

REPUBLIC OF SOUTH AFRICA

TAXATION LAWS AMENDMENT BILL

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

(MINISTER OF FINANCE)

[B 27—2020]

ISBN 978-1-4850-0670-1

No. of copies printed350

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 Estate Duty Act, 1955, so as to amend certain provisions; to amend the Income Tax Act, 1962, so as to amend certain provisions; to make new provision; to repeal certain provisions; to amend the Customs and Excise Act, 1964, so as to make provision for continuations; so as to amend certain provisions; to make new provision so as to provide for an export tax on scrap metal; to amend the Value-Added Tax Act, 1991, so as to amend certain provisions; to make new provision; 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, 2015 so as to amend certain provisions; to amend the Revenue Laws Amendment Act, 2016 so as to amend certain provisions to amend the Taxation Laws Amendment Act, 2017 so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2019 so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2018 so as to amend certain provisions; to amend the Carbon Tax Act, 2019, so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2019 so as to amend certain provisions; and to provide for matters connected therewith.

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

Amendment of section 3 of Act 45 of 1955, as amended by section 2 of Act 65 of 1960, section 8 of Act 77 of 1964, section 2 of Act 81 of 1965, section 4 of Act 92 of 1971, section 3 of Act 89 of 1972, section 3 of Act 102 of 1979, section 10 of Act 106 of 1980, section 2 of Act 92 of 1983, section 4 of Act 81 of 1985, section 9 of Act 87 of 1988, section 7 of Act 97 of 1993, section 6 of Act 27 of 1997, section 13 of Act 30 of 1998, section 7 of Act 30 of 2000, section 5 of Act 31 of 2005, section 2 of Act 60 of 2008, section 3 of Act 25 of 2015, section 1 of Act 17 of 2017 and section 1 of Act 34 of 2019

1. (1) Section 3 of the Estate Duty Act, 1955, is hereby amended—
 - (a) by the deletion in subsection (2) of paragraph (bA); and
 - (b) by the substitution in subsection (3) for the full stop at the end of paragraph (d) of a semi-colon and the addition of the following paragraph:
 - “(e) so much of the amount of any contribution made by the deceased in consequence of membership or past membership of any pension fund, provident fund, or retirement annuity fund, as was allowed as

a deduction in terms of paragraph 5 of the Second Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962), to determine the taxable portion of the lump sum benefit that is deemed to have accrued to the deceased immediately prior to his or her death.”.

- (2) Subsection (1) is deemed to have come into operation on 30 October 2019 and applies in respect of—
- (a) the estate of a person who dies on or after that date; and
 - (b) any contributions made on or after 1 March 2016.

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 and section 34 of Act 34 of 2019

2. (1) Section 1 of the Income Tax Act, 1962, is hereby amended—
- (a) by the deletion in subsection (1) of the definition of “controlled foreign company”;
 - (b) by the insertion in subsection (1) after the definition of “contributed tax capital” of the following definition:

“‘controlled foreign company’ means a controlled foreign company as defined in section 9D;”
 - (c) by the substitution in subsection (1) for paragraph (f) of the definition of “financial instrument” of the following paragraph:

“(f) any [cryptocurrency] crypto asset;”
 - (d) by the substitution in subsection (1) in the definition of “gross income” for paragraph (m) of the following paragraph:

“(m) any amount received or accrued in respect of a policy of insurance of which the taxpayer is the policyholder, where the policy relates to the death, disablement or illness of an employee or director (or former employee or director) of the taxpayer, including by way of any [loan or advance] debt: Provided that any amount so received or accrued shall be reduced by the amount of any such [loan or advance] debt which is or has been included in the taxpayer’s gross income;”
 - (e) by the deletion in subsection (1) in the definition of “living annuity” of the word “and” after paragraph (e);
 - (f) by the insertion in subsection (1) in the definition of “living annuity” after paragraph (e) of the following paragraph:

- “(eA) in anticipation of the termination of a trust, the value of the assets referred to in paragraph (a) must be paid to the trust as a lump sum pursuant to that termination; and;”;
- (g) by the deletion in subsection (1) in paragraph (a) of the definition of “pension preservation fund” of subparagraph (iii); 5
- (h) by the addition in subsection (1) in paragraph (a) of the definition of “pension preservation fund” after subparagraph (v) of the following subparagraph:
 “(vi) former members of a pension fund, pension preservation fund, provident fund or provident preservation fund or nominees or dependants of that former member in respect of whom an “unclaimed benefit” as defined in the Pension Funds Act is due or payable by that fund;”;
- (i) by the substitution in subsection (1) in paragraph (c)(ii) of the proviso to the definition of “pension preservation fund” for item (aa) of the following item:
 “(aa) (a) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of applications for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; or;
 (b) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or”;
- (j) by the substitution in subsection (1) in paragraph (b) of the definition of “provident preservation fund” for subparagraph (ii) of the following subparagraph:
 “(ii) a pension fund, pension preservation fund, provident fund or provident preservation fund of which such member’s former spouse is or was previously a member and such payment or transfer was made pursuant to an election by such member in terms of section 37D(4)(b)(ii) of the Pension Funds Act;”;
- (k) by the deletion in substitution (1) in paragraph (a) of the definition of “provident preservation fund” of subparagraph (iii);
- (l) by the substitution in subsection (1) in paragraph (b) of the definition of “provident preservation fund” for subparagraphs (iv) to (v) of the following subparagraphs respectively:
 “(iv) a person who has elected to transfer an amount awarded to that person in terms of a court order contemplated in section 7(8) of the Divorce Act, 1979 (Act No. 70 of 1979), from a pension fund, pension preservation fund, provident fund or provident preservation fund for the benefit of that person; [or]
 (v) former members of a pension fund or provident fund who have elected to have a lump sum benefit contemplated in paragraph 2(1)(c) of the Second Schedule transferred to this provident preservation fund and who made the election while they were members of that other fund; or”;
- (m) by the addition in subsection (1) in paragraph (b) of the definition of “provident preservation fund” after subparagraph (v) of the following subparagraph:
 “(vi) former members of a pension fund, pension preservation fund, provident fund or provident preservation fund or nominees or dependants of that former member in respect of whom an “unclaimed benefit” as defined in the Pension Funds Act is due or payable by that fund;”;
- (n) by the substitution in subsection (1) in paragraph (c)(ii) of the proviso to the definition of “provident preservation fund” for item (aa) of the following item:

- “(aa) (a) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of applications for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; or; 5
- (b) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or”; 10
- (o) by the substitution in subsection (1) for paragraph (b) of the definition of “REIT” of the following paragraph:
- “(b) the equity shares of which are listed—
- (i) on an exchange (as defined in section 1 of the Financial Markets Act and licensed under section 9 of that Act); and 15
- (ii) as shares in a REIT as defined in the listing requirements of [an] that exchange approved in consultation with the [Minister] Director-General of the National Treasury and published, after approval of those listing requirements by the Director-General of the National Treasury, by the appropriate authority, as contemplated in section 1 of the Financial Markets Act, in terms of section 11 of that Act or by the Financial Sector Conduct Authority;”; 20
- (p) by the substitution in subsection (1) in paragraph (b)(x)(dd) of the proviso to the definition of “retirement annuity fund” for subitem (a) of the following subitem: 25
- “(a) (a) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of applications for that recognition received on or before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022; or; 30
- (b) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021;”; and 35
- (q) by the deletion in subsection (1) in paragraph (b)(x)(dd)(b) of the proviso to the definition of “retirement annuity fund” of the comma and words following sub-subitem (BB). 40
- (2) Paragraphs (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (p) and (q) of subsection (1) come into operation on 1 March 2021. 40

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 and section 4 of Act 34 of 2019

3. (1) Section 7C of the Income Tax Act, 1962, is hereby amended— 45
- (a) by the insertion after subsection (1A) of the following subsection:
- “(1B) Where—
- (a) a natural person; or
- (b) at the instance of a natural person, a company that is a connected person in relation to that natural person in terms of paragraph (d)(iv) of the definition of ‘connected person’, 50
- subscribes for a preference share in a company in which 20 per cent or more of the equity shares are held (whether directly or indirectly) or the voting rights can be exercised by a trust that is a connected person in relation to that natural person or to that company, whether alone or together with any person who is a beneficiary of that trust— 55
- (i) consideration received by or accrued to that company for the issue of that preference share shall be deemed to be a loan for the purposes of subsection (3); and

- (ii) any dividend or foreign dividend accrued in respect of that preference share shall be deemed to be interest in respect of the loan contemplated in paragraph (i).”;
- (b) by the substitution in subsection (3) for paragraph (a) of the following paragraph: 5
“(a) no interest in respect of a loan, advance or credit referred to in subsections (1) [or subsection], (1A) or (1B); or”;
- (c) by the substitution in subsection (3) for the words following paragraph (a) of the following words: 10
“an amount equal to the difference between the amount incurred by that trust or company during a year of assessment as interest in respect of that loan, advance or credit and the amount that would have been incurred by that trust or company at the official rate of interest must, for purposes of Part V of Chapter II, be treated as a donation made to that trust by the person referred to in subsection (1)(a) [or subsection], (1A) or (1B) on 15
the last day of that year of assessment of that trust.”; and
- (d) by the addition after subsection (5) of the following subsection: 20
“(6) For the purposes of this section ‘preference share’ means a preference share as defined in section 8EA(1).”.
- (2) Subsection (1) comes into operation on 1 January 2021 and applies in respect of any dividend or foreign dividend accruing during any year of assessment commencing on or after that date.

Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act 101 of 1990, section 9 of Act 129 of 1991, section 6 of Act 141 of 1992, section 4 of Act 113 of 1993, section 6 of Act 21 of 1994, section 8 of Act 21 of 1995, section 6 of Act 36 of 1996, section 6 of Act 28 of 1997, section 24 of Act 30 of 1998, section 14 of Act 53 of 1999, section 17 of Act 30 of 2000, section 6 of Act 59 of 2000, section 7 of Act 19 of 2001, section 21 of Act 60 of 2001, section 12 of Act 30 of 2002, section 11 of Act 74 of 2002, section 18 of Act 45 of 2003, section 6 of Act 32 of 2004, section 4 of Act 9 of 2005, section 21 of Act 9 of 2006, section 5 of Act 20 of 2006, section 6 of Act 8 of 2007, section 9 of Act 35 of 2007, sections 1 and 5 of Act 3 of 2008, section 9 of Act 60 of 2008, section 11 of Act 17 of 2009, section 10 of Act 7 of 2010, section 16 of Act 24 of 2011, section 271 of Act 28 of 2011, read with paragraph 30 of Schedule 1 to that Act, section 9 of Act 22 of 2012, section 9 of Act 31 of 2013, section 5 of Act 42 of 2014, section 5 of Act 43 of 2014, section 8 of Act 25 of 2015, section 8 of Act 17 of 2017 and section 6 of Act 34 of 2019 25 30 35 40

4. (1) Section 8 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1)(a)(ii) for item (aa) of the following item: 45
“(aa) (a) on the instruction of his or her principal; or
(b) where the recipient is allowed by his or her principal to incur expenditure on meals and other incidental costs while such recipient is by reason of the duties of his or her office or employment obliged to spend a part of a day away from his or her usual place of work or employment, not exceeding an amount determined by way of notice in the *Gazette*, 50
in the furtherance of the trade of that principal; and”;
- (b) by the substitution in subsection (4)(k) for the words following subparagraph (iv) of the following words: 55
“in respect of which a deduction or an allowance has been granted to such person in terms of any of the provisions referred to in that paragraph, that person shall be deemed to have disposed of that asset for an amount equal to the market value of that asset as at the date of that donation, transfer, disposal or commencement.”.
- (2) Paragraph (a) of subsection (1) comes into operation on 1 March 2021 and applies in respect of years of assessment commencing on or after that date. 60

(3) Paragraph (b) of subsection (1) is deemed to have come into operation on 15 January 2020.

Amendment of section 9 of Act 58 of 1962, as substituted by section 22 of Act 24 of 2011 and amended by section 16 of Act 31 of 2013, section 10 of Act 43 of 2014, section 11 of Act 25 of 2015, section 18 of Act 15 of 2016 and section 16 of Act 23 of 2018 5

5. Section 9 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2)(k) for subparagraph (ii) of the following subparagraph:

- “(ii) that person is not a resident and that asset is **[attributable to]** effectively connected with a permanent establishment of that person which is situated in the Republic; or”.

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 15 20

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

- (a) by the insertion in the proviso to subsection (2A) after paragraph (c) of the following paragraph: 25

“(d) any exemption from normal tax in respect of dividends received or accrued as contemplated in section 10(1)(k) must not apply in respect of the portion of an amount of the aggregate amount of dividends received by or accrued to a controlled foreign company during any foreign tax year, determined in accordance with the formula: 30

$$A = B \times (C - D)$$

in which formula—

- (i) ‘A’ represents the amount to be determined; 35
 (ii) ‘B’ represents the ratio of the number 20 to the number 28; and
 (iii) ‘C’ represents the aggregate of dividends received by or accrued to the controlled foreign company during the foreign tax year of that controlled foreign company; and
 (iv) ‘D’ represents 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— 40
- (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; 45
 (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 50
 (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) by the substitution in subsection (2A) for paragraph (f) of the following paragraph:

“(f) where the resident contemplated in subsection (2) is **[a natural person, special trust or]** an insurer in respect of its individual policyholder fund, the taxable capital gain of the controlled foreign company shall, for the purposes of paragraph 10 of the Eighth 55

Schedule, be 40 per cent of that company's net capital gain for the relevant foreign tax year;”.

(2) Paragraph (a) of subsection (1) comes into operation on 1 January 2021 and applies in respect of dividends received by or accrued to any controlled foreign company on or after that date.

(3) Paragraph (b) of subsection (1) comes into operation on 1 January 2021 and applies in respect of any net capital gain of any controlled foreign company during any foreign tax year 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 and section 21 of Act 15 of 2016

7. Section 9H of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (3) of the following subsection:

“(3A) Any person that is a holder of at least 10 per cent of the equity shares and voting rights in shares in a company must, where that company is a resident that ceases to be a resident and where section 64FA applies to the dividend *in specie* as referred to in subsection 3(c)(iii) in respect of that company, be treated as having—

- (i) disposed of each of those shares to a person that is a resident on the date immediately before the day on which that company so ceased to be a resident; and
- (ii) reacquired each of those shares on the day on which that company so ceased to be a resident,

for an amount equal to the market value of each of those shares.”.

(2) Subsection (1) comes into operation on 1 January 2021 and applies in respect of a holder of shares in a company that ceases to be a resident on or after that date.

Amendment of section 9J of Act 58 of 1962, as inserted by section 21 of Act 23 of 2018

8. Section 9J of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2)(b) for subparagraph (i) of the following subparagraph:

- “(i) 80 per cent or more of the market value of those equity shares, ownership or right to ownership or vested interest, as the case may be, at the time of disposal thereof is attributable directly or indirectly to immovable property situated in the Republic or any interest or right of whatever nature to or in immovable property situated in the Republic including rights to variable or fixed payments as consideration for the working of, or the right to work mineral deposits, sources and other natural resources in the Republic; and”.

Insertion of section 9K in Act 58 of 1962

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

“Listing of security on exchange outside Republic.

9K. Where a natural person or a trust that is a resident holds a security in a company and that security is delisted on an exchange as defined in section 1 of the Financial Markets Act and licenced under section 9 of that Act, and subsequent to that delisting that security is listed on an exchange outside the Republic, that person must be treated as having—

- (a) disposed of that security for an amount received or accrued equal to the market value of that security as contemplated in the definition of ‘market value’ in section 9H(1) on the day that the security is listed on the exchange outside the Republic; and
- (b) reacquired that security on the same day on which that security is treated as having been disposed of under paragraph (a) for expenditure in an amount equal to that market value.

(2) For the purposes of section 9C(2), a security that is listed on an exchange outside the Republic as contemplated in subsection (1) must be treated to be one and the same security that is delisted.”

(2) Subsection (1) comes into operation on 1 March 2021 and applies in respect of any security listed on an exchange outside the Republic on or after that date.

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996, section 1 of Act 49 of 1996, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998, section 18 of Act 53 of 1999, section 21 of Act 30 of 2000, section 13 of Act 59 of 2000, sections 9 and 78 of Act 19 of 2001, section 26 of Act 60 of 2001, section 13 of Act 30 of 2002, section 18 of Act 74 of 2002, section 36 of Act 12 of 2003, section 26 of Act 45 of 2003, sections 8 and 62 of Act 16 of 2004, section 14 of Act 32 of 2004, section 5 of Act 9 of 2005, section 16 of Act 31 of 2005, section 23 of Act 9 of 2006, sections 10 and 101 of Act 20 of 2006, sections 2, 10, 88 and 97 of Act 8 of 2007, section 2 of Act 9 of 2007, section 16 of Act 35 of 2007, sections 1 and 9 of Act 3 of 2008, section 2 of Act 4 of 2008, section 16 of Act 60 of 2008, sections 13 and 95 of Act 17 of 2009, section 18 of Act 7 of 2010, sections 28 and 160 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 31 of Schedule 1 to that Act, sections 19, 144, 157 and 166 of Act 22 of 2012, section 23 of Act 31 of 2013, section 14 of Act 43 of 2014, section 16 of Act 25 of 2015, section 23 of Act 15 of 2016, section 16 of Act 17 of 2017 section 22 of Act 23 of 2018 and section 13 of Act 34 of 2019

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

- (a) by the substitution in subsection (1) in paragraph (b) of the proviso to paragraph (cA) for subparagraph (i) of the following subparagraph: 35
- “(i) not permitted to distribute any **[of its profits or gains]** amount to any person, other than, in the case of such company, to the holders of shares in that company;”;
- (b) by the deletion in subsection (1) in paragraph (i) of the proviso to paragraph (q) if the word “and” after subparagraph (aa), the insertion of the word “and” after subparagraph (bb) and the addition of the following subparagraph: 40
- “(cc) if any remuneration to which the employee was entitled or might in the future have become entitled was in any manner whatsoever reduced or forfeited as a result of the grant of such scholarship or bursary;”;
- (c) by the substitution in subsection (1)(o)(ii) for item (aa) of the following item: 45
- “(aa) (a) for a period or periods exceeding 183 full days in aggregate during any period of 12 months; or
- (b) for a period or periods exceeding 117 full days in aggregate during any period of 12 months in respect of any year of assessment ending on or after 29 February 2020 but on or before 28 February 2021; and 50
- (d) by the deletion in subsection (1) in paragraph (i) of the proviso to paragraph (qA) of the word “and” after subparagraph (aa), the insertion of the word “and” after subparagraph (bb) and the addition of the following subparagraph: 55
- “(cc) if any remuneration to which the employee was entitled or might in the future have become entitled was in any manner whatsoever reduced or forfeited as a result of the grant of such scholarship or bursary;” and 60

(e) by the substitution in subsection (1)(yA) for subparagraph (bb) of the following subparagraph:

“(bb) where that agreement was concluded on or after 1 January 2007, that agreement provides that those receipts and accruals of that person must be exempt;”

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(2) Paragraphs (b) and (d) of subsection (1) come into operation on 1 March 2021 and apply in respect of years of assessment commencing on or after that date.

(3) Paragraph (c) of subsection (1) is deemed to have come into operation on 29 February 2020.

(4) Paragraph (e) of subsection (1) is deemed to have come into operation on 1 January 2007 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 10B of Act 58 of 1962, as inserted by section 29 of Act 24 of 2011 and amended by section 4 of Act 13 of 2012, section 20 of Act 22 of 2012, section 25 of Act 31 of 2013, section 15 of Act 43 of 2014, section 6 of Act 13 of 2015, section 25 of Act 15 of 2016, section 8 of Act 14 of 2017 and section 23 of Act 23 of 2018

11. (1) Section 10B of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (6) of the following subsection:

“(6A) Subsections (2) and (3) do not apply to any foreign dividend received by or accrued to any company in respect of a share to the extent that the aggregate of those foreign dividends does not exceed an amount equal to the aggregate of any deductible expenditure incurred by that company or any amount taken into account that has the effect of reducing income in the application of section 24JB(2), and the amount of that expenditure or reduction is determined directly or indirectly with reference to the foreign dividend in respect of a share that is an identical share to that share: Provided that the deductible expenditure so incurred or the amount of the reduction must be reduced by any amount of income accrued to the company in respect of any distribution in respect of any other share that is an identical share in relation to that share.”

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(2) Subsection (1) comes into operation on 1 January 2021 and applies to foreign dividends received or accrued on or after that date.

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

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

(a) by the deletion in subsection (1) in the definition of “qualifying annuity” after paragraph (c) of the word “or”;

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

“(d) as contemplated in paragraph (b)(iv) of the proviso to the definition of ‘provident fund’ in section 1; or”;

(c) by the addition in subsection in section 1 in the definition of “qualifying annuity” after paragraph (d) of the following paragraph:

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“(e) as contemplated in paragraph (e) of the definition of ‘provident preservation fund in section 1’;”;

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

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“There shall be exempt from normal tax in respect of the aggregate of qualifying annuities payable to a person an amount equal to so much of [the person’s own] any contributions to any pension fund, provident fund and retirement annuity fund that did not rank for a deduction against the person’s income in terms of section 11F as has not previously been—”.

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(2) Subsection (1) comes into operation on 1 March 2021.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994, section 12 of Act 21 of 1995, section 9 of Act 36 of 1996, section 12 of Act 28 of 1997, section 30 of Act 30 of 1998, section 20 of Act 53 of 1999, section 22 of Act 30 of 2000, section 15 of Act 59 of 2000, section 10 of Act 19 of 2001, section 27 of Act 60 of 2001, section 14 of Act 30 of 2002, section 19 of Act 74 of 2002, section 27 of Act 45 of 2003, section 9 of Act 16 of 2004, section 16 of Act 32 of 2004, section 6 of Act 9 of 2005, section 18 of Act 31 of 2005, section 11 of Act 20 of 2006, section 11 of Act 8 of 2007, section 17 of Act 35 of 2007, sections 1 and 10 of Act 3 of 2008, section 18 of Act 60 of 2008, section 14 of Act 17 of 2009, section 19 of Act 7 of 2010, sections 30 and 161 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 33 of Schedule 1 to that Act, section 22 of Act 22 of 2012, section 27 of Act 31 of 2013, section 17 of Act 43 of 2014, section 18 of Act 25 of 2015, section 26 of Act 15 of 2016, section 19 of Act 17 of 2017, section 25 of Act 23 of 2018 and section 15 of Act 34 of 2019

13. (1) Section 11 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in paragraph (j)(i) for the words preceding item (aa) of the following words:
“if IFRS 9 is applied to that debt by that person for financial reporting purposes, other than in respect of lease receivables as defined in IFRS 9 that have not been included in income, the sum of—”;
- (b) by the substitution in paragraph (j)(i)(aa) for subitem (A) of the following subitem:
“(A) the loss allowance relating to impairment that is measured at an amount equal to the lifetime expected credit loss, as contemplated in IFRS 9, in respect of debt [**other than in respect of lease receivables as defined in IFRS 9**]; and”;
- (c) by the substitution in paragraph (j)(i) for item (bb) of the following item:
“(bb) 25 per cent of the loss allowance relating to impairment, as contemplated in IFRS 9, in respect of debt other than in respect of [**lease receivables as defined in IFRS 9 or**] debt taken into account under item (aa); or”;
- (d) by the substitution in paragraph (j)(ii) for items (aa) and (bb) of the following items respectively:
“(aa) 40 per cent of so much of any debt, other than a debt contemplated in subparagraph (i), due to the taxpayer, if that debt is 120 days or more in arrears, after taking into account the value of any security in respect of that debt; and”;
“(bb) 25 per cent of so much of any debt, other than a debt contemplated in subparagraph (i) or item (aa), due to the taxpayer, if that debt is 60 days or more in arrears, after taking into account the value of any security in respect of that debt”; and
- (e) by the substitution in paragraph (jA) for the words preceding the proviso of the following words:
“notwithstanding paragraph (j), an allowance equal to 25 per cent of the loss allowance relating to impairment, as contemplated in IFRS 9, other than in respect of lease receivables as defined in IFRS 9 that have not been included in income, if the person is a covered person, other than a person that is a controlling company as defined in the Banks Act, as determined by applying the criteria in paragraphs (c)(i) to (iii) and (d) of the definition of ‘covered person’ in section 24JB (1)”; and

(f) by the addition to paragraph (jA) of the following further proviso:

“:Provided further that the loss allowance relating to impairment must exclude any loss allowance in respect of a financial asset that would not be allowed to be deducted under paragraph (a) or (i) if it became bad;”.

(2) Paragraphs (a), (b), (c) and (f) of subsection (1) are deemed to have come into operation on 28 October 2020 and applies in respect of years of assessment commencing on or after that date. 5

(3) Paragraphs (d) and (e) of subsection (1) come into operation on 1 January 2021 and apply in respect of years of assessment commencing on or after that date.

Amendment of section 12C of Act 58 of 1962, as inserted by section 14 of Act 101 of 1990 and amended by section 11 of Act 113 of 1993, section 7 of Act 140 of 1993, section 11 of Act 21 of 1994, section 13 of Act 21 of 1995, section 10 of Act 46 of 1996, section 18 of Act 59 of 2000, section 11 of Act 19 of 2001, section 15 of Act 30 of 2002, section 30 of Act 45 of 2003, section 8 of Act 9 of 2005, section 20 of Act 31 of 2005, section 14 of Act 8 of 2007, section 22 of Act 35 of 2007, section 20 of Act 60 of 2008, section 19 of Act 17 of 2009, section 33 of Act 24 of 2011, section 24 of Act 22 of 2012, section 32 of Act 31 of 2013, section 20 of Act 25 of 2015, section 23 of Act 17 of 2017 and section 27 of Act 23 of 2018 10 15

14. Section 12C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (bA) of the following paragraph: 20

“(bA) machinery or plant owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement contemplated in paragraph (a) of the definition of ‘instalment credit agreement’ in section 1 of the Value-Added Tax Act and which was or is made available for use by the taxpayer in terms of a contract to another person for no consideration and was or is brought into use for the first time by that other person for the purposes of that other person’s trade (other than mining or farming) and is used by that other person solely for the benefit of that taxpayer for the purposes of the performance of that other person’s obligations under that contract in a process of manufacture under the Automotive Production and Development Programme administered by the Department of Trade and Industry or Automotive [Incentive] Investment Scheme administered by that Department;”.

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 and section 25 of Act 17 of 2017 35

15. 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 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 and section 22 of Act 17 of 2009 50

16. 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 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 55

installation) of such asset to the extent that such asset is used in the production of the taxpayer's income.”.

Amendment of section 12J of Act 58 of 1962, as inserted by section 27 of Act 60 of 2008 and amended by section 25 of Act 17 of 2009, section 38 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 37 of Schedule 1 to that Act, section 36 of Act 31 of 2013, section 23 of Act 43 of 2014, section 23 of Act 25 of 2015, section 32 of Act 15 of 2016, section 28 of Act 17 of 2017, section 29 of Act 23 of 2018 and section 17 of Act 34 of 2019

17. (1) Section 12J of the Income Tax Act, 1962, is hereby amended by the addition to subsection (3B) of the following proviso: 10

“: Provided that—

- (a) this subsection must not apply during any year of assessment where that taxpayer holds more than 20 per cent of the venture capital shares of a class and that venture capital company during that year of assessment gives notice to the Commissioner in writing that the venture capital company will cancel all the issued shares in that class of shares; and 15
- (b) that venture capital company cancels all the issued shares in that class of shares within six months from the date on which that notice is given.”.

(2) Subsection (1) comes into operation on 31 July 2021 and applies in respect of years of assessment ending on or after that date. 20

Amendment of section 12R of Act 58 of 1962, as inserted by section 43 of Act 31 of 2013 and amended by section 26 of Act 43 of 2014, section 28 of Act 31 of 2013, section 34 of Act 15 of 2016, section 30 of Act 17 of 2017 and section 20 of Act 34 of 2019

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

“(5) This provision ceases to apply in respect of any year of assessment commencing on or after 1 January 2031.”.

(2) Subsection (1) is deemed to have come into operation on 9 February 2016.

Amendment of section 12S of Act 58 of 1962, as inserted by section 44 of Act 31 of 2013 and amended by section 27 of Act 43 of 2014 and section 35 of Act 15 of 2016

19. (1) Section 12S of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (10) of the following subsection: 30

“(10) This provision ceases to apply in respect of expenditure incurred during any year of assessment commencing on or after 1 January [2024] 2031.”. 35

(2) Subsection (1) is deemed to have come into operation on 9 February 2016.

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 and section 34 of Act 23 of 2018

20. Section 13quat of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (5) for paragraph (c) of the following paragraph: 45

“(c) which is brought into use by the taxpayer after 31 March [2020] 2021.”.

Amendment of section 13sept of Act 58 of 1962 as inserted by section 32 of Act 60 of 2008

21. Section 13sept of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection: 50

“(1) Subject to section 36, there must be allowed as a deduction from the income of the taxpayer, in respect of any year of assessment ending on or before 28 February 2022, an amount determined in terms of subsection (2) in respect of the

disposal of any low-cost residential unit by the taxpayer to an employee of the taxpayer (or an associated institution as defined in the Seventh Schedule in relation to the taxpayer).”.

Amendment of section 18A of Act 58 of 1962, as substituted by section 24 of Act 30 of 2000 and amended by section 72 of Act 59 of 2000, section 20 of Act 30 of 2002, section 34 of Act 45 of 2003, section 26 of Act 31 of 2005, section 16 of Act 20 of 2006, section 18 of Act 8 of 2007, section 31 of Act 35 of 2007, section 1 of Act 3 of 2008, section 6 of Act 4 of 2008, section 34 of Act 60 of 2008, section 37 of Act 7 of 2010, section 44 of Act 24 of 2011, section 7 of Act 21 of 2012, section 52 of Act 31 of 2013, section 29 of Act 43 of 2014, section 3 of Act 44 of 2014, section 34 of Act 15 of 2015, section 31 of Act 17 of 2017, section 35 of Act 23 of 2018 and section 22 of Act 34 of 2019

22. Section 18A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3A) for paragraph (c) of the following paragraph:

“(c) ‘C’ represents the amount of a capital gain (if any), that would have been determined in terms of the Eighth Schedule had [it] the immovable property been disposed of for an amount equal to the lower of market value or municipal value on the day the donation is made; and”.

Amendment of section 20A of Act 58 of 1962, as inserted by section 36 of Act 45 of 2003 and amended by section 27 of Act 31 of 2005, section 33 of Act 17 of 2009 and section 37 of Act 23 of 2018

23. Section 20A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2)(b) for subparagraph (ix) of the following subparagraph:

“(ix) the acquisition or disposal of any [cryptocurrency] crypto asset.”.

Amendment of section 23 of Act 58 of 1962, as amended by section 18 of Act 65 of 1973, section 20 of Act 121 of 1984, section 23 of Act 129 of 1991, section 20 of Act 141 of 1992, section 18 of Act 113 of 1993, section 15 of Act 21 of 1994, section 28 of Act 30 of 2000, section 21 of Act 30 of 2002, section 38 of Act 45 of 2003, section 13 of Act 16 of 2004, section 28 of Act 31 of 2005, section 17 of Act 20 of 2006, section 20 of Act 8 of 2007, section 37 of Act 60 of 2008, section 41 of Act 7 of 2010, sections 47 and 162 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 38 of Schedule 1 to that Act, section 42 of Act 22 of 2012, section 56 of Act 31 of 2013, section 33 of Act 43 of 2014, section 35 of Act 17 of 2017 and section 39 of Act 23 of 2018.

24. (1) Section 23 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(c) any loss or expense, the deduction of which would otherwise be allowable, to the extent to which it is recoverable under any contract of insurance, guarantee, security or indemnity, except where section 23L(3) applies.”.

(2) Subsection (1) comes into operation on 1 January 2021 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 23A of Act 58 of 1962, as inserted by section 21 of Act 121 of 1984 and amended by section 13 of Act 96 of 1985, section 15 of Act 65 of 1986, section 12 of Act 70 of 1989, section 22 of Act 101 of 1990, section 24 of Act 129 of 1991, section 34 of Act 30 of 1998, section 32 of Act 60 of 2001, section 33 of Act 35 of 2007, section 17 of Act 3 of 2008 and section 35 of Act 17 of 2009

25. Section 23A of the Income Tax Act, 1962, is hereby amended—

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

“‘affected asset’ means [—

(a) any machinery, plant or aircraft which has been let and in respect of which the lessor is or was entitled to an allowance under section 12 or 14bis, whether in the current or a previous year of assessment, other than any such machinery, plant or aircraft let by him under an agreement of lease formally and

finally signed by every party to the agreement before 15 March 1984; or

(b) any machinery, plant, implement, utensil, article, aircraft or ship which has been let and in respect of which the lessor is or was entitled to an allowance under section 11(e), 12B, 12C, 12DA or 37B(2)(a), whether in the current or a previous year of assessment [**other than any such machinery, plant, implement, utensil, article, aircraft or ship let by him under an agreement of lease formally and finally signed by every party to the agreement before 19 November 1988**],

but excluding any such asset let by the lessor under an operating lease or any such asset which was during the year of assessment mainly used by him in the course of any trade carried on by him, other than the letting of any such asset;” and

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

“(2) Notwithstanding the provisions of sections 11(e) and (o), 12B, 12C, 12DA, **14bis** and 37B(2)(a), the sum of the deductions which may be allowed to any taxpayer in any year of assessment under those provisions in respect of any affected assets let by him shall not exceed the taxable income (as determined before making the said deductions) derived by him during such year from rental income.”.

Amendment of section 23L of Act 58 of 1962, as inserted by section 50 of Act 22 of 2012 and amended by section 60 of Act 31 of 2013

26. (1) Section 23L of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“Where policy benefits are received by or accrue to a person in terms of a policy during a year of assessment, and where that person has been denied, whether in the current or any previous year of assessment, a deduction in terms of section 23L(2) for any premiums paid under such policy, there must be included in the gross income of that person an amount equal to the aggregate amount of all policy benefits received by or accrued to that person during that year of assessment and previous years of assessment in respect of that policy, less—”.

(2) Subsection (1) comes into operation on 1 January 2021 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 24JB of Act 58 of 1962, as inserted by section 56 of Act 22 of 2012, as substituted by section 71 of Act 31 of 2013 and amended by section 43 of Act 43 of 2014, section 46 of Act 15 of 2016, section 44 of Act 17 of 2017 and section 44 of Act 23 of 2018

27. (1) Section 24JB of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) after paragraph (b) for the full stop of the expression “; or” and the addition of the following paragraph:

“(c) a dividend distributed.”.

(2) Subsection (1) comes into operation on 1 January 2021 and applies to dividends declared on or after that date.

Amendment of section 25B of Act 58 of 1962, as substituted by section 27 of Act 32 of 2004 and amended by section 48 of Act 23 of 2018

28. Section 25B of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for the heading of the following heading:

“**[Income] Taxation of trusts and beneficiaries of trusts**”; and

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

“(1) Any amount (other than an amount of a capital nature which is not included in gross income or an amount contemplated in paragraph 3B of the Second Schedule) received by or accrued to or in favour of any person during any year of assessment in his or her capacity as the trustee of a trust, shall, subject to the provisions of section 7, to the extent to which that amount has been derived for the immediate or future benefit

of any ascertained beneficiary who has a vested right to that amount during that year, be deemed to be an amount which has accrued to that beneficiary, and to the extent to which that amount is not so derived, be deemed to be an amount which has accrued to that trust.”.

Amendment of section 25BB of Act 58 of 1962, as inserted by section 59 of Act 22 of 2012, substituted by section 74 of Act 31 of 2013 and amended by section 45 of Act 43 of 2014, section 50 of Act 25 of 2015, section 48 of Act 15 of 2016, section 45 of Act 17 of 2017, section 49 of Act 23 of 2018 and section 32 of Act 34 of 2019

29. (1) Section 25BB of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) in the definition of “qualifying distribution” for the words preceding paragraph (a) of the following words:
 “**‘qualifying distribution’**, in respect of a year of assessment of a company that is a REIT or a controlled company as at the end of a year of assessment, means any dividend (other than a dividend contemplated in paragraph (b) of the definition of ‘dividend’) paid or payable in respect of an equity share, or interest incurred in respect of a debenture forming part of a linked unit in that company, if the amount thereof is determined with reference to the financial results of that company as reflected in the financial statements prepared for that year of assessment if—”; and
- (b) by the deletion in subsection (2A) of the word “and” at the end of paragraph (b), the substitution for the full stop at the end of paragraph (c) of the expression “and;” and the addition of the following paragraph:
 “(d) where a foreign dividend is received by or accrued to a REIT or controlled company, section 10B(2)(a) must not apply.”.
- (2) Subsection (1) comes into operation on 1 January 2021 and applies in respect of years of assessment commencing 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, section 46 of Act 17 of 2017 and section 51 of Act 23 of 2018 and section 34 of Act 34 of 2019

30. Section 29A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the definition of “market value” of the following definition:
 “**‘market value’**, in relation to any asset, means—
- (a) the [sum] amount which a person having the right freely to dispose of such asset might reasonably expect to obtain from a sale of such asset in the open market; or
- (b) where an asset cannot be sold in the open market, an amount equal to the value at which that asset is recognised in the audited annual financial statements of the insurer.”.

Amendment of section 31 of Act 58 of 1962, as substituted by section 57 of Act 24 of 2011, amended by section 64 of Act 22 of 2012, section 82 of Act 31 of 2013, section 50 of Act 43 of 2014, section 56 of Act 25 of 2015 and section 37 of Act 34 of 2019

31. (1) Section 31 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2)(b) for subparagraph (ii) of the following paragraph:
 “(ii) results or will result in any tax benefit being derived by a person that is a party to that transaction, operation, scheme, agreement or understanding or by any resident in relation to a controlled foreign company contemplated in paragraph (iv) of the definition of ‘affected transaction’.”.
- (2) Subsection (1) comes into operation on 1 January 2021 and applies in respect of years of assessment commencing on or after that date.

Substitution of section 40CA of Act 58 of 1962, as inserted by section 71 of Act 22 of 2012 and amended by section 89 of Act 31 of 2013

32. (1) The following section is hereby substituted for section 40CA of the Income Tax Act, 1962:

“Acquisitions of assets in exchange for shares [or debt issued]. 5

40CA. [If] Where a company acquires any asset, as defined in paragraph 1 of the Eighth Schedule, from any person in exchange for—
(a) 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— 10
[(i)] (a) the market value of the shares immediately after the acquisition; and
[(ii)](b) any deemed capital gain determined in terms of section 24BA (3)(a) in respect of the acquisition of that asset[; or
(b) any amount of debt 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 that amount of debt].” 15

(2) Subsection (1) comes into operation on 1 January 2021 and applies in respect of acquisitions of assets made on or after that date. 20

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 and section 42 of Act 34 of 2019 25

33. (1) Section 45 of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (3A) of the following subsection:

“(3B) (a) This subsection applies where— 30

- (i) a debt or a 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
- (ii) the transferee company and the transferor company— 35
 - (aa)* cease in terms of subsection (4); or
 - (bb)* are deemed to have ceased in terms of subsection (4B),

(b) Where the holder of a debt or a holder of a share acquired that debt or share as contemplated in paragraph *(a)*(i), the holder of that debt or the holder of that share must, on the day on which the transferee company and the transferor company in relation to the acquisition of that asset cease or are deemed to have ceased to form part of any group of companies as contemplated in paragraph *(a)*(ii), 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)*(i) less any amount, other than an amount of interest or an amount previously taken into account as interest, that was received 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 45
- (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 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.” 55

(2) Subsection (1) comes into operation on 1 January 2021 and applies in respect of years of assessment commencing 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 and section 54 of Act 17 of 2017 5

34. (1) Section 46 of the Income Tax Act, 1962, is hereby amended—

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

“(2) [Where] Subject to subsection (7), where an unbundling company distributes shares in terms of an unbundling transaction, that unbundling company must disregard that distribution for purposes of determining its taxable income or assessed loss, or its net income as contemplated in section 9D.”; 10

(b) by the substitution for subsection (5) of the following subsection: 15

“(5) [Where] Subject to subsection (7), where shares are distributed by an unbundling company to a shareholder in terms of an unbundling transaction, the distribution by that unbundling company of the shares must be disregarded in determining any liability for dividends tax.”; and

(c) by the substitution in subsection (7) for paragraph (a) of the following paragraph: 20

“(a) In the case of an unbundling transaction contemplated in subsection (1)(a), this section does not apply in respect of any equity share that is distributed by an unbundling company to any shareholder that— 25

(i) is a disqualified person; and

(ii) holds at least 5 per cent of the equity shares in the unbundling company immediately before that unbundling transaction.”.

(2) Subsection (1) is deemed to have come into operation 28 October 2020 and applies to unbundling transactions entered into on or after that date. 30

Amendment of section 64 of Act 58 of 1962, as substituted by section 59 of Act 17 of 2017 and amended by section 5 of Act 21 of 2018

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

“(i) 20 per cent of that value if the aggregate of that value and the value of any other property disposed of under a taxable donation on or after 1 March 2018 until the date of that donation does not exceed R30 million; and” 35

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

Amendment of section 64D of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 and amended by section 70 of Act 7 of 2010, section 75 of Act 24 of 2011, section 102 of Act 31 of 2013, section 73 of Act 25 of 2015 and section 60 of Act 23 of 2018 40

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

“(a) by the substitution in subsection (1) in the definition of ‘dividend’ for the words preceding paragraph (a) of the following words: 45

‘**dividend**’ means any dividend or foreign dividend as defined in section 1, including any amount contemplated in section [31(3)(b)(i)] 31(3)(i), that is—’;”.

(2) Subsection (1) is deemed to have come into operation on 17 January 2019.

Amendment of section 64EB of Act 58 of 1962, as inserted by section 85 of Act 22 of 2012, amended by section 103 of Act 31 of 2013, section 69 of Act 43 of 2014, section 74 of Act 25 of 2015 and section 61 of Act 23 of 2018 50

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

(a) by the substitution in subsection (1) for the words preceding the proviso of the following words: 55

“**[the]** any person ceding that right is deemed to be the beneficial owner of that dividend.”;

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

“**[holds a share in a listed company that was borrowed]** borrows from another person or **[acquired]** acquires a listed share in terms of a collateral arrangement entered into with another person; and”;

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

“(b) a dividend in respect of that share or any amount determined with reference to a dividend in respect of that share is received by or accrues to that person.”; and

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

“any amount paid by that person to that other person not exceeding that dividend or amount determined with reference to a dividend in respect of that share is deemed to be a dividend paid by that person for the benefit of that other person.”.

(2) Subsection (1) comes into operation on 1 January 2021 and applies in respect of amounts paid on or after that date in respect of shares that are borrowed or acquired in terms of a collateral arrangement.

Amendment of paragraph 1 of Second Schedule to Act 58 of 1962, as amended by section 31 of Act 90 of 1962, section 23 of Act 90 of 1964, section 34 of Act 88 of 1971, section 34 of Act 69 of 1975, section 26 of Act 113 of 1977, section 17 of Act 104 of 1979, section 27 of Act 104 of 1980, section 28 of Act 96 of 1981, section 46 of Act 94 of 1983, section 24 of Act 65 of 1986, section 43 of Act 101 of 1990, section 35 of Act 21 of 1995, section 41 of Act 28 of 1997, section 47 of Act 30 of 1998, section 82 of Act 45 of 2003, section 43 of Act 32 of 2004, section 46 of Act 8 of 2007, section 61 of Act 35 of 2007, section 36 of Act 3 of 2008, section 58 of Act 60 of 2008, section 56 of Act 17 of 2009, section 79 of Act 7 of 2010, section 91 of Act 22 of 2012 and section 62 of Act 15 of 2016

38. (1) Paragraph 1 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the definition of “public sector fund” of the following definition:

“**‘public sector fund’** means a fund referred to in paragraph (a), (b) or (d) of the definition of ‘pension fund’ or paragraph (a), (b) or (c) of the definition of ‘provident fund’ in section 1(1);”.

(2) Subsection (1) comes into operation on 1 March 2021 and applies in respect of years of assessment commencing on or after that date.

Insertion of paragraph 3B in Second Schedule to Act 58 of 1962

39. The following paragraph is hereby inserted in the Second Schedule to the Income Tax Act, 1962, after paragraph 3A:

“**3B.** Any lump sum benefit which becomes recoverable from—

- (a) a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; or

- (b) an insurer as defined in section 29A(1) if that lump sum benefit is payable by or provided in consequence of membership or past membership of a fund contemplated in subparagraph (a),

in consequence of the termination of a trust shall in pursuance of that termination, on the date of payment of that lump sum benefit, be deemed to have accrued to that trust immediately prior to the date of termination of the trust.”.

Amendment of paragraph 5 of Second Schedule to Act 58 of 1962, as substituted by section 61 of Act 17 of 2009 and amended by section 98 of Act 22 of 2012, section 112 of Act 31 of 2013, section 86 of Act 25 of 2015 and section 63 of Act 17 of 2017

40. (1) Paragraph 5 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for item (a) of the following item:

“(a) [the person’s own] contributions that did not rank for a deduction against the person’s income in terms of section 11F to any pension fund, pension preservation fund, provident fund, provident preservation fund and retirement annuity fund of which he or she is or previously was a member;”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2016. 5

Amendment of paragraph 6 of Second Schedule to Act 58 of 1962, as substituted by section 62 of Act 17 of 2009 and amended by section 84 of Act 7 of 2010, section 92 of Act 24 of 2011, section 99 of Act 22 of 2012, section 113 of Act 31 of 2013, section 87 of Act 25 of 2015 and section 64 of Act 17 of 2017

41. (1) Paragraph 6 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1)(b) for subitem (i) of the following subitem: 10

“(i) [the person’s own] contributions that did not rank for a deduction against the person’s income in terms of section 11F to any pension funds, pension preservation funds, provident funds, provident preservation funds and retirement annuity funds of which he or she is or previously was a member;” 15

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

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

42. (1) Paragraph 6A of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (a) of the following subparagraph: 20

“(a) pension fund into a pension preservation fund, provident preservation fund or a retirement annuity fund; or”.

(2) Subsection (1) comes into operation on 1 March 2021.

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 and section 119 of Act 31 of 2013 25

43. Paragraph 5 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3A) for the words preceding the proviso of the following words: 30

“No value shall be placed under this paragraph on any immovable property used for residential purposes, acquired by an employee as contemplated in paragraph 2(a):”.

Amendment of paragraph 11 of Seventh Schedule to Act 58 of 1962, as amended by section 33 of Act 96 of 1985, section 35 of Act 65 of 1986, section 48 of Act 21 of 1995, section 2 of Act 8 of 2007, section 1 of Act 3 of 2008, section 98 of Act 25 of 2015 and section 70 of Act 23 of 2018 35

44. Paragraph 11 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (4)(c) for item (i) of the following item: 40

“(i) the debt was assumed for the purposes of acquiring immovable property used for residential purposes by the employee;”.

Amendment of paragraph 2 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 25 of Act 19 of 2001, section 66 of Act 60 of 2001, section 64 of Act 74 of 2002, section 91 of Act 45 of 2003, section 52 of Act 32 of 2004, section 64 of Act 31 of 2005, section 93 of Act 7 of 2010, section 102 of Act 25 of 2015 and section 74 of Act 23 of 2018 45

45. Paragraph 2 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (2) for item (a) of the following item: 50

“(a) 80 per cent or more of the market value of those equity shares, ownership or right to ownership or vested interest, as the case may be, at the time of disposal thereof is attributable directly or indirectly to immovable property [held] situated in the Republic or any interest or right of whatever nature to or in

immovable property situated in the Republic including rights to variable or fixed payments as consideration for the working of, or the right to work mineral deposits, sources and other natural resources in the Republic; and”.

Amendment of paragraph 12 of Eighth Schedule to Act 58 of 1962, as amended by section 72 of Act 60 of 2001, section 68 of Act 74 of 2002, section 93 of Act 45 of 2003, section 56 of Act 32 of 2004, section 67 of Act 31 of 2005, section 71 of Act 35 of 2007, section 50 of Act 3 of 2008, section 75 of Act 60 of 2008, section 94 of Act 7 of 2010, section 108 of Act 24 of 2011, section 107 of Act 22 of 2012 and section 81 of Act 43 of 2014

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

- (a) by the substitution for subparagraph (3) of the following subparagraph:
 “(3) Where assets that are held by a person as trading stock cease to be held by that person as trading stock, otherwise than by way of a disposal contemplated in paragraph 11, that person will be treated as having disposed of those assets for a consideration equal to the amount included in that person’s income in terms of section 22(8) and to have immediately reacquired those assets for a cost equal to that amount, which cost must be treated as an amount of expenditure actually incurred [**and paid**] for the purposes of paragraph 20(1)(a).”; and
- (b) by the substitution in subparagraph (4) for item (b) of the following item:
 “(b) immediately reacquired each of those assets at an expenditure equal to the market value of those assets immediately before the disposal, which expenditure must be treated as an amount of expenditure actually incurred [**and paid**] for the purposes of paragraph 20(1)(a).”.

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

47. Paragraph 12A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (2) for item (b) of the following item:

- “(b) the amount of that debt is owed by that person in respect of or was used by that person to fund, directly or indirectly, any expenditure, other than expenditure in respect of trading stock, in respect of which a deduction or allowance was granted in terms of this Act.”.

Amendment of paragraph 20A of Eighth Schedule to Act 58 of 1962, as inserted by section 96 of Act 45 of 2003 and amended by section 59 of Act 32 of 2004

48. Paragraph 20A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for the words following item (b) of the following words:

- “that person may elect that the amount of the capital development expenditure, or part thereof, which is carried forward and deemed in terms of paragraph 12(3) of the First Schedule to be expenditure which has been incurred in the next succeeding year of assessment for purposes of paragraph 12(1) of the First Schedule (as reduced in terms of paragraph 12(3B) of the First Schedule, if applicable), must be treated as expenditure incurred [**and paid**] in respect of that immovable property for the purposes of this Part.”.

Substitution of paragraph 34 of Eighth Schedule to Act 58 of 1962, as substituted by section 85 of Act 60 of 2001

49. The following paragraph is hereby substituted for paragraph 34 of the Eighth Schedule to the Income Tax Act, 1962:

“Debt substitution

34. Where a person reduces or discharges a debt owed by that person to a creditor by disposing of an asset to that creditor, that asset must be treated as having been acquired by the creditor at a cost equal to the market value of that asset at the time of that disposal, which cost must be treated as an amount of expenditure actually incurred **[and paid]** for the purposes of paragraph 20(1)(a).”.

Amendment of paragraph 42 of Eighth Schedule to Act 58 of 1962, as amended by section 90 of Act 60 of 2001, section 74 of Act 31 of 2005, section 74 of Act 35 of 2007, section 55 of Act 3 of 2008, section 99 of Act 7 of 2010 and section 116 of Act 22 of 2012

50. Paragraph 42 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1)(b) for the words following subitem (ii) of the following words:

“which cost must be treated as an amount of expenditure actually incurred **[and paid]** for the purposes of paragraph 20(1)(a).”.

Amendment of paragraph 64B of Eighth Schedule to Act 58 of 1962, as amended by section 79 of Act 31 of 2005, section 35 of Act 9 of 2006, section 65 of Act 8 of 2007, section 58 of Act 3 of 2008, section 81 of Act 60 of 2008, section 108 of Act 7 of 2010, section 116 of Act 24 of 2011, substituted by section 123 of Act 22 of 2012 and amended by section 144 of Act 31 of 2013, section 117 of Act 25 of 2017 and section 84 of Act 23 of 2018

51. (1) Paragraph 64B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the addition of the following subparagraph:

“(6) This paragraph must not apply in respect of any capital gain or capital loss determined in respect of the disposal of any share in a controlled foreign company to the extent that the value of the assets of that controlled foreign company is attributable to assets directly or indirectly located, issued or registered in the Republic.”.

(2) Subsection (1) comes into operation on 1 January 2021 and applies in respect of any disposal on or after that date.

Amendment of paragraph 80 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 108 of Act 60 of 2001, section 58 of Act 20 of 2006, section 62 of Act 3 of 2008, section 86 of Act 60 of 2008, section 80 of Act 17 of 2009, section 150 of Act 31 of 2013, section 123 of Act 25 of 2015, section 75 of Act 17 of 2017, substituted by section 87 of Act 23 of 2018 and amended by section 64 of Act 34 of 2019

52. Paragraph 80 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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

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

(a) **[that capital gain]** must be disregarded for the purpose of calculating the aggregate capital gain or aggregate capital loss of the trust; and

- (b) **[that capital gain or the amount that would have been determined as a capital gain]** must be taken into account as a capital gain for the purpose of calculating the aggregate capital gain or aggregate capital loss of that beneficiary.”; and
- (b) by the insertion of the following subparagraph after subparagraph (2): 5
 “(2A)(a) Subject to paragraphs 64E, 68, 69 and 71, this subparagraph applies where—
- (i) a beneficiary who is a resident (other than any person contemplated in paragraph 62(a) to (e)) derives an amount through vesting during a year of assessment from a trust that is not a resident; and 10
- (ii) that amount was derived directly or indirectly from that trust or another trust which is not a resident in respect of the disposal of an asset during the same year of assessment and that amount would have constituted a capital gain had the trust that disposed of the asset been a resident. 15
- (b) Where item (a) applies, the amount derived by the beneficiary must be taken into account as a capital gain for the purpose of calculating that beneficiary’s aggregate capital gain or aggregate capital loss for that year of assessment.”. 20

Amendment of paragraph 4 of Part I of Ninth Schedule to Act 58 of 1962, as inserted by section 41 of Act 30 of 2002 and amended by section 125 of Act 45 of 2003, section 82 of Act 31 of 2005, section 60 of Act 20 of 2006, section 63 of Act 3 of 2008, section 87 of Act 60 of 2008, section 82 of Act 17 of 2009, section 12 of Act 13 of 2012, section 151 of Act 31 of 2013 and section 80 of Act 15 of 2016 25

53. Paragraph 4 of Part I of the Ninth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (d) of the following subparagraph:
 “(d) ‘Continuing education and training’ provided by a [**public college’ or**] ‘private college’ as defined in the Continuing Education and Training Colleges Act, 2006 (Act No. 16 of 2006), which is registered in terms of that Act.”. 30

Amendment of paragraph 3 of Part II of Ninth Schedule to Act 58 of 1962, as inserted by section 41 of Act 30 of 2002 and amended by section 129 of Act 45 of 2003, section 84 of Act 31 of 2005, section 62 of Act 20 of 2006, section 64 of Act 3 of 2008, section 89 of Act 60 of 2008, section 83 of Act 17 of 2009, section 13 of Act 13 of 2012 and section 153 of Act 31 of 2013 35

54. Paragraph 3 of Part II of the Ninth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subparagraph (c) of the following subparagraph:
 “(c) ‘Adult [**basic**] education and training’, as defined in the Adult 40
 [**Basic**] Education and Training Act, 2000 (Act No. 52 of 2000), including literacy and numeracy education.”; and

(b) by the substitution for subparagraph (d) of the following subparagraph:
 “(d) ‘**[Further]** Continuing education and training’ provided by a 45
 [**public college’ or**] ‘private college’ as defined in the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006), which is registered in terms of that Act.”.

Amendment of paragraph 7 of Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006 and amended by section 75 of Act 8 of 2007, section 88 of Act 35 of 2007 and section 159 of Act 31 of 2013 50

55. Paragraph 7 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (2)(b)(i) for sub-subitem (A) of the following sub-subitem:
 “(a) a capital asset, be treated as an expenditure actually incurred [**and paid**] by that company in respect of that right for the purposes of paragraph 20 of the Eighth Schedule; or”. 55

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

56. (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 and Industry; | 10 |
| 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; | 15 |
| 5. | Black Business Supplier Development Programme received or accrued from the Department of Small Business; | |
| 6. | Black Industrialists Scheme received or accrued from the Department of Trade, Industry and Competition; | 20 |
| 7. | Business Process Services received or accrued from the Department of Trade, Industry and Competition; | |
| 8. | Capital Projects Feasibility Programme received or accrued from the Department of Trade, Industry and Competition; | |
| 9. | Capital Restructuring Grant received or accrued from the Department of Human Settlements; | 25 |
| 10. | Clothing and Textiles Competitiveness Programme received or accrued from the Industrial Development Corporation; | |
| 11. | Cluster Development Programme received or accrued from the Department of Trade, Industry and Competition; | 30 |
| 12. | Comprehensive Agricultural Support Programme received or accrued from the Department of Agriculture; | |
| 13. | Co-operative Incentive Scheme received or accrued from the Department of Small Business; | |
| 14. | Critical Infrastructure Programme received or accrued from the Department of Trade, Industry and Competition; | 35 |
| 15. | Eastern Cape Jobs Stimulus Fund received or accrued from the Department of Economic Development, Environmental Affairs and Tourism of the Eastern Cape; | |
| 16. | Enterprise Incubation Programme received or accrued from the Department of Small Business; | 40 |
| 17. | Enterprise Investment Programme received or accrued from the Department of Trade, Industry and Competition; | |
| 18. | Equity Fund received or accrued from the Department of Science and Technology; | 45 |
| 19. | Export Marketing and Investment Assistance received or accrued from the Department of Trade, Industry and Competition; | |
| 20. | Film Production Incentive received or accrued from the Department of Trade, Industry and Competition; | |
| 21. | Food Fortification Grant received or accrued from the Department of Health; | 50 |
| 22. | Green Technology Incentive Programme received or accrued from the Department of Tourism; | |
| 23. | Idea Development Fund received or accrued from the Department of Science and Technology; | |
| 24. | Incubation Support Programme received or accrued from the Department of Trade, Industry and Competition; | 55 |
| 25. | Industrial Development Zone Programme received or accrued from the Department of Trade, Industry and Competition; | |
| 26. | Industry Matching Fund received or accrued from the Department of Science and Technology; | 60 |

- | | | |
|-----|---|----|
| 27. | Integrated National Electrification Programme Grant: Non-grid electrification service providers received or accrued from the Department of Energy; | |
| 28. | Integrated National Electrification Programme: Electricity connection to households received or accrued from the Department of Energy; | |
| 29. | Interest Make-Up Programme received or accrued from the Department of Trade, Industry and Competition; | 5 |
| 30. | Jobs Fund received or accrued from the National Treasury; | |
| 31. | Manufacturing Competitiveness Enhancement Programme received or accrued from the Department of Trade, Industry and Competition; | |
| 32. | Sector Specific Assistance Scheme received or accrued from the Department of Trade, Industry and Competition; | 10 |
| 33. | Shared Economic Infrastructure Facility received or accrued from the Department of Small Business Development; | |
| 34. | Small, Medium Enterprise Development Programme received or accrued from the Department of Trade, Industry and Competition; | 15 |
| 35. | Small/Medium Manufacturing Development Programme received or accrued from the Department of Trade, Industry and Competition; | |
| 36. | South African Research Chairs Initiative received or accrued from the Department of Science and Technology; | |
| 37. | Strategic Partnership Programme received or accrued from the Department of Trade, Industry and Competition; | 20 |
| 38. | Support Programme for Industrial Innovation received or accrued from the Department of Trade, Industry and Competition; | |
| 39. | Taxi Recapitalisation Programme received or accrued from the Department of Transport; | 25 |
| 40. | Technology Development Fund received or accrued from the Department of Science and Technology; | |
| 41. | Technology and Human Resources for Industry Programme received or accrued from the Department of Trade, Industry and Competition; | |
| 42. | Transfers to the South African National Taxi Council received or accrued from the Department of Transport; | 30 |
| 43. | Transfers to the University of Pretoria, University of KwaZulu-Natal and University of Stellenbosch received or accrued from the Department of Transport; | |
| 44. | Youth Technology Innovation Fund received or accrued from the Department of Science and Technology.”. | 35 |

(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 40

57. Every amendment or withdrawal of or insertion in Schedules No. 1 to 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. 45

Amendment of section 48 of Act 91 of 1964, as amended by section 6 of Act 57 of 1966, section 18 of Act 105 of 1969, section 3 of Act 98 of 1970, section 1 of Act 68 of 1973, section 8 of Act 105 of 1976, section 11 of Act 112 of 1977, sections 10 and 15 of Act 98 of 1980, section 9 of Act 86 of 1982, section 18 of Act 84 of 1987, section 7 of Act 68 of 1989, section 23 of Act 59 of 1990, section 4 of Act 61 of 1992, section 3 of Act 19 of 1994, section 39 of Act 45 of 1995, section 64 of Act 30 of 1998, section 54 of Act 53 of 1999, section 140 of Act 45 of 2003 and section 91 of Act 31 of 2005 50

58. (1) Section 48 of the Customs and Excise Act, 1964, is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) The Minister may, whenever he deems it expedient in the public interest to do so, by notice in the *Gazette*— 55

(a) impose an export duty, on such basis as he may determine, in respect of any goods intended for export or any class or kind of such goods or any goods intended for export in circumstances specified in such notice and any export

duty so imposed shall be set out in the form of a schedule which shall be deemed to be incorporated in Schedule No. 1 as Part 6 thereof and to constitute an amendment of Schedule No. 1[.]; or

(b) withdraw or reduce any export duty imposed in terms of paragraph (a) with or without retrospective effect, or increase such export duty, from a date and to such extent as may be determined by the Minister in such notice.” 5

(2) Subsection (1) comes into operation on 1 March 2021.

Amendment of section 76 of Act 91 of 1964, as amended by section 9 of Act 85 of 1968, substituted by section 5 of Act 98 of 1970, amended by section 10 of Act 71 of 1975, section 11 of Act 110 of 1979, section 20 of Act 86 of 1982, section 5 of Act 89 of 1983, section 24 of Act 84 of 1987, section 14 of Act 68 of 1989, substituted by section 30 of Act 59 of 1990, and amended by section 5 of Act 105 of 1992, section 54 of Act 45 of 1995, section 62 of Act 30 of 2000, section 28 of Act 34 of 2004, section 65 of Act 32 of 2014 and section 17 of Act 33 of 2019 10

59. Section 76 of the Customs and Excise Act, 1964, is hereby amended— 15

(a) by the substitution for the heading of the following heading:

“General refunds in respect of imported goods, excisable goods and certain exported goods”;

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

“(1) (a) No refund of any duty or other charge in respect of imported goods, excisable goods, surcharge goods or fuel levy goods, other than a refund provided for under section 75 or 77, shall be paid or granted except in accordance with the provisions of this section. 20

(b) Any refund of export duty in respect of goods specified in Part 6 of Schedule No.1 shall be paid or granted in accordance with the provisions of this section;” 25

(c) by the substitution in subsection (2)(d) for the words preceding the proviso of the following words:

“the goods concerned having been damaged, destroyed or irrecoverably lost by circumstances beyond his control prior to the release thereof for home consumption, or in the case of goods destined for export, after the release thereof but prior to the departure of the goods from the Republic;” 30

(d) by the substitution in subsection (2) for paragraph (e) of the following paragraph: 35

“(e) all or part of such goods having been shortlanded shortshipped or shortpacked in the case of imported goods, or shortshipped or shortpacked in the case of goods exported;” and

(e) by the substitution in subsection (2) for paragraph (g) of the following paragraph: 40

“(g) the duty having been reduced or withdrawn as provided for in section 48(2), [or] (2A) or (4), 56(2), 56A(2) or 57(2); or”.

Amendment of Schedule 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992, section 13 of Act 98 of 1993, section 12 of Act 19 of 1994, section 74 of Act 45 of 1995, section 8 of Act 44 of 1996, section 15 of Act 27 of 1997, section 75 of Act 30 of 1998, section 7 of Act 32 of 1999, section 64 of Act 30 of 2000, section 52 of Act 19 of 2001, section 53 of Act 30 of 2002, section 41 of Act 12 of 2003, section 155 of Act 45 of 2003, section 36 of Act 16 of 2004, section 14 of Act 9 of 2005, section 36 of Act 9 of 2006, section 76 of Act 8 of 2007, section 66 of Act 3 of 2008, section 88 of Act 17 of 2009, section 117 of Act 7 of 2010, section 127 of Act 24 of 2011, section 14 of Act 13 of 2012, section 9 of Act 23 of 2013, section 7 of Act 42 of 45 50 55

2014, section 8 of Act 13 of 2015, section 13 of Act 13 of 2016, section 18 of Act 14 of 2017, section 7 of Act 21 of 2018 and section 4 of Act 32 of 2019

- 60.** (1) Schedule 1 to the Customs and Excise Act, 1964, is hereby amended—
 (a) by the insertion of the following Note in Part 6 of that Schedule:

“Part 6

5

EXPORT DUTY

NOTES:

1. Whenever the tariff heading or subheading under which any goods are classified in Part 1 of this Schedule is expressly quoted in any export duty item of this Part in which such goods are specified, the goods so specified in such export duty item shall be deemed to include only goods which are classifiable under the said tariff heading or subheading.”;

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- (b) by the insertion of the following Notes in Section A to Part 6 of that Schedule:

“SECTION A

EXPORT DUTY ON SCRAP METAL

15

NOTES:

1. The rate of export duty is payable on goods specified in this Section whether imported into or manufactured in the Republic.

2. The rate of export duty specified in each column under “Rate of export duty” shall apply when goods are exported to the territory specified in the header of the column, provided that the imposition of the export duty is consistent with the provisions of any applicable agreement.

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3. When the metals specified in this Section are exported in a consignment containing a mixture of different scrap metals the highest rate of export duty shall be used to determine the duty on such a consignment.”;

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- (c) by the insertion of the following items in Part 6 of that Schedule:

Export Tax Item no.	Heading / Subheading	Article Description	Statistical Unit	Rate of Export Duty					
				General	EU	EFTA	SADC	MER-COSUR	
193.00	EXPORT DUTY ON SCRAP METAL							30	
193.00	72.04	Ferrous waste and scrap; remelting scrap ingots of iron or steel:						35	
193.01	7204.10	Waste and scrap of cast iron	t	20%	10%	free	free	20%	40
193.02	7204.2	Waste and scrap of alloy steel:							
193.02.01	7204.21	Of stainless steel	t	15%	10%	free	free	15%	45
193.02.03	7204.29	Other	t	20%	10%	free	free	20%	
193.02.05	7204.30	Waste and scrap of tinned iron or steel	t	20%	10%	free	free	20%	
193.03	7204.4	Other waste and scrap:							
193.03.01	7204.41	Turnings, shavings, chips, milling waste, sawdust, filings, trimmings and stampings, whether or not in bundles	t	20%	10%	free	free	20%	50
193.03.03	7204.49	Other	t	20%	10%	free	free	20%	
193.03.05	7204.50	Remelting scrap ingots	t	20%	free	free	free	20%	
193.04	7404.00	Copper waste and scrap						55	
193.05	7602.00	Aluminium waste and scrap							

- (d) by the substitution of the number for Note 7 of Note 8 in Section A to Part 5;
and
- (e) by the insertion of following Note after Note 6:
- “7. (a) For the purposes of item 195.10.03 the rate of carbon fuel levy on petrol included in the rate of fuel levy, shall be—
- (i) $\{[B \times (1-F)] \times (R \times 100)\} / 1000 \times D$;
 - (ii) ‘Carbon emissions’ where used in this Part means carbon emissions as defined in Additional Note 11 to Chapter 99 of Part 1 of Schedule No. 1;
 - (iii) ‘B’ represents the carbon emissions factor per tonne of petrol determined in accordance with the formula prescribed in section 4(2)(a)(iii) of the Carbon Tax Act and using the net calorific value of the Non-Stationary / Mobile Source Category in Table 1 of Schedule 1 of that Act;
 - (iv) ‘F’ represents the basic tax-free allowance percentage of rebate item 692.01 specified in Part 6 of Schedule No. 6 in respect of IPCC Code 1A3 Transport activities listed in Schedule 2 of the Carbon Tax Act;
 - (v) ‘R’ represents the rate of environmental levy specified in Section F to Part 3 of Schedule No. 1; and
 - (vi) ‘D’ represents the density factor of petrol of 0.75 kilogram per litre.
- (b) For the purposes of items 195.10.15; 195.10.17; 195.10.21 and 195.20.03 the rate of carbon fuel levy on diesel included in the rate of fuel levy, shall be—
- (i) $\{[B \times (1-F)] \times (R \times 100)\} / 1000 \times D$;
 - (ii) ‘Carbon emissions’ where used in this Part means carbon emissions as defined in Additional Note 11 to Chapter 99 of Part 1 of Schedule No. 1;
 - (iii) ‘B’ represents the carbon emissions factor per tonne of diesel determined in accordance with the formula prescribed in section 4(2)(a)(iii) of the Carbon Tax Act and using the net calorific value of the Non-Stationary / Mobile Source Category in Table 1 of Schedule 1 of that Act;
 - (iv) ‘F’ represents the basic tax-free allowance percentage of rebate item 692.01 specified in Part 6 of Schedule No. 6 in respect of IPCC Code 1A3 Transport activities listed in Schedule 2 of the Carbon Tax Act;
 - (v) ‘R’ represents the rate of environmental levy specified in Section F to Part 3 of Schedule No. 1; and
 - (vi) ‘D’ represents the density factor of diesel of 0.845 kilogram per litre.”

(2) Paragraphs (a) to (c) of subsection (1) come into operation on 1 March 2021.

Amendment of section 1 of Act 89 of 1991, as amended by section 21 of Act 136 of 1991, paragraph 1 of Government Notice 2695 of 8 November 1991, section 12 of Act 136 of 1992, section 1 of Act 61 of 1993, section 22 of Act 97 of 1993, section 9 of Act 20 of 1994, section 18 of Act 37 of 1996, section 23 of Act 27 of 1997, section 34 of Act 34 of 1997, section 81 of Act 53 of 1999, section 76 of Act 30 of 2000, section 64 of Act 59 of 2000, section 65 of Act 19 of 2001, section 148 of Act 60 of 2001, section 114 of Act 74 of 2002, section 47 of Act 12 of 2003, section 164 of Act 45 of 2003, section 43 of Act 16 of 2004, section 92 of Act 32 of 2004, section 8 of Act 10 of 2005, section 101 of Act 31 of 2005, section 40 of Act 9 of 2006, section 77 of Act 20 of 2006, sections 81 and 108 of Act 8 of 2007, section 104 of Act 35 of 2007, section 68 of Act 3 of 2008, section 104 of Act 60 of 2008, section 33 of Act 18 of 2009, section 119 of Act 7 of 2010, section 26 of Act 8 of 2010, section 129 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 108 of Schedule 1 to that Act, section 145 of Act 22 of 2012, section 165 of Act 31 of 2013, section 95 of Act 43 of 2014, section 128 of Act 25 of 2015, section 83 of Act 15 of 2016, section 77 of Act 17 of 2017, section 89 of Act 28 of 2018 and section 66 of Act 34 of 2019

61. (1) Section 1 of the Value-Added Tax Act, 1991, is hereby amended by the addition in subsection (1) to the proviso of the definition of “enterprise” of the following paragraph:

- “(xiii) where a person is neither a resident of the Republic, nor a registered vendor and that person supplies or intends to supply to a recipient solely the use or the right of use of ships, aircraft and rolling stock under any rental

agreement, that activity shall be deemed not to be the carrying on of an enterprise, notwithstanding that those goods are supplied for use in the Republic, if—

- (aa) the supply is made to a recipient that is a resident of the Republic;
- (bb) such goods are supplied for use by the recipient wholly or partly in the Republic; and
- (cc) the recipient and supplier have agreed in writing that the recipient shall—
 - (a) in terms of the Customs and Excise Act, enter such goods for home consumption and be liable for the payment of the tax imposed in accordance with section 7(1)(b) and section 13 of this Act; and
 - (b) not be reimbursed by the supplier of the movable goods in respect of the tax imposed under section 7(1)(b) of this Act;”.

(2) Subsection (1) comes into operation on 1 April 2021.

Amendment of section 8 of Act 89 of 1991, as amended by section 24 of Act 136 of 1991, paragraph 4 of Government Notice 2695 of 8 November 1991, section 15 of Act 136 of 1992, section 24 of Act 97 of 1993, section 11 of Act 20 of 1994, section 20 of Act 46 of 1996, section 25 of Act 27 of 1997, section 83 of Act 53 of 1999, section 67 of Act 19 of 2001, section 151 of Act 60 of 2001, section 166 of Act 45 of 2003, section 95 of Act 32 of 2004, section 102 of Act 31 of 2005, section 172 of Act 34 of 2005, section 42 of Act 9 of 2006, section 79 of Act 20 of 2006, section 27 of Act 36 of 2007, section 106 of Act 60 of 2008, section 91 of Act 17 of 2009, section 120 of Act 7 of 2010, section 131 of Act 24 of 2011, section 146 of Act 22 of 2012, section 166 of Act 31 of 2013, section 21 of Act 44 of 2014, section 129 of Act 25 of 2015, section 24 of Act 16 of 2016, section 78 of Act 17 of 2017, section 10 of Act 21 of 2018 and section 68 of Act 34 of 2019

62. (1) Section 8 of the Value-Added Tax Act, 1991, is hereby amended by the addition in subsection (25) of the following further proviso:

“: Provided further that this subsection shall not apply to a supply as contemplated in section 42 or 45 of the Income Tax Act, where such supplier and recipient have agreed in writing that the provisions of subsection (7) and section 11(1)(e) of this Act shall apply.”.

(2) Subsection (1) comes into operation on 1 April 2021.

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 and section 80 of Act 17 of 2017

63. (1) Section 10 of the Value-Added Tax Act, 1991, is hereby amended by the deletion of subsection (22A).

(2) Subsection (1) comes into operation on 1 April 2021.

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 and section 169 of Act 31 of 2013, 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 and section 54 of Act 34 of 2019

64. (1) Section 11 of the Value-Added Tax Act, 1991, is hereby amended by the addition in subsection (2) after paragraph (x) 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 international roaming services:”.

(2) Subsection (1) comes into operation on 1 April 2021.

Amendment of section 15 of Act 89 of 1991, as amended by paragraph 8 of Government Notice 2695 of 8 November 1991, section 20 of Act 136 of 1992, section 31 of Act 27 of 1997, section 90 of Act 30 of 1998, section 46 of Act 9 of 2006, section 37 of Act 21 of 2006, section 13 of Act 9 of 2007, section 271 read with paragraph 114 of Schedule 1 of Act 28 of 2011, section 172 of Act 31 of 2013, section 134 of Act 25 of 2015 and section 85 of Act 15 of 2016

65. (1) Section 15 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in section 15(2)(a) for subparagraph (vii) of the following subparagraph:

“(vii) carrying on an enterprise as contemplated in paragraph (b)(vi) and (vii) of the definition of ‘enterprise’ in section 1(1)”.

(2) Subsection (1) comes into operation on 1 April 2021.

Amendment of section 22 of Act 89 of 1991, as amended by section 33 of Act 136 of 1991, paragraph 13 of Government Notice 2695 of 8 November 1991, section 27 of Act 136 of 1992, section 25 of Act 37 of 1996, section 36 of Act 27 of 1997, section 95 of Act 30 of 1998, section 177 of Act 45 of 2003, section 110 of Act 31 of 2005, section 86 of Act 20 of 2006, section 140 of Act 24 of 2011, section 177 of Act 31 of 2013 and section 91 of Act 23 of 2018

66. (1) Section 22 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in the proviso to subsection (3) for the words preceding paragraph (ii)(dd)(AA) of the following words:

“within 12 months after the expiry of the tax period within which that deduction was made, not paid the full consideration, the vendor must account for output tax in terms of this section equal to the tax fraction at the rate applicable at the time of such deduction of that portion of the consideration which has not been paid—”.

(2) Subsection (1) comes into operation on 1 April 2021.

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 and section 90 of Act 17 of 2017 and section 76 of Act 34 of 2019

67. Section 1 of the Securities Transfer Tax Act, 2007, is hereby amended—

(a) by the substitution in subsection (1) in the definition of “lending arrangement” for paragraphs (c) and (d) of the following paragraphs:

“(c) that borrower is contractually required to compensate that lender for any distributions in respect of the listed security (or any other security that is substituted for that listed security in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited [Listing] Listings Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited [Listing] Listings Requirements) or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act which that lender would

- have been entitled to receive during that period had that arrangement not been entered into; and
- (d) that arrangement does not affect the lender's benefits or risks arising from fluctuations in the market value of the listed security (or any other security that is substituted for that listed security in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited **[Listing] Listings Requirements** in the Stock Exchange News Service as defined in the JSE Limited **[Listing] Listings Requirements**) or any bond issued by the government of the Republic in the national or local sphere or any sphere of government of any country other than the Republic if that bond is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule to the Income Tax Act,"; and
- (b) by the substitution in subsection (1) in the definition of "lending arrangement" for paragraph (ii) of the following paragraph:
- (ii) returned the identical security or bond contemplated in paragraph (b) to the lender within the period referred to in that paragraph other than if such failure to return such identical security or bond is due to an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited **[Listing] Listings Requirements** in the Stock Exchange News Service as defined in the JSE Limited **[Listing] Listings Requirements**;"

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 and section 15 of Act 22 of 2018

68. Section 8 of the Securities Transfer Tax Act, 2007, is hereby amended by the substitution in subsection (1) after paragraph (v) for the full stop of a semi-colon and the addition of the following paragraphs:

- "(w) if that security is transferred to any multinational organisation providing foreign donor funding in terms of an official development assistance agreement that is binding in terms of section 231(3) of the Constitution of the Republic of South Africa Act, 1996, to the extent—
- (i) the security is transferred pursuant to the organisation supplying goods or rendering services in relation to projects that are approved by the Minister; or
- (ii) that agreement provides that the transfer of that security to that organisation must be exempt; or
- (x) if that security is transferred to—
- (i) African Development Bank established on 10 September 1964;
- (ii) World Bank established on 27 December 1945 including the International Bank for Reconstruction and Development and International Development Association;
- (iii) International Monetary Fund established on 27 December 1945;
- (iv) African Import and Export Bank established on 8 May 1993;
- (v) European Investment Bank established on 1 January 1958 under the Treaty of Rome; or
- (vi) New Development Bank established on 15 July 2014."

Substitution of section 10 of Act 25 of 2007

69. The following section is hereby substituted for section 10 of the Securities Transfer Tax Act, 2007:

"Effect of certain exemptions from taxes.

10. No provision contained in any other law, other than a provision contained in any international agreement contemplated in section 231 of the Constitution, providing for an exemption from any tax shall be construed as applying or referring [, as the case may be,] to the tax payable in terms of this Act."

Amendment of section 9 of Act 26 of 2013, as amended by section 96 of Act 15 of 2016

70. (1) Section 9 of the Employment Tax Incentive Act, 2013, is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Any amount as contemplated in subsection (2) or (3) on the first day of the month following the end of the period for which the employer is required to render a return in terms of paragraph 14(3)(a) of the Fourth Schedule to the Income Tax Act, must be deemed to be nil in respect of each qualifying employee employed by the employer on that date.”.

(2) Subsection (1) is deemed to have come into operation on 31 July 2020.

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

71. (1) Section 13 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) comes into operation on 1 January [2016] 2022 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 and section 83 of Act 34 of 2019

72. (1) Section 15 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) comes into operation on 1 January [2016] 2022 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 and section 84 of Act 34 of 2019

73. Section 62 of the Taxation Laws Amendment Act, 2013, is hereby amended— 30

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

“(1) Section 23M of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (6) of the following subsection:

“(6) This section does not apply[—

(a)] to so much of the interest incurred by a debtor in respect of a debt owed to a creditor as contemplated in subsection (2) where—

(i) that creditor funded that debt amount advanced to that debtor with funding granted by a lending institution that is not in a controlling relationship with that debtor; and

(ii) that interest is determined with reference to a rate of interest that does not exceed the official rate of interest [as defined in paragraph 1 of the Seventh Schedule] plus 100 basis points[; or

(b) to any interest incurred by a debtor in respect of any linked unit that is held by a creditor as contemplated in subsection (2) where that creditor is a long-term insurer as defined in the Long-term Insurance Act, a pension fund or a provident fund, if—

(i) the long-term insurer, pension fund or provident fund holds at least 20 per cent of the linked units in that debtor; 50

(ii) the long-term insurer, pension fund or provident fund acquired those linked units before 1 January 2013; and

(iii) at the end of the previous year of assessment 80 per cent or more of the value of the assets of that debtor, reflected in the annual financial statements prepared in accordance with the Companies Act for the previous year of assess- 55

ment, is directly or indirectly attributable to immovable property].”; and

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

“(2) Subsection (1) comes into operation on 1 January [2016] 2022 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 3 of Act 25 of 2015

74. (1) Section 3 of the Taxation Laws Amendment Act, 2015 is hereby amended—

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

“(k) by the substitution in subsection (1) in paragraph (a) of the definition of “pension fund” for subparagraph (i) of the following subparagraph:

‘(i) any pension[, **provident**] or dependants’ fund or pension scheme established by law, other than the Government Employees Pension Fund, as contemplated in the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996);’ “;

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

(c) by the deletion in subsection (1) of paragraph (q) and (r); and

(d) by the substitution in subsection (1) for paragraph (u) of the following paragraph:

“(u) by the substitution in subsection (1) in the definition of ‘provident fund’ for the words preceding the proviso of the following words and paragraphs:

‘(a) **[any fund (other than a pension fund, pension preservation fund, provident preservation fund, benefit fund or retirement annuity fund) which is approved by the Commissioner in respect of the year of assessment in question and, in the case of any such fund established on or after 1 July 1986, is registered under the provisions of the Pension Funds Act;]** any provident fund established by law;

(b) any provident fund established for the benefit of the employees of any municipality or of any local authority (as defined in the definition of “local authority” in this section prior to the coming into operation of section 3(1)(h) of the Revenue Laws Amendment Act, 2006 (Act No. 20 of 2006), that was established prior to the date that section so came into operation); or

(c) any fund contemplated in subparagraph (b), which includes as members employees of any municipal entity created in accordance with the provisions of the Municipal Systems Act, 2000 (Act No. 32 of 2000), over which one or more municipalities or local authorities (as defined in section 1 prior to the coming into operation of section 3(1)(h) of the Revenue Laws Amendment Act, 2006, and that was established prior to the date that section so came into operation) exercise ownership control as contemplated by that Act, where such fund was established—

(aa) on or before 14 November 2000, and such employees were employees of a local authority (as defined in section 1 prior to the coming into operation of section 3(1)(h) of the Revenue Laws Amendment Act, 2006, and that was established prior to the date that section so came into operation) immediately prior to becoming employees of such municipal entity; or

(bb) after 14 November 2000, and such fund has been approved by the Commissioner subject to such limitations, conditions and requirements as contemplated in paragraph (c) of the definition of ‘provident fund’;

- (d) any fund (other than a pension fund, pension preservation fund, provident preservation fund, benefit fund or retirement annuity fund) which is approved by the Commissioner in respect of the year of assessment in question and, in the case of any such fund established on or after 1 July 1986, is registered under the provisions of the Pension Funds Act: “.

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

Amendment of section 1 of Act 2 of 2016, as amended by section 97 of Act 17 of 2017 and section 110 of Act 23 of 2018

75. (1) Section 1 of the Revenue Laws Amendment Act, 2016, is hereby amended by the substitution for subsection (1) of the following subsection:

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

- (a) by the addition in subsection (1) in the definition of ‘pension fund’ of the following proviso:

: Provided that the Commissioner may approve any fund contemplated in

- (c) subject to such limitations or conditions as he may determine, and shall not approve a fund in respect of any year of assessment unless the Commissioner is in respect of that year of assessment satisfied—

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

- (ii) that the rules of the fund provide—

(aa) that all annual contributions of a recurrent nature to the fund shall be in accordance with specified scales;

(bb) that membership of the fund throughout the period of employment shall be a condition of the employment by the employer of all persons of the class or classes specified therein who enter employment with that employer on or after the date upon which—

(A) the fund comes into operation; or

(B) the employer becomes a participant in that fund;

(cc) those persons who immediately prior to the said date were employed by the employer and who on the said date fall within the said class or classes may, upon application made, be permitted to become members of that fund on such conditions as may be specified in the rules;

(dd) that not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund or a retirement annuity fund: 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 5
- (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— 10
- (AA) any amount contributed to a provident fund or transferred to a provident preservation fund prior to 1 March 2021; 15
- (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 20
- (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), 25
- 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; 30
- (ee) that a partner of a partnership is regarded as an employee of the partnership; and
- (ff) that the Commissioner shall be notified of all amendments of the rules; and 35
- (iii) that the rules of the fund have been complied with:;
- (b) by the substitution in subsection (1) in the definition of 'pension preservation fund' for paragraph (e) of the proviso of the following paragraph: 40
- '(e) not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000 or where the member is deceased: Provided that in determining the value of the retirement interest an amount calculated as follows must not be taken into account— 45
- (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; 50
- (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 55
- (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); 60
- (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 and after 1 March 2021;';
- (c) by the substitution in subsection (1) in the definition of 'provident fund' for **[paragraph (b)] paragraphs (a) and (b)** of the proviso of the following **[paragraph] paragraphs:**
- [(a)] (i)** that the fund is a permanent fund bona fide established solely for the purpose of providing benefits for employees on retirement date or solely for the purpose of providing benefits for the dependants or nominees of deceased employees or deceased former employees or solely for a combination of such purposes or mainly for the said purpose and also for the purpose of providing any benefit contemplated in paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and
- [(b)] (ii)** that the rules of the fund provide—
- [(i) contain provisions similar in all respects to those required to be contained in the rules of a pension fund in terms of subparagraphs (aa), (bb), (cc), (ee) and (ff) of paragraph (ii) of the proviso to paragraph (c) in the definition of "pension fund";**
- [(ii) may provide for an employee who elects to transfer the withdrawal interest to a pension fund established by the same employer or a pension fund in which that employer participates; and**
- [(iii) may provide for the employee to elect to transfer the retirement interest to a pension preservation fund, provident preservation fund or retirement annuity fund; and]**
- (aa)** that all annual contributions of a recurrent nature to the fund shall be in accordance with specified scales;
- (bb)** that membership of the fund throughout the period of employment shall be a condition of the employment by the employer of all persons of the class or classes specified therein who enter the employment of the employer on or after the date upon which—
- (a)** the fund comes into operation; or
- (b)** the employer becomes a participant in that fund;
- (cc)** that person who immediately prior to the said date were employed by the employer and who on the said date fall within the said class or classes may, on application made, be permitted to become members of the fund on such conditions as may be specified in the rules;
- (dd)** that not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to

- a pension preservation fund, 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 subitem (BB);
- (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 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;
- (ee) that the employee may elect to transfer the withdrawal interest to a pension fund established by the same employer or a pension fund in which that employer participates;
- (ff) that a partner of a partnership is regarded as an employee of the partnership; and
- (iii) that the rules of the fund have been complied with:";
- (d) by the substitution in subsection (1) in the definition of 'provident preservation fund' for paragraph (e) of the following paragraph:
- (e) that not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity) except where two-thirds of the total value does not exceed R165 000 or where the member is deceased: Provided that in determining the value of the retirement interest an amount calculated as follows must not be taken into account—
- (a) in the case of a person who is 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;"; and
- (e) by the substitution in subsection (1) in the definition of 'retirement annuity fund' in paragraph (b) of the proviso for subparagraph (ii) of the following subparagraph:
- (a) in the case of a person who was a member of a provident fund or a 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 amounts 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 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 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 provident preservation fund prior to, on and after 1 March 2021;”.

(2) Subsection (1) is deemed to have come into operation on 20 May 2016. 5

Amendment of section 39 of Act 17 of 2017

76. (1) Section 39 of the Taxation Laws Amendment Act, 2017, is hereby amended by the deletion of paragraph (c).

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

Amendment of section 6 of Act 15 of 2019, as amended by section 93 of Act 34 of 2019

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

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

“Subject to [subsection] subsections (2) and (3), the amount of tax payable by a taxpayer in respect of a tax period must be calculated in accordance with the formula:”; and

(b) by the addition of the following subsection:

“(4) The amount of tax payable by a taxpayer that is a petroleum refinery in respect of a tax period must be calculated in accordance with the formula:

$$X = A - (B \times P)$$

in which formula—

(a) ‘X’ represents the amount to be determined that must not be less than zero;

(b) ‘A’ represents the amount of tax payable in respect of a tax period determined in terms of subsection (1);

(c) ‘B’ represents an amount of 0.56 cents per litre; and

(d) ‘P’ represents the total amount of petrol produced expressed in litres.”.

(2) Subsection (1) is deemed to have come into operation on 1 January 2020. 20

Amendment of section 37 of Act 34 of 2019

78. (1) Section 37 of the Taxation Laws Amendment Act, 2019, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Paragraphs (a) and (b) of subsection (1) come into operation on 1 January [2021] 2022 and apply in respect of years of assessment commencing on or after that date.”.

(2) Subsection (1) is deemed to have come into operation on 15 January 2020. 25

Amendment of section 51 of Act 34 of 2019

79. (1) Section 51 of the Taxation Laws Amendment Act, 2019, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) comes into operation on 1 March [2021] 2022.”.

(2) Subsection (1) is deemed to have come into operation on 15 January 2020. 30

Short title

80. This Act is called the Taxation Laws Amendment Act, 2020. 45

Printed by Creda Communications

ISBN 978-1-4850-0670-1