST LIMITATION IN RESPECT OF ACQUISITION INDEBTEDNESS**.

#### **CLAUSE 67**

Income Tax: Amendment to section 23L

See notes on **REFINEMENT: INVESTMENT POLICIES DISGUISED AS SHORT-TERM INSURANCE POLICIES.**

#### **CLAUSE 68**

Income Tax: Amendment to section 23M

See notes on **DEFERRAL OF INCURRED EXPENDITURE BETWEEN TAXABLE PAYORS AND EXEMPT PAYEES.**

#### **CLAUSE 69**

Income Tax: Amendment to section 23N

See notes on **DEDUCTIBLE INTEREST LIMITATION IN RESPECT OF ACQUISITION INDEBTEDNESS.**

#### **CLAUSE 70**

Income Tax: Amendment to section 23O

See notes on **DEDUCTIBLE INTEREST LIMITATION IN RESPECT OF ACQUISITION INDEBTEDNESS.**

#### **CLAUSE 71**

Income Tax: Amendment to section 23P

See notes on **DEFERRAL OF INCURRED EXPENDITURE BETWEEN TAXABLE PAYORS AND EXEMPT PAYEES.**

#### **CLAUSE 72**

Income Tax: Repeal of section 24B

See notes on **CROSS-ISSUE OF SHARES.**

#### **CLAUSE 73**

Income Tax: Amendment to section 24BA

Subclause (a): The proposed amendment is a consequential amendment upon the deletion of section 24B.

Subclause (b): The anti-avoidance rules to prevent fair market value mismatches are clarified and adjusted to accommodate a new exception.

- Firstly, the deemed market rules of paragraph 38 of the Eighth Schedule take precedence over the new anti-avoidance rules. Hence, if a disposal is deemed to occur at fair market value under paragraph 38, the new fair market value mismatch rules do not apply.

- Secondly, the fair market value mismatch rules currently do not apply to companies within the same group. The technical correction clarifies that the group determination is made immediately after the asset acquisition.
- Thirdly, a new exception is made for wholly owned subsidiaries. More specifically, the fair market value mismatch rules do not apply if any person (not just a company) transfers assets to a wholly owned subsidiary (meaning that individuals or trusts making a transfer of this nature are now free from the fair market value mismatch rules).

#### **CLAUSE 74**

Income Tax: Repeal of section 24F

Section 24F is now deleted as fully repealed. The sole incentive for films going forward is the exemption under section 120.

#### **CLAUSE 75**

Income Tax: Amendment to section 24I

Subclause (a): The proposed amendment clarifies the exclusion of a hybrid debt instrument from the definition of an exchange item.

Subclause (b): See notes on **CURRENCY RULES FOR DOMESTIC TREASURY MANAGEMENT COMPANIES**.

Subclause (c) and (i): The proposed amendment clarifies the relationship between the section 24I(10) deferral rules involving connected persons and the new deferral rules of section 24I(10A). The old section 24I(10) rules are deferred until 1 January 2014 (with a deemed realisation on this closure date). However, the non-current items fall under the deferral rules of section 24I(10A) until the items are realised. The technical correction clarifies that the section 24I(10) deemed disposal event upon the 1 January 2014 termination of section 24I(10) is ignored for purposes of the section 24I(10A) realisation.

Subclause (d): The amendment corrects a cross reference following the deletion of subsection (10).

Subclause (e),(f),(g) and (j): The amendment deletes an otherwise obsolete provision in view of the recent revision (see subsection (10A)) of the rules for recognising connected party exchange items to roughly follow the accounting principles of International Financial Reporting Statement (IFRS). Exchange items falling within the old pre 08 November 2005 will be deemed to be realised at the end of the year of assessment ending before the commencement of a new year of assessment on or after 1 January 2014. In terms of the 2014 cessation, any gain or loss arising may be deferred if the exchange item exists within a group/connected person relationship falling under the new rules. This gain or loss will be deferred until the sooner of realisation or the date when the group/connected person relationship is lost. The effective date of 1 January 2014 mirrors the realization trigger date in the proviso.

Subclause (h): The amendment deletes an obsolete provision in view of the recent revision (see subsection (10A)) of the rules for recognising connected party exchange items to roughly follow the accounting principles of International Financial Reporting Statement (IFRS). The effective date of 1 January 2014 mirrors the existing realization trigger date for section 24I(10) (see further proviso).

Subclause (k): The proposed amendment deletes an obsolete provision. The deleted provision provided an exemption for currency gains and losses stemming from hedging the purchase price of acquiring substantial shareholding in foreign companies. With the alignment of tax and accounting principles, the hedge will be recognised as an exchange item. The exchange item will be recognised on a mark-to-market basis. This eliminates the special rules for monetary items connected to non-monetary items.

#### **CLAUSE 76**

Income Tax: Amendment to section 24J

Subclause (a): The proposed amendment adjusts the words for consistency.

Subclause (b): The current “yield to maturity” calculation is adjusted for the variation of terms and conditions but arguably not for other variations in amounts payable (such as a change in estimate due to a change in an external factor as applied to an initial term or condition). The proposed amendment specifically requires an adjustment for variations in amounts payable (even if there is no variation in terms or conditions).

Subclauses(c) and (d): The 2012 legislation recognises that the interest calculation for debts must take into account a change in the date of redemption. The technical correction clarifies that a change in the date of redemption must be taken into account for purposes of the “yield to maturity” calculation.

Clause (e) and (f): Section 24J(9) is being reinstated as we refer to this provision in the new mark-to-market subsection, although it may not be exercised by a company in respect of years of assessment commencing on or after 1 January 2014. This proposal seeks to cater for taxpayers who were forced to exit section 24J(9) and need a transitional arrangement for them to go back to s 24J(2) to (8), s 24K & s 24L. Under this forced exit, a deemed disposal and deemed acquisition at the market value will arise. This deemed event will apply at the close of business in the last year of assessment that section 24J(9) applied to the company.

#### **CLAUSE 77**

Income Tax: Amendment to section 24JA

The amendment proposes to standardise references to the Banks Act in the Income Tax Act.

#### **CLAUSE 78**

Income Tax: Amendment to section 24JB

See notes on **ANNUAL FAIR VALUE TAXATION OF FINANCIAL INSTRUMENTS IN RESPECT OF BANKS AND BROKERS.**

#### **CLAUSE 79**

Income Tax: Amendment to section 25BA

See notes on **SIMPLIFICATION OF TAX REGIME FOR COLLECTIVE INVESTMENT SCHEMES IN NON-PROPERTY INVESTMENTS.**

#### **CLAUSE 80**

Income Tax: Amendment to section 25BB

With a number of property entities seeking listed RET status upon implementation of the REIT regime, a number of technical issues have been identified. This review will result in the following technical corrections:

- “associated property company” definition is deleted and all references to ‘associated property company’ is deleted from this section.
- “Controlled property company: The term “property” is being dropped from the definition as misleading. The definition itself does not require a property element.
- Declared definition: This definition is now dropped as superfluous.
- A definition of “property company” has been inserted.
- Property linked unit definition: The term “property” is being dropped from the definition as misleading. The definition itself does not require a property element.
- Rental income definition: a dividend from a REIT or controlled company will only be taken into account if the company is a REIT or controlled company when it made the distribution.
- Deduction for qualifying distributions: Two changes are made for determining the deductibility of distributions. Firstly, issues relating to timing are clarified with the definition applying if the company is a REIT or a controlled company on the last day of the year of assessment in which the distribution is made. Secondly, the timing for determining the amount of the qualifying distribution is clarified. This determination is now based on the distribution amount taken into account for financial reporting purposes in respect of the relevant year of assessment). For instance, if a distribution is actually paid in 2016 but is taken into account for financial reporting purposes in 2015, the qualifying distribution is based on rental income for 2015, not 2016.
- Disposal of financial instrument - profits is ordinary revenue: All disposals except disposals of interest in a REIT and controlled company are viewed as ordinary income under current law. The technical corrections clarify two timing issues. First, the rule applies to any disposal by a company that is a REIT or a

controlled company at the end of that year. Secondly, the exception only applies to the disposal of an interest in a REIT or a controlled company if that company is a REIT or a controlled company at the time of the disposal.

- If the REIT or controlled company disposes of an interest in a property company, that is a property company at the time of the disposal, the receipt or accrual will be of a capital nature.
- No depreciation allowance in respect of immovable property: The technical correction makes it clear that a REIT or a controlled company that is a REIT or a controlled company at the last day of the year of assessment may not claim any depreciation allowances in respect of immovable property held by it.
- Capital gains tax exemption: The technical correction now allows a capital gain exemption for a REIT or a controlled company that is a REIT or controlled company at the last day the company's year of assessment in respect of the disposal of (a) immovable property or (b) a share in a REIT or a property company, which was a REIT or property company when the share was disposed of.
- Payment derived from link units as dividends: Interest in respect of the debenture portion of a linked unit is deemed to be a dividend if the linked unit is in an entity that is a REIT or a controlled company. The technical correction clarifies that the entity making the payment must be a REIT or a controlled company at the time that the interest payment is received by or accrue to the holder of the linked unit before subsection (6) will apply.
- Cessation of REIT or controlled company status: No rules currently exist describing how the cessation of REIT status or controlled company status will impact the company. The proposed subsection (7) trigger a closure of the company's year of assessment when it ceases to be a REIT or controlled company.
- Subsection(8) will allow a REIT or controlled company to delink linked units, cancel the debenture and capitalise the face value of the debenture to stated capital without negative tax implications for the REIT, controlled company or former holder of a linked unit.

## CLAUSE 81

Income Tax: Amendment to section 25D

See notes on **CURRENCY RULES FOR DOMESTIC TREASURY MANAGEMENT COMPANIES** and **EXEMPTION FOR INTERNATIONAL SHIPPING TRANSPORT ENTITIES**.

## CLAUSE 82

Income Tax: Amendment to section 28



Subclause (a): This definition has been moved to section 1 of the Act.

Subclause (b): The definition of “short-term policy” is simplified by removing the reference to the nature of the issuer.

Subclause (c) – Subsection (2) of section 28:

- The wording is changed to clarify whether the short-term policy at issue is a policy issued by the short-term insurer or held by the short-term insurer.
- In addition, the current role of section 23(c) is misplaced. Section 23(c) normally prevents a deduction if that expenditure is to be recovered by insurance. This denial will not apply to expenses paid by a short-term insurer to satisfy insurance claims even if those expenses are covered by reinsurance.
- Lastly, the ordering for deductible expenditure has been changed to prevent overlaps (expenditures for the refund of premiums, expenditures to satisfy claims and other expenditures (such as commission fees)).

Subclause (b) – Subsections (3) and (5) of section 28: The wording connecting the reserve calculation to the short-term insurance act is more explicitly tied together. The key difference is the reduction for claims under policies of insurance (without regard to whether the reinsurance policy is approved or unapproved by the Financial Services Board).

### **CLAUSE 83**

Income Tax: Amendment to section 29A

Subclause (a): This definition has been moved to section 1 of the Act.

Subclause (b): The definition of “market value” is updated so as to be in line with the newer definition in section 29B.

Subclause (c): Losses carried over from prior years should not be taken into account in the deduction formula for the current year.

Subclause (d): The formula is revised to account for unrealised gains in the denominator so the deduction formula is not overstated.

Subclause (e): Long-term insurers currently may not claim allowances (e.g. depreciation for buildings). The technical correction, however, permits allowances in respect of financial instruments (e.g. bad debt allowances).

Subclause (f): The proposed amendment deletes obsolete provisions.

### **CLAUSE 84**

Income Tax: Amendment to section 29B

Subclause (a): The market value definition is moved to section 29A so the definitions are the same for both long-term insurer provisions.

Subclauses (b) and (c): The proposed amendment clarifies the time of day in which the deemed disposal occurs.

Subclause (d): If an insurer ceases to be engaged as an insurer (via liquidation, reorganisation or otherwise), the spreading of gains is accelerated to the date of cessation.

Subclause (e): The proposed amendment clarifies the nature of the linked policy exemption from mark-to-market taxation. The exemption applies solely to linked policies of a Category III provider, not all policies held in the capacity of a Category III provider.

#### **CLAUSE 85**

Income Tax: Amendment to section 30

The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

#### **CLAUSE 86**

Income Tax: Amendment to section 30A

The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

#### **CLAUSE 87**

Income Tax: Amendment to section 30B

Subclause (a): The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

Subclause (b): The proposed amendment changes the word person from the plural to the singular, consistent with overall drafting style.

#### **CLAUSE 88**

Income Tax: Amendment to section 31

Subclause (a): The proposed amendment contains more accurate and consistent wording.

Subclause (b): The proposed amendment corrects a grammatical error.

Subclause (c): The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

Subclause (d): See notes on **TRANSFER PRICING RELIEF FOR EQUITY LOANS**.

#### **CLAUSE 89**

Income Tax: Amendment to section 36

Subclause (a): The amendment updates a Ministerial title.

Subclauses (b) and (c): The amendment proposes to standardise references to the Mineral and Petroleum Resources Development Act in the Income Tax Act.

#### **CLAUSE 90**

Income Tax: Amendment to section 37A

Subclauses (a) and (b): The amendment proposes to standardise references to the Mineral and Petroleum Resources Development Act, the Collective Investment Schemes Control Act, the Long-term Insurance Act, and the Banks Act in the Income Tax Act.

Subclauses (c) and (d): The amendment updates a Ministerial title.

#### **CLAUSE 91**

Income Tax: Amendment to section 37B

The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

#### **CLAUSE 92**

Income Tax: Amendment to section 37C

See notes on **DEDUCTIBLE DONATIONS OF APPRECIATED IMMOVABLE PROPERTY.**

#### **CLAUSE 93**

Income Tax: Deletion of Part IA in Chapter II

See notes on **UNIFORM CROSS-BORDER WITHHOLDING REGIME TO PREVENT BASE EROSION.**

#### **CLAUSE 94**

Income Tax: Amendment to section 40C

The proposed amendment provides correct numbering.

#### **CLAUSE 95**

Income Tax: Insertion to section 40CA

Subclause (a): The proposed amendment provides correct numbering.

Subclause (b): The proposed amendment deletes a reference to an obsolete subsection. Also see notes on **CROSS-ISSUE OF SHARES**.

#### **CLAUSE 96**

Income Tax: Amendment to section 41

Subclause (a): The amendment proposes to standardise references to the Banks Act, the Security Services Act, the Long-term Insurance Act, the Short-term Insurance Act and the Collective Investment Schemes Control Act in the Income Tax Act.

Subclause (b): The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

Subclauses (c) and (d): The proposed amendment corrects a grammatical error.

Subclause (e): The proposed amendment adjusts the domestic “group of companies definition of section 41 so as to exclude domestic incorporated companies with a foreign tax residence (by virtue of foreign effective management). The goal of this definition is to treat a tax group as such only if all member companies are mainly within the domestic tax net.

Subclause (f): The proposed amendment updates a cross-reference.

Subclause (g): The proposed amendment deletes a reference to an obsolete subsection.

Subclauses (h) and (i): The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

Subclause (j): This provision has been deleted as obsolete.

#### **CLAUSE 97**

Income Tax: Amendment to section 42

The proposed amendment corrects an incorrect cross reference.

#### **CLAUSE 98**

Income Tax: Amendment to section 43

In 2012, a regime was introduced under section 43 to replace the capital gain rules applicable to share-for-share recapitalizations. Under this regime, rollover treatment applies where a shareholder surrenders shares in a company for other shares in that same company. More specifically, where an equity shares is exchanged for another equity share; the subdivision and consolidation of a non-equity shares for other non-equity shares; and a swap of a property linked unit (i.e. dual linked share-debenture debenture in a REIT or a controlled property company no capital gains consequences arise due to the roll-over treatment.

However, in the case of an exchange of non-equity shares by way of a subdivision or consolidation, the bundle of rights attached to such shares before and after the subdivision or consolidation remain the same. In essence, no disposal arises in such instances. Having regard to this consideration, the roll-over relief provided for under section 43 in respect of share exchanges by way of subdivision or consolidation is unnecessary.

Furthermore, Section 43 currently does not recognise that pre-valuation date assets require special treatment. For example, the previously held shares is deemed to have been disposed of for proceeds equal to 'expenditure' incurred on their acquisition. However, a pre-valuation date share is comprised of a valuation date value plus any post-CGT expenditure. The expenditure on a pre-valuation date share cannot be equated with its base cost. The result is that this rule will trigger a capital gain or loss (proceeds equal to historical cost with base cost equal to valuation date value) which was clearly unintended. Furthermore, the new shares are deemed to be acquired on the latest of the dates of the old shares for the expenditure incurred on the old shares. This produces an extremely unfair result. The proposed amendment seeks to convert pre-valuation date shares to post-valuation date shares in order for the rules in section 43 to apply in the normal way.

#### **CLAUSE 99**

Income Tax: Amendment to section 44

Subclause (a): The words are deleted as non-sensical because the resultant company never holds shares in the amalgamated company as part of the transaction.

Subclause (b): The amendment remedies an incorrect cross-reference.

Subclause (c), (d) and (e): The current rollover treatment for the resultant company shares acquired by the ultimate shareholder as a consequence of an amalgamation transaction is dependent on liquidation of the amalgamated company (section 44(6)). However, it was always intended that the base cost of the resultant company shares should be rolled over irrespective of the liquidation of the amalgamated company. Given the various administrative processes that often delay liquidation; the focus will shift from the liquidation of the amalgamated company to the acquisition of the resultant company shares by virtue of shareholding in the amalgamated company. As a consequential matter, the tax consequences of any receipt of an amount in addition to the shares in the resultant company by the ultimate shareholder is also provided for in section 44(6) (as opposed to subsections (7) and (10)).

Subclause (f): The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

#### **CLAUSE 100**

Income Tax: Amendment to section 45

Subclause (a): The definition is clarified to ensure that this form of section 45 is limited to domestic transferees. The cross-border rules relating to section 45 are covered under the "(b)" portion of the definition.

Subclauses (b) and c): The word “company” has been added because section 45 transactions solely involve transferor and transferee companies.

Subclause (d): The proposed amendment is to clarify that the provision applies to both domestic and foreign reorganisations.

Subclause (e): The wording has been changed for readability.

## **CLAUSE 101**

Income Tax: Amendment to section 46

Subclause (a) and (c): The “but only to the extent” language creates the impression that an unbundling may partially fall within and without section 46. However, section 46 has always been an “all-or-nothing” provision and has been amended accordingly.

Subclause (b): The proposed amendment contains more accurate and consistent wording.

Subclause (d): The proposed amendment contains more accurate and consistent wording.

Subclause (e), (f) and (h): The proposed amendments corrects a grammatical error.

Subclause (g): The amendment deletes a superfluous provision. The deleted provision required that an unbundling company must be a controlled foreign company in relation to a resident group company. Item (bb) of section 46(1)(b)(i) already requires that the unbundling company must be a CFC and a group company in relation to the shareholder.

Subclause (i): The amendment deletes a superfluous provision. The deleted provision provided that after the unbundling transaction, more than 50 percent of the unbundled company must be owned by a resident who is a member of the same group of companies. This more than 50 percent ownership requirement will be retained in the “before” test (see section 46(1)(b)(ii)(aa)) and note that distributes must be pro rata so there is no difference between before and after.

Subclause (j): One benefit of unbundling treatment is the removal of the Dividends Tax in respect of a distribution of subsidiary shares. The legislation clarifies that domestic and foreign returns of capital are also removed (because these are simply other forms of subsidiary share distributions).

Subclause (k): The proposed amendment contains more accurate and consistent wording.

Subclause (l): As a general rule, significant shareholdings (i.e. 20 percent or more) in an unbundled company cannot be received by non-residents. These rules prevent unbundling rollovers from being used as a means of indirect corporate migration.

Additional rules for disqualified persons were added to address offshore intra-group unbundling distributions to South African residents and controlled foreign companies. However, these rules are superfluous because intra-group offshore unbundling distributions are already limited to South African residents and controlled foreign companies within the unbundling definition. Hence, the 20 per cent limitation to prevent corporate migrations is only needed for listed unbundlings and can be limited accordingly.

#### **CLAUSE 102**

Income Tax: Amendment to section 47

The amendment eliminates the section 47 exclusion in the case of liquidations outside the scope of the Income Tax Act. The exclusion was creating unintended anomalies in the case of offshore subsidiary liquidations.

#### **CLAUSE 103**

Income Tax: Amendment to Part IVA of Chapter II

See notes on **UNIFORM CROSS-BORDER WITHHOLDING REGIME TO PREVENT BASE EROSION.**

#### **CLAUSE 104**

Income Tax: Amendment to Part IVB of Chapter II

See notes on **UNIFORM CROSS-BORDER WITHHOLDING REGIME TO PREVENT BASE EROSION.**

#### **CLAUSE 105**

Income Tax: Insertion of Part IVC of Chapter II

See notes on **UNIFORM CROSS-BORDER WITHHOLDING REGIME TO PREVENT BASE EROSION.**

#### **CLAUSE 106**

Income Tax: Amendment to section 64B

The amendment deletes an obsolete provision.

#### **CLAUSE 107**

Income Tax: Amendment to section 64C

The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

#### **CLAUSE 108**

Income Tax: Amendment to section 64D

Subclause (a): The amendment updates the wording to reflect a fairly recent definition.

Subclause (b): The amendment proposes to standardise references to the Securities Services Act in the Income Tax Act.

### **CLAUSE 109**

Income Tax: Amendment to section 64EB

The proposed amendments clarify a number of technical anomalies associated with the anti-avoidance provision:

- The words beneficial owner are removed from the references to exempt persons because these persons will no longer be deemed to be beneficial owners, making the language tautological.
- The relief from the anti-cession rule is clarified. The party acquiring the cession must hold all rights after the cession – all rights associated with that share need not be ceded as part of the transaction. For instance, if a shareholder already holds the corpus and acquires the dividend rights by way of cession, the anti-avoidance rule does not apply.
- The language is clarified as to the deemed “dividend flows” and more closely links to the “beneficial owner” language wherever possible.
- The rules relating to “resale agreements” have been clarified. The anti-avoidance rule takes aim solely at scenarios where that acquiring shareholder takes possession on condition of resale of the same share or of comparable shares. In essence, the economic value associated with the underlying share in these circumstances is essentially never acquired (meaning that interim dividends are tantamount to cessions).

### **CLAUSE 110**

Income Tax: Amendment to section 64F

Subclause (a): The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

Subclause (b): The proposed amendment contains more accurate and consistent wording.

### **CLAUSE 111**

Income Tax: Amendment to section 64G

The wording clarifies when withholding is or is not initially required.



#### **CLAUSE 112**

Income Tax: Amendment to section 64H

The wording clarifies when withholding is or is not initially required.

#### **CLAUSE 113**

Income Tax: Amendment to section 64J

Subclause (a): The words “to the extent that” in relation to a notification receipt are technically flawed.

Subclause (b): The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 114**

Income Tax: Amendment to paragraph 11 of First Schedule

The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 115**

Income Tax: Amendment to paragraph 12 of the First Schedule

The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 116**

Income Tax: Amendment to paragraph 2C of the Second Schedule

The amendment proposes to standardise references to the Pension Funds Act and the Long-term Insurance Act in the Income Tax Act.

#### **CLAUSE 117**

Income Tax: Amendment to paragraph 5 of the Second Schedule

The amendment is consequential to the changes effected to the deduction in respect of retirement fund contributions. See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS**.

#### **CLAUSE 118**

Income Tax: Amendment to paragraph 6 of the Second Schedule

Subclause (a): See notes on **PROVIDENT FUND POST-RETIREMENT ANNUITY ALIGNMENT**.

Subclause (b): The amendment is consequential to the changes effected to the deduction in respect of retirement fund contributions. See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS**.

Subclause (c): The proposed amendment changes the word “taxpayer” to “person” as a matter of style consistency.

#### **CLAUSE 119**

Income Tax: Amendment to paragraph 1 of the Fourth Schedule

The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 120**

Income Tax: Amendment to paragraph 2 of the Fourth Schedule

The amendment is consequential to the changes effected to the deduction in respect of retirement fund contributions. See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS**.

#### **CLAUSE 121**

Income Tax: Amendment to paragraph 13 of the Fourth Schedule

This provision is deleted as obsolete in light of the Taxation Administration Act.

#### **CLAUSE 122**

Income Tax: Amendment to paragraph 17 of the Fourth Schedule

The amendment deletes obsolete and superfluous references.

#### **CLAUSE 123**

Income Tax: Amendment to paragraph 19 of the Fourth Schedule

The proposed amendment clarifies that all lump sums (and the municipal employee anti-cash out inclusion) are excluded from Pay-As-You-Earn withholding.

#### **CLAUSE 124**

Income Tax: Amendment to paragraph 20A of the Fourth Schedule

The amendment deletes an obsolete cross-reference.

#### **CLAUSE 125**

Income Tax: Amendment to paragraph 3 of the Sixth Schedule

The proposed amendments changes the word “shareholder” to “holder of shares in that micro business” as a matter of style consistency.

#### **CLAUSE 126**

Income Tax: Amendment to paragraph 7 of the Sixth Schedule

The amendment reflects recent changes to the Government grant rules.

#### **CLAUSE 127**

Income Tax: Amendment to paragraph 10 of the Sixth Schedule

The amendment deletes an obsolete cross-reference.

#### **CLAUSE 128**

Income Tax: Amendment to paragraph 1 of the Seventh Schedule

Subclause (a): See notes on **VALUATION OF FRINGE BENEFIT FOR DEFINED BENEFIT PURPOSES.**

Subclause (b): The proposed amendments change the word “shareholder” to “holder of shares” and “his” to “the employee’s” as a matter of style consistency.

Subclause (c): See notes on **VALUATION OF FRINGE BENEFIT FOR DEFINED BENEFIT PURPOSES.**

#### **CLAUSE 129**

Income Tax: Amendment to paragraph 2 of the Seventh Schedule

Subclause (a): The amendment proposes to standardise references to the Companies Act in the Income Tax Act.

Subclause (b): See notes on **REVISED CONTRIBUTION INCENTIVES FOR RETIREMENT SAVINGS.**

#### **CLAUSE 130**

Income Tax: Amendment to paragraph 5 of the Seventh Schedule

See notes on **EMPLOYER PROVIDED ACCOMODATION - LOW-COST HOUSING.**

#### **CLAUSE 131**

Income Tax: Amendment to paragraph 7 of the Seventh Schedule

The amendment proposes to standardise references to the Value-Added Tax Act in the Income Tax Act.

#### **CLAUSE 132**

Income Tax: Amendment to paragraph 9 of the Seventh Schedule

The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 133**

Income Tax: Amendment to paragraph 12A of the Seventh Schedule

The amendment proposes to standardise references to the Medical Schemes Act in the Income Tax Act.

#### **CLAUSE 134**

Income Tax: Amendment to paragraph 12B of the Seventh Schedule

The amendment proposes to standardise references to the Medical Schemes Act in the Income Tax Act.

#### **CLAUSE 135**

Income Tax: Amendment to paragraph 12C of the Seventh Schedule

See notes on **ALIGNMENT OF THE TAX TREATMENT OF INDIVIDUAL – BASED INSURANCE POLICIES.**

#### **CLAUSE 136**

Income Tax: Amendment to paragraph 12D of the Seventh Schedule

See notes on **VALUATION OF FRINGE BENEFIT FOR DEFINED BENEFIT PURPOSES.**

#### **CLAUSE 137**

Income Tax: Amendment to paragraph 11 of the Eighth Schedule

Subclause (a): The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

Subclause (b): The phrase “member’s interest in” is unnecessary because the new definition of “share” encompasses these interests.

Subclause (c): See notes on **SHARE ISSUES IN EXCHANGE FOR FOREIGN SHARES AS A MEANS OF CORPORATE MIGRATION.**

Subclause (d): The proposed amendment corrects a grammatical error.

Subclause (e): This proposal in a consequential amendment to the proposed amendment to section 43. It seeks to clarify that an exchange of shares by way of a subdivision or consolidation does not constitute a disposal to the extent that the bundle of rights attached to the shares held before and after the subdivision or consolidation remain the same.

#### **CLAUSE 138**

Income Tax: Amendment to paragraph 12A of the Eighth Schedule

The nexus between the expenditure and capital assets have been expanded to cover the reduction of debt to fund any expenditure “in respect of” that asset, not just amounts incurred in the acquisition, creation or improvement of that asset.

#### **CLAUSE 139**

Income Tax: Amendment to paragraph 13 of the Eighth Schedule

The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 140**

Income Tax: Amendment to paragraph 16 of the Eighth Schedule

The amendment proposes to standardise references to the Patents Act, Designs Act, Trade Marks Act and the Copyright Act in the Income Tax Act.

#### **CLAUSE 141**

Income Tax: Amendment to paragraph 20 of the Eighth Schedule

Subclause (a): The proposed amendment simplifies rules associated with the addition to base cost for interest incurred in respect of debt-funded shares.

Subclause (b): The amendment deletes an obsolete provision following the deletion of section 24I(11A).

#### **CLAUSE 142**

Income Tax: Amendment to paragraph 31 of the Eighth Schedule

Subclause (a): The amendment proposes to standardise references to the Long-term Insurance Act in the Income Tax Act.

Subclause (b): The proposed amendment contains more accurate and consistent wording. In addition, the proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

### **CLAUSE 143**

Income Tax: Amendment to paragraph 32 of the Eighth Schedule

The amendment proposes to standardise references to the Collective Investment Schemes Control Act in the Income Tax Act.

### **CLAUSE 144**

Income Tax: Amendment to paragraph 35 of the Eighth Schedule

See notes on **EXIT CHARGE ON INTERESTS IN IMMOVABLE PROPERTY**.

### **CLAUSE 145**

Income Tax: Amendment to paragraph 38 of the Eighth Schedule

Subclause (a): The proposed amendment corrects a grammatical error.

Subclause (b): The proposed amendment is a consequential amendment based on the deletion of section 24B.

### **CLAUSE 146**

Income Tax: Repeal of paragraph 42A of the Eighth Schedule

The proposed amendment deletes a rollover regime based on company law provisions that no longer exist.

### **CLAUSE 147**

Income Tax: Amendment to paragraph 43 of the Eighth Schedule

Subclause (a): The references to currency are more closely tied to the definitions within the paragraph.

Subclauses (b) and (c): The proposed change clarifies that only two sets of capital gain currency rules are available when disposing of assets. The current simplified method for calculating capital gains and losses for natural persons and non-trading trusts that sell an asset using foreign currency after having acquired that asset in the same currency will be retained (subject to minor alignment in subclause (a)). That is, natural persons and non-trading trust will simply determine the capital gain or loss in the relevant foreign currency followed by a conversion to Rands).

In all other instances, the translation rules use the local currency as the starting point for translating both proceeds and/or the base cost. This translation rule will cover all variations, i.e. where the base cost, proceeds or both are denominated in foreign currency, deemed proceeds or base cost for purposes of paragraph 12 (ceasing to be a resident; non-trading stock that becomes trading stock and assets ceasing to be personal use asset), paragraph 38 (donations, consideration not measurable in money and connected persons non-arms-length price) and paragraph 40 (death), and debt

forgiveness for purposes of paragraph 12A. In the main, the currency gain or loss will be determined in local currency and each of the base cost and/or proceeds will be translated to local currency using spot rates.

Subclause (d): This subparagraph is deleted because the debt relief rules have been changed with the cross-references now being obsolete.

Subclause (e): The proposed amendment corrects an incorrect cross-reference.

Subclause (f): The currency rules dealing with currency units are deleted as irrelevant because taxation of currency is solely addressed in the mark-to-market rules of section 24I.

Subclause (g): The words are improved for ease of reading.

Subclause (h): The proposed amendment excludes a permanent establishment outside the Republic as currency for a permanent establishment has been covered in another provision.

Subclause (i): See notes on **CURRENCY RULES FOR DOMESTIC TREASURY MANAGEMENT COMPANIES.**

Subclause (j): See notes on **EXEMPTION FOR INTERNATIONAL SHIPPING TRANSPORT ENTITIES.**

Subclause (k): The proposed amendment is a provision which has moved from paragraph (c) to (d).

#### **CLAUSE 148**

Income Tax: Amendment to paragraph 53 of the Eighth Schedule

The amendment proposes to standardise references to the Short-term Insurance Act in the Income Tax Act.

#### **CLAUSE 149**

Income Tax: Amendment to paragraph 56 of the Eighth Schedule

Subclause (a): The concepts of the debt relief rules are being changed to co-ordinate with the newly revised basic debt cancellation rules.

Subclause (b): The proposed amendment corrects an incorrect cross-reference.

#### **CLAUSE 150**

Income Tax: Amendment to paragraph 57 of the Eighth Schedule

The R5 million asset limit is increased to R10 million in line with other changes relating to the relief for the disposal of small businesses enacted in 2012.

#### **CLAUSE 151**

Income Tax: Amendment to paragraph 57A of the Eighth Schedule

The business purpose requirement for the disposal of immovable assets by a micro business will be made consistent with the disposal of other assets.

#### **CLAUSE 152**

Income Tax: Amendment to paragraph 61 of the Eighth Schedule

See notes on **SIMPLIFICATION OF TAX REGIME FOR COLLECTIVE INVESTMENT SCHEMES IN NON-PROPERTY INVESTMENTS.**

#### **CLAUSE 153**

Income Tax: Amendment to paragraph 62 of the Eighth Schedule

The capital gains exemption for charitable-type donations and bequests to section 10(1)(d) entities is too broad. The entities listed should be limited to non-profit associations and similar entities (section 10(1)(d)(iv)). The relief should not include entities such as pensions.

#### **CLAUSE 154**

Income Tax: Amendment to paragraph 64 of the Eighth Schedule

The amendments delete an obsolete cross-reference.

#### **CLAUSE 155**

Income Tax: Amendment to paragraph 64B of the Eighth Schedule

The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 156**

Income Tax: Amendment to paragraph 67C of the Eighth Schedule

The amendment proposes to standardise references to the Mineral and Petroleum Resources Development Act in the Income Tax Act.

#### **CLAUSE 157**

Income Tax: Amendment to paragraph 68 of the Eighth Schedule

The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 158**



Income Tax: Amendment to paragraph 75 of the Eighth Schedule

The proposed amendments change the word “shareholder” to “person” as a matter of style consistency.

#### **CLAUSE 159**

Income Tax: Amendment to paragraph 76 of the Eighth Schedule

The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

#### **CLAUSE 160**

Income Tax: Amendment to paragraph 77 of the Eighth Schedule

Subclause (a) and (c): The proposed amendments change the word “shareholder” to “holder of shares” as a matter of style consistency.

Subclause (b): The return of capital rules associated with liquidations will be extended to include foreign return of capital (return of capital involving the liquidation of a foreign company).

#### **CLAUSE 161**

Income Tax: Amendment to paragraph 80 of the Eighth Schedule

Subclause (a) and (b): The exception in subparagraphs (1) and (2) is more directly tied to the donation and bequest relief of paragraph 62.

#### **CLAUSE 162**

Income Tax: Amendment to paragraph 4 of Part I of the Ninth Schedule

The amendment proposes to standardise references to the Public Finance Management Act in the Income Tax Act.

#### **CLAUSE 163**

Income Tax: Amendment to paragraph 10 of Part I of the Ninth Schedule

The amendment deletes an obsolete cross-reference.

#### **CLAUSE 164**

Income Tax: Amendment to paragraph 3 of Part II of the Ninth Schedule

The amendment proposes to standardise references to the Public Finance Management Act in the Income Tax Act.

**CLAUSE 165**

Income Tax: Amendment to paragraph 1 of the Tenth Schedule

See notes on **OIL AND GAS INCENTIVE**.

**CLAUSE 166**

Income Tax: Amendment to paragraph 2 of the Tenth Schedule

See notes on **OIL AND GAS INCENTIVE**.

**CLAUSE 167**

Income Tax: Amendment to paragraph 3 of the Tenth Schedule

See notes on **OIL AND GAS INCENTIVE**.

**CLAUSE 168**

Income Tax: Amendment to paragraph 5 of the Tenth Schedule

See notes on **OIL AND GAS INCENTIVE**.

**CLAUSE 169**

Income Tax: Amendment to paragraph 6 of the Tenth Schedule

See notes on **OIL AND GAS INCENTIVE**.

**CLAUSE 170**

Income Tax: Amendment to paragraph 7 of the Tenth Schedule

See notes on **OIL AND GAS INCENTIVE**.

**CLAUSE 171**

Income Tax: Amendment to paragraph 8 of the Tenth Schedule

See notes on **OIL AND GAS INCENTIVE**.

**CLAUSE 172**

Income Tax: Amendment of the Eleventh Schedule

The amendment changes the title to a grant as a matter of accuracy.

**CLAUSE 173**

Effective dates in the Taxation Laws Amendment Bill often contain references to concepts defined in the specific provision of the Act to be amended. The interpretation clause ties the interpretation of these defined concepts to the context of the Act, in this case the Value-Added Tax Act, 1991.

#### **CLAUSE 174**

Value Added Tax: Amendment to section 1

Subclause (a): See notes on **SURRENDERING GOODS IN TERMS OF A CREDIT AGREEMENT.**

Subclause (b): The definition is revised in line with the definitional changes to section 1 of the Income Tax Act.

Subclause (c): See notes on **TAX INCENTIVES FOR SPECIAL ECONOMIC ZONES.**

Subclauses (d) and (e): See notes on **REGISTRATION OF E-COMMERCE SUPPLIERS.**

Subclause (f): The proposed amendment updates the cross-reference.

Subclause (g): See notes on **TAX INCENTIVES FOR SPECIAL ECONOMIC ZONES.**

Subclause (h): See notes on **SURRENDERING GOODS IN TERMS OF A CREDIT AGREEMENT.**

Subclause (i) – (l): See notes on **CONVERSION OF A SHARE BLOCK SCHEME TO SECTIONAL TITLE.**

Subclause (m): This amendment takes into account changes in the Customs and Excise Act.

Subclause (n): See notes on **SURRENDERING GOODS IN TERMS OF A CREDIT AGREEMENT.**

#### **CLAUSE 175**

Value Added Tax: Amendment to section 8

See notes on **SURRENDERING GOODS IN TERMS OF A CREDIT AGREEMENT.**

#### **CLAUSE 176**

Value Added Tax: Amendment to section 9

Subclause (a): See notes on **SUPPLY OF SERVICES FOR CONTINGENT CONSIDERATION.**

Subclause (b): See notes on **SURRENDERING GOODS IN TERMS OF A CREDIT AGREEMENT.**

#### **CLAUSE 177**

Value Added Tax: Amendment to section 10

See notes on **SURRENDERING GOODS IN TERMS OF A CREDIT AGREEMENT.**

#### **CLAUSE 178**

Value Added Tax: Amendment to section 11

The amendment updates a Ministerial title.

#### **CLAUSE 179**

Value Added Tax: Amendment to section 12

Subclauses (a-e) See notes on **THE SUPPLY OF SERVICES BY A HOME OWNERS ASSOCIATION.**

#### **CLAUSE 180**

Value Added Tax: Amendment to section 13

See note on **IMPORTED GOODS ABANDONED, DESTROYED OR DAMAGED.**

#### **CLAUSE 181**

Value –Added Tax: Amendment to section 15

See notes on **REGISTRATION OF E-COMMERCE SUPPLIERS.**

#### **CLAUSE 182**

Value Added Tax: Amendment to section 16

Subclause (a): The proposed amendment clarifies when VAT input can be claimed in special circumstances.

Subclause (b): The claiming of input VAT on input tax should be linked solely to payments made and not to invoices.

Subclause (c): The amendment updates a Ministerial title.

Subclause (d): See notes on **SURRENDERING GOODS IN TERMS OF A CREDIT AGREEMENT.**

#### **CLAUSE 183**

Value Added Tax: Amendment to section 17

See notes on **ENTERTAINMENT SUPPLIED ON BOARD A FLIGHT OR SHIP.**

#### **CLAUSE 184**

Value Added Tax: Amendment to section 18B

With the advent of the Tax Administration Act, this requirement is no longer necessary as SARS already possess the power to request certain information from a vendor.

#### **CLAUSE 185**

Value Added Tax: Amendment to section 20

Subclause (a) See notes on **REGISTRATION OF E-COMMERCE SUPPLIERS.**

Subclause (b) See notes on **SURRENDERING GOODS IN TERMS OF A CREDIT AGREEMENT.**

#### **CLAUSE 186**

Value Added Tax: Amendment to section 22

Subclause (a): See notes on **SURRENDERING GOODS IN TERMS OF A CREDIT AGREEMENT.**

Subclause (b): The proposed amendment corrects a cross reference to the Companies Act.

#### **CLAUSE 187**

Value Added Tax: Amendment to section 23

Subclause (a): See notes on **STREAMLINING OF VAT REGISTRATION.**

Subclause (b): See notes on **REGISTRATION OF E-COMMERCE SUPPLIERS.**

Subclause (c) – (f): See notes on **STREAMLINING OF VAT REGISTRATION.**

#### **CLAUSE 188**

Value Added Tax: Amendment to section 24

See notes on **STREAMLINING OF VAT REGISTRATION.**

#### **CLAUSE 189**

Value Added Tax: Amendment to section 44

Subclause (a-b): The proposed amendments update references to the Companies Act.

Subclause (c-d): See notes on **STREAMLINING OF VAT REGISTRATION.**

## CLAUSE 190

Value Added Tax: Amendment to Schedule 1

Subclause (a-b): See notes on **IMPORTED GOODS ABANDONED, DESTROYED OR DAMAGED.**

Subclause (c): See notes on **GOODS IMPORTED FOR OIL AND GAS PRODUCTION.**

Subclause (d): See notes on **IMPORTED GOODS ABANDONED, DESTROYED OR DAMAGED.**

## CLAUSE 191

Effective dates in the Taxation Laws Amendment Bill often contain references to concepts defined in the specific provision of the Act to be amended. The interpretation clause ties the interpretation of these defined concepts to the context of the specific principal Act to be amended.

## CLAUSE 192

The Demutualisation Levy Act: Repeal of Act

The South African Revenue Services are no longer collecting any levies in respect of this Act and there is no further need to administer this Act.

## CLAUSE 193

Securities Transfer Act: Amendment of section 8

The reorganisation relief from the Securities Transfer Tax was extended to include the newly added rollover rules of share-for-share substitutive transactions.

## CLAUSE 194

Revenue Laws Amendment Act, 2007: Amendment to section 104

The proposed amendment is in light of the revised definition of “exported” in section 1 of the VAT Act.

## CLAUSE 195

Mineral and Petroleum Resources Royalty Act: Amendment to section 5

See notes on **ALIGNING INCOME TAX AND ROYALTY EARNINGS IN THE CASE OF OIL AND GAS COMPANY CAPITAL ALLOWANCES.**

## CLAUSE 196

Mineral and Petroleum Resources Royalty Act: Amendment to section 6A

See notes on **CLARIFICATION OF MINIMUM SPECIFIED CONDITIONS FOR MINERAL RESOURCES.**

#### **CLAUSE 197**

Mineral and Petroleum Resources Royalty Act: Amendment to section 7

See notes on **SMALL BUSINESS EXEMPTION ELIGIBILITY.**

#### **CLAUSE 198**

Mineral and Petroleum Resources Royalty Act: Amendment of Schedule 1

See notes on **CLARIFICATION OF MINIMUM SPECIFIED CONDITIONS FOR MINERAL RESOURCES.**

#### **CLAUSE 199**

Mineral and Petroleum Resources Royalty Act: Amendment of Schedule 2

See notes on **CLARIFICATION OF MINIMUM SPECIFIED CONDITIONS FOR MINERAL RESOURCES.**

#### **CLAUSE 200**

Mineral and Petroleum Resources Royalty Act: Amendment of section 6

See notes on **ALIGNING INCOME TAX AND ROYALTY EARNINGS IN THE CASE OF OIL AND GAS COMPANY CAPITAL ALLOWANCES.**

#### **CLAUSE 201**

Mineral and Petroleum Resources Royalty Act: Amendment of section 19

The Royalty return due date is changed to match the Income Tax return date in order to ensure meaningful comparison between the two returns.

#### **CLAUSE 202**

Taxation Laws Amendment Act, 2011: Amendment to section 13

The proposed amendment clarifies the effective date of section 6quin(3A).

#### **CLAUSE 203**

Taxation Laws Amendment Act, 2011: Amendment to section 70

The proposed amendment clarifies the effective date for the zero tax cost rules of intra-group notes.

#### **CLAUSE 204**

Taxation Laws Amendment Act, 2012: Amendment to section 2

The proposed amendment deletes obsolete provisions.

#### **CLAUSE 205**

Taxation Laws Amendment Act, 2012: Amendment of section 17

The use of the phrase “in relation to a resident” for a controlled foreign company could be construed as unnecessarily limiting because all controlled foreign companies are in relation to one or more residents.

#### **CLAUSE 206**

Taxation Laws Amendment Act, 2012: Amendment of section 19

The proposed amendment deletes obsolete provisions.

#### **CLAUSE 207**

Taxation Laws Amendment Act, 2012: Amendment of section 22

The proposed amendment corrects the effective date of the provision.

#### **CLAUSE 208**

Taxation Laws Amendment Act, 2012: Amendment of section 50

The proposed amendment corrects the effective date of the provision.

#### **CLAUSE 209**

Taxation Laws Amendment Act, 2012: Amendment of section 53

The proposed amendment deletes an obsolete provision.

#### **CLAUSE 210**

Taxation Laws Amendment Act, 2012: Amendment of section 54

The proposed amendment deletes obsolete provisions.

#### **CLAUSE 211**

Taxation Laws Amendment Act, 2012: Repeal of section 58

The repeal is proposed in light of the revised version of section 25BA.

#### **CLAUSE 212**



Taxation Laws Amendment Act, 2012: Amendment of section 83

The proposed amendment remedies incorrect cross-references and uses the more updated term of “debt” versus a “loan or advance”.

**CLAUSE 213**

Taxation Laws Amendment Act, 2012: Amendment of section 89

The amendment adjusts the required treaty beneficial relief certificate relief mechanisms in line with other Dividends Tax withholding relief mechanisms.

**CLAUSE 214**

Taxation Laws Amendment Act, 2012: Amendment of section 98

Subclause (a): The amendment provides a more accurate opening for introducing an amendment.

Subclause (b): The second schedule lump sum rules are adjusted to account for recent exemptions associated with non-deductible contributions made to compulsory annuities.

**CLAUSE 215**

Taxation Laws Amendment Act, 2012: Amendment of section 99

The second schedule lump sum rules are adjusted to account for recent exemptions associated with non-deductible contributions made to compulsory annuities.

**CLAUSE 216**

Taxation Laws Amendment Act, 2012: Amendment of section 117

The proposed amendment amends the effective date of the provision to January 2013.

**CLAUSE 217**

A special zero-rating for the Value-added Tax is added in respect of goods and services supplied by Cricket South Africa for the hosting of the Champions League Twenty20 (2012) event during October 2012.

**CLAUSE 218**

Short title and commencement.