

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 36—2023]

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GENERAL EXPLANATORY NOTE:

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

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

BILL

To amend the Income Tax Act, 1962, so as to amend certain definitions; to amend certain provisions; to make new provision; to amend certain Schedules; to amend the Customs and Excise Act, 1964, so as to make provision for continuations; to amend certain Schedules; to amend the Value-Added Tax Act, 1991, so as to amend certain provisions; to amend certain Schedules; and to make provision for continuations; to amend the Mineral and Petroleum Resources Royalty Act, 2008, so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2011, so as to amend certain effective dates; to amend the Taxation Laws Second Amendment Act, 2011, so as to amend certain effective dates; to amend the Taxation Laws Amendment Act, 2012, so as to amend certain effective dates; to amend the Taxation Laws Amendment Act, 2013, so as to amend certain effective dates; to amend the Taxation Laws Amendment Act, 2014, so as to amend certain effective dates; to amend the Taxation Laws Amendment Act, 2015, so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2016, so as to amend certain effective dates; to amend the Carbon Tax Act, 2019, so as to amend certain provisions; and to amend certain Schedules; and to provide for matters connected therewith.

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

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

Government Notice 1503 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2001, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002, section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, section 3 of Act 16 of 2004, section 3 of Act 32 of 2004, section 3 of Act 32 of 2005, section 19 of Act 9 of 2006, section 3 of Act 20 of 2006, section 3 of Act 8 of 2007, section 5 of Act 35 of 2007, section 2 of Act 3 of 2008, section 4 of Act 60 of 2008, section 7 of Act 17 of 2009, section 6 of Act 7 of 2010, section 7 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 23 of Schedule 1 to that Act, section 2 of Act 22 of 2012, section 4 of Act 31 of 2013, section 1 of Act 43 of 2014, section 3 of Act 25 of 2015, section 5 of Act 15 of 2016, section 2 of Act 17 of 2017, section 1 of Act 23 of 2018, section 34 of Act 34 of 2019, section 2 of Act 23 of 2020, section 4 of Act 20 of 2021 and section 1 of Act 20 of 2022

1. (1) Section 1(1) of the Income Tax Act, 1962, is hereby amended—
- (a) by the addition to paragraph (a)(i) of the definition of “contributed tax capital” of the following proviso:
- “: Provided that the market value must be reduced by an amount equal to the difference between—
- (aa) the market value of the shares held by that foreign company in; and
- (bb) an amount equal to the percentage of shares held by that foreign company in a resident company, of the aggregate contributed tax capital in respect of each class of shares of, each resident company in which that foreign company directly holds at least 50 per cent of the equity shares or voting rights immediately before the date on which that foreign company becomes a resident;”;
- (b) by the substitution for the words preceeding subparagraph (ii)(dd) of the proviso to the definition of “pension fund” of the following words:
- “that not more than one-third of the total value of the retirement interest may be commuted for a single payment, and that the remainder must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension fund, pension preservation fund, provident fund, provident preservation fund or a retirement annuity fund;”;
- (c) by the substitution in subparagraph (ii)(dd) of the proviso to the definition of “pension fund” for subparagraph (CC) of paragraph (A) of the provision of the following subparagraph:
- “(CC) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in **[item (a)]** subparagraph (AA) or amounts credited contemplated in **[subitem (b)]** subparagraph (BB);”;
- (d) by the substitution in subparagraph (ii)(dd) of the proviso to the definition of “pension fund” for subparagraph (CC) of paragraph (B) of the following subparagraph:
- “(CC) any fund return, as defined in the Pension Funds Act, in relation to the contributions contemplated in **[item]** subparagraph (AA) or amounts credited contemplated in **[subitem]** subparagraph (BB);”;
- (e) by the substitution in subparagraph (ii) of the proviso to the definition of “pension fund” for subparagraph (ee) of the following subparagraph:
- “(ee) that a partner of a partnership is regarded as an employee of the partnership; **[and]**”;
- (f) by the addition in paragraph (ii) of the proviso to the definition of “pension fund” after subparagraph (ff) of the following subparagraph:
- “(gg) that an employee who has transferred a retirement interest in terms of paragraphs 2(1)(c) and 6A(d) of the Second Schedule to this fund shall not be entitled to payment of a withdrawal benefit as contemplated in paragraph 2(1)(b)(ii) of the Second Schedule in respect of that transferred amount; and”;

- (g) by the substitution for paragraph (d) of the proviso to the definition of “pension preservation fund” of the following paragraph:
“(d) a member, other than a member contemplated in paragraph [(a)(iii)](a)(vi) of this proviso, will become entitled to a benefit on his or her retirement date; and”;
- (h) by the substitution in paragraph (ii)(dd) of the proviso to the definition of “provident fund” for subparagraph (cc) of paragraph (a) of the proviso of the following subparagraph:
“(cc) any fund return, as defined in the Pension Funds Act, in relation to the contributions or transfers contemplated in [item] subparagraph (aa) or amounts credited contemplated in [subitem] subparagraph (bb);”;
- (i) by the substitution in paragraph (ii)(dd) of the proviso to the definition of “provident fund” for subparagraph (CC) of paragraph (B) of the proviso of the following subparagraph:
“(CC) any fund return, as defined in the Pension Funds Act, in relation to the contributions or transfers contemplated in [item] subparagraph (AA) or amounts credited contemplated in [subitem] subparagraph (BB);”;
- (j) by the addition in paragraph (ii) of the proviso to the definition of “provident fund” after subparagraph (ff) of the following subparagraph:
“(gg) that an employee who has transferred a retirement interest in terms of paragraphs 2(1)(c) and 6A(d) of the Second Schedule to this fund shall not be entitled to payment of a withdrawal benefit as contemplated in paragraph 2(1)(b)(ii) of the Second Schedule in respect of that transferred amount; and”;
- (k) by the substitution for paragraph (d) of the proviso to the definition of “provident preservation fund” of the following paragraph:
“(d) a member, other than a member contemplated in paragraph [(a)(iii)](a)(vi) of this proviso, will become entitled to a benefit on his or her retirement date;”;
- (l) by the substitution for the further proviso in paragraph (e) of the proviso to the definition of “provident preservation fund” of the following further proviso:
“Provided further that in the case where the remaining balance is utilised to provide or purchase more than one annuity, the amount utilised to provide or purchase each annuity must exceed R165 000 [;];”;
- (m) by the substitution in paragraph (b)(xii) of the proviso to the definition of “retirement annuity fund” for item (bb) of the following item:
“(bb) for the transfer of any member’s interest in any approved retirement annuity fund into another approved retirement annuity fund: Provided that the value of each individual contract being transferred must exceed R371 250: Provided further that—
(a) in the case where the total member’s interest in any approved retirement annuity fund is not transferred into another approved retirement annuity fund, the value of the member’s remaining interest after the transfer must exceed R371 250; and
(b) the provisions of the first proviso and paragraph (a) of the further proviso shall not apply in the case where the member’s total interest in any approved retirement annuity fund is transferred into another approved retirement annuity fund;”;
- (n) by the substitution for the definition of “retirement interest” of the following definition:
“**retirement interest**” means a member’s share of the value of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as determined in terms of the rules of the fund on the date on which he or she elects to retire or transfer to a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;”.

(2) Paragraph (a) of subsection (1) comes into operation on 1 January 2024 and applies in respect of any company that becomes a resident on or after that date.

(3) Paragraphs (c), (d), (h) and (i) of subsection (1) are deemed to have come into operation on 1 March 2022 and apply in respect of years of assessment commencing on or after that date.

(4) Paragraphs (b), (e), (f), (j) and (n) of subsection (1) come into operation on 1 March 2024 and apply in respect of years of assessment commencing on or after that date. 5

(5) Paragraphs (g), (k) and (l) of subsection (1) are deemed to have come into operation on 1 March 2021 and apply in respect of years of assessment commencing on or after that date.

(6) Paragraph (m) of subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of years of assessment commencing on or after that date. 10

Insertion of section 6C in Act 58 of 1962

2. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 6B:

“Solar energy tax credit 15

6C. (1) In determining the normal tax payable by any natural person, there must, subject to subsection 4, be deducted an amount to be known as the solar energy tax credit, equal to the amount of the rebate determined under subsection (2).

(2) (a) The solar energy tax credit applies in respect of the cost actually incurred by the natural person— 20

(i) for the acquisition of any new and unused solar photovoltaic panels, the generation capacity of each being not less than 275W; and

(ii) if the solar photovoltaic panels referred to in subparagraph (i) are brought into use for the first time, by that person on or after 1 March 2023 and before 1 March 2024. 25

(b) The amount of the solar energy tax credit allowed to the natural person referred to in paragraph (a) must—

(i) be 25 per cent of the actual cost of the solar photovoltaic panels described in paragraph (a); and 30

(ii) in aggregate be limited to an amount not exceeding R15 000.

(3) A solar energy tax credit will be allowed under subsection (1) only if—

(a) the solar panels are installed and mounted on or affixed to a residence mainly used for domestic purposes by the natural person referred to in subsection (2)(a); 35

(b) the installation is connected to the distribution board of such residence; and

(c) an electrical certificate of compliance contemplated in the Electrical Installation Regulations, 2009, is issued in respect of the installation referred to in paragraph (a). 40

(4) No deduction shall be allowed under this section on any asset in respect of which a deduction has been allowed to the taxpayer under section 12B or 12BA.”. 45

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 7C of Act 58 of 1962, as inserted by section 12 of Act 15 of 2016 and amended by section 5 of Act 17 of 2017, section 9 of Act 23 of 2018, section 4 of Act 34 of 2019, section 3 of Act 23 of 2020, section 5 of Act 20 of 2021 and section 3 of Act 20 of 2022 50

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

(a) by the insertion after subsection (3) of the following subsection:

“(3A) Where the amount to be treated as a donation in terms of subsection (3) is denominated in any currency other than that of the Republic, the person referred to in subsection (1), (1A) or (1B) must, for purposes of that subsection, translate that amount to the currency of the Republic by applying the average exchange rate for the year of 55

assessment in respect of which that amount is treated as a donation.”;
and

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

“(d) that trust or company used that loan, advance or credit wholly or partly for the purposes of funding the acquisition or improvement of an asset and—

- (i) the natural person referred to in subsection (1)(a) or (b) or the spouse of that person used that asset as a primary residence as contemplated in paragraph (b) of the definition of “primary residence” in paragraph 44 of the Eighth Schedule, where that primary residence and the land on which it is situated (including unconsolidated adjacent land) do not exceed two hectares are together used mainly for domestic or private purposes, throughout the period during that year of assessment during which that trust or company held that asset; and
- (ii) the amount owed relates to the part of that loan, advance or credit that funded the acquisition or improvement of that asset;”.

(2) Subsection (1) comes into operation on 1 January 2024 and applies in respect of years 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 item 30 of Schedule 1 to that Act, section 9 of Act 22 of 2012, section 9 of Act 31 of 2013, section 5 of Act 42 of 2014, section 5 of Act 43 of 2014, section 8 of Act 25 of 2015, section 8 of Act 17 of 2017, section 6 of Act 34 of 2019 and section 4 of Act 23 of 2020.

4. (1) Section 8 of the Income Tax Act, 1962, is hereby amended by the insertion after paragraph (n) of subsection 4 of the following paragraph:

“(nA) Where, before 1 March 2026, a taxpayer disposes of an asset contemplated in section 12BA, there shall be included in the taxpayer’s income 25 per cent of the cost of that asset, which has been recouped during the current year of assessment, in addition to the inclusion of amounts in terms of paragraph (a), but limited to the total amount allowed to be deducted in respect of that asset.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after that date.

Amendment of section 8EA of Act 58 of 1962, as inserted by section 12 of Act 22 of 2012 and amended by section 11 of Act 31 of 2013, section 7 of Act 43 of 2014, section 15 of Act 15 of 2016, section 10 of Act 17 of 2017, section 13 of Act 23 of 2018 and section 9 of Act 24 of 2019

5. (1) Section 8EA of the Income Tax Act, 1962, is hereby amended by the addition to subsection (3) of the following proviso:

“: Provided that where an equity share in an operating company is acquired by any person as contemplated in paragraph (a) or (b) of the definition of “qualifying

purpose” and the share so acquired is no longer held directly or indirectly by that person at the time of the receipt or accrual of that dividend or foreign dividend in respect of the preference share, this subsection must not apply, unless—

- (a) that equity share in the operating company was disposed of and the funds derived from that disposal are used by the issuer of the preference share for the redemption of that preference share within 90 days of that disposal; or
- (b) that equity share in the operating company was a listed share and substituted for a listed share in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listings Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listings Requirements or a corporate action as contemplated in the listings requirements of any other exchange, licensed under the Financial Markets Act, that are substantially the same as the requirements prescribed by the JSE Limited Listings Requirements, where that corporate action complies with the applicable requirements of that exchange.”.

(2) Subsection (1) comes into operation on 1 January 2024 and applies in respect of any dividend or foreign dividend received or accrued during years of assessment commencing on or after the date.

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, section 16 of Act 23 of 2018 and section 5 of Act 23 of 2020

6. Section 9 of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (2) for paragraph (k) of the following paragraph:

“(k) constitutes an amount received or accrued in respect of the disposal of an asset other than an asset contemplated in paragraph (j) if—

- (i) that person is a resident and—
 - (aa) that asset is not effectively connected [with] to a permanent establishment of that person which is situated outside the Republic; and
 - (bb) the proceeds from the disposal of that asset are not subject to any taxes on income payable to any sphere of government of any country other than the Republic; or
- (ii) that person is not a resident and that asset is effectively connected [with] to a permanent establishment of that person which is situated in the Republic; or”;

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

“(l) is attributable to any exchange difference determined in terms of section 24I in respect of any exchange item as defined in that section to which that person is a party if—

- (i) that person is a resident and—
 - (aa) that exchange item is not [attributable] effectively connected to a permanent establishment of that person which is situated outside the Republic; and
 - (bb) that amount is not subject to any taxes on income payable to any sphere of government of any country other than the Republic; or
- (ii) that person is not a resident and that exchange item is [attributable] effectively connected to a permanent establishment of that person which is situated in the Republic.”.

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, section 10 of Act 34 of 2019, section 6 of Act 23 of 2020, section 10 of Act 20 of 2021 and section 4 of Act 20 of 2022

7. (1) Section 9D of the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (ii) of paragraph (d) of the proviso to subsection (2A) of the following subparagraph: 5

“(ii) “B” represents the ratio of the number 20 to the number [28] 27;”.

(2) Subsection (1) is deemed to have come into operation on 31 March 2023 and applies in respect of years of assessment ending on or after that date. 10

Amendment of section 9H of Act 58 of 1962, as substituted by section 17 of Act 22 of 2012 and amended by section 21 of Act 31 of 2013, section 13 of Act 43 of 2014, section 21 of Act 15 of 2016, section 7 of Act 23 of 2020 and section 11 of Act 20 of 2021

8. Section 9H of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4) for paragraph (c) for the following paragraph: 15

“(c) any asset which is, after the person ceases to be a resident or a controlled foreign company as contemplated in subsection (2) or (3), [attributable] effectively connected to a permanent establishment of that person in the Republic;”.

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, section 13 of Act 34 of 2019, section 10 of Act 23 of 2020 and section 5 of Act 20 of 2022

9. (1) Section 10(1) of the Income Tax Act is hereby amended— 50

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

“(gA) any disability pension paid under section 2 of the [Social Assistance Act, 1992 (Act No. 59 of 1992)] Social Assistance Act, 2004 (Act No. 13 of 2004);”;

(b) by the substitution in paragraph (t) for subparagraph (xvii) of the following subparagraph: 55

“(xvii) of the National Housing Finance Corporation established in 1996 by the National Department of Human Settlements[:];”;

- (c) by the insertion in paragraph (t) after subparagraph (xvii) of the following subparagraph:

“(xviii) of the Corporation for Deposit Insurance established in terms of section 166AE of the Financial Sector Regulation Act.”.

- (2) Paragraphs (b) and (c) of subsection (1) come into operation on 1 April 2024 and applies in respect of years of assessment ending on or after that date. 5

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, section 23 of Act 23 of 2018, section 11 of Act 23 of 2020 and section 6 of Act 20 of 2022 10

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

- (a) by the substitution in subsection (3)(b)(ii)(bb) for the words following subitem (B) of the following words:

“the ratio of the number [8] 7 to the number [28] 27; or”; 15

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

“(4) Subsections (2)(a), [and] (2)(b), (2)(d) and (3) do not apply in respect of any foreign dividend received by or accrued to any person[— [(a)] if—

- (a) (i) any amount of that foreign dividend is determined directly or indirectly with reference to; or 20

- (ii) that foreign dividend arises directly or indirectly from any amount paid or payable by any person to any other person; and

- (b) the amount so paid or payable is deductible from the income of the person by whom it is paid or payable and— 25

- (i) is not subject to normal tax in the hands of the other person contemplated in subparagraph (i); and

- (ii) where that other person contemplated in subparagraph (i) is a controlled foreign company, is not taken into account in determining the net income, contemplated in section 9D(2A), of that controlled foreign company, 30

unless the amount so paid or payable is paid or payable as consideration for the purchase of trading stock by the person by whom the amount is paid or payable [;], or the foreign dividend is declared from profits where less than 20 per cent of the profits were generated from transactions with persons that deducted the amount so paid or payable from income[; or 35

- (b) from any portfolio contemplated in paragraph (e)(ii) of the definition of ‘company’ in section 1].”; and

- (c) by the insertion after subsection (4) of the following subsection: 40

“(4A) Subsection (2)(a) and (b) do not apply in respect of any foreign dividend received by or accrued to any person from any portfolio contemplated in paragraph (e)(ii) of the definition of ‘company’ in section 1.”.

- (2) Paragraph (a) of subsection (1) is deemed to have come into operation on 31 March 2023 and applies in respect of years of assessment ending on or after that date. 45

- (3) Paragraphs (b) and (c) of subsection (1) come into operation on 1 January 2024 and apply in respect of dividends or foreign dividends received or accrued on or after that date.

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, 50
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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, section 15 of Act 34 of 2019, section 13 of Act 23 of 2020 and section 8 of Act 20 of 2022

11. (1) Section 11 of the Income Tax Act, 1962, is hereby amended— 15

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

“save as provided in paragraph 12(2) of the First Schedule, such sum as the Commissioner may think just and reasonable as representing the amount by which the value of any machinery, plant, implements, utensils and articles (other than machinery, plant, implements, utensils and articles in respect of which a deduction may be granted under section 12B, 12BA, 12C, 12DA, 12E(1), 12U or 37B) owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement contemplated in paragraph (a) of the definition of “instalment credit agreement” in section 1 of the Value-Added Tax Act and used by the taxpayer for the purpose of his or her trade has been diminished by reason of wear and tear or depreciation during the year of assessment.”; and

(b) by the substitution in paragraph (o) for subparagraph (i) of the following subparagraph: 30

“(i) which qualified for an allowance or deduction in terms of section 11(e), 11D, 12B, 12BA, 12C, 12DA, 12E or 37B(2)(a); and”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after 1 March 2023. 35

Amendment of section 11D of Act 58 of 1962, as inserted by section 13 of Act 20 of 2006 and amended by sections 13 and 99 of Act 8 of 2007, section 3 of Act 9 of 2007, section 19 of Act 35 of 2007, section 11 of Act 3 of 2008, section 19 of Act 60 of 2008, section 16 of Act 17 of 2009, section 20 of Act 7 of 2010, section 32 of Act 24 of 2011, section 1 of Act 25 of 2011, section 271 of Act 28 of 2011, read with item 34 of Schedule 1 to that Act, sections 5 and 35 of Act 21 of 2012, section 68 of Act 22 of 2012, section 29 of Act 31 of 2013, section 18 of Act 43 of 2014 and section 27 of Act 15 of 2016 40

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

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

“For the purposes of this section “**scientific or technological research and development**” means systematic investigative or systematic experimental activities [**of which the result is uncertain**] aimed at resolving scientific or technological uncertainty and the resolution of which is not readily deducible by a person skilled in the relevant scientific or technological field for the purpose of—”; 50

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

“(a) discovering [**non-obvious**] new scientific or technological knowledge.”; 55

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

“(b) creating or developing new or significantly improved products, processes or services[—

(i) an invention as defined in section 2 of the Patents Act;

(ii) a functional design— 60

- (aa) as defined in section 1 of the Designs Act, capable of qualifying for registration under section 14 of that Act; and
- (bb) that is innovative in respect of the functional characteristics or intended uses of that functional design; 5
- (iii) a computer program as defined in section 1 of the Copyright Act which is of an innovative nature; or
- (iv) knowledge essential to the use of such invention, functional design or computer program other than creating or developing operating manuals or instruction manuals or documents of a similar nature intended to be utilised in respect of that invention, functional design or computer program subsequent to the research and development being implemented; or];”;
- (d) by the deletion of paragraph (c); 15
- (e) by the substitution for paragraph (d) for the following paragraph:
 “(d) creating or developing a multisource pharmaceutical product, as defined in the World Health Organisation Technical Report Series, No 937, 2006 Annex 7 Multisource (generic) pharmaceutical products: guidelines on registration requirements to establish interchangeability issued by the World Health Organisation, conforming to [such] Regulation 344 of 23 April 2015 and any requirements as must be prescribed by regulations made by the Minister after consultation with the Minister [for] of Higher Education, Science and [Technology] Innovation; or”;
- (f) by the substitution for paragraph (e) of the following paragraph:
 “(e) conducting a clinical trial as defined in Appendix F of the Guidelines for good practice in the conduct of clinical trials with human participants in South Africa issued by the Department of Health (2006), conforming to [such] Regulation 346 of 23 April 2015 and any requirements as must be prescribed by regulations made by the Minister after consultation with the Minister [for] of Higher Education, Science and [Technology] Innovation;”;
- (g) by the substitution in the proviso to the definition of “research and development” for the words preceding paragraph (a) of the following words:
 “Provided that for the purposes of this definition, “scientific or technological research and development” does not include activities for the purpose of— ”;
- (h) by the deletion of paragraph (b) of the proviso to the definition of “scientific or technological research and development”; 40
- (i) by the substitution in subsection (2)(a) for the words preceding subparagraph (i) of the following words:
 “For the purposes of determining the taxable income of a taxpayer that is a company in respect of any year of assessment there shall be allowed as a deduction from the income of that taxpayer an amount equal to 150 per cent of so much of any expenditure actually incurred by that taxpayer directly and solely in respect of the carrying on of scientific or technological research and development in the Republic if—”;
- (j) by the substitution in subsection (2)(a) for subparagraph (iii) of the following subparagraph:
 “(iii) that scientific or technological research and development is approved in terms of subsection (9); and”;
- (k) by the substitution in subsection (2)(a) for subparagraph (iv) of the following subparagraph:
 “(iv) that expenditure is incurred within six months prior to or on or after the date of receipt of the application by the Department of Science and [Technology] Innovation for approval of that scientific or technological research and development in terms of subsection (9).”;
- (l) by the substitution in subsection (2)(b) for subparagraph (i) of the following subparagraph:
 “(i) immovable property, machinery, plant, implements, utensils or articles excluding any prototype or pilot plant created solely for

- the purpose of the process of scientific or technological research and development and that prototype or pilot plant is not intended to be utilised or is not utilised for production purposes after that scientific or technological research and development is completed.”; 5
- (m) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:
 “Where any amount of expenditure is incurred by a taxpayer to fund expenditure of another person carrying on scientific or technological research and development on behalf of that taxpayer, the taxpayer may deduct an amount contemplated in subsection (2)—”; 10
- (n) by the substitution in subsection (4) for paragraph (a) of the following paragraph:
 “(a) if that scientific or technological research and development is approved by the Minister of Higher Education, Science and [Technology] Innovation in terms of subsection (9);”; 15
- (o) by the substitution in subsection (4) for paragraph (b) of the following paragraph:
 “(b) if that expenditure is incurred in respect of scientific or technological research and development carried on by that taxpayer;”; 20
- (p) by the substitution in subsection (4) for paragraph (c) of the following paragraph:
 “(c) to the extent that the other person carrying on the scientific or technological research and development is—
 (i) (aa) an institution, board or body that is exempt from normal tax under section 10(1)(cA); or
 (bb) the Council for Scientific and Industrial Research; or
 (ii) a company forming part of the same group of companies, as defined in section 41, if the company that carries on the scientific or technological research and development does not claim a deduction under subsection (2); and”; 25
- (q) by the substitution in subsection (4) for paragraph (d) of the following paragraph:
 “(d) if that expenditure is incurred within six months prior to or on or after the date of receipt of the application by the Department of Science and [Technology] Innovation for approval of that scientific or technological research and development in terms of subsection (9).”; 30
- (r) by the substitution for subsection (5) of the following subsection:
 “(5) Where a company funds expenditure incurred by another company contemplated in subsection (4)(c)(ii), any deduction under that subsection by the company that funds the expenditure must be limited to an amount of 150 per cent of the actual expenditure incurred directly and solely in respect of that scientific or technological research and development carried on by the other company that is being funded.”; 45
- (s) by the substitution for subsection (6) of the following subsection:
 “(6) For the purposes of subsections (2) and (4)—
 (a) a person carries on scientific or technological research and development if that person may determine or alter the methodology of the research;
 (b) notwithstanding paragraph (a), certain categories of scientific or technological research and development designated by the Minister in Regulation 343 of 23 April 2015 or by notice in the *Gazette* are deemed to constitute the carrying on of scientific or technological research and development.”; 50
- (t) by the substitution for subsection (7) of the following subsection:
 “(7) Where any amount is received by or accrues to a taxpayer from—
 (a) a department of the Government of the Republic in the national, provincial or local sphere;
 (b) a public entity that is listed in Schedule 2 or 3 to the Public Finance Management Act; or
 (c) a municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), 60

to fund expenditure in respect of any scientific or technological research and development, an amount equal to the amount that is funded must not be taken into account for purposes of the deduction under subsection (2) or (4).”;

- (u) by the substitution for subsection (9) of the following subsection: 5
 “(9) The Minister of Higher Education, Science and [Technology] Innovation or a person appointed by the Minister of Higher Education, Science and [Technology] Innovation must approve any scientific or technological research and development being carried on or funded for the purposes of subsections (2) and (4) having regard to— 10
- (a) whether the taxpayer has proved to the committee that the scientific or technological research and development in respect of which the approval is sought complies with the criteria contemplated in the definition of “scientific or technological research and development” in subsection (1)(j), **[and]** 15
- (b) . . .
- (c) such other criteria as the Minister of Finance in consultation with the Minister of Higher Education, Science and [Technology] Innovation may prescribe by regulation; and
- (d) the application for approval of the project being submitted by the taxpayer and received by the Minister of Higher Education, Science and Innovation in such form and containing such information as the Minister of Higher Education, Science and Innovation may prescribe.”; 20
- (v) by the substitution for subsection (10) of the following subsection: 25
 “(10) If scientific or technological research and development is approved under subsection (9) and —
- (a) any material fact changes which would have had the effect that approval under subsection (9) would not have been granted had that fact been known to the Minister of Higher Education, Science and [Technology] Innovation at the time of granting approval; 30
- (b) the taxpayer carrying on that scientific or technological research and development fails to submit a report to the committee as required by subsection (13); or
- (c) the taxpayer carrying on that scientific or technological research and development is guilty of fraud, or misrepresentation or non-disclosure of material facts which would have had the effect that approval under subsection (9) would not have been granted, the Minister of Higher Education, Science and [Technology] Innovation may, after taking into account the recommendations of the committee, withdraw the approval granted in respect of that scientific or technological research and development with effect from a date specified by that Minister.”; 40
- (w) by the substitution for subsection (11) of the following subsection: 45
 “(11) (a) A committee must be appointed for the purposes of approving scientific or technological research and development under subsection (9) consisting of—
- (i) three persons employed by the Department of Science and [Technology] Innovation appointed by the Minister of Higher Education, Science and [Technology] Innovation; 50
- (ii) one person employed by the National Treasury, appointed by the Minister of Finance; and
- (iii) three persons from the South African Revenue Service, appointed by the Minister of Finance.
- (b) The Minister of Higher Education, Science and [Technology] Innovation or the Minister of Finance may appoint alternative persons to the committee if a person appointed in terms of paragraph (a) is not available to perform any function as a member of the committee. 55
- (c) If any person is appointed as an alternative in terms of paragraph [(a)] (b), that person may perform the function of any other person from the Department of Science and [Technology] Innovation, or the South African Revenue Service in respect of which institution that person is appointed as alternative.”; 60

- (x) by the substitution for subsection (12) of the following subsection:
- “(12) (a) The committee appointed in terms of subsection (11) must perform its function impartially and without fear, favour or prejudice.
- (b) The committee may—
- (i) appoint its own chairperson and determine the procedures for its meetings; 5
- (ii) evaluate any application and make recommendations to the Minister of Higher Education, Science and [Technology] Innovation for purposes of the approval of scientific or technological research and development approved under subsection (9); 10
- (iii) investigate or cause to be investigated scientific or technological research and development approved under subsection (9);
- (iv) monitor all scientific or technological research and development approved under subsection (9)—
- (aa) to determine whether the objectives of this section are being 15
achieved; and
- (bb) to advise the Minister of Finance and Minister of Higher Education, Science and [Technology] Innovation on any future proposed amendment or adjustment of this section;
- (v) for a specific purpose and on the conditions and for the period as 20
it may determine, obtain the assistance of any person to advise the committee relating to any function assigned to that committee in terms of this section; and
- (vi) require any taxpayer applying for approval of scientific or technological research and development in terms of subsection 25
(9), to furnish any information or documents necessary for the Minister of Higher Education, Science and [Technology] Innovation and the committee to perform their functions in terms of this section.”;
- (y) by the substitution for subsection (13) of the following subsection: 30
- “(13) A taxpayer carrying on scientific or technological research and development approved under subsection (9) must report to the committee annually with respect to—
- (a) the purposes of that scientific or technological research and 35
development; and
- (b) the extent to which that scientific or technological research and development requires specialised skills,
within 12 months after the close of each year of assessment, starting with the year following the year in which approval is granted under subsection 40
(9) in the form and in the manner that the Minister of Higher Education, Science and [Technology] Innovation may prescribe.”;
- (z) by the substitution for subsection (14) of the following subsection:
- “(14) Notwithstanding Chapter 6 of the Tax Administration Act, the Commissioner may disclose to the Minister of Higher Education, Science and [Technology] Innovation information in relation to scientific or technological research and development— 45
- (a) as may be required by that Minister for the purposes of submitting a report to Parliament in terms of subsection (17); **[and]**
- (b) if that information is material in respect of the granting of approval under subsection (9) or a withdrawal of that approval in terms of 50
subsection (10) [.] and
- (c) as may be required to fulfil the duties as contemplated in subsection (12)(iv).”;
- (zA) by the substitution for subsection (16) of the following subsection:
- “(16) The Minister of Higher Education, Science and [Technology] 55
Innovation or the person appointed by the Minister of Higher Education, Science and [Technology] Innovation contemplated in subsection (9) must—
- (a) provide written reasons for any decision to grant or deny any application for approval of any scientific or technological research 60
and development under subsection (9), or for any withdrawal of approval contemplated in subsection (10);

- (b) inform the Commissioner of the approval of any scientific or technological research and development under subsection (9), setting out such particulars as are required by the Commissioner to determine the amount of the deduction in terms of subsection (2) or (4); and 5
- (c) inform the Commissioner of any withdrawal of approval in terms of subsection (10) and of the date on which that withdrawal takes effect.”;

(zB) by the substitution for subsection (17) of the following subsection:

“(17) The Minister of Higher Education, Science and [Technology] Innovation must annually submit a report to Parliament advising Parliament of the direct benefits of the scientific or technological research and development in terms of economic growth, employment and other broader government objectives and the aggregate expenditure in respect of such activities without disclosing the identity of any person.”; 10 15

(zC) by the substitution for subsection (18) of the following subsection:

“(18) Every employee of the Department of Science and **[Technology]** Innovation, every member of the committee appointed in terms of subsection (11) and any person whose assistance has been obtained by that committee— 20

- (a) must preserve and aid in preserving secrecy with regard to all matters that may come to their knowledge in the performance of their functions in terms of this section; and
- (b) may not communicate any such matter to any person whatsoever other than to the taxpayer concerned or its legal representative, nor allow any such person to have access to any records in the possession or custody of the Department of Science and **[Technology]** Innovation or committee except in terms of the law or an order of court.”; 25 30

(zD) by the substitution for subsection (19) of the following subsection:

“(19) The Commissioner may, notwithstanding the provisions of section 99 and 100 of the Tax Administration Act, raise an additional assessment for any year of assessment with respect to a deduction in respect of scientific or technological research and development which has been allowed, where approval has been withdrawn in terms of subsection (10).”;

(zE) by the substitution for subsection (20) of the following subsection:

“(20) (a) A taxpayer may, notwithstanding Chapter 8 of the Tax Administration Act, apply to the Commissioner to allow all deductions provided for under this section in respect of scientific or technological research and development if— 40

- (i) expenditure in respect of that scientific or technological research and development was incurred within six months prior to or on or after the date of receipt of an application by the Department of Science and **[Technology]** Innovation for the approval of that scientific or technological research and development; 45
- (ii) that application was not allowable in respect of a year of assessment solely by reason of the absence of approval of that scientific or technological research and development under subsection (9); and 50
- (iii) that scientific or technological research and development is approved in terms of subsection (9) after that year of assessment.

(b) The Commissioner may, notwithstanding the provisions of section 99 and 100 of the Tax Administration Act, make a reduced assessment for a year of assessment where expenditure incurred during that year in respect of scientific or technological research and development would have been allowable as a deduction in terms of this section had the approval in terms of subsection (9) been granted during that year of assessment.”; and 55 60

(zF) by the addition after subsection (20) of the following subsections:

“(21) Any person who contravenes the provisions of subsection (18) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(22) No deduction shall be allowed under this section in respect of applications received after 31 December 2033.” 5

(2) Subsection (1) comes into operation on 1 January 2024 and applies in respect of applications received and expenditure incurred on or after that date.

Amendment of section 11F of Act 58 of 1962, as inserted by section 21 of Act 17 of 2017 and amended by section 26 of Act 23 of 2018 10

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

(a) by the addition to subsection (2)(a) of the following proviso:

“: Provided that where any person’s year of assessment is less than a period of 12 months, the aggregate of amounts that shall be allowed as deductions under this paragraph for years of assessment during the period of 12 months commencing in March and ending at the end of February of the immediately following calendar year, must not exceed R350 000;”; and 15

(b) by the substitution in subsection (4) for paragraph (b) of the following paragraph: 20

“(b) to the extent that the amount has been included in the income of that person, to have been contributed by that person.”.

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

Insertion of section 11G in Act 58 of 1962 25

14. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 11F:

“Deduction of expenses incurred in production of interest

11G. (1) For purposes of this section—

“**interest**” means interest as defined in section 24J. 30

(2) For purposes of determining the taxable income derived by any person, there shall be allowed as a deduction from the income of that person, interest incurred by that person to the extent that the interest—

(a) is incurred in the production of interest that is included in the income of that person; and 35

(b) is not incurred in carrying on a trade.

(3) The amount allowed to be deducted under this section shall not exceed the amount of interest income referred to in subsection (2)(a), that is received by or accrued to the person, during the year of assessment.”. 40

(2) Subsection (1) comes into operation on 1 January 2025 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 12B of Act 58 of 1962, as inserted by section 11 of Act 90 of 1988 and amended by section 13 of Act 101 of 1990, section 10 of Act 113 of 1993, section 6 of Act 140 of 1993, section 13 of Act 28 of 1997, section 17 of Act 59 of 2000, section 11 of Act 16 of 2004, section 7 of Act 9 of 2005, section 19 of Act 31 of 2005, section 21 of Act 35 of 2007, section 18 of Act 17 of 2009, section 23 of Act 22 of 2012, section 31 of Act 31 of 2013, section 19 of Act 25 of 2015, section 28 of Act 15 of 2016, section 22 of Act 17 of 2017 and section 16 of Act 34 of 2019 45

15. (1) Section 12B of the Income Tax Act, 1962, is hereby amended— 50

(a) by the substitution in subsection (4) for paragraphs (f) and (g) of the following paragraphs:

“(f) any asset in respect of which an allowance has been granted to the taxpayer under section 12E; [or]

- (g) any asset the ownership of which is retained by the taxpayer as a seller 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[.]; or”; and
- (b) by the addition in subsection (4) after paragraph (g) of the following paragraph: 5
“(h) any asset in respect of which a deduction has been allowed to the taxpayer under section 6C or 12BA.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2023.

Insertion of section 12BA in Act 58 of 1962 10

16. (1) The following section is hereby inserted in the Income Tax Act, 1962, after section 12B:

“Enhanced deduction in respect of certain machinery, plant, implements, utensils and articles used in production of renewable energy 15

12BA. (1) In respect of any new and unused machinery, plant, implement, utensil, or article owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement contemplated in paragraph (a) of the definition of “instalment credit agreement” in section 1 of the Value-Added Tax Act and which was or is brought into use for the first time by that taxpayer for the purpose of that taxpayer’s trade on or after 1 March 2023 and before 1 March 2025, to be used by that taxpayer or the lessee of that taxpayer, in the generation of electricity in the Republic from— 20

- (a) wind power; 25
 (b) photovoltaic solar energy;
 (c) concentrated solar energy;
 (d) hydropower to produce electricity; or

(e) biomass comprising organic wastes, landfill gas or plant material, a deduction calculated in terms of subsection (2) shall be allowed in respect of the year of assessment during which the abovementioned assets are brought into use: Provided that where any machinery, plant, implement, utensil or article for which a deduction is allowed under this subsection is mounted on or affixed to any concrete or other foundation or supporting structure and— 30

- (i) the foundation or supporting structure is designed for such machinery, plant, implement, utensil or article and constructed in such manner that it is or should be regarded as being integrated with the machinery, plant, implement, utensil or article; and 35
 (ii) the useful life of the foundation or supporting structure is or will be limited to the useful life of the machinery, plant, implement, utensil or article mounted thereon or affixed thereto, 40

the foundation or supporting structure shall be deemed to be part of the machinery, plant, implement, utensil or article mounted thereon or affixed thereto. 45

(2) The deduction contemplated in subsection (1) is equal to an amount of 125 per cent of the cost incurred by the taxpayer for the acquisition of the asset.

(3) For the purposes of this section, the cost to a taxpayer of any asset acquired by that taxpayer shall be deemed to be the lesser of the actual cost to the taxpayer or the cost which a person would, if that person had acquired the asset under a cash transaction concluded at arm’s length on the date which the transaction for the acquisition of the asset was in fact concluded, have incurred in respect of the direct cost of acquisition of the asset, including the direct cost of the installation or erection thereof. 50 55

(4) No deduction shall be allowed under this section in respect of—
 (a) any asset the ownership of which is retained by the taxpayer as a seller 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; or

(b) any asset brought into use after 28 February 2025.”

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after that date.

Amendment of section 12E of Act 58 of 1962, as inserted by section 12 of Act 19 of 2001 and amended by section 17 of Act 30 of 2002, section 21 of Act 74 of 2002, section 37 of Act 12 of 2003, section 31 of Act 45 of 2003, section 9 of Act 9 of 2005, section 21 of Act 31 of 2005, section 24 of Act 9 of 2006, section 14 of Act 20 of 2006, section 15 of Act 8 of 2007, section 25 of Act 35 of 2007, section 13 of Act 3 of 2008, section 23 of Act 60 of 2008, section 21 of Act 17 of 2009, section 23 of Act 7 of 2010, section 34 of Act 24 of 2011, section 25 of Act 22 of 2012, section 7 of Act 23 of 2013, section 35 of Act 31 of 2013, section 20 of Act 43 of 2014, section 21 of Act 25 of 2015, section 29 of Act 15 of 2016 and section 26 of Act 17 of 2017

17. (1) Section 12E of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (3A) of the following subsection:

“(3B) No deduction shall be allowed under this section in respect of any asset in respect of which an allowance has been granted to the taxpayer under section 12BA.”

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after that date.

Amendment of section 12N of Act 58 of 1962, as inserted by section 29 of Act 7 of 2010 and amended by section 31 of Act 31 of 2013, section 24 of Act 43 of 2014 and section 30 of Act 23 of 2018

18. (1) Section 12N of the Income Tax Act, 1962, is hereby amended in subsection (1) by the substitution for the words following paragraph (e) of the following words:

“the taxpayer must for purposes of any deduction contemplated in section 11D, 12B, 12BA, 12C, 12D, 12F, 12I, 12S, 13, 13ter, 13quat, 13quin, 13sex, or 36, and for the purposes of the Eighth Schedule, be deemed to be the owner of the improvement so completed.”

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after that date.

Amendment of section 12P of Act 58 of 1962, as inserted by section 33 of Act 22 of 2012, amended by section 26 of Act 25 of 2015 and section 33 of Act 15 of 2016

19. (1) Section 12P of the Income Tax Act, 1962, is hereby amended by the addition of the following proviso to subsection (4):

“: Provided that where a person referred to in this subsection qualifies for a deduction under section 12BA in respect of an allowance asset, the aggregate amount of the deductions or allowances allowable to that person in respect of that allowance asset may not exceed an amount equal to 125 per cent of the aggregate amount otherwise determined in terms of this subsection.”

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after 1 March 2023.

Amendment of section 12T of Act 58 of 1962, as inserted by section 28 of Act 43 of 2014 and amended by section 29 of Act 25 of 2015 and section 7 of Act 22 of 2020

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

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

“(a) limited to an amount of R36 000 in aggregate [during] for any year or years of assessment during the period of 12 months commencing in March and ending at the end of February of the immediately following calendar year;” and

(b) by the substitution for paragraph (a) of subsection (7) of the following paragraph:

“(a) If during any year or years of assessment contemplated in subsection (4)(a) any person contributes in excess of the amount of R36 000 in respect of tax free investments, an amount equal to 40 per cent of that excess is deemed to be an amount of normal tax payable by the person contemplated in subsection (1)(b) in respect of that year of assessment or the last year of assessment when there is more than one year of assessment during the period of 12 months.” 5

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

Amendment of section 13quat of Act 58 of 1962, as inserted by section 33 of Act 45 of 2003 and amended by section 12 of Act 16 of 2004, section 19 of Act 32 of 2004, section 23 of Act 31 of 2005, section 16 of Act 8 of 2007, section 5 of Act 4 of 2008, section 29 of Act 60 of 2008, sections 29 and 106 of Act 17 of 2009, section 33 of Act 7 of 2010, section 41 of Act 24 of 2011, section 34 of Act 22 of 2012, section 48 of Act 31 of 2013, section 32 of Act 25 of 2015, section 38 of Act 15 of 2016, section 34 of Act 23 of 2018, section 20 of Act 23 of 2020 and section 16 of Act 20 of 2021 10 15

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

“(c) which is brought into use by the taxpayer after 31 March [2023] 2025.”

(2) Subsection (1) is deemed to have come into operation on 1 April 2021 and applies in respect of any building, part thereof or improvement that is brought into use on or after that date. 20

Amendment of section 15 of Act 58 of 1962, as amended by section 20 of Act 55 of 1966, section 18 of Act 129 of 1991, section 16 of Act 141 of 1992, section 24 of Act 31 of 2005, section 15 of Act 20 of 2006, section 29 of Act 35 of 2007 and section 33 of Act 25 of 2015 25

22. (1) Section 15 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) an amount to be ascertained under the provisions of section 36, in lieu of the allowances in sections 11 (e), (f), (gA), (gC), (o), 12B, 12BA, 12D, 12DA, 12F and 13quin;” 30

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after that date.

Amendment of section 19 of Act 58 of 1962, as inserted by section 36 of Act 22 of 2012, amended by section 53 of Act 31 of 2013, section 35 of Act 25 of 2015, substituted by section 32 of Act 17 of 2017 and amended by section 36 of Act 23 of 2018, section 17 of Act 20 of 2021 and section 10 of Act 20 of 2022 35

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

(a) by the substitution in subsection (8) for paragraph (aa) of the proviso to paragraph (d) of the following paragraph: 40

“(aa) incurred, directly or indirectly by that company to fund expenditure incurred in respect of any asset that [**was subsequently**] is disposed of by that company, before or after that debt benefit arises, by way of an asset-for-share, intra-group or amalgamation transaction or a liquidation distribution in respect of which the provisions of section 42, 44, 45 or 47, as the case may be, applied;” 45

(b) by the addition to subsection (8)(d) of the following proviso:

“: Provided further that where a debt benefit arises prior to the disposal of the asset, that debt benefit must be treated as a debt benefit that arose immediately before that disposal;” 50

(2) Subsection (1) comes into operation on 1 January 2024 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 55

of 2007, section 17 of Act 3 of 2008, section 35 of Act 17 of 2009 and section 25 of Act 23 of 2020

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

(a) by the substitution in subsection (1) of the definition of “affected asset” for the following definition: 5

“**‘affected asset’** means 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, 12BA, 12C, 12DA or 37B(2)(a), whether in the current or a previous year of assessment, 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]** the taxpayer in the course of any trade carried on by **[him]** the taxpayer, other than the letting of any such asset;”;

(b) by the substitution in subsection (1) of the definition of “rental income” for the following definition:

“**‘rental income’** means income derived by way of rent from the letting of any affected asset in respect of which an allowance has been granted to the lessor under section 11(e), 12B, 12BA, 12C, 12DA or 37B(2)(a), whether in the current or any previous year of assessment, and includes any amount—

(a) which is included in the income of that person in terms of section 8(4) in respect of an amount deducted in any year of assessment in respect of any affected asset; and 25

(b) derived from the disposal of any affected asset.”;

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

“(2) Notwithstanding the provisions of sections 11(e) and (o), 12B, 12BA, 12C, 12DA, and 37B(2)(a) the sum of the deduction which may be allowed to any taxpayer in any year of assessment under those provisions in respect of any affected assets let by **[him]** the taxpayer shall not exceed the taxable income (as determined before making the said deductions) derived by **[him]** the taxpayer during such year from rental income.”; and 30

(d) by the substitution for subsection (3) of the following subsection: 35

“(3) For the purposes of subsection (2), where the taxpayer is entitled to any deduction which relates to rental income and other income derived by **[him]** the taxpayer, an appropriate portion of such deduction shall be taken into account in the determination of the taxable income derived by **[him]** the taxpayer from rental income.”. 40

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after that date.

Amendment of section 23G of Act 58 of 1962, as inserted by section 16 of Act 28 of 1997 and amended by section 30 of Act 31 of 2005, section 35 of Act 35 of 2007 and section 40 of Act 23 of 2018 45

25. (1) Section 23G of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) such lessor shall, notwithstanding the provisions of this Act, not be entitled to any deduction in terms of section 11(e), (f), (gA) or (gC) or sections 12B, 12BA, 12C, 12DA, 13 or 13quin in respect of an asset which is the subject matter of such sale and leaseback arrangement.”. 50

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after that date.

Amendment of section 23M of Act 58 of 1962, as inserted by section 16 of Act 31 of 2013 and amended by section 37 of Act 43 of 2014, section 41 of Act 15 of 2016, section 39 of Act 17 of 2017, section 41 of Act 23 of 2018, section 28 of Act 34 of 2019, section 19 of Act 20 of 2021 and section 12 of Act 20 of 2022 55

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

- (a) by the substitution in subsection (1) in the definition of “adjusted taxable income” for the words preceding paragraph (a) of the following words:
“**‘adjusted taxable income’** means taxable income calculated before applying this section and before setting off any balance of assessed loss that has been carried forward from the preceding year of assessment—”; 5
- (b) by the deletion in subsection (1) in the definition of “adjusted taxable income” of paragraph (b)(iii);
- (c) by the addition to the definition of “adjusted taxable income” of the following proviso:
“: Provided that the result of the calculation may not be less than zero;”; 10
- (d) by the substitution in subsection (1) for the definition of “controlling relationship” of the following definition:
“**‘controlling relationship’** means a relationship where—
(a) a person, whether alone or together with any one or more persons that are connected persons in relation to that person[; or 15
(b) **persons that are connected persons in relation to that person,** directly or indirectly hold at least 50 per cent of the equity shares or can exercise at least 50 per cent of the voting rights or participation rights, in a company;”;
- (e) by the addition in subsection (1) after the definition of “controlling relationship” of the following definition:
“**‘creditor’** means a person to whom a ‘debtor’ owes a ‘debt’;”; 20
- (f) by the substitution for the definition of “lending institution” in subsection (1) of the following definition:
“**‘lending institution’** means— 25
(a) a bank; or
(b) a foreign bank that is comparable to a bank, contemplated in the Banks Act;”;
- (g) by the substitution in subsection (2) for subparagraph (aa) of paragraph (i) of the following subparagraph: 30
“(aa) subject to tax in the hands of the person, creditor or other creditor referred to in paragraphs (a), (b), (c) **[and] or (d)**, to which the interest or related interest accrues; or”;
- (h) by the substitution in subsection (2) for the proviso of the following proviso: 35
“: Provided that where any amount of interest incurred or related interest is not included in the income of the person referred to in paragraph (i)(aa), and withholding tax on interest was or will be levied on that amount of interest, on payment thereof, under the provisions of Part IVB of this Chapter, the amount of interest to be regarded as not subject to tax as contemplated in paragraph (i)(aa) will be determined in accordance 40
with the formula:

$$A = B \times \frac{C-D}{C}$$
in which formula—
(i) ‘A’ represents the amount to be determined; 45
(ii) ‘B’ represents the aggregate of any amount of interest incurred or paid in respect to which the provisions of Part IVB of this Chapter are or will be applicable;
(iii) ‘C’ represents the number 15; and
(iv) ‘D’ represents the rate at which withholding tax on interest has 50
been or will be levied on such amount of interest under the provisions of Part IVB of this Chapter, multiplied by the number 100.”; and
- (i) by the substitution for subsection (7) of the following subsection: 55
“(7) For purposes of this section any exchange difference—
(a) deducted from the income of a person as contemplated in section 24I(3) or (10A) is deemed to have been incurred by the person; or
(b) included in the income of a person as contemplated in section 24I(3) or (10A) is deemed to have accrued to that person.”.
- (2) Subsection (1) comes into operation on 1 January 2024 and applies in respect of 60
years of assessment commencing on or after that date.

Amendment of section 24I of Act 58 of 1962, as inserted by section 21 of Act 113 of 1993 and amended by section 11 of Act 140 of 1993, section 18 of Act 21 of 1994, section 13 of Act 36 of 1996, section 18 of Act 28 of 1997, section 35 of Act 30 of 1998, section 26 of Act 53 of 1999, section 31 of Act 59 of 2000, section 36 of Act 60 of 2001, section 27 of Act 74 of 2002, section 42 of Act 45 of 2003, section 23 of Act 32 of 2004, section 33 of Act 31 of 2005, section 26 of Act 9 of 2006, section 19 of Act 20 of 2006, section 23 of Act 8 of 2007, section 40 of Act 35 of 2007, section 20 of Act 3 of 2008, section 38 of Act 17 of 2009, section 47 of Act 7 of 2010, section 52 of Act 24 of 2011, section 53 of Act 22 of 2012, section 68 of Act 31 of 2013, section 40 of Act 43 of 2014, section 44 of Act 25 of 2015, section 44 of Act 15 of 2016, section 42 of Act 17 of 2017, section 43 of Act 23 of 2018 and section 30 of Act 34 of 2019

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

“: Provided that this section does not apply in respect of any exchange item of a person who is not a resident (other than a controlled foreign company), unless that exchange item is **[attributable]** effectively connected to a permanent establishment of that person in the Republic.”

Amendment of section 25 of Act 58 of 1962, as substituted by section 48 of Act 25 of 2015 and amended by section 47 of Act 15 of 2016, section 47 of Act 23 of 2018 and section 20 of Act 20 of 2021

28. (1) Section 25 of the Income Tax Act, 1962, is hereby amended—

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

“(a) other than for the purposes of section 6, section 6A **[and]**, section 6B **and section 6C**, be treated as if that estate were a natural person; and”;

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

“(b) if the deceased person **[was a resident]** at the time of his or her death was—
 (i) a resident, be treated as if that estate were a resident; and
 (ii) a non-resident, be treated as if that estate were a non-resident;”

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of years of assessment commencing 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 and section 28 of Act 23 of 2020

29. (1) Section 25B of the Income Tax Act, 1962, is hereby amended—

(a) 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 **is a resident and** 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.”;

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

“(2) Where a beneficiary **who is a resident** has acquired a vested right to any amount referred to in subsection (1) in consequence of the exercise by the trustee of a discretion vested in him or her in terms of the relevant deed of trust, agreement or will of a deceased person, that amount shall for the purposes of that subsection be deemed to have been derived for the benefit of that beneficiary.”

(2) Subsection (1) is deemed to have come into operation on 1 March 2024 and applies in respect of any years of assessment commencing on or after the date.

Insertion of section 25E in Act 58 of 1962

30. (1) The following section is hereby inserted after section 25D of the Income Tax Act, 1962:

“Determination of contributed tax capital in foreign currency

25E. Any amount referred to in paragraphs (a) and (b) of the definition of “contributed tax capital” in section 1 that is denominated in any currency other than the currency of the Republic, must be translated to the currency of the Republic by applying the spot rate on the date on which that amount must be taken into account for purposes of the determination of contributed tax capital.”

(2) Subsection (1) comes into operation on 1 January 2025.

Amendment of section 28 of Act 58 of 1962, as amended by section 17 of Act 90 of 1962, section 22 of Act 55 of 1966, section 24 of Act 89 of 1969, section 21 of Act 88 of 1971, section 19 of Act 65 of 1973, section 19 of Act 91 of 1982, section 22 of Act 94 of 1983, section 17 of Act 65 of 1986, section 23 of Act 90 of 1988, section 13 of Act 70 of 1989, section 25 of Act 101 of 1990, section 29 of Act 129 of 1991, section 24 of Act 113 of 1993, section 19 of Act 21 of 1994, section 33 of Act 30 of 2000, section 42 of Act 35 of 2007, section 40 of Act 60 of 2008, section 40 of Act 17 of 2009, section 51 of Act 7 of 2010, section 61 of Act 22 of 2012, section 76 of Act 31 of 2013, section 52 of Act 25 of 2015, section 49 of Act 15 of 2016, section 50 of Act 23 of 2018, section 33 of Act 34 of 2019, section 21 of Act 20 of 2021 and section 14 of Act 20 of 2022

31. (1) Section 28 of the Income Tax Act, 1962, is hereby amended—
(a) by the substitution in subsection (3A) in paragraph (b) for the proviso of the following proviso and further proviso:

“: Provided that any amount that is payable to or receivable from a cell owner, referred to in the definition of “cell structure” in section 1 of the Insurance Act, in respect of “third party risks” as defined in that section of that Act, must be disregarded: Provided further that the amount may not be less than zero;”; and

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

“(b) deduct the liabilities for remaining coverage, net of reinsurance, calculated for the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, had IFRS 17 been applied at the end of that year of assessment; and”.

(2) Subsection (1) is deemed to have come into operation on 1 January 2023 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, section 51 of Act 23 of 2018, section 34 of Act 34 of 2019, section 30 of Act 23 of 2020, section 22 of Act 20 of 2021 and section 15 of Act 20 of 2022

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

(a) by the substitution in subsection (1) in paragraph (b) of the definition of “adjusted IFRS value” for the proviso of the following proviso and further proviso:

“: Provided that any amount that is payable to or receivable from a cell owner, referred to in the definition of “cell structure” in section 1 of the

Insurance Act, in respect of “third party risks” as defined in that section of that Act, must be disregarded: Provided further that the amount may not be less than zero;”;

- (b) by the addition in subsection (1) to the definition of “value of liabilities” of the following proviso: 5
 “: Provided that any amount that is payable to or receivable from a cell owner, referred to in the definition of “cell structure” in section 1 of the Insurance Act, in respect of “third party risks”, as defined in that section of that Act, must be disregarded;”; and
- (c) by the substitution in subsection (15) for paragraphs (a) and (b) of the following paragraphs: 10
 “(a) the amount by which the ‘value of liabilities’ amount determined at the end of the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, less the amounts for premium debtors and policy loans determined in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements at the end of that year of assessment, and reducing the amount of policy liabilities had IFRS 17 been applied, exceeds the ‘value of liabilities’ amount had IFRS 17 and the definitions of ‘adjusted IFRS value’ and ‘value of liabilities’ as amended by the Taxation Laws Amendment Act, 2022, been applied at the end of that year of assessment; or 15
 (b) the amount by which the ‘value of liabilities’ amount had IFRS 17 and the definitions of ‘adjusted IFRS value’ and ‘value of liabilities’ as amended by the Taxation Laws Amendment Act, 2022, been applied at the end of the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, plus the amounts for premium debtors and policy loans determined in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements at the end of that year of assessment, and reducing the amount of policy liabilities had IFRS 17 been applied, exceeds the ‘value of liabilities’ amount determined at the end of that year of assessment.”. 20
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(2) Subsection (1) is deemed to have come into operation on 1 January 2023 and applies in respect of years of assessment commencing on or after that date. 35

Amendment of section 35A of Act 58 of 1962, as inserted by section 30 of Act 32 of 2004 and amended by section 5 of Act 32 of 2005, section 59 of Act 24 of 2011, section 271 of Act 28 of 2011, read with paragraph 43 of Schedule 1 to that Act, section 2 of Act 23 of 2015, section 2 of Act 16 of 2016, substituted by section 10 of Act 14 of 2017 and amended by section 47 of Act 17 of 2017 40

33. Section 35A of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for subsection (8) of the following subsection: 45
 “(8) Subsection (7) does not apply if [**an estate agent**] a property practitioner or conveyancer assists in the disposal of the immovable property and that [**estate agent**] property practitioner or conveyancer fails to notify the purchaser as contemplated in subsection (11).”;
- (b) by the substitution for subsection (11) of the following subsection: 50
 “(11) Any [**estate agent**] property practitioner and any conveyancer who is entitled to any remuneration or other payment in respect of services rendered in connection with the disposal of the immovable property by the seller or the registration of transfer, as the case may be, must before any payment is made to the seller each notify the purchaser in writing of the fact that the seller is not a resident and that the provisions of this section may apply.”;
- (c) by the substitution for subsection (12) of the following subsection: 55
 “(12) If [**an estate agent**] a property practitioner or conveyancer knows or should reasonably have known that the seller is not a resident and fails to comply with subsection (11), that failing estate agent or conveyancer is jointly and severally liable for the payment of the amount which the purchaser is required to withhold and pay to the Commissioner 60
 in terms of this section, but limited to the amount of remuneration or

other payment in respect of the services rendered in connection with the disposal of the immovable property by the seller or the registration of transfer, as the case may be.”;

- (d) by the substitution for subsection (13) of the following subsection: 5
 “(13) The [**estate agent**] property practitioner or conveyancer who paid an amount in terms of subsection (12) is deemed to be a withholding agent for purposes of the Tax Administration Act.”;
- (e) by the deletion in subsection (15) of the definition of “estate agent”;
- (f) by the substitution in subsection (15) for the definition of “immovable property” of the following definition: 10
 “**immovable property**’ means immovable property contemplated in paragraph 2(1)(b)(i) and (2) of the Eighth Schedule[.]; and”;
- (g) by the addition in subsection (15) after the definition of “immovable property” of the following definition: 15
 “**property practitioner**’ means a property practitioner as defined in section 1 of the Property Practitioners Act, 2019 (Act No. 22 of 2019).”.

Amendment of section 36 of Act 58 of 1962, as amended by section 12 of Act 72 of 1963, section 15 of Act 90 of 1964, section 20 of Act 88 of 1965, section 23 of Act 55 of 1966, section 16 of Act 95 of 1967, section 14 of Act 76 of 1968, section 26 of Act 89 of 1969, section 21 of Act 65 of 1973, section 28 of Act 85 of 1974, section 20 of Act 104 of 1980, section 25 of Act 94 of 1983, section 16 of Act 96 of 1985, section 14 of Act 70 of 1989, section 26 of Act 101 of 1990, section 30 of Act 129 of 1991, section 24 of Act 141 of 1992, section 29 of Act 113 of 1993, section 17 of Act 36 of 1996, section 41 of Act 60 of 2001, section 31 of Act 32 of 2004, section 26 of Act 20 of 2006, section 46 of Act 35 of 2007, section 23 of Act 3 of 2008, section 44 of Act 60 of 2008, section 43 of Act 17 of 2009, section 57 of Act 7 of 2010, section 60 of Act 24 of 2011, section 83 of Act 31 of 2013, section 51 of Act 43 of 2014, section 52 of Act 15 of 2016 and section 48 of Act 17 of 2017

- 34.** (1) Section 36 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (11) for paragraph (a) of the definition of “capital expenditure” of the following paragraph: 30
 “(a) expenditure (other than interest or finance charges) on shaft sinking and mine equipment (other than expenditure referred to in [**paragraph**] paragraphs (d) and (dA));”;
- (b) by the insertion in subsection 11 in the definition of “capital expenditure” 35
 after paragraph (d) of the following paragraph:
 “(dA) 125 per cent of the expenditure (excluding finance charges) for the acquisition of any new and unused machinery, plant, implement, utensil, or article owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement contemplated in paragraph (a) of the definition of “instalment credit agreement” in section 1 of the Value-Added Tax Act and which was or is brought into use for the first time by that taxpayer for the purpose of that taxpayer’s trade on or after 1 March 2023 and before 1 March 2025 to be used by that taxpayer in the generation of electricity in the Republic from— 40
 (i) wind power;
 (ii) photovoltaic solar energy;
 (iii) concentrated solar energy;
 (iv) hydropower to produce electricity; or 50
 (v) biomass comprising organic wastes, landfill gas or plant material:
 Provided that where any machinery, plant, implement, utensil or article for which a deduction is allowed under this subsection is mounted on or affixed to any concrete or other foundation or supporting structure and— 55
 (i) the foundation or supporting structure is designed for such machinery, plant, implement, utensil or article and constructed in such manner that it is or should be regarded as being integrated with the machinery, plant, implement, utensil or article; and 60

- (ii) the useful life of the foundation or supporting structure is or will be limited to the useful life of the machinery, plant, implement, utensil or article mounted thereon or affixed thereto,

the foundation or supporting structure shall be deemed to be part of the machinery, plant, implement, utensil or article mounted thereon or affixed thereto”; and

- (c) by the substitution for the words preceeding subparagraph (i) in paragraph (dA) of the definition of “capital expenditure” in subsection 11 of the following words:

“**[125 per cent of the]** expenditure (excluding finance charges) for the acquisition of any new and unused machinery, plant, implement, utensil, or article owned by the taxpayer or acquired by the taxpayer as purchaser in terms of an agreement contemplated in paragraph (a) of the definition of “instalment credit agreement” in section 1 of the Value Added Tax Act and which was or is brought into use for the first time by that taxpayer for the purpose of that taxpayer’s trade **[on or after 1 March 2023 and before 1 March 2025]** to be used by that taxpayer in the generation of electricity in the Republic from—”.

(2) Subsection (1)(a) and (b) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after that date.

(3) Subsection (1)(c) comes into operation on 1 March 2025 and applies in respect of assets brought into use after 28 February 2025.

Amendment of section 40CA of Act 58 of 1962, as inserted by section 71 of Act 22 of 2012, amended by section 89 of Act 31 of 2013, as substituted by section 88 of Act 31 of 2013, amended by section 38 of Act 34 of 2019 and substituted by section 32 of Act 23 of 2020 and by section 23 of Act 20 of 2021

35. (1) Section 40CA of the Income Tax Act, 1962, is hereby amended by the substitution for the words following subsection 40CA(b) of the following words:

“that company or that other person must be deemed, in addition to the amount of expenditure for which the asset is deemed to have been acquired by that company or that other person as a result of the application of sections 42(2)(b), 43(2)(b) or 44(2)(a)(ii)(aa), to have incurred an amount of expenditure equal to that deemed capital gain **[on the date of that asset-for-share transaction, substitutive share-for-share transaction or amalgamation transaction]** immediately before a disposal of that asset in a transaction other than a transaction contemplated in Part III of Chapter II.”.

(2) Subsection (1) comes into operation on 1 January 2024 and applies in respect of any acquisition of an asset on or after that date.

Amendment of section 42 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 50 of Act 45 of 2003, section 33 of Act 32 of 2004, section 38 of Act 31 of 2005, section 29 of Act 20 of 2006, section 33 of Act 8 of 2007, section 53 of Act 35 of 2007, section 26 of Act 3 of 2008, section 49 of Act 60 of 2008, section 48 of Act 17 of 2009, section 62 of Act 7 of 2010, section 68 of Act 24 of 2011, section 74 of Act 22 of 2012, section 91 of Act 31 of 2013, section 55 of Act 43 of 2014, section 62 of Act 25 of 2015, section 51 of Act 17 of 2017, section 55 of Act 23 of 2018, section 40 of Act 34 of 2019 and section 25 of Act 20 of 2021

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

- (a) by the substitution for paragraph (c) of the definition of “qualifying interest” of the following paragraph:

“(c) equity shares held by that person in a company that constitute at least 10 per cent of the equity shares and that confer at least 10 per cent of the voting rights in that company; **[or]**”; and

- (b) by the substitution for paragraph (d) of the definition of “qualifying interest” of the following paragraph:

(d) an equity share held by that person in a company which forms part of the same group of companies or that person; or”.

Amendment of section 46 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 54 of Act 45 of 2003, section 36 of Act 32 of 2004, section 42 of Act 31 of 2005, section 36 of Act 8 of 2007, section 57 of Act 35 of 2007, section 29 of Act 3 of 2008, section 52 of Act 60 of 2008, section 65 of Act 7 of 2010, section 71 of Act 24 of 2011, section 78 of Act 22 of 2012, section 95 of Act 31 of 2013, section 58 of Act 43 of 2014, section 65 of Act 25 of 2015, section 54 of Act 17 of 2017, section 34 of Act 23 of 2020 and section 27 of Act 20 of 2021 5

- 37.** (1) Section 46 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) in paragraph (b)(i) of the definition of “unbundling transaction” for the words following item (bb) of the following words: 10
 “as that unbundling company; and”;
 - (b) by the addition in subsection (3)(a) to subparagraph (v) of the following proviso: 15
 “: Provided that a shareholder that acquires unbundled shares in terms of an unbundling transaction shall, in addition to any expenditure allocated to unbundled shares in accordance with this subparagraph, be treated as having incurred an amount equal to any amount of tax payable by the unbundling company arising in respect of all equity shares to which this section does not apply as contemplated in subsection (7) the same ratio as the number of equity shares held by that shareholder in that unbundled company bears to the number of all the issued equity shares in that unbundled company immediately after that unbundling transaction.”; 20
 - (c) by the substitution in subsection (3)(b) in the definition of “expenditure” for subparagraph (ii) of the following subparagraph: 25
 “(ii) capital assets, the expenditure incurred prior to the unbundling transaction in respect of the unbundling shares that is allowable in terms of paragraph 20 of the Eighth Schedule; **[and]**”; and
 - (d) by the deletion in subsection (3)(b) in the definition of “expenditure” of subparagraph (iii). 30
- (2) Paragraphs (b), (c) and (d) of subsection (1) come into operation on 1 January 2024 and apply in respect of the allocation of expenditure to unbundled shares acquired on or after that date.

Amendment of section 49D of Act 58 of 1962, as substituted by section 60 of Act 43 of 2014 and amended by section 68 of Act 25 of 2015 35

- 38.** (1) Section 49D of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for paragraph (b) of the following paragraph: 40
 “(b) the property in respect of which that royalty is paid is effectively connected with a permanent establishment of that foreign person in the Republic if that foreign person is registered as a taxpayer in terms of Chapter 3 of the Tax Administration Act; **[or]**”;
 - (b) by the substitution for paragraph (c) of the following paragraph: 45
 “(c) that royalty is paid by a headquarter company in respect of the granting of the use or right of use of or permission to use intellectual property as defined in section 23I to which section 31 does not apply as a result of the exclusions contained in section 31 (5)(c) or (d)~~[.]~~; or;”; and
 - (c) by the addition after paragraph (c) of the following paragraph: 50
 “(d) that royalty is received by or accrued to a resident trust and is then paid to a beneficiary of that trust as a distribution by that trust.”.
- (2) Subsection (1) comes into operation on 1 March 2024 and applies in respect of royalties that are received by or accrues to a resident trust on or after that date.

Amendment of section 50D of Act 58 of 1962, as inserted by section 98 of Act 31 of 2013 and amended by section 71 of Act 25 of 2015, section 56 of Act 15 of 2016 and section 59 of Act 23 of 2018 55

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

- (a) by the substitution for subparagraph (vi) of subsection (1)(d) of the following subparagraph:
 “(vi) the New Development Bank established on 15 July 2014; **[or]**”;
- (b) by the substitution for paragraph (e) of subsection (1) of the following paragraph: 5
 “(e) included in the income of a resident as is attributable to a donation, settlement or other disposition made by a resident as contemplated in section 7(8)(a)[.]; or”; and
- (c) by the addition in subsection (1) after paragraph (e) of the following paragraph: 10
 “(f) that is received by or accrued to a resident trust and is then paid to a beneficiary of that trust as a distribution by that trust.”

(2) Subsection (1) comes into operation on 1 March 2024 and applies in respect of interest that is received by or accrues to a resident trust on or after that date. 15

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, section 42 of Act 23 of 2020 and section 35 of Act 20 of 2021

40. (1) Paragraph 6A of the Second Schedule to the Income Tax Act, 1962, is hereby amended— 20

- (a) by the substitution for subparagraphs (b) and (c) of the following subparagraphs:
 “(b) provident fund into a pension preservation fund, provident preservation fund or a retirement annuity fund; **[or]**
 (c) pension preservation fund or provident preservation fund into another pension preservation or provident preservation fund or a retirement annuity fund[.]; or”; and
- (b) by the addition after subparagraph (c) of the following subparagraph:
 “(d) pension fund or provident fund into another pension fund or provident fund that is subject to an involuntary transfer.” 30

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

Amendment of paragraph 12A of Eighth Schedule to Act 58 of 1962, as inserted by section 108 of 2012 and amended by section 127 of Act 31 of 2013, section 82 of Act 43 of 2014 and section 106 of Act 25 of 2015, substituted by section 70 of Act 17 of 2017 and amended by section 77 of Act 23 of 2018, section 54 of Act 34 of 2019, section 47 of Act 23 of 2020 and section 44 of Act 20 of 2021 35

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

- (a) by the substitution in subparagraph (6) for paragraph (aa) of the proviso to item (d) of the following paragraph: 40
 “(aa) incurred, directly or indirectly by that company to fund expenditure incurred in respect of any asset that **[was subsequently]** is disposed of by that company, before or after that debt benefit arises, by way of an asset-for-share, intra-group or amalgamation transaction or a liquidation distribution in respect of which the provisions of section 42, 44, 45 or 47, as the case may be, applied; or”; and
- (b) by the addition to subparagraph (6)(d) of the following proviso: 45
 “: Provided further that, for purposes of this paragraph, where a debt benefit arises prior to the disposal of an asset, that debt benefit must be treated as a debt benefit that arose immediately before that disposal.” 50

(2) Subsection (1) comes into operation on 1 January 2024 and applies in respect of any disposal of an asset on or after that date.

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 55

amended by section 144 of Act 31 of 2013, section 117 of Act 25 of 2017, section 84 of Act 23 of 2018 and section 51 of Act 23 of 2020.

42. (1) Paragraph 64B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1) for item (b) of the following item: 5

“(b) that interest is disposed of to any person that is not a resident [(I, other than—

(i) a controlled foreign company or any person that is a connected person in relation to the person disposing of that interest [I]; 10

(ii) a non-resident company that formed part of the same group of companies as the company disposing of the shares at any time during a period of 18 months before that disposal; or

(iii) a non-resident company, the shareholders of which, immediately after the disposal, are substantially the same as the shareholders of any company in the group of companies disposing of the shares, 15

for an amount that is equal to or exceeds the market value of the interest.”; and

(b) by the substitution for subparagraph (4) of the following subparagraph: 20

“(4) A person must disregard any capital gain determined in respect of any foreign return of capital received by or accrued to that person from a “foreign company” as defined in section 9D (other than an interest contemplated in paragraph 2(2) where that person (whether alone or together with any other person forming part of the same group of companies as that person)— 25

(a) holds an interest of at least 10 per cent of the total equity shares and voting rights in that company; and

(b) has held the interest referred to in item (a) for at least 18 months prior to the receipt or accrual of that foreign return of capital.”. 30

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on the date of introduction of the 2023 Taxation Laws Amendment Bill by the Minister in Parliament and applies in respect of any disposals on or after that date.

(3) Paragraph (b) of subsection (1) comes into operation on 1 January 2024 and applies in respect of foreign returns of capital received or accrued on or after that date. 35

Amendment of paragraph 66 of Eighth Schedule to Act 58 of 1962, as amended by section 33 of Act 17 of 2001, section 107 of Act 45 of 2003, section 67 of Act 8 of 2007, section 79 of Act 35 of 2007, section 125 of Act 22 of 2012 and section 120 of Act 25 of 2015

43. (1) Paragraph 66 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended: 40

(a) by the substitution in subparagraph (1) for item (a) of the following item:

“(a) that asset qualified for a deduction or allowance in terms of section 11 (e), 11D (2), 12B, 12BA, 12C, 12DA, 12E, 14, 14bis or 37B;”;

(b) by the substitution in subparagraph (1) for item (c) of the following item: 45

“(c) an amount at least equal to the receipts and accruals from that disposal has been or will be expended to acquire one or more assets (hereinafter referred to as the “replacement asset or assets”), all of which will qualify for a capital deduction or allowance in terms of section 11 (e), 11D (2), 12B, 12BA, 12C, 12DA, 12E or 37B;”;

(c) by the substitution for subparagraph (4) of the following subparagraph: 50

“(4) A person must treat as a capital gain for a year of assessment so much of the disregarded capital gain contemplated in subparagraph (2), as bears to the total amount of that disregarded capital gain apportioned to that replacement asset as contemplated in subparagraph (3) the same ratio as the amount of any deduction or allowance allowed in that year in terms of section 11 (e), 11D (2), 12B, 12BA, 12C, 12DA, 12E or 37B in respect of the replacement asset bears to the total amount of the deduction or allowance in terms of that section (determined with reference to the cost of value of that asset at the time of acquisition 60

thereof) which is allowable for all years of assessment in respect of that replacement asset.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2023 and applies in respect of assets brought into use on or after that date.

Continuation of certain amendments of Schedules to Act 91 of 1964 and Act 89 of 1991 5

44. Every amendment to, withdrawal from, or insertion in—

- (a) Schedules No. 1 to 6, 8 and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56, 56A, 57, 60 or 75(15) of that Act during the period 1 October 2022 up to and including 31 October 2023, shall not lapse by virtue of section 48(6), 49(5A), 56(3), 56A(3), 57(3), 60(4) or 75(16) of that Act; and 10
- (b) Schedule No.1 to the Value-Added Tax Act, 1991, made under section 74(3)(a) of that Act during the period 1 October 2022 up to and including 31 October 2023, shall not lapse by virtue of section 74(3)(b) of that Act.

Amendment of Schedule 6 to Act 91 of 1964 15

45. (1) Part 3 of Schedule No. 6 to the Customs and Excise Act, 1964, is hereby amended—

- (a) by the addition of the following Note after Note 13:

“**14.** For the purposes of item 670.05, the following applies to the purchase and use of distillate fuel for the manufacture of foodstuffs during the period 1 April 2023 to 31 March 2025: 20

(a) Application of provisions and definitions:

- (i) The refund provided for in this item is subject to these Notes and the provisions of section 75(11). 25

- (ii) Unless the context otherwise indicates—

(aa)

“distillate fuel” means—

(A) distillate fuel; and

(B) biodiesel as contemplated in section 37B(2)(a)(ii), in respect of which a fuel levy and Road Accident Fund levy is prescribed in Part 5A and Part 5B of Schedule No.1 respectively, and which has been duly entered for home consumption or which is deemed to have been duly entered for home consumption, whether or not such distillate fuel and biodiesel have been mixed; and 30 35

(bb) excludes the following:

(A) “smokeless diesel”, a mixture of kerosene and a lubricity agent, normally used in underground mines;

(B) any mixture of distillate fuel with kerosene or any other substance except biodiesel; and 40

(C) any distillate fuel entered for export or ships stores or in terms of any other procedure except for home consumption or on which the levies are not paid as contemplated in this definition. 45

“electricity generation” means electricity generated from distillate fuel used in stationary fixed electric power generators and excludes mobile portable electric power generators.

“foodstuffs” means products and preparations for human consumption, classifiable in Chapters 2 to 21 of Part 1 to Schedule No. 1, but excludes the following: 50

(aa) products and preparations for making beverages classifiable in any of the tariff subheadings included under Section A of Part 7 to Schedule No. 1; and

(bb) goods of Chapters 5, 6, 13 and 14. 55

“logbooks” means systematic written tabulated statements for the regular periodic recording of all activities and occurrences that impact on the validity of refund claims. Logbooks must provide a full audit trail of distillate fuel for which refunds are claimed. Storage logbooks must reflect details of the receipt, storage, 60

removal, disposal or loss of distillate fuel. Usage logbooks must reflect details of the source and usage of distillate fuel for the manufacture of foodstuffs or other activities.

“manufacture” means the execution at manufacturing premises of operations that contribute to the realisation of foodstuffs for commercial gain, which—

(aa) includes, but is not limited to the following activities:

- (A) slaughtering of animals in an abattoir;
- (B) mixing, forming or producing of foodstuffs;
- (C) processing, converting or extracting of foodstuffs;
- (D) handling, storing or preserving of foodstuffs;
- (E) conveying or transferring of foodstuffs;
- (F) packing or measuring of foodstuffs;
- (G) lighting or air-conditioning for such manufacture;
- (H) waste management as the result of manufacture; or
- (I) electricity generation for such manufacture; and

(bb) excludes any activities specified in Note 6 which are eligible for a refund contemplated in item 670.04.

“manufacturing premises” means—

(aa) the business premises where the operations for the manufacture of foodstuffs are executed; and

(bb) excludes any business premises at which—

- (A) the floor surface of the publicly accessible portion of the trading area for wholesale or retail sales outlet activities comprises more than 10 per cent of the total floor surface of the business premises; or
- (B) only the wholesale or retail distribution or sales of goods occur.

“refund” means a refund of the Road Accident Fund levy only to the extent provided for in this item.

“tax invoice” means an invoice containing the following information:

(aa) the words “Tax Invoice”;

(bb) the name, address and VAT number (a 10-digit number starting with 4) of the supplier;

(cc) the name and address of the purchaser (if the invoice value is over R500);

(dd) date of the transaction;

(ee) description of the goods (being diesel or distillate fuel);

(ff) quantity delivered or purchased;

(gg) value of the supply; and

(hh) the amount of VAT, which must be shown as 0% since VAT is not levied on distillate fuel or diesel.

(b) Application for registration and claiming of refunds:

(i) Every person that for the purposes of this item both purchases and uses distillate fuel for the manufacture of foodstuffs must apply for registration as a refund user.

(ii) Each such application includes application for registration of the manufacturing premises and must be accompanied by a detailed floor plan according to scale for all the buildings on the premises which indicates the purpose and use of all areas therein.

(iii) Application for registration must be made on form DA 185 and annexure DA 185.4A3 obtained from any SARS office or the SARS website (www.sars.gov.za).

(iv) An application for registration must be submitted per person and information required in respect of each manufacturing premises must be furnished separately for each such premises on an addendum which must be attached to form DA185.4A3.

(v) Every application for registration that is approved will be issued with effect from 1 April 2023 as the date on which the refund user became eligible for the claiming of refunds.

- (vi) No claim for a refund of levies on distillate fuel for the manufacture of foodstuffs shall be considered until the refund user and the manufacturing premises are so registered.
- (vii) The refund user must in addition to the registration required under this Act also be registered under the provisions of the Value-Added Tax Act 89 of 1991. 5
- (viii) Any claim for a refund of levies on distillate fuel must be submitted in the prescribed form (form DA 66) together with all necessary supporting documents relating to such claim.
- (ix) The refund user must for purposes of any claim for a refund— 10
 - (aa) submit the screen or page of the electronic application that corresponds to form DA 66 electronically through the communicative system indicated on the SARS website for that purpose; or
 - (bb) in instances where the electronic application process contemplated in item (aa) is unavailable, submit a completed form DA 66 at the SARS office nearest to the manufacturing premises. 15
- (x) A refund may only be claimed in respect of duty-paid distillate fuel purchased in and used in the Republic and for which a duly completed tax invoice was issued and retained. 20
- (c) Keeping of records, books, accounts and other documents:
 - (i) The refund user must keep record of each manufacturing or other operation or process executed at the manufacturing premises, including the— 25
 - (aa) area of the manufacturing premises where the activity occurs;
 - (bb) method or elements of the activity and stage thereof in the process flow; and
 - (cc) ratio of distillate fuel used for the activity relative to overall distillate fuel usage. 30
 - (ii) Records, books, accounts or other documents (including purchase invoices, sales invoices, storage logbooks and usage logbooks) must show in respect of each refund claim how the quantity of distillate fuel on which a refund was claimed was calculated. 35
 - (iii) The Commissioner may determine such time and such form of evidence to be produced by any particular refund user in respect of each refund claim by that user for the period 1 April 2023 until the date on which this Note comes into operation. 40
 - (iv) All such records, books, accounts or other documents to substantiate each refund claim must be kept for a minimum period of 5 years from the date of purchase, use, disposal or loss of the distillate fuel or the refund claim, whichever occurs last. 45
 - (v) Any such records, books, accounts or other documents must be produced for inspection to any officer in accordance with the provisions of section 4 of this Act.
 - (vi) Purchase documentation in respect of the receipt of distillate fuel must be in the name of the refund user and original purchase invoices in the form of tax invoices must be obtained and retained by the refund user. 50
 - (vii) Storage documentation (including storage logbooks) in respect of the receipt, storage, removal, disposal or loss of distillate fuel must reflect the— 55
 - (aa) capacity of the storage tank;
 - (bb) date of receipt, removal, disposal or loss;
 - (cc) quantity received, removed, disposed or lost;
 - (dd) purpose of removal or details of disposal or loss; and
 - (ee) monthly opening and closing balance of storage level. 60
 - (viii) Usage documentation (including usage logbooks) in respect of the source and usage of distillate fuel for the manufacture of foodstuffs or other activities must reflect the—

- (aa) source of distillate fuel;
 - (bb) date and time of each activity of usage;
 - (cc) quantity in respect of each activity of usage;
 - (dd) purpose in respect of each activity of usage; and
 - (ee) equipment powered in each activity of usage. 5
 - (ix) Usage logbook entries must be substantiated by the source documentation and additional information that informed the completion of such logbooks, including the—
 - (aa) serial number or identification marking of equipment;
 - (bb) manufacturer specifications of equipment; 10
 - (cc) distillate fuel or power usage rate of equipment;
 - (dd) frequency, intensity and duration of use of equipment;
 - (ee) function and place of such equipment in the overall process flow; and
 - (ff) any other incidents, facts and observations relevant to the measurement of distillate fuel usage. 15
 - (x) Notwithstanding the usage logbook obligations prescribed in paragraph (c)(viii)—
 - (aa) where multiple equipment is powered simultaneously in respect of both the manufacture of foodstuffs and other activities, the volume of distillate fuel so used must be apportioned based on the ratio of distillate fuel used for the manufacture of foodstuffs relative to overall distillate fuel usage; 20
 - (bb) where the volume of distillate fuel used in any activity cannot with reasonable certainty be gauged, the volume of distillate fuel so used must be determined based on the average rate of distillate fuel consumption of the equipment concerned over the total time period of the usage thereof.”; and 25
- (b) by the insertion of the following refund item after refund item 670.04: 30

Rebate Item	Tariff Item	Rebate Code	CD	Description	Extent of Rebate	Extent of Refund
670.05	000.00	01.00	06	Distillate fuel purchased for use and used in the manufacture of foodstuffs as specified and subject to compliance with Note 14		Full Road Accident Fund levy less 20%

(2) Subject to section 58(1) of the Customs and Excise Act, 1964, subsection (1) is deemed to have come into operation on 1 April 2023 up to and including 31 March 2025. 50

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, section 66 of Act 34 of 2019, section 61 of Act 23 of 2020 and section 27 of Act 20 of 2022 55

46. (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 subparagraph:

“(xv) the activities of the Corporation for Deposit Insurance established in terms of section 166AE of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), shall to the extent that it makes supplies of deposit insurance as contemplated in section 166AF(1) of that Act be deemed not to be the carrying on of an enterprise;”

(2) Subsection (1) comes into operation on 1 April 2024.

Amendment of section 2 of Act 89 of 1991, as amended by section 22 of Act 136 of 1991, paragraph 2 of Government Notice 2695 of 8 November 1991, section 13 of Act 136 of 1992, section 10 of Act 20 of 1994, section 19 of Act 37 of 1996, section 24 of Act 27 of 1997, section 87 of Act 30 of 1998, section 82 of Act 53 of 1999, section 149 of Act 60 of 2001, section 115 of Act 74 of 2002, section 44 of Act 16 of 2004, section 93 of Act 32 of 2004, section 41 of Act 9 of 2006, section 78 of Act 20 of 2006, section 105 of Act 60 of 2008, section 130 of Act 24 of 2011, section 90 of Act 23 of 2018, section 67 of Act 34 of 2019 and section 49 of Act 20 of 2021

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

“(iiiA) ‘**derivative**’ means a derivative as defined in **[International Accounting Standard 39 of the International Accounting Standards]** and within the scope of International Financial Reporting Standard 9 issued by the International Accounting Standards Board;”

(2) Subsection (1) comes into operation on 1 January 2024.

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, section 68 of Act 34 of 2019 and section 62 of Act 23 of 2020

48. (1) Section 8 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the substitution in subsection (8) for the proviso and further proviso of the following proviso:

“Provided that this subsection shall not apply—

(i) in respect of any indemnity payment received or indemnification under a contract of insurance where the supply of services contemplated by that contract is not a supply subject to tax under section 7(1)(a)[:];

(ii) **[Provided further that this subsection shall not apply in respect of any indemnity payment received by a vendor under a contract of insurance]** to the extent that such payment is made to another person as consideration for the supply [relates to the total reinstatement] of goods or services being reinstated under a contract of insurance **[, stolen or damaged beyond economic repair, in respect of the acquisition of which by the vendor a deduction of input tax under section 16(3) was denied in terms of section 17(2) or would have been denied if these sections had been applicable prior to the commencement date]**; or

(iii) to the extent that the indemnity payment contemplated in this provision is in respect of goods or services to which the vendor receiving the payment was, upon acquisition of such goods or

services, denied a deduction of input tax under section 17(2).”;
and

- (b) by the addition after subsection (8) of the following subsection:
 - “(8A) For the purposes of paragraph (ii) of the proviso to section 8(8) and sections 16(2) and 16(3) and subject to the provisions of section 54(2)—
 - (a) the person supplying the goods or services being reinstated under a contract of insurance is deemed to make a supply to each person that is liable to pay any part of the consideration in respect thereof; and
 - (b) notwithstanding paragraph (i) of the proviso to section 20(1), if the person supplying the reinstated goods or services in paragraph (a) is a vendor, that vendor must issue a tax invoice to each person that is liable to make a payment of consideration in respect thereof and such tax invoice must reflect the consideration paid or payable by each person.”.
- (2) Subsection (1) comes into operation on 1 January 2024.

Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, paragraph 5 of Government Notice 2695 of 8 November 1991, section 16 of Act 136 of 1992, section 26 of Act 97 of 1993, section 12 of Act 20 of 1994, section 21 of Act 37 of 1996, section 22 of Act 46 of 1996, section 27 of Act 27 of 1997, section 84 of Act 53 of 1999, section 68 of Act 19 of 2001, section 152 of Act 60 of 2001, section 168 of Act 45 of 2003, section 97 of Act 32 of 2004, section 104 of Act 31 of 2005, section 43 of Act 9 of 2006, section 80 of Act 20 of 2006, section 82 of Act 8 of 2007, section 107 of Act 60 of 2008, section 122 of Act 7 of 2010, section 133 of Act 24 of 2011, section 168 of Act 39 of 2013, section 131 of Act 25 of 2015, section 80 of Act 17 of 2017, section 63 of Act 23 of 2020 and section 51 of Act 20 of 2021

- 49.** (1) Section 10 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (29) of the following subsection:
- “(29)Where goods are deemed to be supplied by a vendor in terms of section 18D(2), the supply shall be deemed to be made for a consideration in money equal to the adjusted cost to the vendor [of the construction, extension or improvement] of such fixed property or portion of such fixed property so supplied.”.
- (2) Subsection (1) comes into operation on 1 April 2024.

Amendment of section 18D of Act 89 of 1991, as inserted by section 54 of Act 20 of 2021

- 50.** (1) Section 18D of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the substitution in subsection (5) for paragraph (a) of the following paragraph:
 - “(a) contemplated in subsection (3) is supplied by that vendor within the “temporarily applied” period; or”;
 - (b) by the substitution in subsection (5) for paragraph (b) of the following paragraph:
 - “(b) is temporarily applied as contemplated in subsection (2)(b) and is no longer applied in supplying accommodation in a dwelling immediately after the expiry of the “temporarily applied” period [; or]”;;
 - (c) by the deletion in subsection (5) of paragraph (c); and
 - (d) by the addition after subsection (5) of the following subsection:
 - “(6) The fixed property contemplated in subsection (2)(b) shall be deemed to have been supplied by the developer by way of a taxable supply under section 18(1) for a consideration as contemplated in section 10(7) in the course or furtherance of that vendor’s enterprise at the earlier of—
 - (a) the time that the temporary letting period of 12 months has been exceeded; or
 - (b) the time that the vendor applies that fixed property permanently for a purpose other than that of making taxable supplies:
 Provided that this provision shall not apply if, during the period that the property is “temporarily applied”, a written agreement for the taxable

supply of the property has been concluded and the transfer of that property only occurs after the expiry of the said period. In such a case, the sale of the property concerned will be a taxable supply at the time contemplated in section 9(3)(d).”

(2) Subsection (1) comes into operation on 1 April 2024.

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Amendment of section 21 of Act 89 of 1991, as amended by section 26 of Act 136 of 1992, section 34 of Act 97 of 1993, section 176 of Act 45 of 2003, section 48 of Act 16 of 2004, section 36 of Act 18 of 2009, section 150 of Act 22 of 2012, section 27 of Act 23 of 2015, section 136 of Act 25 of 2015 and section 2 of Act 22 of 2018

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

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

“(e) an error has occurred in stipulating the amount of consideration agreed upon for that supply[,]; or”;

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

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“(f) prepaid vouchers contemplated in section 10(19) have been issued by any registered vendor that is an “electronic communications service licensee” as defined in section 1 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), and the nature of the supply specified on such voucher has been fundamentally varied or altered.”

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(2) Subsection (1) comes into operation on 1 April 2024.

Amendment of section 54 of Act 89 of 1991, as amended by section 40 of Act 136 of 1991, section 34 of Act 136 of 1992, section 25 of Act 20 of 1994, section 46 of Act 27 of 1997, section 100 of Act 53 of 1999, section 51 of Act 16 of 2004, section 102 of Act 43 of 2014, section 34 of Act 44 of 2014 and section 12 of Act 21 of 2018

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52. (1) Section 54 of the Value-Added Tax Act, 1991, is hereby amended by the insertion after subsection (2B) of the following subsection:

“(2C) For the purposes of this Act, where gold is supplied as contemplated in section 11(1)(f) or where gold is exported from the Republic in the circumstances contemplated in paragraph (a) or (d) of the definition of “exported” in section 1(1) and in accordance with section 12 of the of the Precious Metals Act, 2005 (Act No. 37 of 2005), by an agent who is acting on behalf of another person who is the principal for the purposes of that supply and—

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(a) the agent is a registered vendor; and

(b) the principal is a resident of the Republic and a registered vendor, the agent must obtain and retain documentary proof as is acceptable to the Commissioner: Provided that the agent will—

(aa) not be required to provide the principal with copies of the documentary evidence as prescribed; and

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(bb) be liable to account for output tax in the event that the agent is not in possession of the requisite documents, other than zero-rated tax invoices in circumstances where the principal supplied its gold directly to the purchaser, to substantiate the application of the zero rate in respect of supplies made by the agent on behalf of a principal.”

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(2) Subsection (1) comes into operation on 1 April 2024.

Amendment of Schedule 1 to Act 89 of 1991, as amended by section 48 of Act 136 of 1991, section 43 of Act 136 of 1992, Government Notice No. 2244 of 31 July 1992, section 44 of Act 97 of 1993, Government Notice No. 1955 of 7 October 1993, section 32 of Act 20 of 1994, section 32 of Act 37 of 1996, section 53 of Act 27 of 1997, substituted by section 177 of Act 60 of 2001, amended by section 58 of Act 30 of 2002, section 121 of Act 74 of 2002, Government Notice No. R.111 in Government Gazette 24274 of 17 January 2003, section 189 of Act 45 of 2003, sections 52 to 55 of Act 16 of 2004, section 108 of Act 32 of 2004, sections 111 to 123 of Act 31 of 2005, sections 52 to 53 of Act 9 of 2006, section 89 of Act 20 of 2006, section 109 of Act 8 of 2007, section 85 of Act 8 of 2007, Government Notice No. R.958 in Government Gazette 30370 of 12 October 2007, section 107 of Act 35 of 2007, Government Notice

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No. R.766 in Government *Gazette* 32416 of 24 July 2009, Government Notices Nos. R.154 and R.157 in Government *Gazette* 34046 of 1 March 2011, section 143 of Act 24 of 2011, Government Notice No. R.187 in Government *Gazette* 35102 of 2 March 2012, Government Notice No. R.506 in Government *Gazette* 35481 of 6 July 2012, Government Notice No. 995 in Government *Gazette* 35932 of 7 December 2012, Government Notice No. R.1072 in Government *Gazette* 36002 of 14 December 2012, section 181 of Act 31 of 2013, Government Notice No. R.288 in Government *Gazette* 37554 of 17 April 2014, section 107 of Act 43 of 2014, Government Notice No. R.723 in Government *Gazette* 39100 of 14 August 2015, Government Notice No. R.558 in Government *Gazette* 40004 of 20 May 2016, section 87 of Act 15 of 2016, section 31 of Act 16 of 2016, section 74 of Act 34 of 2019, Government Notice No. R.226 in Government *Gazette* 43051 of 28 February 2020, Government Notice No. R.1069 in Government *Gazette* 43781 of 9 October 2020 and section 25 of Act 16 of 2022

53. (1) Schedule 1 of the Value-Added Tax Act, 1991, is hereby amended by the deletion of item 413.00. 15

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

Amendment of section 3 of Act 28 of 2008 as amended by section 92 of Act 15 of 2016

54. (1) Section 3 of the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended— 20

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

“(1) The royalty mentioned in section 2 in respect of the transfer of a refined mineral resource, other than oil and gas, is determined by multiplying the gross sales of the extractor in respect of that mineral resource during the year of assessment by the percentage determined in accordance with the formula in section 4(1).”; and 25

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

“(1A) The royalty mentioned in section 2 in respect of the transfer of a refined mineral resource, that is oil and gas, is determined by multiplying the gross sales of the extractor in respect of that mineral resource during the year of assessment by the percentage determined in accordance with the formula in section 4(1A).” 30

(2) Subsection (1) will come into operation on 1 January 2024 and applies in respect of years of assessment commencing on or after that date. 35

Amendment of section 4 of Act 28 of 2008

55. (1) Section 4 of the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended—

(a) by the insertion after subsection (1) of the following subsection:

“(1A) The percentage mentioned in section 3(1A) is— 40
2 + [earnings before interest and taxes/(gross sales in respect of refined mineral resources × 12.5)] × 100.”; and

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

“(a) The percentage determined in terms of [subsection] subsection (1) and (1A) must not exceed five per cent.” 45

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

Amendment of section 5 of Act 28 of 2008, as amended by section 98 of Act 17 of 2009, section 132 of Act 7 of 2010 and section 184 of Act 31 of 2013 50

56. (1) Section 5 of the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“For purposes of the formula in section 4(1) and (1A), “earnings before interest and taxes” in respect of a year of assessment means the aggregate of—” 55

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

Amendment of section 32 of Act 24 of 2011

57. (1) Section 32 of the Taxation Laws Amendment Act, 2011, is hereby amended by the substitution for subsection (2) of the following subsection: 5

“(2) Subsection (1) is deemed to have come into operation on 1 October 2012 and applies in respect of expenditure incurred in respect of research and development on or after 1 October 2012 [**but before 1 October 2022**].”.

(2) Subsection (1) is deemed to have come into operation on 10 January 2012.

Amendment of section 1 of Act 25 of 2011, as amended by section 35 of Act 21 of 2012 10

58. (1) Section 1 of the Taxation Laws Second Amendment Act, 2011, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) comes into operation on 1 October 2012 and applies in respect of research and development on or after 1 October 2012[, **but on or before 1 January 2024**].” 15

(2) Subsection (1) is deemed to have come into operation on 14 December 2011.

Amendment of section 5 of Act 21 of 2012

59. (1) Section 5 of the Tax Administration Laws Amendment Act, 2012, is hereby amended by the substitution for subsection (2) of the following subsection: 20

“(2) Subsection (1) is deemed to have come into operation on 1 October 2012 and applies in respect of expenditure incurred in respect of research and development on or after that date [**but before 1 October 2022**].”.

(2) Subsection (1) is deemed to have come into operation on 20 December 2012.

Amendment of section 13 of Act 31 of 2013, as amended by section 144 of Act 25 of 2015, section 98 of Act 15 of 2016, section 93 of Act 17 of 2017, section 98 of Act 23 of 2018, section 82 of Act 34 of 2019, section 71 of Act 23 of 2020, section 60 of Act 20 of 2021 and section 35 of Act 20 of 2022 25

60. (1) Section 13 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection: 30

“(2) Subsection (1) comes into operation on 1 January [2024] 2025 and applies in respect of amounts incurred on or after that date.”.

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

Amendment of section 15 of Act 31 of 2013, as amended by section 145 of Act 25 of 2015, section 99 of Act 15 of 2016, section 94 of Act 17 of 2017, section 99 of Act 23 of 2018, section 83 of Act 34 of 2019, section 72 of Act 23 of 2020, section 61 of Act 20 of 2021 and section 36 of Act 20 of 2022 35

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

“(2) Subsection (1) comes into operation on 1 January [2024] 2025 and applies in respect of amounts incurred on or after that date.”. 40

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

Amendment of section 29 of Act 31 of 2013

62. (1) Section 29 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection: 45

“(2) Subsection (1) comes into operation on 1 January 2014 and applies in respect of expenditure incurred in respect of research and development on or after that date [, **but before 1 October 2022**].”.

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

Amendment of section 62 of Act 31 of 2013, as amended by section 148 of Act 25 of 2015, section 100 of Act 15 of 2016, section 100 of Act 23 of 2018, section 84 of Act 34 of 2019, section 73 of Act 23 of 2020, section 62 of Act 20 of 2021 and section 37 of Act 20 of 2022

63. (1) Section 62 of the Taxation Laws Amendment Act, 2013, is hereby amended by the substitution for subsection (2) of the following subsection: 5

“(2) Subsection (1) comes into operation on 1 January [2024] 2025 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 18 of Act 43 of 2014 10

64. (1) Section 18 of the Taxation Laws Amendment Act, 2014, is hereby amended by the substitution for subsections (2), (3) and (4) of the following subsections:

“(2) Paragraphs (a) and (h) of subsection (1) come into operation on 1 January 2015 and apply in respect of expenditure incurred in respect of research and development on or after that date [, **but before 1 October 2022**]. 15

(3) Paragraphs (b), (c) and (g) of subsection (1) are deemed to have come into operation on 1 October 2012 and apply in respect of expenditure incurred in respect of research and development on or after that date [, **but before 1 October 2022**].

(4) Paragraphs (e) and (f) of subsection (1) are deemed to have come into operation on 1 January 2014 and apply in respect of expenditure incurred in respect of research and development on or after that date [, **but before 1 October 2022**].”.

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

Amendment of section 41 of Taxation Laws Amendment Act 25 of 2015

65. (1) Section 41 of the Taxation Laws Amendment Act, 2015, is hereby amended by the substitution for subsection (1) of the following subsection: 25

“(1) In the case of such an agreement, other than a lay-by agreement as contemplated in subsection (2A), in terms of which at least 25 per cent of the said amount payable only becomes due and payable on or after the expiry of a period of not less than 12 months after the date of the said agreement, taking into consideration any allowance made under section 11(j), there shall be made such further allowance as under the special circumstances of the trade of the taxpayer, as set out in a public notice issued by the Commissioner, is reasonable, in respect of all amounts which are deemed to have accrued under such agreements but which have not been received at the close of the taxpayer’s accounting period: Provided that any allowance so made shall be included as income in the taxpayer’s returns for the following year of assessment and shall form part of the taxpayer’s income.”. 30 35

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

Amendment of section 27 of Act 15 of 2016 40

66. (1) Section 27 of the Taxation Laws Amendment Act, 2016, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) is deemed to have come into operation on 1 October 2012 and applies in respect of expenditure incurred in respect of research and development on or after that date [, **but before 1 October 2022**].”.

(2) Subsection (1) is deemed to have come into operation on 19 January 2017. 45

Amendment of section 12 of Act 15 of 2019, as amended by section 64 of Act 20 of 2021

67. (1) Section 12 of the Carbon Tax Act, 2019, is hereby amended by the substitution for subsection (1) of the following subsection: 50

“(1) Subject to subsection (2), a taxpayer that conducts an activity that is listed in Schedule 2 in the column ‘Activity/Sector’ and participates in the carbon budget system from 1 January 2021 to 31 December [2022] 2024, must receive an

additional allowance of five per cent of the total greenhouse gas emissions in respect of a tax period.”.

(2) Subsection (1) is deemed to have come into operation on 1 January 2023.

Amendment of Schedule 1 to Act 15 of 2019, as amended by section 98 of Act 34 of 2019

5

68. (1) Schedule 1 to the Carbon Tax Act, 2019, is hereby amended by the substitution for Table 2 of the following Table:

TABLE 2

FUGITIVE EMISSION FACTORS

IPCC Code	SOURCE CATEGORY ACTIVITY	CO ₂	CH ₄	N ₂ O	
1B1	SOLID FUELS (M³ /TONNE)				10
1B1a	COAL MINING AND HANDLING				15
1B1ai	UNDERGROUND COAL MINING	0.000077	0.00077		
	UNDERGROUND POST-MINING (HANDLING & TRANSPORT)	0.000018	0.00018		
1B1aii	SURFACE COAL MINING	N/A	0		20
	SURFACE POST-MINING (STORAGE AND TRANSPORT)	N/A	0		
1B1c2	Charcoal production (Fuel wood input) (kgCH ₄ /TJ)	N/A	0.300		
	Charcoal production (Charcoal produced) (kgCH ₄ /TJ)	N/A	1.000		25
1B2	OIL AND NATURAL GAS (Gg/103M³ TOTAL OIL PRODUCTION)				
1B2b	NATURAL GAS				
1B2b	FLARING AND VENTING				30
1.B.2.b.ii	WELL DRILLING	0.0000001	0.000000033	ND	
1.B.2.b.ii	WELL TESTING	0.000009	0.000000051	0.00000000068	
1.B.2.b.ii	WELL SERVICING	0.0000000019	0.00000011	ND	
1B2b	GAS PRODUCTION (Gg/106M³ TOTAL OIL PRODUCTION)				35
1.B.2.b.iii.2	FUGITIVES	1.40E-05 to 8.20E-05	3.80E-04 to 2.30E-03	N/A	
1.B.2.b.ii	FLARING	0.0012	0.00000076	0.000000021	40
	GAS PROCESSING (Gg/106M³ RAW GAS FEED)				
1.B.2.b.iii.3	SWEET GAS PLANTS—FUGITIVES	1.50E-04 to 3.20E-04	4.80E-04 to 1.03E-03	N/A	45
1.B.2.b.ii	SWEET GAS PLANTS—FLARING	0.0018	0.0000012	0.000000025	
1.B.2.b.iii.3	SOUR GAS PLANTS—FUGITIVES	0.0000079	0.000097	N/A	
1.B.2.b.ii	SOUR GAS PLANTS—FLARING	0.0036	0.0000024	0.000000054	50
1.B.2.b.i	SOUR GAS PLANTS — RAW CO ₂ VENTING	0.063	N/A	N/A	
1.B.2.b.iii.3	DEEP CUT EXTRACTION—FUGITIVES	0.0000016	0.000011	N/A	
1.B.2.b.ii	DEEP CUT EXTRACTION—FLARING	0.00011	0.000000072	0.000000012	55
1.B.2.b.iii.3	DEFAULT—FUGITIVES	1.20E-05 to 3.20E-04	1.50E-04 to 1.03E-03	N/A	

IPCC Code	SOURCE CATEGORY ACTIVITY	CO ₂	CH ₄	N ₂ O	
1.B.2.b.ii	DEFAULT—FLARING	0.003	0.000002	0.000000033	
1.B.2.b.i	DEFAULT—RAW CO ₂ VENTING	0.04	N/A	N/A	5
1B2b	<i>GAS TRANSMISSION & STORAGE (Gg-CO₂/year/km)</i>				
1.B.2.b.iii.4	TRANSMISSION—FUGITIVES	0.000000016	0.0000025	N/A	
1.B.2.b.i	TRANSMISSION—VENTING	0.0000000085	0.0000010	N/A	
1.B.2.b.iii.4	STORAGE (Gg-CO ₂ /year/M ³)		2.32E-12	ND	10
1B2b	<i>GAS DISTRIBUTION (Gg/106M³ OF UTILITY SALES)</i>				
1.B.2.b.iii.5	ALL	0.000051	0.0011	ND	
1B2b	<i>NATURAL GAS LIQUIDS TRANSPORT (Gg/ 103M³ CONDENSATE AND PENTANES PLUS)</i>				15
1.B.2.a.iii.3	CONDENSATE	0.0000000072	0.00000011		
1.B.2.a.iii.3	LIQUEFIED PETROLEUM GAS (Gg/ 103M ³ LPG)	0.00000043	N/A	2.2 0E-12	20
1.B.2.a.iii.3	LIQUEFIED NATURAL GAS (Gg/106M ³ MARKETABLE GAS)	ND	ND	ND	
1B2a	OIL				
1B2a	<i>OIL PRODUCTION (Gg/ 103M³ CONVENTIONAL OIL PRODUCTION)</i>				25
1.B.2.a.iii.2	CONVENTIONAL OIL—FUGITIVES (ONSHORE)	1.10E-10 to 2.60E-07	1.50E-09 to 3.60E-06	N/A	30
1.B.2.a.iii.2	CONVENTIONAL OIL—FUGITIVES (OFFSHORE)	0.000000000043	0.00000000059	N/A	
1.B.2.a.i	CONVENTIONAL OIL—VENTING	0.000000095	0.00000072	N/A	
1.B.2.a.ii	CONVENTIONAL OIL—FLARING	0.000041	0.000000025	0.00000000064	35
1B2a	<i>OIL PRODUCTION (Gg/ 103M³ HEAVY OIL PRODUCTION)</i>				
1.B.2.a.iii.2	HEAVY OIL/COLD BITUMEN—FUGITIVES	0.00000054	0.0000079	N/A	40
1.B.2.a.i	HEAVY OIL/COLD BITUMEN—VENTING	0.0000053	0.000017	N/A	
1.B.2.a.ii	HEAVY OIL/COLD BITUMEN—FLARING	0.000022	0.00000014	0.00000000046 4 20	45
1B2a	<i>OIL PRODUCTION (Gg/ 103M³ THERMAL BITUMEN PRODUCTION)</i>				
1.B.2.a.iii.2	THERMAL OIL PRODUCTION—FUGITIVES	0.000000029	0.00000018	N/A	50
1.B.2.a.i	THERMAL OIL PRODUCTION—VENTING	0.00000022	0.0000035	N/A	
1.B.2.a.ii	THERMAL OIL PRODUCTION—FLARING	0.000027	0.000000016	0.00000000024	
1B2a	<i>OIL PRODUCTION (Gg/103M³ SYNTHETIC CRUDE PRODUCTION FROM OILSANDS)</i>				55
1.B.2.a.iii.2	SYNTHETIC CRUDE (FROM OILSANDS)	ND	0.0000023	ND	60
1.B.2.a.iii.2	SYNTHETIC CRUDE (OIL SHALE)	ND	ND	ND	

IPCC Code	SOURCE CATEGORY ACTIVITY	CO ₂	CH ₄	N ₂ O	
1B2a	<i>OIL PRODUCTION</i> (Gg/103M ³ TOTAL OIL PRODUCTION)				5
1.B.2.a.iii.2	DEFAULT TOTAL—FUGITIVES	0.00000028	0.00000022	N/A	
1.B.2.a.i	DEFAULT TOTAL—VENTING	0.0000018	0.0000087	N/A	
1.B.2.a.ii	DEFAULT TOTAL—FLARING	0.000034	0.000000021	0.00000000054	
1B2a	<i>OIL UPGRADING</i> (Gg/103M ³ OIL UPGRADED)				10
1.B.2.a.iii.2	ALL	ND	ND	ND	
1B2a	<i>OIL TRANSPORT</i> (Gg/103M ³ OIL TRANSPORTED BY PIPELINE)				15
1.B.2.a.iii.3	PIPELINES	0.00000000049	0.0000000054	N/A	
1B2a	<i>OIL TRANSPORT</i> (Gg/103M ³ OIL TRANSPORTED BY TANKER TRUCK)				
1.B.2.a.i	TANKER TRUCKS AND RAIL CARS—VENTING	0.0000000023	0.000000025	N/A	20
	<i>OIL TRANSPORT</i> (Gg/ 103M ³ OIL TRANSPORTED BY TANKER SHIPS)				
1.B.2.a.i	LOADING OFF-SHORE PRODUCTION ON TANKER SHIPS—VENTING	ND	ND	ND	25
1B2a	<i>OIL REFINING</i> (Gg/ 103M ³ OIL REFINED)				
1.B.2.a.iii.4	ALL		2.60E-09 to 4.10E-08	ND	30

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

Short title

69. This Act is called the Taxation Laws Amendment Act, 2023.

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