

DRAFT  
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)

28 July 2021

**[Bxx—2021]**

**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 Transfer Duty Act, 1949, so as to amend a provision; to amend the Estate Duty Act, 1955, so as to amend certain provisions; to amend the Income Tax Act, 1962, so as to amend certain definitions; to amend certain provisions; to make new provision; to amend certain Schedules; and to replace a Schedule; to amend the Customs and Excise Act, 1964, so as to make provision for continuations; to amend the Value-Added Tax Act, 1991, so as to amend certain provisions; and to amend a Schedule; to amend the Securities Transfer Tax Act, 2007, so as to amend certain provisions; to amend the Employment Tax Incentive Act, 2013, so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2013, so as to amend certain effective dates; to amend the Carbon Tax Act, 2019, so as to amend certain provisions; and to amend a Schedule; to amend the Disaster Management Tax Relief Act, 2020, so as to amend a provision; to amend the Taxation Laws Amendment Act, 2020, so as to amend a provision; and to provide for matters connected therewith.**

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973, section 5 of Act 88 of 1974, section 77 of Act 54 of 1976, section 2 of Act 95 of 1978, section 6 of Act 106 of 1980, section 2 of Act 99 of 1981, section 2 of Act 118 of 1984, section 3 of Act 81 of 1985, section 3 of Act 86 of 1987, section 4 of Act 87 of 1988, section 36 of Act 9 of 1989, section 1 of Act 69 of 1989, section 79 of Act 89 of 1991, section 6 of Act 120 of 1992, section 4 of Act 136 of 1992, section 5 of Act 97 of 1993, section 2 of Act 37 of 1995, section 4 of Act 126 of 1998, section 3 of Act 32 of 1999, section 3 of Act 30 of 2000, section 2 of Act 5 of 2001, section 8 of Act 60 of 2001, section 3 of Act 30 of 2002, section 4 of Act 74 of 2002, section 3 of Act 45 of 2003, section 2 of Act 16 of 2004, section 2 of Act 32 of 2004, section 2 of Act 31 of 2005, section 16 of Act 9 of 2006, section 1 of Act 20 of 2006, section 2 of Act 35 of 2007, section 1 of Act 60 of 2008, section 3 of Act 17 of 2009, section 3 of Act 7 of 2010, section 5 of Act 24 of 2011, section 1 of Act 22 of 2012 and section 2 of Act 31 of 2013**

1. Section 9 of the Transfer Duty Act, 1949, is hereby amended by the substitution in subsection (1)(l) for subparagraph (iv) of the following subparagraph:

"(iv) a transaction which would have constituted a transaction or distribution contemplated in subparagraphs (i) to (iii) regardless of whether that **[person]** company acquired that property as a capital asset or as trading stock,".

**Amendment of section 5 of Act 45 of 1955, as amended by section 1 of Act 19 of 2001 and section 12 of Act 60 of 2001**

2. Section 5 of the Estate Duty Act, 1955, is hereby amended by the substitution in subsection (1)(d)bis for the words preceding the proviso of the following words:

"in the case of any annuity to which the provisions of section 3(3)(a) [**or (a)bis**] apply, an amount equal to the value of the annuity capitalized at twelve per cent[.] over the expectation of life of the annuitant, or if the annuity is payable for a lesser period than the life of the annuitant, over such lesser period:".

**Amendment of section 13 of Act 45 of 1955, as amended by section 7 of Act 92 of 1971 and section 14 of Act 87 of 1988**

3. Section 13 of the Estate Duty Act, 1955, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Every executor who is required to pay duty in respect of any property referred to in paragraph (a)(i), or in the proviso to paragraph (b)(i) [**or (b)(iA)**], or in paragraph (b)(ii), of section 11, shall be entitled to recover from the person liable therefor the duty attributable to such property.".

**Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice R780 of 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, Government Notice 46 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, Government Notice 1503 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2001, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002,**

section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, section 3 of Act 16 of 2004, section 3 of Act 32 of 2004, section 3 of Act 32 of 2005, section 19 of Act 9 of 2006, section 3 of Act 20 of 2006, section 3 of Act 8 of 2007, section 5 of Act 35 of 2007, section 2 of Act 3 of 2008, section 4 of Act 60 of 2008, section 7 of Act 17 of 2009, section 6 of Act 7 of 2010, section 7 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 23 of Schedule 1 to that Act, section 2 of Act 22 of 2012, section 4 of Act 31 of 2013, section 1 of Act 43 of 2014, section 3 of Act 25 of 2015, section 5 of Act 15 of 2016, section 2 of Act 17 of 2017, section 1 of Act 23 of 2018, section 34 of Act 34 of 2019 and section 2 of Act 23 of 2020

4. (1) Section 1(1) of the Income Tax Act, 1962, is hereby amended by—
- (a) the substitution in paragraph (e) of the definition of "company" for subparagraph (iii) of the following subparagraph:
- "(iii) portfolio of a collective investment scheme in property that qualifies as a REIT as defined in the listing requirements of an exchange, as defined in section 1 of the Financial Markets Act and licensed under section 9 of that Act, where those listing requirements have been approved in consultation with the [Minister] Director-General of the National Treasury and published by the [Prudential Authority] appropriate authority, as [defined] contemplated in section 1 of the Financial Markets Act, in terms of section 11 of that Act or by the Financial Sector Conduct Authority; or";
- (b) the substitution in the definition of "connected person" for the words in paragraph (d)(iv) preceding item (aa) of the following words:
- "any person, other than a company as defined in section 1 of the Companies Act that **[individually or jointly]** alone or together with any connected person in relation to that person, holds, directly or indirectly, at least 20 per cent of—";
- (c) the addition to the definition of "contributed tax capital" of the following further proviso:
- “: Provided further that an amount transferred by a company as contemplated in paragraph (a) or (b) must not comprise a transfer of contributed tax capital unless all holders of shares in that class participate in

the transfer in the same manner and are actually allocated an amount of contributed tax capital based on their proportional shareholding within that class of shares";

- (d) the addition in subsection (1) in the proviso to paragraph (c) of the definition of "gross income" of the following paragraph:

(vii) the provisions of this paragraph shall not apply in respect of any amount received by or accrued to or for the benefit of any person in respect of long service as defined in paragraph 5(4) of the Seventh Schedule, to the extent that the aggregate value of an amount determined under this paragraph together with all amounts determined under paragraphs 5(2)(b), 6(4)(d) and 10(2)(e) of the Seventh Schedule do not exceed R5 000;";

- (e) the insertion after the definition of "linked unit" of the following definition:

" **liquidation and distribution account** means the account required to be submitted by an executor to a Master in accordance with section 35 of the Administration of Estates Act, 1965 (Act No. 66 of 1965);";

- (f) the substitution in paragraph (ii) of the proviso to the definition of "pension fund" for subparagraph (dd) of the following subparagraph:

"(dd) that not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of **[an] any** annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund or a retirement annuity fund: 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 was a member of a provident fund or provident preservation fund and who was 55 years of age or older on 1 March 2021—

(AA) any amount contributed to a provident fund or transferred to a provident preservation fund prior to, on and after 1 March 2021 of which that person was a member on 1 March 2021;

(BB) with the addition of any other amount credited to the member's individual account or minimum individual reserve of the provident fund or provident preservation fund prior to, on and after 1 March 2021; and

(CC) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in item (a) or amounts credited contemplated in subitem (b);

(B) in any other case of a person who was a member of a provident fund or provident preservation fund on 1 March 2021—

(AA) any amount contributed to a provident fund or transferred to a provident preservation fund prior to 1 March 2021;

(BB) with the addition of any other amount credited to the member's individual account or minimum individual reserve of the provident fund or provident preservation fund as a result of the value of the member's individual account or minimum individual reserve on 1 March 2021; and

(CC) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in item (AA) or amounts credited contemplated in subitem (BB),

reduced proportionally by an amount permitted in terms of the Pension Funds Act to be deducted from the member's individual account or minimum individual reserve of the provident fund or provident preservation fund prior to, on and after 1 March 2021;

Provided further that the portion of the remaining balance utilised to purchase an annuity must exceed R165 000;";

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

"(v) former members of a pension fund **[or],** pension preservation fund, provident fund or provident preservation fund who have elected to have a lump sum benefit contemplated in paragraph 2(1)(c) of the Second Schedule transferred to this pension preservation fund and who made the election while they were members of that other fund;";

(h) the substitution in the proviso to the definition of "pension 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]** any 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 was a member of a provident fund or provident preservation fund and who was 55 years of age or older on 1 March 2021—
    - (i) any amount contributed to a provident fund or transferred to a provident preservation fund prior to, on and after 1 March 2021 of which that person was a member on 1 March 2021;
    - (ii) with the addition of any other amount credited to the member's individual account or minimum individual reserve of the provident fund or provident preservation fund prior to, on and after 1 March 2021; and
    - (iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in subparagraph (i) or amounts credited contemplated in subparagraph (ii); or
  - (b) in any other case of a person who was a member of a provident fund or a provident preservation fund on 1 March 2021—
    - (i) any amount contributed to a provident fund or transferred to a provident preservation fund prior to 1 March 2021;
    - (ii) with the addition of any other amounts credited to the member's individual account or minimum individual reserve of the provident fund or provident preservation fund as a result of the value of the member's individual account or minimum individual reserve on 1 March 2021; and
    - (iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions or transfers contemplated in subparagraph (i) or amounts credited contemplated in subparagraph (ii),



reduced proportionally by an amount permitted to be deducted in terms of the Pension Funds Act from the member's individual account or minimum individual reserve of the provident fund or the provident preservation fund prior to, on or after 1 March 2021;

Provided further that the portion of the remaining balance utilised to purchase an annuity must exceed R165 000;”;

- (i) the substitution in paragraph (e) of the proviso to the definition of "pension preservation fund" for the words preceding the proviso to that paragraph of the following words:

"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 or where the member elects to transfer the retirement interest to a pension preservation fund, a provident preservation fund or a retirement annuity fund:”;

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

"(dd) that not more than one-third of the 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]** any annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund: Provided that in determining the value of the retirement interest an amount calculated as follows must not be taken into account—

- (a) in the case of a person who is or was a member of a provident fund or provident preservation fund and who is or was 55 years of age or older on 1 March 2021—

(AA) any amount contributed to a provident fund or transferred to provident preservation fund prior to, on and after 1 March 2021 of which that person is or was a member on 1 March 2021;

- (BB) with the addition of any other amount credited to the member's individual account or minimum individual reserve of the provident fund or provident preservation fund prior to, on and after 1 March 2021; and
  - (CC) any fund return, as defined in the Pension Funds Act, in relation to the contributions or transfers contemplated in item (AA) or amounts credited contemplated in sub-item (BB); or
- (b) in any other case of a person who is or was a member of a provident fund or provident preservation fund on 1 March 2021—
- (AA) any amount contributed to a provident fund or transferred to a provident preservation fund prior to 1 March 2021;
  - (BB) with the addition of any other amounts credited to the member's individual account or minimum individual reserve of the provident fund or provident preservation fund as a result of the value of the member's individual account or minimum individual reserve on 1 March 2021; and
  - (CC) any fund return, as defined in the Pension Funds Act, in relation to the contributions or transfers contemplated in item (AA) or amounts credited contemplated in sub-item (BB), reduced proportionally by an amount permitted in terms of the Pension Funds Act to be deducted from the member's individual account or minimum individual reserve of the provident fund or provident preservation fund prior to, on and after 1 March 2021;

Provided further that the portion of the remaining balance utilised to purchase an annuity must exceed R165 000;"

- (k) the substitution in paragraph (a) of the proviso to the definition of "provident preservation fund" for subparagraph (v) of the following subparagraph:
- "(v) former members of a pension fund **[or],** pension preservation fund, provident fund or provident preservation fund who have elected to have a lump sum benefit contemplated in paragraph 2(1)(c) of the Second Schedule transferred to this provident preservation fund and who made the election while they were members of that other fund; or";
- (l) by the substitution in the proviso to the definition of "provident preservation fund" for paragraph (e) of the following paragraph:

"(e) 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]** any 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 or was a member of a provident fund or provident preservation fund and who is or was 55 years of age or older on 1 March 2021—
  - (i) any amount contributed to a provident fund or transferred to a provident preservation fund prior to, on and after 1 March 2021 of which that person is or was a member on 1 March 2021;
  - (ii) with the addition of any other amount credited to the member's individual account or minimum individual reserve of the provident fund or provident preservation fund prior to, on and after 1 March 2021; and
  - (iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions or transfers contemplated in subparagraph (i) or amounts credited contemplated in subparagraph (ii);
- (b) in any other case of a person who is or was a member of a provident fund or provident preservation fund on 1 March 2021—
  - (i) any amount contributed to a provident fund or transferred to a provident preservation fund prior to 1 March 2021;
  - (ii) with the addition of any other amounts credited to the member's individual account or minimum individual reserve of the provident fund or provident preservation fund as a result of the value of the member's individual account or minimum individual reserve on 1 March 2021; and
  - (iii) any fund return, as defined in the Pension Funds Act, in relation to the contributions or transfers contemplated in

subparagraph (i) or amounts credited contemplated in  
subparagraph (ii),

reduced proportionally by an amount permitted in terms of the Pension Funds Act to be deducted from the member's individual account or minimum individual reserve of the provident fund or provident preservation fund prior to, on and after 1 March 2021;

Provided further that the portion of the remaining balance utilised to purchase an annuity must exceed R165 000;";

- (m) the substitution in paragraph (e) of the proviso to the definition of "provident preservation fund" for the words preceding the proviso to that paragraph of the following words:

"that not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000 [**or**], where the member is deceased or where the member elects to transfer the retirement interest to a pension preservation fund, a provident preservation fund or a retirement annuity fund:";

- (n) by the substitution in paragraph (b)(ii) of the proviso to the definition of "retirement annuity fund" for the words preceding the proviso of the following words:

"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**] any annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000 or where the member is deceased:"; and

- (o) by the addition to paragraph (b)(ii) of the proviso to the definition of "retirement annuity fund" of the following further proviso:

": Provided further that the portion of the remaining balance utilised to purchase an annuity must exceed R165 000;".

(2) Paragraph (c) of subsection (1) is deemed to have come into effect on the date of publication of the Draft Taxation Laws Amendment Bill, 2021, for public comment.

(3) Paragraph (d) of subsection (1) comes into operation on 1 March 2022 and applies in respect of years of assessment commencing on or after that date.

(4) Paragraph (e) of subsection (1) comes into operation on 1 March 2022 and applies in respect of liquidation and distribution accounts finalised on or after that date.

(5) Paragraphs (f), (h), (j), (l), (n) and (o) of subsection (1) come into operation on 1 March 2022 and apply in respect of annuities purchased on or after that date.

(6) Paragraphs (g), (i), (k) and (m) of subsection (1) come into operation on 1 March 2022 and apply in respect of years of assessment commencing on or after that date.

**Amendment of section 7C of Act 58 of 1962, as inserted by section 12 of Act 15 of 2016 and amended by section 5 of Act 17 of 2017, section 9 of Act 23 of 2018, section 4 of Act 34 of 2019 and section 3 of Act 23 of 2020**

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

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

"(1) This section applies in respect of any loan, advance or credit that—

(a) a natural person; **[or]**

(b) at the instance of **[that] a natural** person, a company in relation to which that person is a connected person in terms of paragraph (d)(iv) of the definition of connected person; or

(c) a trust,

directly or indirectly provides to—

(i) a trust in relation to which—

(aa) that person or company; **[or]**

(bb) any person that is a connected person in relation to the person or company referred to in item (aa);

(cc) any beneficiary or the founder of that trust and any beneficiary or the founder of the trust contemplated in paragraph (c),

is a connected person; or

(ii) a company if at least 20 per cent of—

(aa) the equity shares in that company are held, directly or indirectly; or

(bb) the voting rights in that company can be exercised,

by a trust referred to in paragraph (i) whether alone or together with any person who is a beneficiary of that trust or the spouse of a beneficiary of that trust or any person related to that beneficiary or that spouse within the second degree of consanguinity."; and

(b) by the substitution in subsection (5)(d) for subparagraph (i) of the following subparagraph:

"(i) the natural person referred to in subsection (1)(a) or (b) or the spouse of that person used that asset as a primary residence as contemplated in paragraph (b) of the definition of 'primary residence' in paragraph 44 of the Eighth Schedule throughout the period during that year of assessment during which that trust or company held that asset; and".

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on the date of the publication of the draft Taxation Laws Amendment Bill, 2021, for public comment and applies in respect of any amount owed by a trust in respect of a loan, advance or credit provided to that trust before, 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 item 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, section 5 of Act 43 of 2014, section 8 of Act 25 of 2015, section 8 of Act 17 of 2017, section 6 of Act 34 of 2019 and section 4 of Act 23 of 2020**

6. Section 8 of the Income Tax Act, 1962, is hereby amended by the substitution in the proviso to subsection (4)(a) for paragraph (iii) of the following paragraph:

"(iii) previously taken into account as an amount that is deemed to have been recovered or recouped in terms of section 19(4), (5) **[or]**, (6) or (6A)."

**Amendment of section 8E of Act 58 of 1962, as inserted by section 6 of Act 70 of 1989 and amended by section 19 of Act 45 of 2003, section 9 of Act 32 of 2004, section 7 of Act 8 of 2007, section 13 of Act 7 of 2010, section 20 of Act 24 of 2011, section 10 of Act 22 of 2012, section 14 of Act 15 of 2016, section 12 of Act 23 of 2018 and section 8 of Act 34 of 2019**

7. Section 8E of the Income Tax Act, 1962, is hereby amended by the substitution in the definition of "hybrid equity instrument" for paragraph (e) of the following paragraph:

"(e) any equity instrument, other than an equity instrument contemplated in paragraph (d), if that equity instrument is subject to a right or arrangement that would have constituted a right or **[security]** arrangement contemplated in paragraph (a), (b) or (c) had that right or arrangement applied in respect of the share with reference to which the value of that equity instrument is directly or indirectly determined;"

**Amendment of section 8F of Act 58 of 1962, as substituted by section 12 of Act 31 of 2013 and amended by section 8 of Act 43 of 2014, section 9 of Act 25 of 2015, section 16 of Act 15 of 2016, section 11 of Act 17 of 2017 and section 14 of Act 23 of 2018**

8. (1) Section 8F of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"Any amount that is incurred by a company or accrues to a person in respect of interest on or after the date that **[the]** an instrument becomes a hybrid debt instrument is—".

(2) Subsection (1) comes into operation on 1 January 2022 and applies in respect of amounts incurred or accrued on or after that date.

**Amendment of section 8FA of Act 58 of 1962, as inserted by section 14 of Act 31 of 2013 and amended by section 15 of that Act, section 9 of Act 43 of 2014, section 10 of Act 25 of 2015, section 17 of Act 15 of 2016, section 12 of Act 17 of 2017 and section 15 of Act 23 of 2018**

9. (1) Section 8FA of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"Any amount that is incurred by a company or accrues to a person in respect of interest on or after the date that the interest becomes hybrid interest is—".

(2) Subsection (1) comes into operation on 1 January 2022 and applies in respect of amounts incurred or accrued 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, section 12 of Act 43 of 2014, section 13 of Act 25 of 2015, section 20 of Act 15 of 2016, section 15 of Act 17 of 2017, section 18 of Act 23 of 2018 and section 10 of Act 34 of 2019**

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



(a) the substitution in subsection (2A) for subparagraph (iv) of paragraph (d) of the proviso of the following subparagraph:

"(iv) 'D' represents, in respect of dividends contemplated in symbol "C", an amount equal to **[the amount deducted in respect of any dividend paid by that controlled foreign company for the purposes of the dividends tax contemplated in Part VIII of this chapter, which amount constitutes]** the aggregate of—

(aa) 100 per cent of the amount of any dividend in respect of which dividends tax was paid at a rate of 20 per cent;

(bb) 50 per cent of the amount of any dividend in respect of which dividends tax was paid at a rate of 10 per cent;

(cc) 40 per cent of the amount of any dividend in respect of which dividends tax was paid at a rate of 8 per cent;

(dd) 37.5 per cent of the amount of any dividend in respect of which dividends tax was paid at a rate of 7.5 per cent; **[or]** and

(ee) 25 per cent of the amount of any dividend in respect of which dividends tax was paid at a rate of 5 per cent;";

(b) the substitution in subsection (9)(f)(bb) for item (A) of the following item:

"(A) excluded from the application of this section in terms of this paragraph or section 10B(2)(a), (b) **[or]**, (c) or (d)";

(c) the substitution in subsection (9A)(a)(i) for item (aa) of the following item:

"(aa) that controlled foreign company purchased those goods **[within]** for delivery in 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;"; and

(d) the substitution in subsection (9A)(a)(i) for item (dd) of the following item:

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

(2) Paragraphs (c) and (d) of subsection (1) come into operation on 1 January 2022 and apply in respect of 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, section 13 of Act 43 of 2014, section 21 of Act 15 of 2016 and section 7 of Act 23 of 2020**

11. (1) Section 9H of the Income Tax Act, 1962, is hereby amended by—
- (a) the deletion in subsection (4) of the word "or" at the end of paragraph (e), the substitution for the full stop at the end of paragraph (f) of the expression "; or" and the addition of the following paragraph:
- "(g) any amount representing the value of the interest in any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund."
- (b) the substitution in subsection (5) for paragraph (b) of the following paragraph:
- "(b) the capital gain or capital loss determined in respect of a disposal contemplated in paragraph (a) is wholly or partly disregarded in terms of paragraph 64B of the Eighth Schedule; and".
- (2) Paragraph (a) of subsection (1) comes into operation on 1 March 2022 and applies in respect of years of assessment commencing on or after that date.
- (3) Paragraph (b) of subsection (1) is deemed to have come into operation on 1 January 2021 and applies in respect of disposals on or after that date.

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

12. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 9HB of the following section:

**"Disposal of retirement fund interest on change of residence**

9HC. (1) Where a natural person that is a resident ceases during any year of assessment of that person to be a resident that person must be treated as having disposed of that person's interest in a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund on the date immediately prior to the day on which that person so ceases to be a resident;

(2) Where subsection (1) applies—

- (a) the value of the interest disposed of in subsection (1), determined on the date of disposal, must be treated as an amount accrued to the person as contemplated in paragraph 2(1)(b)(ii) of the Second Schedule;
- (b) any tax due in respect of the amount contemplated in paragraph (a) must be increased by applying the rate provided in section 189 of the Tax Administration Act for interest payable to SARS to the remaining balance, until the tax is paid in full;
- (c) the tax in paragraph (b) is not due and payable for purposes of this Act and the Tax Administration Act until the date and to the extent that an amount is receivable from a fund referred to in subsection (1); and
- (d) an amount equal to the amount of tax contemplated in paragraph (b) must be deducted by way of rebate from any tax payable by the person contemplated in subsection (1) in respect of amounts receivable under paragraph 2 of the Second Schedule or a qualifying annuity as defined in section 10C, from a fund referred to in subsection (1)."

(2) Subsection (1) comes into operation on 1 March 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 12DA of Act 58 of 1962, as inserted by section 24 of Act 35 of 2007 and amended by section 22 of Act 60 of 2008, section 34 of Act 31 of 2013, section 25 of Act 17 of 2017 and section 15 of Act 23 of 2020**

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

"(1) There shall be allowed to be deducted from the income of the taxpayer an allowance, in respect of rolling stock brought into use by the taxpayer on or before 28 February 2022, in the carrying on of a trade **[during any year of assessment ending on or before 28 February 2022]**, in respect of the cost actually incurred by the taxpayer in respect of the acquisition or improvement of any rolling stock which is 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 is used directly by the taxpayer wholly or mainly for the transportation

of persons, goods or things to the extent that such rolling stock is used in the production of that taxpayer's income."

**Amendment of section 12F of Act 58 of 1962, as inserted by section 12 of Act 19 of 2001 and amended by section 26 of Act 35 of 2007, section 24 of Act 60 of 2008, section 22 of Act 17 of 2009 and section 16 of Act 23 of 2020**

14. Section 12F of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for the words following paragraph (b) of the following words:

"there shall be allowed to be deducted an allowance, in respect of an asset brought into use by the taxpayer on or before 28 February 2022, in the carrying on of a trade [**during any year of assessment ending on or before 28 February 2022**], in respect of the cost actually incurred by the taxpayer in respect of the acquisition (including the construction, erection or installation) of such asset to the extent that such asset is used in the production of the taxpayer's income."

**Amendment of section 12H of Act 58 of 1962, as substituted by section 23 of Act 17 of 2009 and amended by section 25 of Act 7 of 2010, section 36 of Act 24 of 2011, section 27 of Act 22 of 2012, section 21 of Act 43 of 2014 and section 30 of Act 15 of 2016**

15. (1) Section 12H of the Income Tax Act, 1962 is hereby amended by the substitution in subsection (1) in the definition of "registered learnership agreement" for paragraph (b) of the following paragraph:

"(b) entered into between a learner and an employer before 1 April [**2022**]  
2024";

(2) Subsection (1) comes into operation on 1 April 2022 and applies in respect of learnership agreements entered into on or after that date.

**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 271 of Act 28 of 2011, section 28 of**

**Act 22 of 2012, section 22 of Act 43 of 2014, section 151 of Act 43 of 2014, section 22 of Act 25 of 2015, section 31 of Act 15 of 2016 and section 27 of Act 17 of 2017**

16. (1) Section 12I of the Income Tax Act, 1962, is hereby amended by the insertion in subsection (19) of the following paragraph:

"(aA) may, if application is made to the adjudication committee, after taking into account the recommendations of the adjudication committee in respect of that application, extend the periods contemplated in—  
(i) paragraph (b) of the definition of 'compliance period' in subsection (1); and  
(ii) subsections (2), (6)(b) and (7)(c),  
by a period not exceeding two years, in addition to the extension of periods contemplated in paragraph (a), if it is shown that the fundamental reason for non-compliance was the COVID-19 pandemic or any circumstances arising therefrom;".

(2) Subsection (1) is deemed to have come into effect on 1 January 2020.

**Amendment of section 13quat 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, section 48 of Act 31 of 2013, section 32 of Act 25 of 2015, section 38 of Act 15 of 2016 section 34 of Act 23 of 2018 and section 20 of Act 23 of 2020**

17. (1) Section 13quat of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (5) for paragraph (c) of the following paragraph:

"(c) which is brought into use by the taxpayer after 31 March [2021] 2023."

(2) Subsection (1) is deemed to have come into effect on 1 April 2021 and applies in respect of any building, part thereof or improvement that is brought into use on or after that date.

**Amendment of section 19 of Act 58 of 1962, as substituted by section 32 of Act 17 of 2017 and amended by section 36 of Act 23 of 2018**

18. (1) Section 19 of the Income Tax Act, 1962, is hereby amended by—

- (a) the substitution in subsection (1) for the full stop at the end of the definition of "group of companies" of the expression "; and";
- (b) the substitution in subsection (8)(b) for the words following subparagraph (ii) of the following words:

"in respect of which donations tax is payable; **[or]**";
- (c) the substitution in subsection (8)(f) for item (ii) of the following item:

"(ii) does not consist of or represent an amount owed by that person in respect of any interest as defined in section 24J incurred by that person during any year of assessment."

(2) Paragraph (c) of subsection (1) comes into operation on 1 January 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 20 of Act 58 of 1962, as amended by section 13 of Act 90 of 1964, section 18 of Act 88 of 1965, section 13 of Act 76 of 1968, section 18 of Act 89 of 1969, section 15 of Act 65 of 1973, section 8 of Act 101 of 1978, section 18 of Act 94 of 1983, section 19 of Act 101 of 1990, section 16 of Act 113 of 1993, section 17 of Act 21 of 1995, section 15 of Act 28 of 1997, section 26 of Act 30 of 2000, section 27 of Act 59 of 2000, section 23 of Act 74 of 2002, section 35 of Act 45 of 2003, section 19 of Act 8 of 2007, section 32 of Act 35 of 2007, section 15 of Act 3 of 2008, section 35 of Act 60 of 2008, section 32 of Act 17 of 2009, section 37 of Act 22 of 2012, section 54 of Act 31 of 2013, section 31 of Act 43 of 2014 and section 39 of Act 15 of 2016**

19. (1) Section 20 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

- "(a) (i) that is a company, any balance of assessed loss incurred by that person in any previous year which has been carried forward from the preceding year of assessment, to the extent that the amount of such set-off does not exceed 80 per cent of the amount of taxable income

determined before taking into account the application of this provision:

- (ii) that is not a company, any balance of assessed loss incurred by that person in any previous year which has been carried forward from the preceding year of assessment: Provided that no person whose estate has been voluntarily or compulsorily sequestrated shall be entitled to carry forward any assessed loss incurred prior to the date of sequestration, unless the order of sequestration has been set aside, in which case the amount to be so carried forward shall be reduced by an amount which was allowed to be set off against the income of the insolvent estate of such person from the carrying on of any trade;".

(2) Subsection (1) comes into operation on 1 April 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 23M of Act 58 of 1962, as inserted by section 16 of Act 31 of 2013 and amended by section 37 of Act 43 of 2014, section 41 of Act 15 of 2016, section 39 of Act 17 of 2017, section 41 of Act 23 of 2018 and section 28 of Act 34 of 2019**

**20.** (1) Section 23M of the Income Tax Act, 1962, is hereby amended by--

- (a) the substitution in subsection (1) for the definition of "adjusted taxable income" of the following definition:

" **'adjusted taxable income'** means taxable income calculated before applying this section—

- (a) reduced by—

- (i) any amount of interest received or accrued that forms part of taxable income;
- (ii) any amount included in the income of a person as contemplated in section 9D(2);
- (iii) any amount recovered or recouped in respect of an allowance contemplated in this Act in respect of a capital asset as defined in section 19; and

- (b) with the addition of—

- (i) any amount of interest incurred that has been allowed as a deduction from income;
  - (ii) any amount allowed as a deduction in terms of this Act in respect of a capital asset as defined in section 19 for purposes other than the determination of any capital gain or capital loss; **[and]**
  - (iii) any assessed loss or balance of assessed loss allowed to be set off against income in terms of section 20; and
  - (iv) any qualifying distribution as defined in section 25BB that is deductible under subsection (2) of that section;
- (b) the deletion in subsection (1) of the definition of "average repo rate";
- (c) the substitution in subsection (1) for the definition of "interest" of the following definition:
- " **'interest'** means interest as defined in section 24J, and includes--
- (a) amounts incurred or accrued under any 'interest rate agreement' as defined in section 24K(1);
  - (b) any finance cost element included in amounts deducted from or included in income in respect of any lease arrangement recognised as finance lease in accordance with IFRS16; and
  - (c) amounts taken into account in determining taxable income in terms of section 24I(3) and (10A);"
- (d) the deletion in subsection (1) of the definition of "repo rate";
- (e) the deletion in subsection (2) of the word "or" at the end of paragraph (a), the substitution for the comma at the end of paragraph (b) of the expression "; or" and the addition of the following paragraph:
- "(c) a creditor that is in a controlling relationship with that debtor, if that creditor, directly or indirectly through another creditor that is in a controlling relationship with that creditor, obtained the funding for the debt advanced to the debtor from a person that is in a controlling relationship with that creditor or that other creditor,";
- (f) the substitution in subsection (2)(i) for item (aa) of the following item:
- "(aa) subject to tax in the hands of the person to which the interest accrues or the other creditor referred to in paragraph (c); or";
- (g) the addition to subsection (2) after the words following subparagraph (ii) of the following proviso:



": Provided that where any amount of interest incurred or paid is not included in the income of the person to which that interest accrues or is paid, the amount of interest to be regarded as not subject to tax as contemplated in subparagraph (i)(aa) will be determined in accordance with the formula:

$$A = B \times \frac{(C-D)}{C}$$

in which formula—

- (i) 'A' represents the amount to be determined;
- (ii) 'B' represents the aggregate of any amount of interest incurred or paid in respect to which the provisions of Part IVB of this Chapter are or will be applicable;
- (iii) 'C' represents the number 28; and
- (iv) 'D' represents the rate at which withholding tax on interest has been or will be levied on such amount of interest under the provisions of Part IVB of this Chapter, multiplied by the number 100.";

(h) the substitution for subsection (3) of the following subsection:

"(3) The amount of interest allowed to be deducted in respect of all debts owed as contemplated in subsection (2), in respect of any year of assessment must not exceed the sum of—

- (a) the amount of interest received by or accrued to the debtor; and
- (b) an amount determined by multiplying the adjusted taxable income of that debtor for that year of assessment by **[a percentage to be determined in accordance with the formula—**

$$A = B \times \frac{C}{D}$$

**in which formula—**

- (a) 'A' represents the percentage to be determined;**
- (b) 'B' represents the number 40;**
- (c) 'C' represents the average repo rate plus 400 basis points; and**
- (d) 'D' represents the number 10, but not exceeding 60 per cent of the adjusted taxable income of that debtor] 0.3,**

reduced by so much of any amount of interest incurred by the debtor in respect of debts other than debts contemplated in subsection (2) as exceeds any amount not allowed to be deducted in terms of section 23N."; and

(i) the addition after subsection (6) of the following subsection:

"(7) For purposes of this section any exchange difference deducted from the income of a person as contemplated in section 24I(3) or (10A) is deemed to have been incurred by the person."

(2) Subsection (1) comes into operation on 1 April 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 23N of Act 58 of 1962, as inserted by section 63 of Act 31 of 2013, amended by section 38 of Act 43 of 2014, section 40 of Act 25 of 2015, section 42 of Act 15 of 2016, section 40 of Act 17 of 2017 and section 42 of Act 23 of 2018**

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

- (a) the deletion in subsection (1) of the definitions of "average repo rate" and "repo rate";
- (b) the substitution in subsection (3)(b) for the words preceding subparagraph (i) of the following words:

" the highest of the amounts determined by multiplying **[the percentage determined under subsection (4)]** 0,3 by the adjusted taxable income of the acquiring company for each of the years of assessment—";

(c) the deletion of subsection (4).

(2) Subsection (1) comes into operation on 1 April 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 25 of Act 58 of 1962, as substituted by section 22 of Act 113 of 1993 and section 48 of Act 25 of 2015, and amended by section 47 of Act 15 of 2016 and section 47 of Act 23 of 2018**

22. (1) Section 25 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3) for paragraphs (a) and (b) of the following paragraphs:

- "(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; and
- (c) that deceased estate must be treated as having disposed of that asset on the date when the liquidation and distribution account becomes final.";

(2) Subsection (1) comes into operation on 1 March 2022 and applies in respect of liquidation and distribution accounts finalised on or after that date.

**Amendment of section 28 of Act 58 of 1962, as amended by section 17 of Act 90 of 1962, section 22 of Act 55 of 1966, section 24 of Act 89 of 1969, section 21 of Act 88 of 1971, section 19 of Act 65 of 1973, section 19 of Act 91 of 1982, section 22 of Act 94 of 1983, section 17 of Act 65 of 1986, section 23 of Act 90 of 1988, section 13 of Act 70 of 1989, section 25 of Act 101 of 1990, section 29 of Act 129 of 1991, section 24 of Act 113 of 1993, section 19 of Act 21 of 1994, section 33 of Act 30 of 2000, section 42 of Act 35 of 2007, section 40 of Act 60 of 2008, section 40 of Act 17 of 2009, section 51 of Act 7 of 2010, section 61 of Act 22 of 2012, section 76 of Act 31 of 2013, section 52 of Act 25 of 2015, section 49 of Act 15 of 2016, section 50 of Act 23 of 2018 and section 33 of Act 34 of 2019**

23. (1) Section 28 of the Income Tax Act, 1962, is hereby amended by—

- (a) the substitution in subsection (1) for paragraph (a) of the definition of "short-term insurer" of the following paragraph:

"(a) **[a short-term insurer as defined in the Short-term Insurance Act] a** company that is licensed under the Insurance Act and is conducting non-life insurance business as defined in that Act;";

- (b) the insertion after subsection (3A) of the following subsection:

"(3B) (a) Where a person transfers short-term insurance policies as part of any short-term insurance business to another short-term insurer carrying on or to be carrying on short-term insurance business, that person may for purposes of section 11(a) deduct an amount equal to liabilities on investment

contracts relating to short-term insurance business and amounts of insurance liabilities relating to premiums and claims transferred to the other short-term insurer.

(b) An amount contemplated in paragraph (a) must be included in the income of the short-term insurer to which the liabilities were transferred as described in paragraph (a)."; and

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

"(4) The total of all amounts deducted from the income of a short-term insurer in respect of a year of assessment in terms of **[subsection subsections (3) and (3A)]** shall be included in the income of that short-term insurer in the following year of assessment."

(2) Paragraphs (b) and (c) of subsection (1) come into operation on 1 January 2022 and apply in respect of years of assessment ending on or after that date.

**Amendment of section 29A of Act 58 of 1962, as inserted by section 30 of Act 53 of 1999 and amended by section 36 of Act 59 of 2000, section 15 of Act 5 of 2001, section 15 of Act 19 of 2001, section 39 of Act 60 of 2001, section 30 of Act 74 of 2002, section 16 of Act 16 of 2004, section 23 of Act 20 of 2006, section 21 of Act 3 of 2008, section 52 of Act 7 of 2010, section 62 of Act 22 of 2012, section 77 of Act 31 of 2013, section 47 of Act 43 of 2014, section 53 of Act 25 of 2015, section 50 of Act 15 of 2016 and section 46 of Act 17 of 2017**

**24.** Section 29A of the Income Tax Act, 1962, is hereby amended by—

(a) the substitution in subsection (1) for the definition of "insurer" of the following definition:

**'insurer'** means **[any long-term insurer as defined in section 1 of the Long-term Insurance Act]** a company that is licensed under the Insurance Act and is conducting life insurance business as defined in that Act, other than a foreign reinsurer conducting insurance business through a branch in the Republic in terms of section 6 of **[the Insurance]** that Act;

(b) the substitution in the formula in subsection (11)(a)(ii)(bb) for subitem (D)(DD) of the following subitem:

"(DD) the **[difference]** aggregate amount of the differences between the market value as defined in section 29B and the expenditure incurred

in respect of **[any asset held]** all assets allocated to the fund at the end of the year of assessment, reduced by the amount determined in terms of this **[subparagraph]** subitem for the immediately preceding year of assessment: Provided that if the resultant aggregate amount is negative the amount shall be deemed to be nil; and".

### **Substitution of section 40CA of Act 58 of 1962**

25. (1) The Income Tax Act, 1962, is hereby amended by the substitution for section 40CA of the following section:

#### **"Acquisitions of assets in exchange for shares**

**40CA.** Where a company acquires any asset, as defined in paragraph 1 of the Eighth Schedule—

- (a) from any person in exchange for shares issued by that company, that company must be deemed to have actually incurred an amount of expenditure in respect of the acquisition of that asset which is equal to the sum of—
- (i) the market value of the shares immediately after the acquisition; and
  - (ii) any deemed capital gain determined in terms of section 24BA(3)(a) in respect of the acquisition of that asset; or
- (b) in terms of an asset-for-share transaction as contemplated in section 42, a substitutive share-for-share transaction as contemplated in section 43 or an amalgamation transaction as contemplated in section 44 in respect of which a deemed capital gain is determined in terms of section 24BA(3)(a) in respect of the acquisition of that asset—
- (i) by that company; or
  - (ii) by any person that acquired that asset from that company in terms of any transaction contemplated in Part III of Chapter II,  
that company or that other person must be deemed to have incurred an additional amount of expenditure in respect of the acquisition of that asset equal to that deemed capital gain immediately before any disposal of that asset in terms of a transaction not contemplated in Part III of Chapter II."

(2) Subsection (1) comes into operation on 1 January 2022 and applies in respect of any disposal of an asset on or after that date.

**Amendment of section 42 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 50 of Act 45 of 2003, section 33 of Act 32 of 2004, section 38 of Act 31 of 2005, section 29 of Act 20 of 2006, section 33 of Act 8 of 2007, section 53 of Act 35 of 2007, section 26 of Act 3 of 2008, section 49 of Act 60 of 2008, section 48 of Act 17 of 2009, section 62 of Act 7 of 2010, section 68 of Act 24 of 2011, section 74 of Act 22 of 2012, section 91 of Act 31 of 2013, section 55 of Act 43 of 2014, section 62 of Act 25 of 2015, section 51 of Act 17 of 2017 and section 55 of Act 23 of 2018**

26. (1) Section 42 of the Income Tax Act, 1962, is hereby amended by—
- (a) the substitution in subsection (1) in the definition of “asset-for-share transaction” in paragraph (i) of the proviso to paragraph (a)(ii) for subparagraph (B) of the following subparagraph:

"(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]** number of equity shares in the listed company or portfolio; or";
  - (b) the substitution in subsection (2) in the proviso to paragraph (b) for paragraph (bb) of the following paragraph:

"(bb) 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]** number of equity shares in the listed company or portfolio;";
  - (c) by the substitution in subsection (3A) in paragraph (i) of the proviso for subparagraph (B) of the following subparagraph:

"(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]** number of equity shares in the listed company or portfolio; or"; and
  - (d) the substitution in subsection (8) for paragraphs (A) and (B) of the following paragraphs:

- "(A) where that equity share is held as a capital asset, as **[an amount received or accrued]** a return of capital in respect of that equity share that accrues to that person **[in respect of]** immediately before the disposal by that person of that equity share; or
- (B) where that equity share is held as trading stock, as an amount to be included in that person's income **[for the year of assessment during which]** immediately before that equity share is disposed of by that person."

(2) Paragraph (d) of subsection (1) comes into operation on 1 January 2022 and applies in respect of disposals of shares 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, section 94 of Act 31 of 2013, section 64 of Act 25 of 2015, section 53 of Act 17 of 2017, section 57 of Act 23 of 2018, section 42 of Act 34 of 2019 and section 33 of Act 23 of 2020**

27. (1) Section 45 of the Income Tax Act, 1962, is hereby amended by—
- (a) the substitution for subsection (3B) of the following subsection:
- "(3B)(a) This subsection applies where a debt or share is issued or used for purposes of directly or indirectly facilitating or funding the acquisition of an asset that is acquired as contemplated in subsection (3A), and subsequent to that acquisition—
- (i) the transferee company and the transferor company cease in terms of subsection (4), or are deemed to have ceased in terms of subsection (4B), to form part of any group of companies as contemplated in subsection (4);
- (ii) the transferee company and the transferor company still form part of the same group of companies on the sixth anniversary of that acquisition; or

(iii) the transferee company disposes of an asset as contemplated in subsection (5).

(b) Where the holder of a debt or a holder of a share acquired that debt or share as a result of the issue or use of a debt or share as contemplated in paragraph (a), the holder of that debt or the holder of that share must, on the day on which the circumstances contemplated in paragraphs (a)(i) or (a)(ii) occur or the transferee company disposes of an asset as contemplated in paragraph (a)(iii), be deemed to have incurred expenditure—

(i) in respect of a debt, in an amount equal to the face value of that debt immediately after the acquisition of an asset as contemplated in paragraph (a) less any amount, other than an amount of interest or an amount previously taken into account as interest, that was received by or accrued to that holder in respect of that debt and was applied by that holder as settlement of the amount outstanding in respect of that debt;  
or

(ii) in respect of a share, in an amount equal to the price at which that share was subscribed for by that holder of that share less any amount, other than an amount that constitutes a dividend or an amount previously taken into account as a dividend, that was received by or accrued to that holder in respect of that share if that amount so taken into account was previously applied in reduction of the amount of expenditure incurred in respect of the acquisition of that share:

Provided that in the case where the transferee company disposes of an asset as contemplated in paragraph (a)(iii), the determination of any expenditure deemed to have been incurred shall be limited to the extent to which a debt or share facilitated the funding of the acquisition of an asset in respect of which the provisions of subsection (5) are applied.";

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

"(5) Where a transferee company disposes of an asset, other than an asset contemplated in section 25BB(5) or in terms of an involuntary disposal as contemplated in paragraph 65 of the Eighth Schedule or a disposal that would have constituted an involuntary disposal as contemplated in that paragraph had that asset not been a financial instrument, within a period of



18 months after acquiring that asset in terms of an intra-group transaction and—

- (a) that asset constitutes a capital asset in the hands of that transferee company—
  - (i) so much of any capital gain determined in respect of the disposal of that asset **[as does not exceed the amount that would have been determined had that asset been disposed of at the beginning of that period of 18 months for proceeds equal to the market value of that asset as at that date]** without taking into account the application of this Part, may not be taken into account in determining any net capital gain or assessed capital loss of that transferee company but is subject to paragraph 10 of the Eighth Schedule for purposes of determining an amount of taxable capital gain derived from that gain, which taxable capital gain may not be set off against any assessed loss or balance of assessed loss of that transferee company; or
  - (ii) so much of any capital loss determined in respect of the disposal of that asset **[as does not exceed that amount that would have been determined had that asset been disposed of at the beginning of that period of 18 months for proceeds equal to the market value of that asset as at that date]** without taking into account the application of this Part, must be disregarded in determining the aggregate capital gain or aggregate capital loss of that transferee company for purposes of the Eighth Schedule: Provided that the amount of any capital loss so disregarded may be deducted from the amount of any capital gain determined in respect of the disposal during that year or any subsequent year of assessment of any other asset acquired by that transferee company from the transferor company in terms of an intra- group transaction; or
- (b) that asset constitutes—
  - (i) trading stock in the hands of that transferee company, so much of the amount received or accrued in respect of the disposal of that trading stock **[as does not exceed the market value of that**

**trading stock as at the beginning of that period of 18 months]**

and so much of the amount taken into account in respect of that trading stock in terms of section 11 (a) or 22(1) or (2) as is equal to the amount so taken into account in terms of subsection (2)(b) without taking into account the application of this Part: Provided that this subparagraph does not apply to any asset that constitutes trading stock that is regularly and continuously disposed of by that transferee company; or

- (ii) an allowance asset in the hands of that transferee company other than a transferee company that is a REIT or a controlled company, as defined in section 25BB(1), so much of any allowance in respect of that asset that is recovered or recouped by or included in the income of that transferee company as a result of that disposal without taking into account the application of this Part **[as does not exceed the amount that would have been recovered had that asset been disposed of at the beginning of that period of 18 months for an amount equal to the market value of that asset as at that date]**,

must be deemed to be attributable to a separate trade carried on by that transferee company, the taxable income or assessed loss from which trade may not be set off against any assessed loss or balance of assessed loss of that transferee company: Provided that no regard must be had to the provisions of this subsection if the provisions of subsection (4) have, subsequent to the acquisition of an asset by a transferee company from a transferor company in terms of an intra-group transaction in the manner contemplated in paragraph (a), been applied in respect of that asset."

(2) Paragraph (a) of subsection (1) comes into operation on 1 January 2022 and applies in respect of years of assessment commencing on or after that date.

(3) Paragraph (b) of subsection (1) comes into operation on 1 January 2022 and applies in respect of the disposal of any asset 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, section 58 of Act 43 of 2014, section 65 of Act 25 of 2015, section 54 of Act 17 of 2017 and section 34 of Act 23 of 2020**

28. (1) Section 46 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3)(b) for the definition of "expenditure" of the following definition:

" **'expenditure'** means in relation to unbundled shares acquired as—

- (i) trading stock, the amount taken into account prior to the unbundling transaction in respect of the unbundling shares for the purposes of section 11(a) or 22(1) or (2); [and]
- (ii) capital assets, the expenditure incurred prior to the unbundling transaction in respect of the unbundling shares that is allowable in terms of paragraph 20 of the Eighth Schedule; and
- (iii) the amount which bears to the tax paid by the unbundling company of any equity share in respect of which this section does not apply as contemplated in subsection (7) the same ratio as the number of equity shares held by a shareholder that acquires unbundled shares in terms of an unbundling transaction in an unbundling company bears to the number of all the issued equity shares in that unbundling company immediately before that unbundling transaction;".

(2) Subsection (1) comes into operation on 1 January 2022 and applies in respect of the allocation of expenditure to unbundled shares acquired on or after that date.

**Amendment of section 46A of Act 58 of 1962, as inserted by section 30 of Act 3 of 2008**

29. (1) Section 46A of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Notwithstanding any other provision of this Act, if a taxpayer acquires a share in an unbundled company from an unbundling company in terms of an unbundling transaction defined in section 46 and a share in that unbundling company was within a period of two years preceding the acquisition held by a

person who was a connected person in relation to the taxpayer at any time during that period, and any amount received by or accrued to that person in respect of the disposal of the share at any time during that period would not have been subject to normal tax or would not have been taken into account for purposes of determining the net income, as defined in section 9D, of that person, the expenditure incurred by the taxpayer in respect of any share held in that company as a result of that unbundling transaction shall not for purposes of this Act exceed an amount determined in accordance with subsection (2).".

(2) Subsection (1) comes into operation on 1 January 2022 and applies in respect of the allocation of expenditure to unbundled shares acquired on or after that date.

**Amendment of section 47 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 55 of Act 45 of 2003, section 37 of Act 32 of 2004, section 43 of Act 31 of 2005, section 31 of Act 20 of 2006, section 37 of Act 8 of 2007, section 58 of Act 35 of 2007, section 31 of Act 3 of 2008, section 53 of Act 60 of 2008, section 50 of Act 17 of 2009, section 66 of Act 7 of 2010, section 72 of Act 24 of 2011, section 79 of Act 22 of 2012, section 96 of Act 31 of 2013, section 59 of Act 43 of 2012, section 66 of Act 25 of 2015, section 55 of Act 17 of 2017, section 58 of Act 23 of 2018 and section 43 of Act 34 of 2019**

**30.** Section 47 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4)(a) for the words preceding subparagraph (i) of the following words:

" that **[assets]** asset, other than an asset contemplated in section 25BB(5) constitutes a capital asset **[in the hands of]** for that holding company—".

**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, section 69 of Act 25 of 2015 and section 3 of Act 33 of 2019**

**31.** (1) Section 49E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2)(b) for subparagraph (i) of the following subparagraph:

"(i) 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) or an

agreement for the avoidance of double taxation, exempt from the withholding tax on royalties in respect of that payment; and".

(2) Subsection (1) comes into operation on 1 January 2022 and applies in respect of royalties paid on or after that date.

**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 and section 70 of Act 25 of 2015**

32. (1) Section 50A of the Income Tax Act, 1962, is hereby amended by—

- (a) the deletion of the numeral "(1)"; and
- (b) by the substitution for the definition of "interest" of the following definition:

" **'interest'** means interest as contemplated in paragraph (a) or (b) of the definition of 'interest' in section 24J(1), but does not include an amount of interest that is deemed to be a dividend *in specie* in terms of section 8F(2) or 8FA(2);"

(2) Paragraph (b) of subsection (1) comes into operation on 1 January 2022 and applies in respect of amounts paid on or after that date.

**Insertion of section 57B in Act 58 of 1962**

33. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 57A of the following section:

**"Disposal of the right to receive an asset which would otherwise have been acquired in consequence of services rendered or to be rendered**

**57B.** (1) This section applies where—

- (a) a person ('the employee') has agreed to render services to another person ('the employer');
- (b) the whole or part of the compensation for those services is to be paid by the employer in the form of an asset as defined in paragraph 1 of the Eighth Schedule; and

(c) prior to the employee becoming entitled to that asset, that employee disposes of the right to the asset to another person.

(2) For purposes of this Act, where subsection (1) applies—

(a) that disposal must be disregarded and that employee must be treated as having acquired that asset on the date that it would otherwise have been received by or accrued to him or her for an amount of expenditure equal to the amount included in that employee's gross income under paragraph (ii) of the proviso to paragraph (c) of the definition of 'gross income'; and  
(b) that employee must be treated as having disposed of that asset to that other person by way of donation for an amount received or accrued equal to the expenditure contemplated in subsection (2)(a), and that other person must be deemed to have acquired that asset for expenditure equal to that same amount."

(2) Subsection (1) comes into operation on 1 March 2022 and applies in respect of the disposal of the right to receive an asset on or after that date.

**Amendment of section 64G of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 and amended by section 73 of Act 7 of 2010, section 80 of Act 24 of 2011, section 88 of Act 22 of 2012, section 106 of Act 31 of 2013, section 7 of Act 33 of 2019 and section 45 of Act 34 of 2019**

34. (1) Section 64G of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2)(a) for subparagraph (i) of the following subparagraph:

"(i) a declaration by the beneficial owner in such form as may be prescribed by the Commissioner that the dividend is exempt from the dividends tax in terms of section 64F or an agreement for the avoidance of double taxation; and"

(2) Subsection (1) comes into operation on 1 January 2022 and applies in respect of dividends paid on or after that date.

**Amendment of section 64H of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 and amended by section 74 of Act 7 of 2010, section 81 of Act 24 of 2011, section 89 of Act 22 of 2012, section 107 of Act 31 of 2013, section 8 of Act 33 of 2019 and section 46 of Act 34 of 2019**

**35.** (1) Section 64H of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2)(a) for subparagraph (i) of the following subsection:

"(i) a declaration by the beneficial owner in such form as may be prescribed by the Commissioner that the dividend is exempt from the dividends tax in terms of section 64F or an agreement for the avoidance of double taxation, or that the payment is made to a vesting trust of which the sole beneficiary is another regulated intermediary; and".

(2) Subsection (1) comes into operation on 1 January 2022 and applies in respect of dividends paid on or after that date.

**Amendment of paragraph 6A of Second Schedule to Act 58 of 1962, as inserted by section 65 of Act 17 of 2017 and amended by section 66 of Act 23 of 2018 and section 42 of Act 23 of 2020**

**36.** (1) Paragraph 6A of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the deletion of the word "or" at the end of subparagraph (a), the substitution for the full stop after subparagraph (b) of the expression "; or" and the addition of the following subparagraph:

"(c) pension preservation or provident preservation fund into another pension preservation or provident preservation fund or a retirement annuity fund.".

(2) Subsection (1) comes into operation on 1 March 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962, as amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of Act 113 of 1993, section 16 of Act 140 of 1993, section 37 of Act 21 of 1995, section 34 of Act 36 of 1996, section 44 of Act 28 of 1997, section 52 of Act 30 of 1998, section 52 of Act 30 of 2000, section 53 of Act 59 of 2000, section 19 of Act 19 of 2001, section 32 of Act 30 of 2002, section 46 of Act 32 of 2004, section 49 of Act 31 of 2005, section 28 of Act 9 of**

**2006, section 39 of Act 20 of 2006, section 54 of Act 8 of 2007, section 64 of Act 35 of 2007, section 43 of Act 3 of 2008, section 66 of Act 60 of 2008, section 17 of Act 18 of 2009, section 18 of Act 8 of 2010, section 93 of Act 24 of 2011, section 271, read with paragraph 77 of Schedule 1 to Act 28 of 2011, section 7 of Act 44 of 2014, section 6 of Act 23 of 2015, section 5 of Act 16 of 2016, section 8 of Act 13 of 2017, section 4 of Act 22 of 2018 and section 6 of Act 24 of 2020**

37. Paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in the definition of "remuneration" for the first proviso to paragraph (ii) of the exclusion of the following proviso:

" : Provided that for the purposes of this paragraph a person shall **[not]** be deemed not to carry on a trade independently as aforesaid if the services are required to be performed mainly at the premises of the person by whom such amount is paid or payable or of the person to whom such services were or are to be rendered and the person who rendered or will render the services is subject to the control or supervision of any other person as to the manner in which his or her duties are performed or to be performed or as to his or her hours of work".

**Amendment of paragraph 2 of Fourth Schedule to Act 58 of 1962, as inserted by section 19 of Act 6 of 1963 and amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974, section 30 of Act 103 of 1976, section 28 of Act 113 of 1977, section 29 of Act 104 of 1980, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989, section 45 of Act 101 of 1990, section 45 of Act 129 of 1991, section 38 of Act 21 of 1995, section 45 of Act 28 of 1997, section 53 of Act 30 of 2000, section 54 of Act 59 of 2000, section 20 of Act 19 of 2001, section 21 of Act 16 of 2004, section 50 of Act 31 of 2005, section 40 of Act 20 of 2006, section 55 of Act 8 of 2007, section 65 of Act 35 of 2007, section 18 of Act 18 of 2009, section 94 of Act 24 of 2011, section 19 of Act 21 of 2012, section 13 of Act 26 of 2013, section 8 of Act 39 of 2013, section 68 of Act 44 of 2014, section 6 of Act 16 of 2016 and section 51 of Act 34 of 2019**



**38.** (1) Paragraph 2 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (2B) of the following subparagraph:

"(2B) Notwithstanding the provisions of subparagraph (1), a person that is a pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund or **[a person that pays an annuity amount as defined in section 10A(1)]** is licensed as an insurer under the Insurance Act shall, when deducting or withholding employees' tax in respect of any year of assessment, **[disregard the amounts contemplated in section 6]** apply the fixed tax rate in determining the amount of employees' tax to be withheld **[if]** that the Commissioner[, pursuant to an application made by that person, issues a directive that the amount must be disregarded] directs must be used, where the person to whom that annuity **[amount]** is paid receives an amount of remuneration from more than one employer."

(2) Subsection (1) comes into operation on 1 March 2022.

**Amendment of paragraph 5 of Fourth Schedule to Act 58 of 1962, as amended by section 19 of Act 18 of 2009, section 271 of Act 28 of 2011, section 7 of Act 23 of 2015**

**39.** Paragraph 5 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to the provisions of subparagraph (6), if an employer is personally liable for the payment of employees' tax under Chapter 10 of the Tax Administration Act, the employer shall pay that amount to the Commissioner not later than the date on which payment should have been made if the employees' tax had in fact been deducted or withheld in terms of paragraph 2."

**Amendment of paragraph 6 of Fourth Schedule to Act 58 of 1962, as amended by section 83 of Act 45 of 2003, section 18 of Act 34 of 2004 and section 271 of Act 28 of 2011**

40. Paragraph 6 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (1) of the following subparagraph:

"(1) If an employer fails to pay any amount of employees' tax for which **[he or her]** the employer is liable within the period allowable for payment thereof in terms of paragraph 2 SARS must in accordance with Chapter 15 of the Tax Administration Act, impose a penalty equal to ten per cent of such amount."

**Amendment of paragraph 5 of Seventh Schedule to Act 58 of 1962, as amended by section 28 of Act 96 of 1985, section 57 of Act 101 of 1990, by section 31 of Act 21 of 1994, section 46 of Act 21 of 1995, section 35 of Act 30 of 2002, section 119 of Act 31 of 2013 and section 43 of Act 23 of 2020**

41. (1) Paragraph 5 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (b) of the further proviso to subparagraph (2) of the following paragraph:

"(b) any asset or gift voucher is given by an employer to an employee for long service, such value to be placed thereon shall be reduced by the lesser of the cost to the employer of all such assets so given to the employee during the year of assessment and R5000: Provided that the aggregate value of an amount reduced under this paragraph together with all amounts determined under paragraphs 6(4)(d) and 10(2)(e) of this Schedule and paragraph (vii) of the proviso to paragraph (c) of the definition of 'gross income' in section 1 does not exceed R5 000."

(2) Subsection (1) comes into operation on 1 March 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of paragraph 6 of Seventh Schedule to Act 58 of 1962, as amended by section 29 of Act 96 of 1985, section 72 of Act 60 of 2008, section 95 of Act 25 of 2015 and section 68 of Act 17 of 2017**

42. (1) Paragraph 6(4) of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the deletion of the word "or" after item (bA), the addition of the word "or" after item (c) and the addition after item (c) of the following item:

"(d) such use is granted by an employer to an employee for long service as defined in paragraph 5(4) to the extent that it does not exceed R5 000: Provided that the aggregate value of an amount determined under this paragraph together with amounts determined under paragraph (vii) of the proviso to paragraph (c) of the definition of 'gross income' in section 1 and paragraphs 5(2)(b) and 10(2)(e) of the Seventh Schedule does not exceed R5 000."

(2) Subsection (1) comes into operation on 1 March 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of paragraph 10 of Seventh Schedule to Act 58 of 1962, as amended by section 36 of Act 30 of 2002, section 58 of Act 31 of 2005, section 30 of Act 9 of 2006, section 69 of Act 35 of 2007 and section 73 of Act 60 of 2008**

43. (1) Paragraph 10(2) of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the deletion of the word "or" after item (c), the addition of the word "or" after item (d) and the addition of the following item:

"(e) any services granted by an employer to an employee for long service as defined in paragraph 5(4) to the extent that it does not exceed R5 000: Provided that the aggregate value of an amount determined under this paragraph together with all amounts determined under paragraph (vii) of the proviso to paragraph (c) of the definition of 'gross income' in section 1 and paragraphs 5(2)(b) and 6(4)(d) of the Seventh Schedule does not exceed R5 000."

(2) Subsection (1) comes into operation on 1 March 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of paragraph 12D of Seventh Schedule to Act 58 of 1962, as substituted by section 77 of Act 43 of 2014 and amended by section 101 of Act 25 of 2015, section 69 of Act 15 of 2016, section 69 of Act 17 of 2017 and section 71 of Act 23 of 2018**

44. (1) Paragraph 12D(1) of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by—

(a) the substitution in the definition of "defined contribution component" for paragraph (b) of the following paragraph:

"(b) which consists of a risk benefit provided by the fund directly or indirectly for the benefit of a member of the fund if the risk benefit is provided **[solely]** by means of a policy of insurance or a self-insured policy";

(b) by the deletion of the word "and" at the end of the definition of "risk benefit" and the insertion of the following definition:

" **'self-insured policy'** means a policy under which the risk benefit provided by the fund directly or indirectly for the benefit of a member of the fund is provided by means other than a policy of insurance."

(2) Subsection (1) comes into operation on 1 March 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of paragraph 12A of Eighth Schedule to Act 58 of 1962, as substituted by section 70 of Act 17 of 2017 and amended by section 77 of Act 23 of 2018, section 54 of Act 34 of 2019 and section 47 of Act 23 of 2020**

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

(a) the substitution in subparagraph (1) for the full stop at the end of the definition of "group of companies" of the expression "; and";

(b) the substitution in paragraph (b) of the proviso to subparagraph (6)(e) for subparagraph (iii) of the following subparagraph:

"(iii) does anything to invalidate any step contemplated in subparagraph **[(A)] (i)**, with the result that the company is or will not be liquidated, wound up, deregistered or finally terminate its existence;" and

(c) the substitution in subparagraph (6)(g) for subitem (ii) of the following subitem:

"(ii) does not consist of or represent an amount owed by that person in respect of any interest as defined in section 24J incurred by that person during any year of assessment."

(2) Paragraph (c) of subsection (1) comes into operation on 1 January 2022 and applies in respect of years of assessment commencing on or after that date.

**Amendment of paragraph 48 of Eighth Schedule to Act 58 of 1962**

46. The Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph 48 of the following paragraph:

"48. A natural person or a beneficiary of a special trust or a spouse of that person or beneficiary must for purposes of paragraph 47 be treated as having been ordinarily resident in a residence for a continuous period (not exceeding two years), if that natural person, beneficiary or spouse did not reside in that residence during that period for any of the following reasons—

- (a) at the time the residence was **[that person's]** the primary residence of that natural person or special trust it had been offered for sale and vacated due to the acquisition or intended acquisition of a new primary residence;
- (b) that residence was being erected on land acquired for that purpose in order to be used as **[that person's]** the primary residence of that natural person or special trust;
- (c) the residence had been accidentally rendered uninhabitable; or
- (d) the death of that natural person, beneficiary or spouse."

**Amendment of paragraph 49 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 95 of Act 60 of 2001 and section 74 of Act 15 of 2016**

47. Paragraph 49 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (b) of the following subparagraph:

"(b) where that natural person [or], a beneficiary of that special trust or a spouse of that natural person or beneficiary used the residence referred to in subparagraph (a) or a part thereof for the purposes of carrying on a trade for any portion of the period on or after the valuation date during which that person or special trust held that interest,".

**Substitution of Eleventh Schedule to Act 58 of 1962, as added by section 140 of Act 22 of 2012, amended by section 161 of Act 31 of 2013 and substituted by section 125 of Act 25 of 2015 and section 56 of Act 23 of 2020**

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

"ELEVENTH SCHEDULE

GOVERNMENT GRANTS EXEMPT FROM NORMAL TAX

(Section 12P)

1. Agro-Processing Support Scheme received or accrued from the Department of Trade, Industry and Competition;
2. Aquaculture Development and Enhancement Programme received or accrued from the Department of Trade, Industry and Competition;
3. Automotive Production and Development Programme received or accrued from the International Trade Administration Commission of South Africa;
4. Automotive Investment Scheme received or accrued from the Department of Trade, Industry and Competition;
5. Black Business Supplier Development Programme received or accrued from the Department of Small Business Development;
6. Black Industrialists Scheme received or accrued from the Department of Trade, Industry and Competition;
7. Business Process Services received or accrued from the Department of Trade, Industry and Competition;
8. Business Viability Programme received or accrued from the Department of Small Business Development;
9. Capital Projects Feasibility Programme received or accrued from the Department of Trade, Industry and Competition;
10. Capital Restructuring Grant received or accrued from the Department of Human Settlements;
11. Clothing and Textiles Competitiveness Programme received or accrued from the Industrial Development Corporation;
12. Cluster Development Programme received or accrued from the Department of Trade, Industry and Competition;

13. Comprehensive Agricultural Support Programme received or accrued from the Department of Agriculture;
14. Co-operative Incentive Scheme received or accrued from the Department of Small Business Development;
15. Critical Infrastructure Programme received or accrued from the Department of Trade, Industry and Competition;
16. Eastern Cape Jobs Stimulus Fund received or accrued from the Department of Economic Development, Environmental Affairs and Tourism of the Eastern Cape;
17. Enterprise Incubation Programme received or accrued from the Department of Small Business Development;
18. Enterprise Investment Programme received or accrued from the Department of Trade, Industry and Competition;
19. Equity Fund received or accrued from the Department of Science and Technology;
20. Export Marketing and Investment Assistance received or accrued from the Department of Trade, Industry and Competition;
21. Film Production Incentive received or accrued from the Department of Trade, Industry and Competition;
22. Food Fortification Grant received or accrued from the Department of Health;
23. Green Technology Incentive Programme received or accrued from the Department of Tourism;
24. Idea Development Fund received or accrued from the Department of Science and Technology;
25. Incubation Support Programme received or accrued from the Department of Trade, Industry and Competition;
26. Industrial Development Zone Programme received or accrued from the Department of Trade, Industry and Competition;
27. Industry Matching Fund received or accrued from the Department of Science and Technology;
28. Integrated National Electrification Programme Grant: Non-grid electrification service providers received or accrued from the Department of Energy;

29. Integrated National Electrification Programme: Electricity connection to households received or accrued from the Department of Energy;
30. Interest Make-Up Programme received or accrued from the Department of Trade, Industry and Competition;
31. Jobs Fund received or accrued from the National Treasury;
32. Manufacturing Competitiveness Enhancement Programme received or accrued from the Department of Trade, Industry and Competition;
33. Sector Specific Assistance Scheme received or accrued from the Department of Trade, Industry and Competition;
34. Shared Economic Infrastructure Facility received or accrued from the Department of Small Business Development;
35. Small Enterprise Manufacturing Support Programme received or accrued from the Department of Small Business Development;
36. Small, Medium Enterprise Development Programme received or accrued from the Department of Trade, Industry and Competition;
37. Small/Medium Manufacturing Development Programme received or accrued from the Department of Trade, Industry and Competition;
38. South African Research Chairs Initiative received or accrued from the Department of Science and Technology;
39. Strategic Partnership Programme received or accrued from the Department of Trade, Industry and Competition;
40. Support Programme for Industrial Innovation received or accrued from the Department of Trade, Industry and Competition;
41. Taxi Recapitalisation Programme received or accrued from the Department of Transport;
42. Technology Development Fund received or accrued from the Department of Science and Technology;
43. Technology and Human Resources for Industry Programme received or accrued from the Department of Trade, Industry and Competition;
44. The Blended Finance Facility received or accrued from the Department of Small Business Development;
45. The COVID-19 Emergency Fund received or accrued from the Department of Small Business Development;



46. The Small Business and Innovation Fund received or accrued from the Department of Small Business Development;
47. Township and Rural Entrepreneurship Programme (TREP) received or accrued from the Department of Small Business Development;
48. Transfers to the South African National Taxi Council received or accrued from the Department of Transport;
49. Transfers to the University of Pretoria, University of KwaZulu-Natal and University of Stellenbosch received or accrued from the Department of Transport;
50. Youth Technology Innovation Fund received or accrued from the Department of Science and Technology."

(2) Subsection (1) is, in respect of any grant, deemed to have come into operation on the date on which that grant was awarded to the recipient thereof and applies in respect of any amount received or accrued in respect of that grant on or after that date.

#### **Continuation of certain amendments of Schedules to Act 91 of 1964 and Act 89 of 1991**

49. 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 October 2019 up to and including 31 October 2020, 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 and in Schedule No. 1 to the Value-Added Tax Act, 1991, made under section 74(3)(a) of that Act during the period 1 October 2020 up to and including 31 October 2021, shall not lapse by virtue of section 74(3)(b) of that Act.

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

**2006, section 130 of Act 24 of 2011, section 90 of Act 23 of 2018 and section 67 of Act 34 of 2019**

**50.** Section 2 of the Value-Added Tax Act, 1991, is hereby amended by—

- (a) the substitution in subsection (1) for paragraph (i) of the following paragraph:
- "(i) the provision, or transfer of ownership, of a **[long-term] life** insurance policy, the provision or transfer of ownership of reinsurance in respect of any such policy: Provided that such an activity shall not be deemed to be a financial service to the extent that it includes the management of a superannuation scheme;"
- (b) the substitution in subsection (2) for the definition of "long-term insurance policy" of the following definition:
- "(v) **'[long-term] life insurance policy'** means **[any policy of insurance issued in the ordinary course of carrying on long-term insurance business]** a life insurance policy as defined in section 1(1) of the **[Long-term] Insurance Act, [1998 (Act No. 52 of 1998)] 2017, Act No. 18 of 2017;**" and
- (c) the substitution in subsection (3) for paragraph (a) of the following paragraph:
- "(a) A **[long-term] life** insurance policy or any other policy of insurance;"

**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, section 167 of Act 39 of 2013, section 130 of Act 25 of 2015 and section 79 of Act 17 of 2017**

**51.** (1) Section 9 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (6) of the following subsection:

"(6) Where any supply of goods or services is deemed to be made as contemplated in section 18(1) or 18D(2) the time of supply shall be deemed to be the time that the goods or services are applied as contemplated in the said subsection."

(2) Subsection (1) comes into operation on 1 April 2022.

**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, section 168 of Act 39 of 2013, section 131 of Act 25 of 2015, section 80 of Act 17 of 2017 and section 63 of Act 23 of 2020**

52. (1) Section 10 of the Value-Added Tax Act, 1991, is hereby amended by the addition of the following subsection:

"(29) Where goods are deemed to be supplied by a vendor in terms of section 18D(2), the supply shall be deemed to be made for a consideration in money equal to the adjusted cost to the vendor of the construction, extension or improvement of such fixed property."

(2) Subsection (1) comes into operation on 1 April 2022.

**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, section 96 of Act 43 of 2014, section 132 of Act 25 of 2015, section 81 of Act 17 of 2017, section 54 of Act 34 of 2019 and section 64 of Act 23 of 2020**

53. (1) Section 11 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (2) for paragraph (y) of the following paragraph:

"(y) the services as contemplated in the International Telecommunication Union Regulations contained in the Final Acts of the World Conference on International Telecommunications (Dubai, 2012) and supplied by Telecommunications Service Providers registered in the Republic in terms of the Electronic Communications Act, 2005 (Act No. 36 of 2005), to International Telecommunications Service Providers, **[limited to]** provided that such services are not supplied to a branch, main business or customer of the International Telecommunications Service Providers situated in the Republic at the time the services are rendered, unless such services are international roaming services:".

(2) Subsection (1) comes into operation on 1 January 2022.

#### **Insertion of section 18D in Act 89 of 1991**

54. (1) The Value-Added Tax Act, 1991, is hereby amended by the insertion of the following section:

#### **"Temporary letting of residential property**

**18D.** (1) For the purposes of this section '**developer**' means a vendor who continuously or regularly constructs, extends or substantially improves fixed property consisting of any dwelling or continuously or regularly constructs, extends or substantially improves parts of that fixed property for the purpose of disposing of that fixed property after the construction, extension or improvement.

(2) Notwithstanding the provisions of section 18(1), where goods being fixed property consisting of any dwelling—

(a) is developed by a vendor who is a developer wholly for the purpose of making taxable supplies or is held or applied for that purpose; and

(b) such fixed property is subsequently temporarily applied by that vendor for supplying accommodation in a dwelling under an agreement for the letting and hiring thereof,

the supply of such fixed property shall be deemed to have been supplied by that vendor by way of a taxable supply for a consideration as contemplated in section 10(29) and shall take place in accordance with section 9(6).

(3) In relation to the supply contemplated in subsection (2), where the vendor who is a developer subsequently supplies such fixed property by way of a sale, such supply shall, subject to subsection (4), be deemed to be a taxable supply in the course or furtherance of the vendor's enterprise and shall take place in accordance with section 9(3)(d).

(4) Where fixed property contemplated in subsection (3) is deemed to have been supplied by that vendor, the supply shall be deemed to be made for a consideration as contemplated in section 10(2) less so much of such amount as contemplated in section 10(29)."

(2) Subsection (1) comes into operation on 1 April 2022.

**Amendment of Schedule 2 to Act 89 of 1991, as amended by section 49 of Act 136 of 1991, section 44 of Act 136 of 1992, section 45 of Act 97 of 1993, section 33 of Act 20 of 1994, section 104 of Act 30 of 1998, section 73 of Act 19 of 2001, section 56 of Act 16 of 2004, section 108 of Act 35 of 2007, section 87 of Act 17 of 2017 and section 14 of Act 21 of 2018**

55. (1) Schedule 2 to the Value-Added Tax Act, 1991, is hereby amended by the substitution in Part B for Item 2 of the following Item:

"Item 2 Maize meal graded as super maize meal, super fine maize meal, special maize meal, sifted maize meal or unsifted maize meal, not further processed other than by the addition of minerals and vitamins not exceeding one per cent by mass of the final product, solely for the purpose of increasing the nutritional value."

(2) Subsection (1) comes into operation on 1 April 2022.

**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, section 110 of Act 43 of 2014, section**

**137 of Act 25 of 2015, section 90 of Act 15 of 2016, section 90 of Act 17 of 2017, section 76 of Act 34 of 2019 and section 67 of Act 23 of 2020**

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

(a) the insertion in subsection (1) in the definition of "collateral arrangement" after paragraph (c) of the following paragraph:

"(cA) the transferee contractually agrees that the listed share or listed bond transferred in terms of paragraph (a) will either be held by that transferee for the duration of the arrangement or be used for purposes of providing security in respect of an amount owed by that transferee;"; and

(b) the substitution in subsection (1) in the definition of "collateral arrangement" for the words following paragraph (e) of the following words:

"but does not include an arrangement where the transferee—

- (i) has not transferred the identical share or bond contemplated in paragraph (b) to the transferor within the period referred to in that paragraph unless such failure to return such identical share or bond is due to an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listings Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listings Requirements or a corporate action as contemplated in the listings requirements of any other exchange, licenced under the Financial Markets Act, that are substantially the same as the requirements prescribed by the JSE Limited Listings Requirements, where that corporate action complies with the applicable requirements of that exchange; or
- (ii) has transferred the listed share or bond contemplated in paragraph (a), in a manner other than a transfer contemplated in paragraph (c) or (cA);".

(2) Subsection (1) comes into operation on the date on which the Draft Taxation Laws Amendment Bill, 2021, is published for public comment and applies in respect of any collateral arrangements entered into on or after that date.

**Amendment of section 8 of Act 25 of 2007, as amended by section 73 of Act 3 of 2008, section 127 of Act 60 of 2008, section 97 of Act 17 of 2009, section 127 of Act 7 of 2010, section 148 of Act 24 of 2011, section 155 of Act 22 of 2012, section 183 of Act 31 of 2013, section 138 of Act 25 of 2015, section 15 of Act 22 of 2018 and section 68 of Act 23 of 2020**

57. Section 8 of the Securities Transfer Tax Act, 2007, is hereby amended by the substitution in subsection (1) for paragraph (d) of the following paragraph:

"(d) if that security is transferred to a public benefit organisation which is exempt from income tax in terms of section 10(1)(cN) of the Income Tax Act, if the tax thereon would, but for this exemption, be legally payable and borne by that public benefit organisation;"

**Amendment of section 1 of Act 26 of 2013, as amended by section 112 of Act 43 of 2014, section 93 of Act 15 of 2016, section 101 of Act 23 of 2018, section 78 of Act 34 of 2019 and section 2 of Act 13 of 2020**

58. (1) Section 1 of the Employment Tax Incentive Act, 2013, is hereby amended by the substitution in subsection (1) for the definition of "employee" of the following definition:

" **'employee'** means a natural person—

(a) who works for another person; **[and]**

(b) who receives, or is entitled to receive remuneration from that other person;

(c) who in any other manner assists in carrying on or conducting the business of that other person; and

(d) who is documented in the records of that other person as envisaged in the record keeping provisions in section 31 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997),

but does not include an independent contractor;"

(2) Subsection (1) is deemed to have come into operation on 1 March 2021 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 6 of Act 26 of 2013, as amended by section 115 of Act 43 of 2014, section 80 of Act 34 of 2019 and section 4 of Act 13 of 2020**

59. (1) Section 6 of the Employment Tax Incentive Act, 2013, is hereby amended by the addition of the following proviso:

" : Provided that the employee is not, in fulfilling the conditions of their employment contract, mainly involved in the activity of studying."

(2) Subsection (1) is deemed to have come into operation on 1 March 2021 and applies in respect of years of assessment commencing on or after that date.

**Amendment of section 13 of Act 31 of 2013, as amended by section 144 of Act 25 of 2015, section 98 of Act 15 of 2016, section 93 of Act 17 of 2017, section 98 of Act 23 of 2018, section 82 of Act 34 of 2019 and section 71 of Act 23 of 2020**

60. (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 ~~[2022]~~ 2023 and applies in respect of amounts incurred on or after that date."

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

**Amendment of section 15 of Act 31 of 2013, as amended by section 145 of Act 25 of 2015, section 99 of Act 15 of 2016, section 94 of Act 17 of 2017 section 99 of Act 23 of 2018, section 83 of Act 34 of 2019 and section 72 of Act 23 of 2020**

61. (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 ~~[2022]~~ 2023 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 62 of Act 31 of 2013 as amended by section 148 of Act 25 of 2015, section 100 of Act 15 of 2016, section 100 of Act 23 of 2018, section 84 of Act 34 of 2019 and section 73 of Act 23 of 2020**



**62.** (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 ~~[2022]~~ 2023 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 6 of Act 15 of 2019, as amended by section 93 of Act 34 of 2019 and section 77 of Act 23 of 2020**

**63.** (1) Section 6 of the Carbon Tax Act, 2019, is hereby amended by—

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

"(c) **'B'** represents **[the renewable energy premium in respect of a tax period, from the commencement of the tax period until 31 December 2022, constituted by an amount expressed in Rand]** an amount equal to the quantity of renewable electricity (kWh) purchased under a power purchase agreement multiplied by the renewable energy premium determined by the Minister by notice in the Gazette in respect of a tax period, until 31 December 2022; and"; and

(b) the substitution for subsection (4) of the following subsection:

"(4) For the purposes of this section **'sequestrate'** means—

(a) the process of storing a greenhouse gas [or increasing the carbon content of a carbon reservoir other than the atmosphere] in forestry plantations in respect of fuel combustion emissions declared in terms of section 4(1); or

(b) the process of storing a greenhouse gas in forestry plantations or increasing the carbon content of a carbon reservoir other than the atmosphere in respect of fuel combustion emissions declared in terms of section 4(2)(a)."

(2) Subsection (1) is deemed to have come into operation on 1 January 2021.

**Amendment of section 12 of Act 15 of 2019**

**64.** (1) Section 12 of the Carbon Tax Act, 2019, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to subsection (2), a taxpayer that conducts an activity that is listed in Schedule 2 in the column "Activity/Sector", and participates in the carbon budget system **[during or before the tax period]** from 1 January 2021 to 31 December 2022, must receive an additional allowance of five per cent of the total greenhouse gas emissions in respect of a tax period."

(2) Subsection (1) is deemed to have come into operation on 1 January 2021.

**Amendment of Schedule 2 to Act 15 of 2019, as amended by section 99 of Act 34 of 2019**

65. (1) Schedule 2 of the Carbon Tax Act, 2019, is hereby amended by--

(a) the substitution in the line corresponding to IPCC Code "1A2m" and Activity / Sector "Brick manufacturing:" for the expression in the column "Threshold" of the following expression:

"**[4]** 1 million bricks a month";

(b) the insertion after the line starting with IPCC Code "1A2m" of the following line:

<b>1A2n</b>	<u>Manufacture of ceramic products by firing in particular roofing tiles, tiles, stoneware or porcelain</u>	<u>5 tonnes of production per day</u>	<u>60</u>	<u>0</u>	<u>0</u>	<u>10</u>	<u>5</u>	<u>5</u>	<u>10</u>	<u>90</u>
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(c) the substitution in the line corresponding to IPCC Code "2A4a" and Activity / Sector "Ceramics" for the expression in the column "Threshold" of the following expression:

"**[N/A]** 50 tonnes of production a month";

(d) the substitution in the line corresponding to IPCC Code "2A4b" and Activity / Sector "Other Uses of Soda Ash" for the expression in the column "Threshold" of the following expression:

"**[N/A]** 50 tonnes of production a month";

(e) the substitution in the line corresponding to IPCC Code "2A4d" and Activity / Sector "Other (please specify)" for the expression in the column "Threshold" of the following expression:

**"[N/A] 20 tonnes of production a month";**

- (f) the substitution in the line corresponding to IPCC Code "2B10" and Activity / Sector "Other (please specify)" for the expression in the column "Threshold" of the following expression:

**"[N/A] 20 tonnes of production a month";**

- (g) the substitution in the line corresponding to IPCC Code "2C7" and Activity / Sector "Other (please specify)" for the expression in the column "Threshold" of the following expression:

**"[N/A] 50 tonnes of production a month";**

- (h) the substitution in the line corresponding to IPCC Code "2G1b" and Activity / Sector "Use of Electrical Equipment" for the expression in the column "Threshold" of the following expression:

**"[N/A] 50 kilograms of production per year";**

- (i) the substitution in the line corresponding to IPCC Code "3A2i" and Activity / Sector "Poultry" for the expression in the column "Threshold" of the following expression:

**"[N/A] 40 000 places for poultry";**

- (j) the substitution in the line corresponding to IPCC Code "3C1a" and Activity / Sector "Biomass Burning in Forest Lands" for the expression in the column "Threshold" of the following expression:

**"[N/A] 100 Hectares of plantations";**

- (k) the substitution in the line corresponding to IPCC Code "3C4" and Activity / Sector " Direct N<sub>2</sub>O Emissions from Managed Soils" for the expression in the column "Threshold" of the following expression:

**"[N/A] 100 Hectares of plantations";**

- (l) the substitution in the line corresponding to IPCC Code "3C5" and Activity / Sector "Indirect N<sub>2</sub>O Emissions from Managed Soils" for the expression in the column "Threshold" of the following expression:

**"[N/A] 100 Hectares of plantations";**

- (m) the substitution in the line corresponding to IPCC Code "3D1" and Activity / Sector "Harvested Wood Products" for the expression in the column "Threshold" of the following expression:

**"[N/A] Harvested Wood Products produced from timber harvested from forest owners registered for reporting under IPCC code 3B1a and 3B1b";**

(n) the substitution in the line corresponding to IPCC Code "5B" and Activity / Sector "Other (please specify)" for the expression in the column "Threshold" of the following expression:

"[N/A] None".

(2) Subsection (1) is deemed to have come into operation on 11 September 2020.

#### **Amendment of section 8 of Act 13 of 2020**

66. Section 8 of the Disaster Management Tax Relief Act, 2020, is hereby amended by the substitution in subsection (4) for paragraph (a) of the following paragraph:

"(a) a company, in respect of any amount paid or property transferred on or after 1 April 2020 but on or before 30 September 2020 in respect of any year of assessment during which that amount was paid or that property was transferred;"

#### **Amendment of section 77 of Act 23 of 2020**

67. (1) Section 77 of the Taxation Laws Amendment Act, 2020, is hereby amended by the substitution in subsection (1)(b) for the words of the instruction of the following words:

"by the **[addition]** renumbering of existing subsection (3) to subsection (4) and by the insertion after subsection (2) of the following subsection:"

(2) Subsection (1) is deemed to have come into operation on 1 January 2020.

#### **Short title**

68. This Act is called the Taxation Laws Amendment Act, 2021.