DRAFT

TAXATION LAWS AMENDMENT BILL

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 Securities Transfer Tax Act, 2007, to amend certain provisions; to amend the Mineral and Petroleum Resources Royalty Act, 2008, so as to amend a provision; to amend the Employment Tax Incentive Act, 2013, so as to amend certain provisions; to amend the Taxation Laws Amendment Act, 2013, so as to amend certain effective dates; to amend the Carbon Tax Act, 2019, so as to amend certain provisions; and to amend certain Schedules; to amend the Taxation Laws Amendment Act, 2023, so as to amend certain provisions; and to provide for matters connected therewith.

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

Amendment of section 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 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, 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, section 1 of Act 20 of 2022, section 1 of Act 17 of 2023 and section 1 of Revenue Laws Amendment Act of 2024

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

(a) by the substitution in the definition of "company" for subparagraph (ii) of paragraph *(e)* of the following subparagraph:

"(ii) portfolio comprised in any investment scheme carried on outside the Republic that is comparable to a portfolio of a collective investment scheme in participation bonds **[or]**, a portfolio of a collective investment scheme in securities or a portfolio of a hedge fund collective investment scheme in pursuance of any arrangement in terms of which members of the public (as defined in section 1 of the Collective Investment Schemes Control Act) are invited or permitted to contribute to and hold participatory interests in that portfolio through shares, units or any other form of participatory interest; or";

(b) by the substitution in the definition of "connected person" in paragraph *(c)* for subparagraph (ii) of the following subparagraph:

"(ii) any connected person in relation to any member of such partnership or foreign partnership other than a member who is a qualifying investor in such partnership or foreign partnership;";

(c) by the substitution in the definition of "connected person" in paragraph *(d)*(vi)*(cc)* for subitems (i) and (ii) of the following subitems, respectively:

"**[(i)]**(A) any member contemplated in item *(aa)*; or

[(ii)](B) the relative or trust contemplated in item *(bb)*; and";

(d) by the substitution for the definition of "REIT" of the following definition:

"' REIT' means a company that is a resident—

(a) **[that is a resident; and**

***(b)*]** the equity shares of which are listed—

(i) on an exchange (as defined in section 1 of the Financial Markets Act and licensed under section 9 of that Act); and

(ii) as shares in a REIT as defined in the listing requirements of that exchange approved in consultation with the Director-General of the National Treasury and published, after approval of those listing requirements by the Director- General of the National Treasury, by the appropriate authority, as contemplated in section 1 of the Financial Markets Act, in terms of section 11 of that Act or by the Financial Sector Conduct Authority; or

(b) where all the shares in that company meet the requirements and conditions set by the Financial Sector Conduct Authority after consultation with and approval by the Director-General of the National Treasury and published by that Authority;";

(e) by the substitution in the proviso to the definition of "remuneration proxy" for paragraphs *(a)* and *(b)*, respectively, of the following paragraphs:

"*(a)* where during a portion of such preceding year the employee was not in the employment of the employer or of any associated institution, as defined in paragraph 1 of the Seventh Schedule, in relation to the employer, the remuneration proxy as respects that employee must be deemed to be an amount which bears to the amount of the employee's remuneration for the portion of such preceding year during which the employee was in such employment the same ratio as the period of 365 days bears to the number of days in such last-mentioned portion;

(b) where during the whole of such preceding year, the employee was not in the employment of the employer or of any associated institution, as defined in paragraph 1 of the Seventh Schedule, in relation to the employer, the remuneration proxy as respects that employee must be deemed to be an amount which bears to the employee's remuneration during the first month during which the employee was in the employment of the employer the same ratio as 365 days bears to the number of days during which the employee was in such employment;";

(f) by the substitution in the definition of ‘‘retirement annuity fund’’ in subparagraph (ii) of paragraph *(b)* of the proviso for the words preceding the proviso of the following words:

"that not more than one-third of the member's interest in the vested component may be commuted for a single payment, and that the remainder, calculated together with the total value of the member's share standing to the credit of the retirement component, 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 of the member's interest in the vested component plus the member's interest in the retirement component does not exceed R165 000, or where the member is deceased or where the member elects to transfer the vested component to a retirement annuity fund or where a member of this retirement annuity fund elects to have a lump sum benefit contemplated in paragraph 2(1)*(c)* of the Second Schedule transferred to another retirement annuity fund and who made the election while being a member of this retirement annuity fund:";

(g) by the insertion in the definition of ‘‘retirement annuity fund’’ in paragraph *(b)* of the proviso after subparagraph (v) of the following subparagraph:

"(vA) that a former member of another retirement annuity fund may elect to have a lump sum benefit contemplated in paragraph 2(1)*(c)* of the Second Schedule transferred to this retirement annuity fund if the member made the election while being a member of that other retirement annuity fund;";

(h) by the substitution for the definition of "trust" of the following definition:

" **'trust'** means any trust fund consisting of cash or other assets which are administered and controlled by a person acting in a fiduciary capacity, where such person is appointed under a deed of trust or by agreement or under the will of a deceased person, and includes a portfolio of a collective investment scheme and a portfolio of a hedge fund collective investment scheme;";

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

(3) Paragraph *(d)* of subsection (1) comes into operation with effect from a date determined by the Minister of Finance by notice in the *Gazette* after the publication of the requirements regulating the unlisted property companies.

(4) Paragraphs *(e)*, *(f)* and *(g)* of subsection (1) come into effect on 1 March 2025 and apply in respect of years of assessment commencing on or after that date.

Amendment of section 6*quat* of Act 58 of 1962, as inserted by section 9 of Act 89 of 1969, repealed by section 5 of Act 94 of 1983, inserted by section 5 of Act 85 of 1987 and amended by section 5 of Act 28 of 1997, section 12 of Act 53 of 1999, section 16 of Act 30 of 2000, section 4 of Act 59 of 2000, section 8 of Act 5 of 2001, section 20 of Act 60 of 2001, section 8 of Act 5 of 2001, section 9 and section 125 of Act 74 of 2002, section 16 of Act 45 of 2003, section 4 of Act 32 of 2004, section 8 of Act 31 of 2005, section 7 of Act 35 of 2007, section 9 of Act 17 of 2009, section 7 of Act 18 of 2009, section 11 of Act 24 of 2011, section 271 of Act 28 of 2011, read with paragraph 29 of Schedule 1, section 3 of Act 22 of 2012, section 3 of Act 39 of 2013, section 6 of Act 25 of 2015, section 10 of Act 15 of 2016, section 4 of Act 17 of 2017, section 7 of Act 23 of 2018 and section 2 of Act 18 of 2023

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

(a) by the substitution in subsection (1A) for paragraph (ii) of the proviso of the following paragraph:

(ii) for the purposes of this subsection, the amount so included in such resident's taxable income must be determined—

(aa) without regard to section 10B(3); and

(bb) by replacing the percentages in paragraph 10(1)*(a)*, *(b)*(i), (iii) and (iv), and *(c)* of the Eighth Schedule by 100 per cent."; and

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

"(4) For the purpose of this section the amount of any foreign tax proved to be payable as contemplated in—

(a) subsection (1A)*(a)* or *(f)* or any amount paid or proved to be payable as contemplated in subsection (1C) in respect of any amount which is included in the taxable income of any resident during any year of assessment, shall be translated to the currency of the Republic on the last day of that year of assessment by applying the average exchange rate for that year of assessment; or

(b) subsection (1A)*(b)* in respect of any amount which is included in the taxable income of any resident during any year of assessment, shall be translated to the currency of the Republic on the last day of the foreign tax year of the controlled foreign company in respect of which the proportional amount referred to in that subsection is determined.".

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

(3) Paragraph *(b)* of subsection (1) comes into operation on 31 December 2024 and applies in respect of foreign tax years of controlled foreign companies ending on or after that date.

Amendment of section 7 of Act 58 of 1962, as amended by section 5 of Act 90 of 1962, section 8 of Act 88 of 1965, section 5 of Act 55 of 1966, section 7 of Act 94 of 1983, section 2 of Act 30 of 1984, section 5 of Act 90 of 1988, section 5 of Act 70 of 1989, section 4 of Act 101 of 1990, section 7 of Act 129 of 1991, section 5 of Act 141 of 1992, section 6 of Act 21 of 1995, section 23 of Act 30 of 1998, section 13 of Act 53 of 1999, section 5 of Act 59 of 2000, section 10 of Act 74 of 2002, section 17 of Act 45 of 2003, section 5 of Act 32 of 2004, section 9 of Act 31 of 2005, section 8 of Act 35 of 2007, section 4 of Act 3 of 2008, section 8 of Act 60 of 2008, section 10 of Act 17 of 2009, section 15 of Act 24 of 2011, section 8 of Act 31 of 2013 and section 4 of Act 43 of 2014

3. (1) Section 7 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (11) of the following subsection:

"(11) Any amount received by or accrued to any person by way of deduction from the minimum individual reserve of any other person in terms of—

(a) section 37D(1)*(d)*(iA) of the Pension Funds Act; **[or]**

*(a*A) section 37D(1)(*d*)(iB) of the Pension Funds Act; or

(b) section 37D(1)(*e*) of the Pension Funds Act to the extent that the deduction is a result of a deduction contemplated in paragraph *(a) or (a*A),

shall be deemed for the purposes of this Act to be income accrued to that other person on the date of the deduction.".

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

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, section 3 of Act 20 of 2022 and section 3 of Act 17 of 2023

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

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

"an amount equal to the difference between the amount incurred by that trust or company during a year of assessment as interest in respect of that loan, advance or credit and the amount that would have been incurred by that trust or company at the official rate of interest must, for purposes of Part V of Chapter II, be treated as a donation made to that trust or company by the person referred to in subsection (1)*(a)*, (1A), or (B) on the last day of that year of assessment of that trust or company."; and

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

"*(e)* that loan, advance or credit constitutes an affected transaction as defined in section 31(1) **[that is subject to the provisions of that section]** to the extent of an adjustment made in terms of section 31(2);".

(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 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 6 of Act 14 of 2017, section 5 of Act 22 of 2020 and section 5 of Act 19 of 2023

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

"*(n*B*)* Where a taxpayer disposes of an asset contemplated in section 12V before the expiration of five years from the date that asset was brought into use, there shall be included in the taxpayer's income 50 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.

*(n*C*)* Where an asset contemplated in section 12V is no longer used mainly in the production of electric and hydrogen-powered vehicles in the Republic, before the expiration of five years from the date that asset was brought into use, there shall be included in the taxpayer's income the amount allowed as a deduction under section 12V in respect of that asset.".

(2) Subsection (1) comes into operation on 1 March 2026 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, section 9 of Act 24 of 2019 and section 5 of Act 17 of 2023

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

(a) by the substitution for the definition of "third-party backed share" of the following definition:

" **'third-party backed share'** means any preference share or equity instrument in respect of which an enforcement right is exercisable by the holder of that preference share or equity instrument or any person that is a connected person in relation to that holder as a result of any amount of any specified dividend, foreign dividend, return of capital or foreign return of capital attributable to that share or equity instrument not being received by or accruing to any person entitled thereto**[;]**.";

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

"*(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 and the settlement of an amount of dividends or foreign dividends, if any, in respect of that preference share, within 90 days of that disposal; or"; and

(c) by the substitution in the proviso to subsection (3) for paragraph *(b)* of the following paragraph:

"*(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 or a corporate action contemplated in the listings requirements of an exchange, in a country other than the Republic, contemplated in paragraph *(c)* of the definition of 'recognised exchange' in paragraph 1 of the Eighth Schedule.".

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

Amendment of section 9D of Act 58 of 1962, as inserted by section 9 of Act 28 of 1997 and amended by section 28 of Act 30 of 1998, section 17 of Act 53 of 1999, section 19 of Act 30 of 2000, section 10 of Act 59 of 2000, section 9 of Act 5 of 2001, section 22 of Act 60 of 2001, section 14 of Act 74 of 2002, section 22 of Act 45 of 2003, section 13 of Act 32 of 2004, section 14 of Act 31 of 2005, section 9 of Act 20 of 2006, sections 9 and 96 of Act 8 of 2007, section 15 of Act 35 of 2007, section 8 of Act 3 of 2008, section 13 of Act 60 of 2008, section 12 of Act 17 of 2009, sections 16 and 146 of Act 7 of 2010, section 25 of Act 24 of 2011, sections 14 and 156 of Act 22 of 2012, section 19 of Act 31 of 2013, section 12 of Act 43 of 2014, section 13 of Act 25 of 2015, section 20 of Act 15 of 2016, section 15 of Act 17 of 2017, section 18 of Act 23 of 2018, section 10 of Act 34 of 2019, section 6 of Act 23 of 2020, section 10 of Act 20 of 2021, section 4 of Act 20 of 2022 and section 7 of Act 17 of 2023

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

(a) by the substitution for paragraph *(k)* of the proviso to subsection (2A) of the following paragraph:

''*(k)* for the purposes of section 24I and paragraph 43 of the Eighth Schedule, **'local currency'** of a controlled foreign company otherwise than in relation to a permanent establishment of that controlled foreign company, means the functional currency of that company: Provided that where the functional currency is the currency of a country which has an official rate of inflation of 100 per cent or more for that foreign tax year, the **'local currency'** means the currency of the Republic; and'';

(b) by the substitution in subsection (6) for the proviso of the following proviso:

"Provided that any exchange item denominated in any currency other than the functional currency of that controlled foreign company shall be deemed not to be **[attributable]** effectively connected to any permanent establishment of the controlled foreign company if the functional currency is the currency of a country which has an official rate of inflation of 100 per cent or more for that foreign tax year."; and

(c) by the substitution in subsection (9) for paragraph (*f*B*)* of the following paragraph:

"*(f*B*)* is attributable to the disposal of any asset, as defined in the Eighth Schedule, (other than any financial instrument or intangible asset as defined in paragraph 16 of the Eighth Schedule), where that asset was **[attributable]** effectively connected to any foreign business establishment of any other controlled foreign company, where that company and that other controlled foreign company form part of the same group of companies**[;]**.".

(2) Paragraph *(a)* of subsection (1) comes into operation on 31 December 2024 and applies in respect of foreign tax years of controlled foreign companies ending on or after that date.

Amendment of section 9H of Act 58 of 1962, as substituted by section 17 of Act 22 of 2012 and amended by section 21 of Act 31 of 2013, section 13 of Act 43 of 2014, section 21 of Act 15 of 2016, section 7 of Act 23 of 2020, section 11 of Act 20 of 2021 and section 8 of Act 17 of 2023

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

(a) by the substitution in subsection (4) for paragraphs *(e)* and *(f)*, respectively, for the following paragraphs:

"*(e)* any equity instrument contemplated in section 8C that had not yet vested as contemplated in that section at the time that the person ceases to be a resident as contemplated in subsection (2) or (3); **[or]**

(f) any right of that person to acquire any marketable security contemplated in section 8A**[.]**; or"; and

(b) by the addition to subsection (4) of the following paragraph:

"*(g)* any amount representing the value of the interest in any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund.".

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994, section 12 of Act 21 of 1995, section 9 of Act 36 of 1996, section 12 of Act 28 of 1997, section 30 of Act 30 of 1998, section 20 of Act 53 of 1999, section 22 of Act 30 of 2000, section 15 of Act 59 of 2000, section 10 of Act 19 of 2001, section 27 of Act 60 of 2001, section 14 of Act 30 of 2002, section 19 of Act 74 of 2002, section 27 of Act 45 of 2003, section 9 of Act 16 of 2004, section 16 of Act 32 of 2004, section 6 of Act 9 of 2005, section 18 of Act 31 of 2005, section 11 of Act 20 of 2006, section 11 of Act 8 of 2007, section 17 of Act 35 of 2007, sections 1 and 10 of Act 3 of 2008, section 18 of Act 60 of 2008, section 14 of Act 17 of 2009, section 19 of Act 7 of 2010, sections 30 and 161 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 33 of Schedule 1 to that Act, section 22 of Act 22 of 2012, section 27 of Act 31 of 2013, section 17 of Act 43 of 2014, section 18 of Act 25 of 2015, section 26 of Act 15 of 2016, section 19 of Act 17 of 2017, section 25 of Act 23 of 2018, section 15 of Act 34 of 2019, section 13 of Act 23 of 2020, section 8 of Act 20 of 2022 and section 11 of Act 17 of 2023

9. (1) Section 11 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph *(n*A*)* of the following paragraph:

"*(n*A*)* so much of any amount, including any voluntary award, received or accrued in respect of services rendered or to be rendered or any amount received or accrued in respect of or by virtue of any employment or the holding of any office as was or is included in the taxable income of that person and is refunded by that person;".

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

Amendment of section 12C of Act 58 of 1962, as inserted by section 14 of Act 101 of 1990 and amended by section 11 of Act 113 of 1993, section 7 of Act 140 of 1993, section 11 of Act 21 of 1994, section 13 of Act 21 of 1995, section 10 of Act 46 of 1996, section 18 of Act 59 of 2000, section 11 of Act 19 of 2001, section 15 of Act 30 of 2002, section 30 of Act 45 of 2003, section 8 of Act 9 of 2005, section 20 of Act 31 of 2005, section 14 of Act 8 of 2007, section 22 of Act 35 of 2007, section 20 of Act 60 of 2008, section 19 of Act 17 of 2009, section 33 of Act 24 of 2011, section 24 of Act 22 of 2012, section 32 of Act 31 of 2013, section 20 of Act 25 of 2015, section 23 of Act 17 of 2017, section 27 of Act 23 of 2018 and section 14 of Act 23 of 2020

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

(a) by the substitution in subsection (3) for paragraphs *(d*) and *(e)* respectively of the following paragraphs:

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

(e) 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 (3) after paragraph *(e)* of the following paragraph:

"*(f)* any asset in respect of which an allowance has been granted to the taxpayer under section 12V.".

(2) Subsection (1) comes into operation on 1 March 2026 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, section 26 of Act 17 of 2017 and section 17 of Act 17 of 2023

11. (1) Section 12E of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (3B) of the following subsection:

''(3B) No deduction shall be allowed under this section in respect of any asset in respect of which **[an allowance]** a deduction 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.

Insertion of section 12V into Act 58 of 1962

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

"Deduction in respect of investment allowance in respect of the production of electric and hydrogen-powered vehicles

12V. (1) There must be allowed to be deducted by a person that is a motor vehicle manufacturer any amount equal to 150 per cent of the cost of any—

(a) building (including improvements to a building); or

(b) new and unused machinery, plant, implements, utensils and articles,

acquired as a 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 or owned by the taxpayer and used mainly in the production of electric and hydrogen-powered vehicles in the Republic.

(2) For the purposes of the deduction under subsection (1), an asset in paragraph *(a)* or *(b)* must be brought into use on or after 1 March 2026 and before 1 March 2036.

(3) For the purposes of this section, the cost to a taxpayer of any asset is deemed to be the lesser of the actual cost to the taxpayer or the cost which a person would, if the person

had acquired that asset under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition was concluded, have incurred in respect of the direct cost of the acquisition of the asset.

(4) No deduction shall be allowed under this section in respect of 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.".

(2) Subsection (1) comes into operation on 1 March 2026 and applies in respect of assets brought into use on or after that date.

Amendment of section 13 of Act 58 of 1962, as amended by section 12 of Act 90 of 1962, section 5 of Act 6 of 1963, section 11 of Act 72 of 1963, section 12 of Act 90 of 1964, section 14 of Act 88 of 1965, section 17 of Act 55 of 1966, section 13 of Act 52 of 1970, section 13 of Act 88 of 1971, section 12 of Act 90 of 1972, section 13 of Act 65 of 1973, section 16 of Act 85 of 1974, section 13 of Act 69 of 1975, section 7 of Act 101 of 1978, section 10 of Act 104 of 1980, section 14 of Act 96 of 1981, section 10 of Act 96 of 1985, section 12 of Act 85 of 1987, section 12 of Act 90 of 1988, section 12 of Act 113 of 1993, section 11 of Act 46 of 1996, section 22 of Act 53 of 1999, section 20 of Act 59 of 2000, section 13 of Act 19 of 2001, section 30 of Act 60 of 2001, section 3 of Act 4 of 2008, section 30 of Act 7 of 2010, section 40 of Act 24 of 2011, section 45 of Act 31 of 2013, section 30 of Act 25 of 2015 and section 37 of Act 15 of 2016

13. Section 13 of the Income Tax Act, 1962, is hereby amended—

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

"**Deductions in respect of buildings used in a process of manufacture or research and development**";

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

"Notwithstanding anything to the contrary contained in paragraph (ii) of the proviso to section 11*(e)*, there shall be allowed to be deducted from the income of the taxpayer an allowance equal to two per cent of the cost (after the deduction of any amount referred to in subsection (3) **[or (7)]** or the corresponding provisions of any previous Income Tax Act) to the taxpayer of—";

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

"*(b)* any building the erection of which was commenced by the taxpayer on or after the fifteenth day of March, 1961, if such building was wholly or mainly used by the taxpayer during the year of assessment for the purpose of carrying on therein in the course of his trade (other than mining or farming) any process of manufacture, research and development or any other process which is of a similar nature, or such building was let by the taxpayer and was wholly or mainly used by a tenant or subtenant for the purpose of carrying on therein any process as aforesaid in the course of any trade (other than mining or farming); **[or]**

(d) any building the erection of which was commenced on or after the fifteenth day of March, 1961, if such building has been acquired by the taxpayer by purchase from any other person who was entitled to an allowance in respect thereof under paragraph *(b)* or this paragraph or the corresponding provisions of any previous Income Tax Act, and such building was wholly or mainly used during the year of assessment by the taxpayer for the purpose of carrying on therein in the course of his trade (other than mining or farming) a process of manufacture, research and development or any other process which is of a similar nature, or such building was let by the taxpayer and was wholly or mainly used by a tenant or subtenant for the purpose of carrying on therein in the course of any trade (other than mining or farming) any process as aforesaid; **[or]**";

(d) by the deletion in subsection (1) of paragraph *(e)*;

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

"*(f)* any improvements (other than repairs) to any building, if such improvements were commenced on or after the first day of April, 1971, and such building was wholly or mainly used by the taxpayer during the year of assessment for the purpose of carrying on therein in the course of his trade (other than mining or farming) any process of manufacture, research and development or any other process which is of a similar nature, or such building was let by the taxpayer and was wholly or mainly used by a tenant or subtenant for the purpose of carrying on therein any process as aforesaid in the course of any trade (other than mining or farming):";

(f) by the substitution in subsection (1) for paragraph *(b)* of the proviso for the following paragraph:

"*(b)* in the case of any such building the erection of which has or is commenced on or after 1 January 1989 and any such improvements which have or are commenced on or after that date**[, other than any building or improvements in respect of which the increased allowance contemplated in paragraph *(c)* of this proviso applies,]** the allowance under this subsection shall be increased to 5 per cent of the cost (after the deduction of any amount as provided in subsection (3)) to the taxpayer of such building or improvements; and";

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

(2) The aggregate of the allowances allowed under subsection (1) or the corresponding provisions of any previous Income Tax Act, or deemed to have been allowed in terms of subsection (1A), in respect of any building or improvements shall not exceed the cost (after the deduction of any amount referred to in subsection (3) or the corresponding provisions of any previous Income Tax Act) of such building or improvements, as the case may be, less the aggregate of any allowances made to the taxpayer in respect of such building or improvements, as the case may be, under **[subsection (7) or]** section 11*(g)* or the corresponding provisions of any previous Income Tax Act."; and

(h) by the addition after subsection (2) of the following subsection:

"(2A) 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 12V.".

(2) Paragraph *(h)* of subsection (1) comes into operation on 1 March 2026 and applies in respect of buildings or improvements brought into use on or after that date.

Amendment of section 13*bis* of Act 58 of 1962, as inserted by section 15 of Act 88 of 1965 and amended by section 18 of Act 55 of 1966, section 14 of Act 95 of 1967, section 14 of Act 88 of 1971, section 14 of Act 69 of 1975, section 13 of Act 94 of 1983, section 46 of Act 97 of 1986, section 13 of Act 90 of 1988, section 13 of Act 113 of 1993, section 12 of Act 21 of 1994, section 21 of Act 59 of 2000, section 4 of Act 4 of 2008, section 31 of Act 7 of 2010, section 31 of Act 25 of 2015, section 33 of Act 23 of 2018 and section 21 of Act 34 of 2019

14. Section 13*bis* of the Income Tax Act, 1962, is hereby amended by the deletion of subsections (2), (3), (4) and (9).

Amendment of section 13*quat* of Act 58 of 1962, as inserted by section 33 of Act 45 of 2003 and amended by section 12 of Act 16 of 2004, section 19 of Act 32 of 2004, section 23 of Act 31 of 2005, section 16 of Act 8 of 2007, section 5 of Act 4 of 2008, section 29 of Act 60 of 2008, sections 29 and 106 of Act 17 of 2009, section 33 of Act 7 of 2010, section 41 of Act 24 of 2011, section 34 of Act 22 of 2012, 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, section 16 of Act 20 of 2021 and section 21 of Act 17 of 2023

15. (1) Section 13*quat* of the Income Tax Act, 1962, is hereby amended--

(a) by the substitution in subsection (5) for paragraphs *(b)* and *(c)*, respectively, of the following paragraphs:

‘‘*(b)* which has been disposed of by the taxpayer during any previous year of assessment; **[or]**

(c) which is brought into use by the taxpayer after 31 March 2025**[.]**; or’’; and

(b) by the addition in subsection (5) after paragraph *(c)* of the following paragraph:

"*(d)* in respect of which an allowance has been granted to the taxpayer under section 12V.".

(2) Subsection (1) comes into operation on 1 March 2026 and applies in respect of any building, part thereof or improvement that is brought into use on or after that date.

Amendment of section 20 of Act 58 of 1962, as amended by section 13 of Act 90 of 1964, section 18 of Act 88 of 1965, section 13 of Act 76 of 1968, section 18 of Act 89 of 1969, section 15 of Act 65 of 1973, section 8 of Act 101 of 1978, section 18 of Act 94 of 1983, section 19 of Act 101 of 1990, section 16 of Act 113 of 1993, section 17 of Act 21 of 1995, section 15 of Act 28 of 1997, section 26 of Act 30 of 2000, section 27 of Act 59 of 2000, section 23 of Act 74 of 2002, section 35 of Act 45 of 2003, section 19 of Act 8 of 2007, section 32 of Act 35 of 2007, section 15 of Act 3 of 2008, section 35 of Act 60 of 2008, section 32 of Act 17 of 2009, section 37 of Act 22 of 2012, section 54 of Act 31 of 2013, section 31 of Act 43 of 2014, section 39 of Act 15 of 2016, section 18 of Act 20 of 2021 and section 42 of Act 20 of 2022

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

(a) by the substitution in subsection (1)*(a)* for subparagraph (iii) of the following subparagraph:

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

(b) by the addition in subsection (1) to paragraph *(a)* of the following proviso:

"; Provided that where a company has taken steps to liquidate, wind up or deregister as contemplated in section 41(4) and has not at any stage withdrawn any of those steps or done anything to invalidate any step so taken, with the result that the company will not be liquidated, wound up or deregistered, the amount of the balance of assessed loss that may be set off under subparagraph (i) or (ii) in relation to that company must not be limited to the higher of R1 million and 80 per cent of the amount of taxable income described in that subparagraph".

(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 23 of Act 58 of 1962, as amended by section 18 of Act 65 of 1973, section 20 of Act 121 of 1984, section 23 of Act 129 of 1991, section 20 of Act 141 of 1992, section 18 of Act 113 of 1993, section 15 of Act 21 of 1994, section 28 of Act 30 of 2000, section 21 of Act 30 of 2002, section 38 of Act 45 of 2003, section 13 of Act 16 of 2004, section 28 of Act 31 of 2005, section 17 of Act 20 of 2006, section 20 of Act 8 of 2007, section 37 of Act 60 of 2008, section 41 of Act 7 of 2010, sections 47 and 162 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 38 of Schedule 1 to that Act, section 42 of Act 22 of 2012, section 56 of Act 31 of 2013, section 33 of Act 43 of 2014, section 35 of Act 17 of 2017, section 39 of Act 23 of 2018, section 24 of Act 23 of 2020 and section 11 of Act 20 of 2022

17. Section 23 of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph *(d)* of the following paragraph:

"*(d)* any tax or interest imposed under this Act or any interest or penalty imposed under any other Act administered by the Commissioner;".

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, section 12 of Act 20 of 2022 and section 26 of Act 17 of 2023

18. Section 23M of the Income Tax Act, 1962, is hereby amended--

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

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

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

"(4) So much of any amount of interest as exceeds the amount determined in terms of subsection (3) may be carried forward to the immediately succeeding year of assessment and, subject to subsection (2), must be deemed to be an amount of interest incurred in that succeeding year of assessment in respect of a debt owed to a creditor that is not subject to tax on that interest.".

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

19. (1) Section 23N 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—";

(b) by the deletion in subsection (1) in the definition of "adjusted taxable income" in paragraph *(b)* of subparagraph (iv);

(c) by the addition in subsection (1) to the definition of "adjusted taxable income" of the following proviso:

": Provided that the result of the calculation may not be more than zero";

(d) by the deletion in subsection (1) of the definition of "average repo rate";

(e) by the deletion in subsection (1) of the definition of "repo rate";

(f) by the substitution in subsection (3) in paragraph *(b)* for the words preceding subparagraph (i) of the following words:

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

(g) by the deletion of subsection (4).

(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 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, section 30 of Act 34 of 2019 and section 27 of Act 17 of 2023

20. (1) Section 24I of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) in the definition of "exchange item" for paragraphs *(c)* and *(d)*, respectively, of the following paragraphs:

"*(c)* owed by or to that person in respect of a forward exchange contract; **[or]**

(d) where that person has the right or contingent obligation to buy or sell that amount in terms of a foreign currency option contract; or";

(b) by the addition in subsection (1) in the definition of "exchange item" after paragraph *(d)* of the following paragraph:

"*(e)* that constitutes a share in a foreign company that is disclosed as a financial asset in accordance with IFRS;"

(c) by the substitution for subsection (3) of the following subsection:

"(3) In determining the taxable income of any person contemplated in subsection (2), there shall be included in **[or deducted from]** the income**[, as the case may be,]** of that person—

(a) any foreign exchange **[difference]** gain reduced by any foreign exchange loss in respect of an exchange item of or in relation to that person, subject to subsection (10A); and

*(b)***[(i)]** any premium or like consideration received by, reduced by—

(i) any premium or like consideration **[or]** paid by, such person in terms of a foreign currency option contract entered into by such person**[; or]** and

(ii) any consideration paid by such person in respect of a foreign currency option contract acquired by such person:

Provided that the aggregate amount by which—

(a) the foreign exchange losses exceed foreign exchange gains; and

(b) premiums or like consideration paid and consideration paid exceed premiums or like consideration received,

may be carried forward to the immediately succeeding year of assessment and must be deemed to be an exchange loss during that year of assessment.";

(d) by the substitution in subsection (4) for subparagraph (ii) of the following subparagraph:

"(ii) **[the amount of]** any foreign exchange loss, relating to the debt as described in paragraph *(a)* or *(b)*, that is or was deducted from the income of that person or reduced foreign exchange gains under section (3)*(a)* in the current or any previous year of assessment must be included in the income of that person.";

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

"(6) Any inclusion in **[or deduction from]** income in terms of this section or any amount qualifying as a reduction under subsection (3) shall be in lieu of any deduction or inclusion which may otherwise be allowed or included under any other provision of this Act.";

(f) by the substitution for subsection (8) of the following subsection:

"(8) Any foreign exchange loss sustained in respect of a transaction entered into by a person, or any premium or other consideration paid in respect of or in terms of a foreign currency option contract entered into or acquired by a person, shall not **[be allowed as a deduction from such person's income]** qualify as a reduction under subsection (3), if such transaction was entered into or such foreign currency option contract was entered into or acquired solely or mainly to enjoy a reduction in tax by way of a deduction from income.";

(g) by the substitution in subsection (10A) for the words in paragraph *(a)* preceding subparagraph (i) of the following words:

"Subject to paragraph *(b)*, no exchange difference arising during any year of assessment in respect of an exchange item contemplated in paragraph *(b)* of the definition of 'exchange item' shall be included in **[or deducted from]** the income of a person in terms of this section or qualify as a reduction under subsection (3)—"; and

(h) by the substitution in subsection (10A) for paragraph *(b)* of the following paragraph:

"*(b)* Where paragraph *(a)* was applied during any year of assessment to any exchange difference in respect of an exchange item and—

(i) that exchange difference was not included in **[nor deducted from]** the income of a person in that year of assessment or qualified as a reduction under subsection (3) and

(ii) during any year of assessment—

(aa) subsequent to that year of assessment, paragraph *(a)* no longer applies to that exchange difference; or

(bb) that exchange item is realised,

an amount in respect of that exchange item must be included in **[or deducted from]** the income of that person or qualify as a reduction under subsection (3) in that subsequent year of assessment or in the year of assessment during which the exchange item is realised which amount shall be determined by multiplying that exchange item by the difference between the ruling exchange rate on the last day of the year of assessment immediately preceding that subsequent year of assessment and the ruling exchange rate on transaction date, less any amount of the exchange differences included in **[or deducted from]** the income of that person in terms of this section or that qualified as a reduction under subsection (3) in respect of that exchange item for all years of assessment preceding that subsequent year of assessment during which the person was a party to the contractual provisions of the exchange item.".

(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 24JB of Act 58 of 1962, as inserted by section 56 of Act 22 of 2012, as substituted by section 71 of Act 31 of 2013 and amended by section 43 of Act 43 of 2014, section 46 of Act 15 of 2016, section 44 of Act 17 of 2017, section 44 of Act 23 of 2018 and section 27 of Act 23 of 2020

21. (1) Section 24JB of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Any amount contemplated in the definition of 'gross income' or any amount required to be taken into account in determining the taxable income in terms of any provision of Part I of Chapter II, or in determining any assessed capital loss of a covered person in respect of a financial asset or a financial liability contemplated in subsection (2) must only be taken into account in terms of this section.".

(2) Subsection (1) comes into operation on 31 December 2024 and applies in respect of years of assessment ending on or after that date.

Amendment of section 25BB of Act 58 of 1962, as inserted by section 59 of Act 22 of 2012, substituted by section 74 of Act 31 of 2013 and amended by section 45 of Act 43 of 2014, section 50 of Act 25 of 2015, section 48 of Act 15 of 2016, section 45 of Act 17 of 2017, section 49 of Act 23 of 2018, section 32 of Act 34 of 2019 and section 29 of Act 23 of 2020

22. Section 25BB of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) in paragraph (b) of the definition of "rental income" for subparagraph (v) of the following subparagraph:

"(v) any amount recovered or recouped in terms of section 8(4) in respect of an amount of an allowance previously deducted in terms of section 11*(g)*, 12B, 12BA, 13, 13*bis*, 13*ter*, 13*quat*, 13*quin* or 13*sex*; and"; and

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

"(4) A company that is a REIT or a controlled company on the last day of a year of assessment may not deduct by way of an allowance any amount in respect of immovable property in terms of section 11*(g)*, 12B, 12BA, 13, 13*bis*, 13*ter*, 13*quat*, 13*quin* or 13*sex*.".

Amendment of section 25E of Act 58 of 1962, as inserted by section 30 of Act 17 of 2023

23. (1) Section 25E of the Income Tax Act, 1962, is hereby amended by the substitution for the provision of the following provision:

"**25E. [Any]** Where the functional currency of a company is—

(a) the currency of the Republic and any amount referred to in **[paragraphs *(a)* and *(b)*]** paragraph *(a)*(i), (ii) or (iii) or *(b)*(i), (ii) or (iii) of the definition of 'contributed tax

capital' **[in section 1 that]** is denominated in any currency other than the currency of the Republic**[,]**; or

(b) any currency other than the currency of the Republic and any amount referred to in paragraph *(a)(aa), (bb) or (cc)* or *(b)(aa), (bb)* or *(cc)* of the definition of 'contributed tax capital' is denominated in any currency other than the currency of the Republic,

that amount 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, section 14 of Act 20 of 2022 and section 31 of Act 17 of 2023

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

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

"(3) Subject to subsection (3A) and notwithstanding section 23*(e)*, for the purpose of determining the taxable income derived during any year of assessment by any short-term insurer from carrying on short-term insurance business, there shall be allowed as a deduction from the income of that short-term insurer an amount equal to—

(a) the sum of liabilities for incurred claims relating to short-term insurance business in respect of the policies of the insurer, net of amounts recognised in respect of reinsurance contracts for liabilities for incurred claims; and

(b) the liability for claims, net of amounts recognised in respect of reinsurance contracts, in relation to investment contracts entered into by a short-term insurer in the course of carrying on short-term insurance business,

which are determined in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements:

Provided 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, which does not relate to a policy, must be disregarded."; and

(b) by the substitution in subsection (3D) for paragraphs *(c)* and *(d)*, respectively, of the following paragraphs:

"*(c)* For purposes of paragraph *(a)*, 'phasing-in amount' means the amount by which the amount of the deduction under subsection (3) or (3A), for the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, exceeds the amount of the **[deduction]** deductions under subsection (3) or (3A) and subsection (3C)*(b)* for the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, had IFRS 17 and subsection (3) or (3A), as amended by the Taxation Laws Amendment Act, 2022, and subsection (3C)*(b)* been applied at the end of that year of assessment, reduced by the difference between—

(i) the amount of insurance premium debtors and reinsurance premium debtors; and

(ii) the amount of reinsurance premiums payable,

at the end of the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, had IFRS 17 been applied, other than amounts forming part of the liability for incurred claims, and increased by the amount determined under subsection (3C)*(a)*.

(d) For purposes of paragraph *(b)*, 'phasing-in amount' means the amount by which the amount of the **[deduction]** deductions under subsection (3) or (3A) and subsection (3C)*(b)* for the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, had IFRS 17 and subsection (3) or (3A), as amended by the Taxation Laws Amendment Act, 2022, and subsection (3C)*(b)* been applied at the end of that year of assessment exceeds the amount of the deduction under subsection (3) or (3A), for the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, increased by the difference between—

(i) the amount of insurance premium debtors and reinsurance premium debtors; and

(ii) the amount of reinsurance premiums payable,

at the end of the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, had IFRS 17 been applied, other than amounts forming part of

the liability for incurred claims, and reduced by the amount determined under subsection (3C)*(a)*.".

(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, section 15 of Act 20 of 2022 and section 32 of Act 17 of 2023

25. (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:

“: 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]** that does not relate to a policy, must be disregarded"; and

(b) by the substitution in subsection (15) for paragraphs *(a)* and *(b)* of the following paragraphs:

‘‘*(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 and reinsurance debtors, 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, that **[reduce]** would have reduced 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

(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 and reinsurance debtors 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, that **[reduce]** would have reduced 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:''.

(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 30 of Act 58 of 1962, as inserted by section 35 of Act 30 of 2000 and amended by section 16 of Act 19 of 2001, section 22 of Act 30 of 2002, section 31 of Act 74 of 2002, section 45 of Act 45 of 2003, section 28 of Act 32 of 2004, section 36 of Act 31 of 2005, section 24 of Act 20 of 2006, section 25 of Act 8 of 2007, section 43 of Act 35 of 2007, section 22 of Act 3 of 2008, section 41 of Act 60 of 2008, section 41 of Act 17 of 2009, section 53 of Act 7 of 2010, section 8 of Act 21 of 2012, section 79 of Act 31 of 2013, section 48 of Act 43 of 2014, section 54 of Act 25 of 2015, section 51 of Act 15 of 2016 and section 35 of Act 34 of 2019

26. Section 30 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (3)*(b)*(iii) for items *(bb)* and *(cc)*, respectively, of the following items:

"*(bb)* any institution, board or body which is exempt from tax under the provisions of section 10(1)*(c*A*)*(i), which has as its sole or principal object the carrying on of any public benefit activity; or

(cc) the government of the Republic in the national, provincial or local sphere, contemplated in section 10(1)*(a)***[; or]**,"; and

(b) by the deletion in subsection (3)*(b)*(iii) of item *(dd)*.

Amendment of section 41 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 49 of Act 45 of 2003, section 32 of Act 32 of 2004, section 37 of Act 31 of 2005, section 28 of Act 20 of 2006, sections 32 and 103 of Act 8 of 2007, section 52 of Act 35 of 2007, section 25 of Act 3 of 2008, section 48 of Act 60 of 2008, section 47 of Act 17

of 2009, section 61 of Act 7 of 2010, section 67 of Act 24 of 2011, section 73 of Act 22 of 2012, section 90 of Act 31 of 2013, section 54 of Act 43 of 2014, section 61 of Act 25 of 2015, section 54 of Act 15 of 2016, section 50 of Act 17 of 2017, section 54 of Act 23 of 2018, section 39 of Act 34 of 2019 and section 24 of Act 20 of 2021

27. (1) Section 41 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (4) for the words preceding paragraph *(a)* of the following words:

"A company must for the purposes of section 20(1)*(a)* and this Part, be deemed to have taken steps to liquidate, wind up or deregister, where—".

(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 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, section 25 of Act 20 of 2021 and section 36 of Act 17 of 2023

28. Section 42 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) in the definition of "qualifying interest" for paragraph *(d)* 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]** as that person; or".

Amendment of section 44 of Act 58 of 1962, as substituted by section 34 of Act 74 of 2002 and amended by section 52 of Act 45 of 2003, section 40 of Act 31 of 2005, section 34 of Act 8 of 2007, section 55 of Act 35 of 2007, section 27 of Act 3 of 2008, section 50 of Act 60 of 2008, section 49 of Act 17 of 2009, section 63 of Act 7 of 2010, section 69 of Act 24 of 2011, section 76 of Act 22 of 2012, section 93 of Act 31 of 2013, section 57 of Act 43 of 2014, section 63 of Act 25 of 2015, section 55 of Act 15 of 2016, section 52 of Act 17 of 2017, section 56 of Act 23 of 2018 and section 41 of Act 34 of 2019

29. Section 44 of the Income Tax Act, 1962, is hereby amended by the deletion in subsection (14) of paragraph *(d)*.

Amendment of paragraph 2 of Second Schedule to Act 58 of 1962, as substituted by section 57 of Act 17 of 2009 and amended by section 80 of Act 7 of 2010, section 92 of Act 22 of 2012, section 62 of Act 17 of 2017, section 48 of Act 34 of 2019 and section 3 of Act 12 of 2024

30. (1) Paragraph 2(1) of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for item *(c)* of the following item:

"*(c)* any amount <u>of a member's retirement interest</u> transferred for the benefit of that person **[on or]** after normal retirement age, as defined in the rules of the fund, but before retirement date, less any deductions permitted under **[the provisions of]** paragraph 6A; and".

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

Amendment of paragraph 6A of Second Schedule to Act 58 of 1962, as inserted by section 65 of Act 17 of 2017 and amended by section 66 of Act 23 of 2018, section 42 of Act 23 of 2020, section 35 of Act 20 of 2021 and section 40 of Act 17 of 2023

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

(a) by the substitution for subparagraphs *(c)* and *(d)* respectively of the following subparagraphs:

"*(c)* pension preservation or provident preservation fund into another pension preservation or provident preservation fund or a retirement annuity fund; **[or]**

(d) pension fund or provident fund into another pension fund or provident fund **[that is subject to]** <u>in the case of</u> an involuntary transfer**[.]**<u>; or</u>"; and

(b) by the addition of the following subparagraph:

"<u>*(e)* retirement annuity fund into another retirement annuity fund in the case of an involuntary transfer.</u>".

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

Amendment of paragraph 2 of Seventh Schedule to Act 58 of 1962, as inserted by section 46 of Act 121 of 1984 and amended by section 27 of Act 96 of 1985, section 56 of Act 101 of 1990, section 49 of Act 28 of 1997, section 54 of Act 30 of 1998, section 50 of Act 32 of 2004, section 55 of Act 31 of 2005, section 64 of Act 17 of 2009, section 102 of Act 24 of 2011, section 100 of Act 22 of 2012, section 118 of Act 31 of 2013, section 94 of Act 25 of 2015 and section 69 of Act 23 of 2018

32. Paragraph 2 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the deletion of subparagraph *(g*A*)*.

Amendment of paragraph 12D of Seventh Schedule to Act 58 of 1962, as substituted by section 77 of Act 43 of 2014 and amended by section 101 of Act 25 of 2015, section 69 of Act 15 of 2016, section 69 of Act 17 of 2017, section 71 of Act 23 of 2018 and section 43 of Act 20 of 2021

33. Paragraph 12D of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraphs (1), (2) and (3), respectively, of the following subparagraphs:

"(1) For the purposes of this paragraph—

'benefit' in relation to an employee that is a member of a pension fund**[,]** or provident fund **[or retirement annuity fund]**, means any amount payable to that member or a dependant or nominee of that member by that fund in terms of the rules of the fund;

'contribution certificate' means the certificate contemplated in subparagraph (4);

'defined benefit component' means a benefit or part of a benefit receivable from a pension fund**[,]** or provident fund **[or retirement annuity fund]** by a member of that fund or a dependant or nominee of that member other than a defined contribution component or underpin component of a fund;

'defined contribution component' means a benefit or part of a benefit receivable from a pension fund**[,]** or provident fund **[or retirement annuity fund]**—

(a) where the interest of each member in the fund in respect of that benefit has a value equal to the value of the contributions paid by the member and by the employer in terms of the rules of the fund that determine the rates of both their contributions at a fixed rate—

[(i) the contributions paid by the member and by the employer in terms of the rules of the fund that determine the rates of both their contributions at a fixed rate;]

(ii) less such expenses as the board of that fund determines should be deducted from the contributions paid;

(iii) plus any amount credited to the member's individual account upon—

(A) the commencement of the member's membership of the fund;

(B) the conversion of the component of the fund to which the member belongs from a defined benefit component to a defined contribution component; or

(C) the amalgamation of that fund with any other fund**[, if any]**,

other than amounts taken into account in terms of subparagraph (iv);

(iv) plus any other amounts lawfully permitted**[,]** to be credited to or debited from the member's individual account**[, if any]**, as increased or decreased by fund return; or

(b) which consists of a risk benefit provided by the fund directly or indirectly for the benefit of a member of the fund if the risk benefit is provided by means of a policy of insurance or a risk benefit policy;

'fund member category' in relation to members of a pension fund**[,]** or provident fund **[or retirement annuity fund]**, means any group of members in respect of whom, in terms of the rules of the fund—

(a) the employers of those members and those members must respectively make a contribution to that fund in an amount in respect of retirement funding income at the same fixed rate; and

(b) the determination of the value of the benefits of the members referred to in paragraph *(a)* and the determination of the entitlement of those members to those benefits are made according to the same method;

'fund member category factor' means the fund member category factor contemplated in subparagraph (5)*(a)*;

'fund return', in relation to—

(a) the assets of a fund, means any income (received or accrued) and capital gains and losses (realised or unrealised) earned on the assets of the fund, net of expenses and tax charges, associated with the acquisition, holding or disposal of assets; or

(b) any portion of the assets of a fund if the assets are separately identifiable, means any income (received or accrued) and capital gains and losses (realised or unrealised)

earned on those assets, net of expenses and tax charges associated with the acquisition, holding or disposal of assets; or

(c) the assets of a fund, to the extent that those assets consist of long-term policies which are 'fund member policies' as defined in Part 5 of the Regulations under the Long-term Insurance Act means the 'growth rate' (as defined in those Regulations) applicable to those policies, as determined in accordance with those Regulations;

'member' means in relation to a pension**[,]** fund or provident **[or retirement annuity]** fund, any member or former member of that fund but does not include any member or former member or person who has received all the benefits which may be due to them from the fund and whose membership has thereafter been terminated in accordance with rules of the fund;

'retirement-funding income' means—

(a) in relation to any employee or the holder of an office (including a member of a body of persons whether or not established by or in terms of any law) who in respect of his or her employment derives any income constituting remuneration as defined in paragraph 1 of the Fourth Schedule and who is a member of or, as an employee, contributes to a pension fund or provident fund established for the benefit of employees of the employer from whom such income is derived, the income that is taken into account in the determination of the contributions made by the employer or the pension fund or provident fund for the benefit of the employee to such pension fund or provident fund in terms of the rules of the fund; or

(b) in relation to a partner in a partnership (other than a partner contemplated in paragraph *(a)*) that part of the partner's income from the partnership in the form of the partner's share of profits as is taken into account in the determination of the contributions made by the partnership for the benefit of the partner to a pension fund or provident fund in terms of the rules of the fund: Provided that for the purposes of this definition a partner in a partnership must be deemed to be an employee of the partnership and a partnership must be deemed to be the employer of the partners in that partnership;

'risk benefit' means a benefit payable by the fund in respect of the death or permanent disablement of a member to that member or to a dependant or nominee of that member;

'risk benefit policy' means a policy under which the risk benefit provided by the fund directly or indirectly for the benefit of a member of the fund is provided by means other than a policy of insurance;

'underpin component' means a benefit receivable from a pension fund**[,]** or provident fund **[or retirement annuity fund]** the value of which benefit, in terms of the rules of the fund, is

the greater of the amount of a defined contribution component or a defined benefit component other than a risk benefit.

(2) The cash equivalent of the value of the taxable benefit contemplated in paragraph 2*(l)*, where the benefits payable to members in respect of a fund member category of a pension**[,]** fund or provident **[or retirement annuity]** fund consists solely of defined contribution components, is the value of the amount contributed by the employer for the benefit of an employee who is a member of that fund.

(3) Where the taxable benefits payable to members in respect of a fund member category of a pension**[,]** fund or provident **[or retirement annuity]** fund consists of components other than only defined contribution components, the cash equivalent of the value of the taxable benefit contemplated in paragraph 2*(l)* is an amount that must be determined in accordance with the formula

$$X = (A \times B) — C$$

in which formula—

(a) 'X' represents the amount to be determined;

(b) 'A' represents the fund member category factor in respect of the fund member category of which the employee is a member;

(c) 'B' represents the amount of the retirement funding income of the employee;

(d) 'C' represents the sum of the amounts contributed by the employee to the fund in terms of the rules of the fund, excluding any additional voluntary contributions contributed to the fund by the employee, and buyback, in respect of that year of assessment.".

Amendment of paragraph 5 of Eighth Schedule to Act 58 of 1962, as amended by section 32 of Act 9 of 2006, section 2 of Act 8 of 2007, section 1 of Act 3 of 2008, section 67 of Act 17 of 2009, section 107 of Act 24 of 2011, section 8 of Act 13 of 2012, section 11 of Act 13 of 2016, section 75 of Act 23 of 2018 and section 22 of Act 20 of 2022

34. (1) Paragraph 5 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for the proviso of the following proviso:

"Provided that where any person's year of assessment is less than a period of 12 months, the **[total]** sum of the annual exclusions for years of assessments ending during the period of 12 months commencing **[in]** on 1 March and ending **[at the end]** on the last day of February of the immediately following calendar year must per year of assessment and in aggregate not exceed R40 000.".

Amendment of paragraph 64B of Eighth Schedule to Act 58 of 1962, as amended by section 79 of Act 31 of 2005, section 35 of Act 9 of 2006, section 65 of Act 8 of 2007, section 58 of Act 3 of 2008, section 81 of Act 60 of 2008, section 108 of Act 7 of 2010, section 116 of Act 24 of 2011, substituted by section 123 of Act 22 of 2012 and amended by section 144 of Act 31 of 2013, section 117 of Act 25 of 2017, section 84 of Act 23 of 2018, section 51 of Act 23 of 2020 and section 42 of Act 17 of 2023

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

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

"(iii) a non-resident company, of which the shareholders **[of which]** and their shareholding, immediately after the disposal, are substantially the same as the shareholders of and their shareholding in any company in the same group of companies as the company in the group of companies disposing of the shares,"; and

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

"(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)–

(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, unless–

(i) that person is a company;

(ii) that interest was acquired by that person from any other company that forms part of the same group of companies as that person; and

(iii) that person and that other company in aggregate held that interest for longer than 18 months.".

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 November 2023 and applies in respect of disposals on or after that date.

(3) Paragraph *(b)* of subsection (1) is deemed to have come into operation on 1 January 2024 and applies in respect of foreign returns of capital received or accrued on or after that date.

Amendment of paragraph 80 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 108 of Act 60 of 2001, section 58 of Act 20 of 2006, section 62 of Act 3 of 2008, section 86 of Act 60 of 2008, section 80 of Act 17 of 2009, section 150 of Act 31 of 2013, section 123 of Act 25 of 2015, section 75 of Act 17 of 2017, substituted by section 87 of Act 23 of 2018 and amended by section 64 of Act 34 of 2019 and section 52 of Act 23 of 2020

36. Paragraph 80 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (4) of the following subparagraph:

‘‘(4) In determining, for purposes of subparagraph (1), **[(2)]** (2A) or (3), whether an amount would have constituted a capital gain had the trust been a resident, the provisions of paragraph 64B(1) and (4) must be disregarded in respect of an amount derived by that trust, directly or indirectly, from the disposal or in respect of an equity share in a foreign company if—

(a) more than 50 per cent of the total participation rights, as defined in section 9D(1), or of the voting rights in that company are directly or indirectly held or are exercisable, as the case may be, by that trust whether alone or together with any one or more persons that are connected persons in relation to that trust; and

(b) to the extent to which that amount is not derived from an amount that must be included in the income of or attributed to—

(i) the resident to whom an amount is attributed in terms of subparagraph (1), **[(2)]** (2A) or (3); or

(ii) a resident who is a connected person in relation to the resident referred to in subitem (i).”.

Amendment of paragraph 4 of Part I of Ninth Schedule to Act 58 of 1962, as inserted by section 41 of Act 30 of 2002 and amended by section 125 of Act 45 of 2003, section 82 of Act 31 of 2005, section 60 of Act 20 of 2006, section 63 of Act 3 of 2008, section 87 of Act 60 of 2008, section 82 of Act 17 of 2009, section 12 of Act 13 of 2012, section 151 of Act 31 of 2013, section 80 of Act 15 of 2016 and section 53 of Act 23 of 2020

37. Paragraph 4 of Part I of the Ninth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph *(c)* of the following subparagraph:

"*(c)* "Adult education and training", as **[defined in the Adult Education and Training Act, 2000, (Act No. 52 of 2000)]** envisaged in section 29(1)(a) of the Constitution, including literacy and numeracy education.".

Amendment of paragraph 3 of Part II of Ninth Schedule to Act 58 of 1962, as inserted by section 41 of Act 30 of 2002 and amended by section 129 of Act 45 of 2003, section 84 of Act 31 of 2005, section 62 of Act 20 of 2006, section 64 of Act 3 of 2008, section 89 of Act 60 of 2008, section 83 of Act 17 of 2009, section 13 of Act 13 of 2012, section 153 of Act 31 of 2013 and section 54 of Act 23 of 2020

38. Paragraph 3 of Part II of the Ninth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph *(c)* of the following subparagraph:

''*(c)* 'Adult education and training', as **[defined in the Adult Education and Training Act, 2000 (Act No. 52 of 2000)]** envisaged in section 29(1)(a) of the Constitution, including literacy and numeracy education.''.

Amendment of Eleventh Schedule to Act 58 of 1962, as added by section 140 of Act 22 of 2012, amended by section 161 of Act 31 of 2013 and substituted by section 125 of Act 25 of 2015, section 56 of Act 23 of 2020, section 47 of Act 20 of 2021 and section 23 of Act 20 of 2022

39. (1) The Eleventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for Item 11 of the following Item:

''11. **[Clothing and Textiles Competitiveness Programme]** Clothing, Textile, Footwear & Leather Growth Programme (CTFLGP) received or accrued from the **[Industrial Development Corporation]** Department of Trade, Industry and Competition;".

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

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

40. Every amendment or withdrawal of or insertion in Schedules No. 1 to 6, 8 and 10 to the Customs and Excise Act, 1964, made under section 48, 49, 56, 56A, 57, 60 or 75(15) of that Act during the period 1 October 2023 up to and including 31 October 2024, shall not lapse by virtue of section 48(6), 49(5A), 56(3), 56A(3), 57(3), 60(4) or 75(16) of that Act and in Schedule No.1 to the Value Added Tax Act, 1991, made under section 74(3)*(a)* of that Act during the period 1 October 2023 up to and including 31 October 2024, shall not lapse by virtue of section 74(3)*(b)* of that Act.

Amendment of Schedule 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992, section 13 of Act 98 of 1993, section 12 of Act 19 of 1994, section 74 of Act 45 of 1995, section 8 of Act 44 of 1996, section 15 of Act 27 of 1997, section 75 of Act 30 of 1998, section 7 of Act 32 of 1999, section 64 of Act 30 of 2000, section 52 of Act 19 of 2001, section 53 of Act 30 of 2002, section 41 of Act 12 of 2003, section 155 of Act 45 of 2003, section 36 of Act 16 of 2004, section 14 of Act 9 of 2005, section 36 of Act 9 of 2006, section 76 of Act 8 of 2007, section 66 of Act 3 of 2008, section 88 of Act 17 of 2009, section 117 of Act 7 of 2010, section 127 of Act 24 of 2011, section 14 of Act 13 of 2012, section 9 of Act 23 of 2013, section 7 of Act 42 of 2014, section 8 of Act 13 of 2015, section 13 of Act 13 of 2016, section 18 of Act 14 of 2017, section 7 of Act 21 of 2018, section 4 of Act 32 of 2019, section 9 of Act 22 of 2020, section 5 of Act 19 of 2021, section 5 of Act 19 of 2022 and section 7 of Act 19 of 2023

41. (1) Schedule No. 1 to the Customs and Excise Act, 1964 (Act No. 91 of 1964), is hereby amended as set out in Parts I to IV of Schedule I to this Act.

(2) The amendments set out in Part I of Schedule I to this Act make provision for the insertion of petroleum oil preparations under tariff subheading 2710.19 in Part 1 of Schedule No. 1 and are deemed to have come into operation on 1 January 2002.

(3) *(a)* The amendments set out in Part II of Schedule I to this Act make provision for the insertion of tariff items under item 105.13 for aviation kerosene, illuminating kerosene, distillate

fuel and specified aliphatic hydrocarbons in Section A of Part I of Schedule No. 1 and are deemed to have come into operation on 1 January 2002.

(b) The rates of excise duty applicable to aviation kerosene, illumination kerosene, distillate fuel and specified aliphatic hydrocarbons for purposes of the inserted tariff items contemplated in paragraph *(a)*, shall be equal to the excise duty rates specified under tariff subheading 2710.11 or 2710.12, as the case may be, in Section A of Part 2 to Schedule No. 1 and apply as amended each year from 1 January 2002, by Notice in the Government Gazette and approved by Parliament.

(4) *(a)* The amendments set out in Part III of Schedule I to this Act make provision for the insertion of fuel levy items under item 195.13 for aviation kerosene, illuminating kerosene, distillate fuel and specified aliphatic hydrocarbons in Part 5A of Schedule No. 1 and are deemed to have come into operation on 1 January 2002.

(b) The rates of fuel levy applicable to aviation kerosene, illumination kerosene, distillate fuel and specified aliphatic hydrocarbons for purposes of the inserted fuel levy items contemplated in paragraph *(a),* shall be equal to the fuel levy rates specified under tariff item 195.00 in Part 5A to Schedule No. 1 and apply as amended each year from 1 January 2002, by Notice in the Government Gazette and approved by Parliament.

(5) *(a)* The amendments set out in Part IV of Schedule I to this Act make provision for the insertion of Road Accident Fund (RAF) levy items under 197.13 for aviation kerosene, illuminating kerosene, distillate fuel and specified aliphatic hydrocarbons in Part 5B of Schedule No. 1 and are deemed to have come into operation on 1 January 2002.

(b) The rates of RAF levy applicable to kerosene, illumination kerosene, distillate fuel and specified aliphatic hydrocarbons for purposes of the inserted RAF levy items contemplated in paragraph *(a),* shall be equal to the RAF levy rates specified under item 197.00, in Part 5B to Schedule No. 1 and apply as amended each year from 1 April 2006, by Notice in the Government Gazette and approved by Parliament.

(6) The Commissioner for the South African Revenue Service may prescribe rules under the Customs and Excise Act as may be necessary for the effective implementation of subsections (1) to (5).

Amendment of Schedule 4 to Act 91 of 1964, as amended by section 106 of Act 20 of 2006 and section 19 of Act 14 of 2017

42. (1) Schedule No. 4 to the Customs and Excise Act, 1964 (Act No. 91 of 1964), is hereby amended as set out in Schedule II to this Act.

(2) The amendment set out in Schedule II to this Act makes provision for the insertion of an item to rebate fuel levy and Road Accident Fund (RAF) levy on specified aliphatic hydrocarbons of tariff subheading 2710.19 in Part 4 of Schedule No. 4, and is deemed to have come into operation on 1 January 2002 insofar as it relates to fuel levy and 1 April 2006 insofar as it relates to RAF levy.

(3) The Commissioner for the South African Revenue Service may prescribe rules under the Customs and Excise Act as may be necessary for the effective implementation of subsections (1) and (2).

Amendment of Schedule 5 to Act 91 of 1964, as amended by section 19 of Act 14 of 2017

43. (1) Schedule No. 5 to the Customs and Excise Act, 1964 (Act No. 91 of 1964), is hereby amended as set out in Schedule III to this Act.

(2) The amendment set out in Schedule III to this Act makes provision for the insertion of item 195.13 to refund duties and levies on petrol and distillate fuels used by diplomatic and other foreign representatives in Part 4 of Schedule No. 5 and is deemed to have come into operation on 1 January 2002.

(3) The Commissioner for the South African Revenue Service may prescribe rules under the Customs and Excise Act as may be necessary for the effective implementation of subsections (1) and (2).

Amendment of Schedule 6 to Act 91 of 1964, as amended by section 19 of Act 14 of 2017, section 9 of Act 22 of 2020, section 5 of Act 19 of 2021, section 25 of Act 20 of 2022 and section 45 of Act 17 of 2023

44. (1) Schedule No. 6 to the Customs and Excise Act, 1964 (Act No. 91 of 1964), is hereby amended as set out in Schedule IV to this Act.

(2) The amendments set out in Schedule IV to this Act make provision for the insertion of rebate and refund items under item 105.13 for specific rebates and refunds of excise duties, to the extent provided for in Schedule IV to this Act, on illuminating kerosene, distillate fuel and specified aliphatic hydrocarbons in Section F of Part 1 of Schedule No. 6 and are deemed to have come into operation on 1 January 2002.

(3) The Commissioner for the South African Revenue Service may prescribe rules under the Customs and Excise Act as may be necessary for the effective implementation of subsections (1) and (2).

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, section 27 of Act 20 of 2022 and section 46 of Act 17 of 2023

45. (1) Section 1 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (1) for the definition of ‘‘resident of the Republic’’ of the following paragraph:

" **'resident of the Republic'** means a resident as defined in section 1 of the Income Tax Act, other than a person that is a 'resident' solely as a result of having its place of effective management in the Republic as referred to in paragraph *(b)* of that definition and that person does not carry on an enterprise in the Republic: Provided that any other person or any other company shall be deemed to be a resident of the Republic to the extent that such person or company carries on in the Republic any enterprise or other activity and has a fixed or permanent place in the Republic relating to such enterprise or other activity;".

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

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, section 62 of Act 23 of 2020 and section 48 of Act 17 of 2023

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

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

"(vii) this subsection shall not apply to a person contemplated in paragraph (xiii) of the proviso to the definition of 'enterprise' in section 1(1), where—

(aa) such person supplied or intended to supply to a recipient solely the use or the right of use of ships, aircraft, rolling stock or parts directly in connection thereto under a rental agreement on which value-added tax was paid under section 7(1)*(b)*;

(bb) such person was registered or was required to be registered under section 23; and

(cc) such vendor ceases to be a vendor solely as a consequence of the introduction of paragraph (xiii) of the proviso to the definition of 'enterprise' in section 1(1).";

and

(b) by the addition after subsection (2G) of the following subsection:

"(2H) Subject to section 24(3), where a supply is deemed to have been made by a vendor in terms of subsection (2) and that vendor ceases to be a vendor on 1 January 2025 for the sole reason of the exemption contemplated in section 12*(h)*(ii), the tax payable in respect of the deemed supply shall be paid in 12 equal monthly instalments or in so many monthly instalments as the Commissioner may allow.".

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

Amendment of section 8A of Act 89 of 1991, as inserted by section 121 of Act 7 of 2010 and amended by section 132 of Act 24 of 2011 and section 69 of Act 34 of 2019

47. (1) Section 8A of the Value-Added Tax Act, 1991, is hereby amended by the addition after subsection (2) of the following subsection:

¨(3) For the purposes of this Act, in the case of any mudaraba as defined in section 24JA(1) of the Income Tax Act, the portion of any return contemplated in paragraph *(e)* of that definition that is paid or payable by the bank to the client shall be deemed to be consideration to the client in respect of a financial service provided as contemplated in section 2(1)(*f*): Provided that this subsection shall not apply to the extent to which the consideration constitutes any fee, commission or similar charge.".

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

Amendment of section 12 of Act 89 of 1991, as amended by section 18 of Act 136 of 1992, section 14 of Act 20 of 1994, section 22 of Act 37 of 1996, section 69 of Act 19 of 2001 section 154 of Act 60 of 2001, section 117 of Act 74 of 2002, section 99 of Act 32 of 2004, section 45 of Act 9 of 2006, section 82 of Act 20 of 2006, section 109 of Act 60 of 2008, section 147 of Act 22 of 2012, section 170 of Act 31 of 2013, section 97 of Act 43 of 2014 and section 133 of Act 25 of 2015

48. (1) Section 12 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in paragraph *(h)* for subparagraph (ii) of the following paragraph:

"(ii) the supply by a school, university, technikon or college **[solely or mainly for the benefit of its learners or students]** of goods or services (including domestic goods and services) necessary for **[and]** or subordinate **[and]** or incidental to the supply of services referred to in subparagraph (i) of this paragraph**[, if such goods or services are supplied for a consideration in the form of school fees, tuition fees or payment for lodging or board and lodging]**; or".

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

Amendment of section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991, section 21 of Act 136 of 1992, section 30 of Act 97 of 1993, section 16 of Act 20 of 1994, section 23 of Act 37 of 1996, section 32 of Act 27 of 1997, section 91 of Act 30 of 1998, section 87 of Act 53 of 1999, section 71 of Act 19 of 2001, section 156 of Act 60 of 2001,

section 172 of Act 45 of 2003, section 107 of Act 31 of 2005, section47 of Act 9 of 2006, section 83 of Act 20 of 2006, section 83 of Act 8 of 2007, section 106 of Act 35 of 2007, section 30 of Act 36 of 2007, section 29 of Act 8 of 2010, section 137 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 115 of Schedule1 to that Act, section 148 of Act 22 of 2012, section 173 of Act 31 of 2013, section 98 of Act 43 of 2014, section 25 of Act 23 of 2015, section 26 of Act 16 of 2016, section 83 of Act 17 of 2017, section 53 of Act 20 of 2021 and section 29 of Act 20 of 2022

49. (1) Section 16 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in paragraph (i) of the proviso to subsection (3) for the words preceding subparagraph *(aa)* of the following words:

"notwithstanding section 93 of the Tax Administration Act, where any vendor is entitled under the preceding provisions of this subsection to deduct any amount in respect of any tax period from the said sum, the vendor **[may]** must deduct that amount from the amount of output tax attributable to **[a later tax period which ends no]** the tax period in which it became entitled to the deduction in terms of subsection (2), which deduction may not be made later than five years after the end of the tax period during which—".

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

Amendment of section 22 of Act 89 of 1991, as amended by section 33 of Act 136 of 1991, paragraph 13 of Government Notice 2695 of 8 November 1991, section 27 of Act 136 of 1992, section 25 of Act 37 of 1996, section 36 of Act 27 of 1997, section 95 of Act 30 of 1998, section 177 of Act 45 of 2003, section 110 of Act 31 of 2005, section 86 of Act 20 of 2006, section 140 of Act 24 of 2011, section 177 of Act 31 of 2013, section 91 of Act 23 of 2018 and section 66 of Act 23 of 2020

50. (1) Section 22 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Where any amount in respect of which a deduction has been made in accordance with subsection (1) or (1A) is at any time wholly or partly recovered by the vendor, or becomes recoverable by him by virtue of the reassignment to him of the underlying debt, that portion of the amount of such deduction as bears to the full amount of such deduction the same ratio as the amount of the irrecoverable debt recovered or reassigned bears to the debt

written off shall be deemed to be tax charged in relation to a taxable supply made during the tax period in which the debt is wholly or partly recovered or assigned to such vendor.".

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

Insertion of section 40E in Act 89 of 1991

51. (1) The Value-Added Tax Act, 1991, is hereby amended by the insertion after section 40D of the following section:

"Liability for tax and limitation of refunds in respect of supplies by a school, university, technikon or college

40E. (1) This section applies in respect of the supply of services contemplated in section 12*(h)*(ii) made by the vendor before 1 January 2025.

(2) Where the Commissioner issued any assessment relating to tax periods ending before 1 January 2025 for an amount of tax or additional tax in respect of any supply of services as contemplated in subsection (1) in respect of the application of the provisions as contemplated in section 12*(h)*(ii) in respect of that supply, the Commissioner must, on written application by the vendor, amend that assessment to the extent that the amount of tax, additional tax, penalty or interest that arose as a result of that assessment, has not yet been paid on that date: Provided that the assessment does not result in a refund to the vendor.

(3) The Commissioner may not make any assessment for tax periods ending before 1 January 2025 in respect of the supply of services contemplated in subsection (1).

(4) If the vendor has charged tax at the rate referred to in section 7(1)*(a)* in respect of the supply contemplated in subsection (1), the Commissioner may not refund any such tax or any penalty or interest that arose as a result of the late payment of such tax, paid by the vendor to the Commissioner.".

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

Amendment of section 50 of Act 89 of 1991, as amended by section 38 of Act 136 of 1991, section 271 of Act 28 of 2011, section 13 of Act 22 of 2018 and section 72 of Act 34 of 2019

52. (1) Section 50 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (2A) of the following subsection:

"(2A) The implementing agency shall be required to make application to the Commissioner to register the activities referred to in the proviso to subsection (1) as a single separate branch of the vendor in respect of such activities: Provided that **[the activities in relation to each foreign donor funded project shall be registered as a separate branch of the vendor and such vendor shall maintain an independent system of accounting for each foreign donor funded project]** such vendor shall maintain and retain (in addition to the other requirements under this Act)—

(a) an independent system of accounting for each foreign donor funded project;

(b) an annual list of all the registered projects along with the respective foreign donor funded project reference numbers, their commencement and end dates, that are accounted for under such separately registered single branch during the financial year;

(c) a reconciliation of the values submitted for each return of the separately registered branch with the values of each foreign donor funded project respectively; and

(d) written confirmation from the National Treasury that the foreign donor funded project is a project established in term of an official development assistance agreement, as contemplated in the definition of "foreign donor funded project" in section 1(1) for each foreign donor funded project accounted for under the separately registered branch.".

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

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, section 12 of Act 21 of 2018 and section 52 of Act 17 of 2023

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

"(2B)*(a)* For the purposes of this Act, where electronic services are supplied by an intermediary, who is acting on behalf of another person who is the principal for the purposes of that supply, and—

(i) the intermediary is a vendor;

(ii) the principal is not a resident of the Republic **[and is not a registered vendor]**; and

(iii) the electronic services are supplied or to be supplied by the principal to a person in the Republic,

that supply shall be deemed to be made by such intermediary and not by that principal where the principal and intermediary agree, in writing, to treat that supply as if made by the intermediary.

(b) Subject to the provisions of section 46, where the intermediary and principal agree to treat that supply as contemplated in paragraph *(a)* as if made by the intermediary, the principal and intermediary shall be held jointly and severally liable for performing the duties of the principal or intermediary under this Act and paying the tax imposed by this Act in respect of the taxable supplies made under such agreement.".

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

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 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, section 25 of Act 16 of 2022, Government Notice R.3780 in Government *Gazette* 49104 of 11 August 2023 and section 53 of Act 17 of 2023

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

(a) by the substitution in paragraph 7 in subparagraph (c)(i) for subitem (dd) of the following item:

"(*dd*) 195.10.17 and 195.13.17: Distillate fuel, as defined in Additional Note 1 (*g*) to Chapter 27 in Part 1 of Schedule No. 1 to the Customs and Excise Act;"; and

(b) by the substitution in paragraph 7 in subparagraph *(c)* for item (iv) of the following item:

"(iv) illuminating kerosene (marked) as defined in Additional Note 1 (f) to Chapter 27 in Part 1 of Schedule No. 1 to the Customs and Excise Act, referred to in fuel levy **[item]** items no. 195.10.13 and 195.13.13 in Part 5A of Schedule No. 1 to the Customs and Excise Act and which are not mixed or blended with another substance; or".

(2) Subsection (1) is deemed to have come into operation on 1 January 2002.

Amendment of section 1 of Act 25 of 2007, as amended by section 145 of Act 24 of 2011, section 153 of Act 22 of 2012, section 110 of Act 43 of 2014, section 137 of Act 25 of 2015, section 90 of Act 15 of 2016, section 90 of Act 17 of 2017, section 76 of Act 34 of 2019, section 67 of Act 23 of 2020 and section 56 of Act 20 of 2021

55. Section 1 of the Securities Transfer Tax Act, 2007, is hereby amended by the substitution in subsection (1) in the definition of ‘‘collateral arrangement’’ for paragraph (i) of the exclusion of the following paragraph:

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

Amendment of section 8 of Act 25 of 2007, as amended by section 73 of Act 3 of 2008, section 127 of Act 60 of 2008, section 97 of Act 17 of 2009, section 127 of Act 7 of 2010,

section 148 of Act 24 of 2011, section 155 of Act 22 of 2012, section 183 of Act 31 of 2013, section 138 of Act 25 of 2015, section 15 of Act 22 of 2018, section 68 of Act 23 of 2020 and section 57 of Act 20 of 2021

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

"*(h)* if the person to whom that security is transferred is an heir or a legatee who has acquired that security *ab* **[*intestatio*]** *intestato* or by way of testamentary succession or as a result of a redistribution of the assets of a deceased estate in the process of liquidation;".

Amendment of section 6A of Act 28 of 2008, as inserted by section 134 of Act 7 of 2010 and substituted by section 185 of Act 31 of 2013 and amended by section 96 of Act 23 of 2018

57. Section 6A of the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended—

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

"*(a)* is transferred below the condition specified in Schedule 2 for that mineral resource, the mineral resource must be treated as **[having]** if that mineral resource had been **[brought to]** transferred in the condition specified for that mineral resource; or"; and

(b) by the substitution in subsection (1A) for paragraph *(a)* of the following paragraph:

"*(a)* in a condition below the minimum of the range of conditions specified in Schedule 2 for that mineral resource, the mineral resource must be treated as **[having]** if that mineral resource had been **[brought to]** transferred at the minimum of the range of conditions specified for that mineral resource;".

Amendment of section 1 of Act 26 of 2013, as amended by section 112 of Act 43 of 2014, section 93 of Act 15 of 2016, section 101 of Act 23 of 2018, section 78 of Act 34 of 2019, section 2 of Act 13 of 2020 and section 58 of Act 20 of 2021

58. (1) Section 1 of the Employment Tax Incentive Act, 2013, is hereby amended by the substitution in subsection (1) in the definition of ‘‘monthly remuneration’’ for the proviso of the following proviso:

": Provided that in determining the remuneration paid or payable, an amount other than a cash payment **[that is due and payable]** to the employee after **[having accounted for]** adding back deductions in terms of section 34(1)(*b*) of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), must be disregarded;".

(2) Subsection (1) is deemed to have come into operation on 1 March 2025 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 5 of Act 26 of 2013, as amended by section 114 of Act 43 of 2014

59. (1) Section 5 of the Employment Tax Incentive Act, 2013, is hereby amended—

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

"Penalty and disqualification **[in respect of displacement]**"; and

(b) by the addition after subsection (2) of the following subsection:

"(3) If an employer receives the employment tax incentive in respect of an amount that must be disregarded in terms of the proviso to the definition of 'monthly remuneration' in section 1(1), that employer must pay a penalty to the South African Revenue Service in an amount equal to 100 per cent of the employment tax incentive received in respect of that employee in respect of each month that the employer received the employment tax incentive relating to the amount that should have been so disregarded.".

(2) Subsection (1) is deemed to have come into operation on 1 March 2025 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 13 of Act 31 of 2013, as amended by section 144 of Act 25 of 2015, section 98 of Act 15 of 2016, section 93 of Act 17 of 2017, section 98 of Act 23 of 2018, section 82 of Act 34 of 2019, section 71 of Act 23 of 2020, section 60 of Act 20 of 2021, section 35 of Act 20 of 2022 and section 60 of Act 17 of 2023

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

''(2) Subsection (1) comes into operation on 1 January **[2025]** 2026 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, section 36 of Act 20 of 2022 and section 61 of Act 17 of 2023

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 **[2025]** 2026 and applies in respect of amounts incurred on or after that date.’’.

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

Amendment of section 62 of Act 31 of 2013, as amended by section 148 of Act 25 of 2015, section 100 of Act 15 of 2016, section 100 of Act 23 of 2018, section 84 of Act 34 of 2019, section 73 of Act 23 of 2020, section 62 of Act 20 of 2021, section 37 of Act 20 of 2022 and section 63 of Act 17 of 2023

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

‘‘(2) Subsection (1) comes into operation on 1 January **[2025]** 2026 and applies in respect of amounts of interest incurred on or after that date.’’.

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

Amendment of section 6 of Act 15 of 2019, as amended by section 93 of Act 34 of 2019, section 77 of Act 23 of 2020, section 63 of Act 20 of 2021 and section 39 of Act 20 of 2022

63. (1) Section 6 of the Carbon Tax Act, 2019, is hereby amended by the addition of the following subsection:

"(5) For the purposes of this section 'renewable electricity purchased under a power purchase agreement' includes renewable electricity purchased under an agreement ceded to the National Transmission Company of South Africa.".

(2) Subsection (1) is deemed to have come into operation on 1 January 2024.

Amendment of Schedule 1 to Act 15 of 2019, as amended by section 98 of Act 34 of 2019 and section 67 of Act 17 of 2023

64. (1) Schedule 1 to the Carbon Tax Act, 2019, is hereby amended—

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

"TABLE 1
FUEL COMBUSTION EMISSION FACTORS
STATIONARY SOURCE CATEGORY

FUEL TYPE	***CO_2 (KGCO_2/TJ)***	***CH_4 (KGCH_4/TJ)***	***N_2O (KGN_2O/TJ)***	***DEFAULT NET CALORIFIC VALUE (TJ/TONNE)***		
				NET CALORIFIC VALUE	***LOWER LIMIT OF THE 95% CONFIDENCE INTERVAL***	***UPPER LIMIT OF THE 95% CONFIDENCE INTERVAL***
ACETYLENE	67 870	N/A	N/A	0.049818	N/A	N/A
ANTHRACITE	98 300	1	1.5	0.0267	0.0216	0.0322
AVIATION GASOLINE	**[70 000]**65 752	3	0.6	**[0.0443]**0.0475	**[0.0425]**N/A	**[0.0448]**N/A
BIODIESEL	0	3	0.6	0.027	0.0136	0.054
BIOGASOLINE	0	3	0.6	0.027	0.0136	0.054
BITUMEN	80 700	3	0.6	0.0402	0.0335	0.0412
BLAST FURNACE GAS	260 000	1	0.1	0.00247	0.0012	0.005
[DIESEL]	**[74 100]**	**[3]**	**[0.6]**	**[0.043]**	**[0.0414]**	**[0.0433]**
BROWN COAL BRIQUETTES	97 500	1	1.5	0.0207	0.0151	0.032
CHARCOAL	0	200	4	0.0295	0.0149	0.058
COAL TAR	80 700	1	1.5	0.028	0.0141	0.055
COKE OVEN COKE AND LIGNITE COKE	107 000	1	1.5	0.0282	0.0251	0.0302
COKE OVEN GAS	44 400	1	0.1	0.0387	0.0196	0.077

COKING COAL	94 600	1	1.5	0.0282	0.024	0.031
CRUDE OIL	73 300	3	0.6	0.0438	0.0401	0.0448
DIESEL	**[74 100]**74 638	3	0.6	**[0.0381]**0.043	**[0]**N/A	**[0]**N/A
ETHANE	61 600	1	0.1	0.0464	0.0449	0.0488
GAS COKE	107 000	1	0.1	0.0173	0.0251	0.0302
GAS WORKS GAS	44 400	1	0.1	0.0387	0.0196	0.077
INDUSTRIAL WASTES	143 000	30	4	N/A	N/A	N/A
JET GASOLINE	70 000	3	0.6	0.0443	0.0425	0.0448
JET KEROSENE	**[71 500]**73 463	3	0.6	**[0.0441]**0.0433	**[0.042]**N/A	**[0.045]**N/A
LANDFILL GAS	0	1	0.1	0.0504	0.0254	0.1
LIGNITE	101 000	1	1.5	0.0119	0.0055	0.0216
LIQUEFIED PETROLEUM GASES	**[63 100]**64 852	1	0.1	**[0.0473]**0.0463	**[0.0448]**N/A	**[0.0522]**N/A
LUBRICANTS	73 300	3	0.6	0.0402	0.0335	0.0423
METHANE RICH GAS (MRG)	54 888	1	0.1	0.048	0.0465	0.0504
MUNICIPAL WASTES (BIOMASS FRACTION)	0	30	4	0.0116	0.0068	0.018
MUNICIPAL WASTES (NON BIOMASS FRACTION)	91 700	30	4	0.01	0.007	0.018
NAPHTHA	73 700	3	0.6	0.0445	0.0418	0.0465
NATURAL GAS	56 100	1	0.1	0.048	0.0465	0.0504
NATURAL GAS LIQUIDS	64 200	3	0.6	0.041	0.0409	0.0469
OIL SHALE AND TAR SANDS	107 000	1	1.5	0.0089	0.0071	0.0111
ORIMULSION	77 000	3	0.6	0.0275	0.0275	0.0283
OTHER BIOGAS	0	1	0.1	0.0504	0.0254	0.1
OTHER BITUMINOUS COAL	94 600	1	1.5	**[0.0243]**0.0192	**[0.0199]**0.0192	0.0305
OTHER KEROSENE	71 900	3	0.6	0.037	0	0
OTHER LIQUID BIOFUELS	0	3	0.6	0.0274	0.0138	0.054

OTHER PETROLEUM PRODUCTS	73 300	3	0.6	0.0402	0.0337	0.0482
OTHER PRIMARY SOLID BIOMASS	0	30	4	0.0116	0.0059	0.023
OXYGEN STEEL FURNACE GAS	182 000	1	0.1	0.00706	0.0038	0.015
PARAFFIN	**[71 900]**64 640	3	0.6	**[0.0438]**0.049	**[0.0424]**N/A	**[0.0452]**N/A
PARAFFIN WAXES	73 300	3	0.6	0.0402	0.0337	0.0482
PATENT FUEL	97 500	1	1.5	0.0207	0.0151	0.032
PEAT	0	1	1.5	0.00976	0.0078	0.0125
PETROL	**[69 300]**72 430	3	0.6	**[0.0443]**0.0439	**[0.0425]**N/A	**[0.0448]**N/A
PETROLEUM COKE	97 500	3	0.6	0.0325	0.0297	0.0419
REFINERY FEEDSTOCK	73 300	3	0.6	0.043	0.0363	0.0464
REFINERY GAS	57 600	1	0.1	0.0495	0.0475	0.0506
REFUSE DERIVED FUEL	83 000	30	4	0.01	0.007	0.018
RESIDUAL FUEL OIL (HEAVY FUEL OIL)	**[77 400]**73 090	3	0.6	**[0.0404]**0.043	**[0.0398]**N/A	**[0.0417]**N/A
SAWDUST	0	30	4	0.0116	0.0059	0.023
SHALE OIL	73 300	3	0.6	0.0381	0.0321	0.0452
SLUDGE GAS	0	1	0.1	0.0504	0.0254	0.1
SUB-BITUMINOUS COAL	96 100	1	1.5	0.0192	0.0115	0.026
SULPHITE LYES (BLACK LIQUOR)	0	3	2	0.0118	0.0059	0.023
WASTE OILS	73 300	30	4	0.0402	0.0203	0.08
WASTE TYRES	85 000	1	1.5	0.0325	N/A	N/A
WHITE SPIRIT AND SBP	73 300	3	0.6	0.0402	0.0337	0.0482
WOOD/WOOD WASTE	0	30	4	0.0156	0.0079	0.031

NON-STATIONARY/MOBILE SOURCE CATEGORY ACTIVITY

FUEL TYPE	*CO_2 ($KGCO_2$/TJ)*	*CH_4 ($KGCH_4$/TJ)*	*N_2O (KGN_2O/TJ)*	*DEFAULT NET CALORIFIC VALUE (TJ/TONNE)*		
				NET CALORIFIC VALUE	*LOWER LIMIT OF THE 95% CONFIDENCE INTERVAL*	*UPPER LIMIT OF THE 95% CONFIDENCE INTERVAL*
AVIATION GASOLINE	**[70 000]**65 752	**[3]**0.5	**[0.6]**2	**[0.0443]**0.0475	**[0.0425]**N/A	**[0.0448]**N/A
BIODIESEL	0	4.15	28.6	0.027	N/A	N/A
BIOGASOLINE	0	3.5	5.7	0.027	N/A	N/A
COMPRESSED NATURAL GAS	56 100	92	3	N/A	N/A	N/A
DIESEL	**[74 100]**74 638	4.15	28.6	**[0.0381]**0.0430	0	0
DIESEL — (OCEAN-GOING SHIPS)	74 100	7	2	0.0381	0	0
DIESEL — OFFROAD	74 100	3.9	3.9	0.0381	N/A	N/A
DIESEL — RAIL	74 100	**[4.5]**4.15	28.6	0.0381	0	0
JET KEROSENE	**[71 500]**73 463	0.5	2	**[0.0441]**0.0433	**[0.042]**N/A	**[0.045]**N/A
KEROSENE	71 500	3	0.6	0.037	0	0
LIQUIFIED NATURAL GASES	56 100	92	3	N/A	N/A	N/A
LIQUEFIED PETROLEUM GASES	**[63 100]**64 852	62	0.2	**[0.0473]**0.0463	**[0.0448]**N/A	**[0.0522]**N/A
LUBRICANTS	73 300	3	0.6	0.0402	0.0335	0.0423

METHANE RICH GAS (MRG)	54 888	92	3	0.048	0.0465	0.0504
NATURAL GAS	56 100	92	3	0.048	0.0465	0.0504
(PARAFFIN) OTHER KEROSENE	**[71 900]**64 640	3	0.6	**[0.0438]**0.0490	**[0.0424]**N/A	**[0.0452]**N/A
OTHER PETROLEUM PRODUCTS	73 300	3	0.6	0.0402	0.0337	0.0482
PARAFFIN WAXES	73 300	3	0.6	0.0402	0.0337	0.0482
PETROL	**[69 300]**72 430	3.5	5.7	**[0.0443]**0.0439	**[0.0425]**N/A	**[0.0448]**N/A
PETROL-OXIDATION CATALYST	69 300	25	8	0.0443	N/A	N/A
PETROL-UNCONTROLLED	69 300	33	3.2	0.0443	N/A	N/A
REFINERY GAS	57 600	1	0.1	0.0495	0.0475	0.0506
REFUSE DERIVED FUEL	83 000	N/A	N/A	N/A	N/A	N/A
RESIDUAL FUEL OIL— (HEAVY FUEL OIL)	**[77 400]**73 090	7	2	**[0.0404]**0.0473	**[0.0398]**N/A	**[0.0417]**N/A
SAWDUST	0	N/A	N/A	N/A	N/A	N/A
SUB-BITUMINOUS COAL	96 100	2	1.5	0.0192	0.0115	0.026
WASTE TYRES	85 000	N/A	N/A	N/A	N/A	N/A
WHITE SPIRIT AND SBP	73 300	3	0.6	0.0402	0.0337	0.0482

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

"Table 2

FUGITIVE EMMISSION FACTORS

IPCC Code	***SOURCE CATEGORY ACTIVITY***	***Fugitive***	***Emission***	***Factors***
		CO_2	***CH_4***	***N_2O***
1B1	**SOLID FUELS (M^3 /TONNE)**			
1B1cii	Charcoal production (per charcoal produced (tonne GHG/tonne charcoal	0	0.0000403	$8*10^{-8}$
1B1Ciii	Biochar production (per biochar produced) (tonne GHG/tonne biochar)	0	0.00003	ND
1B1ci	Coke production (per coke produced) (tonne GHG/tonne coke)	ND	$4.9*10^{-8}$	ND
1B1civ	**Coal to liquids (tonne GHG/TJ total output)**			
1B1civ	Coal to liquids – syngas	55	0.0061	0
1B1civ	Coal to liquids – syngas/ H_2	55	0.0061	0
1B1civ	Coal to liquids – SNG (synthetic natural gas)	78	0.0061	0
1B1civ	Gas to liquids (tonne GHG/TJ natural gas input)	12.73	ND	ND
1B1a	**COAL MINING AND HANDLING**			
1B1ai	UNDERGROUND COAL MINING	0.000077	0.00077	

	UNDERGROUND POST-MINING (HANDLING & TRANSPORT)	0.000018	0.00018	
1B1aii	SURFACE COAL MINING	N/A	0	
	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	
1B2	**OIL AND NATURAL GAS (Gg/ 10^3M^3 TOTAL OIL PRODUCTION)**			
	Oil transport (tonne/10^3M^3 oil loaded onto tanker ships)			
1B2ai	Loading offshore production on tanker ships – without VRU – All	ND	0.065	ND
1B2ai	Loading offshore production on tanker ships – with VRU – All	ND	0.040	ND
1B2a	Oil refining (tonne/10^3M^3 oil refined)			
1B2aiii4	All (the factors include fugitive equipment leaks, flaring, storage of crude oil, handling	5.85	$2.6*10^{-6}$ to $4.1*10^{-5}$	$8.77*10^{-5}$

	and calcination)			
1B2b	**NATURAL GAS**			
1B2b	***FLARING AND VENTING***			
1.B.2.b.ii	WELL DRILLING	0.0000001	0.000000033	ND
1.B.2.b.ii	WELL TESTING	0.000009	0.000000051	0.000000000068
1.B.2.b.ii	WELL SERVICING	0.0000000019	0.00000011	ND
1B2b	***GAS PRODUCTION* (Gg/ 10^6M^3 TOTAL OIL PRODUCTION)**			
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
	***GAS PROCESSING* (Gg/ 10^6M^3 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
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
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
1.B.2.b.iii.3	DEFAULT—FUGITIVES	$1.20E^{-05}$ to $3.20E^{-04}$	$1.50E^{-04}$ to $1.03E^{-03}$	N/A
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

1B2b	***GAS TRANSMISSION & STORAGE* (Gg-CO_2/year/km**			
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
1B2b	***GAS DISTRIBUTION* (Gg/ 10^6M^3 OF UTILITY SALES)**			
1.B.2.b.iii.5	ALL	0.000051	0.0011	ND
1B2b	***NATURAL GAS LIQUIDS TRANSPORT* (Gg/ 10^3M^3 CONDENSATE AND PENTANES PLUS)**			
1.B.2.a.iii.3	CONDENSATE	0.0000000072	0.00000011	
1.B.2.a.iii.3	LIQUEFIED PETROLEUM GAS **(Gg/ 10^3M^3 LPG)**	0.00000043	N/A	$2.2\ 0E^{-12}$
1.B.2.a.iii.3	LIQUEFIED NATURAL GAS **(Gg/ 10^6M^3 MARKETABLE GAS)**	ND	ND	ND
1B2a	**OIL**			
1B2a	***OIL PRODUCTION* (Gg/ 10^3M^3 CONVENTIONAL OIL PRODUCTION)**			
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
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

1B2a	***OIL PRODUCTION* (Gg/ 10^3M^3 HEAVY OIL PRODUCTION)**			
1.B.2.a.iii.2	HEAVY OIL/COLD BITUMEN—FUGITIVES	0.00000054	0.0000079	N/A
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
1B2a	***OIL PRODUCTION* (Gg/ 10^3M^3 THERMAL BITUMEN PRODUCTION)**			
1.B.2.a.iii.2	THERMAL OIL PRODUCTION—FUGITIVES	0.000000029	0.00000018	N/A
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	***OIL PRODUCTION* (Gg/ 10^3M^3 SYNTHETIC CRUDE PRODUCTION FROM OILSANDS)**			
1.B.2.a.iii.2	SYNTHETIC CRUDE (FROM OILSANDS)	ND	0.0000023	ND
1.B.2.a.iii.2	SYNTHETIC CRUDE (OIL SHALE)	ND	ND	ND
1B2a	***OIL PRODUCTION* (Gg/ 10^3M^3 TOTAL OIL PRODUCTION)**			
1.B.2.a.iii.2	DEFAULT TOTAL—FUGITIVES	0.00000028	0.0000022	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	***OIL UPGRADING* (Gg/ 10^3M^3 OIL UPGRADED)**			
1.B.2.a.iii.2	ALL	ND	ND	ND
1B2a	***OIL TRANSPORT* (Gg/ 10^3M^3 OIL TRANSPORTED BY PIPELINE)**			
1.B.2.a.iii.3	PIPELINES	0.00000000049	0.0000000054	N/A
1B2a	***OIL TRANSPORT* (Gg/ 10^3M^3 OIL TRANSPORTED BY TANKER TRUCK)**			
1.B.2.a.i	TANKER TRUCKS AND RAIL CARS—VENTING	0.0000000023	0.000000025	N/A
	***OIL TRANSPORT* (Gg/ 10^3M^3 OIL TRANSPORTED BY TANKER SHIPS)**			
1.B.2.a.i	LOADING OFF-SHORE PRODUCTION ON TANKER SHIPS—VENTING	ND	ND	ND
1B2a	***OIL REFINING* (Gg/ 10^3M^3 OIL REFINED)**			
1.B.2.a.iii.4	ALL		$2.60E^{-09}$ to $4.10E^{-08}$	ND

(2) Subsection (1) is deemed to have come into operation on 1 January 2024.

Amendment of section 14 of Act 20 of 2021

65. (1) Section 14 of the Taxation Laws Amendment Act, 2021, is hereby amended by the substitution for subsection (1) of the following subsection:

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

'*(b)* entered into between a learner and an employer before 1 April **[2022]** 2027;'.

(2) Subsection (1) is deemed to have come into operation on 1 April 2022 and applies in respect of learnership agreements entered into on or after that date.

Amendment of section 11 of Act 17 of 2023

66. (1) Section 11 of the Taxation Laws Amendment Act, 2023, is hereby amended by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(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 represents the amount by which the value of any machinery, plant, implements, utensils and articles (other than machinery, plant, implements, utensils and articles in respect of which a deduction may be granted under section 12B, 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, which amount must be determined on the basis of the periods of use listed for this purpose in a public notice issued by the Commissioner, or a shorter period of use approved by the Commissioner on application in the prescribed form and manner by the taxpayer:’ ".

(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 12 of Act 17 of 2023

67. (1) Section 12 of the Taxation Laws Amendment Act, 2023, is hereby amended—

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

"*(e)* by the substitution in subsection (1) for paragraph *(d)* **[for]** of 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 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; or';

(f) by the substitution in subsection (1) 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 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:';"; and

(b) by the substitution in subsection (1) for paragraphs *(z*D*)* and *(z*E*)*, respectively, of the following paragraphs:

"*(z*D*)* by the substitution for subsection (19) of the following subsection:

'(19) The Commissioner may, notwithstanding the provisions of sections 99(1) 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).';

*(z*E*)* by the substitution for subsection (20) of the following subsection:

'(20) *(a)* A taxpayer may, notwithstanding **[Chapter 8]** the provisions of sections 93, 99(1) and 100 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—

(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;

(ii) that **[application]** expenditure 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

(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 sections 93, 99(1) 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".

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

Amendment of section 14 of Act 17 of 2023

68. (1) Section 14 of the Taxation Laws Amendment Act, 2023, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Subsection (1) comes into operation on 1 January **[2025]** 2026 and applies in respect of years of assessment commencing on or after that date.".

(2) Subsection (1) is deemed to have come into operation on 22 December 2023.

Amendment of section 47 of Act 17 of 2023

69. (1) Section 47 of the Taxation Laws Amendment Act, 2023, is hereby amended by the substitution for subsection (1) of the following subsection:

"(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) is deemed to have come into operation on 1 January 2024.

Short title

70. This Act is called the Taxation Laws Amendment Act, 2024.

SCHEDULE I

(section 41)

Part I

By the insertion of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty					
				General	EU / UK	EFTA	SADC	MERCOSUR	AfCFTA
2710.19.07	1	Aviation kerosene, as defined in Additional Note 1(d)	li	free	free	free	free	free	free
2710.19.09	8	Power kerosene, as defined in Additional Note 1(e)	li	free	free	free	free	free	free
2710.19.15	2	Illuminating kerosene, as defined in Additional Note 1(f), marked	li	free	free	free	free	free	free
2710.19.26	8	Illuminating kerosene, as defined in Additional Note 1(f), unmarked	li	0,183c/li	free	0,183c/li	free	0,183c/li	0,1098c/li
2710.19.30	6	Distillate fuel, as defined in Additional Note 1(g)	li	0,183c/li	0,183c/li	0,183c/li	free	0,183c/li	0,1098c/li
2710.19.35	7	Residual fuel oils, as defined in Additional Note 1(h)	li	free	free	free	free	free	free
2710.19.37	3	Specific aliphatic hydrocarbons solvents, as defined in Additional Note 1(ij), marked	li	free	free	free	free	free	free
2710.19.39	6	Specified hydrocarbon solvents, as defined in Additional Note 1(ij), unmarked	li	0,183c/li	free	0,183c/li	free	0,183c/li	0,1098c/li
2710.19.45	4	Mixed alkylenes	kg	10%	10%	10%	free	10%	6%
2710.19.47	0	Lubricating grease	kg	1,8c/kg with a maximum of 15%	1,8c/kg with a maximum of 15 %	1,8c/kg with a maximum of 15 %	free	1,8c/kg with a maximum of 15 %	1,08c/kg with a maximum of 9%
2710.19.49	7	Prepared lubricating oils, in containers holding less than 5 li	li	15%	15%	15%	free	15%	9%
2710.19.52	7	Other prepared lubricating oils	li	0,55c/li with a maximum of 8%	0,55c/li with a maximum of 8%	0,55c/li with a maximum of 8%	free	0,55c/li with a maximum of 8%	0,33c/li with a maximum of 4,8%
2710.19.55	1	Base oils for prepared lubricating oil, manufactured by the refining of used lubricating oil or other used oil	li	0,55c/li with a maximum of 8%	0,55c/li with a maximum of 8%	0,55c/li with a maximum of 8%	free	0,55c/li with a maximum of 8%	0,33c/li with a maximum of 4,8%
2710.19.57	8	Other base oils for prepared lubricating oil	li	0,1c/li with a maximum of 8%	0,1c/li with a maximum of 8%	0,1c/li with a maximum of 8%	free	0,1c/li with a maximum of 8%	0,06c/li with a maximum of 4,8%
2710.19.60	8	Transformer oil and cable oil	li	free	free	free	free	free	free
2710.19.70	5	Other insulating oil or dielectric oil	li	15%	15%	15%	free	15%	9%
2710.19.80	2	Hydraulic transmission fluids	li	15%	15%	15%	free	15%	9%
2710.19.90	6	Other	li	11c/li	11c/li	11c/li	free	11c/li	6,6c/li

By the substitution of the following:

Heading / Subheading	CD	Article Description	Statistical Unit	Rate of Duty					
				General	EU / UK	EFTA	SADC	MERCOSUR	AfCFTA
2710.19		**- - Other:**							

Part II

AMENDMENT OF PART 2A OF SCHEDULE NO. 1 TO CUSTOMS AND EXCISE ACT, 1964

By the insertion of the following:

Tariff Item	Tariff Subheading	Article Description	Rate of Excise Duty
105.13	**2710.19**	**Other:**	
105.13.09	2710.19.07	Aviation kerosene, as defined in Additional Note 1(d) to Chapter 27	free
105.13.13	2710.19.15	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, marked	free
105.13.15	2710.19.26	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, unmarked	3,817c/li
105.13.17	2710.19.30	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27	3,817c/li
105.13.19	2710.19.37	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij) to Chapter 27, marked	free
105.13.21	2710.19.39	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij) to Chapter 27, unmarked	3,817c/li

Part III

AMENDMENT OF PART 5A OF SCHEDULE NO. 1 TO CUSTOMS AND EXCISE ACT, 1964

By the insertion of the following:

Fuel Levy Item	Tariff Heading	Article Description	Rate of Fuel
195.13	**2710.19**		
195.13.09	2710.19.07	Aviation kerosene, as defined in Additional Note 1(d) to Chapter 27	free
195.13.13	2710.19.15	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, marked	free
195.13.15	2710.19.26	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, unmarked	384c/li
195.13.17	2710.19.30	Distillate fuel, as defined in Additional Note 1 (g) to Chapter 27	384c/li
195.13.19	2710.19.37	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij) to Chapter 27, marked	free
195.13.21	2710.19.39	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij) to Chapter 27, unmarked	384c/li

PART IV

AMENDMENT OF PART 5B OF SCHEDULE NO. 1 TO CUSTOMS AND EXCISE ACT, 1964

By the insertion of the following:

Road Accident Fund Levy Item	Tariff Heading	Article Description	Rate of Road Accident Fund Levy
197.13	**2710.19**		
197.13.09	2710.19.07	Aviation kerosene, as defined in Additional Note 1(d) to Chapter 27	free
197.13.13	2710.19.15	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, marked	free
197.13.15	2710.19.26	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, unmarked	218c/li
197.13.17	2710.19.30	Distillate fuel, as defined in Additional Note 1 (g) to Chapter 27	218c/li
197.13.19	2710.19.37	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij) to Chapter 27, marked	free
197.13.21	2710.19.39	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij) to Chapter 27, unmarked	218c/li

Schedule II

(section 42)

AMENDMENT OF PART 4 OF SCHEDULE NO. 4 TO CUSTOMS AND EXCISE ACT, 1964

By the insertion of the following:

Rebate Item	Tariff Heading	Rebate Code	CD	Article Description	Extent of Rebate
496.00	2710.19	01.06	63	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij) to Chapter 27, entered for the purpose of this rebate item in such quantities, for such purposes and under such conditions as the Commissioner may allow by specific permit	Full fuel levy and Road Accident Fund Levy

Schedule III

(section 43)

AMENDMENT OF PART 4 OF SCHEDULE NO. 5 TO CUSTOMS AND EXCISE ACT, 1964

By the insertion of the following:

Refund Item	Tariff Heading	Code	CD	Description	Extent of Refund
540.01	195.13	01.05	59	Petrol and distillate fuels used by diplomatic and other foreign representatives	As determined and approved by the Director-General: Department of International Relations and Co- operation

SCHEDULE IV

(section 44)

AMENDMENT OF PART 1F OF SCHEDULE NO. 6 TO CUSTOMS AND EXCISE ACT, 1964

By the insertion of the following:

Rebate Item	Tariff Item	Rebate Code	CD	Description	Extent of Rebate	Extent of Refund
623.02	105.13.17	02.02	74	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		As determined and approved by the Director-General: Department of International Relations and Co-operation
623.03	105.13.17	02.02	73	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		As determined and approved by the Director-General: Department of International Relations and Co-operation
623.05	105.13.15	04.02	72	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, unmarked	Full duty	
623.05	105.13.17	04.03	73	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27	Full duty	
623.05	105.13.21	04.04	78	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij) to Chapter 27, unmarked	Full duty	
623.06	105.13.17	01.02	74	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27	Full duty	
623.09	105.13.17	01.02	74	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		Full duty
623.10	105.13.17	01.02	71	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		Full duty
623.11	105.13.17	01.02	73	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		Full duty
623.12	105.13.17	01.02	75	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		Full duty
623.13	105.13.17	01.02	77	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		Full duty
623.14	105.13.17	01.02	79	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		Full duty
623.19	105.13.15	04.02	78	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, unmarked		As provided in the Notes hereto
623.19	105.13.17	04.03	79	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		As provided in the Notes hereto
623.19	105.13.21	04.04	73	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij), unmarked		As provided in the Notes hereto
623.21	105.13.15	04.02	71	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, unmarked		As provided in the Notes hereto
623.21	105.13.17	04.03	72	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		As provided in the Notes hereto
623.21	105.13.21	04.04	77	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij) to Chapter 27, unmarked		As provided in the Notes hereto
623.23	105.13.15	04.02	75	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, unmarked		As provided in the Notes hereto
623.23	105.13.17	04.03	76	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		As provided in the Notes hereto
623.23	105.13.21	04.04	70	Specified aliphatic hydrocarbon solvents, as defined in Additional Note 1(ij) to Chapter 27, unmarked		As provided in the Notes hereto
623.25	105.13.15	03.02	74	Illuminating kerosene, as defined in Additional Note 1(f) to Chapter 27, unmarked		As provided in the Notes hereto
623.25	105.13.17	03.03	75	Distillate fuel, as defined in Additional Note 1(g) to Chapter 27		As provided in the Notes hereto



NATIONAL
TREASURY

REPUBLIC OF SOUTH AFRICA

DRAFT EXPLANATORY MEMORANDUM

ON THE

DRAFT TAXATION LAWS AMENDMENT BILL, 2024

1 August 2024

[W.P. – '24]

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1. INCOME TAX: INDIVIDUALS, SAVINGS AND EMPLOYMENT

1.1 CURBING THE ABUSE OF THE EMPLOYMENT TAX INCENTIVE SCHEME

[Applicable provisions: Sections 1(1) and 5(3) of the Employment Tax Incentive Act, No. 26 of 2013 ("the ETI Act")]]

I. Background

In 2013, the Government introduced the Employment Tax Incentive (ETI) as an incentive aimed at encouraging employers to hire young work seekers. The ETI reduces the cost of hiring young people to employers through a cost-sharing mechanism with the government while leaving the wage the employee receives unaffected. The ETI commenced on 1 January 2014 and is due to expire on 28 February 2029.

II. Reasons for change

In the past three years, the Government has amended the ETI Act to curb abuse of the incentive through aggressive tax schemes. These schemes often involved training institutions claiming the incentive for students classified as employees under the ETI Act, who, however, never received cash payouts in their bank accounts. Instead, the training institutions would deduct training fees from their wages. The Government's position is that training costs should be the responsibility of the employer. The misuse of the ETI for creating fictitious employment, primarily to exploit the incentive, contradicts the policy's intention.

It is essential to emphasise that millions of young South Africans are excluded from economic participation, resulting in high levels of unemployment, discouragement, and economic marginalisation. This high youth unemployment rate prevents young people from acquiring the skills and experience necessary to drive economic growth, potentially leading to long-term adverse effects on the economy. The primary purpose of the ETI is to incentivise employers to hire young job seekers, providing them with a living wage and valuable work experience for future employability.

III. Proposal

It is proposed that punitive measures to curb the abuse of ETI be refined in the legislation to address the abusive behaviour of certain taxpayers towards the incentive.

IV. Effective date

The proposed amendments will come into operation on 1 March 2025 and apply in respect of years of assessment commencing on or after that date.

1.2 AMENDING THE DEFINITION OF "REMUNERATION PROXY" IN SECTION 1

[Applicable provision: Definition of "remuneration proxy" in section 1 of the Income Tax Act No. 58 of 1962 ("the Act")]

I. Background

In the tax legislation, the meaning of an employer-employee relationship is generally expanded to include an "associated institution" as defined in paragraph 1 of the Seventh Schedule to the Act. In addition, the concept of an "associated institution" has the purpose and effect of expanding the employer-employee relationship to the granting of a taxable benefit to an employee. With effect from 1 March 2014, the definition of "remuneration proxy" was introduced in section 1 of the Act with the purpose that the design of the definition of "remuneration proxy" in section 1 to specifically refer to an "associated institution" as defined in paragraph 1 of the Seventh Schedule to the Act.

II. Reasons for change

In 2013, the definition of "remuneration factor" in paragraph 9(1) of the Seventh Schedule to the Act was deleted and the definition of "remuneration proxy" was inserted in section 1 of the Act effective 1 March 2014. Currently, the term "associated institution" is used in the definition of "remuneration proxy" with its ordinary meaning, as "associated institution" is not defined in the main body of the Act, but in the Seventh Schedule. Since the ordinary meaning of the term "associated institution" is used in the definition of "remuneration proxy" in section 1 of the Act, this creates an inconsistency in the application of:

- Section 10(1)(*q*)(ii)(*aa*) of the Act for any bona fide scholarship or bursary granted by the employer to enable or assist any person to study;

- Section 10(1)(*q*A)(ii)(*aa*) of the Act for any bona fide scholarship or bursary to enable any person living with a disability to study;

- Paragraph 5(3A)(*a*) of the Seventh Schedule to the Act, which caters for the no-value provision regarding the cash equivalent for employer-provided accommodation (low-cost housing); and

- Paragraph 9(3)(*i*) of the Seventh Schedule to the Act dealing with the rental value to be placed on employer-provided residential accommodation.

The difficulty lies with the term "associated institution" which cannot be given its ordinary meaning but be given its meaning by reference to where it is defined in the Act, i.e. in paragraph 1 of the Seventh Schedule. Therefore, Government proposes aligning the policy objective for an "associated institution" to carry its intended meaning and use in the Act.

III. Proposal

It is proposed that a cross-reference be added in the definition of "remuneration proxy" to refer to the definition of an "associated institution" by reference to paragraph 1 of the Seventh Schedule to the Act.

IV. Effective date

The proposed amendment will come into operation on 1 March 2025 and apply in respect of years of assessment commencing on or after that date.

1.3 PAYROLL AMENDMENTS AND REFUNDS MADE IN THE CURRENT YEAR

[Applicable provision: Section 11(*n*A) of the Act]

I. Background

From the year of assessment commencing on 1 March 2009, the legislation allows a deduction of any amount included in the taxable income of an employee and the said amount is subsequently refunded by the employee to the employer. This is in terms of section 11(*n*A) of the Act which permits a deduction for any amount, including any voluntary award, received or accrued for services rendered, employment or holding of an office, and the amount included in taxable income is subsequently refunded by the recipient.

II. Reasons for change

Section 11(*n*A) of the Act only permits a deduction for an amount that was refunded by an employee, but only if it was previously included in taxable income. As it stands, the legislation currently reads “as was included in the taxable income of that person and is refunded by that person”. The words “was included” create an interpretation challenge for refunds taking place in the same year of assessment. The law is currently interpreted to mean that prior inclusion in taxable income is required or must take place before the refund can be claimed as a deduction. As a result, the interpretation meaning of section 11(*n*A) of the Act is limited only to refunds made in a year of assessment occurring after initial inclusion in taxable income. If the refund occurs in the same year of assessment as income received, there would be no prior inclusion in taxable income, as taxable income is only determined after the year of assessment has concluded.

In the past, SARS has informally allowed payroll administrators to make corrections within the same year of assessment to avoid prejudicing taxpayers. However, with the introduction of monthly payroll reporting, it is now necessary to amend section 11(*n*A) of the legislation. This amendment should explicitly clarify that refunds made within the same year of assessment can be allowed as a deduction under section 11(*n*A) of the Act if the income received is included in taxable income.

III. Proposal

It is proposed to amend section 11(*n*A) of the Act to explicitly state that refunds occurring within the same year of assessment can be allowed as a deduction under section 11(*n*A) of the Act if the income received is included in taxable income.

IV. Effective date

The proposed amendment will come into operation on 1 March 2025 and apply in respect of years of assessment commencing on or after that date.

1.4 CLARIFYING ANTI-AVOIDANCE RULES FOR LOW-INTEREST OR INTEREST-FREE LOANS TO TRUSTS

[Applicable provision: Section 7C of the Act]

I. Background

The Act contains a trust anti-avoidance measure aimed at curbing the tax-free transfer of wealth to trusts (both local and foreign) using low-interest or interest-free loans, advances or credit arrangements (including cross-border loan arrangements). In terms of the trust anti-avoidance measure, interest incurred by the trust at an interest rate lower than the official rate of interest in respect of a loan, advance or credit made to the trust is treated as ongoing and annual donation made by a natural person or a company that is a connected person in relation to that natural person, on the last day of the year of assessment of that trust. The amount of the deemed donation made by the natural person to the trust is determined as the difference between the interest charged on the loan, advance or credit and the interest that would have been payable by the trust had the interest been charged at the official rate of interest.

Similarly, the transfer pricing rules in the Act also apply to counter the mispricing of any transaction, operation, scheme, agreement or understanding (including cross-border loan arrangements). In terms of a trust, the transfer pricing rules determines that any cross-border loan arrangement between a person that is a resident and any other person that is not a resident (including a foreign trust) would be an affected transaction subject to tax if that cross-border loan arrangement is different from any term or condition (including interest rates) that would have existed had those persons been independent persons dealing at arm's length.

II. Reasons for change

To avoid the possibility of an overlap or double taxation, the trust anti-avoidance measures specifically exclude a low- or no-interest loan arrangement that constitutes an affected transaction that is subject to the transfer pricing rules contained in the Act.

At issue is that the above-mentioned exclusion does not effectively address the interaction between the trust anti-avoidance measures and transfer pricing rules where the arm's length interest rate is less than the official rate on these cross-border loan arrangements.

Example

X, a resident natural person, makes a non-arm's length interest free cross-border loan to a connected non-resident trust of R10 million and a tax benefit is derived. Had the trust borrowed the funds from a financial institution, it would have paid interest at a market-related rate of 5 per cent a year (R10 million x 5% = R500 000). The official rate of interest for tax purposes is 8 per cent. In light of the fact that this is a non-arm's length transaction, the cross-border loan is subject to the transfer pricing rules of section 31 of the Act which essentially results in X having a primary adjustment to its taxable income of R500 000 in terms of section 31(2) of the Act and a secondary adjustment in terms of section 31(3) of the Act, a deemed donation of R500 000, as X is a natural person.

As it was a non-arm's length transaction the anti-avoidance exclusion of section 7C(5)(*e*) of the Act is applied. Had the transfer pricing rules not applied, in terms of section 7C of the Act, the taxpayer would have had to declare a deemed donation of R800 000 (R10 Million x 8%).

The R300 000 difference between the deemed donation value for the trust anti-avoidance measure in terms of section 7C of the Act and the deemed donation in terms of section 31 of the Act is an unintended anomaly in the interaction between the trust anti-avoidance measures and transfer pricing rules. This can create structuring opportunities that if left without legislative intervention, could lead to the erosion of the tax base.

III. Proposal

To address the anomaly and to clarify the policy intent of the trust anti-avoidance measure regarding the tax-free transfer of wealth to a trust using a low-interest or interest-free loan, advance or credit arrangement, any improper or undue structuring opportunities should be shut down.

It is proposed that an amendment be made to ensure that the exemption of the trust anti-avoidance measure in respect of a loan, advance or credit that constitutes an affected transaction, as defined in the transfer pricing provisions, only applies to the amount or portion thereof, owing by that trust in respect of that loan, advance or credit, to the extent of an adjustment being made on that amount or part thereof in terms of the transfer pricing provisions.

IV. Effective date

The proposed amendment will come into operation on 1 January 2025 and will apply in respect of years of assessment commencing on or after that date.

1.5 TRANSFERS BETWEEN RETIREMENT FUNDS BY MEMBERS WHO REACHED NORMAL RETIREMENT AGE BEFORE RETIREMENT DATE

[Applicable provisions: Definition of “retirement annuity fund” in section 1, paragraphs 2(1)(*c*) and 6A of the Second Schedule to the Act]

I. Background

In general, paragraph 2(1)(*c*) of the Second Schedule to the Act specifies the amount included in gross income for any amount transferred for the benefit of a member of a retirement fund scheme on or after normal retirement age but before the retirement date. This amount is reduced by any allowable deductions under paragraph 6A of the Second Schedule to the Act.

With effect from 1 March 2024, paragraph 6A of the Second Schedule to the Act added to the list of deductions, tax-neutral transfers between pension or provident funds to another pension or provident fund for members who have reached normal retirement age (as contained in the fund's rules) but have not yet elected to retire. This allows them to transfer their retirement interest tax-free in the event of an involuntary transfer.

II. Reasons for change

Government seeks to address an inconsistency in the law, whereby tax-free transfers are allowed for involuntary transfers between pension, or provident funds, but not for retirement annuity fund members who transfer to another retirement annuity fund in similar circumstances. Specifically, members who have reached normal retirement age but have not elected to retire and are subject to tax on these transfers, despite the involuntary nature of the transfer.

III. Proposal

To ensure parity amongst members of retirement annuity funds who have reached normal retirement age in terms of the fund rules but have not yet opted to retire from their respective fund, the following is proposed as it relates to involuntary transfers:

- that members of retirement annuity funds who have reached normal retirement age as stipulated in the fund rules, but have not yet opted to retire from said fund, must have the ability to have their retirement interest transferred from a retirement annuity fund into another retirement annuity fund without incurring a tax liability; and

- that the value of the retirement interest, including any growth thereon, will remain ring-fenced and preserved in the receiving retirement annuity fund until the member elects to retire from that fund subject to fund rules. This means that these members will not be entitled to the payment of a withdrawal benefit in respect of the amount transferred.

IV. Effective date

The proposed amendment will come into operation on 1 March 2025 and apply in respect of years of assessment commencing on or after that date.

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2. INCOME TAX: BUSINESS (GENERAL)

2.1 REVIEWING THE CONNECTED PERSON DEFINITION IN RELATION TO PARTNERSHIPS

[Applicable provision: Definition of “connected person” in section 1 of the Act]

I. Background

Currently, paragraph (*c*) of the definition of “connected person” in section 1 of the Act provides that, in the context of a “partnership” or “foreign partnership” as defined in section 1, each member of such partnership is a connected person in relation to any other member of such partnership and any connected person in relation to any member of such partnership or foreign partnership.

As a result, large corporate investors forming part of a large group of companies which invest in fund partnerships inadvertently become connected to other commercially unrelated corporate investors and connected parties in relation to such investors and to each other in relation to all other unrelated transactions that are entered into by these investors.

II. Reasons for change

It has come to Government’s attention that limited partners in an *en commandite* partnership (a partnership carried out in the name of only some of the partners; the undisclosed partners contribute a fixed sum and are not liable for more than their capital contribution in case of a loss) are affected by the wide ambit of paragraph (*c*) of the definition of “connected person”.

III. Proposal

It is proposed that the definition of a “connected person” be amended to exclude “qualifying investors” due to their isolated involvement in the partnership

IV. Effective date

The proposed amendment will come into operation on 1 January 2025 and applies in respect of years of assessment commencing on or after that date.

2.2 LIMITING INTEREST DEDUCTIONS IN RESPECT OF REORGANISATION AND ACQUISITION TRANSACTIONS

[Applicable provision: Section 23N of the Act]

I. Background

In general, the provisions of limitation of interest deductions in respect of reorganisation and acquisition transactions cater for interest deductions associated with share acquisitions that can be achieved indirectly through the use of the section 45 or section 47 rollover provisions of the Act or under section 24O of the Act because this form of acquisition is comparable to indirect share acquisitions.

The amount of interest allowed to be deducted in terms of all debts owed that are within the scope of section 23N(2) of the Act is subject to an annual limitation pursuant to a defined formula in respect of any year of assessment in which the acquisition transaction or reorganisation transaction is entered into and in respect of five years of assessment immediately following that year of assessment.

Deductible interest must not exceed the sum of:

a. the amount of interest received by or accrued to the acquiring company;

b. the highest of the amounts determined by multiplying the percentage determined under section 23N(4) (referred below) by the adjusted taxable income of the acquiring company for each of the years of assessment: (i) in which the acquisition transaction or reorganisation transaction is entered into (ii) in which the amount of interest is incurred by that acquiring company or (iii) immediately prior to the year of assessment contemplated in (i); and

c. reduced by interest incurred in respect of other debt (i.e. excluding debt to which section 23N applies).

   The percentage mentioned in (b) above must be determined in accordance with the formula:

   A= B x C/D where:

   - A represents the percentage to be determined;

   - B represents the number 40;

- C represents the average repo rate plus 400 basis points; and

- D represents the number 10

The amount of the interest deductible may not exceed 60 per cent of the adjusted taxable income of that acquiring company.

For section 23N purposes, adjusted taxable income in general means the taxable income of the taxpayer less all interest received or accrued, section 9D controlled foreign company net income inclusion and recovered or recouped amounts in respect of capital assets with the addition of deductible interest incurred, all capital allowances, an additional 75 per cent of the debtor's income from the letting of immovable property and any losses set off against income.

II. Reasons for change

In 2023, changes were made to the definition of "adjusted taxable income" in section 23M of Act stating that the calculation must be done before setting off any balance of assessed loss against income and that the result of the calculations may not be less than zero.

Over and above the changes mentioned above, in 2021 amendments were made to section 23M of the Act that formed part of the corporate tax package to broaden the tax base and reduce the headline corporate income tax rate in a revenue neutral manner. The percentage calculated under the formula was replaced by a fixed amount of 0,3 (i.e. 30%).

Given that the nature of limitation of interest deductions in respect of reorganisation and acquisition transaction rules is broadly similar to the limitation of interest deductions in respect of debts owed to persons not subject to tax rules, it is proposed that the amendments made to section 23M of the Act be mirrored in section 23N of the Act.

III. Proposal

Based on the above, it is proposed that:

- the definition of "adjusted taxable income" and the methodology applied to limit an interest deduction in section 23N of the Act be reviewed and changed for closer alignment with the provisions of section 23M of the Act;

- the formula applied be replaced with a fixed amount of 0,3; and

- the definitions of "repo rate" and "average repo rate" be deleted.

IV. Effective date

The proposed amendment will come into operation on 1 January 2025 and apply in respect of years of assessment commencing on or after that date.

2.3 RELAXING THE ASSESSED LOSS RESTRICTION RULE UNDER CERTAIN CIRCUMSTANCES

[Applicable provisions: Sections 20 and 41 of the Act]

I. Background

In general, section 20 of the Act previously allowed most taxpayers carrying on a trade to set-off assessed losses brought forward from prior years of assessments against taxable income in the current year of assessment, with any unutilised portion of the assessed loss available for carry forward to subsequent years of assessment. However, an assessed loss restriction rule was introduced into the Act for companies with years of assessment commencing on or after 1 April 2022. This proposal broadened the corporate tax base by restricting the offset of assessed losses carried forward to 80 per cent of taxable income.

II. Reasons for change

As stated above, a taxpayer that continuously carries on a trade can set off its balance of assessed loss against income, subject to the assessed loss limitation provisions. However, where companies are being liquidated, deregistered or wound-up during a year of assessment, taxable income is often calculated in that year. Therefore, there may be instances where the assessed loss limitation will result in the balance of assessed loss not being fully utilised and partially forfeited by the company that is being liquidated, deregistered or wound-up.

III. Proposal

It is proposed that the legislation be amended to exempt companies from applying the assessed loss restriction rule while in the process of liquidation, deregistration or winding up.

IV. Effective date

The proposed amendment will come into operation on 1 January 2025 and apply in respect of years of assessment commencing on or after that date.

2.4 REVIEWING THE PROHIBITION AGAINST THE TRANSFER OF ASSETS IN TERMS OF AN AMALGAMATION TRANSACTION

[Applicable provision: Section 44 of the Act]

I. Background

In general, an “amalgamation transaction”, as defined in section 44 of the Act, envisages transactions in terms of which an amalgamated company transfers all of its assets into and merges with a resultant company. The following three types of transactions are covered in the definition of “amalgamation transaction”: (i) a South African resident company transfers its assets to another resident company (domestic transfers), (ii) a foreign company transfers its assets to a South African resident company (inbound transfers) and (iii) a foreign company transfers its assets to another foreign company which is a controlled foreign company and is in the same group of companies as the transferee foreign company (foreign to foreign transfers).

Further, “amalgamation transaction” rules do not apply if assets are transferred to companies that are wholly or partially exempt or fall outside the South African tax base because they are not fully taxable and to ensure that rollover relief is not used to obtain a permanent exemption.

The current paragraphs (*a*) to (*g*) of section 44(14) of the Act provides for scenarios where the amalgamation provisions will not apply and includes a scenario in paragraph (*d*) where amalgamation provisions will not apply for domestic transfers where the resultant company is any association, corporation or company incorporated outside South Africa or the resultant company is a portfolio of collective in any investment scheme carried outside South Africa that is comparable to a portfolio of a collective investment scheme in participation bonds or portfolio of a collective investment in securities and does not have its place of effective management in South Africa. However, the scenario in paragraph (*d*) seem to be contradictory as domestic transfers only includes a resultant company which is a resident.

II. Reasons for change

It has come to Government's attention that the reference in paragraph (*d*) of section 44(14) of the Act to a resultant company that is a foreign company that does not have a place of effective management in South Africa in relation to domestic transfers seem to be misaligned and unclear as domestic transfers only include a resultant company which is a resident.

III. Proposal

Given that domestic transfers in terms of "amalgamation transaction" rules do not include transfers to foreign companies, it is proposed that the exclusion for domestic transfers to a resultant company that is any association, corporation or company incorporated outside South Africa or the resultant company that is a portfolio of collective in any investment scheme carried outside South Africa and does not have its place of effective management in South Africa be deleted.

IV. Effective date

The proposed amendment will come into operation on the date of promulgation of the Taxation Laws Amendment Act of 2024.

2.5 THIRD-PARTY BACKED SHARES: EXTENDING THE DEFINITION OF "ENFORCEMENT RIGHT" TO A CONNECTED PERSON

[Applicable provision: Section 8EA of the Act]

I. Background

The Act contains dedicated third-party backed share anti-avoidance rules to deal with preference shares with dividend yields backed by third parties through an enforcement right. These anti-avoidance rules deem dividend yields of third-party backed shares as ordinary revenue unless the funds derived from the issue of the third-party backed shares are used for a qualifying purpose.

II. Reasons for change

An "enforcement right", as defined in the Act, encompasses a right of the holder of a share or equity instrument, or any connected person in relation to that holder to enforce performance by another third-party person in respect of that share, by obligating that third-party person, to:

- acquire that share from that holder;
- make any payment in respect of that share in terms of a guarantee, indemnity or similar arrangement; or
- procure, facilitate or assist with any of the above.

A “third-party backed share”, as defined in the Act, encompasses any preference share or equity instrument in respect of which an enforcement right is exercisable by the holder of that preference share or equity instrument as a result of any amount of any specified dividend, foreign dividend, return of capital or foreign return of capital attributable to that share or equity instrument not being received by or accruing to any person entitled thereto.

At issue is that there is an unintended anomaly between the two definitions where the definition of a “third-party backed share” does not clearly match the policy intent and respective legislative wording, compared to the “enforcement right” definition, that either a holder or a connected person to that holder could hold that enforcement right.

III. Proposal

Government proposes that the definition of a “third-party backed share” be clarified to address this anomaly by amending that definition to match the policy intent that the enforcement right is exercisable by either the holder or any connected person in relation to that holder.

IV. Effective date

The proposed amendments will come into operation on 1 January 2025 and applies in respect of dividends or foreign dividends received or accrued during years of assessment commencing on or after that date.

2.6 THIRD-PARTY BACKED SHARES: EXTENDING EXCLUSIONS TO THE OWNERSHIP REQUIREMENT

[Applicable provision: Section 8EA]

I. Background

The third-party backed share anti-avoidance rules deem dividend yields of preference shares, backed by third parties through an enforcement right of the holder, to be income except where the funds derived from the issue of these third-party backed shares are used for a qualifying purpose.

With effect from 01 January 2024, certain ownership requirement refinements on equity shares acquired in a targeted operating company, for a qualifying purpose, by the person that acquired those equity shares, came into effect. The main objective of these refinements was to specifically clarify the ownership requirement test, on the equity shares in the targeted operational company, at the time of the receipt or accrual of any dividend or foreign dividend. The new ownership requirement test includes certain exceptions, including that:

- if the equity shares in the targeted operating company were disposed of and the funds derived from that disposal are used by the issuer of the preference share to settle that preference share within 90-days of that disposal; and

- the ownership requirement will not apply if that equity share was a listed share and was substituted for another listed share in terms of an arrangement that is announced and released as a corporate action on a South African regulated stock exchange.

II. Reasons for change

It has come to Government's attention that the exceptions to the ownership requirement test might be to narrow and could impede legitimate transactions envisaged in the relevant policy rationale.

A. Settlement

A qualifying purpose for the use of funds derived from the issue of a preference share includes, amongst others, the—

- acquisition or redemption of any preference shares previously used for any qualifying purpose;

- settlement of debt used for the purposes set out above and any interest accruing on such debt.

The use of funds for the qualifying purpose refinancing arrangements above has specific legislative clarity to, as a matter of policy, extend the use of funds or consideration for the newly issued preference share to settle any accrued dividends, foreign dividends or interest in the relevant settlement amount.

At issue is that the new ownership requirement test does not contain the same legislative clarity in terms of the settlement of any accrued dividends, foreign dividends or interest payable by the issuer of a preference share in relation to the settlement of that preference share within 90-days of that disposal.

B. Recognised exchange

The purpose of the corporate action exception in the ownership requirement test was to cater for those instances where that corporate action impacted on the person's ability to, at the time of the receipt or accrual of any dividend or foreign dividend came into effect, still hold the acquired listed equity shares of the targeted operating company.

The "operating company" definition read together with the "qualifying purpose" definition allows for the acquisition of equity shares in a listed company which would by definition include a company whose shares or depository receipts in respect of its shares are listed on a stock exchange in a country other than the Republic which has been recognised by the Minister of Finance as contemplated in paragraph (*c*) of the definition of "recognised exchange" in paragraph 1 of the Eighth Schedule.

At issue is that the corporate action exception noted above in the ownership requirement test currently only applies to equity shares that is listed on a South African exchange licensed under the Financial Markets Act.

III. Proposal

In order to address concerns regarding the fact that the ownership requirement test exceptions are too narrow, and may impede legitimate transactions, an amendment is proposed to the legislation:

A. Settlement

It is proposed that the legislation be amended to clarify that the redemption of the preference share in terms of the ownership requirement test includes the settlement of any amounts of dividends, foreign dividends or interest accrued in respect of that preference share.

B. Recognised exchange

It is proposed that the ownership requirement test exclusion be extended to include corporate actions relating to listed share substitutions on a recognised exchange in a country other than South Africa. As a result, the ownership requirement will not apply if that foreign equity share was a listed share and was substituted for another listed share in terms of an arrangement that is announced and released as a corporate action on stock exchange in a country other than the Republic which has been recognised by the Minister of Finance as contemplated in paragraph (*c*) of the definition of "recognised exchange" in paragraph 1 of the Eighth Schedule.

IV. Effective date

The proposed amendments will come into operation on 1 January 2025 and applies in respect of dividends or foreign dividends received or accrued during years of assessment commencing on or after that date.

2.7 TRANSLATING "CONTRIBUTED TAX CAPITAL" FROM FOREIGN CURRENCY TO RANDS

[Applicable provision: Section 25E of the Act]

I. Background

The contributed tax capital (CTC) of any company is a notional amount calculated for tax purposes only derived from either (1) contributions received by a resident company from a shareholder for shares issued to that shareholder or (2) an amount equal to the market value of shares when a foreign company becomes a South African tax resident. However, the CTC amount is reduced by any amounts referred to as capital distributions, transferred by the company to the shareholders.

In line with the 2023 Budget announcement, during the 2023 legislative cycle, rules were introduced to clarify the translation of the "contributed tax capital" of a class of shares that are denominated in a foreign currency to the currency of the Republic. More specifically, these translation rules require that companies apply the applicable spot rate on the date that the relevant amount is recognised for income tax purposes.

II. Reasons for change

The translation rules for purposes of CTC have been welcomed by industry and taxpayers but concerns have been raised about certain potential application and interpretive shortcomings not sufficiently clarified. For a tax resident company they relate to the interaction between:

- the functional currency of that company;
- the share capital of that company which can be denominated in either the Rand or a currency other than the Rand, or both; and

- several distinguishable and separate tax events (both in the creation and reduction of CTC), over an extended period of time, that must be considered for purposes of the determination of CTC.

At issue is that CTC of a tax resident company could be impacted by several variables, currency fluctuations, that could influence the translation outcome for the relevant amount to be recognised for income tax purposes. This may require the use and keeping of data over a long period of time.

As such, it could be difficult to determine, by example, whether the capital distribution amount through CTC returned to a shareholder, should be translated into Rand at the spot rate at the date of transfer or whether the spot rate on the date when the CTC was created should be used, so as to determine a rand amount of CTC available for distribution that would not be affected by subsequent currency fluctuations

III. Proposal

It is proposed that the rules introduced for the translation of the amount of CTC in 2023 in relation to a class of shares be amended to rather make a distinction for application based on (1) the functional currency of the tax resident company; and (2) the distinguishable and separate points of creation or reduction of CTC.

Where the functional currency of a tax resident company is:

A. The currency of the Republic: Rand

Any foreign amount of consideration received, in relation to a class of shares, as referred to in paragraphs (*a*) or (*b*) of the definition of "contributed tax capital" in section 1 of the Act, must be translated to the currency of the Republic by applying the spot rate on the date receipt, accrual or conversion, as the case may be, for purposes of the determination of the increase of CTC. In the case of a foreign company that becomes a resident the translation of the market value of the shares is at the date immediately preceding the date of becoming a resident.

B. A currency other than the currency of the Republic

Any reduction of CTC denominated in a foreign currency, in relation to a class of shares, as referred to in paragraphs (*a*) or (*b*) of the definition of "contributed tax capital" in section 1 of the Act, must be translated to the currency of the Republic by applying the spot rate on the date of transfer or conversion, as the case may be, for purposes of the reduction of CTC.

The impact of these amendments to the translation rules for purposes of CTC is best shown through examples:

Example A: Consideration received if a company has a functional currency in Rand

Facts:

On 1 January 2025, Company A, a SA tax resident company with a primary listing on the JSE and a secondary listing on the NSE, issues 100 ordinary shares of a particular class at a consideration of $10 a share on the foreign exchange. On 30 July 2025, Company A makes a capital distribution per share in terms of that particular class of shares.

$/R Exchange Rate:

- 1 January 2025 - R18.00
- 31 July 2025 – R19.00

Results:

Tax event 1: Based on an assumed functional currency of the Republic, Company A's CTC will increase by an amount of R18 000 [$1000 x R18] on 1 January 2025.

Tax event 2: Important to note that in light of the fact that Company A has a functional currency of the Republic, and an already Rand determined CTC-amount (based on the calculation of tax event 1 above), any subsequent reduction of CTC will not need to be translated for purposes of the determination of CTC as at 31 July 2025 in terms of section 25E of the Act. Rather, the reduction would be the relevant Rand amount at the date of transfer determined by the directors of the company or by some other appropriate person or body of persons.

Example B: Reductions of CTC made if a company has a functional currency other than that of the Republic

Facts:

On 1 May 2025, Company B, a SA tax resident company that is a wholly owned subsidiary of a UK company, issues 100 ordinary shares of a particular class at a consideration of £10 a share. On 16 August 2025, Company B makes a capital distribution per share for that particular class of shares.

£/R Exchange Rate:

- 1 May 2025 – R24.00
- 16 August 2025 – R25.00

Results:

Tax event 1: Based on an assumed functional currency other than that of the Republic, Company B has CTC of £1000 [100 ordinary shares x £10] as at 1 May 2025. Important to note that in light of the fact that Company B has a functional currency other than that of the Republic that the foreign consideration received for the issues of that class of shares will not be translated as at 1 May 2025 in terms of section 25E of the Act for purposes of the determination of CTC.

Tax event 2: On 16 August 2025, Company B makes a £1 per share capital distribution from CTC which results in a reduction in CTC of R2 500 [R25 x (100 x £1)]. The balance of the CTC, £900 [£1 000 – (100 x £1)] for that class of shares, will not be translated for purposes of the determination of CTC as at 16 August 2025. Based on the application of proposal B above, only the amount in foreign currency by which CTC is reduced must be translated to the currency of the Republic by applying the spot rate on the date of transfer. It is important to note that the translation is only applied to the capital distribution amount and not the total CTC amount available prior to or post that capital distribution.

IV. Effective date

The amendments come into operation on 1 January 2025.

2.8 TAXATION ISSUES INVOLVING UNLISTED PROPERTY INDUSTRY

[Applicable provision: Definition of "REIT" in section 1 of the Act]

I. Background

Broadly, in 2012, a unified approach termed Real Estate Investment Trusts (REITs) was adopted for property investment schemes encompassing both the property unit trust and property loan stock companies in the Act. The aim was to ensure that South Africa's property investment scheme is in line with the international norms and ensuring that the objective of the REITs to provide investors with a steady rental stream while also providing capital growth stemming from the underlying property is maintained. The REITs regime provided a flow-through principle where income and capital gains will normally be taxed solely in the hands of the investor and not in the hands of the REITs.

Section 1 of the Act defines a "REIT" to be a South African resident company, listed on the South African stock exchange and the shares of which are listed as shares in a REIT as defined in the listing requirements of that exchange.

The unlisted property companies were not afforded a flow-through treatment due to the lack of comparable regulation offered by the exchanges for the listed REITs.

II. Reasons for change

As stated above, the issue is that the unlisted property companies were not afforded a flow-through treatment due to the lack of regulation.

III. Proposal

To provide a rule for the tax treatment of the unlisted property companies and ensuring that a monitoring is done by the Financial Sector Conduct Authority ("FSCA"), it is proposed that the "REIT" definition in section 1 of the Act be extended to cater for a company that is a South African company, that is not listed on the South African Stock Exchange but is regulated by the FSCA through the published requirements approved in consultation with the Director-General of the National Treasury.

IV. Effective date

The proposed amendment will come into operation with effect from a date determined by the Minister of Finance by notice in the *Gazette* after the publication of the requirements regulating the unlisted property companies.

3. INCOME TAX: BUSINESS (FINANCIAL INSTITUTIONS AND PRODUCTS)

3.1 CLARIFYING THE INTERACTION OF SECTION 24JB(3) OF THE INCOME TAX ACT AND THE GROSS INCOME DEFINITION

[Applicable provision: Section 24JB of the Act]

I. Background

Section 24JB(3) of the Act states that: "*any amount required to be taken into account in determining the taxable income in terms of any provision of Part I of Chapter II, or in determining any assessed capital loss of a covered person in respect of a financial asset or a financial liability contemplated in subsection (2) must only be taken into account in terms of this section*."

In general, the aim is that section 24JB(3) of the Act ensures that amounts in respect of financial assets and financial liabilities, measured at fair value in terms of International Financial Reporting Standard (IFRS) 9 that are recognised in the statement of profit or loss and other comprehensive income are only included in or deducted from the income of certain persons under section 24JB(2) of the Act. Therefore, the amounts in respect of these financial assets and financial liabilities that are measured at fair value in terms of the IFRS 9 accounting standard cannot be dealt with under any section of the Act.

Section 24JB(3) of the Act refers to all the provisions in Part I of Chapter II of the Act (Part I of Chapter II covers sections 5 to 37G of the Act) that are normally utilised to calculate the taxable income of a covered person in respect of a financial asset or liability contemplated in is section 24JB(2) of the Act. This means that the application of sections 5 to 37G of the Act (including paragraph 10 of the Eighth Schedule via section 26A of the Act) must be ignored in determining taxable income. Thus, only section 24JB must be applied as a form of fair-value-taxation.

However, the definition of "gross income" in section 1(1) of the Act is not one of the provisions mentioned in section 24JB(3) of the Act when reference is made to Part I of Chapter II.

II. Reasons for change

It has come to Government's attention that further clarity is required on the interaction between the aforementioned rule in section 24JB(3) of the Act and the definition of "gross income".

III. Proposal

It is proposed that section 24JB(3) of the Act be amended to specifically exclude the application of the definition of "gross income" to ensure that section 24JB of the Act takes preference over all other sections in the Act in determining taxable income in respect of financial instruments described in section 24JB(2) of the Act.

IV. Effective date

The proposed amendment will come into operation on 31 December 2024 and applies in respect of years of assessment ending on or after that date.

3.2 IMPACT OF IFRS 17 ON THE TAXATION OF INSURERS

[Applicable provision: Section 28 of the Act]

I. Background

In 2022, amendments were made in the Act by introducing a phasing in period of three years to be provided to short-term insurers to cater for the tax impact as a result of the difference between the methodologies applied in valuing insurance liabilities between accounting standards IFRS 4 and IFRS 17 which was going to be effective for annual reporting periods beginning on or after 1 January 2023.

The “phasing-in amount” was defined to be an amount that is a difference between the amount that is deductible from the income of a short-term insurer in terms of section 28(3) or section 28(3A) of the Act at the end of the latest year of assessment commencing on or after 1 January 2022 but before 1 January 2023 (measuring year) determined under the current rules of section 28(3) or section 28(3A) of the Act and the amount of the deduction for the measuring year had IFRS 17 been applied at the end of the measuring year.

In general, prior to the change in 2022, the insurance liabilities were made up of unearned premium reserve (“UPR”), liability for claims incurred but not reported (“IBNR”) and the outstanding claims reserve (“OCR”), net of deferred acquisition costs, deferred revenue liability and the re-insurance reserve which was provided for in section 28(3) of the Act.

Under IFRS 17, the insurance liabilities are made up of the liability for remaining coverage (“LRC”), which is the equivalent to UPR and the liability for incurred claims (“LIC”), which is akin to the IBNR and OCR. However, under IFRS 17, the LRC is taken into account under section 28(2)(*a*) as a deduction through the inclusion of insurance revenue when a short-term insurer is determining the taxable income derived during a year of assessment from carrying on short-term insurance business.

II. Reasons for change

As stated above, the change in the treatment of UPR under IFRS 17 that led to it being taken into account under section 28(2)(*a*) of the Act has created complexity when calculating the “phasing-in-amount” as a difference between the amount that is deductible from the income of a short-term insurer in terms of section 28(3) or section 28(3A) of the Act at the end of the latest year of assessment commencing on or after 1 January 2022 but before 1 January 2023 (measuring year) determined under the current rules of section 28(3) or section 28(3A) of the Act and the amount of the deduction for the measuring year had IFRS 17 been applied at the end of the measuring year.

III. Proposal

To avoid an excessive phasing in amount, as a result of LRC not specifically being allowed as a deduction under the IFRS 17, it is proposed that the phase-in provisions be amended to include the LRC when comparing the IFRS 4 liabilities to the IFRS 17 liabilities.

IV. Effective date

The proposed amendment is deemed to have come into operation on 1 January 2023 and apply in respect of years of assessment commencing on or after that date

4. INCOME TAX: BUSINESS (INCENTIVES)

4.1 INVESTMENT ALLOWANCE IN RESPECT OF BUILDINGS, MACHINERY, PLANT, IMPLEMENTS, UTENSILS AND ARTICLES USED IN DOMESTIC PRODUCTION OF ELECTRIC AND HYDROGEN-POWERED VEHICLES

[Applicable provisions: Sections 8, 12C, 13, 13*quat* and insertion of the new section 12V of the Act]

I. Background

To support the development of the automotive industry, government has – through the Department of Trade, Industry and Competition ("the *dtic*") – implemented various incentives over time. These included the Motor Industry Development Programme ("MIDP"), which ran from 1995 until 2012 to bolster the automotive sector's international competitiveness and global reintegration utilizing strategies such as import duty reductions and export incentives. In 2013, the MIDP was replaced with the Automotive Production and Development Programme ("APDP"), which focused on significantly growing production volumes in the specified motor vehicle industry and promoting value addition in the automotive component industry through stable and moderate tariffs, a local volume assembly allowance, a production incentive and grant funding. In line with the Automotive Masterplan, the APDP was updated in 2021 to APDP Phase 2 and outlines ambitious targets on vehicle production volumes and requirements for local content to sustain the sector's growth.

II. Reasons for change

The *dtic* published the *Electric Vehicles White Paper* outlining its plan to transition the automotive industry from primarily producing Internal Combustion Engine ("ICE") vehicles to a dual platform that includes the production of electric vehicles ("EVs"). The compelling reasons behind this transition include the urgent need to address environmental concerns and for countries to meet their national emission reduction commitments stemming from the Paris Agreement. Additionally, some of South Africa's key export markets like the European Union ("EU") and the United Kingdom ("UK") have announced their intentions to ban the sale of new ICE vehicles by 2035. According to the *dtic*, this paradigm shift threatens the country's strategic position in the global automotive export industry, since the majority of the vehicles manufactured in the country are currently exported to these countries.

Internationally, a number of countries have introduced various tax incentives to encourage investment in EVs production and related infrastructure. These incentives include accelerated depreciation allowances, tax holidays, lower corporate income tax rates for profits from EV and/or battery production facilities, tax credits for EVs production, R&D tax incentives for EVs and battery research, reduced customs duties for imports of components as well as VAT reductions or exemptions.

III. Proposal

To encourage investment in the local production of electric and hydrogen-powered vehicles, Government proposes to introduce a 150 per cent investment allowance targeting new investments in the production of electric and hydrogen-powered vehicles in South Africa. This means motor vehicle manufacturers will be able to claim 150 per cent of qualifying investment spending on production capacity for electric and hydrogen-powered vehicles in the year the investment assets are brought into use.

A. Eligibility for the EVs investment allowance tax incentive

Any motor vehicle manufacturer investing in new and unused buildings, machinery, plant, implements, utensils and articles to be used for the production of electric or hydrogen-powered vehicles will qualify for the incentive.

The general overriding requirements for businesses to deduct a capital allowance will be applicable to companies wanting to make use of this incentive. These requirements are:

- will be carrying on a trade as a result of the bringing into use of the assets; and
- the business must have acquired and brought the asset into use (the business must own the asset).

Additional requirements will include:

- the capital assets will be used by the company mainly for the local production of electric and hydrogen-powered vehicles in South Africa;
- only new and unused assets qualify (including improvements on buildings only), to ensure that assets will add to the production capacity for electric and hydrogen-powered vehicles that the company plans to produce; and
- assets must be brought into use for the first time on or after 1 March 2026 and before 1 March 2036.

B. Manufacturing assets used in the production of electric and hydrogen-powered vehicles eligible for the investment allowance

The incentive will be available for new and unused buildings (including improvements), plant and machinery acquired and brought into use for the first time by the company on or after 1 March 2026. Assets acquired and brought into use before this date will not be eligible for the incentive (because an incentive in this instance would represent a deadweight loss).

Assets will qualify if they will be used mainly in the production of electric and hydrogen-powered vehicles in South Africa. While eligibility will be based on facts and circumstances, it is envisaged that eligible assets will be those that are necessary to set up a new facility or extend an existing building to cater for the domestic production of electric vehicles and hydrogen-powered vehicles.

The cost of the asset for tax purposes will be limited to the lesser of the arm's length market value on the date of acquisition or the actual cost to the taxpayer. This is intended to ensure that taxpayers do benefit from an additional allowance on financing costs.

C. Recoupment of the investment allowance

Where an asset in respect of which an investment allowance was granted is disposed of within a period of 5 years from the date it was brought into use, there shall be included in the taxpayer's income 50 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 section 8(4)(*a*) of the Act, but limited to the total amount allowed to be deducted in respect of that asset.

D. Limitation of deduction in respect of assets granted a deduction in terms of section 12V of the Act

To ensure that there is no double deduction, taxpayers who qualify for the section 12V deduction will not be allowed to claim deductions under section 12C, section 13, and section 13*quat* of the Act for assets brought into use during the period of the incentive.

IV. Effective date

The proposed incentive will come into effect on 1 March 2026 and applies in respect of assets brought into use on or after that date.

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5. INCOME TAX: INTERNATIONAL

5.1 CLARIFYING THE TRANSLATION FOR HYPERINFLATIONARY CURRENCIES

[Applicable provisions: Sections 9D(2A) and 9D(6) of the Act]

I. Background

The meaning of "local currency" is defined in section 9D(2A)(*k*) of the Act for purposes of gains or losses on foreign exchange transactions and for purposes of paragraph 43 of the Eighth Schedule to the Act that deals with assets disposed of or acquired in foreign currency. In general, the term "local currency" of a controlled foreign company (CFC) means the currency used for purposes of its financial reporting.

In general, the net income of a CFC is determined in the currency used by that CFC for purposes of financial reporting (the functional currency) and is translated into the currency of the Republic at the average exchange rate for that year of assessment. Exchange items are treated as not attributable to any permanent establishment of the CFC if the currency used for financial reporting is the currency of the country which has an official rate of inflation of 100 per cent or more throughout the foreign tax year.

II. Reasons for change

For hyperinflationary cases, the policy intention is that transactions in a third currency should be translated directly to Rand and not into the hyperinflationary functional currency and thereafter translated to Rand applying the average exchange rate. However, currently the proviso to section 9D(6) of the Act deems those exchange items not to be attributable to a permanent establishment, and subsection (2A)(*k*) requires the hyperinflationary functional currency to be the local currency.

III. Proposal

In order to align the rules with the policy intention, it is proposed that section 9D(2A)(*k*) of the Act be amended to cater to a situation where the functional currency of a particular country has an

official inflation rate of 100 per cent or more for the foreign tax year, such that the “local currency” be deemed to be the currency of the Republic.

IV. Effective date

The proposed amendment will come into operation on 31 December 2024 and applies in respect of foreign tax years of CFCs ending on or after that date.

5.2 CLARIFYING THE 18-MONTH PERIOD IN RELATION TO SHAREHOLDINGS BY GROUP ENTITIES

[Applicable provision: Paragraph 64B of the Eighth Schedule to the Act]

I. Background

The participation exemption under paragraph 64B of the Eighth Schedule to the Act requires a person to disregard any capital gain or capital loss resulting from the disposal of equity shares in a non-resident company if certain requirements are met. Amongst those requirements is that that the person disposing of such equity shares should have held the interest for a period of at least 18-months prior to that disposal.

Prior to 2023, the participation exemption under paragraph 64B(4) of the Eighth Schedule to the Act required that 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 of the Act. This rule applied when that person (whether alone or together with any other person forming part of the same group of companies as that person) holds at least 10 per cent of the total equity shares and voting rights in that company.

In 2023, an amendment was made to the Act such that an 18-months holding requirement that applies to the participation exemption relating to the sale of shares in a foreign company was introduced for the participation exemption in respect of foreign return of capital in a foreign company.

II. Reasons for change

It has come to Government’s attention that the 2023 amendment is not clear in certain instances such as where a multiple group companies held the shares in the foreign company during an 18-months period and a clarification is required in this regard.

III. Proposal

It is proposed that the legislation be made clear that when it comes to disposals by any group of companies to another group of companies or foreign companies the 18-months requirement will apply in aggregate to all the other group entities the disposal has been made to.

IV. Effective date

The proposed amendment will be deemed to come into operation on 1 January 2024 and applies in respect of any foreign return of capital received or accrued on or after that date.

5.3 CLARIFYING THE REBATE FOR FOREIGN TAXES ON INCOME IN RESPECT OF CAPITAL GAINS

[Applicable provision: Section 6*quat*(1A)(*a*)(iii) in the Act]

I. Background

In order to prevent double taxation on capital gains of residents attributable to the disposal of assets situated outside the Republic, section 6*qua*t(1A)(*a*)(iii) of the Act provides for residents to claim a credit against South African tax for irrecoverable foreign taxes paid on these foreign sourced capital gains. The rebate is an amount equal to the sum of the irrecoverable foreign taxes payable in respect of the taxable capital gain (which is a percentage of the net capital gain, say 40 per cent) included in the resident's taxable income in respect of the foreign sourced gains. Where the resident's taxable capital gain and tax payable as determined in the foreign jurisdiction in terms of such jurisdiction's tax rules is higher than that determined in the Republic in terms the Act, the resident will not be able to fully reduce the South African capital gains tax payable by the foreign capital gains tax payable on the same gain resulting in double taxation.

II. Reasons for change

It has come to Government's attention that section 6*quat*(1A)(*a*)(iii) is inconsistent with its original intention. A resident taxpayer that disposes of a capital asset in a foreign jurisdiction resulting in a capital gain that is subject to tax in that jurisdiction cannot utilise the full tax paid in that jurisdiction against the capital gains tax payable in South Africa on the same capital gain, resulting in double taxation.

III. Proposal

It is proposed that section 6*quat* of the Act should be clarified to explicitly allow the taxpayer to utilise the full foreign tax credit for the taxes paid on capital gains in the foreign jurisdiction to the extent of the taxes paid in South Africa on the same gains.

IV. Effective date

The proposed amendment will come into operation on 1 March 2025.

5.4 ALIGNING THE SECTION 6QUAT REBATE AND TRANSLATION OF NET INCOME RULE FOR CFCs

[Applicable provision: Sections 9D of the Act]

I. Background

Section 9D(6) of the Act stipulates the approach that should be followed in translating the amount of net income of a CFC, from the foreign currency used by the CFC for financial reporting purposes to the South African Rand. It requires the net income of a CFC to be determined in functional currency of that CFC and to be translated into the currency of the Republic at the average exchange rate for the financial year of the CFC.

However, qualifying foreign taxes proved to be payable by a CFC are required to be translated to Rand at the average exchange rate for the year of assessment of the resident in which an amount of net income is included in taxable income.

II. Reasons for change

As stated above, foreign taxes are required to be translated to Rand at the average exchange rate for the year of assessment of a resident in which an amount of net income is included in taxable income. However, the Act requires the amount of net income of the CFC to be translated by applying the average exchange rate for the foreign tax year of the CFC. Therefore, a mismatch arises in the event when the year of assessment of the resident and the foreign tax year of the CFC are different periods.

III. Proposal

In order to address this anomaly, it is proposed that the Act be amended to align the translation dates in relation to the resident and the inclusion of CFC net income.

IV. Effective date

The proposed amendment will come into operation on 1 January 2025 and apply in respect of foreign tax years of CFCs ending on or after that date.

5.5 REFINING THE DEFINITION OF "EXCHANGE ITEM" FOR DETERMINING EXCHANGE DIFFERENCES

[Applicable provision: Section 24I of the Act]

I. Background

Broadly, accounting standard IAS 32, specifies that the substance of a financial instrument, rather than its legal form, dictates its classification. IAS 32.18 then provides examples of financial instruments that, although taking the legal form of equity, are liabilities in substance and those that combine characteristics associated with equity instruments and financial liabilities.

At times companies enter into financial arrangements involving cross-currency swaps where interest payments and a principal amount in one currency are exchanged for principal amount and interest payments in a different currency. However, these financial arrangements tend to be complex as they involve cross-currency swaps and preference shares held by a resident company in a non-resident subsidiary. These preference shares are not hybrid equity instruments under section 8E of the Act. For financial reporting purposes by the resident company, the periodic payments in respect of the financial arrangement in relation to the foreign dividends received on the preference shares, interest paid on the cross-currency swap and interest received on the cross-currency swap are disclosed based on its economic substance as a financial asset. This treatment conforms with accounting standard IAS 32.

II. Reasons for change

The financial arrangement depicted above proves challenging from a tax perspective because it creates a mismatch that results in a tax leakage as the exchange differences on the debt obligation

are taxable under section 24I of the Act while the exchange differences in respect of the preference shares are not taxable under section 24I of the Act as there is no exchange item.

III. Proposal

To address the tax leakage associated with these financial arrangements, it proposed that the definition of “exchange item” be extended to include shares that are disclosed as financial assets for purposes of financial reporting in terms of IFRS.

IV. Effective date

The proposed amendment will come into operation on 1 January 2025 and applies in respect of years of assessment commencing on or after that date.

5.6 REVIEWING THE INTERACTION OF THE SET-OFF OF ASSESSED LOSS RULES AND RULES ON EXCHANGE DIFFERENCES ON FOREIGN EXCHANGE TRANSACTIONS

[Applicable provision: Section 24I of the Act]

I. Background

In general, section 20 of the Act enables taxpayers to set off their balance of assessed losses carried forward from the preceding tax year against their income if the trading requirement in section 20 of the Act has been met. Any unutilised assessed loss balance may be carried forward to future years of assessment to be set off against future income.

However, a company that does not carry on a trade during a year of assessment forfeits the right to carry forward and utilise its assessed loss from the immediately preceding year of assessment.

In general, section 24I of the Act deals with the income tax treatment of foreign exchange gains and losses on ‘exchange items’ as well as the premiums or like consideration received or paid in respect of foreign currency option contracts and any consideration paid in respect of foreign currency option contracts.

II. Reasons for change

Currently, the legislation requires that exchange differences be included or deducted from income and companies are afforded this treatment irrespective of whether they are trading or not. However, where a company suspended its business activities and ceased trading, it forfeits its right to set off its balance of assessed loss brought forward from the previous year of assessment. Therefore exchange losses of previous years off assessment that form part of the assessed loss are forfeited. As a result, the company continues to be taxed on its foreign exchange gains without taking into account exchange losses forfeited in previous years of assessment as a result of not trading.

III. Proposal

It is proposed that foreign exchange rules be amended allow for the ring-fencing of foreign exchange losses incurred by a company during any year of assessment that it is not trading and for offsetting against foreign exchange gains in the current and future years of assessment.

IV. Effective date

The amendment will come into operation on 1 January 2025 and applies in respect of years of assessment commencing on or after that date.

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6. VALUE ADDED TAX

6.1 PROVIDING VAT RELIEF FOR NON-RESIDENT LESSORS OF PARTS OF SHIPS, AIRCRAFT OR ROLLING STOCK REQUIRED TO DEREGISTER AS A RESULT OF RECENT AMENDMENTS TO THE VAT ACT

[Applicable provisions: New proviso to section 8(2) of the Value-Added Tax Act No. 89 of 1991 ("the VAT Act")]

I. Background

The definition of "enterprise" in paragraph (*a*) of section 1(1) of the VAT Act means, in the case of a vendor, any enterprise or activity which is carried on continuously or regularly by any person in the Republic of South Africa (the Republic) or partly in the Republic and in the course or furtherance of which goods or services are supplied to any other person for a consideration, whether for a profit or not.

Notwithstanding the above, effective from 1 January 2023, where any person is neither a resident of the Republic, nor a registered vendor and that person solely supplies or intends to supply to a resident recipient of the use or the right of use of ships, aircraft, rolling stock or parts directly in connection thereto under a rental agreement, that activity shall (subject to certain conditions), as per proviso (xiii) to definition of "enterprise" in section 1(1) in the VAT Act, be deemed not to be the carrying of an enterprise, irrespective of whether those goods are supplied for use in the Republic.

II. Reasons for change

Before the definition of "enterprise" was amended on 1 April 2021, with the aim of effectively excluding foreign lessors of ships, aircraft and rolling stock from registering as VAT vendors in the Republic, if certain requirements were met, the Commissioner for the South African Revenue Service (SARS) (the Commissioner) would issue VAT rulings, under section 72 of the VAT Act, to foreign lessors of ships, aircraft and rolling stock, allowing those lessors not to register for VAT purposes in the Republic.

With the amendments to section 72 of the VAT Act effective 1 January 2022, the Commissioner was no longer able to issue the aforementioned rulings to foreign lessors of ships, aircraft and aircraft engines. This resulted in the foreign lessors of any items not specifically listed in proviso (xiii) to the definition of "enterprise" in section 1(1) of the VAT Act being required to register for VAT purposes.

With effect from 1 January 2023, the definition of "enterprise" in section 1(1) of the VAT Act has been amended to further exclude foreign lessors of parts to ships, aircraft and rolling stock (such

as aircraft engines), subject to certain requirements. The consequence of this amendment is therefore that foreign lessors of aircraft engines who are registered were now required to de-register for VAT.

Where the foreign lessor was required to de-register due to the introduction or any subsequent amendment to proviso (xiii) to the definition of "enterprise", section 8(2) of the VAT Act would be triggered. Having regard to the fact that the foreign lessor would not have been entitled to deduct input tax on the importation of the engine into the Republic (see paragraph (cc) of proviso (xiii) to the definition of "enterprise" in section 1(1) of the VAT Act), it would be incorrect to require the payment of output tax on the ceasing of an enterprise solely as a result of the change in legislation.

III. Proposal

Previously, foreign lessors of parts of ships, aircraft or rolling stock were required to register for VAT since they were not covered under the proviso (xiii) exclusion in the definition of "enterprise". However, the amendment to the VAT Act that was effective from 1 January 2023 implied that such foreign lessors were now required to deregister due to the addition of the words "or parts directly in connection thereto" to the proviso (xiii) to the definition of "enterprise" in section 1(1) of the VAT Act. This resulted in an unintended consequence of such vendors now facing an output tax liability under section 8(2) of the VAT Act, which was purely as a result of the legislation being amended. It is proposed that the VAT Act be amended to provide relief from this unintended consequence.

IV. Effective date

The proposed amendment will come into operation on 1 January 2025.

6.2 CLARIFYING THE VAT TREATMENT OF THE MUDARABA ISLAMIC FINANCING ARRANGEMENT

[Applicable provision: Section 8A of the VAT Act]

I. Background

Mudaraba contemplates a scenario where funds are deposited with the bank by a client. The bank in turn invests the funds deposited by the client in other Sharia arrangements. The client bears the risk of loss in respect of the funds and any return is divided between the client and the bank as agreed upon at the time of the inception of the contract between the parties. Income received by or accrued to a client in terms of a Mudaraba, as defined in section 24JA, with very specific qualification criteria, is deemed to be interest for income tax purposes. The Mudaraba product is akin to a conventional transaction account or investment product (e.g. a fixed deposit).

II. Reasons for change

Section 8A of the VAT Act, which addresses Sharia-compliant financing arrangements deals with Murabaha and diminishing Musharaka products but not Mudaraba arrangements. This creates uncertainty as to whether Mudaraba profit share payments amount to consideration for taxable, exempt, or non-supplies for VAT purposes and potential misalignment with section 24JA of the IT Act (as amended) which determines that such amounts are deemed to be interest for income tax purposes.

In the case of a conventional finance structure, the supply of credit would be exempt under section 2(1)(*f*) of the VAT Act. In this regard, interest charged on the said supply of credit would not be subject to VAT whereas any "fee" would be subject to VAT under section 7 of the VAT Act, as the proviso to section 2(1) of the VAT Act takes any fee as consideration out of the exemption.

III. Proposal

To ensure that there is parity between Sharia-compliant financing arrangements and no unanticipated VAT charge in any Mudaraba product, it is proposed that the return of the profit from this product be exempt from VAT.

IV. Effective date

The proposed amendment will come into operation on 1 April 2025.

6.3 CLARIFYING THE VAT TREATMENT OF SUPPLY OF SERVICES TO NON-RESIDENT SUBSIDIARIES OF COMPANIES BASED IN THE REPUBLIC

[Applicable provision: Section 1 of the VAT Act: definition of "resident of the Republic"]

I. Background

The VAT system in the Republic of South Africa (the Republic/South Africa) is destination based. Goods or services consumed in the Republic are subject to VAT at the standard rate. Exports to other countries from the Republic are generally zero-rated and the importation of goods or services into the Republic are generally subject to VAT at the standard rate (all subject to certain exclusions or exceptions).

In terms of section 11(2)(*ℓ*) of the VAT Act, where services are supplied to non-residents of the Republic, such services are presumed to be consumed outside the Republic and attract VAT at the zero rate, unless the services are supplied directly in connection with fixed or movable property in the Republic at the time the services are rendered, or if the non-resident or any other person to whom the services are supplied is present in the Republic at the time the services are rendered, subject to certain exceptions.

II. Reasons for change

It is evident that section 11(2)(*ℓ*) of the VAT Act finds application only to services supplied to persons who are non-residents of the Republic. However, situations arise in the case of foreign subsidiaries of South African companies, where the subsidiary is incorporated in a foreign country and has a fixed and permanent place of business in the foreign country with no presence in the Republic but is nevertheless a "resident of the Republic" as defined in section 1(1) of the VAT Act. This is due to the fact that this definition makes reference to the definition of "resident" in section 1 of the Act. Paragraph (*b*) of the definition in the Act deems a person, other than a natural person, to be a resident of the Republic if it has its place of effective management in the Republic. As such, any service supplied to such foreign subsidiary by the South African company, being a vendor, does not qualify for the zero rate under section 11(2)(*ℓ*) of the VAT Act, despite the fact that the services may be consumed wholly outside the Republic. Furthermore, because these foreign subsidiaries have no activities in the Republic, they are not conducting an enterprise and

cannot register as vendors in the Republic. The effect is that the VAT charged on these supplies becomes a cost to these businesses.

The provisions of section 8(9) and 11(2)(*o*) of the VAT Act also do not apply because the foreign subsidiary is not a branch of a South African company as envisaged in paragraph (ii) of the proviso to the definition of "enterprise" in section 1(1) of the VAT Act, but a separate legal entity. This is contrary to the operation of the VAT system which seeks to tax only consumption in the Republic and results in unintended VAT costs in the hands of the foreign subsidiary.

III. Proposal

In order to correct the unintended consequence explained above, it is proposed that the VAT Act be amended to exclude such foreign subsidiaries from the definition of "resident of the Republic" in section 1(1) of the VAT Act.

IV. Effective date

The proposed amendment will come into operation on 1 April 2025.

6.4 REVIEWING THE FOREIGN DONOR FUNDED PROJECT REGIME

[Applicable provision: Section 50 of the VAT Act]

I. Background

In terms of section 1(1) of the VAT Act, a foreign donor funded project ("FDFP") means a project established in terms of an official development assistance agreement to supply goods or services to beneficiaries, to which the government of the Republic of South Africa (the Republic) is a party.

An implementing agency, as per section 1(1) of the VAT Act, means:

- the government of the Republic in the national, provincial or local sphere; or
- any institution or body established and appointed by a foreign government, as contemplated in section 10(1)(*b*A)(ii) of the Income Tax Act; or
- any person who has entered into a contract directly with a party contemplated in the above paragraphs to implement, operate, administer or manage an FDFP.

Effective from 1 April 2020, each FDFP is regarded as a separate enterprise and should be registered as a separate branch of the implementing agency's own VAT registration in terms of section 50(2A) of the VAT Act.

II. Reasons for change

In practice, a foreign donor may fund a research project through multiple recipients by awarding the funds to a prime recipient and allocating sub-awards to more than one recipient as sub-awardees. Applying the law as it stands will lead to multiple VAT registrations concerning the same project. Further, some implementing agencies "implement, operate, administer or manage" multiple FDFPs and are required to register multiple branches for VAT purposes. Some institutions manage hundreds of FDFPs.

These administrative concerns have been raised by taxpayers, since they are leading to inefficiencies in applications and unnecessary burdens for both taxpayers and SARS.

The establishment of the FDFP is generally only for a set period, for example 3 years, for the project to be completed. Recipients will therefore constantly have to register new projects and deregister projects once completed.

In summary, the FDFP legislation introduced with effect from 1 April 2020 has resulted in an increased administrative burden for recipients of foreign donor funding, which led to additional risk and costs associated with VAT compliance.

The reason for originally requiring separate VAT branch registrations was to limit the risk of abuse of the FDFP provisions. Based on subsequent market research and discussions, it was highlighted that the implementing agency would, by agreement, be required to keep detailed records of all funding received and the manner those funds were expensed or used for each FDFP project separately through a comprehensive coding system. Implementing agencies are therefore able to provide SARS with all the relevant information regarding each FDFP separately. This, together with the fact that an FDFP must still be approved by National Treasury, addresses the previous concerns regarding the risk of abuse and hence, separate branch registrations for each FDFP are not required.

III. Proposal

To ease the administrative burden on the implementing agents, it is proposed that implementing agents register one branch for VAT purposes that encompasses all FDFPs that such implementing agency is responsible to "implement, operate, administer or manage".

IV. Effective date

The proposed amendment will come into operation on 1 April 2025.

6.5 PRESCRIPTION PERIOD FOR INPUT TAX CLAIMS

[Applicable provision: Paragraph (i) of the proviso to section 16(3) of the VAT Act]

I. Background

In terms of proviso (i) to section 16(3) of the VAT Act, a vendor that is allowed a deduction in respect of a tax period, may deduct an amount from output tax attributable to a later tax period, which ends no later than 5 years from the end of a tax period during which –

- the tax invoice should have been issued under section 20(1) of the VAT Act;
- goods were imported in terms of the Customs and Excise Act No 91 of 1964;
- second-hands goods were acquired or goods were repossessed or surrendered as per section 8(10) of the VAT Act;
- the agent should have issued the statement to the principal as required under section 54(3) of the VAT Act; or

- in any other case, the vendor for the first time became entitled to such deduction, notwithstanding the documentary proof that the vendor must be in possession of in terms of section 16(2) of the VAT Act.

II. Reasons for change

Taxpayers sometimes find themselves in the position where it is discovered that input taxes that should have been deducted in previous tax periods were not deducted timeously. Considering that the VAT Act permits the vendor a 5-year period within which to adjust its records, it has come to government's attention that there has been a practice whereby the input tax of previous years is claimed in one tax period of a date after the tax period in which the vendor was entitled to the input tax credit.

This practice makes it difficult for vendors to comply as they might lose track of which tax invoices were deducted in the previous tax periods and which were not, which might lead to a risk of double deduction. It is expected of vendors to perform proper reconciliation between the accounting records and the VAT returns in order to ascertain for themselves if the tax invoices were claimed in the proper tax periods. However, this does not often happen in practice.

III. Proposal

To ease the administrative burden on both taxpayers and SARS, it is proposed that the VAT Act be amended in relation to the tax period in which past unclaimed input tax credits may be claimed. To ensure ease of audit functions and clarity of returns in this regard, it is also proposed that the act be amended to clarify that such deductions be made in the original period in which the entitlement to that deduction arose.

IV. Effective date

The proposed amendment will come into operation on 1 April 2025.

6.6 VAT CLAW-BACK ON IRRECOVERABLE DEBTS SUBSEQUENTLY RECOVERED

[Applicable provision: Section 22(2) of the VAT Act]

I. Background

Section 22(1) of the VAT Act makes provision for a vendor to deduct VAT on amounts written off as irrecoverable in respect of taxable supplies, in respect of which the output tax was previously declared on a tax return. In the event that a vendor subsequently recovers any amount previously written-off, section 22(2) of the VAT Act provides for a claw-back to the extent of the VAT so recovered.

Currently, section 22(2) of the VAT Act only allows for a claw-back of a deduction made as referred to in section 22(1) of the VAT Act. However, the introduction of section 22(1A) of the VAT Act in 1997, specifically allows a deduction to the recipient of a transfer of account receivables at face value, on a non-recourse basis, where any amount of such receivable has been written off by the recipient, limited to the amount that the recipient has paid for the face value of the account receivable that was transferred to the recipient.

II. Reasons for change

Proviso (iv)(*aa*) to section 22(1) of the VAT Act specifically denies a transferor of an account receivable at face value, on a non-recourse basis, to make a deduction based on the transfer. In terms of the current provisions of the VAT Act, a recipient of an account receivable at face value on a non-recourse basis is entitled to a deduction of the tax amounts written off as irrecoverable. However, the VAT Act does not provide for any claw-back of these deductions on amounts subsequently recovered.

III. Proposal

It is proposed that the claw-back provided by section 22(2) of the VAT Act should be extended to any tax amount written off by such a recipient, which is subsequently recovered, as envisaged under section 22(1A) of the VAT Act.

IV. Effective date

The proposed amendment will come into operation on 1 April 2025.

6.7 SUPPLIES BY EDUCATIONAL INSTITUTIONS TO THIRD PARTIES

[Applicable provisions: Sections 8,12(*h*)(ii) and the insertion of section 40E of the VAT Act]

I. Background

The supply of educational services by an educational institution is exempt from VAT in terms of section 12(*h*)(i) of the VAT Act. Section 12(*h*)(ii) of the VAT Act further exempts from VAT the supplies made by an educational institution solely or mainly for the benefit of its leaners or students of goods or services (including domestic goods and services) that are necessary for and subordinate and incidental to the supply of services referred to in section 12(*h*)(i) of the VAT Act, if such goods or services are supplied for consideration in the form of school fees, tuition fees or payment for lodging or board and lodging.

The legislation was thought to reflect the policy intent which was that schools were to be excluded from having to account for VAT as the registration of thousands of entities would increase the administrative costs on institutions which are not geared to comply with taxation laws, without any net gain to the Fisc

II. Reasons for change

There seems to be two strong opposing interpretations with regards to the application of section 12(*h*)(ii) of the VAT Act.

The first interpretation is that the supplies made to third parties of goods or services by an educational institution are exempt from VAT in terms of section 12(*h*)(ii) of the VAT Act. This will result in the educational institution being denied a deduction of input tax on the goods or services acquired for making such supplies. This is based on the fact that where the supplies are mainly (more than 50 per cent) for the benefit of the leaners or students, all such supplies are exempt (even the supplies made to third parties).

The second interpretation is that the subparagraph limits the scope of the exemption to only supplies where a consideration is made in the form of school fees, tuition fees or payment for lodging and boarding. It is highly unlikely that third parties to whom an educational institution made a supply of goods or services would then make a payment of the consideration in the form of school fees, tuition fees or payment for lodging and boarding. This would then mean that supplies made to such third parties would be taxable in terms of section 7(1)(*a*) of the VAT Act. Taking the above into consideration, the educational institution will be required to account for output tax and be allowed a deduction of input tax on the goods or services acquired in the making of those supplies to the third parties.

III. Proposal

The VAT treatment of supplies made by educational institutions to third parties is unclear and as such, there have been differing treatment of these supplies. It is proposed that the VAT Act be amended to clarify the policy intention relating to these supplies. The amendment will be made in section 12(*h*)(ii) of the VAT Act. It is also proposed that since there have been different interpretations of this subsection, transitional rules be introduced under section 40.

IV. Effective date

The proposed amendment will come into operation on 1 January 2025.

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7. CARBON TAX ACT

7.1 ALIGNING SCHEDULE 1 OF THE CARBON TAX ACT WITH THE UPDATED GREENHOUSE GAS EMISSIONS METHODOLOGICAL GUIDELINES

[Applicable provision: Schedule 1 of the Carbon Tax Act 15 of 2019 (“the Carbon Tax Act”)]

I. Background

The Carbon Tax Act contains Schedule 1 that sets out the default emission factors for fuel combustion (stationary and non-stationary), fugitive and industrial process emissions. The emission factors and net caloric values are used to calculate the emission factors and total emissions for a company for the different activities under Section 4 of the Carbon tax Act.

In October 2022, the Department of Forestry Fisheries and the Environment (DFFE) gazetted the Amended Methodological Guideline for Quantification of Greenhouse Gas Emissions (Gazette No 47257 dated 7 October 2022). Schedule 1 of the Act is aligned with the emission factor tables contained in Annexures A, B and C of the Methodological Guidelines for Quantification of Greenhouse Gas Emissions. The updated Technical Guidelines included updated tables on the Country Specific Carbon Dioxide Emission Factors for stationary and non-stationary combustion emissions. This was based on studies conducted by the DFFE in 2021/22 on Liquid Fuels and Gas and Cement.

II. Reasons for change

In Budget 2023, amendments were proposed to Schedule 1 of the Carbon Tax Act to include new tables on the country specific CO2 emissions and fugitive emissions factors. The tables which were included in the Taxation Laws Amendment Bill of 2023 were withdrawn after public consultation on the TLAB to allow for further consultations with DFFE on the application of the tier 2 emission factors and determination of the appropriate net calorific values to be used for the different fuel types for calculation of greenhouse gas emissions.

To ensure alignment between the Carbon Tax Act and the Department of Forestry, Fisheries and the Environment's Methodological Guidelines for Quantification of Greenhouse Gas Emissions (the Methodological Guidelines), changes to the carbon dioxide emission factors and net calorific values for the relevant fuel types are necessary, as announced in the 2023 Budget. Updates to the Schedule 1 fuel combustion emissions factors and net calorific values and additional of new fuel types are necessary.

III. Proposal

As stated above, to ensure alignment between the Carbon Tax Act and the Department of Forestry, Fisheries and the Environment's Methodological Guidelines, it is proposed that the Schedule 1 fuel combustion emission factors and net calorific values are updated, and new fuel types added, as set out in the tables below.

Table 1: Proposed Changes to Schedule 1 Stationary Fuel Emission Factors

	FUEL COMBUSTION EMISSION FACTORS STATIONARY SOURCE CATEGORY			**DEFAULT NET CALORIFIC VALUE (TJ/TONNE)**		
FUEL TYPE	**CO_2 ($KGCO_2$ /TJ)**	**CH_4 ($KGCH_4$ /TJ)**	**N_2O (KGN_2O /TJ)**	**NET CALORIFIC VALUE**	**LOWER LIMIT OF THE 95% CONFIDENCE INTERVAL**	**UPPER LIMIT OF THE 95% CONFIDENCE INTERVAL**
Changes to existing fuel types						
Aviation Gasoline	65 752			0.0475	N/A	N/A
Diesel	74 638			0.043	N/A	N/A
Heavy Fuel Oil (residual fuel oil)	73 090			0.043	N/A	N/A
Jet Kerosene	73 463			0.0433	N/A	N/A
Liquefied Petroleum Gas (LPG)	64 852			0.0463	N/A	N/A

Paraffin	64 640			0.049	N/A	N/A
Petrol	72 430			0.0439	N/A	N/A
Other bituminous coal				0.0192	0.0192	
New fuel types						
Acetylene	67 870	N/A	N/A	0.049818	N/A	N/A
Refuse Derived Fuel	83 000	30	4	0.01	0.007	0.018
Sawdust	0	30	4	0.0116	0.0059	0.023
Waste Tyres	85 000	1	1.5	0.0325	N/A	N/A
Methane Rich Gas (MRG)	54 888	1	0.1	0.048	0.0465	0.0504
Deletion						
Diesel	74 100	3	0.6	0.0381	0	0
*The current emission factors and net calorific values contained in Schedule 1 of the Carbon Tax Act are applicable where the blocks in the table are blank.						

Table 2: Proposed Changes to Schedule 1 Non-Stationary Fuel Emission Factors

	FUEL COMBUSTION EMISSION FACTORS NON-STATIONARY SOURCE CATEGORY			DEFAULT NET CALORIFIC VALUE (TJ/TONNE)		
FUEL TYPE	**CO_2 ($KGCO_2$/ TJ)**	**CH_4 ($KGCH_4$/ TJ)**	**N_2O (KGN_2O/ TJ)**	**NET CALORIFIC VALUE**	**LOWER LIMIT OF THE 95% CONFIDENCE INTERVAL**	**UPPER LIMIT OF THE 95% CONFIDENCE INTERVAL**
Changes to existing fuel types						
Aviation Gasoline	65 752	0.5	2	0.0475	N/A	N/A
Diesel	74 638			0.0430		
Heavy Fuel Oil (residual fuel oil)	73 090			0.0473	N/A	N/A
Jet Kerosene	73 463			0.0433	N/A	N/A
Liquefied Petroleum Gas (LPG)	64 852			0.0463	N/A	N/A
Paraffin	64 640			0.0490	N/A	N/A
Petrol	72 430			0.0439		
Diesel-Rail		4.15				
Additional fuel types						

Biodiesel	0	4.15	28.6	0.027	N/A	N/A
Biogasoline	0	3.5	5.7	0.027	N/A	N/A
Diesel-Offroad	74 100	3.9	3.9	0.0381	N/A	N/A
Petrol – oxidation catalyst	69 300	25	8	0.0443	N/A	N/A
Petrol uncontrolled	69 300	33	3.2	0.0443	N/A	N/A
Refuse Derived Fuel	83 000	N/A	N/A	N/A	N/A	N/A
Sawdust	0	N/A	N/A	N/A	N/A	N/A
Waste Tyres	85 000	N/A	N/A	N/A	N/A	N/A
Methane Rich Gas (MRG)	54 888	92	3	0.048	0.0465	0.0504

* The current emission factors and net calorific values contained in Schedule 1 of the Carbon Tax Act are applicable where the blocks in the table are blank.

IV. Effective date

The proposed amendments will come into operation on 1 January 2024.

7.2 INCLUDING DEFAULT EMISSION FACTORS FOR ADDITIONAL FUGITIVE EMISSIONS SOURCE CATEGORIES

[Applicable provision: Schedule 1 of the Carbon Tax Act 15 of 2019 ("the Carbon Tax Act")]]

I. Background

The Carbon Tax Act contains Schedule 1 sets out the default emission factors for the calculation of fuel combustion (stationary and non-stationary), fugitive and industrial process greenhouse gas emissions. The emission factors and net caloric values are used to calculate the emission factors and total emissions for a company for the different activities under Section 4 of the Carbon tax Act.

In October 2022, the Department of Forestry Fisheries and the Environment (DFFE) gazetted the Amended *Methodological Guideline for Quantification of Greenhouse Gas Emissions* (Gazette No 47257 dated 7 October 2022). Schedule 1 of the Act is aligned with the emission factor tables contained in Annexures A, B and C of the Methodological Guidelines for Quantification of Greenhouse Gas Emissions. The updated guideline contained a new table B3 on Default Emission Factors for fugitive emissions from coal mining, oil and gas operations based on the 2019 Intergovernmental Panel on Climate Change (IPCC) refinements study on emission factors.

II. Reasons for change

The Methodological Guidelines included additional default emission factors for fugitive emissions from coal mining, oil and gas operations. In Budget 2023, amendments were proposed to Schedule 1 to include new tables on the country specific CO2 emissions and fugitive emissions factors. The tables which were included in the Taxation Laws Amendment Bill of 2023 were

withdrawn after public consultation on the TLAB to allow for further consultations with DFFE. To ensure alignment between the Carbon Tax Act and the methodological guidelines, changes to the Schedule 1 fugitive emissions tables are necessary to include the new fugitive emission factors.

III. Proposal

It is proposed that the fugitive emissions table in Schedule 1 of the Carbon Tax Act is updated to add the following activities and emissions factors for the relevant emission source categories based on the 2019 refinements to the 2006 Intergovernmental Panel on Climate Change Guidelines for National Greenhouse Gas Inventories.

Table 1: Proposed Changes to Schedule 1 Fugitive Emission Factors

IPCC CODE	SOURCE CATEGORY ACTIVITY	FUGITIVE EMISSION FACTORS		
		CO_2	**CH_4**	**N_2O**
1B1	**Solid Fuels (M^3/tonne)**			
1B1cii	Charcoal production (per charcoal produced (tonne GHG/tonne charcoal	0	0.0000403	$8*10^{-8}$
1B1Ciii	Biochar production (per biochar produced) (tonne GHG/tonne biochar)	0	0.00003	ND
1B1ci	Coke production (per coke produced) (tonne GHG/tonne coke)	ND	$4.9*10^{-8}$	ND
1B1civ	**Coal to liquids (tonne GHG/TJ total output)**			
1B1civ	Coal to liquids – syngas	55	0.0061	0
1B1civ	Coal to liquids – syngas H_2	55	0.0061	0
1B1civ	Coal to liquids – SNG (synthetic natural gas)	78	0.0061	0
1B1civ	Gas to liquids (tonne GHG/TJ natural gas input)	12.73	ND	ND
	Oil transport (tonne/10^3M^3 oil loaded onto tanker ships)			
1B2ai	Loading offshore production on tanker ships – without VRU – All	ND	0.065	ND
1B2ai	Loading offshore production on tanker ships – with VRU – All	ND	0.040	ND
1B2a	Oil refining (tonne/10^3M^3 oil refined)			
1B2aiii4	All (the factors include fugitive equipment leaks, flaring, storage of crude oil, handling and calcination)	5.85	$2.6*10^{-6}$ to $4.1*10^{-5}$	$8.77*10^{-5}$

IV. Effective date

The proposed amendments will come into operation on 1 January 2024.

7.3 RENEWABLE ENERGY PREMIUM DEDUCTION

[Applicable provision: Section 6 of the Carbon Tax Act 15 of 2019 ("the Carbon Tax Act")]

I. Background

In terms of section 6(2) of the Carbon Tax Act, electricity generators including state-owned entities (Eskom) can claim the renewable energy premium deduction in respect of renewable energy purchased during the tax period in terms of the power purchase agreements concluded as part of the Renewable Energy Independent Power Producers Procurement Programme.

However, Eskom is undergoing a process of separating it into three companies (namely, generation, transmission and distribution) in accordance with the document titled Road Map for Eskom in a Reformed Electricity Supply Industry issued by the Department of Public Enterprises in 2019.

Due to the restructuring of the electricity sector and separation of the generation, transmission and distribution functions, the power purchase agreements concluded as part of the Renewable Energy Independent Power Producers Procurement Programme will be transferred to the National Transmission Company of South Africa (NTCSA) when it commences operations. NTCSA has been established as wholly owned subsidiary of Eskom.

However, the carbon tax liability arising from greenhouse gas emissions in category 1A1a will remain with the generation function of the state-owned entity.

II. Reasons for change

In December 2021, approval was granted to Eskom in terms of sections 54(2)(c) and 54(2)(d) of the PFMA for the operationalisation of the NTCSA through the proposed disposal of Eskom's transmission business to the NTCSA. As the generation, transmission and distribution functions of Eskom are separated, the power purchase agreements will be transferred to the NTCSA when it commences operations. To provide certainty to Eskom, a technical clarification is necessary to ensure that the relevant electricity purchases made under the power purchase agreements ceded to the NTCSA are eligible for the deduction against their carbon tax liability until 31 December 2025.

III. Proposal

Based on the operationalisation of the NTCSA, it is proposed that Section 6 of the Carbon Tax Act is amended to allow electricity purchases under power purchase agreements ceded to the NTCSA to be eligible for the renewable energy premium deduction.

IV. Effective date

The proposed amendments will come into operation on 1 January 2024

8. CLAUSE BY CLAUSE

CLAUSE 1

Income Tax Act: Amendments to section 1(1)

Sub-clause (*a*): The proposed amendment to the definition of "company" is a clarification that seeks to add the reference of "portfolio of a hedge fund collective scheme" to ensure that foreign investment schemes are treated as a company for income tax purposes.

Sub-clause (*b*): See notes on **REVIEWING THE CONNECTED PERSON DEFINITION IN RELATION TO PARTNERSHIPS**

Sub-clause (*c*): The proposed amendment to the definition of "connected person" seeks to renumber subitems (i) and (ii) as subitems (A) and (B) to correct the consecutive numbering sequence.

Sub-clause (*d*): See notes on **TAXATION ISSUES INVOLVING UNLISTED PROPERTY INDUSTRY**

Sub-clause (*e*): See notes on **AMENDING THE DEFINITION OF "REMUNERATION PROXY" IN SECTION 1**

Sub-clause (*f*): See notes on **TRANSFERS BETWEEN RETIREMENT FUNDS BY MEMBERS WHO REACHED NORMAL RETIREMENT AGE BEFORE RETIREMENT DATE**

Sub-clause (*g*): See notes on **TRANSFERS BETWEEN RETIREMENT FUNDS BY MEMBERS WHO REACHED NORMAL RETIREMENT AGE BEFORE RETIREMENT DATE**

Sub-clause (*h*): The proposed amendment to the definition of "trust" seeks to add the reference of a portfolio of a collective investment scheme and a portfolio of a hedge fund collective investment scheme to the definition to clarify their type of taxpayer category to ensure that the correct rate of tax calculation in respect of taxable income is applied.

CLAUSE 2

Income Tax Act: Amendments to section 6*quat*

Sub-clause (*a*): See notes on **CLARIFYING THE REBATE FOR FOREIGN TAXES ON INCOME IN RESPECT OF CAPITAL GAINS**

Sub-clause (*b*): See notes on **CLARIFYING THE REBATE AND TRANSLATION OF NET INCOME RULE FOR CFC's**

CLAUSE 3

Income Tax Act: Amendments to section 7

The proposed amendment to subsection (11) seeks to align the Act with amendments made by the Pension Funds Amendment Act, 2024 (Act 31 of 2024) in light of the fact that section 37D(1)(*d*)(iB) of the Pension Funds Act now refers to interim maintenance orders granted by the

court in terms of rule 43 of the High Court rules or rule 58 of the Magistrates' Court rules made under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No.1 of 1985).

CLAUSE 4

Income Tax Act: Amendments to section 7C

Sub-clause (*a*): The proposed amendment clarifies that the provisions of section 7C of the Act also apply to loans made to companies by adding that a donation is deemed to have been made on the last day of the year of assessment of not only a trust but a company too.

Sub-clause (*b*): See notes on **CLARIFYING ANTI-AVOIDANCE RULES FOR LOW-INTEREST OR INTEREST-FREE LOANS TO TRUSTS**

CLAUSE 5

Income Tax Act: Amendments to section 8

See notes on **INVESTMENT ALLOWANCE IN RESPECT OF BUILDINGS, MACHINERY, PLANT, IMPLEMENTS, UTENSILS AND ARTICLES USED IN DOMESTIC PRODUCTION OF ELECTRIC AND HYDROGEN-POWERED VEHICLES**

CLAUSE 6

Income Tax Act: Amendment to section 8EA

Sub-clause (*a*): See notes on **THIRD-PARTY BACKED SHARES: EXTENDING THE DEFINITION OF "ENFORCEMENT RIGHT" TO A CONNECTED PERSON**

Sub-clauses (*b*) - (*c*): See notes on **THIRD-PARTY BACKED SHARES: EXTENDING EXCLUSIONS TO THE OWNERSHIP REQUIREMENT**

CLAUSE 7

Income Tax Act: Amendment to section 9D

Sub-clause (*a*): See notes on **CLARIFYING THE TRANSLATION FOR HYPERINFLATIONARY CURRENCIES**

Sub-clauses (*b*) - (*c*): These proposed amendment changes the word "attributable" to "effectively connected", to clarify the nexus of an asset to a permanent establishment.

CLAUSE 8

Income Tax Act: Amendments to section 9H

Sub-clauses (*a*) – (*b*): The proposed amendment seeks to clarify how an investment in a South African retirement fund must be treated when a member of such a fund ceases to be a resident. From a policy point of view, the value of the member's interest in the fund should not be subject to capital gains tax on exit, since this will result in potential double taxation when the member withdraws, dies or retires from the fund by virtue of the lump sum tables published in the annual Rates and Monetary Amounts Acts or in the form of an annuity (paragraph *(a)* of the definition of "gross income" in the Act). Such amounts are deemed to be from a South African source under section 9(2)*(i)* of the Act and thus remain within South Africa's taxing jurisdiction, despite the member becoming a non-resident. It is therefore proposed that interests in SA retirement funds be excluded from the ambit of the exit charge in a new paragraph *(g)* of section 9H(4) of the Act.

CLAUSE 9

Income Tax Act: Amendments to section 11

See notes on **PAYROLL AMENDMENTS AND REFUNDS MADE IN THE CURRENT YEAR**

CLAUSE 10

Income Tax Act: Amendments to section 12C

See notes on **INVESTMENT ALLOWANCE IN RESPECT OF BUILDINGS, MACHINERY, PLANT, IMPLEMENTS, UTENSILS AND ARTICLES USED IN DOMESTIC PRODUCTION OF ELECTRIC AND HYDROGEN-POWERED VEHICLES**

CLAUSE 11

Income Tax Act: Amendments to section 12E

The proposed amendment to subsection (3B) seeks to correct the grammatical error to correct the wording "an allowance" to "a deduction".

CLAUSE 12

Income Tax Act: Insertion of section 12V

See notes on **INVESTMENT ALLOWANCE IN RESPECT OF BUILDINGS, MACHINERY, PLANT, IMPLEMENTS, UTENSILS AND ARTICLES USED IN DOMESTIC PRODUCTION OF ELECTRIC AND HYDROGEN-POWERED VEHICLES**

CLAUSE 13

Income Tax Act: Amendments to section 13

Sub-clause (*a*): The proposed amendment to the heading of section 13 seeks to add the words "or research and development" to clarify the scope of the section.

Sub-clause (*b*): The proposed amendment to subsection (1) for the words preceding paragraph (*b*) deletes the obsolete reference to subsection (7) which has been repealed.

Sub-clause (*c*): The proposed amendment seeks to remove the "or" at the end of paragraphs (*b*) and (*d*) as a matter of style and consistency.

Sub-clause (*d*): The proposed deletion of subsection 1(*e*) seeks to delete a now obsolete provision of the Act that allowed for a 2% allowance on any improvements commencing no later than the thirty-first of March 1971. As such, any taxpayer's ability to claim the allowance ended in March 2021.

Sub-clause (*e*): The proposed amendment of subsection (1)(*f*) seeks to add the words "research and development" to clarify the scope of the section.

Sub-clause (*f*): The proposed amendment to subsection (1) for paragraph (*b*) of the proviso deletes an obsolete reference to paragraph (*c*) of that proviso which has been repealed.

Sub-clause (*g*): The proposed amendment to subsection (2) deletes an obsolete reference to subsection (7) which has been repealed.

Sub-clause (*h*): See notes on **INVESTMENT ALLOWANCE IN RESPECT OF BUILDINGS, MACHINERY, PLANT, IMPLEMENTS, UTENSILS AND ARTICLES USED IN DOMESTIC PRODUCTION OF ELECTRIC AND HYDROGEN-POWERED VEHICLES**

CLAUSE 14

Income Tax Act: Amendments to section 13*bis*

The proposed deletion of subsections (2), (3), (4) and (9) seeks to delete a now obsolete provision of the Act that allowed for an additional grading allowance on any building or improvements thereon commencing on or after 1 January 1964 but before 4 June 1988. Based on the maximum continuous allowance period as contemplated in this section (25 years), any taxpayer's ability to claim that allowance ended in 2013.

CLAUSE 15

Income Tax Act: Amendments to section 13*quat*

See notes on **INVESTMENT ALLOWANCE IN RESPECT OF BUILDINGS, MACHINERY, PLANT, IMPLEMENTS, UTENSILS AND ARTICLES USED IN DOMESTIC PRODUCTION OF ELECTRIC AND HYDROGEN-POWERED VEHICLES**

CLAUSE 16

Income Tax Act: Amendments to section 20

Sub-clause (*a*): The proposed amendment seeks to insert an "or" at the end of subsection (1)(*a*)(iii) which is necessitated by the addition of the proviso at the end of subsection (1)(*a*).

Sub-clause (*b*): See notes on **RELAXING THE ASSESSED LOSS RESTRICTION RULE UNDER CERTAIN CIRCUMSTANCES**

CLAUSE 17

Income Tax: Amendments to section 23

The proposed amendment seeks to broaden the prohibition of the deduction of any taxes imposed under the Act to also include any interest imposed under this Act.

CLAUSE 18

Income Tax Act: Amendments to section 23M

Sub-clause (*a*) The proposed amendment to subsection (3) seeks to clarify that the reduction in the calculation is limited to otherwise deductible interest.

Sub-clause (*b*) The proposed amendment to subsection (4) seeks to clarify that there is a deemed debt owed to a creditor in the following year of assessment even where the debt that gave rises to the interest has already been settled.

CLAUSE 19

Income Tax Act: Amendments to section 23N

See notes on **LIMITING INTEREST DEDUCTIONS IN RESPECT OF REORGINASATION AND ACQUISITION TRANSACTIONS**

CLAUSE 20

Income Tax Act: Amendment to section 24I

Sub-clauses (*a*) – (*b*): See notes on **REFINING THE DEFINITION OF EXCHANGE ITEM FOR DETERMINING EXCHANGE DIFFERENCES**

Sub-clauses (*c*) – (*h*): See notes on **REVIEWING THE INTERACTION OF THE SET-OFF OF ASSESSED LOSS RULES AND RULES ON EXCHANGE DIFFERENCES ON FOREIGN**

CLAUSE 21

Income Tax Act: Amendment to section 24JB

See notes on **CLARIFYING THE INTERACTION OF SECTION 24JB(3) OF THE INCOME TAX ACT AND THE GROSS INCOME DEFINITION**

CLAUSE 22

Income Tax Act: Amendment to section 25BB

Sub-clauses (*a*) and (*b*): The proposed amendment seeks to broaden the prohibition of depreciation allowances, by including references to sections 12B and 12BA of the Act, in respect of immovable property by a company that is a REIT or a controlled company at the last day of the year of assessment.

CLAUSE 23

Income Tax Act: Amendment to section 25E

See notes on **TRANSLATING CONTRIBUTED TAX CAPITAL FROM A FOREIGN CURRENCY TO RANDS**

CLAUSE 24

Income Tax Act: Amendment to section 28

Sub-clause (*a*): The proposed amendment seeks to reverse the deletion of the deduction for liabilities on investment contracts relating to short-term insurance business that are recognised under IFRS 9, which if not done may result in an upfront tax charge being incurred.

Sub-clause (*b*): See notes on **IMPACT OF IFRS 17 ON THE TAXATION OF INSURERS**

CLAUSE 25

Income Tax Act: Amendment to section 29A

Sub-clause (*a*): The amendment seeks to align the amounts payable or receivable by the cell owner in its capacity as a cell owner not as a policy holder.

Sub-clause (*b*): The proposed amendment seeks to accommodate the nuances as a result of implementation of IFRS17 by long-term insurers. This amendment seeks to update the 2022 amendment of including the premium debtors and policy loans which have been reclassified from the asset section of the balance sheet to the liability section of the balance sheet, such that it

caters for instances where reinsurance debtors were not previously considered in the "adjusted IFRS value" and be adjusted in the calculation of the phasing-in amounts.

CLAUSE 26

Income Tax Act: Amendment to section 30

Sub-clause (*a*): The proposed amendment seeks to insert an "or" at the end of subsection (3)(*b*)(iii) for item (*bb*) and replace the "or" with a full stop at the end of item (*cc*) which is necessitated by the deletion of item (*dd*).

Sub-clause (*b*): The proposed amendment to subsection (3)(*b*)(iii) for item (*dd*) deletes a now obsolete provision relating to consolidation between the then National Urban Reconstruction and Housing Agency and the Rural Housing Loan Fund under the National Housing Finance Corporation, which was finalised with effect from 1 October 2018.

CLAUSE 27

Income Tax Act: Amendment to section 41

See notes on **RELAXING THE ASSESSED LOSS RESTRICTION RULE UNDER CERTAIN CIRCUMSTANCES**

CLAUSE 28

Income Tax Act: Amendment to section 42

The proposed amendment to subsection (1) in the definition of "qualifying interest" for paragraph (*d*) seeks to replace the word "or" with as" in an effort to clarify the fact that reorganisation rollovers should not result in the tax-free externalisation of corporate value outside the South African group.

CLAUSE 29

Income Tax Act: Amendment to section 44

See notes on **REVIEWING THE PROHIBITION AGAINST THE TRANSFER OF ASSETS IN TERMS OF AN AMALAGAMANTION TRANSACTION**

CLAUSE 30

Income Tax Act: Amendment to paragraph 2(1) of the Second Schedule to the Act

See notes on **TRANSFERS BETWEEN RETIREMENT FUNDS BY MEMBERS WHO REACHED NORMAL RETIREMENT AGE BEFORE RETIREMENT DATE**

CLAUSE 31

Income Tax Act: Amendment to paragraph 6A of the Second Schedule to the Act

Sub-clauses (a) - (b): See notes on **TRANSFERS BETWEEN RETIREMENT FUNDS BY MEMBERS WHO REACHED NORMAL RETIREMENT AGE BEFORE RETIREMENT DATE**

CLAUSE 32

Income Tax Act: Deletion of paragraph 2(*gA*) of the Seventh Schedule to the Act

The proposed amendment of subparagraph (*g*A) seeks to delete a now obsolete provision that at the time related to advances, loans or payments made to certain shareholders deemed to be dividends in certain circumstances but which has since been repealed.

CLAUSE 33

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

The proposed amendments are technical corrections and are consequential to amendments made in 2018 regarding the government policy that there should be no additional tax consequences at the time of transfer for members of the fund if the transfers between, or within retirements funds of the same employer were derived from amounts that have already been contributed to a retirement fund.

CLAUSE 34

Income Tax Act: Amendment of paragraph 5 of the Eighth Schedule to the Act

The proposed amendment to the proviso to subparagraph (1) seeks to correct an anomaly when a natural person and special trust has two years of assessment in the single 12-month tax period. The annual exclusion cuts both ways, that is, it applies to both gains and losses. In determining what is available in the second year of assessment regard should behave to the exclusion as an absolute value. When there are gains in both the first and second years of assessment there is no problem. The same is true when there are losses in both. However, a difficulty is encountered when there is a loss in the first and a gain in the second year of assessment. As such, proposed amendments are made to better facilitate the interaction and aggregation of the sum of the annual

exclusions for years of assessment ending during the period of 12 months commencing on 1 March and ending on the last day of February of the immediately following calendar year.

CLAUSE 35

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

Sub-clause (*a*): The proposed amendment seeks to align the amendment made in 2023 relating to foreign return of capital with the disposal rule in paragraph 64B(1)(*b*) of the Eighth Schedule to the Act.

Sub-clause (*b*): See notes on **CLARIFYING THE 18-MONTH PERIOD IN RELATION TO SHAREHOLDINGS BY GROUP ENTITIES**

CLAUSE 36

Income Tax Act: Amendment of paragraph 80 of the Eighth Schedule to the Act

The proposed amendments are consequential upon the substitution of paragraph 80(2) and the insertion of paragraph 80(2A) into the Act by the Taxation Laws Amendment Act 23 of 2020.

CLAUSE 37

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

The proposed amendment to paragraph 4(*c*) substitutes a now obsolete reference in relation to the term “Adult education and training” which was defined in the now repealed Adult Education and Training Act, 2000, (Act No. 52 of 2000) with a reference in relation to section 29(1)(*a*) of the Constitution of the Republic of South Africa, 1996.

CLAUSE 38

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

The proposed amendment to paragraph 3(*c*) substitutes a now obsolete reference in relation to the term “Adult education and training” which was defined in the now repealed Adult Education and Training Act, 2000, (Act No. 52 of 2000) with a reference in relation to section 29(1)(1) of the Constitution of the Republic of South Africa, 1996.

CLAUSE 39

Income Tax Act: Amendment of item 11 of the Eleventh Schedule to the Act

The amendment seeks to update the government grant schedule in the Eleventh Schedule in line with the government grants issued by government.

CLAUSE 40

Customs and Excise Act & Value-Added Tax Act: Continuation of certain amendments of Schedules

The proposed clause makes provision for the continuation of certain amendments to the Schedules to the Customs and Excise Act and the Vat Act, effected by notice in the government Gazette during the period of 1 October 2023 up to and including 31 October 2024.

CLAUSE 41

Customs and Excise Act: Amendment to Schedule 1

South Africa is a member of the World Customs Organisation (WCO) and a signatory to the Harmonised System Convention (HS) issued by the WCO. The HS is a multipurpose goods nomenclature used as the basis for customs tariffs and for the compilation of trade statistics all over the world. With the implementation of changes in terms of the HS recommended by the WCO for 2002 (HS2002), a new 6-digit tariff structure as well as a new subheading note were introduced to define “light oils and preparations” for the purposes of subheading 2710.11 (now 2710.12). When this change was made on a national level in South Africa, all the national subheadings under 27.10 were transposed to 2710.11 as light oils and preparations, irrespective of whether the oils and preparations complied with new HS subheading Note 4, which specifies a threshold for distillation. These provisions have been applied according to their obvious intent for many years. More recently, however, a technical interpretation has been advanced by some industry members that would give rise to a glaring absurdity and pose a substantial threat to the fiscus if accepted.

It is, therefore, proposed that the bulk of products that were transposed in 2002 to 2710.11 as light oils and preparations also be transposed to subheading 2710.19 as they may have a distillation point above the threshold provided for in Note 4 applicable to 2710.11 (now 2710.12). It is further proposed that the transposition be done retrospectively from 1 January 2002, being the date the threshold for distillation was introduced at an international level.

CLAUSE 42

Customs and Excise Act: Amendment to Schedule 4

South Africa is a member of the World Customs Organisation (WCO) and a signatory to the Harmonised System Convention (HS) issued by the WCO. The HS is a multipurpose goods nomenclature used as the basis for customs tariffs and for the compilation of trade statistics all over the world. With the implementation of changes in terms of the HS recommended by the WCO for 2002 (HS2002), a new 6-digit tariff structure as well as a new subheading note were introduced to define “light oils and preparations” for the purposes of subheading 2710.11 (now 2710.12). When this change was made on a national level in South Africa, all the national subheadings under 27.10 were transposed to 2710.11 as light oils and preparations, irrespective of whether the

oils and preparations complied with new HS subheading Note 4, which specifies a threshold for distillation. These provisions have been applied according to their obvious intent for many years. More recently, however, a technical interpretation has been advanced by some industry members that would give rise to a glaring absurdity and pose a substantial threat to the fiscus if accepted.

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CLAUSE 43

Customs and Excise Act: Amendment to Schedule 5

South Africa is a member of the World Customs Organisation (WCO) and a signatory to the Harmonised System Convention (HS) issued by the WCO. The HS is a multipurpose goods nomenclature used as the basis for customs tariffs and for the compilation of trade statistics all over the world. With the implementation of changes in terms of the HS recommended by the WCO for 2002 (HS2002), a new 6-digit tariff structure as well as a new subheading note were introduced to define “light oils and preparations” for the purposes of subheading 2710.11 (now 2710.12). When this change was made on a national level in South Africa, all the national subheadings under 27.10 were transposed to 2710.11 as light oils and preparations, irrespective of whether the oils and preparations complied with new HS subheading Note 4, which specifies a threshold for distillation. These provisions have been applied according to their obvious intent for many years. More recently, however, a technical interpretation has been advanced by some industry members that would give rise to a glaring absurdity and pose a substantial threat to the fiscus if accepted.

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CLAUSE 44

Customs and Excise Act: Amendment to Schedule 6

South Africa is a member of the World Customs Organisation (WCO) and a signatory to the Harmonised System Convention (HS) issued by the WCO. The HS is a multipurpose goods nomenclature used as the basis for customs tariffs and for the compilation of trade statistics all over the world. With the implementation of changes in terms of the HS recommended by the WCO for 2002 (HS2002), a new 6-digit tariff structure as well as a new subheading note were introduced to define “light oils and preparations” for the purposes of subheading 2710.11 (now 2710.12). When this change was made on a national level in South Africa, all the national subheadings under 27.10 were transposed to 2710.11 as light oils and preparations, irrespective of whether the oils and preparations complied with new HS subheading Note 4, which specifies a threshold for distillation. These provisions have been applied according to their obvious intent for many years.

More recently, however, a technical interpretation has been advanced by some industry members that would give rise to a glaring absurdity and pose a substantial threat to the fiscus if accepted.

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CLAUSE 45

Value-Added Tax: Amendments to section 1(1)

See notes on **CLARIFYING THE VAT TREATMENT OF SUPPLY OF SERVICES TO NON-RESIDENT SUBSIDIARIES OF COMPANIES BASED IN THE REPUBLIC**

CLAUSE 46

Value-Added Tax: Amendments to section 8

Sub-clause (*a*): See notes on **PROVIDING VAT RELIEF FOR NON-RESIDENT LESSORS OF PARTS OF SHIPS, AIRCRAFT OR ROLLING STOCK REQUIRED TO DEREGISTER AS A RESULT OF RECENT AMENDMENTS TO THE VAT ACT**

Sub-clause (*b*): See notes on **SUPPLIES BY EDUCATIONAL INSTITUTIONS TO THIRD PARTIES**

CLAUSE 47

Value-Added Tax: Amendments to section 8A

See notes on **CLARIFYING THE VAT TREATMENT OF THE MUDARABA ISLAMIC FINANCING ARRANGEMENT**

CLAUSE 48

Value-Added Tax: Amendments to section 12

See notes on **SUPPLIES BY EDUCATIONAL INSTITUTIONS TO THIRD PARTIES**

CLAUSE 49

Value-Added Tax: Amendments to section 16

See notes on **PRESCRIPTION PERIOD FOR INPUT TAX CLAIMS**

CLAUSE 50

Value-Added Tax: Amendments to section 22

See notes on **VAT CLAW-BACK ON IRRECOVERABLE DEBTS SUBSEQUENTLY RECOVERED**

CLAUSE 51

Value-Added Tax: Insertion of section 40E

See notes on **SUPPLIES BY EDUCATIONAL INSTITUTIONS TO THIRD PARTIES**

CLAUSE 52

Value-Added Tax: Amendment to section 50

See notes on **REVIEWING THE FOREIGN DONOR FUNDED PROJECT REGIME**

CLAUSE 53

Value-Added Tax: Amendment to section 54

See notes on **DRAFT AMENDMENTS TO THE REGULATIONS PRESCRIBING ELECTRONIC SERVICES FOR THE PURPOSE OF THE DEFINITION OF "ELECTRONIC SERVICES" IN SECTION 1(1) OF THE VALUE-ADDED TAX ACT, 1991**

CLAUSE 54

Value-Added Tax: Amendment to Schedule 1

Sub-clauses (a) – (b): South Africa is a member of the World Customs Organisation (WCO) and a signatory to the Harmonised System Convention (HS) issued by the WCO. The HS is a multipurpose goods nomenclature used as the basis for customs tariffs and for the compilation of trade statistics all over the world. With the implementation of changes in terms of the HS recommended by the WCO for 2002 (HS2002), a new 6-digit tariff structure as well as a new subheading note were introduced to define "light oils and preparations" for the purposes of subheading 2710.11 (now 2710.12). When this change was made on a national level in South Africa, all the national subheadings under 27.10 were transposed to 2710.11 as light oils and

preparations, irrespective of whether the oils and preparations complied with new HS subheading Note 4, which specifies a threshold for distillation. These provisions have been applied according to their obvious intent for many years. More recently, however, a technical interpretation has been advanced by some industry members that would give rise to a glaring absurdity and pose a substantial threat to the fiscus if accepted.

It is, therefore, proposed that the bulk of products that were transposed in 2002 to 2710.11 as light oils and preparations also be transposed to subheading 2710.19 as they may have a distillation point above the threshold provided for in Note 4 applicable to 2710.11 (now 2710.12). It is further proposed that the transposition be done retrospectively from 1 January 2002, being the date the threshold for distillation was introduced at an international level.

CLAUSE 55

Securities Transfer Tax Act: Amendments to section 1

The proposed amendment to the definition of "collateral arrangement" is a clarification that seeks to correct the reference to that of an identical share or bond as contemplated in paragraph (c) of that definition as to ensure the definition correctly describes the consequence of not returning an identical share or bond within a period of 24 months.

CLAUSE 56

Securities Transfer Tax Act: Amendments to section 8

The proposed amendment is a technical amendment that seeks to correct a grammatical error with reference to the spelling of "*intestato*".

CLAUSE 57

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

Sub-clauses (*a*) – (*b*): The proposed amendments seek to align the wording in both section 6A(1)(*a*) and section 6A(1A)(*a*) of the Mineral and Petroleum Resources Royalty Act to the wording of section 6(1)(*b*) and section 6(2)(*b*) of that Act respectively, in an effort to clarify that the gross sales would be the amount that would have been received or accrued during the year of assessment in respect of the transfer of that mineral resource had that resource been transferred at the condition specified or the minimum of the range of conditions specified for that mineral resource.

CLAUSE 58

Employment Tax Incentive Act: Amendment to section 1

See notes on **CURBING THE ABUSE OF THE EMPLOYMENT TAX INCENTIVE SCHEME**

CLAUSE 59

Employment Tax Incentive Act: Amendment to section 5

Sub-clauses (a) – (b): See notes on **CURBING THE ABUSE OF THE EMPLOYMENT TAX INCENTIVE SCHEME**

CLAUSE 60

Taxation Laws Amendment Act of 2013: Amendment to section 13

The proposed amendment postpones the effective date of amendments to sections 8F(3)(*b*)(ii), 8F(3)(*c*)(ii) and 8F(3)(*d*) from 1 January 2025 to 1 January 2026

CLAUSE 61

Taxation Laws Amendment Act of 2013: Amendment to section 15

The proposed amendment postpones the effective date of amendments to sections 8FA(3)(*b*)(ii), 8FA(3)(*c*)(ii) and 8FA(3)(*d*) from 1 January 2025 to 1 January 2026.

CLAUSE 62

Taxation Laws Amendment Act of 2013: Amendment to section 62

The proposed amendment postpones the effective date of certain amendments to section 23M from 1 January 2025 to 1 January 2026.

CLAUSE 63

Carbon Tax Act: Amendments to section 6

See notes on **RENEWABLE ENERGY PREMIUM DEDUCTION**

CLAUSE 64

Carbon Tax Act: Amendments to Schedule 1 of the Carbon Tax Act of 2019

Sub-clause (a): Proposed amendments to Table 1 and Table 2 - See notes on **ALIGNING SCHEDULE 1 OF THE CARBON TAX ACT WITH THE UPDATED GREENHOUSE GAS EMISSIONS METHODOLOGICAL GUIDELINES**

Sub-clause (b): Proposed amendments to Table 2 - See notes on **INCLUDING DEFAULT EMISSION FACTORS FOR ADDITIONAL FUGITIVE EMISSIONS SOURCE CATEGORIES**

CLAUSE 65

Taxation Laws Amendment Act 20 of 2021: Amendments to section 14

The proposed amendment seeks to extend the learnership tax incentive by another three years, to 1 April 2027, in line with the Minister's 2024 Budget announcement to further facilitate the evaluation of the tax incentive.

CLAUSE 66

Taxation Laws Amendment Act 17 of 2023: Amendments to section 11

The proposed amendment is a technical correction and is a consequential to amendments made in 2023 regarding the government policy that there should be no duplication of tax incentives in respect of a machinery, plant, implements, utensils and articles used in the production of renewable energy of which an allowance is granted in terms of 12BA of the Act.

CLAUSE 67

Taxation Laws Amendment Act 17 of 2023: Amendments to section 12

Sub-clauses (a) – (b): The proposed amendments are consequential corrections to amendments made in 2023 regarding various refinements made to research and development tax incentive.

CLAUSE 68

Taxation Laws Amendment Act 17 of 2023: Amendments to section 14

In 2023, Government inserted section 11G of the Act as a measure to replace SARS Practice Note 31 of 1994. After the publication of the Taxation Laws Amendment Act, 2023, comments were received from various stakeholders about certain reservations on section 11G of the Act which could create uncertainty in the application of section 11G of the Act. The proposed amendment seeks to postpone the effective date of this provision until 1 January 2026 to allow for further engagement between Government and stakeholders.

CLAUSE 69

Taxation Laws Amendment Act 17 of 2023: Amendments to section 47

The proposed amendment is a technical correction and consequential to amendments made in 2023 to update the reference from IAS 39 in the definition of "derivative" to the relevant International Financial Reporting Standards ("IFRS"), which is, IFRS 9 Financial Instruments.

CLAUSE 70

Short title and commencement