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Kaapstad,

THE PRESIDENCY

No. 1024 2 November 2010

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 7 of 2010: Taxation Laws Amendment Act, 2010

DIE PRESIDENSIE

Nr. 1024 2 November 2010

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Nr. 7 van 2010: Wysigingswet op Belastingwette, 2010



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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.

(English text signed by the President.)
(Assented to 31 October 2010.)

ACT

To—

- amend the Transfer Duty Act, 1949, so as to clarify a provision; to make new provision; and to correct a reference;
- amend the Estate Duty Act, 1955, so as to correct a reference and to clarify a provision;
- amend the Income Tax Act, 1962, so as to fix the rates of normal tax and amend monetary amounts; to amend, delete and insert certain definitions; to effect technical corrections; to repeal certain provisions; to amend certain provisions; to make new provision; and to effect textual and consequential amendments;
- amend the Customs and Excise Act, 1964, so as to amend rates of duty in Schedule No. 1; and to make provision for continuation;
- amend the Value-Added Tax Act, 1991, so as to amend certain definitions; to make new provision; and to amend certain provisions;
- amend the Revenue Laws Amendment Act, 2006, so as to amend the special measures relating to 2010 FIFA World Cup South Africa;
- amend the Securities Transfer Tax Act, 2007, so as to effect consequential amendments;
- amend the Revenue Laws Amendment Act, 2007, so as to amend a commencement date;
- amend the Mineral and Petroleum Resources Royalty Act, 2008, so as to amend and insert certain definitions; to clarify certain provisions; to make new provision; and to amend the Schedules;
- amend the Revenue Laws Amendment Act, 2008, so as to change commencement dates;
- amend the Taxation Laws Amendment Act, 2009, so as to change commencement dates; to clarify certain provisions; and to correct a reference;

and to provide for matters connected therewith.

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

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 31 Oktober 2010.)

WET

Tot—

- wysiging van die Wet op Hereregte, 1949, ten einde 'n bepaling duidelik te maak; 'n nuwe bepaling te verorden; en 'n verwysing reg te stel;
 - wysiging van die Boedelbelastingwet, 1955, ten einde 'n verwysing reg te stel en 'n bepaling duidelik te maak;
 - wysiging van die Inkomstebelastingwet, 1962, ten einde die skale van normale belasting vas te stel en bedrae te wysig; sekere woordomskrywings te wysig, te skrap en in te voeg; tegniese korreksies aan te bring; sekere bepalinge te herroep; sekere bepalinge te wysig; nuwe bepalinge te verorden; en tekstuele en gevolglike wysigings aan te bring;
 - wysiging van die Doeane- en Aksynswet, 1964, ten einde skale van reg in Bylae No. 1 te wysig; en vir voortsetting voorsiening te maak;
 - wysiging van die Wet op Belasting op Toegevoegde Waarde, 1991, ten einde sekere woordomskrywings te wysig; 'n nuwe bepaling te verorden; en sekere bepalinge te wysig;
 - wysiging van die Wysigingswet op Inkomstewette, 2006, ten einde die spesiale belastingmaatreëls met betrekking tot die 2010 FIFA Wêreldbeker Suid-Afrika te wysig;
 - wysiging van die Wet op Belasting op Oordrag van Sekuriteite, 2007, ten einde gevolglike wysigings aan te bring;
 - wysiging van die Wysigingswet op Inkomstewette, 2007, ten einde 'n inwerkingstredingsdatum te wysig;
 - wysiging van die “Mineral and Petroleum Resources Royalty Act, 2008”, ten einde sekere woordomskrywings te wysig en in te voeg; sekere bepalinge duidelik te maak; nuwe bepalinge te verorden; en die Bylaes te wysig;
 - wysiging van die Wysigingswet op Inkomstewette, 2008, ten einde inwerkingstredingsdatums te wysig;
 - wysiging van die Wysigingswet op Belastingwette, 2009, ten einde inwerkingstredingsdatums te wysig; sekere bepalinge duidelik te maak; en 'n verwysing reg te stel;
- en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Amendment of section 1 of Act 40 of 1949, as amended by section 11 of Act 80 of 1959, section 1 of Act 77 of 1964, section 5 of Act 103 of 1969, section 4 of Act 106 of 1980, section 1 of Act 86 of 1987, section 2 of Act 87 of 1988, Proclamation R.11 of 1994, section 8 of Act 37 of 1996, section 34 of Act 34 of 1997, section 1 of Act 5 of 2001, section 2 of Act 74 of 2002, section 1 of Act 45 of 2003 and section 1 of Act 17 of 2009 5

1. (1) Section 1 of the Transfer Duty Act, 1949, is hereby amended by the addition in the definition of “property” of the word “and” at the end of paragraph (f).
(2) Subsection (1) is deemed to have come into operation on 1 September 2009.

Insertion of section 3A in Act 40 of 1949 10

2. (1) The Transfer Duty Act, 1949, is hereby amended by the insertion after section 3 of the following section:

“Sharia compliant financing arrangements

3A. (1) For the purpose of the payment of duty in respect of any murabaha as defined in section 24JA(1) of the Income Tax Act, 1962 (Act No. 58 of 1962)— 15

- (a) the bank shall be deemed not to have acquired any property under the sharia arrangement; and
- (b) the client shall be deemed to have acquired property from the seller— 20
 - (i) for an amount equal to the consideration paid by the bank to the seller; and
 - (ii) at such time as the bank acquired the property from the seller by virtue of the transaction between the seller and the bank.

(2) For the purpose of the payment of the duty in respect of any diminishing musharaka as defined in section 24JA(1) of the Income Tax Act, 1962 (Act No. 58 of 1962)— 25

- (a) the bank shall be deemed not to have acquired any property under the sharia arrangement;
- (b) (i) where the bank and the client jointly acquire property, the client shall be deemed to have acquired the bank’s interest in the property— 30
 - (aa) for an amount equal to the amount paid by the bank in respect of the bank’s interest in the property; and
 - (bb) at the time that the seller of the asset was divested of any interest in the property by virtue of the transaction between the seller and the bank; and 35
- (ii) where the bank acquires an interest in property from the client, the bank shall be deemed not to have acquired any interest in property from the client and the client shall be deemed not to have subsequently acquired any interest in that property from the bank.” 40

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

Wysiging van artikel 1 van Wet 40 van 1949, soos gewysig deur artikel 11 van Wet 80 van 1959, artikel 1 van Wet 77 van 1964, artikel 5 van Wet 103 van 1969, artikel 4 van Wet 106 van 1980, artikel 1 van Wet 86 van 1987, artikel 2 van Wet 87 van 1988, Proklamasie R.11 van 1994, artikel 8 van Wet 37 van 1996, artikel 34 van Wet 34 van 1997, artikel 1 van Wet 5 van 2001, artikel 2 van Wet 74 van 2002, artikel 1 van Wet 45 van 2003 en artikel 1 van Wet 17 van 2009 5

1. (1) Artikel 1 van die Wet op Hereregte, 1949, word hierby gewysig deur in die omskrywing van “eiendom” die woord “en” aan die einde van paragraaf (f) by te voeg.
(2) Subartikel (1) word geag op 1 September 2009 in werking te getree het.

Invoeging van artikel 3A in Wet 40 van 1949 10

2. (1) Die Wet op Hereregte, 1949, word hierby gewysig deur na artikel 3 die volgende artikel in te voeg:

“Finansieringsreëlings ingevolge sharia

3A. (1) Ten behoeve van die betaling van reg ten opsigte van ’n murabaha soos omskryf in artikel 24JA(1) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962)— 15

(a) word die bank geag nie enige eiendom kragtens die sharia-reëling te verkry het nie; en

(b) word die kliënt geag eiendom van die verkoper te verkry het— 20

(i) vir ’n bedrag gelykstaande aan die vergoeding betaalbaar deur die bank aan die verkoper; en

(ii) op die tydstip wat die bank die eiendom uit hoofde van die transaksie tussen die verkoper en die bank van die verkoper verkry het. 25

(2) Ten behoeve van die betaling van reg ten opsigte van ’n afnemende musharaka soos omskryf in artikel 24JA(1) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962)— 25

(a) word die bank geag nie enige eiendom kragtens die sharia-reëling te verkry het nie;

(b) (i) waar die bank en die kliënt gesamentlik eiendom verkry, word die kliënt geag die bank se belang in die eiendom te verkry het— 30

(aa) vir ’n bedrag gelykstaande aan die vergoeding betaal deur die bank ten opsigte van die bank se belang in die eiendom; en 35

(bb) op die tydstip wat die verkoper van die bate uit hoofde van die transaksie tussen die verkoper en die bank van enige belang in die eiendom ontdoen is; en

(ii) waar die bank ’n belang in eiendom van die kliënt verkry, word die bank geag nie enige belang in eiendom van die kliënt te verkry het nie en word die kliënt geag nie daaropvolgens enige belang in daardie eiendom van die bank te verkry het nie.”. 40

(2) Subartikel (1) tree in werking op ’n datum deur die Minister van Finansies by kennisgewing in die *Staatskoerant* bepaal.

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

3. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended—

(a) by the deletion in subsection (1)(l)(iv) of item (aa); and

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

“(20) No duty shall be payable in respect of any acquisition of any interest in a residence as contemplated in paragraph 51 or 51A of the Eighth Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962), where that acquisition takes place as a result of a transfer or disposal contemplated in [that paragraph] either of those paragraphs.”

(2) Paragraph (a) of subsection (1) is deemed to have come into operation 1 January 2009 and applies in respect of transactions entered into on or after that date.

(3) Paragraph (b) of subsection (1) comes into operation on 1 October 2010 and applies in respect of acquisitions taking place on or after that date and before 1 January 2013.

Amendment of section 4A of Act 45 of 1955, as substituted by section 5 of Act 17 of 2009

4. (1) Section 4A of the Estate Duty Act, 1955, is hereby amended—

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

“(b) the amount specified in subsection (1) divided by the number of spouses, reduced by an amount which is determined by dividing the amount deducted, in accordance with [subsection (1)] this section, from the net value of the estate of the previously deceased person by the number of spouses of that previously deceased person.”; and

(b) by the addition after subsection (5) of the following subsection:

“(6) Where a person and his or her spouse die simultaneously, the person of whom the net value of the estate, determined in accordance with section 4, is the smallest must be deemed for the purposes of this section to have died immediately prior to his or her spouse.”

(2) Subsection (1) is deemed to have come into operation on 1 January 2010 and applies in respect of the estate of a person who dies on or after that date.

Fixing of rates of normal tax and amendment of certain amounts for purposes of Act 58 of 1962

5. (1) The rates of tax fixed by Parliament in terms of section 5(2) of the Income Tax Act, 1962, are set out in paragraphs 1, 3, 4, 5, 6 and 8 of Appendix I to this Act.

(2) The rate of tax fixed by Parliament in terms of section 48B(1) of the Income Tax Act, 1962, is set out in paragraph 7 of Appendix I to this Act.

(3) The Income Tax Act, 1962, is hereby amended by the substitution for the amounts in section 6(2)(a) and (b) respectively of the amounts in the third column opposite the relevant section in the table in paragraph 2 of Appendix I to this Act.

(4) For the purposes of Appendix I to this Act any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, bears the meaning so assigned unless the context indicates otherwise.

Wysiging van artikel 9 van Wet 40 van 1949, soos gewysig deur artikel 3 van Wet 31 van 1953, artikel 12 van Wet 80 van 1959, artikel 3 van Wet 70 van 1963, artikel 3 van Wet 77 van 1964, artikel 1 van Wet 81 van 1965, artikel 7 van Wet 103 van 1969, artikel 2 van Wet 89 van 1972, artikel 3 van Wet 66 van 1973, artikel 5 van Wet 88 van 1974, artikel 77 van Wet 54 van 1976, artikel 2 van Wet 95 van 1978, artikel 6 van Wet 106 van 1980, artikel 2 van Wet 99 van 1981, artikel 2 van Wet 118 van 1984, artikel 3 van Wet 81 van 1985, artikel 3 van Wet 86 van 1987, artikel 4 van Wet 87 van 1988, artikel 36 van Wet 9 van 1989, artikel 1 van Wet 69 van 1989, artikel 79 van Wet 89 van 1991, artikel 6 van Wet 120 van 1992, artikel 4 van Wet 136 van 1992, artikel 5 van Wet 97 van 1993, artikel 2 van Wet 37 van 1995, artikel 4 van Wet 126 van 1998, artikel 3 van Wet 32 van 1999, artikel 3 van Wet 30 van 2000, artikel 2 van Wet 5 van 2001, artikel 8 van Wet 60 van 2001, artikel 3 van Wet 30 van 2002, artikel 4 van Wet 74 van 2002, artikel 3 van Wet 45 van 2003, artikel 2 van Wet 16 van 2004, artikel 2 van Wet 32 van 2004, artikel 2 van Wet 31 van 2005, artikel 16 van Wet 9 van 2006, artikel 1 van Wet 20 van 2006, artikel 2 van Wet 35 van 2007, artikel 1 van Wet 60 van 2008 en artikel 3 van Wet 17 van 2009

3. (1) Artikel 9 van die Wet op Hereregte, 1949, word hierby gewysig—

(a) deur in subartikel (1)(l)(iv) item (aa) te skrap; en

(b) deur subartikel (20) deur die volgende subartikel te vervang:

“(20) Geen hereregte is betaalbaar nie ten opsigte van die verkryging van ’n belang in ’n woning soos beoog in paragraaf 51 of 51A van die Agtste Bylae by die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), waar daardie verkryging plaasvind as gevolg van ’n oordrag of vervoer van daardie [paragraaf] paragrafe beoog.”

(2) Paragraaf (a) van subartikel (1) word geag op 1 Januarie 2009 in werking te getree het en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

(3) Paragraaf (b) van subartikel (1) tree op 1 Oktober 2010 in werking en is van toepassing ten opsigte van verkrygings wat op of na daardie datum en voor 1 Januarie 2013 plaasvind.

Wysiging van artikel 4A van Wet 45 van 1955, soos vervang deur artikel 5 van Wet 17 van 2009

4. (1) Artikel 4A van die Boedelbelastingwet, 1955, word hierby gewysig—

(a) deur in subartikel (3) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) die bedrag in subartikel (1) vermeld gedeel deur die getal gades, verminder met ’n bedrag wat bepaal word deur die bedrag ooreenkomstig [subartikel (1)] hierdie artikel van die netto waarde van die vooroorlede persoon se boedel afgetrek, deur die getal gades van daardie vooroorlede persoon te deel.”; en

(b) deur na subartikel (5) die volgende subartikel by te voeg:

“(6) Waar ’n persoon en sy of haar gade gelyktydig sterf, moet die persoon van wie die netto-waarde van die boedel, ooreenkomstig artikel 4 bepaal, die kleinste is by die toepassing van hierdie artikel geag word onmiddellik voor sy of haar gade te gesterf het.”

(2) Subartikel (1) word geag op 1 Januarie 2010 in werking te getree het en is van toepassing ten opsigte van die boedel van ’n persoon wat op of na daardie datum sterf.

Vasstelling van skale van normale belasting en wysiging van sekere bedrae vir doeleindes van Wet 58 van 1962

5. (1) Die skale van belasting ingevolge artikel 5(2) van die Inkomstebelastingwet, 1962, deur die Parlement vasgestel, word in paragrafe 1, 3, 4, 5, 6 en 8 van Aanhangel I tot hierdie Wet uiteengesit.

(2) Die skaal van belasting ingevolge artikel 48B(1) van die Inkomstebelastingwet, 1962, deur die Parlement vasgestel, word in paragraaf 7 van Aanhangel I tot hierdie Wet uiteengesit.

(3) Die Inkomstebelastingwet, 1962, word hierby gewysig deur die bedrae in artikel 6(2)(a) en (b) onderskeidelik deur die bedrae in die derde kolom teenoor die tersaaklike artikel in die tabel in paragraaf 2 van Aanhangel I tot hierdie Wet te vervang.

(4) Vir doeleindes van Aanhangel I tot hierdie Wet dra enige woord of uitdrukking waaraan ’n betekenis in die Inkomstebelastingwet, 1962, geheg is die betekenis aldus daaraan geheg, tensy uit die samehang anders blyk.

- (5) Subject to subsection (6), the rates of tax referred to in subsection (1) and the amounts referred to in subsection (3) apply in respect of—
- (a) any person (other than a company or a trust other than a special trust) for the year of assessment commencing on or after 1 March 2010;
 - (b) any company for any year of assessment ending during the period of 12 months ending on 31 March 2011; and
 - (c) any trust (other than a special trust) for any year of assessment ending on 28 February 2011.
- (6) The rate of tax referred to in subsection (2) applies in respect of the taxable turnover of a person that was a registered micro business as defined in paragraph 1 of the Sixth Schedule to the Income Tax Act, 1962, in respect of any year of assessment commencing on or after 1 March 2010.

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R780 of 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, Government Notice No. 46 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, Government Notice No. 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 and section 7 of Act 17 of 2009

6. (1) Section 1 of the Income Tax Act, 1962, is hereby amended—
- (a) by the deletion of the definition of “capitalization shares”;
 - (b) by the substitution in the definition of “company” for subparagraph (ii) of paragraph (e) of the following subparagraph:
 - “(ii) **[arrangement or]** 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 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, 2002 (Act No. 45 of 2002)), are invited or permitted to **[invest in a portfolio of a collective investment scheme, where one or more investors]** contribute to and hold **[a]** participatory **[interest]** interests in **[a]** that portfolio **[of the scheme]** through shares, units or any other form of participatory interest; or”;

(5) Behoudens subartikel (6) is die skale van belasting bedoel in subartikel (1) en die bedrae bedoel in subartikel (3) van toepassing ten opsigte van—

- (a) enige persoon (behalwe 'n maatskappy of 'n trust buiten 'n spesiale trust) vir die jaar van aanslag wat op of na 1 Maart 2010 begin;
- (b) enige maatskappy vir enige jaar van aanslag wat eindig gedurende die tydperk van 12 maande wat op 31 Maart 2011 eindig; en
- (c) enige trust (buiten 'n spesiale trust) vir enige jaar van aanslag wat op 28 Februarie 2011 eindig.

(6) Die skaal van belasting bedoel in subartikel (2) is van toepassing ten opsigte van die belasbare omset van 'n persoon wat 'n geregistreerde mikrobegigheid soos omskryf in paragraaf 1 van die Sesde Bylae by die Inkomstebelastingwet, 1962, was ten opsigte van enige jaar van aanslag wat op of na 1 Maart 2010 begin.

Wysiging van artikel 1 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 90 van 1962, artikel 1 van Wet 6 van 1963, artikel 4 van Wet 72 van 1963, artikel 4 van Wet 90 van 1964, artikel 5 van Wet 88 van 1965, artikel 5 van Wet 55 van 1966, artikel 5 van Wet 76 van 1968, artikel 6 van Wet 89 van 1969, artikel 6 van Wet 52 van 1970, artikel 4 van Wet 88 van 1971, artikel 4 van Wet 90 van 1972, artikel 4 van Wet 65 van 1973, artikel 4 van Wet 85 van 1974, artikel 4 van Wet 69 van 1975, artikel 4 van Wet 103 van 1976, artikel 4 van Wet 113 van 1977, artikel 3 van Wet 101 van 1978, artikel 3 van Wet 104 van 1979, artikel 2 van Wet 104 van 1980, artikel 2 van Wet 96 van 1981, artikel 3 van Wet 91 van 1982, artikel 2 van Wet 94 van 1983, artikel 1 van Wet 30 van 1984, artikel 2 van Wet 121 van 1984, artikel 2 van Wet 96 van 1985, artikel 2 van Wet 65 van 1986, artikel 1 van Wet 108 van 1986, artikel 2 van Wet 85 van 1987, artikel 2 van Wet 90 van 1988, artikel 1 van Wet 99 van 1988, Goewermentskennisgewing No. R780 van 1989, artikel 2 van Wet 70 van 1989, artikel 2 van Wet 101 van 1990, artikel 2 van Wet 129 van 1991, artikel 2 van Wet 141 van 1992, artikel 2 van Wet 113 van 1993, artikel 2 van Wet 21 van 1994, Goewermentskennisgewing No. 46 van 1994, artikel 2 van Wet 21 van 1995, artikel 2 van Wet 36 van 1996, artikel 2 van Wet 28 van 1997, artikel 19 van Wet 30 van 1998, Goewermentskennisgewing No. 1503 van 1998, artikel 10 van Wet 53 van 1999, artikel 13 van Wet 30 van 2000, artikel 2 van Wet 59 van 2000, artikel 5 van Wet 5 van 2001, artikel 3 van Wet 19 van 2001, artikel 17 van Wet 60 van 2001, artikel 9 van Wet 30 van 2002, artikel 6 van Wet 74 van 2002, artikel 33 van Wet 12 van 2003, artikel 12 van Wet 45 van 2003, artikel 3 van Wet 16 van 2004, artikel 3 van Wet 32 van 2004, artikel 3 van Wet 32 van 2005, artikel 19 van Wet 9 van 2006, artikel 3 van Wet 20 van 2006, artikel 3 van Wet 8 van 2007, artikel 5 van Wet 35 van 2007, artikel 2 van Wet 3 van 2008, artikel 4 van Wet 60 van 2008 en artikel 7 van Wet 17 van 2009

6. (1) Artikel 1 van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur in die omskrywing van “aandeelhouer” paragrawe (a) en (b) deur die volgende paragrawe te vervang:

“(a) met betrekking tot 'n maatskappy bedoel in paragraaf (a), (b) of (d) van die omskrywing van ‘maatskappy’ in hierdie artikel, die geregistreerde aandeelhouer ten opsigte van 'n aandeel, behalwe dat wanneer 'n ander persoon as die geregistreerde aandeelhouer geregtig is, hetsy [uit hoofde van 'n bepaling van die akte van oprigting of statute van die maatskappy of] ingevolge die voorwaardes van 'n ooreenkoms of kontrak of andersins, op die voordeel of 'n deel van die voordeel van die regte [om in die winste, inkomste of kapitaal] verbonde aan die aldus geregistreerde aandeel [te deel], daardie ander persoon vir sover daardie ander persoon op bedoelde voordeel geregtig is ook geag word 'n aandeelhouer te wees; of

- (b) met betrekking tot enige maatskappy bedoel in paragraaf (e) van genoemde omskrywing, die geregistreerde besitter van 'n onderaandeelcertifikaat uitgereik ten opsigte van 'n onderaandeel ingesluit by die betrokke effektegroepe, behalwe dat waar 'n ander persoon as die geregistreerde besitter van 'n onderaandeel geregtig is, hetsy uit hoofde van 'n bepaling in die trustakte aangegaan vir die doeleindes van die betrokke effekte-trustskema of ingevolge die voorwaardes van 'n ooreenkoms of kontrak of andersins, op die

- (c) by the substitution in the definition of “company” for paragraph (f) of the following paragraph:
“(f) a close corporation[;];”;
- (d) by the addition to the definition of “company” of the following words:
“but does not include a foreign partnership;”;
- (e) by the substitution in the definition of “connected person” for subparagraphs (iv) and (v) of paragraph (d) of the following subparagraphs:
“(iv) any person, other than a company as defined in section 1 of the Companies Act, [1973 (Act No. 61 of 1973)] 2008 (Act No.71 of 2008), who individually or jointly with any connected person in relation to himself, holds, directly or indirectly, at least 20 per cent of **[the company’s equity share capital or voting rights]**—
(aa) the equity shares in the company; or
(bb) the voting rights in the company;
- (v) any other company if at least 20 per cent of the equity **[share capital of such]** shares in the company **[is]** are held by **[such]** that other company, and no shareholder holds the majority voting rights **[of such]** in the company;”;
- (f) by the substitution for the definition of “contributed tax capital” of the following definition:
“**‘contributed tax capital’**, in relation to a class of shares issued by a company, means—
(a) in the case of a company that is not a resident and that becomes a resident on or after 1 January 2011, an amount equal to the sum of—
(i) the market value of all shares in that company immediately before the date on which that company becomes a resident; and
(ii) the consideration received by or accrued to that company for the issue of shares on or after that date; or
(b) in the case of any other company, an amount equal to the sum of—
[(a)] (i) the stated capital or share capital and share premium of that company immediately before **[the effective date as defined in section 64D]** 1 January 2011 in relation to shares issued by that company before that date, less so much of the stated capital or share capital and share premium as would have constituted a dividend, as defined before that date, had the stated capital or share capital and share premium been distributed by that company immediately before that date; and
[(b)] (ii) the consideration received by or accrued to **[the]** that company for the issue of shares on or after that date,
reduced by so much of that amount as the company has transferred on or after that date to shareholders in relation to those shares, and has by the date of the transfer been determined by the directors of the company or by some other person or body of persons with comparable authority **[conferred under the memorandum or articles of association of the company]** to be an amount so transferred: Provided that the amount so transferred to a shareholder of any class of shares is deemed to be an amount that bears to the total of the amount of contributed tax capital attributable to that class of shares immediately before the distribution the same ratio as the number of shares of that class held by that shareholder bears to the total number of shares of that class;”;

- voordeel of 'n deel van die voordeel van die regte **[om in die winste, inkomste of kapitaal]** verbonde aan die onderaandeel-sertifikaat **[te deel]**, daardie ander persoon vir sover daardie ander persoon op bedoelde voordeel geregtig is ook geag word 'n aandeelhouer te wees;”;
- (b) deur na die omskrywing van “belastingpligtige” die volgende omskrywing in te voeg: 5
“‘belastingvoordeel’ ook enige vermyding, uitstel of vermindering van enige aanspreeklikheid vir belasting;”;
- (c) deur in die omskrywing van “bruto inkomste” na paragraaf (l) die volgende paragraaf in te voeg: 10
“(lA) enige bedrag ontvang deur of toegeval aan 'n maatskappy of vereniging soos in subparagraaf (ii) van artikel 11E beoog;”;
- (d) deur in paragraaf (m) van die omskrywing van “bruto inkomste” die voorbehoudsbepaling deur die volgende voorbehoudsbepaling te vervang: 15
 “: Met dien verstande dat waar—
- (i) 'n bedrag ontvang of toegeval kragtens of by afkoop van of beskikking oor so 'n polis by die belastingpligtige se bruto inkomste ingesluit staan te word, die bedrag wat aldus by **[sy]** die belastingpligtige se bruto inkomste ingesluit moet word, verminder word met die bedrag van enige lening of voorskot ingevolge of op sekuriteit van daardie polis wat by sy bruto inkomste ingesluit is, hetsy in die lopende of 'n vorige jaar van aanslag[:]; 20
- (ii) **[Met dien verstande voorts dat waar]** so 'n polis deur die versekeraar beëindig is en 'n opbetaalde polis uitgereik is, die beëindigde polis en die opbetaalde polis by die toepassing van hierdie paragraaf geag word een en dieselfde polis te wees; 25
- (iii) 'n enkelbedrag wat deur of aan die belastingpligtige ontvang is of toegeval het kragtens of by afkoop van of beskikking oor sodanige polis, die bedrag by die belastingpligtige se bruto inkomste ingesluit te word, verminder word deur 'n bedrag (wat nie sodanige enkelbedrag oorskry nie) gelykwaardig aan soveel van die premies deur die belastingpligtige kragtens sodanige polis betaal as wat nie tevore vir aftrekking van die belastingpligtige se inkomste gekwalifiseer het nie; en 30
- (iv) enige bedrag ten opsigte van 'n polis soos beoog in— 35
 (aa) artikel 11(w) indien daardie polis voor 1 Januarie 2011 aangegaan is; of
 (bb) artikel 11(w)(ii) indien daardie polis op of na 1 Januarie 2011 aangegaan is, 40
 ontvang word of toeval aan 'n ander persoon as die belastingpligtige na 'n sedering van daardie polis aan daardie ander persoon, hierdie paragraaf nie van toepassing is nie”;
- (e) deur in die omskrywing van “bruto inkomste” na paragraaf (m) die volgende paragraaf in te voeg: 45
“(mA) 'n bedrag ten opsigte van 'n polis soos beoog in—
- (i) artikel 11(w) indien daardie polis voor 1 Januarie 2011 aangegaan is; of
- (ii) artikel 11(w)(ii) indien daardie polis op of na 1 Januarie 2011 aangegaan is, 50
 wat ontvang word deur of toeval aan 'n ander persoon as die belastingpligtige beoog in paragraaf (m) na sedering van daardie polis, verminder deur 'n bedrag, wat nie die bedrag aldus ontvang of toegeval oorskry nie, gelykwaardig aan soveel van die premies betaal deur enige persoon as wat vir aftrekking in berekening gebring is, maar wat nie toegelaat is nie slegs omrede die feit dat die bedrag die bedrag van die aftrekking toelaatbaar ten opsigte van die jaar van aanslag oorskry het;”;
- (f) deur die omskrywing van “buitelandse dividend” deur die volgende omskrywing te vervang: 55
“‘buitelandse dividend’ enige bedrag betaal of betaalbaar deur 'n buitelandse maatskappy waar daardie bedrag as 'n dividend of soortgelyke betaling behandel word deur daardie buitelandse maatskappy by die toepassing van die wette met betrekking tot— 60

- (g) by the substitution for the definition of “equity share capital” of the following definition:
 “**‘equity share’** means, in relation to any company, any share or similar interest in that company, excluding any share or similar interest that does not carry any right to participate beyond a specified amount in a distribution;”;
- (h) by the insertion after the definition of “financial year” of the following definition:
 “**‘foreign company’** means any company which is not a resident;”;
- (i) by the substitution for the definition of “foreign dividend” of the following definition:
 “**‘foreign dividend’** means any amount that is paid or payable by a foreign company where that amount is treated as a dividend or similar payment by that foreign company for the purposes of the laws relating to—
 (a) tax on income of the country in which that foreign company is incorporated, formed or established; or
 (b) companies of the country in which that foreign company is incorporated, formed or established, where that country does not have any applicable laws relating to tax on income;”;
- (j) by the insertion after the definition of “foreign equity instrument” of the following definition:
 “**‘foreign partnership’**, in respect of any year of assessment, means any partnership, association or body of persons formed or established under the laws of any country other than the Republic if—
 (a) for the purposes of the laws relating to tax on income of the country in which that partnership, association or body of persons is formed or established—
 (i) each member of the partnership, association or body of persons is required to take into account the member’s interest in any amount received by or accrued to that partnership, association or body of persons when that amount is received by or accrued to the partnership, association or body of persons; and
 (ii) the partnership, association or body of persons is not liable for or subject to any tax on income in that country; or
 (b) where the country in which that partnership, association or body of persons is formed or established does not have any applicable laws relating to tax on income—
 (i) any amount—
 (aa) that is received by or accrues to; or
 (bb) of expenditure that is incurred by, the partnership, association or body of persons is allocated concurrently with the receipt, accrual or incurrence to the members of that partnership, association or body of persons in terms of an agreement between those members; and
 (ii) no amount distributed to a member of a partnership, association or body of persons may exceed the allocation contemplated in subparagraph (i) after taking into account any prior distributions made by the partnership, association or body of persons;”;
- (k) by the insertion before the definition of “government grant” of the following definition:
 “**‘functional currency’**, in relation to—
 (a) a person, means the currency of the primary economic environment in which the business operations of that person are conducted; and
 (b) a permanent establishment of any person, means the currency of the primary economic environment in which the business operations of that permanent establishment are conducted;”;

- (a) belasting op inkomste van die land waarin daardie buitelandse maatskappy ingelyf, gestig of opgerig is; of
- (b) maatskappy van die land waarin daardie buitelandse maatskappy ingelyf, gestig of opgerig is, waar daardie land geen toepaslike wette met betrekking tot belasting op inkomste het nie;”;
- (g) deur na die omskrywing van “buitelandse ekwiteitsinstrument” die volgende omskrywing in te voeg:
 “**‘buitelandse maatskappy’** enige maatskappy wat nie ’n inwoner is nie;”;
- (h) deur voor die omskrywing van “buurstaat” die volgende omskrywing in te voeg:
 “**‘buitelandse vennootskap’**, ten opsigte van enige jaar van aanslag, enige vennootskap, vereniging of liggaam van persone gestig of opgerig kragtens die wette van enige ander land as die Republiek indien—
- (a) by die toepassing van die wette met betrekking tot belasting op inkomste van die land waarin daardie vennootskap, vereniging of liggaam van persone gestig of opgerig is—
- (i) elke lid van die vennootskap, vereniging of liggaam van persone verplig is om in berekening te bring die lid se belang in enige bedrag ontvang deur of toegeval aan daardie vennootskap, vereniging of liggaam van persone wanneer daardie bedrag deur die vennootskap, vereniging of liggaam van persone ontvang word of daaraan toeval; en
- (ii) die vennootskap, vereniging of liggaam van persone nie in daardie land aanspreeklik vir of onderhewig aan belasting op inkomste is nie; of
- (b) waar die land waarin daardie vennootskap, vereniging of liggaam van persone gestig of opgerig is nie toepaslike wette met betrekking tot belasting op inkomste het nie—
- (i) enige bedrag—
- (aa) wat ontvang word deur of toeval aan; of
- (bb) van uitgawes aangegaan deur, die vennootskap, vereniging of liggaam van persone tegelykertyd met die ontvangs, toevalling of aangaan aan die lede van daardie vennootskap, vereniging of liggaam van persone toegeken word ingevolge ’n ooreenkoms tussen daardie lede; en
- (ii) geen bedrag uitgekeer aan ’n lid van ’n vennootskap, vereniging of liggaam van persone die toekenning beoog in subparagraaf (i) mag oorskry nie, na inagneming van enige vorige uitkerings deur die vennootskap, vereniging of liggaam van persone gemaak;”;
- (i) deur die omskrywing van “ekwiteitsaandelekapitaal” deur die volgende omskrywing te vervang:
 “**‘ekwiteitsaandeel’**, met betrekking tot enige maatskappy, enige aandeel of soortgelyke belang in daardie maatskappy, behalwe enige aandeel of soortgelyke belang wat nie enige reg tot deelneming bo ’n bepaalde bedrag in ’n uitkering inhou nie;”;
- (j) deur na die omskrywing van “finansiële instrument” die volgende omskrywing in te voeg:
 “**‘funksionele geldeenheid’**, met betrekking tot—
- (a) ’n persoon, die geldeenheid van die primêre ekonomiese omgewing waarin die sakebedryghede van daardie persoon gevoer word; en
- (b) ’n permanente saak van enige persoon, die geldeenheid van die primêre ekonomiese omgewing waarin die sakebedryghede van daardie permanente saak gevoer word;”;
- (k) deur in die omskrywing van “genoteerde maatskappy” paragraaf (a) deur die volgende paragraaf te vervang:
 “(a) ’n beurs soos in artikel 1 van die ‘Securities Services Act, 2004’ (Wet No. 36 van 2004), omskryf en wat kragtens artikel 10 van daardie Wet gelisensieer is; of”;

- (l) by the insertion in the definition of “gross income” after paragraph (l) of the following paragraph:
 “(lA) any amount received by or accrued to a company or association as contemplated in subparagraph (ii) of section 11E;”;
- (m) by the substitution in paragraph (m) of the definition of “gross income” for the proviso of the following proviso:
 “: Provided that where—
 (i) any amount received or accrued under or upon the surrender or disposal of any such policy falls to be included in the taxpayer’s gross income, the amount so to be included in [his] the taxpayer’s gross income shall be reduced by the amount of any loan or advance under or upon security of the policy which has been included in [his] the taxpayer’s gross income, whether in the current or any previous year of assessment [:];
 (ii) [Provided further that where] any such policy has been terminated by the insurer and a paid-up policy has been issued, the terminated policy and the paid-up policy shall for the purposes of this paragraph be deemed to be one and the same policy;
 (iii) a lump sum that has been received by or has accrued to the taxpayer under or upon the surrender or disposal of such policy, the amount that falls to be included in the taxpayer’s gross income shall be reduced by an amount (not exceeding such lump sum) equal to so much of the premiums paid by the taxpayer under such policy as has not previously qualified for deduction from the taxpayer’s income; and
 (iv) any amount in respect of a policy as contemplated in—
 (aa) section 11(w) if that policy was concluded prior to 1 January 2011; or
 (bb) section 11(w)(ii) if that policy was concluded on or after 1 January 2011,
 is received by or accrues to a person other than the taxpayer subsequent to a cession of that policy to that other person, this paragraph does not apply”;
- (n) by the insertion in the definition of “gross income” after paragraph (m) of the following paragraph:
 “(mA) any amount in respect of a policy as contemplated in—
 (i) section 11(w) if that policy was concluded prior to 1 January 2011; or
 (ii) section 11(w)(ii) if that policy was concluded on or after 1 January 2011,
 that is received by or accrues to a person other than the taxpayer contemplated in paragraph (m) subsequent to a cession of that policy, reduced by an amount not exceeding the amount so received or accrued equal to so much of the premiums paid by any person that ranked for deduction but has been disallowed solely by reason of the fact that the amount exceeded the amount of the deduction allowable in respect of the year of assessment;”;
- (o) by the insertion after the definition of “group of companies” of the following definition:
 “ ‘headquarter company’, in respect of any year of assessment, means any company that is a resident if—
 (a) for the duration of that year of assessment and of all previous years of assessment of that company, each shareholder (whether alone or together with any other company forming part of the same group of companies as the shareholder) held 20 per cent or more of the equity shares and voting rights in that company;
 (b) at the end of that year of assessment and of all previous years of assessment of that company, 80 per cent or more of the cost of the total assets of the company was attributable to one or more of the following:
 (i) any interest in equity shares in;
 (ii) any amount loaned or advanced to; or

- (l) deur die omskrywing van “handelsvoorraad” deur die volgende omskrywing te vervang:
- “**handelsvoorraad**”—
- (a) ook—
- [(a) **enigiets**—] 5
- (i) enigiets deur ’n belastingpligtige vir die doeleindes van vervaardiging, verkoop of ruil deur of ten behoeve van [**hom**] die belastingpligtige geproduseer, vervaardig, opgerig, aam- mekaargesit, gekoop of op ’n ander wyse verkry[, of];
- (ii) enigiets waarvan die opbrengs uit die van die hand sit daarvan 10
deel van [**sy**] die belastingpligtige se bruto inkomste uitmaak of sal uitmaak, anders as—
- (aa) ingevolge paragraaf (j) of (m) van die woordomskrywing van ‘bruto inkomste’[,];
- (bb) ingevolge paragraaf 14 van die Eerste Bylae; of 15
- (cc) as ’n vergoeding of verhaling in artikel 8(4) bedoel wat ingevolge paragraaf (n) van daardie woordomskrywing by bruto inkomste ingesluit is; of
- [(b)] (iii) enige verbruikbare voorrade en onderdele deur [**hom**] die belastingpligtige verkry om gebruik of verbruik te word in die 20
loop van [**sy**] die belastingpligtige se bedryf[,]; maar
- (b) nie ook—
- (i) ’n buitelandse valuta-opsiekontrak [**en**]; of
- (ii) ’n valutatermykontrak, 25
soos in artikel 24I(1) omskryf nie;”;
- (m) deur voor die omskrywing van “hotelhouer” die volgende omskrywing in te voeg:
- “**hoofkwartiermaatskappy**’, ten opsigte van ’n jaar van aanslag, enige maatskappy wat ’n inwoner is indien—
- (a) vir die duur van daardie jaar van aanslag en van alle vorige jare van 30
aanslag van daardie maatskappy, elke aandeelhouer (hetsy alleen of tesame met enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as die aandeelhouer) 20 persent of meer van die ekwiteitsaandeel en stemregte in daardie maatskappy gehou het;
- (b) aan die einde van daardie jaar van aanslag en van alle vorige jare 35
van aanslag van daardie maatskappy, 80 persent of meer van die koste van die totale bates van die maatskappy toeskryfbaar was aan een of meer van die volgende:
- (i) enige belang in ekwiteitsaandeel in;
- (ii) enige bedrag geleen of voorgesket aan; of 40
- (iii) enige immateriële goedere soos omskryf in artikel 23I(1) wat deur daardie maatskappy gelisensiër is aan, 45
enige buitelandse maatskappy waarin daardie maatskappy (hetsy alleen of tesame met enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie maatskappy) minstens 20 persent van die ekwiteitsaandeel en stemregte gehou het; en
- (c) 80 persent of meer van die totale ontvangste en toevallings van daardie maatskappy vir daardie jaar van aanslag bestaan het uit bedrae in die vorm van een of albei van die volgende: 50
- (i) enige dividend, rente, tantième of fooi betaal of betaalbaar deur enige buitelandse maatskappy beoog in paragraaf (b); of
- (ii) enige opbrengs uit die beskikking oor enige belang beoog in paragraaf (b)(i) of van enige immateriële goedere beoog in paragraaf (b)(iii);”;
- (n) deur die omskrywing van “kapitalisasie-aandeel” te skrap; 55
- (o) deur na die omskrywing van “koöperasie” die volgende omskrywing in te voeg:
- “**kwalifiserende belegger**’ ’n lid van ’n vennootskap of buitelandse vennootskap of ’n bevoordeelde van ’n trust indien die aanspreeklikheid van die lid of bevoordeelde teenoor enige krediteur van die vennootskap, trust of buitelandse vennootskap beperk is tot die bedrag wat die lid of bevoordeelde bygedra het of onderneem het om by te dra tot die 60

- (iii) any intellectual property as defined in section 231(1) that is licensed by that company to, any foreign company in which that company (whether alone or together with any other company forming part of the same group of companies as that company) held at least 20 per cent of the equity shares and voting rights; and 5
- (c) 80 per cent or more of the total receipts and accruals of that company for that year of assessment consisted of amounts in the form of one or both of the following: 10
- (i) any dividend, interest, royalty or fee paid or payable by any foreign company contemplated in paragraph (b); or
- (ii) any proceeds from the disposal of any interest contemplated in paragraph (b)(i) or of any intellectual property contemplated in paragraph (b)(iii);
- (p) by the substitution in the definition of “listed company” for paragraph (a) of the following paragraph: 15
- “(a) an exchange as defined in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004), and licensed under section 10 of [the Securities Services Act, 2004] that Act; or”;
- (q) by the deletion of the definition of “nominal value”; 20
- (r) by the substitution in the definition of “pension fund” for the further proviso to paragraph (c) of the following further proviso: 25
- “: Provided further that a fund contemplated in [subparagraph] paragraph (i) of the further proviso to the definition of ‘pension preservation fund’ which is deemed to be approved or which is approved in terms of that definition or which fails to submit its rules as required by that paragraph is deemed with effect from the earlier of the date of the deemed approval or 30 September [2009] 2010 to be a fund which is not approved in terms of this definition”;
- (s) by the substitution in the definition of “pension preservation fund” for item (bb) of paragraph (a)(i) of the proviso of the following item: 30
- “(bb) the winding up or partial winding up of that fund, if the member elects or is required in terms of the rules to transfer to this fund; or”;
- (t) by the substitution in the definition of “pension preservation fund” for item (aa) of paragraph (a)(ii) of the proviso of the following item: 35
- “(aa) if that fund was wound up or partially wound up; or”;
- (u) by the substitution in the definition of “pension preservation fund” for the further proviso of the following further proviso: 40
- “: Provided further that—
- (i) the rules of a pension fund that is doing the business of a preservation fund as prescribed by the Commissioner from time to time must be submitted to the Commissioner for approval in terms of the provisions of this definition before 30 September [2009] 2010; and 45
- (ii) the rules of a pension fund contemplated in paragraph (i) that are submitted before 30 September [2009] 2010 are deemed to have been approved under this definition with effect from the date that the rules are submitted until the date that the Commissioner notifies the fund of its status under this definition”; 50
- (v) by the addition to the definition of “permanent establishment” of the following proviso: 55
- “: Provided that in determining whether a qualifying investor in relation to a partnership, trust or foreign partnership has a permanent establishment in the Republic, any act of that partnership, trust or foreign partnership in respect of any financial instrument must not be ascribed to that qualifying investor”;

- vennootskap, trust of buitelandse vennootskap, tensy daardie lid of bevoordeelde—
- (a) deelneem in die effektiewe bestuur van die bedryf of besigheid van die vennootskap, trust of buitelandse vennootskap;
- (b) die gesag het om op te tree namens— 5
- (i) die vennootskap of buitelandse vennootskap;
- (ii) die lede van die vennootskap of buitelandse vennootskap; of
- (iii) die trust; of
- (c) dienste aan of ten behoewe van die vennootskap, trust of buitelandse vennootskap lewer;”;
- (p) deur in die omskrywing van “maatskappy” subparagraaf (ii) van paragraaf (e) deur die volgende subparagraaf te vervang: 10
- “(ii) **[reëling of skema] portefeulje** vervat in enige beleggingskema buite die Republiek beoefen wat vergelykbaar is met ’n portefeulje van ’n kollektiewe beleggingskema in deelnemingsverbande of ’n portefeulje van ’n kollektiewe beleggingskema in effekte ooreenkomstig enige reëling ingevolge waarvan lede van die publiek (soos omskryf in artikel 1 van die [**Collective Investment Schemes Control Act, 2002**] Wet op Beheer van Kollektiewe Beleggingskemas, 2002 (Wet No. 45 van 2002), uitgenooi of toegelaat word om **[in ’n portefeulje van ’n kollektiewe beleggingskema te belê, waar twee of meer beleggers bydra tot en ’n deelnemende belang in die portefeulje van die skema]** by wyse van aandele, eenhede of enige ander vorm van deelnemende belang, bydra tot en deelnemende belange in daardie portefeulje hou; of”;
- (q) deur in die omskrywing van “maatskappy” paragraaf (f) deur die volgende paragraaf te vervang: 15
- “(f) ’n geslote korporasie[;];”;
- (r) deur aan die einde van die omskrywing van “maatskappy” die volgende woorde by te voeg: 20
- “maar nie ook ’n buitelandse vennootskap nie;”;
- (s) deur die omskrywing van “nominale waarde” te skrap;
- (t) deur in die omskrywing van “pensioenbewaringsfonds” item (bb) van paragraaf (a)(i) van die voorbehoudsbepaling deur die volgende item te 25
- vervang:
- “(bb) die likwidasie of gedeeltelike likwidasie van daardie fonds, indien die lid kies of ingevolge die reëls verplig word om na hierdie fonds oor te plaas; of”;
- (u) deur in die omskrywing van “pensioenbewaringsfonds” item (aa) van paragraaf (a)(ii) van die voorbehoudsbepaling deur die volgende item te 40
- vervang:
- “(aa) indien daardie fonds gelikwider of gedeeltelik gelikwider is; of”;
- (v) deur in die omskrywing van “pensioenbewaringsfonds” die verdere 45
- voorbehoudsbepaling deur die volgende verdere voorbehoudsbepaling te vervang:
- “Met dien verstande voorts dat—
- (i) die reëls van ’n pensioenfonds wat sake doen as ’n bewaringsfonds soos van tyd tot tyd deur die Kommissaris voorgeskryf voor 30 50
- September **[2009] 2010** vir goedkeuring ingevolge die bepalings van hierdie omskrywing aan die Kommissaris voorgelê moet word; en
- (ii) die reëls van ’n pensioenfonds in paragraaf (i) beoog wat voor 30 55
- September **[2009] 2010** voorgelê word, geag word kragtens hierdie omskrywing goedgekeur te gewees het met ingang van die datum waarop die reëls voorgelê word tot die datum waarop die Kommissaris die fonds van sy status kragtens hierdie omskrywing verwittig”;

- (w) by the substitution for the definition of “person” of the following definition:
 “**‘person’** includes—
 (a) an insolvent estate[,];
 (b) the estate of a deceased person[,];
 (c) any trust; and
 (d) any portfolio of a collective investment scheme **[in securities]** other than a portfolio of a collective investment scheme in property, but does not include a foreign partnership;”;
- (x) by the insertion after the definition of “person” of the following definitions:
 “**‘portfolio of a collective investment scheme’** means any—
 (a) portfolio of a collective investment scheme in participation bonds;
 (b) portfolio of a collective investment scheme in property;
 (c) portfolio of a collective investment scheme in securities; or
 (d) portfolio of a declared collective investment scheme;
‘portfolio of a collective investment scheme in participation bonds’ means any portfolio comprised in any collective investment scheme in participation bonds contemplated in Part VI of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), managed or carried on by any company registered as a manager under and for the purposes of that Part;
‘portfolio of a collective investment scheme in property’ means any portfolio comprised in any collective investment scheme in property contemplated in Part V of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), managed or carried on by any company registered as a manager under section 51 of that Act for the purposes of that Part;”;
- (y) by the insertion after the definition of “portfolio of a collective investment scheme in securities” of the following definition:
 “**‘portfolio of a declared collective investment scheme’** means any portfolio comprised in any declared collective investment scheme contemplated in Part VII of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), managed or carried on by any company registered as a manager under section 64 of that Act for the purposes of that Part;”;
- (z) by the substitution in the definition of “provident fund” for the further proviso of the following further proviso:
 “: Provided further that a fund contemplated in paragraph (i) of the further proviso to the definition of ‘provident preservation fund’ which is deemed to be approved or which is approved in terms of that definition or which fails to submit its rules as required by that paragraph is deemed with effect from the earlier of the date of the deemed approval or 30 September ~~[2009]~~ 2010 to be a fund which is not approved in terms of this definition”;
- (zA) by the substitution in the definition of “provident preservation fund” for item (bb) of paragraph (a)(i) of the proviso of the following item:
 “(bb) the winding up or partial winding up of that fund, if the members elected or are required in terms of the rules to transfer to this fund; or”;
- (zB) by the substitution in the definition of “provident preservation fund” for item (aa) of paragraph (a)(ii) of the proviso of the following item:
 “(aa) if that fund was wound up or partially wound up; or”;

- (w) deur in die omskrywing van “pensioenfonds” die verdere voorbehoudsbepaling tot paragraaf (c) deur die volgende verdere voorbehoudsbepaling te vervang:
- “: Met dien verstande voorts dat ’n fonds beoog in [**subparagraaf** paragraaf (i) van die verdere voorbehoudsbepaling by die omskrywing van ‘pensioenbewaringsfonds’ wat geag word goedgekeur te wees of wat goedgekeur is ingevolge daardie omskrywing of wat versuim om sy reëls voor te lê soos vereis deur daardie paragraaf geag word vanaf die vroegste van die datum van die geagte goedkeuring of 30 September [**2009**] 2010 ’n fonds te wees wat nie ingevolge hierdie omskrywing goedgekeur is nie[.]”;
- (x) deur by die omskrywing van “permanente saak” die volgende voorbehoudsbepaling te voeg:
- “: Met dien verstande dat by die bepaling of ’n kwalifiserende belegger met betrekking tot ’n vennootskap, trust of buitelandse vennootskap ’n permanente saak in die Republiek het, enige daad van daardie vennootskap, trust of buitelandse vennootskap ten opsigte van ’n finansiële instrument nie aan daardie kwalifiserende belegger toegeskryf moet word nie”;
- (y) deur die omskrywing van “persoon” deur die volgende omskrywing te vervang:
- “‘**persoon**’ ook—
- (a) ’n insolvente boedel[,];
- (b) die boedel van ’n oorlede persoon[,];
- (c) ’n trust; en
- (d) enige portefeulje van ’n kollektiewe beleggingskema [**in effekte**] buiten ’n portefeulje van ’n kollektiewe beleggingskema in eiendom,
- maar nie ook ’n buitelandse vennootskap nie;”;
- (z) deur voor die omskrywing van “portefeulje van ’n kollektiewe beleggingskema in effekte” die volgende omskrywings in te voeg:
- “‘**portefeulje van ’n kollektiewe beleggingskema**’ enige—
- (a) portefeulje van ’n kollektiewe beleggingskema in deelnemingsverbande;
- (b) portefeulje van ’n kollektiewe beleggingskema in eiendom;
- (c) portefeulje van ’n kollektiewe beleggingskema in effekte; of
- (d) portefeulje van ’n verklaarde kollektiewe beleggingskema;
- ‘**portefeulje van ’n kollektiewe beleggingskema in deelnemingsverbande**’ enige portefeulje wat bestaan uit enige kollektiewe beleggingskema in deelnemingsverbande beoog in Deel VI van die Wet op Beheer van Kollektiewe Beleggingskemas, 2002 (Wet No. 45 van 2002), wat bestuur of bedryf word deur enige maatskappy geregistreer as ’n bestuurder kragtens en by die toepassing van daardie Deel;”;
- (zA) deur na die omskrywing van “portefeulje van ’n kollektiewe beleggingskema in effekte” die volgende omskrywings in te voeg:
- “‘**portefeulje van ’n kollektiewe beleggingskema in eiendom**’ enige portefeulje wat bestaan uit enige kollektiewe beleggingskema in eiendom beoog in Deel V van die Wet op Beheer van Kollektiewe Beleggingskemas, 2002 (Wet No. 45 van 2002), wat bestuur of bedryf word deur enige maatskappy geregistreer as ’n bestuurder kragtens artikel 51 van daardie Wet en by die toepassing van daardie Deel;
- ‘**portefeulje van ’n verklaarde kollektiewe beleggingskema**’ enige portefeulje wat bestaan uit enige verklaarde kollektiewe beleggingskema beoog in Deel VII van die Wet op Beheer van Kollektiewe Beleggingskemas, 2002 (Wet No. 45 van 2002), wat bestuur of bedryf word deur enige maatskappy geregistreer as ’n bestuurder kragtens artikel 64 van daardie Wet by die toepassing van daardie Deel;”;
- (zB) deur voor die omskrywing van “slytasiebate” die volgende omskrywing in te voeg:
- “‘**skeidingsvoordeel**’ enige bedrag (buiten ’n enkelbedragvoordeel of ’n bedrag beoog in artikel 23(p)) by wyse van ’n enkelbedrag ontvang deur of toegeval aan ’n persoon van of in ooreenkoms met die persoon se werkgewer of ’n verwante inrigting met betrekking tot daardie

- (zC) by the substitution in the definition of “provident preservation fund” for the further proviso of the following further proviso:
- “: Provided further that—
- (i) the rules of the provident fund that is doing the business of a preservation fund as prescribed by the Commissioner from time to time must be submitted to the Commissioner for approval in terms of the provisions of this definition before 30 September ~~[2009]~~ 2010; and
 - (ii) the rules of a provident fund contemplated in paragraph (i) that are submitted before 30 September ~~[2009]~~ 2010 are deemed to have been approved under this definition with effect from the date that the rules are submitted until the date that the Commissioner notifies the fund of its status under this definition”;
- (zD) by the insertion after the definition of “Public Private Partnership” of the following definition:
- “ **‘qualifying investor’** means a member of a partnership or foreign partnership or a beneficiary of a trust if the liability of the member or beneficiary to any creditor of the partnership, trust or foreign partnership is limited to the amount that the member or beneficiary has contributed or undertaken to contribute to the partnership, trust or foreign partnership, unless that member or beneficiary—
- (a) participates in the effective management of the trade or business of the partnership, trust or foreign partnership;
 - (b) has the authority to act on behalf of—
 - (i) the partnership or foreign partnership;
 - (ii) the members of the partnership or foreign partnership; or
 - (iii) the trust; or
 - (c) renders any services to or on behalf of the partnership, trust or foreign partnership;”;
- (zE) by the substitution in the definition of “retirement annuity fund” for item (cc) of paragraph (b)(xii) of the proviso of the following item:
- “(cc) for the benefit contemplated in ~~[paragraph (b)(x)(cc)]~~ subparagraph (x)(cc)”;
- (zF) by the insertion after the definition of “securities lending arrangement” of the following definition:
- “ **‘severance benefit’** means any amount (other than a lump sum benefit or an amount contemplated in section 23(p)) received by or accrued to a person by way of a lump sum from or by arrangement with the person’s employer or an associated institution in relation to that employer in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of the person’s office or employment or of the person’s appointment (or right or claim to be appointed) to any office or employment, if—
- (a) such person has attained the age of 55 years;
 - (b) such relinquishment, termination, loss, repudiation, cancellation or variation is due to the person becoming permanently incapable of holding the person’s office or employment due to sickness, accident, injury or incapacity through infirmity of mind or body; or
 - (c) such termination or loss is due to—
 - (i) the person’s employer having ceased to carry on or intending to cease carrying on the trade in respect of which the person was employed or appointed; or
 - (ii) the person having become redundant in consequence of a general reduction in personnel or a reduction in personnel of a particular class by the person’s employer, unless, where the person’s employer is a company, the person at any time held more than five per cent of the issued share capital or members’ interest in the company;
- Provided that any such amount which becomes payable in consequence of or following upon the death of a person must be deemed to be an amount which accrued to such person immediately prior to his or her death”;

- werkgewer ten opsigte van die afstanddoening, beëindiging, verlies, repudiëring, herroeping of verandering van die persoon se amp of diensbetrekking of van die persoon se aanstelling (of reg of aanspraak om aangestel te word) in 'n amp of diensbetrekking, indien—
- (a) sodanige persoon die ouderdom van 55 jaar bereik het; 5
- (b) sodanige afstanddoening, beëindiging, verlies, repudiëring, herroeping of verandering daaraan te wyte is dat die persoon permanent ongeskik is om die persoon se amp of diensbetrekking te behou te wyte aan siekte, ongeluk, besering of ongeskiktheid deur geestes- of liggaamlike gebrek; of 10
- (c) sodanige beëindiging of verlies daaraan te wyte is dat—
- (i) die persoon se werkgewer opgehou het of van voorneme is om op te hou om die bedryf te beoefen ten opsigte waarvan die persoon in diens was of aangestel is; of
- (ii) die persoon oorbodig geword het omrede 'n algemene vermindering in personeel of 'n vermindering in personeel van 'n bepaalde klas deur die persoon se werkgewer, tensy, waar die persoon se werkgewer 'n maatskappy is, die persoon te eniger tyd 'n direkteur van die maatskappy was en te eniger tyd meer as vyf persent van die uitgereikte aandeelkapitaal of ledebelang in die maatskappy gehou het; 15
- Met dien verstande dat enige so 'n bedrag wat ten gevolge van of na die dood van 'n persoon betaalbaar word, geag moet word 'n bedrag te wees wat onmiddellik voor sy of haar dood aan sodanige persoon toegeval het;"; 20
- (zC) deur die omskrywing van “toegevoegde belastingkapitaal” deur die volgende omskrywing te vervang: 25
- “**toegevoegde belastingkapitaal**”, met betrekking tot enige klas van aandele uitgereik deur 'n maatskappy—
- (a) in die geval van 'n maatskappy wat nie 'n inwoner is nie en wat op of na 1 Januarie 2011 'n inwoner word, 'n bedrag gelyk aan die som van— 30
- (i) die markwaarde van al die aandele in daardie maatskappy onmiddellik voor die datum waarop daardie maatskappy 'n inwoner word; en 35
- (ii) die vergoeding ontvang deur of toegeval aan daardie maatskappy vir die uitreiking van aandele op of na daardie datum; of
- (b) in die geval van enige ander maatskappy, 'n bedrag gelyk aan die som van— 40
- [(a)](i) die opbetaalde kapitaal of aandeelkapitaal en aandeelpremie van daardie maatskappy onmiddellik voor [die intreedatum soos in artikel 64D omskryf] 1 Januarie 2011 met betrekking tot aandele deur daardie maatskappy uitgereik voor daardie datum, verminder deur soveel van die opbetaalde kapitaal of aandeelkapitaal en aandeelpremie wat 'n dividend, soos voor daardie datum omskryf, sou uitgemaak het indien die opbetaalde kapitaal of aandeelkapitaal en aandeelpremie onmiddellik voor daardie datum deur daardie maatskappy uitgekeer sou gewees het; en 45
- [(b)](ii) die vergoeding ontvang deur of toegeval aan [die] daardie maatskappy vir die uitreik van aandele op of na daardie datum, verminder deur soveel van daardie bedrag wat op of na daardie datum deur die maatskappy aan aandeelhouers met betrekking tot daardie aandele oorgedra is, en wat teen die datum van die oordrag deur die direkteure van die maatskappy of deur 'n ander persoon of liggaam van persone met vergelykbare gesag [wat kragtens die akte van oprigting of statute van die maatskappy verleen is,] bepaal is 'n bedrag aldus oorgedra te wees: Met dien verstande dat die bedrag aldus oorgedra aan 'n aandeelhouer van enige klas van aandele geag word 'n bedrag te wees wat tot die totaal van die bedrag van toegevoegde belastingkapitaal toeskryfbaar aan daardie klas van aandele onmiddellik voor die uitkering in dieselfde verhouding staan as wat die aantal aandele van daardie klas 50
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(zG) by the substitution in the definition of “shareholder” for paragraphs (a) and (b) of the following paragraphs:

- “(a) in relation to any company referred to in paragraph (a), (b) or (d) of the definition of ‘company’ in this section, means the registered shareholder in respect of any share, except that where some person other than the registered shareholder is entitled, whether **[by virtue of any provision in the memorandum or articles of association of the company or under the]** in terms of any agreement or contract[,], or otherwise, to all or part of the benefit of the rights **[of participation in the profits, income or capital]** attaching to the share so registered, that other person shall, to the extent that such other person is entitled to such benefit, also be deemed to be a shareholder; or
- (b) in relation to any company referred to in paragraph (e) of the said definition, the registered holder of any participatory interest included in the relevant portfolio, except that where some person other than the holder of any participatory interest is entitled, whether by virtue of any provision in the trust deed entered into for the purposes of the relevant collective investment scheme or under the terms of any agreement or contract, or otherwise, to all or part of the benefit of the rights **[of participation in the profits, income or capital]** attaching to the participatory interest, that other person shall, to the extent that such other person is entitled to such benefit, also be deemed to be a shareholder;”;

(zH) by the insertion after the definition of “taxable income” of the following definition:

“**‘tax benefit’** includes any avoidance, postponement or reduction of any liability for tax;”;

(zI) by the substitution for the definition of “trading stock” of the following definition:

“**‘trading stock’**—

(a) includes—

[(a) anything—]

(i) anything produced, manufactured, constructed, assembled, purchased or in any other manner acquired by a taxpayer for the purposes of manufacture, sale or exchange by **[him] the taxpayer** or on **[his] behalf of the taxpayer[, or]**;

(ii) anything the proceeds from the disposal of which forms or will form part of **[his] the taxpayer’s gross income**, otherwise than—

(aa) in terms of paragraph (j) or (m) of the definition of ‘gross income’[,];

(bb) in terms of paragraph 14(1) of the First Schedule; or

(cc) as a recovery or recoupment contemplated in section 8(4) which is included in gross income in terms of paragraph (n) of **[that] the definition of ‘gross income’;** or

[(b)](iii) any consumable stores and spare parts acquired by **[him] the taxpayer** to be used or consumed in the course of **[his] the taxpayer’s trade[,];** but

(b) does not include—

(i) a foreign currency option contract **[and];** or

(ii) a forward exchange contract,
as defined in section 24I(1);”.

(2) Paragraphs (a), (e), (f), (g), (i), (q) and (zG) of subsection (1) come into operation on 1 January 2011.

(3) Paragraphs (b), (x) and (y) of subsection (1) are deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 January 2010.

(4) Paragraphs (c), (d), (j) and (w) of subsection (1) come into operation—

- wat deur daardie aandeelhouer gehou word tot die totale aantal aandele van daardie klas staan;”;
- (zD) deur in die omskrywing van “uittredingannuïteitsfonds” item (cc) van paragraaf (b)(xii) van die voorbehoudsbepaling deur die volgende item te vervang: 5
- “(cc) vir die voordeel in [paragraaf (b)(x)(cc)] subparagraaf (x)(cc) bedoel;”;
- (zE) deur in die omskrywing van “verbonde persoon” subparagraawe (iv) en (v) van paragraaf (d) deur die volgende subparagraawe te vervang: 10
- “(iv) enige persoon, behalwe ’n maatskappy soos omskryf in artikel 1 van die Maatskappywet, [1973 (Wet No. 61 van 1973)] 2008 (Wet No. 71 van 2008), wat afsonderlik of gesamentlik met ’n verbonde persoon met betrekking tot homself, regstreeks of onregstreeks, ten minste 20 persent van [die maatskappy se ekwiteitsaandelekapitaal of stemregte hou]— 15
- (aa) die ekwiteitsaandele in die maatskappy hou; of
- (bb) die stemregte in die maatskappy hou;
- (v) enige ander maatskappy indien ten minste 20 persent van die [ekwiteitsaandelekapitaal van bedoelde] aandele in die maatskappy deur [bedoelde] daardie ander maatskappy gehou word, en geen aandeelhouer die meerderheid stemregte [van bedoelde] in die maatskappy hou nie;”;
- (zF) deur in die omskrywing van “voorsorgbewaringsfonds” item (bb) van paragraaf (a)(i) van die voorbehoudsbepaling deur die volgende item te vervang: 25
- “(bb) die likwidering of gedeeltelike likwidering van daardie fonds, indien die lede gekies het of ingevolge die reëls verplig word om na hierdie fonds oor te plaas; of”;
- (zG) deur in die omskrywing van “voorsorgbewaringsfonds” item (aa) van paragraaf (a)(ii) van die voorbehoudsbepaling deur die volgende item te vervang: 30
- “(aa) indien daardie fonds gelikwider of gedeeltelik gelikwider is; of”;
- (zH) deur in die omskrywing van “voorsorgbewaringsfonds” die verdere voorbehoudsbepaling deur die volgende verdere voorbehoudsbepaling te vervang: 35
- “: Met dien verstande voorts dat—
- (i) die reëls van ’n voorsorgsfonds wat sake doen as ’n bewaringsfonds soos van tyd tot tyd deur die Kommissaris voorgeskryf voor 30 September [2009] 2010 vir goedkeuring ingevolge die bepalings van hierdie omskrywing aan die Kommissaris voorgelê moet word; 40
- en
- (ii) die reëls van die voorsorgsfonds beoog in paragraaf (i) wat voor 30 September [2009] 2010 voorgelê word, geag word kragtens hierdie omskrywing goedgekeur te gewees het met ingang van die datum waarop die reëls voorgelê word tot die datum waarop die Kommissaris die fonds van sy status kragtens hierdie omskrywing verwittig;”;
- (zI) deur in die omskrywing van “voorsorgsfonds” die verdere voorbehoudsbepaling deur die volgende verdere voorbehoudsbepaling te vervang: 50
- “: Met dien verstande voorts dat ’n fonds beoog in paragraaf (i) van die verdere voorbehoudsbepaling by die omskrywing van ‘voorsorgbewaringsfonds’ wat geag word goedgekeur te wees of wat goedgekeur is ingevolge daardie omskrywing of wat versuim om sy reëls voor te lê soos vereis deur daardie paragraaf geag word vanaf die vroegste van die datum van die geagte goedkeuring of 30 September [2009] 2010 ’n fonds te wees wat nie ingevolge hierdie omskrywing goedgekeur is nie[.]”;
- (2) Paragraawe (a), (f), (i), (n), (s), (zC) en (zE) van subartikel (1) tree op 1 Januarie 2011 in werking.
- (3) Paragraawe (p), (z) en (zA) van subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2010 begin. 60
- (4) Paragraawe (h), (q), (r) en (y) van subartikel (1) tree in werking—

(a) in the case of any foreign partnership that is established or formed before 24 August 2010, as from the commencement of years of assessment commencing on or after 1 October 2010; and

(b) in the case of any foreign partnership that is established or formed on or after 24 August 2010, as from the date of establishment or formation.

(5) Paragraphs (h), (k) and (o) of subsection (1) come into operation as from the commencement of years of assessment commencing on or after 1 January 2011.

(6) Paragraph (l) of subsection (1) is deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2008.

(7) Paragraphs (m) and (n) of subsection (1) come into operation as from the commencement of years of assessment commencing on or after 1 January 2011 and apply in respect of receipts and accruals on or after that date.

(8) Paragraphs (r), (u), (z), (zC) and (zE) of subsection (1) are deemed to have come into operation on 1 March 2009.

(9) Paragraphs (s), (t), (zA) and (zB) of subsection (1) are deemed to have come into operation on 1 March 2008 and apply in respect of lump sum benefits transferred on or after that date.

(10) Paragraphs (v) and (zD) of subsection (1) are deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 January 2011.

(11) Paragraph (zF) of subsection (1) comes into operation on 1 March 2011 and applies in respect of amounts received or accrued on or after that date.

(12) Paragraph (zI) of subsection (1) comes into operation on the date of promulgation of this Act and applies in respect of years of assessment ending on or after that date.

Amendment of section 5 of Act 58 of 1962, as substituted by section 2 of Act 6 of 1963 and amended by section 5 of Act 88 of 1971, section 5 of Act 90 of 1972, section 5 of Act 65 of 1973, section 5 of Act 103 of 1976, section 3 of Act 104 of 1980, section 4 of Act 96 of 1981, section 4 of Act 91 of 1982, section 3 of Act 94 of 1983, section 3 of Act 121 of 1984, section 5 of Act 21 of 1994, section 4 of Act 21 of 1995, section 7 of Act 5 of 2001, section 3 of Act 3 of 2008, section 6 of Act 60 of 2008 and section 8 of Act 17 of 2009

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

(a) by the deletion of subsection (1A); and

(b) by the substitution for subsection (10) of the following subsection:

“(10) Where any taxpayer’s income includes any special remuneration, or where the provisions of paragraph 15(3), 17 or 19(1) of the First Schedule are applicable in the case of the taxpayer in respect of any year of assessment, the normal tax (excluding tax on any lump sum benefit) payable by the taxpayer in respect of such year (as determined before the deduction of any rebate) shall be determined in accordance with the formula—

$$Y = \left(\frac{A}{B + D - C} \right) \times B$$

in which formula—

(a) ‘Y’ represents the amount of normal tax to be determined;

(b) ‘A’ represents the amount of normal tax (as determined before the deduction of any rebate) calculated at the full rate of tax chargeable for the said year in respect of taxable income equal to the amount represented by the expression ‘B + D - C’ in the formula;

(c) ‘B’ represents the taxpayer’s taxable income (excluding any lump sum benefit) for the said year;

(d) ‘C’ represents an amount equal to the sum of—

(i) the amount of any special remuneration (as defined in subsection (9)) which is included in the taxpayer’s income for the said year;

(ii) where the provisions of paragraph 15(3) of the First Schedule are in the case of the taxpayer applicable in respect of the said year, an amount determined in accordance with those provisions as being the amount, if any, by which the taxable income derived by the taxpayer during the said year from the disposal

- (a) in die geval van enige buitelandse vennootskap voor 24 Augustus 2010 opgerig of gestig, vanaf die begin van jare van aanslag wat op of na 1 Oktober 2010 begin; en
- (b) in die geval van enige buitelandse vennootskap op of na 24 Augustus 2010 opgerig of gestig, vanaf die datum van oprigting of stigting. 5
- (5) Paragrafe (g), (j) en (m) van subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin.
- (6) Paragraaf (c) van subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2008 eindig.
- (7) Paragrafe (d) en (e) van subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin en is van toepassing ten opsigte van ontvangste en toevallings op of na daardie datum. 10
- (8) Paragrafe (v), (w), (zD), (zH) en (zI) van subartikel (1) word geag op 1 Maart 2009 in werking te getree het.
- (9) Paragrafe (t), (u), (zF) en (zG) van subartikel (1) word geag op 1 Maart 2008 in werking te getree het en is van toepassing ten opsigte van enkelbedragvoordele op of na daardie datum oorgeplaas. 15
- (10) Paragrafe (o) en (x) van subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin.
- (11) Paragraaf (zB) van subartikel (1) tree in werking op 1 Maart 2011 en is van toepassing ten opsigte van bedrae op of na daardie datum ontvang of toegeval. 20
- (12) Paragraaf (l) van subartikel (1) tree in werking op die datum van promulgering van hierdie Wet en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum eindig.

Wysiging van artikel 5 van Wet 58 van 1962, soos vervang deur artikel 2 van Wet 6 van 1963 en gewysig deur artikel 5 van Wet 88 van 1971, artikel 5 van Wet 90 van 1972, artikel 5 van Wet 65 van 1973, artikel 5 van Wet 103 van 1976, artikel 3 van Wet 104 van 1980, artikel 4 van Wet 96 van 1981, artikel 4 van Wet 91 van 1982, artikel 3 van Wet 94 van 1983, artikel 3 van Wet 121 van 1984, artikel 5 van Wet 21 van 1994, artikel 4 van Wet 21 van 1995, artikel 7 van Wet 5 van 2001, artikel 3 van Wet 3 van 2008, artikel 6 van Wet 60 van 2008 en artikel 8 van Wet 17 van 2009 25 30

7. (1) Artikel 5 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subartikel (1A) te skrap; en

(b) deur subartikel (10) deur die volgende subartikel te vervang:

“(10) Waar ’n belastingpligtige se inkomste spesiale besoldiging insluit, of waar die bepalinge van paragraaf 15(3), 17 of 19(1) van die Eerste Bylae in die geval van die belastingpligtige van toepassing is ten opsigte van ’n jaar van aanslag, word die normale belasting (behalwe belasting op ’n enkelbedragvoordeel) wat deur die belastingpligtige ten opsigte van daardie jaar betaalbaar is (soos vasgestel vóór die aftrekking van enige korting), ooreenkomstig die formule— 35 40

$$Y = \left(\frac{A}{B + D - C} \right) \times B$$

vasgestel, in welke formule— 45

(a) ‘Y’ die bedrag aan normale belasting voorstel wat vasgestel moet word;

(b) ‘A’ die bedrag aan normale belasting voorstel (soos vasgestel vóór die aftrekking van enige korting) wat bereken word teen die volle skaal van belasting wat vir bedoelde jaar hefbaar is, ten opsigte van ’n belasbare inkomste gelyk aan die bedrag wat deur die uitdrukking ‘B + D - C’ in die formule voorgestel word; 50

(c) ‘B’ die belastingpligtige se belasbare inkomste (behalwe ’n enkelbedragvoordeel) vir bedoelde jaar voorstel; 55

(d) ‘C’ ’n bedrag voorstel wat gelyk is aan die som van—

(i) die bedrag van enige spesiale besoldiging (soos in subartikel (9) omskryf) wat by die belastingpligtige se inkomste vir bedoelde jaar ingesluit word;

(ii) waar die bepalinge van paragraaf 15(3) van die Eerste Bylae in die geval van die belastingpligtige ten opsigte van bedoelde jaar van toepassing is, ’n bedrag wat ooreenkomstig daardie bepalinge vasgestel word as die bedrag (as daar is) waarmee 60

of plantations and forest produce exceeds the annual average taxable income derived by the taxpayer from that source over the three years of assessment immediately preceding the said year;

- (iii) where the provisions of paragraph 17 of the First Schedule are in the case of the taxpayer applicable in respect of the said year, an amount equal to so much of the taxable income of the taxpayer for such year as has been derived from the disposal of sugar cane as a result of fire in the taxpayer's cane fields and but for such fire would not have been derived by the taxpayer in that year; and
- (iv) where the provisions of subparagraph (1) of paragraph 19 of the First Schedule are in the case of the taxpayer applicable in respect of the said year, the amount by which the taxpayer's taxable income derived from farming for that year exceeds the taxpayer's average taxable income from farming as determined in relation to that year in accordance with subparagraph (2) of the said paragraph; and
- (e) 'D' represents an amount equal to so much of any current contribution to a retirement annuity fund as is allowable as a deduction in terms of section 11(n)(i)(aa)(A) solely by reason of the inclusion in the taxpayer's income of any amount contemplated in paragraph (d)(i), (ii), (iii) or (iv):

Provided that in no case shall the amount of normal tax so payable be less than the amount of normal tax which would be chargeable at the relevant rate fixed in terms of subsection (2) in respect of the first rand of taxable income, and nothing in this section contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of that person's taxable income."

(2) Paragraph (a) of subsection (1) is deemed to have come into operation as from the commencement of years of assessment ending on or after 1 March 2011.

(3) Paragraph (b) of subsection (1) is deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2010.

Amendment of section 6 of Act 58 of 1962, as amended by section 4 of Act 90 of 1962, section 3 of Act 6 of 1963, section 5 of Act 72 of 1963, section 8 of Act 55 of 1966, section 7 of Act 95 of 1967, section 7 of Act 76 of 1968, section 8 of Act 89 of 1969, section 7 of Act 88 of 1971, section 5 of Act 104 of 1980, section 5 of Act 96 of 1981, section 5 of Act 91 of 1982, section 4 of Act 94 of 1983, section 4 of Act 121 of 1984, section 3 of Act 96 of 1985, section 4 of Act 85 of 1987, section 4 of Act 90 of 1988, section 4 of Act 70 of 1989, section 3 of Act 101 of 1990, section 4 of Act 129 of 1991, section 4 of Act 141 of 1992, section 5 of Act 21 of 1995, section 4 of Act 36 of 1996, section 3 of Act 28 of 1997, section 22 of Act 30 of 1998, section 5 of Act 32 of 1999, section 15 of Act 30 of 2000, section 6 of Act 19 of 2001, section 11 of Act 30 of 2002, section 35 of Act 12 of 2003, section 6 of Act 16 of 2004, section 3 of Act 9 of 2005, section 7 of Act 31 of 2005, section 20 of Act 9 of 2006, section 5 of Act 8 of 2007 and section 7 of Act 60 of 2008

8. (1) Section 6 of the Income Tax Act, 1962, is hereby amended by the addition after subsection (4) of the following subsection:

"(5) Where the taxable income of a taxpayer consists solely of 'net remuneration' as defined in paragraph 11B of the Fourth Schedule, the normal tax payable by that taxpayer—

- (a) in respect of a year of assessment commencing during the period of 12 months commencing on 1 March 2011 and ending on 29 February 2012, must be reduced by an amount equal to two-thirds; and
- (b) in respect of a year of assessment commencing during the period of 12 months commencing on 1 March 2012 and ending on 28 February 2013, must be reduced by an amount equal to one-third,
- of the difference between—

die belasbare inkomste deur die belastingpligtige in bedoelde jaar uit die vandiehandsetting van plantasies en bosprodukte verkry, die jaarlikse gemiddelde belasbare inkomste deur die belastingpligtige uit daardie bron verkry gedurende die drie jare van aanslag wat bedoelde jaar onmiddellik voorafgaan, te bowe gaan;

(iii) waar die bepaling van paragraaf 17 van die Eerste Bylae in die geval van die belastingpligtige van toepassing is ten opsigte van bedoelde jaar, 'n bedrag gelyk aan soveel van die belasbare inkomste van die belastingpligtige vir bedoelde jaar as wat uit die vandiehandsetting van suikerriet as gevolg van brand in die belastingpligtige se suikerrietplantasies verkry is, en, indien die brand nie ontstaan het nie, nie in bedoelde jaar deur die belastingpligtige verkry sou gewees het nie;

(iv) waar die bepaling van subparagraaf (1) van paragraaf 19 van die Eerste Bylae in die geval van die belastingpligtige ten opsigte van bedoelde jaar van toepassing is, die bedrag waarmee die belastingpligtige se belasbare inkomste vir daardie jaar uit boerdery verkry die belastingpligtige se gemiddelde belasbare inkomste uit boerdery soos volgens voorskrif van subparagraaf (2) van genoemde paragraaf met betrekking tot daardie jaar vasgestel, te bowe gaan; en

(e) 'D' 'n bedrag voorstel gelyk aan soveel van enige lopende bydrae tot 'n uittredingannuïteitsfonds as wat toelaatbaar is as 'n aftrekking ingevolge artikel 11(n)(i)(aa)(A) uitsluitlik omrede van die insluiting by die belastingpligtige se inkomste van 'n bedrag beoog in paragraaf (d)(i), (ii), (iii) of (iv):

Met dien verstande dat die bedrag van normale belasting aldus betaalbaar in geen geval minder is nie as die bedrag van normale belasting wat hefbaar sou wees teen die betrokke skaal ingevolge subartikel (2) vasgestel ten opsigte van die eerste rand van belasbare inkomste, en die bepaling van hierdie artikel nie so uitgelê word dat 'n persoon van aanspreeklikheid vir belasting ingevolge hierdie Wet op enige gedeelte van die persoon se belasbare inkomste onthef word nie.”

(2) Paragraaf (a) van subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Maart 2011 eindig.

(3) Paragraaf (b) van subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2010 eindig.

Wysiging van artikel 6 van Wet 58 van 1962, soos gewysig deur artikel 4 van Wet 90 van 1962, artikel 3 van Wet 6 van 1963, artikel 5 van Wet 72 van 1963, artikel 8 van Wet 55 van 1966, artikel 7 van Wet 95 van 1967, artikel 7 van Wet 76 van 1968, artikel 8 van Wet 89 van 1969, artikel 7 van Wet 88 van 1971, artikel 5 van Wet 104 van 1980, artikel 5 van Wet 96 van 1981, artikel 5 van Wet 91 van 1982, artikel 4 van Wet 94 van 1983, artikel 4 van Wet 121 van 1984, artikel 3 van Wet 96 van 1985, artikel 4 van Wet 85 van 1987, artikel 4 van Wet 90 van 1988, artikel 4 van Wet 70 van 1989, artikel 3 van Wet 101 van 1990, artikel 4 van Wet 129 van 1991, artikel 4 van Wet 141 van 1992, artikel 5 van Wet 21 van 1995, artikel 4 van Wet 36 van 1996, artikel 3 van Wet 28 van 1997, artikel 22 van Wet 30 van 1998, artikel 5 van Wet 32 van 1999, artikel 15 van Wet 30 van 2000, artikel 6 van Wet 19 van 2001, artikel 11 van Wet 30 van 2002, artikel 35 van Wet 12 van 2003, artikel 6 van Wet 16 van 2004, artikel 3 van Wet 9 van 2005, artikel 7 van Wet 31 van 2005, artikel 20 van Wet 9 van 2006, artikel 5 van Wet 8 van 2007 en artikel 7 van Wet 60 van 2008

8. (1) Artikel 6 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel na subartikel (4) in te voeg:

“(5) Waar 'n belastingpligtige se belasbare inkomste uitsluitlik bestaan uit 'netto besoldiging' soos omskryf in die Vierde Bylae, moet die normale belasting betaalbaar deur daardie belastingpligtige—

(a) ten opsigte van 'n jaar van aanslag wat begin gedurende die tydperk van 12 maande wat op 1 Maart 2011 begin en op 29 Februarie 2012 eindig, verminder word deur 'n bedrag gelyk aan twee-derdes; en

(b) ten opsigte van 'n jaar van aanslag wat begin gedurende die tydperk van 12 maande wat op 1 Maart 2012 begin en op 28 Februarie 2013 eindig, verminder word deur 'n bedrag gelyk aan een-derde, van die verskil tussen—

- (i) the normal tax that would have been payable by the taxpayer had this subsection not applied; and
- (ii) the aggregate of the Standard Income Tax on Employees payable by the taxpayer in respect of that year of assessment.”.

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 March 2011. 5

Amendment of section 7A of Act 58 of 1962, as inserted by section 6 of Act 69 of 1975 and amended by section 7 of Act 103 of 1976, section 6 of Act 96 of 1981, section 4 of Act 65 of 1986, section 8 of Act 129 of 1991, section 3 of Act 113 of 1993, section 7 of Act 21 of 1995 and section 5 of Act 36 of 1996 10

9. (1) Section 7A of the Income Tax Act, 1962, is hereby amended by the deletion of subsection (4A).

(2) Subsection (1) comes into operation on 1 March 2011 and applies in respect of amounts received or accrued 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, section 5 of Act 3 of 2008, section 9 of Act 60 of 2008 and section 11 of Act 17 of 2009 15
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10. (1) Section 8 of the Income Tax Act, 1962, is hereby amended— 30

- (a) by the substitution in subsection (1)(a)(i) for item (aa) of the following item:
 “(aa) on travelling on business, as contemplated in paragraph (b), unless an allowance or advance has been granted by an employer in respect of the use of a motor vehicle as contemplated in paragraph 7 of the Seventh Schedule;” and 35

(b) by the deletion in subsection (1)(b) of the proviso to subparagraph (ii).

(2) Subsection (1) comes into operation on 1 March 2011 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 8B of Act 58 of 1962, as inserted by section 6 of Act 104 of 1980 and amended by section 6 of Act 121 of 1984, section 6 of Act 101 of 1990, section 8 of Act 32 of 2004, section 11 of Act 31 of 2005, section 6 of Act 20 of 2006, section 10 of Act 35 of 2007 and section 10 of Act 60 of 2008 40

11. (1) Section 8B of the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 45

“If a person [as a result of a subdivision, consolidation, conversion or restructuring of the equity share capital of the employer or any company that is an associated institution as defined in the Seventh Schedule in relation to that employer] disposes of a qualifying equity share in exchange solely for any other equity share in that employer or any company that is an associated institution as defined in the Seventh Schedule in relation to that employer, that other equity share acquired in exchange is deemed to be—”; and 50

- (i) die normale belasting wat deur die belastingpligtige betaalbaar sou gewees het indien hierdie subartikel nie van toepassing was nie; en
- (ii) die totaal van die Standaard Inkomstebelasting op Werknemers deur die belastingpligtige ten opsigte van daardie jaar van aanslag betaalbaar.”
- (2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Maart 2011 begin. 5

Wysiging van artikel 7A van Wet 58 van 1962, soos ingevoeg deur artikel 6 van Wet 69 van 1975 en gewysig deur artikel 7 van Wet 103 van 1976, artikel 6 van Wet 96 van 1981, artikel 4 van Wet 65 van 1986, artikel 8 van Wet 129 van 1991, artikel 3 van Wet 113 van 1993, artikel 7 van Wet 21 van 1995 en artikel 5 van Wet 36 van 1996 10

9. (1) Artikel 7A van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (4A) te skrap.

(2) Subartikel (1) tree in werking op 1 Maart 2011 en is van toepassing ten opsigte van bedrae op of na daardie datum ontvang of toegeval. 15

Wysiging van artikel 8 van Wet 58 van 1962, soos gewysig deur artikel 6 van Wet 90 van 1962, artikel 6 van Wet 90 van 1964, artikel 9 van Wet 88 van 1965, artikel 10 van Wet 55 van 1966, artikel 10 van Wet 89 van 1969, artikel 6 van Wet 90 van 1972, artikel 8 van Wet 85 van 1974, artikel 7 van Wet 69 van 1975, artikel 7 van Wet 113 van 1977, artikel 8 van Wet 94 van 1983, artikel 5 van Wet 121 van 1984, artikel 4 van Wet 96 van 1985, artikel 5 van Wet 65 van 1986, artikel 6 van Wet 85 van 1987, artikel 6 van Wet 90 van 1988, artikel 5 van Wet 101 van 1990, artikel 9 van Wet 129 van 1991, artikel 6 van Wet 141 van 1992, artikel 4 van Wet 113 van 1993, artikel 6 van Wet 21 van 1994, artikel 8 van Wet 21 van 1995, artikel 6 van Wet 36 van 1996, artikel 6 van Wet 28 van 1997, artikel 24 van Wet 30 van 1998, artikel 14 van Wet 53 van 1999, artikel 17 van Wet 30 van 2000, artikel 6 van Wet 59 van 2000, artikel 7 van Wet 19 van 2001, artikel 21 van Wet 60 van 2001, artikel 12 van Wet 30 van 2002, artikel 11 van Wet 74 van 2002, artikel 18 van Wet 45 van 2003, artikel 6 van Wet 32 van 2004, artikel 4 van Wet 9 van 2005, artikel 21 van Wet 9 van 2006, artikel 5 van Wet 20 van 2006, artikel 6 van Wet 8 van 2007, artikel 9 van Wet 35 van 2007, artikel 5 van Wet 3 van 2008, artikel 9 van Wet 60 van 2008 en artikel 11 van Wet 17 van 2009 20 25 30

10. (1) Artikel 8 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1)(a)(i) item (aa) deur die volgende item te vervang: 35
 “(aa) aan reis vir besigheidsdoeleindes, soos in paragraaf (b) bedoel, tensy ’n toelae of voorskot deur ’n werkgewer ten opsigte van die gebruik van ’n motorvoertuig soos beoog in paragraaf 7 van die Sewende Bylae toegestaan is;” en

(b) deur in subartikel (1)(b) die voorbehoudsbepaling tot subparagraaf (ii) te skrap. 40

(2) Subartikel (1) tree op 1 Maart 2011 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 8B van Wet 58 van 1962, soos ingevoeg deur artikel 6 van Wet 104 van 1980 en gewysig deur artikel 6 van Wet 121 van 1984, artikel 6 van Wet 101 van 1990, artikel 8 van Wet 32 van 2004, artikel 11 van Wet 31 van 2005, artikel 6 van Wet 20 van 2006, artikel 10 van Wet 35 van 2007 en artikel 10 van Wet 60 van 2008 45

11. (1) Artikel 8B van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 50

“Indien ’n persoon [weens die onderverdeling, konsolidasie, omskakeling of herstrukturering van die ekwiteitsaandelekapitaal van die werkgewer of ’n maatskappy wat ’n verwante inrigting soos in die Sewende Bylae omskryf met betrekking tot die werkgewer is] oor ’n kwalifiserende ekwiteitsaandeel beskik in ruil vir slegs ’n ander ekwiteitsaandeel in daardie werkgewer of maatskappy wat ’n verwante inrigting soos in die Sewende Bylae omskryf met betrekking tot daardie werkgewer is, word daardie ander ekwiteitsaandeel in ruil verkry geag—”; en 55

- (b) by the substitution in subsection (3) for the definition of “date of grant” of the following definition:

“**‘date of grant’** in relation to an equity share means the date on which the granting of that equity share is approved by the directors of the employer company or some other person or body of persons with comparable authority [**conferred under or by virtue of the memorandum and articles of association of the employer company**];”.

- (2) Paragraph (b) of subsection (1) comes into operation on 1 January 2011.

Amendment of section 8C of Act 58 of 1962, as inserted by section 7 of Act 96 of 1981 and amended by section 7 of Act 121 of 1984, section 7 of Act 101 of 1990, section 8 of Act 32 of 2004, section 12 of Act 31 of 2005, section 7 of Act 20 of 2006, section 11 of Act 35 of 2007 and section 11 of Act 60 of 2008

12. (1) Section 8C of the Income Tax Act, 1962, is hereby amended—

- (a) by the deletion in subsection (1)(a) of the word “or” at the end of subparagraph (i);

- (b) by the substitution in subsection (1)(a) for subparagraph (ii) of the following subparagraph:

“(ii) by virtue of any [**other**] restricted equity instrument held by that taxpayer in respect of which this section will apply upon vesting thereof[.]; or”;

- (c) by the addition to subsection (1)(a) after subparagraph (ii) of the following subparagraph:

“(iii) as a restricted equity instrument during the period of his or her employment by or office of director of any company from—

(aa) that company or any associated institution in relation to that company; or

(bb) any person employed by or that is a director of—

(A) that company; or

(B) any associated institution in relation to that company.”;

- (d) by the substitution for subsection (1A) of the following subsection:

“(1A) If a capital distribution as contemplated in paragraph 74 of the Eighth Schedule, other than a capital distribution of an equity instrument, is received by or accrues to a taxpayer in respect of a restricted equity instrument, the taxpayer must include the amount of the capital distribution in his or her income for the year of assessment during which the amount is received or accrues.”; and

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

“(a) If a taxpayer disposes of a restricted equity instrument which was acquired in the manner contemplated in subsection (1) for an amount which consists of or includes any other restricted equity instrument [**which is acquired from the employer, associated institution or other person by arrangement with the employer**] in the employer of the taxpayer or an associated institution in relation to the employer, that other restricted equity instrument acquired in exchange is deemed to be acquired by that taxpayer by virtue of his or her employment or office of director of any company.”.

- (2) Paragraphs (a), (b) and (c) of subsection (1) come into operation on 1 January 2011 and apply in respect of acquisitions on or after that date.

- (3) Paragraph (d) of subsection (1) comes into operation on 1 January 2011 and applies in respect of distributions made on or after that date.

- (4) Paragraph (e) of subsection (1) comes into operation on 1 January 2011 and applies in respect of disposals on or after that date.

- (b) deur in subartikel (3) die woordskrywing van “datum van toekenning” deur die volgende omskrywing te vervang:
 “**datum van toekenning**” met betrekking tot ’n ekwiteitsaandeel, die datum waarop die toekenning van daardie ekwiteitsaandeel deur die direkteure van die werkgewermaatskappy of ’n ander persoon of liggaam van persone met soortgelyke magtiging [verleen kragtens of by wyse van die akte van oprigting en statute van die werkgewermaatskappy,] goedgekeur is;”.

(2) Paragraaf (b) van subartikel (1) tree op 1 Januarie 2011 in werking.

Wysiging van artikel 8C van Wet 58 van 1962, soos ingevoeg deur artikel 7 van Wet 96 van 1981 en gewysig deur artikel 7 van Wet 121 van 1984, artikel 7 van Wet 101 van 1990, artikel 8 van Wet 32 van 2004, artikel 12 van Wet 31 van 2005, artikel 7 van Wet 20 van 2006, artikel 11 van Wet 35 van 2007 en artikel 11 van Wet 60 van 2008

12. (1) Artikel 8C van die Inkomstebelastingwet, 1962, word hierby gewysig— 15

(a) deur in subartikel (1)(a) die woord “of” aan die einde van subparagraaf (i) te skrap;

(b) deur in subartikel (1)(a) subparagraaf (ii) deur die volgende subparagraaf te vervang:

“(ii) uit hoofde van enige [ander] beperkte ekwiteitsinstrument deur daardie belastingpligtige gehou ten opsigte waarvan hierdie artikel by die vestiging daarvan van toepassing sal wees[.]; of”;

(c) deur die volgende subparagraaf na subparagraaf (ii) by subartikel (1)(a) te voeg:

“(iii) as ’n beperkte ekwiteitsinstrument gedurende die tydperk van sy of haar indiensneming by of amp van direkteur van enige maatskappy van—
 (aa) daardie maatskappy of enige verwante inrigting met betrekking tot daardie maatskappy; of
 (bb) enige persoon wat in diens staan van of wat ’n direkteur is van—
 (A) daardie maatskappy; of
 (B) enige verwante inrigting met betrekking tot daardie maatskappy.”;

(d) deur subartikel (1A) deur die volgende subartikel te vervang: 35

“(1A) Indien ’n kapitaaluitkering soos beoog in paragraaf 74 van die Agtste Bylae, buiten ’n kapitaaluitkering van ’n ekwiteitsinstrument, ten opsigte van ’n beperkte ekwiteitsinstrument deur ’n belastingpligtige ontvang word of die belastingpligtige toeval, moet die belastingpligtige die bedrag van die kapitaaluitkering by sy of haar inkomste insluit vir die jaar van aanslag waartydens die bedrag ontvang word of toeval.”; en

(e) deur in subartikel (4) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) Indien ’n belastingpligtige oor ’n beperkte ekwiteitsinstrument beskik wat op die wyse in subartikel (1) bedoel, verkry is vir ’n bedrag wat bestaan uit of insluit enige ander beperkte ekwiteitsinstrument [wat van die werkgewer, verwante inrigting of ander persoon in ooreenkoms met die werkgewer verkry is] in die werkgewer van die belastingpligtige of ’n verwante inrigting met betrekking tot die werkgewer, word daardie ander beperkte ekwiteitsinstrument wat in ruil verkry word, geag deur daardie belastingpligtige verkry te wees uit hoofde van sy of haar diens of amp as direkteur van ’n maatskappy.”.

(2) Paragrafe (a), (b) en (c) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van verkrygings op of na daardie datum.

(3) Paragraaf (d) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van uitkerings op of na daardie datum gemaak.

(4) Paragraaf (e) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van beskikkings op of na daardie datum.

Amendment of section 8E of Act 58 of 1962, as inserted by section 6 of Act 70 of 1989 and amended by section 19 of Act 45 of 2003, section 9 of Act 32 of 2004 and section 7 of Act 8 of 2007

13. (1) Section 8E of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (a) of the definition of “hybrid equity instrument” of the following paragraph: 5
- “(a) any [**redeemable preference**] share other than an equity share which the relevant company is obliged to redeem in whole or in part within a period of three years from the date of issue thereof, or which may at the option of the holder be redeemed in whole or in part within the said period, or in respect of which the holder has a right of disposal which may be exercised within the said period; or”;
- (b) by the substitution in subsection (1) for the words preceding subparagraph (i) of paragraph (b) of the definition of “hybrid equity instrument” of the following words: 10
- “any [**other**] share other than a share contemplated in paragraph (a), if—”; and
- (c) by the substitution for subsection (2) of the following subsection: 15
- “(2) Any dividend declared by a company on a hybrid equity instrument which is declared on or after the date that the share becomes a hybrid equity instrument[,] shall for the purposes of this Act be deemed in relation to the recipient thereof only to be an amount of interest [**received by him**] accrued to the recipient from a source within the Republic.”. 20
- (2) Paragraphs (a) and (b) of subsection (1) come into operation on 1 January 2011. 25

Amendment of section 9 of Act 58 of 1962, as amended by section 7 of Act 90 of 1962, section 6 of Act 72 of 1963, section 7 of Act 90 of 1964, section 9 of Act 95 of 1967, section 12 of Act 89 of 1969, section 6 of Act 65 of 1973, section 9 of Act 85 of 1974, section 8 of Act 103 of 1976, section 9 of Act 121 of 1984, section 5 of Act 96 of 1985, section 6 of Act 65 of 1986, section 2 of Act 108 of 1986, section 7 of Act 85 of 1987, section 36 of Act 9 of 1989, section 10 of Act 129 of 1991, section 7 of Act 141 of 1992, section 5 of Act 113 of 1993, section 3 of Act 140 of 1993, section 7 of Act 21 of 1994, section 9 of Act 21 of 1995, section 7 of Act 28 of 1997, section 25 of Act 30 of 1998, section 15 of Act 53 of 1999, section 7 of Act 59 of 2000, section 12 of Act 74 of 2002, section 20 of Act 45 of 2003, section 11 of Act 32 of 2004, section 13 of Act 31 of 2005 and section 8 of Act 20 of 2006 30

14. (1) Section 9 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1)(g) for subparagraph (i) of the following subparagraph: 40
- “(i) by the [**Government, any provincial administration, or by any municipality in**] government of the Republic in the national, provincial or local sphere; or”;
- (b) by the substitution in subsection (2) for paragraph (bb) of the proviso of the following paragraph: 45
- “(bb) in the case of a company or other entity, that person (whether alone or together with any connected person in relation to that person) directly or indirectly, holds at least 20 per cent of the equity [**share capital of**] shares in that company or ownership or right to ownership of that other entity.”. 50
- (2) Paragraph (b) of subsection (1) comes into operation on 1 January 2011.

Wysiging van artikel 8E van Wet 58 van 1962, soos ingevoeg deur artikel 6 van Wet 70 van 1989 en gewysig deur artikel 19 van Wet 45 van 2003, artikel 9 van Wet 32 van 2004 en artikel 7 van Wet 8 van 2007

13. (1) Artikel 8E van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (1) paragraaf (a) van die omskrywing van “hibriede ekwiteitsinstrument” deur die volgende paragraaf te vervang: 5
- “(a) enige [**aflosbare voorkeuraandeel**] aandeel buiten ’n ekwiteitsaandeel wat die betrokke maatskappy verplig is om in geheel of gedeeltelik af te los binne ’n tydperk van drie jaar vanaf die datum van uitreiking daarvan, of wat volgens keuse van die houer in geheel of gedeeltelik binne daardie tydperk afgelos kan word, of ten opsigte waarvan die houer ’n reg van beskikking het wat binne daardie tydperk uitgeoefen kan word; of”;
- (b) deur in subartikel (1) die woorde wat subparagraaf (i) van paragraaf (b) van die omskrywing van “hibriede ekwiteitsinstrument” voorafgaan deur die volgende woorde te vervang: 15
- “enige [**ander**] aandeel buiten ’n aandeel beoog in paragraaf (a), indien—”; en
- (c) deur subartikel (2) deur die volgende subartikel te vervang: 20
- “(2) ’n Dividend deur ’n maatskappy op ’n hibriede ekwiteitsinstrument verklaar wat verklaar word op of na die datum waarop daardie aandeel ’n hibriede ekwiteitsinstrument word, word by die toepassing van hierdie Wet geag met betrekking tot die ontvanger daarvan alleenlik ’n bedrag aan rente te wees wat uit ’n bron binne die Republiek [**deur hom ontvang is**] aan die ontvanger toegeval het.”. 25
- (2) Paragrafe (a) en (b) van subartikel (1) tree op 1 Januarie 2011 in werking.

Wysiging van artikel 9 van Wet 58 van 1962, soos gewysig deur artikel 7 van Wet 90 van 1962, artikel 6 van Wet 72 van 1963, artikel 7 van Wet 90 van 1964, artikel 9 van Wet 95 van 1967, artikel 12 van Wet 89 van 1969, artikel 6 van Wet 65 van 1973, artikel 9 van Wet 85 van 1974, artikel 8 van Wet 103 van 1976, artikel 9 van Wet 121 van 1984, artikel 5 van Wet 96 van 1985, artikel 6 van Wet 65 van 1986, artikel 2 van Wet 108 van 1986, artikel 7 van Wet 85 van 1987, artikel 36 van Wet 9 van 1989, artikel 10 van Wet 129 van 1991, artikel 7 van Wet 141 van 1992, artikel 5 van Wet 113 van 1993, artikel 3 van Wet 140 van 1993, artikel 7 van Wet 21 van 1994, artikel 9 van Wet 21 van 1995, artikel 7 van Wet 28 van 1997, artikel 25 van Wet 30 van 1998, artikel 15 van Wet 53 van 1999, artikel 7 van Wet 59 van 2000, artikel 12 van Wet 74 van 2002, artikel 20 van Wet 45 van 2003, artikel 11 van Wet 32 van 2004, artikel 13 van Wet 31 van 2005 en artikel 8 van Wet 20 van 2006

14. Artikel 9 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (1)(g) subparagraaf (i) deur die volgende subparagraaf te vervang: 40
- “(i) deur die [**Regering, ’n provinsiale administrasie, of deur ’n munisipaliteit in**] regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer; of”; en
- (b) deur in subartikel (2) paragraaf (bb) van die voorbehoudsbepaling deur die volgende paragraaf te vervang: 45
- “(bb) in die geval van ’n maatskappy of ander entiteit, daardie persoon (hetsy alleen of tesame met enige verbonde persoon met betrekking tot daardie persoon) direk of indirek minstens 20 persent van die [**ekwiteitsaandelekapitaal van**] ekwiteitsaandeel in daardie maatskappy of eienaarskap of reg tot eienaarskap van daardie ander entiteit hou.”. 50
- (2) Paragraaf (b) van subartikel (1) tree op 1 Januarie 2011 in werking.

Amendment of section 9C of Act 58 of 1962, as inserted by section 14 of Act 35 of 2007 and amended by section 7 of Act 3 of 2008 and section 12 of Act 60 of 2008

15. (1) Section 9C of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the definition of “qualifying share” of the following words: 5

“**‘qualifying share’**, in relation to any taxpayer, means an equity share contemplated in section [44] 41, which has been disposed of by the taxpayer or which is treated as having been disposed of by the taxpayer in terms of paragraph 12 of the Eighth Schedule, if the taxpayer immediately prior to such disposal had been the owner of that share for a continuous period of at least three years excluding a share which at any time during that period was—” 10

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 January 2010.

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, section 9 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 and section 12 of Act 17 of 2009 15 20

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

(a) by the substitution in subsection (1) for the words preceding the proviso to the definition of “controlled foreign company” of the following words:

“**‘controlled foreign company’** means any foreign company where more than 50 per cent of the total participation rights in that foreign company are directly or indirectly held, or more than 50 per cent of the voting rights in that foreign company are directly or indirectly exercisable, by one or more persons that are residents other than persons that are headquarter companies”; 25

(b) by the deletion in subsection (1) of the definition of “foreign company”; 30

(c) by the substitution in subsection (1) for paragraph (a) of the definition of “participation rights” of the following paragraph:

“(a) the right to participate [**directly or indirectly**] in [**the share capital, share premium, current or accumulated profits or reserves of**] all or part of the benefits of the rights (other than voting rights) attaching to a share, or any interest of a similar nature, in that company [, whether or not of a capital nature]; or”; 35

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

“There shall be included in the income for the year of assessment of any resident (other than a resident that is a headquarter company) who directly or indirectly holds any participation rights in a controlled foreign company—”; 40

(e) by the substitution in subsection (2) for paragraph (B) of the proviso of the following paragraph: 45

“(B) to the extent that the participation rights are held by that resident indirectly through any company (other than a company that is a headquarter company) which is a resident; or”;

(f) by the substitution in subsection (2A) for subparagraph (aa) of paragraph (i) of the proviso of the following subparagraph: 50

“(aa) any transaction, operation [**or**], scheme, agreement or understanding between that controlled foreign company and any connected person in relation to that controlled foreign company is subject to section 31(2); and”;

Wysiging van artikel 9C van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 35 van 2007 en gewysig deur artikel 7 van Wet 3 van 2008 en artikel 12 van Wet 60 van 2008

15. (1) Artikel 9C van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) die woorde wat paragraaf (a) van die omskrywing van “kwalifiserende aandeel” voorafgaan deur die volgende woorde te vervang: 5

“**‘kwalifiserende aandeel’**, met betrekking tot enige belastingpligtige, ’n ekwiteitsaandeel beoog in artikel [44] 41, waaroor deur die belastingpligtige beskik is of geag word beskik te wees deur die belastingpligtige ingevolge paragraaf 12 van die Agtste Bylae, indien die belastingpligtige, onmiddellik voor daardie beskikking die eienaar van daardie aandeel was vir ’n ononderbroke tydperk van ten minste drie jaar met die uitsondering van ’n aandeel wat te enige tyd gedurende daardie tydperk—”. 10

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2010 begin. 15

Wysiging van artikel 9D van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 28 van 1997 en gewysig deur artikel 28 van Wet 30 van 1998, artikel 17 van Wet 53 van 1999, artikel 19 van Wet 30 van 2000, artikel 10 van Wet 59 van 2000, artikel 9 van Wet 5 van 2001, artikel 22 van Wet 60 van 2001, artikel 14 van Wet 74 van 2002, artikel 22 van Wet 45 van 2003, artikel 13 van Wet 32 van 2004, artikel 14 van Wet 31 van 2005, artikel 9 van Wet 20 van 2006, artikel 9 van Wet 8 van 2007, artikel 15 van Wet 35 van 2007, artikel 8 van Wet 3 van 2008, artikel 13 van Wet 60 van 2008 en artikel 12 van Wet 17 van 2009 20

16. (1) Artikel 9D van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die woorde wat die voorbehoudsbepaling tot die omskrywing van “beheerde buitelandse maatskappy” voorafgaan deur die volgende woorde te vervang: 25

“**‘beheerde buitelandse maatskappy’** ’n buitelandse maatskappy waar meer as 50 persent van die totale deelnemende belange in daardie buitelandse maatskappy direk of indirek gehou word, of meer as 50 persent van die stemreg in daardie buitelandse maatskappy direk of indirek uitgeoefen kan word, deur een of meer persone wat inwoners is, buiten persone wat hoofkwartiermaatskappye is”; 30

(b) deur in subartikel (1) die woordomskrywing van “buitelandse maatskappy” te skrap; 35

(c) deur in subartikel (1) paragraaf (a) van die omskrywing van “deelnemende regte” deur die volgende paragraaf te vervang:

“(a) die reg om [regstreeks of onregstreeks] te deel in [die **aandelekapitaal, aandelepremie, lopende of opgehoopte winste of reserwes van**] al die voordele of ’n gedeelte van die voordele van die regte (buiten stemregte) verbonde aan ’n aandeel, of enige belang van ’n soortgelyke aard, in daardie maatskappy[, **hetsy van ’n kapitale aard of nie**]; of”; 40

(d) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 45

“Daar word ingesluit in die inkomste vir die jaar van aanslag van ’n inwoner (buiten ’n inwoner wat ’n hoofkwartiermaatskappy is), wat regstreeks of onregstreeks enige deelnemende regte in ’n beheerde buitelandse maatskappy hou—”;

(e) deur in subartikel (2) paragraaf (B) van die voorbehoudsbepaling deur die volgende paragraaf te vervang: 50

“(B) tot die mate wat die deelnemende regte indirek deur daardie inwoner gehou word deur enige maatskappy (buiten ’n maatskappy wat ’n hoofkwartiermaatskappy is) wat ’n inwoner is; of”;

(f) deur in subartikel (2A) subparagraaf (aa) van paragraaf (i) van die voorbehoudsbepaling deur die volgende subparagraaf te vervang: 55

“(aa) is enige transaksie, handeling [of], skema, ooreenkoms of verstandhouding tussen daardie beheerde buitelandse maatskappy en enige verbonde persoon met betrekking tot daardie beheerde buitelandse maatskappy onderhewig aan artikel 31(2); en”; 60

- (g) by the substitution in subsection (2A) for paragraph (k) of the proviso of the following paragraph:
 “(k) for the purposes of 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 [used by] of that company **[for purposes of financial reporting]**”;
- (h) by the addition to the proviso to subsection (2A) of the following paragraph:
 “(l) where the currency used by a controlled foreign company for the purposes of financial reporting—
 (i) was the currency of a country which—
 (aa) abandoned its currency; and
 (bb) had an official rate of inflation of 100 per cent or more for the foreign tax year preceding the abandonment of the currency; and
 (ii) the controlled foreign company adopted a new currency of financial reporting as a consequence of the abandonment contemplated in subparagraph (i)(aa),
 the controlled foreign company must, for the purposes of determining the cost of an asset of the controlled foreign company, be deemed to have acquired the asset in the new currency contemplated in subparagraph (ii)—
 (A) on the first day of the foreign tax year of the controlled foreign company in which; and
 (B) for an amount equal to the market value of the asset on the date on which,
the new currency was adopted by the controlled foreign company”;
- (i) by the substitution in paragraph (l) of the proviso to subsection (2A) for the words preceding subparagraph (i) of the following words:
 “where the functional currency [used by] of a controlled foreign company **[for the purposes of financial reporting]**—”;
- (j) by the substitution in paragraph (l) of the proviso to subsection (2A) for subparagraph (ii) of the following subparagraph:
 “(ii) the controlled foreign company adopted a new functional currency [of financial reporting] as a consequence of the abandonment contemplated in subparagraph (i)(aa),”;
- (k) by the substitution in subsection (2A) for subparagraph (i) of the further proviso of the following subparagraph:
 “(i) the net income of a controlled foreign company in respect of a foreign tax year shall be deemed to be nil where the aggregate amount of tax payable to all spheres of government of any country other than the Republic by the controlled foreign company **[on the net income of that controlled foreign company]** in respect of the foreign tax year of that controlled foreign company is at least 75 per cent of the amount of normal tax that would have been payable in respect of any taxable income of the controlled foreign company had the controlled foreign company been a resident for that foreign tax year; and”;
- (l) by the substitution for subsection (6) of the following subsection:
 “(6) The net income of a controlled foreign company [,] shall be determined in the functional currency [used by] of that controlled foreign company **[for purposes of financial reporting]** and shall, for purposes of determining the amount to be included in the income of any resident during any year of assessment under the provisions of this

- (g) deur in subartikel (2A) paragraaf (k) van die voorbehoudsbepaling deur die volgende paragraaf te vervang:
- “(k) by die toepassing van paragraaf 43 van die Agtste Bylae, beteken **‘plaaslike geldeenheid’** van ’n beheerde buitelandse maatskappy, anders as met betrekking tot ’n permanent saak van daardie beheerde buitelandse maatskappy, die funksionele geldeenheid [wat deur] van daardie maatskappy [vir doeleindes van finansiële verslagdoening gebruik word]”;
- (h) deur in subartikel (2A) die volgende paragraaf by die voorbehoudsbepaling te voeg:
- “(l) waar die geldeenheid gebruik deur ’n beheerde buitelandse maatskappy vir doeleindes van finansiële verslagdoening—
- (i) die geldeenheid was van ’n land wat—
- (aa) sy geldeenheid versaak het; en
- (bb) ’n amptelike inflasiekoers van 100 persent of meer gehad het vir die buitelandse belastingjaar wat die versaking van die geldeenheid voorafgegaan het; en
- (ii) die beheerde buitelandse maatskappy ’n nuwe geldeenheid van finansiële verslagdoening aangeneem het as gevolg van die versaking in subparagraaf (i)(aa) beoog, moet die beheerde buitelandse maatskappy, by die bepaling van die koste van ’n bate van die beheerde buitelandse maatskappy, geag word die bate in die nuwe geldeenheid in subparagraaf (ii) beoog te verkry het—
- (A) op die eerste dag van die buitelandse belastingjaar van die beheerde buitelandse maatskappy waarin; en
- (B) vir ’n bedrag gelyk aan die markwaarde van die bate op die datum waarop, die nuwe geldeenheid deur die beheerde buitelandse maatskappy aangeneem is”;
- (i) deur in paragraaf (l) van die voorbehoudsbepaling tot subartikel (2A) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:
- “waar die funksionele geldeenheid [gebruik deur] van ’n beheerde buitelandse maatskappy [vir doeleindes van finansiële verslagdoening]—”;
- (j) deur in paragraaf (l) van die voorbehoudsbepaling tot subartikel (2A) subparagraaf (ii) deur die volgende subparagraaf te vervang:
- “(ii) die beheerde buitelandse maatskappy ’n nuwe funksionele geldeenheid [van finansiële verslagdoening] aangeneem het as gevolg van die versaking in subparagraaf (i)(aa) beoog,”;
- (k) deur in subartikel (2A) subparagraaf (i) van die verdere voorbehoudsbepaling deur die volgende subparagraaf te vervang:
- “(i) die netto inkomste van ’n beheerde buitelandse maatskappy ten opsigte van ’n buitelandse belastingjaar geag word nul te wees waar die totale bedrag van belasting betaalbaar aan alle regeringsfere van enige land behalwe die Republiek deur die beheerde buitelandse maatskappy **[op die netto inkomste van daardie beheerde buitelandse maatskappy]** ten opsigte van die buitelandse belastingjaar van daardie beheerde buitelandse maatskappy minstens 75 persent is van die bedrag van normale belasting wat ten opsigte van belasbare inkomste van die beheerde buitelandse maatskappy betaalbaar sou gewees het indien die beheerde buitelandse maatskappy gedurende daardie buitelandse belastingjaar ’n inwoner was; en”;
- (l) deur subartikel (6) deur die volgende subartikel te vervang:
- “(6) Die netto inkomste van ’n beheerde buitelandse maatskappy word bepaal in die funksionele geldeenheid [wat deur] van daardie beheerde buitelandse maatskappy [gebruik word vir doeleindes van finansiële verslagdoening] en word by die berekening van die bedrag wat gedurende die jaar van aanslag by die inkomste van ’n inwoner kragtens die bepalings van hierdie artikel ingesluit moet word, omgeskakel na die geldeenheid van die Republiek deur die gemiddelde

section, be translated to the currency of the Republic by applying the average exchange rate for that year of assessment: Provided that—

- (a) in respect of the disposal of any asset contemplated in paragraph 43(4) of the Eighth Schedule which is not attributable to any permanent establishment of that controlled foreign company outside the Republic, any capital gain or capital loss of that controlled foreign company shall, when applying paragraph 43(4) of the Eighth Schedule, be determined in the currency of the Republic and that capital gain or capital loss shall be translated to the functional currency **[used by]** of that controlled foreign company **[for purposes of financial reporting]** by applying that average exchange rate; 5
- (b) in respect of the disposal of any foreign equity instrument which constitutes trading stock and which is not attributable to any permanent establishment of that controlled foreign company outside the Republic, the amount to be taken into account in determining the net income of that controlled foreign company must be determined in the currency of the Republic and that amount shall be translated to the functional currency **[so used by]** of that controlled foreign company by applying that average exchange rate; **[and]** 10
- (c) for the purposes of section 24I, ‘local currency’ in relation to an exchange item of a controlled foreign company which is not attributable to any permanent establishment of that company outside the Republic, means the currency of the Republic and any exchange difference determined must be translated to the functional currency **[so used by]** of that controlled foreign company by applying that average exchange rate; **and** 15
- (d) (i) any asset or foreign equity instrument that is disposed of; and 20
(ii) any exchange item denominated, 30
in any currency other than the functional currency **[used by]** of that controlled foreign company **[for purposes of financial reporting]** shall be deemed not to be attributable to any permanent establishment of the controlled foreign company if the functional currency **[used for financial reporting purposes]** is the currency of a country which has an official rate of inflation of 100 per cent or more **[throughout]** for that foreign tax year.”; and 35
- (m) by the substitution in subsection (9) for paragraph (e) of the following paragraph: 40
“(e) is included in the taxable income of the company **[and has not been or will not be exempt or taxed at a reduced rate in the Republic, as a result of the application of any agreement for the avoidance of double taxation];**”.

(2) Paragraphs (a), (b), (d), (e), (g), (i), (j), (l) and (m) of subsection (1) come into operation on 1 January 2011 and apply in respect of foreign tax years of controlled foreign companies ending during years of assessment commencing on or after that date. 45

(3) Paragraph (c) of subsection (1) comes into operation on 1 January 2011.

(4) Paragraph (f) of subsection (1) comes into operation on 1 October 2011 and applies in respect of foreign tax years of controlled foreign companies ending during years of assessment commencing on or after that date. 50

(5) Paragraph (h) of subsection (1) is deemed to have come into operation on 1 January 2009 and applies in respect of foreign tax years of controlled foreign companies ending during years of assessment ending on or after that date.

(6) Paragraph (k) of subsection (1) is deemed to have come into operation on 1 January 2008 and applies in respect of foreign tax years of controlled foreign companies ending during years of assessment ending on or after that date. 55

wisselkoers vir daardie jaar van aanslag toe te pas: Met dien verstande dat—

- (a) ten opsigte van die beskikking oor 'n bate in paragraaf 43(4) van die Agtste Bylae beoog wat nie aan 'n permanente saak van daardie beheerde buitelandse maatskappy buite die Republiek toeskryfbaar is nie, enige kapitaalwins of kapitaalverlies van daardie beheerde buitelandse maatskappy by die toepassing van paragraaf 43(4) van die Agtste Bylae in die geldeenhed van die Republiek bereken moet word en daardie kapitaalwins of kapitaalverlies omgerek word na die funksionele geldeenhed [**wat deur**] van daardie beheerde buitelandse maatskappy [**gebruik word vir doeleindes van finansiële verslagdoening,**] deur daardie gemiddelde wisselkoers toe te pas;
- (b) ten opsigte van die beskikking oor enige buitelandse ekwiteitsinstrument wat handelsvoorraad uitmaak en wat nie aan 'n permanente saak van daardie beheerde buitelandse maatskappy buite die Republiek toeskryfbaar is nie, die bedrag wat in berekening gebring word by die bepaling van die netto inkomste van daardie beheerde buitelandse maatskappy bereken moet [**bereken**] word in die geldeenhed van die Republiek en daardie bedrag [**word omgerek**] na die funksionele geldeenhed [**aldus deur**] van daardie beheerde buitelandse maatskappy [**gebruik,**] omgerek word deur die gemiddelde wisselkoers toe te pas; [**en**] by die toepassing van artikel 24I, [**beteken**] 'plaaslike geldeenhed' met betrekking tot 'n valuta-item van 'n beheerde buitelandse maatskappy wat nie aan 'n permanente saak van daardie maatskappy buite die Republiek toeskryfbaar is nie, die geldeenhed van die Republiek beteken en dat enige valutaverskil vasgestel [**moet omgerek word**] na die funksionele geldeenhed [**aldus deur**] van daardie beheerde buitelandse maatskappy [**gebruik**] omgerek moet word deur daardie gemiddelde wisselkoers te gebruik; en
- (c) (i) enige bate of buitelandse ekwiteitsinstrument waaroor beskik is; en
- (ii) enige valuta-item aangedui, in enige geldeenhed anders as die funksionele geldeenhed [**wat deur**] van daardie beheerde buitelandse maatskappy [**gebruik word vir doeleindes van finansiële verslagdoening, word**] geag word nie aan 'n permanente saak van die beheerde buitelandse maatskappy toeskryfbaar te wees nie, indien die funksionele geldeenhed [**wat vir doeleindes van finansiële verslagdoening gebruik word**] die geldeenhed is van 'n land met 'n amptelike inflasiekoers van 100 persent of meer [**gedurende die volle**] vir daardie buitelandse belastingjaar.”; en
- (m) deur in subartikel (9) paragraaf (e) deur die volgende paragraaf te vervang: “(e) in die belasbare inkomste van die maatskappy ingesluit is [**en nie in die Republiek van belasting vrygestel is of teen 'n verminderde koers belas is nie, as gevolg van die toepassing van enige ooreenkoms vir die vermyding van dubbele belasting**];”.

(2) Paragrafe (a), (b), (d), (e), (g), (i), (j), (l) en (m) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van buitelandse belastingjare van beheerde buitelandse maatskappye wat eindig gedurende jare van aanslag wat op of na daardie datum begin.

(3) Paragraaf (c) van subartikel (1) tree op 1 Januarie 2011 in werking.

(4) Paragraaf (f) van subartikel (1) tree op 1 Oktober 2011 in werking en is van toepassing ten opsigte van buitelandse belastingjare van beheerde buitelandse maatskappye wat eindig gedurende jare van aanslag wat op of na daardie datum begin.

(5) Paragraaf (h) van subartikel (1) word geag op 1 Januarie 2009 in werking te getree het en is van toepassing ten opsigte van buitelandse belastingjare van beheerde buitelandse maatskappye wat eindig gedurende jare van aanslag wat op of na daardie datum eindig.

(6) Paragraaf (k) van subartikel (1) word geag op 1 Januarie 2008 in werking te getree het en is van toepassing ten opsigte van buitelandse belastingjare van beheerde

Amendment of section 9E of Act 58 of 1962, as inserted by section 14 of Act 60 of 2008

17. (1) Section 9E of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (j) of the definition of “excluded company” of the following paragraph:

“(j) a foreign company [as defined in section 9D]; or”.

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 January 2011.

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

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

(a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraph:

“(a) the receipts and accruals of the [Government or any provincial administration;

(b) the receipts and accruals of municipalities] government of the Republic in the national, provincial or local sphere;”;

(b) by the substitution in subsection (1)(cA)(i) for the words preceding item (aa) of the following words:

“any institution, board or body (other than a company registered or deemed to be registered under the Companies Act, [1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008), any co-operative, close corporation, trust or water services provider, and any Black tribal authority, community authority, Black regional authority or Black territorial authority contemplated in section 2 of the Black Authorities Act, 1951 (Act No. 68 of 1951)) established by or under any law and which, in the furtherance of its sole or principal object—”;

(c) by the substitution in subsection (1) for paragraph (cE) of the following paragraph:

“(cE) the receipts and accruals of any political party registered [under the provisions of section 36 of the Electoral Act, 1979 (Act No. 45 of 1979)] in terms of section 15 of the Electoral Commission Act, 1996 (Act No. 51 of 1996);”;

buitelandse maatskappye wat eindig gedurende jare van aanslag wat op of na daardie datum eindig.

Wysiging van artikel 9E van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 60 van 2008

17. (1) Artikel 9E van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) paragraaf (j) van die omskrywing van “uitgesluite maatskappy” deur die volgende paragraaf te vervang:

“(j) ’n buitelandse maatskappy [soos omskryf in artikel 9D] is; of”.

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin.

Wysiging van artikel 10 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 90 van 1962, artikel 7 van Wet 72 van 1963, artikel 8 van Wet 90 van 1964, artikel 10 van Wet 88 van 1965, artikel 11 van Wet 55 van 1966, artikel 10 van Wet 95 van 1967, artikel 8 van Wet 76 van 1968, artikel 13 van Wet 89 van 1969, artikel 9 van Wet 52 van 1970, artikel 9 van Wet 88 van 1971, artikel 7 van Wet 90 van 1972, artikel 7 van Wet 65 van 1973, artikel 10 van Wet 85 van 1974, artikel 8 van Wet 69 van 1975, artikel 9 van Wet 103 van 1976, artikel 8 van Wet 113 van 1977, artikel 4 van Wet 101 van 1978, artikel 7 van Wet 104 van 1979, artikel 7 van Wet 104 van 1980, artikel 8 van Wet 96 van 1981, artikel 6 van Wet 91 van 1982, artikel 9 van Wet 94 van 1983, artikel 10 van Wet 121 van 1984, artikel 6 van Wet 96 van 1985, artikel 7 van Wet 65 van 1986, artikel 3 van Wet 108 van 1986, artikel 9 van Wet 85 van 1987, artikel 7 van Wet 90 van 1988, artikel 36 van Wet 9 van 1989, artikel 7 van Wet 70 van 1989, artikel 10 van Wet 101 van 1990, artikel 12 van Wet 129 van 1991, artikel 10 van Wet 141 van 1992, artikel 7 van Wet 113 van 1993, artikel 4 van Wet 140 van 1993, artikel 9 van Wet 21 van 1994, artikel 10 van Wet 21 van 1995, artikel 8 van Wet 36 van 1996, artikel 9 van Wet 46 van 1996, artikel 1 van Wet 49 van 1996, artikel 10 van Wet 28 van 1997, artikel 29 van Wet 30 van 1998, artikel 18 van Wet 53 van 1999, artikel 21 van Wet 30 van 2000, artikel 13 van Wet 59 van 2000, artikels 9 en 78 van Wet 19 van 2001, artikel 26 van Wet 60 van 2001, artikel 13 van Wet 30 van 2002, artikel 18 van Wet 74 van 2002, artikel 36 van Wet 12 van 2003, artikel 26 van Wet 45 van 2003, artikel 8 van Wet 16 van 2004, artikel 14 van Wet 32 van 2004, artikel 5 van Wet 9 van 2005, artikel 16 van Wet 31 van 2005, artikel 23 van Wet 9 van 2006, artikel 10 van Wet 20 van 2006, artikel 10 van Wet 8 van 2007, artikel 2 van Wet 9 van 2007, artikel 16 van Wet 35 van 2007, artikel 9 van Wet 3 van 2008, artikel 16 van Wet 60 van 2008 en artikel 13 van Wet 17 van 2009

18. (1) Artikel 10 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) paragrafe (a) en (b) deur die volgende paragraaf te vervang:

“(a) die ontvangste en toevallings van die [Regering of ’n provinsiale administrasie];

(b) die ontvangste en toevallings van munisipaliteite] regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer;”;

(b) deur in subartikel (1)(cA)(i) die woorde wat item (aa) voorafgaan deur die volgende woorde te vervang:

“’n instelling, raad of liggaam (behalwe ’n maatskappy geregistreer of geag geregistreer te wees ingevolge die Maatskappywet, [1973 (Wet No. 61 van 1973)] 2008 (Wet No. 71 van 2008), ’n koöperasie, beslote korporasie, trust of waterdienssteverskaffer, en enige Swart stamowerheid, gemeenskapsowerheid, Swart streeksowerheid of Swart gebiedsowerheid in artikel 2 van die Wet op Swart Owerhede, 1951 (Wet No. 68 van 1951), bedoel, wat by of ingevolge ’n wet ingestel is en wat, by die uitvoering van sy enigste of vernaamste oogmerk—”;

(c) deur in subartikel (1) paragraaf (cE) deur die volgende paragraaf te vervang:

“(cE) die ontvangste en toevallings van ’n politieke party geregistreer ingevolge artikel [36 van die Kieswet, 1979 (Wet No. 45 van 1979)] 15 van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996);”;

- (d) by the substitution in subsection (1)(d) for subparagraph (iii) of the following subparagraph:
- “(iii) mutual loan association, fidelity or indemnity fund, trade union, chamber of commerce or industries (or an association of such chambers) or local publicity association approved by the Commissioner **[subject to such conditions as the Minister may prescribe by regulation]** in terms of section 30B; or”;
- (e) by the substitution in subsection (1)(d)(iv) for the words following item (bb) of the following words:
- “approved by the Commissioner **[subject to such conditions as the Minister may prescribe by regulation]** in terms of section 30B;”;
- (f) by the substitution in subsection (1)(e)(i)(cc) for the words preceding subitem (A) of the following words:
- “any other association of persons (other than a company registered or deemed to be registered under the Companies Act, **[1973 (Act No. 61 of 1973)]** 2008 (Act No. 71 of 2008), any co-operative, close corporation and trust, but including a non-profit company **[contemplated]** as defined in section **[21] 1** of the Companies Act, **[1973 (Act No. 61 of 1973)]** 2008 (Act No. 71 of 2008), from its members, where the Commissioner is satisfied that, subject to such conditions as he or she may deem necessary, such association of persons—”;
- (g) by the insertion in subsection (1) after paragraph (gE) of the following paragraph:
- “(gF) any value required to be taken into account in determining the gross income of any person in respect of the cession by another person of a policy contemplated in section 11(w) ceded to or in favour of that person—
- (i) where that person is—
- (aa) an employee or director of that other person or a connected person in relation to the employee or director;
- (bb) the estate of the employee or director; or
- (cc) any person who is or was wholly or partly dependent for his or her maintenance upon the employee or director; and
- (ii) where that policy was concluded before 1 January 2011;”;
- (h) by the substitution in subsection (1)(i)(xv)(aa) for the words preceding the proviso of the following words:
- “so much of the aggregate of any foreign dividends and interest received by or accrued to him or her from a source outside the Republic, which are not otherwise exempt from tax, as does not during the year of assessment exceed **[R3 500] R3 700**”;
- (i) by the substitution in subsection (1)(i)(xv)(bb) for subitems (A) and (B) of the following subitems:
- “(A) in the case of any natural person who was or, had he or she lived, would have been at least 65 years of age on the last day of the year of assessment, the amount of **[R30 000] R32 000**; or
- (B) in any other case, the amount of **[R21 000] R22 300**”;
- (j) by the substitution in subsection (1)(k)(i) for the words preceding the proviso of the following words:
- “dividends (other than foreign dividends or dividends paid or declared by a headquarter company) received by or accrued to or in favour of any person”;
- (k) by the deletion in subsection (1)(k) of the word “or” at the end of paragraph (aa) of the proviso to subparagraph (i);
- (l) by the substitution in subsection (1)(k) for paragraph (cc) of the proviso to subparagraph (i) of the following paragraph:
- “(cc) to any dividend received by or accrued to or in favour of any person where such dividend constitutes or forms part of any consideration paid or payable to such person in respect of the disposal of shares (other than affected shares in respect of which the taxpayer has, in terms of the provisions of section 9B, elected the amount received or accrued on disposal to be deemed to be of a capital nature and other than qualifying shares as defined in

- (d) deur in subartikel (1)(d) subparagraaf (iii) deur die volgende subparagraaf te vervang:
 “(iii) onderlinge leningsvereniging, getrouheids- of vrywaringsfonds, vakvereniging, sake- of nywerheidskamer (of ’n vereniging van sulke kamers) of plaaslike publiseitsvereniging deur die Kommissaris goedgekeur [**behoudens die voorwaardes wat die Minister by regulasie voorskryf**] ingevolge artikel 30B; of”;
- (e) deur in subartikel (1)(d)(iv) die woorde wat op item (bb) volg deur die volgende woorde te vervang:
 “deur die Kommissaris goedgekeur [**behoudens die voorwaardes wat die Minister by regulasie voorskryf**] ingevolge artikel 30B”;
- (f) deur in subartikel (1)(e)(i)(cc) die woorde wat subitem (A) voorafgaan deur die volgende woorde te vervang:
 “enige ander vereniging van persone (behalwe ’n maatskappy geregistreer of geag geregistreer te wees ingevolge die Maatskappywet, [**1973 (Wet No. 61 van 1973)**] 2008 (Wet No. 71 van 2008), ’n koöperasie, beslote korporasie en trust, maar ingesluit enige maatskappy sonder winsoogmerk [beoog] soos omskryf in artikel [21] 1 van die Maatskappywet, [1973 (Wet No. 61 van 1973)] 2008 (Wet No. 71 van 2008), van sy lede, waar die Kommissaris oortuig is dat, onderworpe aan die voorwaardes wat hy of sy nodig ag, daardie vereniging van persone—”;
- (g) deur in subartikel (1) na paragraaf (gE) die volgende paragraaf in te voeg:
 “(gF) enige waarde in berekening gebring te word by die bepaling van die bruto inkomste van enige persoon ten opsigte van die sedering deur ’n ander persoon van ’n polis beoog in artikel 11(w) gesedeer aan of ten gunste van daardie persoon—
 (i) waar daardie persoon—
 (aa) ’n werknemer of direkteur is van daardie ander persoon of ’n verbonde persoon met betrekking tot die werknemer of direkteur is;
 (bb) die boedel van die werknemer of direkteur is; of
 (cc) ’n persoon is wat geheel of gedeeltelik vir sy of haar onderhoud van die werknemer of direkteur afhanklik is of was; en
 (ii) waar daardie polis voor 1 Januarie 2011 aangegaan is;”;
- (h) deur in subartikel (1)(i)(xv)(aa) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
 “soveel van die totaal van enige buitelandse dividende en rente ontvang deur of toegeval aan hom of haar vanuit ’n bron buite die Republiek, wat nie andersins van belasting vrygestel is nie, as wat nie gedurende die jaar van aanslag [**R3 500**] R3 700 te bowe gaan nie”;
- (i) deur in subartikel (1)(i)(xv)(bb) subitems (A) en (B) deur die volgende subitems te vervang:
 “(A) in die geval van ’n persoon wat op die laaste dag van die jaar van aanslag minstens 65 jaar oud was, of sou wees indien hy of sy gelewe het, die bedrag van [**R30 000**] R32 000 te bowe gaan; of
 (B) in enige ander geval, die bedrag van [**R21 000**] R22 300 te bowe gaan,”;
- (j) deur in subartikel (1)(k)(i) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
 “dividende (behalwe buitelandse dividende of dividende deur ’n hoofkwartiermaatskappy betaal of verklaar) ontvang deur of toegeval aan of ten gunste van ’n persoon”;
- (k) deur in subartikel (1)(k) die woord “of” aan die einde van paragraaf (aa) van die voorbehoudsbepaling tot subparagraaf (i) te skrap;
- (l) deur in subartikel (1)(k) paragraaf (cc) van die voorbehoudsbepaling tot subparagraaf (i) deur die volgende paragraaf te vervang:
 “(cc) op enige dividend ontvang deur of toegeval aan of ten gunste van ’n persoon waar daardie dividend vergoeding verteenwoordig of deel vorm van enige vergoeding wat betaal of betaalbaar is aan daardie persoon ten opsigte van die vervreemding van aandele (behalwe geaffekteerde aandele ten opsigte waarvan die belastingpligtige ingevolge die bepaling van artikel 9B, ’n keuse

- section 9C), which were held as trading stock by such person in a company and such shares were acquired by such company in terms of [section 85 of] the Companies Act, [1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008); or”;
- (m) by the addition in subsection (1)(k) to the proviso to subparagraph (i) of the following paragraph: 5
- “(dd) to any dividend in respect of a restricted equity instrument as defined in section 8C, unless—
- (A) the restricted equity instrument constitutes an equity share; 10
- or
- (B) the dividend constitutes an equity instrument as defined in that section;”;
- (n) by the substitution in subsection (1)(k)(ii) for the words preceding item (aa) of the following words: 15
- “any foreign dividend or any dividend paid or declared by a headquarter company received by or accrued to a person—”;
- (o) by the substitution in subsection (1)(k)(ii)(aa) for the words preceding subitem (A) of the following words: 20
- “to the extent that the [profits] amounts from which the foreign dividend is distributed—”;
- (p) by the substitution in subsection (1)(k)(ii)(aa) for subitem (A) of the following subitem: 25
- “(A) **[relate to any amount which has been or will be subject to tax in the Republic in terms of this Act, unless those profits have been or will be exempt or taxed at a reduced rate in the Republic as a result of the application of any agreement for the avoidance of double taxation]** are included in the taxable income of that person; or”;
- (q) by the substitution in subsection (1)(k)(ii)(dd) for the words preceding the proviso of the following words: 30
- “if that person (whether alone or together with any other company forming part of the same group of companies as that person) holds at least 20 per cent of the total equity [share capital] shares and voting rights in the company declaring the dividend, or 20 per cent of the total member’s interest and voting rights in the co-operative declaring the dividend, which co-operative is established in terms of the laws of any country other than the Republic”;
- (r) by the substitution in subsection (1)(k)(ii) for the proviso to item (dd) of the following proviso: 40
- “: Provided that this exemption must not apply in respect of any dividend received by or accrued to any person—
- (i) if—
- (aa) (A) any amount of that dividend is determined directly or indirectly with reference to; or 45
- (B) that dividend arises directly or indirectly from, any amount paid or payable by any person to any other person; and
- (bb) the amount so paid or payable is deductible by the person and— 50
- (A) is not subject to normal tax in the hands of that other person; or
- (B) where that other person is a controlled foreign company, is not taken into account in determining the net income, as defined in section 9D(2A), of that controlled foreign company; or 55

- uitgeoefen het dat die bedrag ontvang of toegeval uit hoofde van die vervreemding van 'n kapitale aard geag word te wees en behalwe kwalifiserende aandele soos in artikel 9C omskryf), wat as handelsvoorraad deur daardie persoon in 'n maatskappy gehou is en daardie aandele deur daardie maatskappy ingevolge **[artikel 85 van]** die Maatskappywet, **[1973 (Wet No. 61 van 1973)]** 2008 (Wet No. 71 van 2008), verkry is; of”;
- (m) deur in subartikel (1)(k) by die voorbehoudsbepaling tot subparagraaf (i) die volgende paragraaf te voeg:
- “(dd) op enige dividend ten opsigte van 'n beperkte ekwiteitsinstrument soos omskryf in artikel 8C, tensy—
- (A) die beperkte ekwiteitsinstrument 'n ekwiteitsaandeel uitmaak; of
- (B) die dividend 'n ekwiteitsinstrument soos in daardie artikel omskryf, uitmaak;”;
- (n) deur in subartikel (1)(k)(ii) die woorde wat item (aa) voorafgaan deur die volgende woorde te vervang:
- “'n buitelandse dividend of enige dividend deur 'n hoofkwartiermaatskappy betaal of verklaar ontvang deur of toegeval aan 'n persoon—”;
- (o) deur in subartikel (1)(k)(ii)(aa) die woorde wat subitem (A) voorafgaan deur die volgende woorde te vervang:
- “in die mate wat die **[winste]** bedrae waaruit die **[dividende]** buitelandse dividend verklaar is—”;
- (p) deur in subartikel (1)(k)(ii)(aa) subitem (A) deur die volgende subitem te vervang:
- “(A) **[verband hou met enige bedrag wat aan belasting in die Republiek onderhewig was of sal wees ingevolge hierdie Wet, tensy daardie winste aan belasting in die Republiek onderhewig was of sal wees teen 'n verminderde skaal weens die toepassing van 'n ooreenkoms vir die vermyding van dubbele belasting]** by die belasbare inkomste van daardie persoon ingesluit word; of”;
- (q) deur in subartikel (1)(k)(ii)(dd) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
- “indien daardie persoon (hetsy alleen of tesame met enige ander maatskappy wat deel vorm van dieselfde groep van maatskappye as daardie persoon), minstens 20 persent van die totale **[ekwiteitsaandelekapitaal]** ekwiteitsaandele en stemregte in die maatskappy wat die dividend verklaar, hou, of 20 persent van die totale ledebelang en stemregte in die koöperasie wat die dividend verklaar, hou, en daardie koöperasie ingevolge die wette van enige ander land as die Republiek opgerig is”;
- (r) deur in subartikel (1)(k)(ii) die voorbehoudsbepaling tot item (dd) deur die volgende voorbehoudsbepaling te vervang:
- “: Met dien verstande dat hierdie vrystelling nie van toepassing moet wees nie ten opsigte van enige dividend ontvang deur of toegeval aan enige persoon—
- (i) indien—
- (aa) (A) enige bedrag van daardie dividend bepaal word regstreeks of onregstreeks met verwysing na; of
- (B) daardie dividend regstreeks of onregstreeks voortspruit uit, enige bedrag betaal of betaalbaar deur enige persoon aan enige ander persoon; en
- (bb) die bedrag aldus betaal of betaalbaar deur die persoon aftrekbaar is en—
- (A) nie aan normale belasting in die hande van daardie ander persoon onderhewig is nie; of
- (B) waar daardie ander persoon 'n beheerde buitelandse maatskappy is, nie by die bepaling van die netto inkomste, soos in artikel 9D(2A) omskryf, van daardie

- (ii) from any portfolio contemplated in paragraph (e) of the definition of 'company' in section 1";
- (s) by the deletion of the word "or" at the end of item (B) of paragraph (i)(bb) of the proviso to item (dd) of subsection (1)(k)(ii);
- (t) by the addition of the word "or" at the end of paragraph (ii) of the proviso to item (dd) of subsection (1)(k)(ii);
- (u) by the addition in subsection (1)(k)(ii) of the following paragraph to the proviso to item (dd):
 "(iii) from any foreign financial instrument holding company as defined in section 41;";
- (v) by the substitution in subsection (1)(x) for paragraph (iv) of the proviso of the following paragraph:
 "(iv) the termination or impending termination of such person's services is due to his employer having ceased to carry on or intending to cease carrying on the trade in respect of which such person was employed or to such person having become redundant in consequence of his employer having effected a general reduction in personnel or a reduction in personnel of a particular class and, where such person's employer is a company, such person was not at any time a director of such company and did not at any time hold more than five per cent of the [issued share capital] equity shares or members' interest in such company;";
- (w) by the deletion of subsection (1)(x);
- (x) by the substitution in subsection (1) for paragraph (zE) of the following paragraph:
 "(zE) any amount received by or accrued to the Small Business Development Corporation[,] Limited, by way of any subsidy or assistance payable by the State;"; and
- (y) by the substitution in subsection (1)(zJ) for subparagraph (i) of the following subparagraph:
 "(i) investment income as defined in [section 12E] paragraph 1 of the Sixth Schedule; or".
- (2) Paragraphs (b), (f), (n), (o), (p), (q) and (v) of subsection (1) come into operation on 1 January 2011.
- (3) Paragraphs (d) and (e) of subsection (1) come into operation on the date of promulgation of this Act.
- (4) Paragraph (g) of subsection (1) comes into operation on 1 January 2011 and applies in respect of a policy ceded on or after 1 January 2012.
- (5) Paragraphs (h) and (i) of subsection (1) are deemed to have come into operation on 1 March 2010 and apply in respect of years of assessment commencing on or after that date.
- (6) Paragraphs (j) and (n) of subsection (1) come into operation on 1 January 2011 and apply in respect of dividends paid or declared during years of assessment commencing on or after that date.
- (7) Paragraphs (k) and (m) of subsection (1) come into operation on 1 January 2011 and apply in respect of dividends received by or accrued to or in favour of any person on or after that date.
- (8) Paragraph (r) of subsection (1) comes into operation on 1 January 2011 and applies in respect of dividends received or accrued during years of assessment commencing on or after that date.
- (9) Paragraphs (s), (t) and (u) of subsection (1) come into operation on 1 October 2011 and apply in respect of dividends received or accrued during years of assessment commencing on or after that date.
- (10) Paragraph (w) of subsection (1) comes into operation on 1 March 2011 and applies in respect of amounts received or accrued on or after that date.
- (11) Paragraph (y) of subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 March 2011.

- beheerde buitelandse maatskappy in berekening gebring word nie; of
- (ii) van enige portefeulje beoog in paragraaf (e) van die omskrywing van ‘maatskappy’ in artikel 1”;
- (s) deur die woord “of” aan die einde van item (B) van paragraaf (i)(bb) van die voorbehoudsbepaling tot item (dd) van subartikel (1)(k)(ii) te skrap; 5
- (t) deur die woord “of” aan die einde van paragraaf (ii) van die voorbehoudsbepaling tot item (dd) van subartikel (1)(k)(ii) by te voeg;
- (u) deur in subartikel (1)(k)(ii) die volgende paragraaf by die voorbehoudsbepaling tot item (dd) te voeg: 10
- “(iii) van enige buitelandse finansiële instrumenthouermaatskappy soos in artikel 41 omskryf;”;
- (v) deur in subartikel (1)(x) paragraaf (iv) van die voorbehoudsbepaling deur die volgende paragraaf te vervang: 15
- “(iv) die beëindiging of naderende beëindiging van sodanige persoon se dienste daaraan te wyte is dat sy werkgewer opgehou het of van voorneme is om op te hou om die bedryf te beoefen ten opsigte waarvan sodanige persoon in diens was of dat sodanige persoon oorbodig geword het omrede sy werkgewer ’n algemene vermindering in personeel of ’n vermindering in personeel van ’n bepaalde klas ingestel het en, waar sodanige persoon se werkgewer ’n maatskappy is, sodanige persoon nie te eniger tyd ’n direkteur van sodanige maatskappy was nie en nie te eniger tyd meer as vyf persent van die [uitgereikte aandelekapitaal] ekwiteitsaandeel of ledebelang in sodanige maatskappy gehou het nie;”;
- (w) deur subartikel (1)(x) te skrap; 20
- (x) deur in die Engelse teks in subartikel (1) paragraaf (zE) deur die volgende paragraaf te vervang: 25
- “(zE) any amount received by or accrued to the Small Business Development Corporation[,] Limited, by way of any subsidy or assistance payable by the State;”;
- (y) deur in subartikel (1)(zJ) subparagraaf (i) deur die volgende subparagraaf te vervang: 30
- “(i) beleggingsinkomste soos omskryf in [artikel 12E] paragraaf 1 van die Sesde Bylae uitmaak; of”;
- (2) Paragrafe (b), (f), (n), (o), (p), (q) en (v) van subartikel (1) tree op 1 Januarie 2011 in werking. 35
- (3) Paragrafe (d) en (e) van subartikel (1) tree in werking op die datum van promulgering van hierdie Wet.
- (4) Paragraaf (g) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van ’n polis op of na 1 Januarie 2012 gesedeer. 40
- (5) Paragrafe (h) en (i) van subartikel (1) word geag op 1 Maart 2010 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.
- (6) Paragrafe (j) en (n) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van dividende betaal of verklaar gedurende jare van aanslag wat op of na daardie datum begin. 45
- (7) Paragrafe (k) en (m) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van dividende ontvang deur of toegeval aan of ten gunste van enige persoon op of na daardie datum. 50
- (8) Paragraaf (r) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van dividende ontvang of toegeval gedurende jare van aanslag wat op of na daardie datum begin.
- (9) Paragrafe (s), (t) en (u) van subartikel (1) tree op 1 Oktober 2011 in werking en is van toepassing ten opsigte van dividende ontvang of toegeval gedurende jare van aanslag wat op of na daardie datum begin. 55
- (10) Paragraaf (w) van subartikel (1) tree op 1 Maart 2011 in werking en is van toepassing ten opsigte van bedrae op of na daardie datum ontvang of toegeval.
- (11) Paragraaf (y) van subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Maart 2011 begin. 60

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 1968, 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, section 10 of Act 3 of 2008, section 18 of Act 60 of 2008 and section 14 of Act 17 of 2009

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

- (a) by the substitution in paragraph (e) for the words preceding the proviso of the following words:
- “save as provided in paragraph 12(2) of the First Schedule, such sum as the Commissioner may think just and reasonable as representing the amount by which the value of any machinery, plant, implements, utensils and articles (other than machinery, plant, implements, utensils and articles in respect of which a deduction may be granted under section 12B, 12C, 12DA, [12E] 12E(1) 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, 1991 (Act No. 89 of 1991), 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”;
- (b) by the deletion in paragraph (e) of paragraphs (i) and (iv) of the proviso;
- (c) by the addition in paragraph (e) of the word “and” at the end of paragraph (vii) of the proviso;
- (d) by the substitution in paragraph (g) for paragraph (iii) of the proviso of the following paragraph:
- “(iii) if—
- (aa) the taxpayer is entitled to such use or occupation for an indefinite period[, he]; or
- (bb) the taxpayer or the person by whom such right of use or occupation was granted holds a right or option to extend or renew the original period of such use or occupation, the taxpayer shall for the purposes of this paragraph be deemed to be entitled to such use or occupation for such period as in the opinion of the Commissioner represents the probable duration of such use or occupation;”;
- (e) by the deletion in paragraph (g) of paragraph (v) of the proviso;
- (f) by the substitution in paragraph (g) for paragraph (vi) of the proviso of the following paragraph:
- “(vi) the provisions of this paragraph shall not apply in relation to any such expenditure incurred if the value of such improvements or the amount to be expended on such improvements, as contemplated in

Wysiging van artikel 11 van Wet 58 van 1962, soos gewysig deur artikel 9 van Wet 90 van 1962, artikel 8 van Wet 72 van 1963, artikel 9 van Wet 90 van 1964, artikel 11 van Wet 88 van 1965, artikel 12 van Wet 55 van 1966, artikel 11 van Wet 95 van 1967, artikel 9 van Wet 76 van 1968, artikel 14 van Wet 89 van 1969, artikel 10 van Wet 52 van 1970, artikel 10 van Wet 88 van 1971, artikel 8 van Wet 90 van 1972, artikel 9 van Wet 65 van 1973, artikel 12 van Wet 85 van 1974, artikel 9 van Wet 69 van 1975, artikel 9 van Wet 113 van 1977, artikel 12 van Wet 85 van 1974, artikel 9 van Wet 69 van 1975, artikel 9 van Wet 113 van 1977, artikel 5 van Wet 101 van 1978, artikel 8 van Wet 104 van 1979, artikel 8 van Wet 104 van 1980, artikel 9 van Wet 96 van 1981, artikel 7 van Wet 91 van 1982, artikel 10 van Wet 94 van 1983, artikel 11 van Wet 121 van 1984, artikel 46 van Wet 97 van 1968, artikel 10 van Wet 94 van 1983, artikel 11 van Wet 121 van 1984, artikel 46 van Wet 97 van 1986, artikel 10 van Wet 85 van 1987, artikel 8 van Wet 90 van 1988, artikel 8 van Wet 70 van 1989, artikel 11 van Wet 101 van 1990, artikel 13 van Wet 129 van 1991, artikel 11 van Wet 141 van 1992, artikel 9 van Wet 113 van 1993, artikel 5 van Wet 140 van 1993, artikel 10 van Wet 21 van 1994, artikel 12 van Wet 21 van 1995, artikel 9 van Wet 36 van 1996, artikel 12 van Wet 28 van 1997, artikel 30 van Wet 30 van 1998, artikel 20 van Wet 53 van 1999, artikel 22 van Wet 30 van 2000, artikel 15 van Wet 59 van 2000, artikel 10 van Wet 19 van 2001, artikel 27 van Wet 60 van 2001, artikel 14 van Wet 30 van 2002, artikel 19 van Wet 74 van 2002, artikel 27 van Wet 45 van 2003, artikel 9 van Wet 16 van 2004, artikel 16 van Wet 32 van 2004, artikel 6 van Wet 9 van 2005, artikel 18 van Wet 31 van 2005, artikel 11 van Wet 20 van 2006, artikel 11 van Wet 8 van 2007, artikel 17 van Wet 35 van 2007, artikel 10 van Wet 3 van 2008, artikel 18 van Wet 60 van 2008 en artikel 14 van Wet 17 van 2009

19. Artikel 11 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in paragraaf (e) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

“behoudens die bepalings van paragraaf 12(2) van die Eerste Bylae, so ’n bedrag as wat volgens die Kommissaris se oordeel billikerwys en redelikerwys die bedrag voorstel waarmee die waarde van masjinerie, installasie, gereedskap, werktuie en artikels (behalwe masjinerie, installasie, gereedskap, werktuie en artikels ten opsigte waarvan ’n aftrekking ingevolge artikel 12B, 12C, 12DA, [12E] 12E(1) of 37B toegestaan mag word) waarvan die belastingpligtige die eienaar is of wat deur die belastingpligtige verkry is as koper ingevolge ’n ooreenkoms in paragraaf (a) van die omskrywing van ‘paaientkredietooreenkoms’ in artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), bedoel en wat deur die belastingpligtige vir die doeleindes van sy of haar bedryf gebruik, verminder is ten gevolge van slytasie of waardevermindering gedurende die jaar van aanslag”;

(b) deur in paragraaf (e) paragrafe (i) en (iv) van die voorbehoudsbepaling te skrap;

(c) deur in paragraaf (e) die woord “en” aan die einde van paragraaf (vii) van die voorbehoudsbepaling by te voeg;

(d) deur in paragraaf (g) paragraaf (iii) van die voorbehoudsbepaling deur die volgende paragraaf te vervang:

“(iii) indien—

(aa) die belastingpligtige vir ’n onbepaalde tydperk op bedoelde gebruik of okkupering geregtig is [hy]; of

(bb) die belastingpligtige of die persoon deur wie sodanige reg van gebruik of okkupering toegestaan is, ’n reg of opsie hou om die oorspronklike tydperk van sodanige gebruik of okkupering te verleng of hernu,

die belastingpligtige by die toepassing van hierdie paragraaf geag word op die gebruik of okkupering geregtig te wees vir die tydperk wat volgens die Kommissaris se oordeel die waarskynlike duur van die gebruik of okkupering verteenwoordig;”;

(e) deur in paragraaf (g) paragraaf (v) van die voorbehoudsbepaling te skrap;

(f) deur in paragraaf (g) paragraaf (vi) van die voorbehoudsbepaling deur die volgende paragraaf te vervang:

“(vi) die bepalings van hierdie paragraaf nie van toepassing is nie met betrekking tot enige bedoelde onkoste aangegaan indien die waarde van bedoelde verbeterings of die bedrag wat aan bedoelde

- paragraph (*h*) of the definition of ‘gross income’ in section 1, does not for the purposes of this Act constitute income of the person to whom the right to have such improvements effected has accrued[, **unless the expenditure was incurred pursuant to an obligation to effect improvements in terms of—** 5
- (*aa*) **a Public Private Partnership; or**
- (*bb*) **a right of use or occupation of land or a building owned by—**
- (i) **the Government, any provincial administration or any municipality; or** 10
- (ii) **any entity, the receipts and accruals of which are exempt in terms of section 10(1)(cA) or 10(1)(t), where the right of use or occupation has a duration of 20 years or more];”;**
- (*g*) by the substitution in paragraph (*g*) for paragraph (vii) of the proviso of the following paragraph: 15
- “(vii) if during any year of assessment the agreement whereby the right of use or occupation of the land or buildings is granted is terminated before expiry of the period to which that taxpayer was [**initially**] entitled to the use or occupation, as contemplated in paragraph (ii) 20 or (iii), so much of the allowance which may be allowed under this paragraph, which has not yet been allowed in that year or any previous year of assessment, shall be allowable as a deduction in that year of assessment;”;
- (*h*) by the substitution for paragraph (*gD*) of the following paragraph: 25
- “(gD) where that trade constitutes the provision of telecommunication services, the exploration, production or distribution of petroleum or the provision of gambling facilities, any expenditure (other than in respect of infrastructure) incurred to acquire a licence from the [**Government, a provincial administration or a municipality**] government of the Republic in the national, provincial or local sphere, contemplated in section 10(1)(a) [**or (b)**], or an institution or entity contemplated in Schedule 1 or Part A or C of Schedule 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), where that expenditure is incurred in 30 terms of the licence and the licence is required to carry on that trade, which deduction must not exceed for any one year such portion of the expenditure as is equal to the amount of the expenditure divided by the number of years for which the taxpayer has the right to the licence after the date on which the expenditure was incurred, or 30, whichever is the lesser;”;
- (*i*) by the substitution for paragraph (*w*) of the following paragraph: 35
- “(w) expenditure incurred by a taxpayer in respect of any premiums payable under a long-term insurance policy of which the taxpayer is the policyholder, where— 40
- (i) the amount of expenditure incurred by the taxpayer in respect of the premiums payable under the policy is included in the taxable income of an employee or director of the taxpayer; or
- (ii) (*aa*) the taxpayer is insured against any loss by reason of the death, disablement or severe illness of an employee or director of the taxpayer; 45
- (*bb*) the policy is a risk policy with no cash value or surrender value prior to the maturity date thereof or the death of the employee or director whose life is insured under the policy; 50
- (*cc*) the policy is not the property of any person other than the taxpayer at the time of the payment of the premium: Provided that any premium paid shall not be disallowed as a deduction by reason of the policy being held by a 55

- verbeterings bestee moet word, soos in paragraaf (*h*) van die omskrywing van ‘bruto inkomste’ in artikel 1 bedoel, nie by die toepassing van hierdie Wet inkomste uitmaak nie van die persoon aan wie die reg om bedoelde verbeterings te laat aanbring, toegeval het[, **tensy die onkoste aangegaan is ooreenkomstig ’n** 5
verpligting om verbeteringe aan te bring ingevolge—
(aa) ’n ‘Public Private Partnership’; of
(bb) ’n reg van gebruik of okkupasie van grond of ’n gebou in die besit van—
(i) die Regering, enige provinsiale administrasie of enige 10
munisipaliteit; of
(ii) enige entiteit waarvan die ontvangste en toevallings ingevolge artikel 10(1)(cA) of 10(1)(t) vrygestel is; 15
waar die reg van gebruik of okkupasie ’n lewensduur van 20 jaar of meer het];”; 15
- (*g*) deur in paragraaf (*g*) paragraaf (vii) van die voorbehoudsbepaling deur die volgende paragraaf te vervang:
 “(vii) indien gedurende enige jaar van aanslag die ooreenkoms ingevolge waarvan die reg van gebruik of okkupasie van die grond of geboue verleen is beëindig word voor die verstryking van die tydperk 20
 waarvoor daardie belastingpligtige [**aanvanklik**] tot die gebruik of okkupasie geregtig was, soos in paragraaf (ii) of (iii) bedoel, word soveel van die vermindering wat kragtens hierdie paragraaf toegelaat mag word, wat nog nie in daardie jaar of enige 25
 voorafgaande jaar van aanslag toegelaat is nie, as ’n aftrekking in daardie jaar van aanslag toegelaat;”;
- (*h*) deur paragraaf (*gD*) deur die volgende paragraaf te vervang:
 “(*gD*) waar daardie bedryf die verskaffing van telekommunikasie-dienste, die eksplorاسie, produksie of verspreiding van petroleum of die verskaffing van dubbelfasiliteite uitmaak, enige uitgawe 30
 (buiten ten opsigte van infrastruktuur) aangegaan om ’n lisensie te verkry van die [**Regering, ’n provinsiale administrasie of ’n munisipaliteit**] regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer, beoog in artikel 10(1)(a) [**of (b)**] of ’n instelling of entiteit beoog in Bylae 1 of Deel A of C van Bylae 35
 3 by die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), waar daardie uitgawe aangegaan word ingevolge die lisensie en die lisensie vereis word om daardie bedryf te beoefen, welke aftrekking vir enige enkele jaar nie die gedeelte moet oorskry nie van die uitgawe wat gelyk is aan die bedrag van die 40
 uitgawe verdeel deur die aantal jaar waarvoor die belastingpligtige die reg op die lisensie het na die datum waarop die uitgawe aangegaan is, of 30, watter ook al die minste is;”;
- (*i*) deur paragraaf (*w*) deur die volgende paragraaf te vervang:
 “(*w*) uitgawes aangegaan deur ’n belastingpligtige ten opsigte van enige 45
 premies betaalbaar ingevolge ’n langtermyn-versekeringspolis waarvan die belastingpligtige die polishouer is, waar—
 (i) die bedrag van uitgawes aangegaan deur die belastingpligtige ten opsigte van die premies betaalbaar ingevolge die polis by die belasbare inkomste van ’n werknemer of direkteur van die 50
 belastingpligtige ingesluit word; of
 (ii) (*aa*) die belastingpligtige verseker word teen enige verlies omrede die dood, ongeschiktheid of ernstige siekte van ’n werknemer of direkteur van die belastingpligtige;
 (*bb*) die polis ’n risikopolis is met geen kontantwaarde of 55
 afkoopwaarde voor die uitkeerderdatum daarvan of die dood van die werknemer of direkteur wie se lewe ingevolge die polis verseker word nie;
 (*cc*) die polis nie die eiendom van enige ander persoon as die 60
 belastingpligtige is nie ten tye van die betaling van die premie: Met dien verstande dat enige premie betaal nie as ’n aftrekking afgewys mag word nie omrede die polis deur ’n krediteur van die belastingpligtige anders as enige

creditor of the taxpayer other than any person contemplated in paragraph (dd) as security for a debt of the taxpayer; and

- (dd) no transaction, operation or scheme exists in terms of which any amount recoverable under the policy or an amount equivalent to or in lieu of such amount will be made over by the taxpayer to or in favour of—
- (A) the employee or director or a connected person in relation to the employee or director;
 - (B) the estate of the employee or director; or
 - (C) any person who is or was wholly or partly dependent for his or her maintenance upon the employee or director.”

(2) Paragraphs (d), (e) and (f) of subsection (1) come into operation on the date of promulgation of this Act and apply in respect of agreements entered into on or after that date.

(3) Paragraph (i) of subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 January 2011 and applies in respect of premiums incurred on or after that date.

Amendment of section 11D of Act 58 of 1962, as inserted by section 13 of Act 20 of 2006 and amended by section 13 of Act 8 of 2007, section 3 of Act 9 of 2007, section 19 of Act 35 of 2007, section 11 of Act 3 of 2008, section 19 of Act 60 of 2008 and section 16 of Act 17 of 2009

20. (1) Section 11D of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (2) of the following subsection:

“(2A) For the purposes of this section, if a taxpayer completes an improvement as contemplated in section 12N, the expenditure incurred by the taxpayer to complete that improvement shall be deemed to be the cost to that taxpayer of any new and unused building, part thereof, or improvement thereto, contemplated in subsection (2).”

(2) Subsection (1) comes into operation on the date of the promulgation of this Act.

Amendment of section 11E of Act 58 of 1962, as inserted by section 20 of Act 35 of 2007 and amended by section 17 of Act 17 of 2009

21. (1) The Income Tax Act, 1962, is hereby amended by the substitution for section 11E of the following section:

“Deduction of certain expenditure incurred by sporting bodies

11E. [(1)] For the purpose of determining the taxable income derived by—

[(i)](a) any company contemplated in section 21 of the Companies Act, 1973 (Act No. 61 of 1973), or a non-profit company as defined in the Companies Act, 2008 (Act No. 71 of 2008); or

[(ii)](b) an association of persons that has been incorporated, formed or established in the Republic,

from carrying on any sporting activities falling under a code of sport administered and controlled by a national federation as contemplated in section 1 of the National Sport and Recreation Act, 1998 (Act No. 110 of 1998), there shall be allowed as a deduction from the income of that company or association—

(i) expenditure, not of a capital nature, incurred by that company or association on the development and promotion, directly by that company or association; or

(ii) any payment made to any other company or association contemplated in this section for expenditure to be incurred on the development and promotion,

of sporting activities contemplated in paragraph 9 of Part I of the Ninth Schedule falling under that code of sport.”

- persoon in paragraaf (*dd*) beoog as sekuriteit vir 'n skuld van die belastingpligtige gehou word; en
- (*dd*) geen transaksie, handeling of skema bestaan nie ingevolge waarvan enige bedrag wat herwinbaar is ingevolge die polis of 'n bedrag gelykstaande aan of in plek van sodanige bedrag deur die belastingpligtige oorgemaak sal word aan of ten gunste van—
- (A) die werknemer of direkteur of 'n verbonde persoon met betrekking tot die werknemer of direkteur;
- (B) die boedel van die werknemer of direkteur; of
- (C) enige persoon wat geheel of gedeeltelik vir sy of haar onderhoud van die werknemer of direkteur afhanklik is of was.”

(2) Paragrafe (*d*), (*e*) en (*f*) van subartikel (1) tree in werking op die datum van promulgering van hierdie Wet en is van toepassing ten opsigte van ooreenkomste op of na daardie datum aangegaan.

(3) Paragraaf (*i*) van subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin en is van toepassing ten opsigte van premies op of na daardie datum aangegaan.

Wysiging van artikel 11D van Wet 58 van 1962, soos ingevoeg deur artikel 13 van Wet 20 van 2006 en gewysig deur artikel 13 van Wet 8 van 2007, artikel 3 van Wet 9 van 2007, artikel 19 van Wet 35 van 2007, artikel 11 van Wet 3 van 2008, artikel 19 van Wet 60 van 2008 en artikel 16 van Wet 17 van 2009

20. (1) Artikel 11D van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel in te voeg:

“(2A) By die toepassing van hierdie artikel, indien 'n belastingpligtige 'n verbetering voltooi soos in artikel 12N beoog, word die uitgawes aangegaan deur die belastingpligtige om daardie verbetering te voltooi, geag die koste vir daardie belastingpligtige van enige nuwe en ongebruikte gebou, deel daarvan, of verbetering daaraan, beoog in subartikel (2), te wees.”

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Wysiging van artikel 11E van Wet 58 van 1962, soos ingevoeg deur artikel 20 van Wet 35 van 2007 en gewysig deur artikel 17 van Wet 17 van 2009

21. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur artikel 11E deur die volgende artikel te vervang:

“Aftrekking van sekere uitgawes aangegaan deur sportliggame

11E. [(1)] By die berekening van die belasbare inkomste verkry deur—

[(i)](*a*) enige maatskappy beoog in artikel 21 van die Maatskappywet, 1973 (Wet No. 61 van 1973), of 'n maatskappy sonder winsoogmerk soos omskryf in die Maatskappywet, 2008 (Wet No. 71 van 2008); of

[(ii)](*b*) enige vereniging van persone ingelyf, gestig of opgerig in die Republiek,

uit die bedryf van enige sportaktiwiteite wat sorteer onder 'n sportkode geadministreer en beheer deur 'n nasionale federasie soos in artikel 1 van die Wet op Nasionale Sport en Ontspanning, 1998 (Wet No. 110 van 1998), beoog, word daar as 'n aftrekking van die inkomste van daardie maatskappy of vereniging toegelaat—

(i) onkoste, nie van 'n kapitale aard, deur daardie maatskappy of vereniging aangegaan ten opsigte van die ontwikkeling en bevordering, direk deur daardie maatskappy of vereniging; of

(ii) enige betaling gedoen aan enige ander maatskappy of vereniging beoog in hierdie artikel vir onkoste aangegaan te word ten opsigte van die ontwikkeling en bevordering,

van sportaktiwiteite soos in paragraaf 9 van Deel I van die Negende Bylae bedoel wat onder daardie sportkode val.”

(2) Subsection (1) is deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2008.

Amendment of section 12D of Act 58 of 1962, as amended by section 23 of Act 30 of 2000, section 19 of Act 59 of 2000, section 28 of Act 60 of 2001, section 16 of Act 30 of 2002, section 23 of Act 35 of 2007, section 21 of Act 60 of 2008 and section 20 of Act 17 of 2009 5

22. (1) Section 12D of the Income Tax Act, 1962, is hereby amended by the insertion of the following subsection:

“(2A) For the purposes of this section, if a taxpayer completes an improvement as contemplated in section 12N, the expenditure incurred by the taxpayer to complete that improvement shall be deemed to be the cost actually incurred by the taxpayer in respect of the acquisition of any new and unused affected asset contemplated in subsection (2).” 10

(2) Subsection (1) comes into operation on the date of the promulgation of this Act.

Amendment of section 12E of Act 58 of 1962, as amended by section 12 of Act 19 of 2001, 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 14 of Act 20 of 2006, section 24 of Act 9 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 and section 21 of Act 17 of 2009 15
20

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

(a) by the substitution in subsection (4)(a) for the words preceding subparagraph (i) of the following words:

“‘**small business corporation**’ means any close corporation[,] or co-operative or any private company [registered as a private company in terms] as defined in section 1 of the Companies Act, [1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008), all the shareholders of which are at all times during the year of assessment natural persons, where—” 25

(b) by the substitution in subsection (4)(a) for subparagraph (i) of the following subparagraph: 30

“(i) the gross income for the year of assessment does not exceed an amount equal to R14 million: Provided that where the close corporation, co-operative or company during the relevant year of assessment carries on any trade, for purposes of which any asset contemplated in this section is used, for a period which is less than 12 months, that amount shall be reduced to an amount which bears to that amount, the same ratio as the number of months (in the determination of which a part of a month shall be reckoned as a full month), during which that company, co-operative or close corporation carried on that trade bears to 12 months;” 35
40

(c) by the substitution in subsection (4)(a)(ii) for item (cc) of the following item: 40
“(cc) a company contemplated in section [10(1)(e)(i), (ii) or (iii)] 10(1)(e)(i)(aa), (bb) or (cc);”;

(d) by the deletion in subsection (4)(a)(ii) of the word “or” at the end of item (ff);

(e) by the addition in subsection (4)(a)(ii) of the word “or” at the end of item (hh); 45

(f) by the addition to subsection (4)(a)(ii) after item (hh) of the following item:

“(ii) any company or close corporation if the company or close corporation has taken the steps contemplated in section 41(4) to liquidate, wind up or deregister: Provided that this item ceases to apply if the company or close corporation has at any stage withdrawn any step so taken or does anything to invalidate any step so taken, with the result that the company or close corporation will not be liquidated, wound up or deregistered;” and 50

(2) Subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2008 eindig.

Wysiging van artikel 12D van Wet 58 van 1962, soos gewysig deur artikel 23 van Wet 30 van 2000, artikel 19 van Wet 59 van 2000, artikel 28 van Wet 60 van 2001, artikel 16 van Wet 30 van 2002, artikel 23 van Wet 35 van 2007, artikel 21 van Wet 60 van 2008 en artikel 20 van Wet 17 van 2009 5

22. (1) Artikel 12D van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel in te voeg:

“(2A) By die toepassing van hierdie artikel, indien ’n belastingpligtige ’n verbetering voltooi soos in artikel 12N beoog, word die uitgawes aangegaan deur die belastingpligtige ten einde daardie verbetering te voltooi, geag die koste werklik aangegaan deur die belastingpligtige ten opsigte van die verkryging van enige nuwe en ongebruikte geaffekteerde bate beoog in subartikel (2) te wees.” 10

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Wysiging van artikel 12E van Wet 58 van 1962, soos gewysig deur artikel 12 van Wet 19 van 2001, artikel 17 van Wet 30 van 2002, artikel 21 van Wet 74 van 2002, artikel 37 van Wet 12 van 2003, artikel 31 van Wet 45 van 2003, artikel 9 van Wet 9 van 2005, artikel 21 van Wet 31 van 2005, artikel 14 van Wet 20 van 2006, artikel 24 van Wet 9 van 2006, artikel 15 van Wet 8 van 2007, artikel 25 van Wet 35 van 2007, artikel 13 van Wet 3 van 2008, artikel 23 van Wet 60 van 2008 en artikel 21 van Wet 17 van 2009 15 20

23. (1) Artikel 12E van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (4)(a) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“**‘kleinsakekorporasie’** ’n beslote korporasie[,] of ’n koöperasie of enige **[maatskappy wat as ’n privaatmaatskappy ingevolge]** privaatmaatskappy soos omskryf in artikel 1 van die Maatskappywet, [1973 (Wet No. 61 van 1973), ingelyf is] 2008 (Wet No. 71 van 2008), waarvan al die aandeelhouers gedurende die volle jaar van aanslag natuurlike persone is, waar—” 25 30

(b) deur in subartikel (4)(a) subparagraaf (i) deur die volgende subparagraaf te vervang:

“(i) die bruto inkomste vir die jaar van aanslag nie ’n bedrag gelykstaande aan R14 miljoen te bowe gaan nie: Met dien verstande dat waar die beslote korporasie, koöperasie of maatskappy gedurende die betrokke jaar van aanslag ’n bedryf beoefen, waarvoor enige bate in hierdie artikel gebruik word, vir ’n tydperk wat minder as 12 maande is, **[word]** daardie bedrag verminder word na ’n bedrag wat tot daardie bedrag in dieselfde verhouding staan, as wat die aantal maande (in die berekening waarvan ’n deel van ’n maand as ’n volle maand gereken sal word) waartydens daardie maatskappy, koöperasie of beslote korporasie daardie bedryf beoefen het, tot 12 maande staan;” 35 40

(c) deur in subartikel (4)(a)(ii) item (cc) deur die volgende item te vervang:

“(cc) ’n maatskappy in artikel **[10(1)(e)(i), (ii) of (iii)]** 10(1)(e)(i)(aa), (bb) of (cc) bedoel; **[en]**” 45

(d) deur in subartikel (4)(a)(ii) die woord “of” aan die einde van item (ff) te skrap;

(e) deur in subartikel (4)(a)(ii) die woord “of” aan die einde van item (hh) by te voeg;

(f) deur die volgende item na item (hh) by subartikel (4)(a)(ii) te voeg: 50

“(ii) ’n maatskappy of beslote korporasie indien die maatskappy of beslote korporasie die stappe beoog in artikel 41(4) gedoen het om te likwiede of te deregistreer: Met dien verstande dat hierdie item ophou om van toepassing te wees indien die maatskappy of beslote korporasie in enige stadium enige stap aldus gedoen, teruggetrek het of enigiets doen om enige stap aldus gedoen ongeldig te maak, met die gevolg dat die maatskappy of beslote korporasie nie gelikwiede of gederegistreer sal word nie;” en 55

- (g) by the substitution in subsection (4)(d) for the words preceding subparagraph (i) of the following words:

“**personal service**’ in relation to a company or close corporation, means any service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, **[broking, commercial arts,]** consulting, draftsmanship, education, engineering, **[entertainment,]** financial service broking, health, information technology, journalism, law, management, **[performing arts,]** real estate broking, research, **[secretarial services,]** sport, surveying, translation, valuation or veterinary science, if—”.

(2) Paragraph (a) of subsection (1) comes into operation on 1 January 2011.

(3) Paragraphs (b) and (c) of subsection (1) are deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2009.

(4) Paragraphs (d), (e), (f) and (g) of subsection (1) come into operation as from the commencement of years of assessment commencing on or after 1 January 2011.

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

24. (1) Section 12F of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (2) of the following subsection:

“(2A) For the purposes of this section where a taxpayer completes improvements as contemplated in section 12N, the expenditure incurred by the taxpayer to complete that improvement shall be deemed to be the cost actually incurred by that taxpayer in respect of the acquisition of a new and unused airport asset or port asset contemplated in subsection (2).”.

(2) Subsection (1) comes into operation on the date of the promulgation of this Act.

Amendment of section 12H of Act 58 of 1962, as substituted by section 23 of Act 17 of 2009

25. Section 12H of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (8) of the following subsection:

“(8) In respect of each year of assessment during which an employer is eligible for any **[allowance]** deduction contemplated in this section, the employer must submit to the SETA with which the learnership agreement is registered any information relating to that learnership agreement required by the SETA in the form and manner and at the place and time indicated by the SETA.”.

Amendment of section 12I of Act 58 of 1962, as inserted by section 26 of Act 60 of 2008 and amended by section 24 of Act 17 of 2009

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

- (a) by the insertion of the following subsection:

“(1A) For the purposes of this section, if a taxpayer completes an improvement as contemplated in section 12N, the improvement shall be deemed to be a new and unused manufacturing asset and the expenditure incurred by the taxpayer to complete the improvement shall be deemed to be the cost of that new and unused manufacturing asset contemplated in subsection (2).”; and

- (b) by the substitution in subsection (7) for paragraph (d) of the following paragraph:

“(d) the application for approval of the project by the company is received by the Minister of Trade and Industry not later than 31 December **[2014]** 2015, in such form and containing such information as the Minister of Trade and Industry may prescribe.”.

(2) Subsection (1) comes into operation on the date of the promulgation of this Act.

(g) deur in subartikel (4)(d) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“ ‘**persoonlike diens**’, met betrekking tot ’n maatskappy of beslote korporasie, enige diens in die rigting van afslaery, aktuariële wetenskap, argitektuur, bestuurswese, eiendomsmakelary, finansiële diens-makelary, 5
gesondheid, ingenieurswese, inligtingstegnologie, joernalistiek, [**make-
lary,**] navorsing, onderrig, opmeting, ouditering, raadgewende dienste,
regte, rekeningkunde, [**reklamekuns,**] tekenkuns, [**sekretariële
dienste,**] sport, uitsaaier, [**uitvoerende kunste,**] veeartsenykunde,
[**vermaaklikheid,**] vertaling of waardering indien—”.

(2) Paragraaf (a) van subartikel (1) tree op 1 Januarie 2011 in werking.

(3) Paragrafe (b) en (c) van subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2009 eindig.

(4) Paragrafe (d), (e), (f) en (g) van subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin. 15

Wysiging van artikel 12F van Wet 58 van 1962, soos ingevoeg deur artikel 12 van Wet 19 van 2001 en gewysig deur artikel 26 van Wet 35 van 2007, artikel 24 van Wet 60 van 2008 en artikel 22 van Wet 17 van 2009

24. (1) Artikel 12F van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel in te voeg: 20

“(2A) By die toepassing van hierdie artikel, waar ’n belastingpligtige verbeterings voltooi soos in artikel 12N beoog, word die uitgawes deur die belastingpligtige aangegaan ten einde daardie verbetering te voltooi, geag die koste werklik deur daardie belastingpligtige aangegaan ten opsigte van die verkryging van ’n nuwe en ongebruikte lughawebate of hawebate beoog in subartikel (2) te 25
wees.”.

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Wysiging van artikel 12H van Wet 58 van 1962, soos vervang deur artikel 23 van Wet 17 van 2009

25. Artikel 12H van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (8) deur die volgende subartikel te vervang: 30

“(8) Ten opsigte van elke jaar van aanslag waartydens ’n werkgewer vir enige [**toelae**] afrekkings beoog in hierdie artikel in aanmerking kom, moet die werkgewer aan die SETA waarby die leerlingooreenkoms geregistreer is enige inligting wat verband hou met daardie leerlingooreenkoms en deur die SETA vereis word, verskaf in die vorm, op die wyse en op die plek en tyd wat die SETA aandui.”. 35

Wysiging van artikel 12I van Wet 58 van 1962, soos ingevoeg deur artikel 26 van Wet 60 van 2008 en gewysig deur artikel 24 van Wet 17 van 2009

26. (1) Artikel 12I van die Inkomstebelastingwet, 1962, word hierby gewysig— 40
(a) deur die volgende subartikel in te voeg:

“(1A) By die toepassing van hierdie artikel, indien ’n belastingpligtige ’n verbetering voltooi soos in artikel 12N beoog, word die verbetering geag ’n nuwe en ongebruikte vervaardigingsbate te wees en die uitgawe deur die belastingpligtige aangegaan ten einde die verbetering te voltooi geag die koste van daardie nuwe en ongebruikte vervaardigingsbate beoog in subartikel (2) te wees.”; en 45

(b) deur in subartikel (7) paragraaf (d) deur die volgende paragraaf te vervang:

“(d) die aansoek van die maatskappy om goedkeuring van die projek nie later nie as 31 Desember [**2014**] 2015 in die vorm deur die Minister van Handel en Nywerheid voorgeskryf deur daardie Minister ontvang word en die inligting bevat wat deur die Minister van Handel en Nywerheid voorgeskryf word.”. 50

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Amendment of section 12L of Act 58 of 1962, as inserted by section 27 of Act 17 of 2009

27. (1) Section 12L of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (b) of the definition of “energy efficiency savings certificate” of the following paragraph: 5
- “(b) the **[baseline]** reporting period energy use at the end of the year of assessment, with the criteria and methodology determined in accordance with the Regulations;”;
- (b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: 10
- “The amount of the allowance contemplated in subsection [(1)] (2) must be determined in accordance with the formula—
- $$A = \frac{B \times C}{D}$$
- in which formula—”; and 15
- (c) by the substitution in subsection (3) for paragraph (b) of the following paragraph:
- “(b) ‘B’ represents the energy efficiency savings expressed in kilowatt hours or kilowatt hours equivalent for the year of assessment of the taxpayer as contemplated in paragraph (c) of the definition of energy efficiency savings certificate in **[section 1]** subsection (1);”.
- (2) Subsection (1) comes into operation on the date on which section 27(1) of the Taxation Laws Amendment Act, 2009, comes into operation. 20

Amendment of section 12M of Act 58 of 1962, as inserted by section 28 of Act 17 of 2009 25

28. (1) Section 12M of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
- “In determining the taxable income derived by any taxpayer in any year of assessment from carrying on any trade, there must be allowed as a deduction from the income of that taxpayer so derived any amount[, **to the extent that the amount is not otherwise deductible,**] paid by way of a lump sum during the year of assessment by that taxpayer—”.
- (2) Subsection (1) is deemed to have come into operation on 1 September 2009 and applies in respect of any lump sum paid on or after that date. 30 35

Insertion of section 12N in Act 58 of 1962

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

“Deductions in respect of improvements not owned by taxpayer

- 12N.** (1) If a taxpayer— 40
- (a) holds a right of use or occupation of land or a building;
- (b) incurs an obligation to effect an improvement on the land or to the building in terms of—
- (i) a Public Private Partnership; or
- (ii) an agreement in terms of which the right of use or occupation is granted, if the land or building is owned by— 45
- (aa) the government of the Republic in the national, provincial or local sphere; or
- (bb) any entity of which the receipts and accruals are exempt from tax in terms of section 10(1)(cA) or (t); 50

Wysiging van artikel 12L van Wet 58 van 1962, soos ingevoeg deur artikel 27 van Wet 17 van 2009

27. (1) Artikel 12L van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (1) paragraaf (b) van die omskrywing van “besparings deur energiedoeltreffendheid-sertifikaat” deur die volgende paragraaf te vervang: 5
 “(b) die [basislyn] energieverbruik vir die verslagtydperk aan die einde van die jaar van aanslag, met die kriteria en metodologie ooreenkomstig die Regulasies bepaal;”;
- (b) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 10
 “Die bedrag van die toelae beoog in subartikel [(1)] (2) moet bepaal word ooreenkomstig die formule—
- $$A = \frac{B \times C}{D}$$
- in welke formule—”; en 15
- (c) deur in subartikel (3) paragraaf (b) deur die volgende paragraaf te vervang: 20
 “(b) ‘B’ die besparings deur energiedoeltreffendheid voorstel, uitgedruk in kilowatt-ure of die ekwivalent van kilowatt-ure vir die jaar van aanslag van die belastingpligtige soos beoog in paragraaf (c) van die omskrywing van besparings deur energiedoeltreffendheid-sertifikaat in [artikel 1] subartikel (1);”.
- (2) Subartikel (1) tree in werking op die datum waarop artikel 27(1) van die Wysigingswet op Belastingwette, 2009, in werking tree.

Wysiging van artikel 12M van Wet 58 van 1962, soos ingevoeg deur artikel 28 van Wet 17 van 2009 25

28. (1) Artikel 12M van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 30
 “By die berekening van die belasbare inkomste deur ’n belastingpligtige in ’n jaar van aanslag uit die beoefening van ’n bedryf verkry, moet as ’n aftrekking van die inkomste van daardie belastingpligtige aldus verkry, toegelaat word enige bedrag[, **namate die bedrag nie andersins aftrekbaar is nie,**] deur middel van ’n enkelbedrag deur daardie belastingpligtige gedurende die jaar van aanslag betaal—”.
- (2) Subartikel (1) word geag op 1 September 2009 in werking te getree het en is van toepassing ten opsigte van enige enkelbedragvoordeel op of na daardie datum betaal. 35

Invoeging van artikel 12N in Wet 58 van 1962

29. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 12M die volgende artikel in te voeg:

“Aftrekkings ten opsigte van verbeterings nie in besit van belastingpligtige 40

- 12N.** (1) Indien ’n belastingpligtige—
- (a) ’n reg van gebruik of okkupasie van grond of ’n gebou hou; 45
- (b) ’n verpligting aangaan om ’n verbetering op die grond of aan die gebou aan te bring ingevolge—
- (i) ’n ‘Public Private Partnership’; of
- (ii) ’n ooreenkoms ingevolge waarvan die reg van gebruik of okkupasie toegestaan word, indien die grond of gebou in die besit is van—
- (aa) die regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer; of 50
- (bb) enige entiteit waarvan die ontvangste en toevallings ingevolge artikel 10(1)(cA) of (t) van belasting vrygestel is;

- (c) incurs expenditure to effect the improvement contemplated in paragraph (b);
- (d) completes the improvement contemplated in paragraph (b); and
- (e) uses or occupies the land or building for the production of income or derives income from the land or building,
- the taxpayer must, for the purposes of any deduction contemplated in section 11D, 12D, 12F, 12I, 13, 13bis, 13ter, 13quat, 13quin, 13sex or 36, and for the purposes of the Eighth Schedule, be deemed to be the owner of the improvement so completed.
- (2) (a) When the right of use or occupation terminates, the taxpayer must be deemed to have disposed of the improvement to the owner of the land or building on the later of the date when—
- (i) the right of use or occupation terminated; or
- (ii) the use or occupation ended.
- (b) If the right of use or occupation terminates and the taxpayer—
- (i) continues to use or occupy the land or building; or
- (ii) renews the right of use or occupation,
- the renewed right of use or occupation must be deemed to be the same right of use or occupation as the right of use or occupation previously held by the taxpayer.
- (3) This section does not apply if the taxpayer—
- (a) is a person carrying on any banking, financial services or insurance business; or
- (b) enters into an agreement whereby the right of use or occupation of the land or building is granted to any other person, unless—
- (i) the land or building is occupied by that other person and that other person is a company that is a member of the same group of companies as that taxpayer in terms of such an agreement;
- (ii) the cost of maintaining the land or building and of carrying out repairs thereto required in consequence of normal wear and tear is borne by the taxpayer; and
- (iii) subject to any claim that the taxpayer may have against the other person by reason of the other person's failure to take proper care of the land or building, the risk of destruction or loss of or other disadvantage to the land or building is not assumed by that other person.”.

(2) Subsection (1) comes into operation on the date of promulgation of this Act and applies in respect of a right of use or occupation granted 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 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 and section 3 of Act 4 of 2008

30. (1) Section 13 of the Income Tax Act, 1962, is hereby amended by the addition to the proviso to subsection (1) of the following paragraph:

“(d) in the case of an improvement completed by a taxpayer as contemplated in section 12N, the expenditure incurred by the taxpayer to complete the improvement shall for the purposes of this section be deemed to be the cost to the taxpayer of any building or improvement contemplated in this subsection.”.

(2) Subsection (1) comes into operation on the date of the promulgation of this Act.

- (c) uitgawes aangaan ten einde die verbetering beoog in paragraaf (b) aan te bring;
- (d) die verbetering beoog in paragraaf (b) voltooi; en
- (e) die grond of gebou gebruik of beset vir die voortbrenging van inkomste of inkomste uit die grond of gebou verkry, moet die belastingpligtige, by die toepassing van enige aftrekking beoog in artikel 11D, 12D, 12F, 12I, 13, 13*bis*, 13*ter*, 13*quat*, 13*quin*, 13*sex* of 36, en by die toepassing van die Agste Bylae, geag word die eienaar van die verbetering aldus voltooi te wees. 5
- (2) (a) Wanneer die reg van gebruik of okkupasie eindig, moet die belastingpligtige geag word oor die verbetering te beskik het aan die eienaar van die grond of gebou op die laaste van die datums waarop—
- (i) die reg van gebruik of okkupasie geëindig het; of
- (ii) die gebruik of okkupasie geëindig het. 10
- (b) Indien die reg van gebruik of okkupasie eindig en die belastingpligtige—
- (i) aanhou om die grond of gebou te gebruik of te okkupeer; of
- (ii) die reg van gebruik of okkupasie hernu, moet die hernude reg van gebruik of okkupasie geag word dieselfde reg van gebruik of okkupasie te wees as die reg van gebruik of okkupasie wat die belastingpligtige vroeër gehou het. 15
- (3) Hierdie artikel is nie van toepassing nie indien die belastingpligtige—
- (a) 'n persoon is wat enige bankwese, finansiële dienste of versekeringsbesigheid bedryf; of
- (b) 'n ooreenkoms aangaan ingevolge waarvan die reg van gebruik of okkupasie van die grond of gebou aan enige ander persoon toegestaan word, tensy—
- (i) die grond of gebou ingevolge sodanige ooreenkoms deur daardie ander persoon geokkupeer word en daardie ander persoon 'n maatskappy is wat 'n lid van dieselfde groep van maatskappye as daardie belastingpligtige is; 20
- (ii) die koste om die grond of gebou te onderhou en om herstellings aan te bring wat as gevolg van normale slytasie vereis word deur die belastingpligtige gedra word; en
- (iii) behoudens enige eis wat die belastingpligtige teen die ander persoon mag hê omrede die ander persoon se versuim om die grond of gebou behoorlik te versorg, die risiko van vernietiging of verlies van of van enige ander nadeel tot die grond of gebou nie deur daardie ander persoon aanvaar word nie.”. 25

(2) Subartikel (1) tree in werking op die datum van promulgering van hierdie Wet en is van toepassing ten opsigte van 'n reg van gebruik of okkupasie op of na daardie datum toegestaan. 30

Wysiging van artikel 13 van Wet 58 van 1962, soos gewysig deur artikel 12 van Wet 90 of 1962, artikel 5 van Wet 6 of 1963, artikel 11 van Wet 72 of 1963, artikel 12 van Wet 90 of 1964, artikel 14 van Wet 88 of 1965, artikel 17 van Wet 55 of 1966, artikel 13 van Wet 52 of 1970, artikel 13 van Wet 88 of 1971, artikel 12 van Wet 90 of 1972, artikel 13 van Wet 65 of 1973, artikel 16 van Wet 85 of 1974, artikel 13 van Wet 69 of 1975, artikel 7 van Wet 101 of 1978, artikel 10 van Wet 104 of 1980, artikel 14 van Wet 96 of 1981, artikel 12 van Wet 85 of 1987, artikel 12 van Wet 90 of 1988, artikel 12 van Wet 113 of 1993, artikel 11 van Wet 46 of 1996, artikel 22 van Wet 53 of 1999, artikel 20 van Wet 59 of 2000, artikel 13 van Wet 19 of 2001, artikel 30 van Wet 60 of 2001 en artikel 3 van Wet 4 of 2008 45

30. (1) Artikel 13 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende paragraaf by die voorbehoudsbepaling tot subartikel (1) te voeg: 55

“(d) in die geval van 'n verbetering voltooi deur 'n belastingpligtige soos in artikel 12N beoog, word die uitgawes aangegaan deur die belastingpligtige ten einde die verbetering te voltooi by die toepassing van hierdie artikel geag die koste vir die belastingpligtige van enige gebou of verbetering beoog in hierdie subartikel te wees.”. 60

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Amendment of section 13bis 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 and section 4 of Act 4 of 2008 5

31. (1) Section 13bis of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) For the purposes of this section where a taxpayer completes an improvement as contemplated in section 12N, the expenditure incurred by the taxpayer to complete the improvement shall be deemed to be the cost to the taxpayer of any building, portion of a building or portion of any building improvements contemplated in subsection (1).” 10

(2) Subsection (1) comes into operation on the date of the promulgation of this Act.

Amendment of section 13ter of Act 58 of 1962, as inserted by section 13 of Act 91 of 1982 and amended by section 14 of Act 94 of 1983, section 22 of Act 59 of 2000 and section 28 of Act 60 of 2008 15

32. (1) Section 13ter of the Income Tax Act, 1962, is hereby amended by the insertion after subsection (2) of the following subsection:

“(2A) For the purposes of this section where a taxpayer completes an improvement as contemplated in section 12N, the expenditure incurred by the taxpayer to complete the improvement shall be deemed to be the cost to the taxpayer of a residential unit contemplated in subsection (2).” 20

(2) Subsection (1) comes into operation on the date of the promulgation of this Act.

Amendment of section 13quat of Act 58 of 1962, as inserted by section 33 of Act 45 of 2003 and amended by section 12 of Act 16 of 2004, section 19 of Act 32 of 2004, section 23 of Act 31 of 2005, section 16 of Act 8 of 2007, section 5 of Act 4 of 2008, section 29 of Act 60 of 2008 and section 29 of Act 17 of 2009 25

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

(a) by the insertion after subsection (2) of the following subsection: 30

“(2A) For the purposes of this section, if a taxpayer completes an improvement as contemplated in section 12N, the expenditure incurred by the taxpayer to complete the improvement shall be deemed to be the cost of the erection, extension, addition or improvement contemplated in subsection (2).”; 35

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

“(b) the total amount of the costs to the taxpayer (other than a taxpayer contemplated in paragraph (d)) of the erection, extension, addition or improvement and the extent that those costs relate to any portion of [the] a building [in respect of which a certificate of occupancy has been granted];”; and 40

(c) by the substitution in subsection (10) for paragraph (a) of the following paragraph:

“(a) a municipality does not provide an annual report as contemplated in subsection (9) [or a quarterly report as contemplated in subsection (6)(f)] or the Commissioner reports to the Minister that the municipality has issued a certificate contemplated in subsection (4)(a) in respect of a building that is located outside an urban development zone; and” 45

(2) Paragraph (a) of subsection (1) comes into operation on the date of the promulgation of this Act. 50

Amendment of section 13quin of Act 58 of 1962, as inserted by section 28 of Act 35 of 2007 and amended by section 30 of Act 60 of 2008

34. (1) Section 13quin of the Income Tax Act, 1962, is hereby amended— 55

Wysiging van artikel 13bis van Wet 58 van 1962, soos ingevoeg deur artikel 15 van Wet 88 van 1965 en gewysig deur artikel 18 van Wet 55 van 1966, artikel 14 van Wet 95 van 1967, artikel 14 van Wet 88 van 1971, artikel 14 van Wet 69 van 1975, artikel 13 van Wet 94 van 1983, artikel 46 van Wet 97 van 1986, artikel 13 van Wet 90 van 1988, artikel 13 van Wet 113 van 1993, artikel 12 van Wet 21 van 1994, artikel 21 van Wet 59 van 2000 en artikel 4 van Wet 4 van 2008 5

31. (1) Artikel 13bis van die Inkomstebelastingwet, 1962, word hierby gewysig deur na subartikel (1) die volgende subartikel in te voeg:

“(1A) By die toepassing van hierdie artikel, waar ’n belastingpligtige ’n verbetering voltooi soos in artikel 12N beoog, word die uitgawes aangegaan deur die belastingpligtige ten einde die verbetering te voltooi geag die koste vir die belastingpligtige van enige gebou, gedeelte van ’n gebou of gedeelte van enige gebouverbeterings beoog in subartikel (1) te wees.” 10

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Wysiging van artikel 13ter van Wet 58 van 1962, soos ingevoeg deur artikel 13 van Wet 91 van 1982 en gewysig deur artikel 14 van Wet 94 van 1983, artikel 22 van Wet 59 van 2000 en artikel 28 van Wet 60 van 2008 15

32. (1) Artikel 13ter van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel in te voeg:

“(2A) By die toepassing van hierdie artikel, waar ’n belastingpligtige ’n verbetering voltooi soos in artikel 12N beoog, word die uitgawes aangegaan deur die belastingpligtige ten einde die verbetering te voltooi, geag die koste vir die belastingpligtige van ’n wooneenheid beoog in subartikel (2) te wees.” 20

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Wysiging van artikel 13quat van Wet 58 van 1962, soos ingevoeg deur artikel 33 van Wet 45 van 2003 en gewysig deur artikel 12 van Wet 16 van 2004, artikel 19 van Wet 32 van 2004, artikel 23 van Wet 31 van 2005, artikel 16 van Wet 8 van 2007, artikel 5 van Wet 4 van 2008, artikel 29 van Wet 60 van 2008 en artikel 29 van Wet 17 van 2009 25

33. (1) Artikel 13quat van die Inkomstebelastingwet, 1962, word hierby gewysig— 30
(a) deur die volgende subartikel na subartikel (2) in te voeg:

“(2A) By die toepassing van hierdie artikel, indien ’n belastingpligtige ’n verbetering voltooi soos in artikel 12N beoog, word die uitgawes aangegaan deur die belastingpligtige ten einde die verbetering te voltooi, geag die koste van die oprigting, uitbreiding, toevoeging of verbetering beoog in subartikel (2) te wees.”; 35

(b) deur in subartikel (4) paragraaf (b) deur die volgende paragraaf te vervang:
“(b) die totale bedrag van die koste vir die belastingpligtige (behalwe ’n belastingpligtige in paragraaf (d) beoog) van die oprigting, uitbreiding, toevoeging of verbetering en die mate wat daardie koste verband hou met enige gedeelte van [die] ’n gebou [ten opsigte waarvan ’n okkupasiesertifikaat toegestaan is];” en 40

(c) deur in subartikel (10) paragraaf (a) deur die volgende paragraaf te vervang:
“(a) ’n munisipaliteit nie ’n jaarlikse verslag soos in subartikel (9) bedoel [of ’n kwartaallikse verslag in subartikel (6)(f) bedoel] voorsien nie of die Kommissaris aan die Minister verslag doen dat die munisipaliteit ’n sertifikaat in subartikel (4)(a) bedoel uitgereik het ten opsigte van ’n gebou wat buite ’n stedelike ontwikkelingsone geleë is; en” 45

(2) Paragraaf (a) van subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet. 50

Wysiging van artikel 13quin van Wet 58 van 1962, soos ingevoeg deur artikel 28 van Wet 35 van 2007 en gewysig deur artikel 30 van Wet 60 van 2008

34. Artikel 13quin van die Inkomstebelastingwet, 1962, word hierby gewysig —
(a) deur in die Afrikaanse teks subartikel (1) deur die volgende subartikel te 55
vervang:

- (a) by the substitution in the Afrikaans text for subsection (1) of the following subsection:

“(1) Daar word as ’n aftrekking van die inkomste van ’n belastingpligtige toegelaat ’n vermindering gelykstaande aan vyf persent van die koste vir daardie belastingpligtige van enige nuwe en ongebruikte gebou deur daardie belastingpligtige besit, of enige nuwe en ongebruikte verbetering tot enige gebou deur die belastingpligtige besit, indien daardie gebou of verbetering in geheel of [gedeeltelik] hoofsaaklik deur daardie belastingpligtige gebruik word gedurende die jaar van aanslag vir doeleindes van die voortbrenging van inkomste in die loop van die belastingpligtige se bedryf, behalwe die voorsiening van residensiële verblyf.”; and

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

“(1A) For the purposes of this section, if a taxpayer completes an improvement as contemplated in section 12N, the expenditure incurred by the taxpayer to complete the improvement shall be deemed to be the cost to the taxpayer of any new and unused building or of any new and unused improvement to a building contemplated in subsection (1).”.

- (2) Paragraph (b) of subsection (1) comes into operation on the date of the promulgation of this Act.

Amendment of section 13*sex* of Act 58 of 1962, as inserted by section 31 of Act 60 of 2008

35. (1) Section 13*sex* of the Income Tax Act, 1962, is hereby amended by the addition to subsection (1) of the following proviso:

“: Provided that if a taxpayer completes an improvement as contemplated in section 12N, the expenditure incurred by the taxpayer to complete the improvement shall be deemed to be the cost to the taxpayer of any new and unused residential unit (or of any new and unused improvement to a residential unit), for the purposes of this section”.

- (2) Subsection (1) comes into operation on the date of the promulgation of this Act.

Amendment of section 18 of Act 58 of 1962, as amended by section 15 of Act 95 of 1967, section 12 of Act 76 of 1968, section 17 of Act 89 of 1969, section 14 of Act 52 of 1970, section 15 of Act 88 of 1971, section 12 of Act 104 of 1980, section 15 of Act 96 of 1981, section 15 of Act 121 of 1984, section 11 of Act 96 of 1985, section 14 of Act 90 of 1988, section 11 of Act 70 of 1989, section 16 of Act 101 of 1990, section 19 of Act 129 of 1991, section 18 of Act 141 of 1992, section 16 of Act 21 of 1995, section 23 of Act 53 of 1999, section 26 of Act 59 of 2000, section 19 of Act 30 of 2002, section 25 of Act 31 of 2005, sections 2 and 17 of Act 8 of 2007, section 30 of Act 35 of 2007, section 1 of Act 3 of 2008, section 33 of Act 60 of 2008 and section 31 of Act 17 of 2009

36. (1) Section 18 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2)(c)(i) for items (aa), (bb) and (cc) of the following items:

“(aa) [R625] R670 for each month in that year in respect of which those contributions were made solely with respect to the benefits of that taxpayer;

(bb) [R1 250] R1 340 for each month in that year in respect of which those contributions were made with respect to the benefits of that taxpayer and one dependant; or

(cc) where those contributions are made with respect to the taxpayer and more than one dependant, the amount referred to in item (bb) in respect of the taxpayer and one dependant plus [R380] R410 for every additional dependant for each month in that year in respect of which those contributions were made;”.

- (2) Subsection (1) is deemed to have come into operation on 1 March 2010 and applies in respect of years of assessment commencing on or after that date.

“(1) Daar word as ’n aftrekking van die inkomste van ’n belastingpligtige toegelaat ’n vermindering gelykstaande aan vyf persent van die koste vir daardie belastingpligtige van enige nuwe en ongebruikte gebou deur daardie belastingpligtige besit, of enige nuwe en ongebruikte verbetering tot enige gebou deur die belastingpligtige, indien daardie gebou of verbetering in geheel of **[gedeeltelik]** hoofsaaklik deur daardie belastingpligtige gebruik word gedurende die jaar van aanslag vir doeleindes van die voortbrenging van inkomste in die loop van die belastingpligtige se bedryf, behalwe die voorsiening van residensiële verblyf.”; en

(b) deur die volgende subartikel na subartikel (1) in te voeg:

“(1A) By die toepassing van hierdie artikel, indien ’n belastingpligtige ’n verbetering voltooi soos in artikel 12N beoog, word die uitgawes aangegaan deur die belastingpligtige ten einde die verbetering te voltooi, geag die koste vir die belastingpligtige van enige nuwe en ongebruikte gebou of van enige nuwe en ongebruikte verbetering aan ’n gebou beoog in subartikel (1) te wees.”.

(2) Paragraaf (b) van subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Wysiging van artikel 13~~sex~~ van Wet 58 van 1962, soos ingevoeg deur artikel 31 van Wet 60 van 2008

35. (1) Artikel 13~~sex~~ van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende voorbehoudsbepaling tot subartikel (1) by te voeg:

“: Met dien verstande dat indien ’n belastingpligtige ’n verbetering voltooi soos in artikel 12N beoog, die uitgawes deur die belastingpligtige aangegaan ten einde die verbetering te voltooi, geag word die koste vir die belastingpligtige van enige nuwe en ongebruikte wooneenheid (of van enige nuwe en ongebruikte verbetering aan ’n wooneenheid), by die toepassing van hierdie artikel te wees”.

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Wysiging van artikel 18 van Wet 58 van 1962, soos gewysig deur artikel 15 van Wet 95 van 1967, artikel 12 van Wet 76 van 1968, artikel 17 van Wet 89 van 1969, artikel 14 van Wet 52 van 1970, artikel 15 van Wet 88 van 1971, artikel 12 van Wet 104 van 1980, artikel 15 van Wet 96 van 1981, artikel 15 van Wet 121 van 1984, artikel 11 van Wet 96 van 1985, artikel 14 van Wet 90 van 1988, artikel 11 van Wet 70 van 1989, artikel 16 van Wet 101 van 1990, artikel 19 van Wet 129 van 1991, artikel 18 van Wet 141 van 1992, artikel 16 van Wet 21 van 1995, artikel 23 van Wet 53 van 1999, artikel 26 van Wet 59 van 2000, artikel 19 van Wet 30 van 2002, artikel 25 van Wet 31 van 2005, artikels 2 en 17 van Wet 8 van 2007, artikel 30 van Wet 35 van 2007, artikel 1 van Wet 3 van 2008, artikel 33 van Wet 60 van 2008 en artikel 31 van Wet 17 van 2009

36. (1) Artikel 18 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (2)(c)(i) items (aa), (bb) en (cc) deur die volgende items te vervang:

“(aa) **[R625]** R670 vir elke maand in daardie jaar ten opsigte waarvan daardie bydraes gemaak is uitsluitlik met betrekking tot die voordele van daardie belastingpligtige;

(bb) **[R1 250]** R1 340 vir elke maand in daardie jaar ten opsigte waarvan daardie bydraes gemaak is met betrekking tot die voordele van daardie belastingpligtige en een afhanklike; of

(cc) waar daardie bydraes gemaak is met betrekking tot die belastingpligtige en meer as een afhanklike, die bedrag bedoel in item (bb) ten opsigte van die belastingpligtige en een afhanklike plus **[R380]** R410 vir elke bykomende afhanklike vir elke maand in daardie jaar ten opsigte waarvan daardie bydraes gemaak is;”.

(2) Subartikel (1) word geag op 1 Maart 2010 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Amendment of section 18A of Act 58 of 1962, as inserted by section 15 of Act 52 of 1970, substituted by section 24 of Act 30 of 2000 and amended by section 72 of Act 59 of 2000, section 20 of Act 30 of 2002, section 34 of Act 45 of 2003, section 26 of Act 31 of 2005, section 16 of Act 20 of 2006, section 18 of Act 8 of 2007, section 31 of Act 35 of 2007 and section 34 of Act 60 of 2008

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

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

“(c) **[the Government, any provincial administration or municipality]** any department of government of the Republic in the national, provincial or local sphere as contemplated in section 10(1)(a) **[or (b)]** to be used for purpose of any activity contemplated in Part II of the Ninth Schedule.”;

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

“(1A) The Minister may, by regulation, prescribe additional requirements with which a public benefit organisation, institution, board or body or the **[government, provincial administration or municipality]** department carrying on any specific public benefit activity identified by the Minister in the regulations, must comply before any donation made to that public benefit organisation, institution, board or body or the **[government, provincial administration or municipality]** department shall be allowed as a deduction under subsection (1).”;

(c) by the substitution in subsection (1C)(a) for subparagraph (i) of the following subparagraph:

“(i) that donation is made by that person on or after 1 August 2002[, **but on or before 31 March 2010**]; and”;

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

“(a) a receipt issued by the public benefit organisation, institution, board, body or agency or the **[government, provincial administration or municipality]** department concerned, on which the following details are given, namely—

(i) the reference number of the public benefit organisation, institution, board, body or agency issued by the Commissioner for the purposes of this section;

(ii) the date of the receipt of the donation;

(iii) the name of the public benefit organisation, institution, board, body or agency or the **[government, provincial administration or municipality]** department which received the donation, together with an address to which enquiries may be directed in connection therewith;

(iv) the name and address of the donor;

(v) the amount of the donation or the nature of the donation (if not made in cash);

(vi) a certification to the effect that the receipt is issued for the purposes of section 18A of the Income Tax Act, 1962, and that the donation has been or will be used exclusively for the object of the public benefit organisation, institution, board, body or agency concerned or, in the case of **[the government, provincial administration or municipality]** a department in carrying on the relevant public benefit activity; or”;

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

“A public benefit organisation, institution, board, body [, **government, provincial administration or municipality]** or department may only issue a receipt contemplated in subsection (2) in respect of any donation to the extent that—”;

(f) by the substitution in subsection (2A) for paragraph (c) of the following paragraph:

“(c) in the case of **[the government, provincial administration or municipality]** a department, that donation will be utilised solely in

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Wysiging van artikel 18A van Wet 58 van 1962, soos ingevoeg deur artikel 15 van Wet 52 van 1970, vervang deur artikel 24 van Wet 30 van 2000 en gewysig deur artikel 72 van Wet 59 van 2000, artikel 20 van Wet 30 van 2002, artikel 34 van Wet 45 van 2003, artikel 26 van Wet 31 van 2005, artikel 16 van Wet 20 van 2006, artikel 18 van Wet 8 van 2007, artikel 31 van Wet 35 van 2007 en artikel 34 van Wet 60 van 2008 5

37. Artikel 18A van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (1) paragraaf (c) deur die volgende paragraaf te vervang: 10
- “(c) **[die regering, ’n provinsiale administrasie of munisipaliteit]** enige departement van regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer in artikel 10(1)[(b) of (c)] (a) bedoel, wat gebruik staan te word vir doeleindes van enige aktiwiteit in Deel II van die Negende Bylae bedoel.”;
- (b) deur subartikel (1A) deur die volgende subartikel te vervang: 15
- “(1A) Die Minister kan by regulasie addisionele vereistes voorskryf waaraan ’n openbare weldaadsorganisasie, instelling, raad of liggaam of die **[regering, provinsiale administrasie of munisipaliteit]** departement wat ’n spesifieke openbare weldaadsaktiwiteit deur die Minister in die regulasies geïdentifiseer beoefen, moet voldoen alvorens enige skenking aan daardie openbare weldaadsorganisasie, instelling, raad of liggaam of die **[regering, provinsiale administrasie of munisipaliteit]** departement as ’n aftrekking ingevolge subartikel (1) toegestaan sal word.”; 20
- (c) deur in subartikel (1C)(a) subparagraaf (i) deur die volgende subparagraaf te 25
- vervang: 25
- “(i) daardie skenking op of na 1 Augustus 2002[, **maar voor of op 31 Maart 2010**] deur daardie persoon gemaak is; en”;
- (d) deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang: 30
- “(a) ’n kwitansie uitgereik deur die betrokke openbare weldaadsorganisasie, instelling, raad, liggaam of agentskap, of die **[regering, provinsiale administrasie of munisipaliteit]** departement waarop die volgende besonderhede verstrekk word, naamlik— 35
- (i) die verwysingsnommer van die openbare weldaadsorganisasie, instelling, raad, liggaam of agentskap wat vir die doeleindes van hierdie artikel deur die Kommissaris uitgereik is; 35
- (ii) die datum van die ontvangs van die skenking;
- (iii) die naam van die openbare weldaadsorganisasie, instelling, raad, liggaam of agentskap of die **[regering, provinsiale administrasie of munisipaliteit]** departement wat die skenking ontvang het tesame met ’n adres waartoe navrae in verband daarmee gerig kan word; 40
- (iv) die naam en adres van die skenker;
- (v) die bedrag van die skenking of die aard van die skenking (indien nie in kontant gedoen nie); 45
- (vi) ’n sertifisering ten effekte dat die kwitansie uitgereik word vir die doeleindes van artikel 18A van die Inkomste-belastingwet, 1962, en dat die skenking uitsluitlik vir die doeleindes van die betrokke openbare weldaadsorganisasie, instelling, raad, liggaam of agentskap, of in die geval van **[die regering, provinsiale administrasie of munisipaliteit]** ’n departement in die beoefening van die betrokke openbare weldaadsaktiwiteit gebruik is of sal word; of”;
- (e) deur in subartikel (2A) die woorde wat paragraaf (a) voorafgaan deur die 55
- volgende woorde te vervang: 55
- “’n Openbare weldaadsorganisasie, instelling, raad, liggaam [, **regering, provinsiale administrasie of munisipaliteit]** of departement kan ’n kwitansie in subartikel (2) bedoel ten opsigte van ’n skenking uitreik slegs in die mate wat—”;
- (f) deur in subartikel (2A) paragraaf (c) deur die volgende paragraaf te vervang: 60
- “(c) in die geval van **[die regering, provinsiale administrasie of munisipaliteit]** ’n departement, dat daardie skenking gebruik sal

carrying on activities contemplated in Part II of the Ninth Schedule.”;

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

“(2C) The Accounting Authority contemplated in the Public Finance Management Act, 1999 (Act No. 1 of 1999), for the **[government, provincial administration or municipality]** department which issued any receipts in terms of subsection (2), must on an annual basis submit an audit certificate to the Commissioner confirming that all donations received or accrued in the year in respect of which receipts were so issued were utilised in the manner contemplated in subsection (2A).”; and

(h) by the substitution in subsection (3)(a) for subparagraphs (i) and (ii) of the following subparagraphs:

- “(i) a financial instrument which is trading stock of the taxpayer, the lower of fair market value of that financial instrument on the date of that donation or the amount which has been taken into account for the purposes of section 22(8)(C); or
- (ii) any other trading stock of the taxpayer (including any livestock or produce in respect of which the provisions of paragraph 11 of the First Schedule are applicable), the amount which has been taken into account for the purposes of section 22(8)(C) or, in the case of such livestock or produce, the said paragraph 11, in relation to the donation of such property; or”.

(2) Paragraph (c) of subsection (1) is deemed to have come into operation on 1 April 2010.

Insertion of section 20C in Act 58 of 1962

38. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 20B of the following section:

“Ring-fencing of interest incurred by headquarter companies

20C. (1) For the purposes of this section, ‘**financial assistance**’ means financial assistance contemplated in section 31(1).

(2) Where a headquarter company has during any year of assessment incurred any interest in respect of any financial assistance granted to that headquarter company by a person that is not a resident, the amount of the interest in respect of which a deduction is allowable to that headquarter company in that year of assessment is limited to so much of the amount of interest received by or accrued to the headquarter company as relates to any portion of that financial assistance that is directly applied as financial assistance to any foreign company in which the headquarter company directly or indirectly (whether alone or together with any other company forming part of the same group of companies as that headquarter company) holds at least 20 per cent of the equity shares and voting rights.

(3) Any amount that is disallowed as a deduction in any year of assessment of a headquarter company in terms of subsection (2) must be—

- (i) carried forward to the immediately succeeding year of assessment of the headquarter company; and
- (ii) deemed to be an amount of interest actually incurred by the headquarter company during that succeeding year in respect of financial assistance granted to that headquarter company by a person that is not a resident.”.

(2) Subsection (1) comes into operation on 1 October 2011 and applies in respect of years of assessment commencing on or after that date.

word uitsluitlik by die beoefening van aktiwiteite in Deel II van die Negende Bylae bedoel.”;

(g) deur subartikel (2C) deur die volgende subartikel te vervang:

“(2C) Die Rekenpligtige Gesag in die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), bedoel, vir die **[regering, provinsiale administrasie of munisipaliteit]** departement wat enige kwitansies ingevolge subartikel (2) uitgereik het, moet op ’n jaarlikse basis ’n ouditsertifikaat aan die Kommissaris voorsien wat bevestig dat alle skenkings ontvang of toegeval in die jaar ten opsigte waarvan kwitansies aldus uitgereik is, gebruik is op die wyse in subartikel (2A) bedoel.”; en

(h) deur in subartikel (3)(a) subparagrafe (i) en (ii) deur die volgende subparagrafe te vervang:

“(i) ’n finansiële instrument uitmaak wat handelsvoorraad van die belastingpligtige is, die laagste van die billike markwaarde van daardie finansiële instrument op die datum van daardie skenking of die bedrag wat by die toepassing van artikel 22(8)(C) in berekening gebring is; of

(ii) enige ander handelsvoorraad van die belastingpligtige (met inbegrip van enige lewende hawe of produkte ten opsigte waarvan die bepaling van paragraaf 11 van die Eerste Bylae van toepassing is), die bedrag wat by die toepassing van artikel 22(8)(C) of, in die geval van bedoelde lewende hawe of produkte, genoemde paragraaf 11, in berekening gebring is met betrekking tot die skenking van bedoelde eiendom; of”.

(2) Paragraaf (c) van subartikel (1) word geag op 1 April 2010 in werking te getree het.

Invoeging van artikel 20C in Wet 58 van 1962

38. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende artikel in te voeg:

“Omheining van rente aangegaan deur hoofkwartiermaatskappye

20C. (1) By die toepassing van hierdie artikel beteken ‘**finansiële bystand**’ finansiële bystand beoog in artikel 31(1).

(2) Waar ’n hoofkwartiermaatskappy gedurende enige jaar van aanslag enige rente aangegaan het ten opsigte van enige finansiële bystand toegestaan aan daardie hoofkwartiermaatskappy deur ’n persoon wat nie ’n inwoner is nie, word die bedrag van die rente ten opsigte waarvan ’n aftrekking toelaatbaar is aan daardie hoofkwartiermaatskappy in daardie jaar van aanslag beperk tot soveel van die bedrag aan rente ontvang deur of toegeval aan die hoofkwartiermaatskappy as wat betrekking het op enige gedeelte van daardie finansiële bystand wat regstreeks toegepas word as finansiële bystand aan enige buitelandse maatskappy waarin die hoofkwartiermaatskappy regstreeks of onregstreeks (hetsy alleen of tesame met enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie hoofkwartiermaatskappy) minstens 20 persent van die ekwiteitsaandele en stemregte hou.

(3) Enige bedrag wat ingevolge subartikel (2) nie as ’n aftrekking toegelaat word nie in enige jaar van aanslag van ’n hoofkwartiermaatskappy moet—

(i) oorgedra word na die onmiddellik daaropvolgende jaar van aanslag van die hoofkwartiermaatskappy; en

(ii) geag word ’n bedrag aan rente werklik aangegaan deur die hoofkwartiermaatskappy gedurende daardie daaropvolgende jaar te wees ten opsigte van finansiële bystand toegestaan aan daardie hoofkwartiermaatskappy deur ’n persoon wat nie ’n inwoner is nie.”.

(2) Subartikel (1) tree op 1 Oktober 2011 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Amendment of section 22 of Act 58 of 1962, as amended by section 8 of Act 6 of 1963, section 14 of Act 90 of 1964, section 21 of Act 89 of 1969, section 23 of Act 85 of 1974, section 20 of Act 69 of 1975, section 15 of Act 103 of 1976, section 20 of Act 94 of 1983, section 19 of Act 121 of 1984, section 14 of Act 65 of 1986, section 5 of Act 108 of 1986, section 21 of Act 101 of 1990, section 22 of Act 129 of 1991, section 17 of Act 113 of 1993, section 1 of Act 168 of 1993, section 19 of Act 21 of 1995, section 12 of Act 36 of 1996, section 25 of Act 53 of 1999, section 27 of Act 30 of 2000, section 12 of Act 5 of 2001, section 24 of Act 74 of 2002, section 37 of Act 45 of 2003, section 16 of Act 3 of 2008 and section 36 of Act 60 of 2008 5

39. (1) Section 22 of the Income Tax Act, 1962, is hereby amended— 10

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

“(a) in the case of trading stock other than trading stock contemplated in paragraph (b), the cost price to such person of such trading stock, less such amount as the Commissioner may think just and reasonable as representing the amount by which the value of such trading stock, not being **[shares held by any company in any other company]** any financial instrument, has been diminished by reason of damage, deterioration, change of fashion, decrease in the market value or for any other reason satisfactory to the Commissioner; and”;

(b) by the substitution in subsection (8)(b) for subparagraph (iii) of the following subparagraph:

“(iii) trading stock of any company has on or after 21 June 1993 been distributed *in specie* **[(whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital (including any share premium), a redemption of redeemable preference shares or an acquisition of shares in terms of section 85 of the Companies Act, 1973 (Act No. 61 of 1973)),]** to any shareholder of that company;”.

(2) Paragraph (a) of subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 January 2011.

(3) Paragraph (b) of subsection (1) comes into operation on 1 January 2011.

Amendment of section 22B of Act 58 of 1962, as inserted by section 34 of Act 17 of 2009 35

40. (1) Section 22B of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (2)(b) for subparagraph (ii) of the following subparagraph:

“(ii) holds more than 50 per cent of the equity **[share capital of] shares in** the resident company; and”;

(b) by the substitution in subsection (2)(c) for the words preceding subparagraph (i) of the following words:

“if the resident company or any company in which that resident company directly or indirectly holds more than 50 per cent of the equity **[share capital] shares** has, within a period of 18 months prior to the disposal, obtained any loan or advance or incurred any debt—”.

(2) Subsection (1) comes into operation on 1 January 2011.

Wysiging van artikel 22 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 6 van 1963, artikel 14 van Wet 90 van 1964, artikel 21 van Wet 89 van 1969, artikel 23 van Wet 85 van 1974, artikel 20 van Wet 69 van 1975, artikel 15 van Wet 103 van 1976, artikel 20 van Wet 94 van 1983, artikel 19 van Wet 121 van 1984, artikel 14 van Wet 65 van 1986, artikel 5 van Wet 108 van 1986, artikel 21 van Wet 101 van 1990, artikel 22 van Wet 129 van 1991, artikel 17 van Wet 113 van 1993, artikel 1 van Wet 168 van 1993, artikel 19 van Wet 21 van 1995, artikel 12 van Wet 36 van 1996, artikel 25 van Wet 53 van 1999, artikel 27 van Wet 30 van 2000, artikel 12 van Wet 5 van 2001, artikel 24 van Wet 74 van 2002, artikel 37 van Wet 45 van 2003, artikel 16 van Wet 3 van 2008 en artikel 36 van Wet 60 van 2008

39. (1) Artikel 22 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) in die geval van handelsvoorraad behalwe handelsvoorraad beoog in paragraaf (b), die kosprys vir dié persoon van bedoelde handelsvoorraad, min ’n bedrag wat volgens die oordeel van die Kommissaris billikerwys en redelikerwys die bedrag verteenwoordig waarmee die waarde van bedoelde handelsvoorraad, vir sover dit nie bestaan uit **[aandele deur ’n maatskappy in ’n ander maatskappy besit]** enige finansiële instrument nie, verminder is as gevolg van skade, bederf, verandering van mode, daling in markwaarde of enige ander oorsaak wat vir die Kommissaris bevredigend is; en”;

(b) deur in subartikel (8)(b) subparagraaf (iii) deur die volgende subparagraaf te vervang:

“(iii) handelsvoorraad van ’n maatskappy op of na 21 Junie 1993 aan ’n aandeelhouer van daardie maatskappy *in specie* uitgekeer is [(hetsy daardie uitkering plaasgevind het by wyse van ’n dividend, met inbegrip van ’n likwidasië-dividend, ’n algehele of gedeeltelike vermindering van kapitaal (met inbegrip van enige aandelepremie), ’n aflossing van aflosbare voorkeuraandele of ’n verkryging van aandele ingevolge artikel 85 van die Maatskappywet, 1973 (Wet No. 61 van 1973))];”.

(2) Paragraaf (a) van subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin.

(3) Paragraaf (b) van subartikel (1) tree op 1 Januarie 2011 in werking.

Wysiging van artikel 22B van Wet 58 van 1962, soos ingevoeg deur artikel 34 van Wet 17 van 2009

40. (1) Artikel 22B van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (2)(b) subparagraaf (ii) deur die volgende subparagraaf te vervang:

“(ii) meer as 50 persent van die **[ekwiteitsaandelekapitaal van]** ekwiteitsaandele in die inwonermaatskappy hou; en”;

(b) deur in subartikel (2)(c) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“indien die inwonermaatskappy of enige maatskappy waarin daardie inwonermaatskappy regstreeks of onregstreeks meer as 50 persent van die **[ekwiteitsaandelekapitaal]** ekwiteitsaandele hou, binne ’n tydperk van 18 maande voor die beskikking, enige lening of voorskot verkry het of enige skuld aangegaan het—”.

(2) Subartikel (1) tree op 1 Januarie 2011 in werking.

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 and section 37 of Act 60 of 2008 5

41. (1) Section 23 of the Income Tax Act, 1962, is hereby amended by the addition after paragraph (o) of the following paragraphs:

- “(p) any amount paid or payable to a person contemplated in section 11(w)(ii)(dd) that is funded directly or indirectly from any amount recoverable under a policy contemplated in— 10
- (i) section 11(w) if that policy was concluded prior to 1 January 2011; or
 - (ii) section 11(w)(ii) if that policy was concluded on or after 1 January 2011, or an amount equivalent to or in lieu of such amount;
- (q) the value in respect of any cession of a policy ceded as contemplated in section 10(1)(gF).” 15

(2) Subsection (1) comes into operation on 1 January 2011 and applies in respect of expenditure incurred on or after that date.

Amendment of section 23B of Act 58 of 1962, as inserted by section 25 of Act 129 of 1991 and amended by section 16 of Act 21 of 1994, section 29 of Act 30 of 2000, section 39 of Act 45 of 2003 and section 18 of Act 20 of 2006 20

42. (1) Section 23B of the Income Tax Act, 1962, is hereby amended by the addition after subsection (3) of the following subsection:

- “(4) No deduction shall be allowed under section 11(a) in respect of any expenditure incurred by a taxpayer in respect of any premium paid under a long-term insurance policy— 25
- (a) of which the taxpayer is the policyholder; and
 - (b) in terms of which the taxpayer is insured against any loss by reason of the death, disablement or severe illness of an employee or director of the taxpayer.” 30

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 January 2011 and applies in respect of premiums incurred on or after that date.

Amendment of section 23H of Act 58 of 1962, as inserted by section 31 of Act 30 of 2000 and amended by section 29 of Act 59 of 2000, section 34 of Act 60 of 2001, section 36 of Act 35 of 2007 and section 19 of Act 3 of 2008 35

43. (1) Section 23H of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

- “(a) which is allowable as a deduction in terms of the provisions of section 11(a), (c) [or], (d) or (w), section 11A, section 11D(1), or section 28(2)(a); and” 40

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 January 2011 and applies in respect of premiums incurred on or after that date.

Amendment of section 23I of Act 58 of 1962, as substituted by section 38 of Act 60 of 2008 and amended by section 36 of Act 17 of 2009 45

44. Section 23I of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (b) of the definition of “taxable person” of the following paragraph:

- “(b) the [Government, a provincial administration or a municipality] government of the Republic in the national, provincial or local sphere contemplated in section 10(1)(a) [or (b)];” 50

Wysiging van artikel 23 van Wet 58 van 1962, soos gewysig deur artikel 18 van Wet 65 van 1973, artikel 20 van Wet 121 van 1984, artikel 23 van Wet 129 van 1991, artikel 20 van Wet 141 van 1992, artikel 18 van Wet 113 van 1993, artikel 15 van Wet 21 van 1994, artikel 28 van Wet 30 van 2000, artikel 21 van Wet 30 van 2002, artikel 38 van Wet 45 van 2003, artikel 13 van Wet 16 van 2004, artikel 28 van Wet 31 van 2005, artikel 17 van Wet 20 van 2006, artikel 20 van Wet 8 van 2007 en artikel 37 van Wet 60 van 2008

41. (1) Artikel 23 van die Inkomstebelastingwet, 1962, word hierby gewysig deur na paragraaf (o) die volgende paragrawe by te voeg:

“(p) enige bedrag betaal of betaalbaar aan ’n persoon beoog in artikel 11(w)(ii)(dd) wat regstreeks of onregstreeks befonds word uit enige bedrag verhaalbaar ingevolge ’n polis beoog in—
 (i) artikel 11(w) indien daardie polis voor 1 Januarie 2011 aangegaan is; of
 (ii) artikel 11(w)(ii) indien daardie polis op of na 1 Januarie 2011 aangegaan is,
 of ’n bedrag gelykstaande aan of in plek van sodanige bedrag;
 (q) die waarde ten opsigte van enige sedering van ’n polis gesedeer soos beoog in artikel 10(1)(gF).”

(2) Subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van uitgawes op of na daardie datum aangegaan.

Wysiging van artikel 23B van Wet 58 van 1962, soos ingevoeg deur artikel 25 van Wet 129 van 1991 en gewysig deur artikel 16 van Wet 21 van 1994, artikel 29 van Wet 30 van 2000, artikel 39 van Wet 45 van 2003 en artikel 18 van Wet 20 van 2006

42. (1) Artikel 23B van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subartikel na subartikel (3) by te voeg:

“(4) Geen aftrekking word kragtens artikel 11(a) toegelaat nie ten opsigte van enige uitgawe aangegaan deur ’n belastingpligtige ten opsigte van enige premie betaal ingevolge ’n langtermyn-versekeringspolis—
 (a) waarvan die belastingpligtige die polishouer is; en
 (b) ingevolge waarvan die belastingpligtige verseker word teen enige verlies ten gevolge van die dood, ongeskiktheid of ernstige siekte van ’n werknemer of direkteur van die belastingpligtige.”

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin en is van toepassing ten opsigte van premies op of na daardie datum aangegaan.

Wysiging van artikel 23H van Wet 58 van 1962, soos ingevoeg deur artikel 31 van Wet 30 van 2000 en gewysig deur artikel 29 van Wet 59 van 2000, artikel 34 van Wet 60 van 2001, artikel 36 van Wet 35 van 2007 en artikel 19 van Wet 3 van 2008

43. (1) Artikel 23H van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) wat ingevolge die bepalings van artikel 11(a), (c) [of], (d) of (w), artikel 11A, artikel 11D(1), of artikel 28(2)(a) as ’n aftrekking toelaatbaar is; en”.

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin en is van toepassing ten opsigte van premies op of na daardie datum aangegaan.

Wysiging van artikel 23I van Wet 58 van 1962, soos vervang deur artikel 38 van Wet 60 van 2008 en gewysig deur artikel 36 van Wet 17 van 2009

44. Artikel 23I van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) paragraaf (b) van die omskrywing van “belasbare persoon” deur die volgende paragraaf te vervang:

“(b) die [Regering, ’n provinsiale administrasie of ’n munisipaliteit] regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer in artikel 10(1)(a) [of (b)] beoog;”.

Insertion of section 24E in Act 58 of 1962

45. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 24D of the following section:

“Allowance in respect of future expenditure by sporting bodies

24E. (1) If income is received by or accrued to a taxpayer contemplated in section 11E in respect of an event that will not recur in the following year of assessment, the taxpayer may for the purposes of determining taxable income deduct so much of that income as will be required to fund expenditure contemplated in section 11E that will be incurred in a future year of assessment. 5

(2) Any amount allowed to be deducted in terms of subsection (1) in any year of assessment must be deemed to be income received by or accrued to the taxpayer in the following year of assessment.”. 10

(2) Subsection (1) is deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2008. 15

Amendment of section 24H of Act 58 of 1962, as inserted by section 21 of Act 90 of 1988 and amended by section 26 of Act 74 of 2002

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

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

“(1) For the purposes of this section, ‘**limited partner**’ means any member of a partnership *en commandite*, an anonymous partnership [or], any similar partnership or a foreign partnership, if such member’s liability towards a creditor of the partnership is limited to the amount which [he] the member has contributed or undertaken to contribute to the partnership or is in any other way limited.”; and 20

(b) by the substitution in subsection (5) for paragraph (a) of the following paragraph: 25

“(a) Where any income has in common been received by or accrued to the members of any partnership or foreign partnership, a portion (determined in accordance with any agreement between such members as to the ratio in which the profits or losses of the partnership are to be shared) of such income shall, notwithstanding anything to the contrary contained in any law or the relevant agreement of partnership, be deemed to have been received by or to have accrued to each such member individually on the date upon which such income was received by or accrued to them in common.”. 30

(2) Subsection (1) comes into operation—

(a) in the case of any foreign partnership that is established or formed before 24 August 2010, as from the commencement of years of assessment commencing on or after 1 October 2010; and 40

(b) in the case of any foreign partnership that is established or formed on or after 24 August 2010, as from the date of establishment or formation.

Invoeging van artikel 24E in Wet 58 van 1962

45. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende artikel na artikel 24D in te voeg:

**“Vermindering ten opsigte van toekomstige uitgawes deur sport-
liggame**

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24E. (1) Indien inkomste ontvang word deur of toeval aan ’n belastingpligtige beoog in artikel 11E ten opsigte van ’n gebeurtenis wat nie weer in die daaropvolgende jaar van aanslag sal plaasvind nie, kan die belastingpligtige vir die doeleindes van die bepaling van belasbare inkomste soveel van daardie inkomste aftrek as wat nodig sal wees om uitgawes beoog in artikel 11E wat in ’n toekomstige jaar van aanslag aangegaan sal word, te befonds.

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(2) Enige bedrag wat ingevolge subartikel (1) in enige jaar van aanslag afgetrek mag word, moet geag word inkomste ontvang deur of toeval aan die belastingpligtige in die daaropvolgende jaar van aanslag te wees.”

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(2) Subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2008 eindig.

Wysiging van artikel 24H van Wet 58 van 1962, soos ingevoeg deur artikel 21 van Wet 90 van 1988 en gewysig deur artikel 26 van Wet 74 van 2002

46. (1) Artikel 24H van die Inkomstebelastingwet, 1962, word hierby gewysig— 20

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) By die toepassing van hierdie artikel beteken **‘beperkte vennoot’** ’n lid van ’n vennootskap *en commandite*, ’n anonieme vennootskap [of], enige dergelike vennootskap of ’n buitelandse vennootskap, indien bedoelde lid se aanspreeklikheid teenoor ’n krediteur van die ven- 25
nootskap beperk is tot die bedrag wat [hy] die lid tot die vennootskap bygedra het of onderneem het om by te dra of op enige ander wyse beperk is.”; en

(b) deur in subartikel (5) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) Waar enige inkomste gesamentlik deur die lede van ’n 30
vennootskap of buitelandse vennootskap ontvang is of aan hulle toegeval het, word ’n gedeelte (vasgestel ooreenkomstig enige ooreenkoms tussen bedoelde lede met betrekking tot die verhouding waarin die winste of verliese van die vennootskap verdeel moet word) van bedoelde inkomste 35
ondanks andersluidende bepalings van enige Wet of die betrokke vennootskapsooreenkoms, geag afsonderlik deur elke bedoelde lid ontvang te gewees het of aan hom toe te geval het op die datum waarop bedoelde inkomste gesamentlik deur hulle ontvang is of aan hulle toegeval het.”

(2) Subartikel (1) tree in werking— 40

(a) in die geval van enige buitelandse vennootskap wat voor 24 Augustus 2010 opgerig of gestig is, vanaf die begin van jare van aanslag wat op of na 1 Oktober 2010 begin; en

(b) in die geval van enige buitelandse vennootskap wat op of na 24 Augustus 2010 opgerig of gestig word, vanaf die datum van oprigting of stigting. 45

Amendment of section 24I of Act 58 of 1962, as inserted by section 21 of Act 90 of 1988 and amended by section 21 of Act 113 of 1993, 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 and section 20 of Act 3 of 2008

47. (1) Section 24I of the Income Tax Act, 1962, is hereby amended by the substitution for the definition of “local currency” of the following definition: 10

“ ‘local currency’ means in relation to—

- (a) any person in respect of an exchange item which is attributable to any permanent establishment [of a person] outside the Republic, the functional currency [used by] of that permanent establishment [for purposes of financial reporting]: Provided that for purposes of this paragraph any exchange item shall be deemed not to be attributable to any such permanent establishment if the functional currency [used by] of that permanent establishment [for purposes of financial reporting] is the currency of a country which has an official rate of inflation of 100 per cent or more throughout the relevant year of assessment; 15
- (b) any resident other than a headquarter company in respect of an exchange item which is not attributable to a permanent establishment outside the Republic, the currency of the Republic; [or] 20
- (c) any person that is not a resident in respect of any exchange item which is attributable to a permanent establishment in the Republic, the currency of the Republic; or 25
- (d) any headquarter company in respect of an exchange item which is not attributable to a permanent establishment outside the Republic, the functional currency of that headquarter company;”.

(2) Subsection (1) comes into operation on 1 January 2011 and applies in respect of years of assessment commencing on or after that date. 30

Insertion of section 24JA in Act 58 of 1962

48. (1) The Income Tax Act, 1962, is hereby amended by the insertion after 24J of the following section:

“**Sharia compliant financing arrangements** 35

24JA. (1) For the purposes of this section—

‘bank’ means any—

- (a) bank as defined in section 1 of the Banks Act, 1990 (Act No. 94 of 1990);
- (b) mutual bank as defined in section 1 of the Mutual Banks Act, 1993 (Act No. 124 of 1993); or 40
- (c) co-operative bank as defined in section 1 of the Co-operative Banks Act, 2007 (Act No. 40 of 2007);

‘diminishing musharaka’ means a sharia arrangement between a bank and a client of that bank whereby— 45

- (a) (i) the bank and the client jointly acquire an asset from a third party (the seller); or
- (ii) the bank acquires an interest in an asset from the client;
- (b) the client will acquire the bank’s interest in the asset after the acquisition of the asset by the bank as contemplated in paragraph (a); 50
- and
- (c) the amount of consideration payable by the client to the bank for the acquisition of the interest of the bank in the asset will be paid over a period of time as agreed between the client and the bank;

‘mudaraba’ means a sharia arrangement between a bank and a client of that bank whereby— 55

- (a) funds are deposited with the bank by the client;

Wysiging van artikel 24I van Wet 58 van 1962, soos ingevoeg deur artikel 21 van Wet 90 van 1988 en gewysig deur artikel 21 van Wet 113 van 1993, artikel 11 van Wet 140 van 1993, artikel 18 van Wet 21 van 1994, artikel 13 van Wet 36 van 1996, artikel 18 van Wet 28 van 1997, artikel 35 van Wet 30 van 1998, artikel 26 van Wet 53 van 1999, artikel 31 van Wet 59 van 2000, artikel 36 van Wet 60 van 2001, artikel 27 van Wet 74 van 2002, artikel 42 van Wet 45 van 2003, artikel 23 van Wet 32 van 2004, artikel 33 van Wet 31 van 2005, artikel 26 van Wet 9 van 2006, artikel 19 van Wet 20 van 2006, artikel 23 van Wet 8 van 2007, artikel 40 van Wet 35 van 2007 en artikel 20 van Wet 3 van 2008

47. (1) Artikel 24I van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) die woordoms krywing van “plaaslike geldeenheid” deur die volgende woordoms krywing te vervang:

“**‘plaaslike geldeenheid’** met betrekking tot—

- (a) ’n persoon ten opsigte van ’n valuta-item wat aan enige permanente saak [**van ’n persoon**] buite die Republiek toeskryfbaar is, die funksionele geldeenheid [wat deur] van daardie permanente saak [gebruik word vir doeleindes van finansiële verslagdoening]: Met dien verstande dat by die toepassing van hierdie paragraaf ’n valuta-item geag word nie aan enige so ’n permanente saak toeskryfbaar te wees nie, indien die funksionele geldeenheid [**deur] van daardie permanente saak [vir doeleindes van finansiële verslagdoening gebruik,]** die geldeenheid is van ’n land met ’n amptelike inflasiekoers van 100 persent of meer gedurende die betrokke jaar van aanslag;
- (b) enige inwoner behalwe ’n hoofkwartiermaatskappy met betrekking tot ’n valuta-item wat nie aan ’n permanente saak buite die Republiek toeskryfbaar is nie, die geldeenheid van die Republiek;
- (c) enige persoon wat nie ’n inwoner is nie ten opsigte van enige valuta-item wat aan ’n permanente saak in die Republiek toeskryfbaar is, die geldeenheid van die Republiek; of
- (d) enige hoofkwartiermaatskappy ten opsigte van ’n valuta-item wat nie toeskryfbaar is aan ’n permanente saak buite die Republiek nie, die funksionele geldeenheid van daardie hoofkwartiermaatskappy;”

(2) Subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Invoeging van artikel 24JA in Wet 58 van 1962

48. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 24J die volgende artikel in te voeg:

“Finansieringsreëlings ingevolge sharia

24JA. (1) By die toepassing van hierdie artikel beteken—

‘bank’ enige—

- (a) bank soos omskryf in artikel 1 van die Bankwet, 1990 (Wet No. 94 van 1990);
- (b) onderlinge bank soos omskryf in artikel 1 van die Wet op Onderlinge Banke, 1993 (Wet No. 124 van 1993); of
- (c) koöperatiewe bank soos omskryf in artikel 1 van die ‘Co-operative Banks Act, 2007’ (Wet No. 40 van 2007);
- ‘afnemende musharaka’** ’n sharia-reëling tussen ’n bank en ’n kliënt van daardie bank ingevolge waarvan—
- (a) (i) die bank en die kliënt gesamentlik ’n bate van ’n derde party (die verkoper) verkry; of
- (ii) die bank ’n belang in ’n bate van die kliënt verkry;
- (b) die kliënt die bank se belang in die bate sal verkry na die verkryging van die bate deur die bank soos in paragraaf (a) beoog;
- (c) die bedrag van vergoeding deur die kliënt betaalbaar aan die bank vir die verkryging van die bank se belang in die bate betaal sal word oor ’n tydperk soos tussen die kliënt en die bank ooreengekom;
- ‘mudaraba’** ’n sharia-reëling tussen ’n bank en ’n kliënt van daardie bank ingevolge waarvan—
- (a) fondse deur die kliënt by die bank gedeponeer word;

- (b) the anticipated return in respect of the sharia arrangement is dependent on the amount deposited by the client in combination with the duration of the period for which the funds are deposited;
- (c) the bank invests the funds deposited by the client in other sharia arrangements; 5
- (d) the client bears the risk of the loss in respect of the sharia arrangements contemplated in paragraph (c); and
- (e) the return in respect of the sharia arrangements contemplated in paragraph (c) is divided between the client and the bank as agreed at the time that the client deposits the funds with the bank; 10
- ‘murabaha’** means a sharia arrangement between—
- (a) a bank and a client of that bank whereby—
- (i) the bank will acquire an asset from a third party (the seller) for the benefit of the client on such terms and conditions as are agreed between the client and the seller; and 15
- (ii) the client—
- (aa) will acquire the asset from the bank within 30 days after the acquisition of the asset by the bank contemplated in subparagraph (i); and
- (bb) agrees to pay to the bank a total amount that— 20
- (A) exceeds the amount payable by the bank to the seller as consideration to acquire the asset;
- (B) is calculated with reference to the consideration payable by the bank to the seller in combination with the duration of the sharia arrangement; and 25
- (C) may not exceed the amount agreed between the bank and the client when the sharia arrangement is entered into; or
- (b) a portfolio of a collective investment scheme in securities and a bank whereby— 30
- (i) the portfolio of a collective investment scheme in securities will acquire an asset from a third party (the seller) for the benefit of the bank on such terms and conditions as are agreed upon between the bank and the seller; and
- (ii) the bank— 35
- (aa) will acquire the asset from the portfolio of a collective investment scheme in securities within 30 days after the acquisition of the asset by the portfolio of a collective investment scheme in securities contemplated in subparagraph (i); and 40
- (bb) agrees to pay to the portfolio of a collective investment scheme in securities a total amount that—
- (A) exceeds the amount payable by the portfolio of a collective investment scheme in securities to the seller as consideration to acquire the asset; 45
- (B) is calculated with reference to the consideration payable by the portfolio of a collective investment scheme in securities to the seller in combination with the duration of the sharia arrangement; and
- (C) may not exceed the amount agreed upon between the portfolio of a collective investment scheme in securities and the bank when the sharia arrangement is entered into; 50
- ‘sharia arrangement’** means an arrangement that is—
- (a) open for participation by members of the general public; and 55
- (b) presented as compliant with sharia law when the members of the general public are invited to participate therein.
- (2) For the purposes of section 10(1)(i)(xv)(bb)(A) and (B), any amount received by or accrued to a client in terms of a mudaraba is deemed to be interest. 60

- (b) die verwagte opbrengs ten opsigte van die sharia-reëling afhanklik is van die bedrag deur die kliënt gedeponeer in kombinasie met die duur van die tydperk waarvoor die fondse gedeponeer word;
- (c) die bank die fondse deur die kliënt gedeponeer in ander sharia-reëlings belê; 5
- (d) die kliënt die risiko van die verlies ten opsigte van die sharia-reëlings beoog in paragraaf (c) dra; en
- (e) die opbrengs ten opsigte van die sharia-reëlings beoog in paragraaf (c) verdeel word tussen die kliënt en die bank soos ooreengekom ten tye daarvan dat die kliënt die fondse by die bank deponeer; 10
- ‘murabaha’** ’n sharia-reëling tussen—
- (a) ’n bank en ’n kliënt van daardie bank ingevolge waarvan—
- (i) die bank ’n bate van ’n derde party (die verkoper) sal verkry ten behoeve van die kliënt op die voorwaardes en bedinge waarop deur die kliënt en die verkoper ooreengekom word; en 15
- (ii) die kliënt—
- (aa) die bate van die bank verkry binne 30 dae na die verkryging van die bate deur die bank in subparagraaf (i) beoog; en
- (bb) ooreenkom om aan die bank ’n totale bedrag te betaal wat— 20
- (A) die bedrag betaalbaar deur die bank aan die verkoper as vergoeding om die bate te verkry, oorskry;
- (B) bereken word met verwysing na die vergoeding betaalbaar deur die bank aan die verkoper in kombinasie met die duur van die sharia-reëling; en 25
- (C) nie die bedrag ooreengekom tussen die bank en die kliënt toe die sharia-reëling aangegaan is, mag oorskry nie; of
- (b) ’n portefeulje van ’n kollektiewe beleggingskema in effekte en ’n bank ingevolge waarvan— 30
- (i) die portefeulje van ’n kollektiewe beleggingskema in effekte ’n bate van ’n derde party (die verkoper) sal verkry ten behoeve van die bank op die voorwaardes en bedinge waarop deur die bank en die verkoper ooreengekom word; en 35
- (ii) die bank—
- (aa) die bate van die portefeulje van ’n kollektiewe beleggingskema in effekte sal verkry binne 30 dae na die verkryging van die bate deur die portefeulje van ’n kollektiewe beleggingskema in effekte in subparagraaf (i) beoog; en 40
- (bb) ooreenkom om aan die portefeulje van ’n kollektiewe beleggingskema in effekte ’n totale bedrag te betaal wat—
- (A) die bedrag betaalbaar deur die portefeulje van ’n kollektiewe beleggingskema in effekte aan die verkoper as vergoeding om die bate te verkry, oorskry; 45
- (B) bereken word met verwysing na die vergoeding betaalbaar deur die portefeulje van ’n kollektiewe beleggingskema in effekte aan die verkoper in kombinasie met die duur van die sharia-reëling; en 50
- (C) nie die bedrag ooreengekom tussen die portefeulje van ’n kollektiewe beleggingskema in effekte en die bank toe die sharia-reëling aangegaan is, mag oorskry nie; 55
- ‘sharia-reëling’** ’n reëling wat—
- (a) vir deelname deur lede van die algemene publiek oop is; en
- (b) voorgehou word as ooreenkomstig sharia-wette wanneer lede van die algemene publiek genooi word om daaraan deel te neem. 60
- (2) By die toepassing van artikel 10(1)(i)(xv)(bb)(A) en (B) moet enige bedrag ontvang deur of toegeval aan ’n kliënt ingevolge ’n mudaraba geag word rente te wees.

- (3) Where any murabaha is entered into between a bank and a client of that bank as contemplated in paragraph (a) of the definition of 'murabaha'—
- (a) the bank is deemed not to have acquired or disposed of the asset under the sharia arrangement; 5
 - (b) the client is deemed to have acquired the asset from the seller—
 - (i) for consideration equal to the amount paid by the bank to the seller; and
 - (ii) at such time as the bank acquired the asset from the seller by virtue of the transaction between the seller and the bank; 10
 - (c) the murabaha is deemed to be an instrument for the purposes of section 24J; 15
 - (d) the difference between the amount of consideration paid for the asset by the bank to the seller and the consideration payable to the bank by the client to acquire the asset as contemplated in paragraph (a)(ii)(bb) of the definition of 'murabaha' is deemed to be a premium paid for the purposes of section 24J; and 20
 - (e) the amount of consideration paid by the bank to acquire the asset as contemplated in paragraph (a)(i) of the definition of 'murabaha' is deemed to be an issue price for the purposes of section 24J. 25
- (4) Where any murabaha is entered into between a portfolio of a collective investment scheme in securities and a bank as contemplated in paragraph (b) of the definition of 'murabaha'—
- (a) the portfolio of a collective investment scheme in securities is deemed not to have acquired or disposed of the asset under the sharia arrangement; 25
 - (b) the bank is deemed to have acquired the asset—
 - (i) from the seller for consideration equal to the amount paid by the portfolio of a collective investment scheme in securities to the seller; and 30
 - (ii) at such time as the portfolio of a collective investment scheme in securities acquired the asset from the seller by virtue of the transaction between the seller and the portfolio of a collective investment scheme in securities; 35
 - (c) the murabaha is deemed to be an instrument for the purposes of section 24J; 40
 - (d) the difference between the amount of consideration paid for the asset by the portfolio of a collective investment scheme in securities to the seller and the consideration paid to the portfolio of a collective investment scheme in securities by the bank to acquire the asset as contemplated in paragraph (b)(ii)(bb) of the definition of 'murabaha' is deemed to be a premium paid for the purposes of section 24J; and 45
 - (e) the amount of consideration paid by the portfolio of a collective investment scheme in securities to acquire the asset as contemplated in paragraph (b)(ii)(aa) of the definition of 'murabaha' is deemed to be an issue price for the purposes of section 24J. 50
- (5) For the purposes of determining the tax on income of the client in respect of a diminishing musharaka—
- (a) where the bank and the client jointly acquire an asset, the client is deemed to have acquired the bank's interest in the asset— 50
 - (i) for an amount equal to the amount paid by the bank in respect of its interest in the asset; and
 - (ii) at the time that the seller of the asset was divested of its interest in the asset by virtue of the transaction between the seller and the bank; or 55
 - (b) where the bank acquires an interest in an asset from the client, the client is deemed not to have disposed of the interest in the asset or to have acquired that interest from the bank. 60
- (6) (a) For the purposes of subsection (5), where an instalment is paid by the client to the bank, a portion of that instalment, the amount of which

- (3) Waar enige murabaha aangegaan word tussen 'n bank en 'n kliënt van daardie bank soos in paragraaf (a) van die omskrywing van 'murabaha' beoog—
- (a) word die bank geag nie ingevolge die sharia-reëling die bate te verkry of te verhandel het nie; 5
- (b) word die kliënt geag die bate van die verkoper te verkry het—
- (i) vir vergoeding gelyk aan die bedrag deur die bank aan die verkoper betaal; en
- (ii) op die tydstip wat die bank die bate van die verkoper verkry het uit hoofde van die transaksie tussen die verkoper en die bank; 10
- (c) word die murabaha geag 'n instrument by die toepassing van artikel 24J te wees;
- (d) word die verskil tussen die bedrag aan vergoeding vir die bate deur die bank aan die verkoper betaal en die vergoeding betaalbaar aan die bank deur die kliënt om die bate soos beoog in paragraaf (a)(ii)(bb) van die omskrywing van 'murabaha' te verkry, geag 'n premie betaal by die toepassing van artikel 24J te wees; en 15
- (e) word die bedrag aan vergoeding deur die bank betaal om die bate soos beoog in paragraaf (a)(i) van die omskrywing van 'murabaha' te verkry, geag 'n uitreikingsprys by die toepassing van artikel 24J te wees. 20
- (4) Waar enige murabaha aangegaan word tussen 'n portefeulje van 'n kollektiewe beleggingskema in effekte en 'n bank soos in paragraaf (b) van die omskrywing van 'murabaha' beoog—
- (a) word die portefeulje van 'n kollektiewe beleggingskema in effekte geag nie ingevolge die sharia-reëling die bate te verkry of te verhandel het nie; 25
- (b) word die bank geag die bate te verkry het—
- (i) van die verkoper vir vergoeding gelyk aan die bedrag deur die portefeulje van 'n kollektiewe beleggingskema in effekte aan die verkoper betaal; en 30
- (ii) op die tydstip wat die portefeulje van 'n kollektiewe beleggingskema in effekte die bate van die verkoper verkry het uit hoofde van die transaksie tussen die verkoper en die portefeulje van 'n kollektiewe beleggingskema in effekte; 35
- (c) word die murabaha geag 'n instrument by die toepassing van artikel 24J te wees;
- (d) word die verskil tussen die bedrag aan vergoeding vir die bate deur die portefeulje van 'n kollektiewe beleggingskema in effekte aan die verkoper betaal en die vergoeding betaal aan die portefeulje van 'n kollektiewe beleggingskema in effekte deur die bank om die bate soos beoog in paragraaf (b)(ii)(bb) van die omskrywing van 'murabaha' te verkry, geag 'n premie betaal by die toepassing van artikel 24J te wees; en 40
- (e) word die bedrag aan vergoeding deur die portefeulje van 'n kollektiewe beleggingskema in effekte betaal om die bate soos beoog in paragraaf (b)(ii)(aa) van die omskrywing van 'murabaha' te verkry, geag 'n uitreikingsprys by die toepassing van artikel 24J te wees. 45
- (5) Vir doeleindes van die bepaling van belasting op inkomste van die kliënt ten opsigte van 'n afnemende musharaka— 50
- (a) waar die bank en die kliënt gesamentlik 'n bate verkry, word die kliënt geag die bank se belang in die bate te verkry het—
- (i) vir 'n bedrag gelykstaande aan die bedrag betaal deur die bank ten opsigte van sy belang in die bate; en
- (ii) op die tydstip wat die verkoper van die bate van sy belang in die bate ontdoen is uit hoofde van die transaksie tussen die verkoper en die bank; of 55
- (b) waar die bank 'n belang in 'n bate verkry van die kliënt, word die kliënt geag nie oor die belang in die bate te beskik het of daardie belang van die bank te verkry het nie. 60
- (6) (a) By die toepassing van subartikel (5), waar 'n paalement deur die kliënt aan die bank betaal word, word 'n gedeelte van daardie paalement,

must be determined in accordance with paragraph (b), is deemed not to be of a capital nature.

(b) The amount contemplated in paragraph (a) must be determined in accordance with the formula—

$$X = A - \frac{B}{C}$$

in which formula—

- (i) 'X' represents that amount;
- (ii) 'A' represents the amount of any individual instalment paid by the client to the bank as part of the consideration as contemplated in paragraph (c) of the definition of 'diminishing musharaka';
- (iii) 'B' represents the total amount of expenditure incurred by the bank in terms of the arrangement in respect of the asset; and
- (iv) 'C' represents the total number of instalments payable by the client to the bank in respect of the consideration contemplated in paragraph (c) of the definition of 'diminishing musharaka'.

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

Amendment of section 25BA of Act 58 of 1962, as inserted by section 39 of Act 17 of 2009

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

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

“Amounts received by or accrued to certain portfolios of collective investment schemes [in securities] and holders of participatory interests in portfolios”; and

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

“Any amount, other than an amount of a capital nature, received by or accrued to any portfolio of a collective investment scheme [in securities], other than a portfolio of a collective investment scheme in property, must—”.

(2) Subsection (1) is deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 January 2010 and applies in respect of—

- (a) amounts received by or accrued to a portfolio of a collective investment scheme; and
- (b) amounts distributed by a portfolio of a collective investment scheme that are derived from amounts contemplated in paragraph (a),

on or after that date.

Amendment of section 25D of Act 58 of 1962, as inserted by section 33 of Act 59 of 2000 and amended by section 37 of Act 60 of 2001, section 28 of Act 74 of 2002, section 44 of Act 45 of 2003, section 35 of Act 31 of 2005 and section 41 of Act 35 of 2007

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

(a) by the substitution for subsections (1) and (2) of the following subsections:

“(1) Subject to subsections (2), [and] (3) and (4), any amount received by or accrued to, or expenditure or loss incurred by, a person during any year of assessment in any currency other than the currency of the Republic must be translated to the currency of the Republic by applying the spot rate on the date on which that amount was so received or accrued or expenditure or loss was so incurred.

(2) Any amounts received by or accrued to, or expenditure incurred by, a person in any currency other than the currency of the Republic which are attributable to a permanent establishment of that person outside the Republic must be determined in the functional currency [used by] of that permanent establishment [for purposes of financial reporting] (other than the currency of any country in the common monetary area) and be

waarvan die bedrag ooreenkomstig paragraaf (b) bepaal moet word, geag nie van 'n kapitale aard te wees nie.

(b) Die bedrag beoog in paragraaf (a) moet bepaal word ooreenkomstig die formule—

$$X = A - \frac{B}{C}$$

in welke formule—

- (i) 'X' daardie bedrag voorstel;
- (ii) 'A' die bedrag voorstel van enige individuele paaiement deur die kliënt aan die bank betaal as deel van die vergoeding soos in paragraaf (c) van die omskrywing van 'afnemende musharaka' beoog;
- (iii) 'B' die totale bedrag voorstel van uitgawes aangegaan deur die bank ingevolge die reëling ten opsigte van die bate; en
- (iv) 'C' die totale getal paaiemente voorstel betaalbaar deur die kliënt aan die bank ten opsigte van die vergoeding in paragraaf (c) van die omskrywing van 'afnemende musharaka' beoog."

(2) Subartikel (1) tree in werking op 'n datum deur die Minister van Finansies by kennisgewing in die die *Staatskoerant* bepaal.

Wysiging van artikel 25BA van Wet 58 van 1962, soos ingevoeg deur artikel 39 van Wet 17 van 2009

49. (1) Artikel 25BA van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

"Bedrae ontvang deur of toegeval aan sekere portefeuljes van kollektiewe beleggingskemas [in effekte] en houters van deelnemingsbelange in portefeuljes"; en

(b) deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

"Enige bedrag, behalwe 'n bedrag van 'n kapitale aard, ontvang deur of toegeval aan enige portefeulje van 'n kollektiewe beleggingskema [in effekte], buiten 'n portefeulje van 'n kollektiewe beleggingskema in eiendom, moet—"

(2) Subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2010 begin en is van toepassing ten opsigte van—

(a) bedrae ontvang deur of toegeval aan 'n portefeulje van 'n kollektiewe beleggingskema; en

(b) bedrae uitgekeer deur 'n portefeulje van 'n kollektiewe beleggingskema wat verkry word uit bedrae beoog in paragraaf (a),

op of na daardie datum.

Wysiging van artikel 25D van Wet 58 van 1962, soos ingevoeg deur artikel 33 van Wet 59 van 2000 en gewysig deur artikel 37 van Wet 60 van 2001, artikel 28 van Wet 74 van 2002, artikel 44 van Wet 45 van 2003, artikel 35 van Wet 31 van 2005 en artikel 41 van Wet 35 van 2007

50. (1) Artikel 25D van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subartikels (1) en (2) deur die volgende subartikels te vervang:

"(1) Behoudens subartikels (2) [en], (3) en (4), word enige bedrag ontvang deur of toegeval aan, of onkoste of verlies aangegaan deur, 'n persoon gedurende enige jaar van aanslag in enige geldeenheid behalwe die geldeenheid van die Republiek, omgerek na die geldeenheid van die Republiek deur die kontantkoers op die datum waarop daardie bedrag aldus ontvang is of toegeval het of onkoste of verlies aldus aangegaan is, te gebruik.

(2) Enige bedrag ontvang deur of toegeval aan, of onkoste aangegaan deur, 'n persoon in enige geldeenheid behalwe die geldeenheid van die Republiek wat aan 'n permanente saak van daardie persoon buite die Republiek toeskryfbaar is, [word bepaal] moet in die funksionele geldeenheid [deur] van daardie permanente saak [gebruik vir doeleindes van finansiële verslagdoening] bepaal word (behalwe die geldeenheid van enige land in die gemeenskaplike monetêre gebied) en

- translated to the currency of the Republic by applying the average exchange rate for the relevant year of assessment.”;
- (b) by the substitution in subsection (2A) for paragraphs (a) and (b) of the following paragraphs:
- “(a) the other currency contemplated in that subsection is not the functional currency [used by] of that permanent establishment [for purposes of financial reporting]; and
- (b) the functional currency [used for financial reporting purposes] is the currency of a country which has an official rate of inflation of 100 per cent or more throughout the relevant year of assessment.”;
- and
- (c) by the addition of the following subsection:
- “(4) Where, during any year of assessment—
- (a) any amount—
- (i) is received by or accrued to; or
- (ii) of expenditure is incurred by, a headquarter company in any currency other than the functional currency of the headquarter company; and
- (b) the functional currency of that headquarter company is a currency other than the currency of the Republic, that amount must be determined in the functional currency of the headquarter company and must be translated to the currency of the Republic by applying the average exchange rate for that year of assessment.”.

(2) Subsection (1) comes into operation on 1 January 2011 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 28 of Act 58 of 1962, as amended by section 17 of Act 90 of 1962, section 22 of Act 55 of 1966, section 24 of Act 89 of 1969, section 21 of Act 88 of 1971, section 19 of Act 65 of 1973, section 19 of Act 91 of 1982, section 22 of Act 94 of 1983, section 17 of Act 65 of 1986, section 23 of Act 90 of 1988, section 13 of Act 70 of 1989, section 25 of Act 101 of 1990, section 29 of Act 129 of 1991, section 24 of Act 113 of 1993, section 19 of Act 21 of 1994, section 33 of Act 30 of 2000, section 42 of Act 35 of 2007, section 40 of Act 60 of 2008 and section 40 of Act 17 of 2009

51. (1) Section 28 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (cA) of the following paragraph:
- “(cA) the liabilities contemplated in section 32(1)(a) and (b) of the Short-Term Insurance Act, 1998 (Act No. 53 of 1998), that have been included as liabilities of that person in respect of a year of assessment[, **subject to such adjustments as may be made by the Commissioner**]: Provided that no deduction shall be made in terms of this paragraph in respect of a liability incurred as contemplated in paragraph (b).”;
- (b) by the addition in subsection (7) of the following proviso to paragraph (c):
- “: Provided that no deduction shall be made in terms of this paragraph in respect of a liability incurred as contemplated in paragraph (b)”;
- and
- (c) by the substitution for subsection (9) of the following subsection:
- “(9) [The] Any deduction contemplated in subsection (2) or (7) shall be subject to such adjustments as may be made by the Commissioner.”.

(2) Subsection (1) comes into operation on the date of promulgation of this Act and applies in respect of years of assessment commencing on or after that date.

- omgerekend word na die geldeenheid van die Republiek deur die gemiddelde wisselkoers vir die betrokke jaar van aanslag toe te pas.”;
- (b) deur in subartikel (2A) paragrafe (a) en (b) deur die volgende paragrafe te vervang:
- “(a) die ander geldeenheid in daardie subartikel beoog nie die funksionele geldeenheid [**is wat deur**] van daardie permanente saak [**gebruik word vir doeleindes van finansiële verslagdoening**] is nie; en
- (b) die funksionele geldeenheid [**vir finansiële verslagdoening gebruik**] die geldeenheid is van ’n land met ’n amptelike inflasiekoers van 100 persent of meer gedurende die volle betrokke jaar van aanslag.”; en
- (c) deur die volgende subartikel by te voeg:
- “(4) Waar, gedurende enige jaar van aanslag—
- (a) enige bedrag—
- (i) ontvang word deur of toeval aan; of
- (ii) van uitgawe aangegaan word deur, ’n hoofkwartiermaatskappy in enige ander geldeenheid as die funksionele geldeenheid van die hoofkwartiermaatskappy; en
- (b) die funksionele geldeenheid van daardie hoofkwartiermaatskappy ’n ander geldeenheid as die geldeenheid van die Republiek is, moet daardie bedrag bepaal word in die funksionele geldeenheid van die hoofkwartiermaatskappy en na die geldeenheid van die Republiek omgeskakel word deur die gemiddelde wisselkoers vir daardie jaar van aanslag toe te pas.”.
- (2) Subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 28 van Wet 58 van 1962, soos gewysig deur artikel 17 van Wet 90 van 1962, artikel 22 van Wet 55 van 1966, artikel 24 van Wet 89 van 1969, artikel 21 van Wet 88 van 1971, artikel 19 van Wet 65 van 1973, artikel 19 van Wet 91 van 1982, artikel 22 van Wet 94 van 1983, artikel 17 van Wet 65 van 1986, artikel 23 van Wet 90 van 1988, artikel 13 van Wet 70 van 1989, artikel 25 van Wet 101 van 1990, artikel 29 van Wet 129 van 1991, artikel 24 van Wet 113 van 1993, artikel 19 van Wet 21 van 1994, artikel 33 van Wet 30 van 2000, artikel 42 van Wet 35 van 2007, artikel 40 van Wet 60 van 2008 en artikel 40 van Wet 17 van 2009

51. (1) Artikel 28 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (2) paragraaf (cA) deur die volgende paragraaf te vervang:
- “(cA) die verpligtinge in artikel 32(1)(a) en (b) van die Korttermynversekeringswet, 1998 (Wet Nr. 53 van 1998), beoog, wat as verpligtinge van daardie persoon ten opsigte van ’n jaar van aanslag ingesluit is, [**behoudens sodanige aanpassings as wat die Kommissaris mag maak**]: Met dien verstande dat geen aftrekking ingevolge hierdie paragraaf gemaak word nie ten opsigte van ’n verpligting aangegaan soos in paragraaf (b) beoog.”;
- (b) deur in subartikel (7) die volgende voorbehoudsbepaling tot paragraaf (c) by te voeg:
- “: Met dien verstande dat geen aftrekking ingevolge hierdie paragraaf gemaak word nie ten opsigte van ’n verpligting aangegaan soos in paragraaf (b) beoog”;
- (c) deur subartikel (9) deur die volgende subartikel te vervang:
- “(9) [**Die**] Enige aftrekking beoog in subartikel (2) of (7) is onderhewig aan die aanpassings wat deur die Kommissaris gemaak word.”.
- (2) Subartikel (1) tree in werking op die datum van promulgering van hierdie Wet en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

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 and section 21 of Act 3 of 2008

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52. Section 29A of the Income Tax Act, 1962, is hereby amended by the deletion of subsections (13) and (14).

Amendment of section 30 of Act 58 of 1962, as inserted by section 35 of Act 30 of 2000 and amended by section 36 of Act 59 of 2000, 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 16 of Act 16 of 2004, 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 and section 41 of Act 17 of 2009

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53. (1) Section 30 of the Income Tax Act, 1962, is hereby amended— 15

(a) by the substitution in subsection (1) for subparagraph (i) of paragraph (a) of the definition of “public benefit organisation” of the following subparagraph:

“(i) a non-profit company [contemplated] as defined in section [21] 1 of the Companies Act, [1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008), or a trust or an association of persons that has 20
been incorporated, formed or established in the Republic; or”;

(b) by the substitution in subsection (3)(b) for the proviso to subparagraph (i) of the following proviso:

“: Provided that the provisions of this subparagraph shall not apply in respect of any trust established in terms of a will of any person [who died 25
on or before 31 December 2003]”;

(c) by the substitution in subsection (3)(b)(iii) for item (cc) of the following item:

“(cc) [any department of state or administration] the government of 30
the Republic in the national [or], provincial or local sphere [of government of the Republic], contemplated in section 10(1)(a) [or (b)],”;

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

“(6) Where the Commissioner has so withdrawn his approval of such organisation, such organisation shall, within six months or such longer 35
period as the Commissioner may allow after the date of such withdrawal, transfer, or take reasonable steps to transfer, its remaining assets to any [other organisation which is—

(a) approved in terms of this section; and

(b) not a connected person in relation to such organisation]

public benefit organisation, institution, board or body or the government 40
as contemplated in subsection (3)(b)(iii).”;

(e) by the insertion after subsection (6) of the following subsection:

“(6A) As part of—

(a) the dissolution of an organisation contemplated in paragraph (a)(i) 45
of the definition of ‘public benefit organisation’ in subsection (1); or

(b) the termination of the activities of a branch contemplated in paragraph (a)(ii) of that definition, if more than 15 per cent of the receipts and accruals attributable to that branch during the period of three years preceding that termination are derived from a source 50
within the Republic,

the organisation or branch must transfer its assets to any public benefit organisation, institution, board or body or the government contemplated in subsection (3)(b)(iii).”;

and

(f) by the substitution for subsection (7) of the following subsection:

“(7) If the organisation fails to transfer, or to take reasonable steps to 55
transfer, its assets, as contemplated in subsection (6) or (6A), an amount equal to the market value of those assets which have not been transferred,

Wysiging van artikel 29A van Wet 58 van 1962, soos ingevoeg deur artikel 30 van Wet 53 van 1999 en gewysig deur artikel 36 van Wet 59 van 2000, artikel 15 van Wet 5 van 2001, artikel 15 van Wet 19 van 2001, artikel 39 van Wet 60 van 2001, artikel 30 van Wet 74 van 2002, artikel 16 van Wet 16 van 2004, artikel 23 van Wet 20 van 2006 en artikel 21 van Wet 3 van 2008

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52. Artikel 29A van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikels (13) en (14) te skrap.

Wysiging van artikel 30 van Wet 58 van 1962, soos ingevoeg deur artikel 35 van Wet 30 van 2000 en gewysig deur artikel 36 van Wet 59 van 2000, artikel 16 van Wet 19 van 2001, artikel 22 van Wet 30 van 2002, artikel 31 van Wet 74 van 2002, artikel 45 van Wet 45 van 2003, artikel 16 van Wet 16 van 2004, artikel 28 van Wet 32 van 2004, artikel 36 van Wet 31 van 2005, artikel 24 van Wet 20 van 2006, artikel 25 van Wet 8 van 2007, artikel 43 van Wet 35 van 2007, artikel 22 van Wet 3 van 2008, artikel 41 van Wet 60 van 2008 en artikel 41 van Wet 17 van 2009

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53. (1) Artikel 30 van die Inkomstebelastingwet, 1962, word hierby gewysig— 15

(a) deur in subartikel (1) subparagraaf (i) van paragraaf (a) van die omskrywing van “openbare weldaadsorganisasie” deur die volgende subparagraaf te vervang:

“(i) ’n maatskappy sonder winsoogmerk is **[beoog]** soos omskryf in artikel **[21] 1** van die Maatskappywet, **[1973 (Wet No. 61 van 1973)] 2008 (Wet No. 71 van 2008)**, of ’n trust of ’n vereniging van persone is wat in die Republiek ingelyf, opgerig of gestig is; of”;

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(b) deur in subartikel (3)(b) die voorbehoudsbepaling tot subparagraaf (i) deur die volgende voorbehoudsbepaling te vervang:

“: Met dien verstande dat die bepalings van hierdie subparagraaf nie van toepassing is nie met betrekking tot enige trust wat ingevolge die testament van ’n persoon **[wat voor of op 31 Desember 2003 te sterwe gekom het,]** opgerig is”;

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(c) deur in subartikel (3)(b)(iii) item (cc) deur die volgende item te vervang:

“(cc) **[enige staatsdepartement of administrasie]** die regering van die Republiek in die nasionale **[of]**, provinsiale of plaaslike **[regeringsfeer van die Republiek]** sfeer, soos in artikel 10(1)(a) **[of (b)]** bedoel.”;

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(d) deur subartikel (6) deur die volgende subartikel te vervang:

“(6) Waar die Kommissaris aldus sy goedkeuring van bedoelde organisasie ingetrek het, moet bedoelde organisasie binne ses maande, of die langer tydperk wat die Kommissaris toelaat, na die datum van bedoelde terugtrekking sy oorblywende bates oordra, of redelike stappe doen om dit oor te dra, aan enige **[ander organisasie wat—**

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(a) ingevolge hierdie artikel goedgekeur is; en

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(b) nie ’n verbonde persoon met betrekking tot bedoelde organisasie is nie]

openbare weldaadsorganisasie, instelling, raad of liggaam of die regering soos in subartikel (3)(b)(iii) beoog.”;

(e) deur die volgende subartikel na subartikel (6) in te voeg:

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“(6A) As deel van—

(a) die ontbinding van ’n organisasie beoog in paragraaf (a)(i) van die omskrywing van ‘openbare weldaadsorganisasie’ in subartikel (1); of

(b) die beëindiging van die aktiwiteite van ’n tak beoog in paragraaf (a)(ii) van daardie omskrywing, indien meer as 15 persent van die ontvangste en toevallings toeskryfbaar aan daardie tak gedurende die tydperk van drie jaar wat daardie beëindiging voorafgaan uit ’n bron binne die Republiek verkry word,

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moet die organisasie of tak sy bates oordra aan enige openbare weldaadsorganisasie, instelling, raad of liggaam of die regering beoog in subartikel (3)(b)(iii).”;

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(f) deur subartikel (7) deur die volgende subartikel te vervang:

“(7) Indien die organisasie versuim om sy bates oor te dra of om redelike stappe te doen om dit oor te dra soos in subartikel (6) of (6A) bedoel, word ’n bedrag gelykstaande aan die markwaarde van daardie

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less an amount equal to the *bona fide* liabilities of the organisation, must for purposes of this Act be deemed to be an amount of taxable income which accrued to such organisation during the year of assessment in which approval was withdrawn or the dissolution of the organisation or termination of activities took place.” 5

(2) Paragraph (a) of subsection (1) comes into operation on 1 January 2011.

(3) Paragraphs (c), (d), (e) and (f) of subsection (1) come into operation on the date of promulgation of this Act and apply in respect of the transfer of assets occurring on or after that date.

Amendment of section 30A of Act 58 of 1962, as inserted by section 25 of Act 20 of 2006 and amended by section 26 of Act 8 of 2007, section 42 of Act 60 of 2008 and section 42 of Act 17 of 2009 10

54. (1) Section 30A of the Income Tax Act, 1962, is hereby amended—

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

“(1) For purposes of this Act, ‘**recreational club**’ means any non-profit company [contemplated] as defined in section [21] 1 of the Companies Act, [1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008), society or other association of which the sole or principal object is to provide social and recreational amenities or facilities for the members of that company, society or other association.”; 15 20

(b) by the substitution in subsection (2)(a) for subparagraph (iii) of the following subparagraph:

“(iii) it is required on dissolution to transfer its assets and funds to—
 (aa) any other recreational club which is approved by the Commissioner in terms of this section **[or to]**; 25
 (bb) a public benefit organisation contemplated in paragraph (a)(i) of the definition of a ‘public benefit organisation’ in section 30(1) which has been approved in terms of section 30(3);
 (cc) any institution, board or body which is exempt from tax under the provisions of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity; or 30
 (dd) the government of the Republic in the national, provincial or local sphere, **contemplated in section 10(1)(a);**” 35

(c) by the substitution for subsection (7) of the following subsection:

“(7) If the Commissioner has withdrawn the approval of a recreational club, that club must within six months after the date of that withdrawal (or such longer period as the Commissioner may allow) transfer or take reasonable steps to transfer its remaining assets to **[another recreational club approved in terms of this section or to a public benefit organisation contemplated in terms of paragraph (a)(i) of the definition of ‘public benefit organisation’ which has been approved in terms of section 30(3) and which club or organisation is not a connected person in relation to that club]** any recreational club, public benefit organisation, institution, board or body or the government, as contemplated in subsection (2)(a)(iii).” 40 45

(d) by the insertion after subsection (7) of the following subsection:

“(7A) As part of its dissolution the club must transfer its assets to a recreational club, public benefit organisation, institution, board or body or the government, as contemplated in subsection (2)(a)(iii).” 50

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

“(8) If the recreational club fails to transfer, or to take reasonable steps to transfer, its assets as contemplated in subsection (7) or (7A), an amount equal to the market value of those assets which have not been transferred less an amount equal to the *bona fide* liabilities of that recreational club must for purposes of this Act be deemed to be an 55

bates wat nie uitgekeer is nie, min 'n bedrag gelykstaande aan die *bona fide*-verpligtinge van die organisasie, by toepassing van hierdie Wet geag 'n bedrag aan belasbare inkomste te wees wat bedoelde organisasie toegeval het gedurende die jaar van aanslag waarin die goedkeuring ingetrek is of die ontbinding van die organisasie of beëindiging van aktiwiteite plaasgevind het." 5

(2) Paragraaf (a) van subartikel (1) tree op 1 Januarie 2011 in werking.

(3) Paragrafe (c), (d), (e) en (f) van subartikel (1) tree op die datum van promulgering van hierdie Wet in werking en is van toepassing ten opsigte van die oordrag van bates wat op of na daardie datum plaasvind. 10

Wysiging van artikel 30A van Wet 58 van 1962, soos ingevoeg deur artikel 25 van Wet 20 van 2006 en gewysig deur artikel 26 van Wet 8 van 2007, artikel 42 van Wet 60 van 2008 en artikel 42 van Wet 17 van 2009

54. (1) Artikel 30A van die Inkomstebelastingwet, 1962, word hierby gewysig— 15

(a) deur subartikel (1) deur die volgende subartikel te vervang: 15

“(1) By die toepassing van hierdie Wet, beteken ‘ontspanningsklub’ enige maatskappy sonder winsoogmerk soos omskryf in artikel [21] 1 van die Maatskappywet, [1973 (Wet No. 61 van 1973)] 2008 (Wet No. 71 van 2008), [bedoel,] ’n genootskap of ander vereniging waarvan die uitsluitlike of hoof oogmerk is om sosiale en ontspanningsgeriewe of fasiliteite vir die lede van daardie maatskappy, genootskap of ander vereniging te voorsien.”;

(b) deur in subartikel (2)(a) subparagraaf (iii) deur die volgende subparagraaf te vervang: 20

“(iii) dit verplig word om by ontbinding sy bates en fondse oor te dra 25
aan—

(aa) 'n ander ontspanningsklub wat deur die Kommissaris ingevolge hierdie artikel goedgekeur is **[of]**;

(bb) 'n openbare weldaadsorganisasie in paragraaf (a)(i) van die omskrywing van 'n ‘openbare weldaadsorganisasie’ 30
in artikel 30(1) bedoel wat ingevolge artikel 30(3) goedgekeur is, **oor te dra**;

(cc) 'n instelling, raad of liggaam wat van belasting vrygestel is kragtens die bepalings van artikel 10(1)(cA)(i), waarvan die uitsluitlike of hoof oogmerk is om enige 35
openbare weldaadsaktiwiteit uit te voer; of

(dd) die regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer, beoog in artikel 10(1)(a);”;

(c) deur subartikel (7) deur die volgende subartikel te vervang: 40

“(7) Indien die Kommissaris die goedkeuring van 'n 40
ontspanningsklub ingetrek het, moet daardie klub binne ses maande na die datum van daardie intrekking (of sodanige langer tydperk as wat die Kommissaris mag toelaat), sy oorblywende bates oordra of redelike stappe neem om dit oor te dra na [**n ander ontspanningsklub goedgekeur ingevolge hierdie artikel of aan 'n openbare 45
weldaadsorganisasie soos bedoel ingevolge paragraaf (a)(i) van die omskrywing van openbare weldaadsorganisasie wat goedgekeur is ingevolge artikel 30(3) en welke klub of organisasie nie 'n verbonde persoon met betrekking tot daardie klub is nie**] enige 50
ontspanningsklub, openbare weldaadsorganisasie, instelling, raad of liggaam of die regering, soos beoog in subartikel (2)(a)(iii).”;

(d) deur die volgende subartikel na subartikel (7) in te voeg: 55

“(7A) As deel van sy ontbinding moet die klub sy bates oordra aan 'n ontspanningsklub, openbare weldaadsorganisasie, instelling, raad of liggaam of die regering, soos beoog in subartikel (2)(a)(iii).”;

(e) deur subartikel (8) deur die volgende subartikel te vervang: 60

“(8) Indien die ontspanningsklub nalaat om sy bates oor te dra of om redelike stappe te neem om dit oor te dra, soos in subartikel (7) of (7A) bedoel, word 'n bedrag gelykstaande aan die markwaarde van daardie bates wat nie oorgedra is nie, verminder met 'n bedrag gelykstaande aan die *bona fide*-verpligtinge van daardie klub, by die toepassing van 60

amount of taxable income which accrued to that recreational club during the year of assessment in which approval was withdrawn or the dissolution took place.”.

(2) Paragraph (a) of subsection (1) comes into operation on 1 January 2011.

(3) Paragraphs (b), (c), (d) and (e) of subsection (1) come into operation on the date of promulgation of this Act and apply in respect of the transfer of assets occurring on or after that date. 5

Insertion of section 30B in Act 58 of 1962

55. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 30A of the following section: 10

“Associations

30B. (1) For the purposes of this section—

‘entity’ means—

(a) any mutual loan association, fidelity or indemnity fund, trade union, chamber of commerce or industry (or an association of such chambers) or local publicity association; or 15

(b) any—

(i) non-profit company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008);

(ii) society; or 20

(iii) other association of persons,

established to promote the common interests of persons (being members of the company, society or association of persons) carrying on any particular kind of business, profession or occupation, approved by the Commissioner in accordance with subsection (2); 25

‘member’ in the case of a fidelity or indemnity fund includes a contributor to that fund;

‘mutual loan association’ means an association of which the sole or principal object is to function as a voluntary savings association where participants make regular contributions into a common pool managed by the members for the mutual financial benefit of those members. 30

(2) The Commissioner must approve an entity for the purposes of section 10(1)(d)(iii) or (iv) if—

(a) that entity has submitted to the Commissioner a copy of the constitution or written instrument under which it has been established; 35

(b) the constitution or written instrument contemplated in paragraph (a) provides that—

(i) the entity must have a committee, board of management or similar governing body consisting of at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of that entity; 40

(ii) no single person may directly or indirectly control the decision-making powers relating to that entity;

(iii) the entity may not directly or indirectly distribute any of its funds or assets to any person other than in the course of furthering its objectives; 45

(iv) the entity is required to utilise substantially the whole of its funds for the sole or principal object for which it has been established;

(v) no member may directly or indirectly have any personal or private interest in that entity; 50

(vi) substantially the whole of the activities of the entity must be directed to the furtherance of its sole or principal object and not for the specific benefit of an individual member or minority group; 55

(vii) the entity may not have a share or other interest in any business, profession or occupation which is carried on by its members;

hierdie Wet geag 'n bedrag van belasbare inkomste te wees wat toegeval het aan daardie ontspanningsklub gedurende die jaar aanslag waarin die goedkeuring ingetrek is of die ontbinding plaasgevind het.”.

(2) Paragraaf (a) van subartikel (1) tree op 1 Januarie 2011 in werking.

(3) Paragrafe (b), (c), (d) en (e) van subartikel (1) tree in werking op die datum van promulgering van hierdie Wet en is van toepassing ten opsigte van die oordrag van bates wat op of na daardie datum plaasvind. 5

Invoeging van artikel 30B in Wet 58 van 1962

55. Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 30A die volgende artikel in te voeg: 10

“Verenigings

30B. (1) By die toepassing van hierdie artikel beteken—

‘entiteit’—

(a) enige onderlinge leningsvereniging, getrouheids- of vrywaringsfonds, vakvereniging, sake- of nywerheidskamer (of 'n vereniging van sulke kamers) of plaaslike publisiteitsvereniging; of 15

(b) enige—

(i) maatskappy sonder winsoogmerk soos omskryf in artikel 1 van die Maatskappywet, 2008 (Wet No. 71 van 2008);

(ii) genootskap; of 20

(iii) ander vereniging van persone,

opgerig om die gemeenskaplike belange van persone (wat lede van die maatskappy, genootskap of vereniging van persone is) wat 'n spesifieke besigheid, professie of beroep beoefen,

ooreenkomstig subartikel (2) deur die Kommissaris goedgekeur; 25

‘lid’ in die geval van 'n getrouheids- of vrywaringsfonds ook 'n bydraer tot daardie fonds; en

‘onderlinge leningsvereniging’ 'n vereniging met die enigste of ver naamste oogmerk om as 'n vrywillige spaarvereniging te dien waar deelnemers gereelde bydraes maak in 'n gemeenskaplike poel wat deur die lede vir die gemeenskaplike finansiële voordeel van daardie lede bestuur word. 30

(2) Die Kommissaris moet 'n entiteit vir die doeleindes van artikel 10(1)(d)(iii) of (iv) goedkeur indien—

(a) daardie entiteit 'n afskrif van die konstitusie of geskrewe stuk waarkragtens dit ingestel is by die Kommissaris ingedien het; 35

(b) die konstitusie of geskrewe stuk beoog in paragraaf (a) bepaal dat—

(i) die entiteit 'n komitee, besturende raad of soortgelyke beheerliggaam moet hê wat bestaan uit minstens drie persone, wat nie verbonde persone met betrekking tot mekaar is nie, om die fidusiêre verantwoordelikheid van daardie entiteit te aanvaar; 40

(ii) geen enkele persoon direk of indirek die besluitnemingsbevoegdheid met betrekking tot daardie entiteit beheer nie; 45

(iii) die entiteit nie direk of indirek enige van sy fondse of bates aan enige persoon andersins as in die loop van die bevordering van sy oogmerke mag uitkeer nie;

(iv) die entiteit verplig word om wesenlik die geheel van sy fondse aan te wend vir die uitsluitlike of hoof oogmerk waarvoor dit ingestel is; 50

(v) geen lid direk of indirek enige persoonlike of private belang in daardie entiteit mag hê nie;

(vi) wesenlik die geheel van die aktiwiteite van die entiteit gerig moet wees op die bevordering van sy uitsluitlike of hoof oogmerk en nie vir die spesifieke voordeel van 'n individuele lid of minderheidsgroep nie; 55

(vii) die entiteit nie 'n aandeel of ander belang in enige besigheid, professie of beroep wat bedryf word deur sy lede mag hê nie;

- (viii) the entity must not pay to any employee, office bearer, member or other person any remuneration, as defined in the Fourth Schedule, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered; 5
- (ix) substantially the whole of the entity's funding must be derived from its annual or other long-term members or from an appropriation by the government of the Republic in the national, provincial or local sphere;
- (x) the entity must as part of its dissolution transfer its assets to— 10
 - (aa) another entity approved by the Commissioner in terms of this section;
 - (bb) a public benefit organisation approved in terms of section 30;
 - (cc) an institution, board or body which is exempt from tax under section 10(1)(cA)(i); or 15
 - (dd) the government of the Republic in the national, provincial or local sphere;
- (xi) the persons contemplated in paragraph (b)(i) will submit any amendment of the constitution or written instrument of the entity to the Commissioner within 30 days of its amendment; 20
- (xii) the entity will comply with such reporting requirements as may be determined by the Commissioner from time to time; and
- (xiii) the entity is not knowingly and will not knowingly become a party to, and does not knowingly and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part IIA of Chapter III, or a transaction, operation or scheme contemplated in section 103(5). 25 30

(3) The requirements contained in subsection (2)(b)(iii) and (v) do not apply in respect of a mutual loan association.

(4) Where the constitution or written instrument of an entity does not comply with subsection (2)(b), the Commissioner may deem it to so comply if the persons who have accepted fiduciary responsibility for the funds and assets of that entity furnish the Commissioner with a written undertaking that the entity will be administered in compliance with that subsection. 35

(5) Where the Commissioner is—

- (a) satisfied that any entity approved in terms of subsection (2) has during any year of assessment in any material respect; or 40
- (b) during any year of assessment satisfied that any such entity has on a continuous or repetitive basis,

failed to comply with this section, or the constitution or written instrument under which it was established to the extent that it relates to this section, the Commissioner must notify the entity that he or she intends to withdraw approval of the entity if corrective steps are not taken by the entity within the period stated in the notice. 45

(6) If no corrective steps are taken by the entity contemplated in subsection (5), the Commissioner must withdraw approval of that entity with effect from the commencement of the year of assessment contemplated in subsection (5). 50

(7) If the Commissioner has withdrawn the approval of an entity as contemplated in subsection (6) the entity must within six months after the date of the withdrawal of approval (or such longer period as the Commissioner may allow) transfer, or take reasonable steps to transfer, its remaining assets to any entity, public benefit organisation, institution, board or body or the government of the Republic, contemplated in subsection (2)(b)(x). 55

(8) If an entity is wound up or liquidated, the entity must, as part of the winding-up or liquidation, transfer its assets remaining after the satisfaction of its liabilities to any entity, public benefit organisation, institution, board 60

- (viii) die entiteit nie aan enige werknemer, amptenaar, lid of ander persoon enige besoldiging, soos omskryf in die Vierde Bylae, wat oormatig is met inagneming van wat algemeen as redelik geag word in die sektor en met betrekking tot die diens gelewer, mag betaal nie; 5
- (ix) wesenlik die geheel van die entiteit se befondsing verkry moet word van sy jaarlikse of ander langtermyn lede of uit 'n toewysing deur die regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer;
- (x) die entiteit as deel van sy ontbinding sy bates moet oordra aan— 10
- (aa) 'n ander entiteit ingevolge hierdie artikel deur die Kommissaris goedgekeur;
- (bb) 'n openbare weldaadsorganisasie ingevolge artikel 30 goedgekeur; 15
- (cc) 'n instelling, raad of liggaam wat kragtens artikel 10(1)(cA)(i) van belasting vrygestel is; of
- (dd) die regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer;
- (xi) die persone beoog in paragraaf (b)(i) enige wysiging van die konstitusie of geskrewe stuk van die entiteit binne 30 dae van sy wysiging aan die Kommissaris sal voorlê; 20
- (xii) die entiteit sal voldoen aan die verslagdoeningsvereistes wat die Kommissaris van tyd tot tyd bepaal; en
- (xiii) die entiteit nie bewustelik 'n party is of sal wees by, en nie bewustelik toelaat of sal toelaat dat dit gebruik word as deel van, 'n ontoelaatbare vermydingsreëling beoog in Deel IIA van Hoofstuk III, of 'n transaksie, handeling of skema beoog in artikel 103(5) nie. 25
- (3) Die vereistes vervat in subartikel (2)(b)(iii) en (v) is nie van toepassing nie ten opsigte van 'n onderlinge leningsvereniging. 30
- (4) Waar die konstitusie of geskrewe stuk van 'n entiteit nie voldoen aan subartikel (2)(b) nie, kan die Kommissaris dit ag aldus te voldoen indien die persone wat fidusiêre verantwoordelikheid vir die fondse en bates van daardie entiteit aanvaar het 'n skriftelike onderneming aan die Kommissaris voorlê dat die entiteit in ooreenstemming met daardie subartikel geadministreer sal word. 35
- (5) Waar die Kommissaris—
- (a) tevrede is dat enige entiteit ingevolge subartikel (2) goedgekeur, gedurende enige jaar van aanslag in enige wesenlike opsig; of 40
- (b) gedurende enige jaar van aanslag tevrede is dat enige sodanige entiteit op 'n deurlopende of herhaalde grondslag, 45
- versuim het om te voldoen aan hierdie artikel, of die konstitusie of geskrewe stuk waarkragtens dit ingestel is namate dit op hierdie artikel betrekking het, moet die Kommissaris die entiteit in kennis stel dat hy of sy van voorneme is om goedkeuring van die entiteit te onttrek indien korrektiewe stappe nie deur die entiteit gedoen word binne die tydperk in die kennisgewing vermeld nie.
- (6) Indien korrektiewe stappe nie gedoen word deur die entiteit beoog in subartikel (5) nie, moet die Kommissaris goedkeuring van daardie entiteit onttrek met ingang van die begin van die jaar van aanslag beoog in subartikel (5). 50
- (7) Indien die Kommissaris goedkeuring van 'n entiteit onttrek het soos beoog in subartikel (6), moet die entiteit binne ses maande na die datum van die onttrekking van goedkeuring (of die langer tydperk wat die Kommissaris toelaat) sy oorblywende bates aan enige entiteit, openbare weldaadsorganisasie, instelling, raad of liggaam of die regering van die Republiek, beoog in subartikel (2)(b)(x), oordra of redelike stappe doen om dit oor te dra. 55
- (8) Indien 'n entiteit gelikwieder word, moet die entiteit, as deel van die likwidering, die bates wat oorbly na sy laste bevredig is, oordra aan enige entiteit, openbare weldaadsorganisasie, instelling, raad of liggaam of die regering van die Republiek, beoog in subartikel (2)(b)(x). 60

or body or the government of the Republic, contemplated in subsection (2)(b)(x).

(9) If an entity fails to transfer, or to take reasonable steps to transfer, its assets as contemplated in subsection (7) or (8), an amount equal to the market value of those assets which have not been transferred less an amount equal to the *bona fide* liabilities of that entity must for the purposes of this Act be deemed to be an amount of taxable income which accrued to that entity during the year of assessment in which the withdrawal of approval in terms of subsection (6) or the winding-up or liquidation contemplated in subsection (8) took place.”.

(2) Subsection (1) comes into operation on the date of promulgation of this Act.

Substitution of section 31 of Act 58 of 1962

56. (1) The Income Tax Act, 1962, is hereby amended by the substitution for section 31 of the following section:

“Taxable income in respect of international transactions to be based on arm’s length principle

31. (1) For the purposes of this section, ‘financial assistance’ includes the provision of any—

- (a) loan, advance or debt; or
- (b) security or guarantee.

(2) Where—

- (a) any transaction, operation, scheme, agreement or understanding has been directly or indirectly entered into or effected between or for the benefit of either or both—

- (i) (aa) a person that is a resident; and

- (bb) any other person that is not a resident;

- (ii) (aa) a person that is not a resident; and

- (bb) any other person that is not a resident that has a permanent establishment in the Republic to which the transaction, operation, scheme, agreement or understanding relates;

- (iii) (aa) a person that is a resident; and

- (bb) any other person that is a resident that has a permanent establishment outside the Republic to which the transaction, operation, scheme, agreement or understanding relates,

and those persons are connected persons in relation to one another; and

- (b) any term or condition of that transaction, operation, scheme, agreement or understanding—

- (i) is different from any term or condition that would have existed had those persons been independent persons dealing at arm’s length; and

- (ii) results or will result in any tax benefit being derived by any person that is a party to that transaction, operation, scheme, agreement or understanding,

the taxable income of each person that is a party to that transaction, operation, scheme, agreement or understanding that derives the tax benefit must be calculated as if that transaction, operation, scheme, agreement or understanding had been entered into on the terms and conditions that would have existed had those persons been independent persons dealing at arm’s length.

(3) For the purposes of subsection (2), where any transaction, operation, scheme, agreement or understanding has been directly or indirectly entered into or effected as contemplated in that subsection in respect of—

- (a) the granting of any financial assistance; or

- (9) Indien 'n entiteit versuim om sy bates oor te dra, of om redelike stappe te doen om sy bates oor te dra, soos beoog in subartikel (7) of (8), moet 'n bedrag gelyk aan die markwaarde van daardie bates wat nie oorgedra is nie, minus 'n bedrag gelyk aan die *bona fide*-laste van daardie entiteit by die toepassing van hierdie Wet geag word 'n bedrag van belabare inkomste te wees wat daardie entiteit toegeval het gedurende die jaar van aanslag waarin die onttrekking van goedkeuring ingevolge subartikel (6) of die likwidering beoog in subartikel (8) plaasgevind het.”.
- (2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Vervanging van artikel 31 van Wet 58 van 1962

56. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur artikel 31 deur die volgende artikel te vervang:

“Belasbare inkomste ten opsigte van internasionale transaksies op beginsel van beding van uiterste voorwaardes gebaseer te wees

31. (1) By die toepassing van hierdie artikel beteken ‘**finansiële bystand**’ ook die voorsiening van enige—
- (a) lening, voorskot of skuld; of
- (b) sekuriteit of waarborg.
- (2) Waar—
- (a) enige transaksie, handeling, skema, ooreenkoms of verstandhouding regstreeks of onregstreeks aangegaan is of gesluit is tussen of ten behoeve van een of albei van—
- (i) (aa) 'n persoon wat 'n inwoner is; en
- (bb) enige ander persoon wat nie 'n inwoner is nie;
- (ii) (aa) 'n persoon wat nie 'n inwoner is nie; en
- (bb) enige ander persoon wat nie 'n inwoner is nie wat 'n permanente saak in die Republiek het waarop die transaksie, handeling, skema, ooreenkoms of verstandhouding betrekking het;
- (iii) (aa) 'n persoon wat 'n inwoner is; en
- (bb) enige ander persoon wat 'n inwoner is wat 'n permanente saak buite die Republiek het waarop die transaksie, handeling, skema, ooreenkoms of verstandhouding betrekking het,
- en daardie persone verbonde persone met betrekking tot mekaar is; en
- (b) enige beding of voorwaarde van daardie transaksie, handeling, skema, ooreenkoms of verstandhouding—
- (i) verskil van enige beding of voorwaarde wat sou gegeld het indien daardie persone onafhanklike persone was wat onder uiterste voorwaardes beding het; en
- (ii) tot gevolg het of sal hê dat enige belastingvoordeel verkry word deur enige persoon wat 'n party by daardie transaksie, handeling, skema, ooreenkoms of verstandhouding is,
- moet die belasbare inkomste van elke persoon wat 'n party by daardie transaksie, handeling, skema, ooreenkoms of verstandhouding wat die belastingvoordeel verkry, bereken word asof daardie transaksie, handeling, skema, ooreenkoms of verstandhouding aangegaan is op die bedinge en voorwaardes wat sou bestaan het indien al die persone wat partye by daardie transaksie, handeling, skema, ooreenkoms of verstandhouding is onafhanklike persone was wat op uiterste voorwaardes beding het.
- (3) By die toepassing van subartikel (2), waar enige transaksie, handeling, skema, ooreenkoms of verstandhouding regstreeks of onregstreeks aangegaan of gesluit is soos in daardie subartikel beoog ten opsigte van—
- (a) die toestaan van enige finansiële bystand; of

(b) intellectual property as contemplated in the definition of ‘intellectual property’ in section 23I(1) or knowledge,

‘**connected person**’ means a connected person as defined in section 1: Provided that the expression ‘and no shareholder holds the majority voting rights in the company’ in paragraph (d)(v) of that definition must be disregarded. 5

(4) Where any transaction, operation, scheme, agreement or understanding has been entered into between a headquarter company and—

(a) any other person that is not a resident and that transaction, operation, scheme, agreement or understanding is in respect of the granting of financial assistance by that other person to that headquarter company, this section does not apply to so much of that financial assistance that is directly applied as financial assistance to any foreign company in which the headquarter company directly or indirectly (whether alone or together with any other company forming part of the same group of companies as that headquarter company) holds at least 20 per cent of the equity shares and voting rights; or 10 15

(b) any foreign company in which the headquarter company directly or indirectly (whether alone or together with any other company forming part of the same group of companies as that headquarter company) holds at least 20 per cent of the equity shares and voting rights and that transaction, operation, scheme, agreement or understanding comprises the granting of financial assistance by that headquarter company to that foreign company, this section does not apply to that financial assistance.”. 20 25

(2) Subsection (1) comes into operation on 1 October 2011 and applies in respect of years of assessment commencing on or after that date.

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

57. (1) Section 36 of the Income Tax Act, 1962, is hereby amended by the addition in subsection (11) to the proviso to paragraph (d) of the definition of “capital expenditure” of the following paragraph: 40

“(dd) where a taxpayer completes an improvement as contemplated in section 12N in respect of the items contemplated in subparagraph (i), (ii), (iii), (iv) or (v), the expenditure incurred by the taxpayer to complete the improvement shall be deemed to be expenditure for the purposes of this section;”.

(2) Subsection (1) comes into operation on the date of the promulgation of this Act. 45

(b) immateriële goedere soos beoog in die omskrywing van ‘immateriële goedere’ in artikel 23I(1) of kennis,

beteken ‘**verbonde persoon**’ ’n verbonde persoon soos in artikel 1 omskryf: Met dien verstande dat die uitdrukking ‘en geen aandeelhouer die meerderheid stemregte van bedoelde maatskappy hou nie’ in paragraaf (d)(v) van daardie omskrywing verontagsaam moet word. 5

(4) Waar enige transaksie, handeling, skema, ooreenkoms of verstandhouding aangegaan is tussen ’n hoofkwartiermaatskappy en—

(a) enige ander persoon wat nie ’n inwoner is nie en daardie transaksie, handeling, skema, ooreenkoms of verstandhouding ten opsigte van die toestaan van finansiële bystand deur daardie ander persoon aan daardie hoofkwartiermaatskappy is, is hierdie artikel nie van toepassing nie op soveel van daardie finansiële bystand wat regstreeks aangewend word as finansiële bystand aan enige buitelandse maatskappy waarin die hoofkwartiermaatskappy regstreeks of onregstreeks (hetsy alleen of tesame met enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie hoofkwartiermaatskappy) minstens 20 persent van die ekwiteitsaandele en stemregte hou; of 10 15

(b) enige buitelandse maatskappy waarin die hoofkwartiermaatskappy regstreeks of onregstreeks (hetsy alleen of tesame met enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie hoofkwartiermaatskappy) minstens 20 persent van die ekwiteitsaandele en stemregte hou en daardie transaksie, handeling, skema, ooreenkoms of verstandhouding die toestaan van finansiële bystand deur daardie hoofkwartiermaatskappy aan daardie buitelandse maatskappy behels, is hierdie artikel nie van toepassing op daardie finansiële bystand nie.’’. 20 25

(2) Subartikel (1) tree op 1 Oktober 2011 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin. 30

Wysiging van artikel 36 van Wet 58 van 1962, soos gewysig deur artikel 12 van Wet 72 van 1963, artikel 15 van Wet 90 van 1964, artikel 20 van Wet 88 van 1965, artikel 23 van Wet 55 van 1966, artikel 16 van Wet 95 van 1967, artikel 14 van Wet 76 van 1968, artikel 26 van Wet 89 van 1969, artikel 21 van Wet 65 van 1973, artikel 28 van Wet 85 van 1974, artikel 20 van Wet 104 van 1980, artikel 25 van Wet 94 van 1983, artikel 16 van Wet 96 van 1985, artikel 14 van Wet 70 van 1989, artikel 26 van Wet 101 van 1990, artikel 30 van Wet 129 van 1991, artikel 24 van Wet 141 van 1992, artikel 29 van Wet 113 van 1993, artikel 17 van Wet 36 van 1996, artikel 41 van Wet 60 van 2001, artikel 31 van Wet 32 van 2004, artikel 26 van Wet 20 van 2006, artikel 46 van Wet 35 van 2007, artikel 23 van Wet 3 van 2008, artikel 44 van Wet 60 van 2008 en artikel 43 van Wet 17 van 2009 35 40

57. (1) Artikel 36 van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende paragraaf in subartikel (11) by die voorbehoudsbepaling tot paragraaf (d) van die omskrywing van “kapitaaluitgawes” te voeg:

“(dd) waar ’n belastingpligtige ’n verbetering voltooi soos beoog in artikel 12N ten opsigte van die items beoog in subparagraaf (i), (ii), (iii), (iv) of (v), die uitgawes deur die belastingpligtige aangegaan ten einde die verbetering te voltooi, geag word uitgawes by die toepassing van hierdie artikel te wees;” 45

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Insertion of Part IA in Chapter I of Act 58 of 1962

58. (1) Chapter I of the Income Tax Act, 1962, is hereby amended by the insertion after section 37H of the following Part:

“PART IA***Withholding tax on interest***

5

Definitions

37I. (1) In this Part—

‘bank’ means any—

- (a) bank as defined in section 1 of the Banks Act, 1990 (Act No. 94 of 1990);
- (b) mutual bank as defined in section 1 of the Mutual Banks Act, 1993 (Act No. 124 of 1993); or
- (c) co-operative bank as defined in section 1 of the Co-operative Banks Act, 2007 (Act No. 40 of 2007);

‘debt instrument’ means any loan, advance, debt, bond, debenture, bill, promissory note, banker’s acceptance, negotiable certificate of deposit or similar instrument;

‘foreign person’ means any person that is not a resident;

‘goods’ means any corporeal movable thing;

‘government debt instrument’ means any debt instrument issued by the government of the Republic in the national, provincial or local sphere;

‘interest’ means interest as defined in section 24J(1) or deemed interest as contemplated in section 8E(2);

‘listed debt instrument’ means any debt instrument that is listed on a recognised exchange as defined in paragraph 1 of the Eighth Schedule;

‘South African Reserve Bank’ means the central bank of the Republic regulated in terms of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989).

Levy of withholding tax on interest

37J. (1) There must be levied for the benefit of the National Revenue Fund a tax, to be known as the withholding tax on interest, calculated at the rate of 10 per cent of the amount of any interest received by or accrued to any foreign person that is not a controlled foreign company.

(2) Any foreign person that is not a controlled foreign company that receives any interest or to which any interest accrues is liable for the withholding tax on interest.

Exemption from withholding tax on interest

37K. (1) Subject to subsection (2), there must be exempt from the withholding tax on interest any amount of interest—

(a) received by or accrued to any foreign person during any year of assessment—

(i) in respect of any government debt instrument;

(ii) in respect of any listed debt instrument;

(iii) in respect of any debt owed by—

(aa) any bank; or

(bb) the South African Reserve Bank;

(iv) in respect of any bill of exchange, letter of credit or similar instrument—

(aa) to the extent that the interest is payable in respect of the purchase price of goods imported into the Republic; and

(bb) if an authorised dealer as defined in the Exchange Control Regulation 1961 (as promulgated by Government Notice

Invoeging van Deel IA in Hoofstuk I van Wet 58 van 1962

58. (1) Hoofstuk I van die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende Deel na artikel 37H in te voeg:

“DEEL IA***Terughoudingsbelasting op rente***

5

Woordomskrywing

37I. (1) In hierdie Deel beteken—

‘bank’ enige—

(a) bank soos omskryf in artikel 1 van die Bankwet, 1990 (Wet No. 94 van 1990);

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(b) onderlinge bank soos omskryf in artikel 1 van die Wet op Onderlinge Banke, 1993 (Wet No. 124 van 1993); of

(c) koöperatiewe bank soos omskryf in artikel 1 van die ‘Co-operative Banks Act, 2007’ (Wet No. 40 van 2007);

‘buitelandse persoon’ enige persoon wat nie ’n inwoner is nie;

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‘genoteerde skuldinstrument’ enige skuldinstrument genoteer op ’n erkende beurs soos in paragraaf 1 van die Agtste Bylae omskryf;

‘goedere’ enige stoffike roerende ding;

‘regeringskuldinstrument’ enige skuldinstrument uitgereik deur die regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer;

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‘rente’ rente soos omskryf in artikel 24J(1) of geagte rente soos in artikel 8E(2) beoog;

‘skuldinstrument’ enige lening, voorskot, skuld, obligasie, skuldbrief, wissel, promesse, bankiersaksep, verhandelbare sertifikaat van deposito of soortgelyke instrument;

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‘Suid-Afrikaanse Reserwebank’ die sentrale bank van die Republiek gereguleer ingevolge die Wet op die Suid-Afrikaanse Reserwebank, 1989 (Wet No. 90 van 1989).

Heffing van terughoudingsbelasting op rente

37J. (1) Daar moet gehêf word ten behoeve van die Nasionale Inkomstefonds ’n belasting, bekend te staan as die terughoudingsbelasting op rente, bereken teen die koers van 10 persent van die bedrag van enige rente ontvang deur of toegeval aan enige buitelandse persoon wat nie ’n beheerde buitelandse maatskappy is nie.

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(2) Enige buitelandse persoon wat nie ’n beheerde buitelandse maatskappy is nie wat enige rente ontvang of waaraan enige rente toeval, is aanspreeklik vir die terughoudingsbelasting op rente.

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Crystelling van terughoudingsbelasting op rente

37K. (1) Behoudens subartikel (2) word vrygestel van die terughoudingsbelasting op rente enige bedrag van rente—

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(a) ontvang deur of toegeval aan enige buitelandse persoon gedurende enige jaar van aanslag—

(i) ten opsigte van enige regeringskuldinstrument;

(ii) ten opsigte van enige genoteerde skuldinstrument;

(iii) ten opsigte van enige skuld verskuldig deur—

45

(aa) enige bank; of

(bb) die Suid-Afrikaanse Reserwebank;

(iv) ten opsigte van enige wisselbrief, kredietnota of soortgelyke instrument—

(aa) namate die rente betaalbaar is ten opsigte van die aankoopprys van goedere wat in die Republiek ingevoer word; en

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(bb) indien ’n gemagtigde handelaar soos omskryf in die Regulasies op Valutabeheer, 1961 (soos gepromulgeer by

- No. R.1111 of 1 December 1961 and amended up to Government Notice No. R.885 in *Government Gazette* No. 20299 of 23 July 1999), has certified on the instrument that a bill of lading or other document covering the importation of the goods has been exhibited to it; 5
- (v) in respect of any other debt owed by a foreign person, unless the foreign person— 5
- (aa) is a natural person who was physically present in the Republic for a period exceeding 183 days in aggregate during that year; or 10
- (bb) at any time during that year carried on business through a permanent establishment in the Republic; or
- (vi) if that interest is paid or payable— 15
- (aa) by a headquarter company; and
- (bb) in respect of financial assistance that is not subject to section 31 as a result of the application of section 31(4);
- (b) payable as contemplated in section 27(6) of the Securities Services Act, 2004 (Act No. 36 of 2004), to any foreign person that is a client as defined in section 1 of that Act; or 20
- (c) that is deemed to have accrued to any non-resident in terms of section 25BA(a).
- (2) Interest received by or accrued to a foreign person during any year of assessment in respect of any amount advanced, whether directly or indirectly, by the foreign person to a bank will not be exempt from the withholding tax on interest if the amount is advanced in the course of any arrangement, transaction, operation or scheme to which the foreign person and any other person are parties and in terms of which the bank advances any amount to that other person on the strength directly or indirectly of the amount advanced by the foreign person to the bank. 25
- (3) A foreign person will be exempt from the withholding tax on interest if that foreign person— 30
- (a) is a natural person who was physically present in the Republic for a period exceeding 183 days in aggregate during that year; or
- (b) at any time during that year carried on business through a permanent establishment in the Republic. 35

Withholding and payment of withholding tax on interest by payers of interest

- 37L.** (1) Any person who makes payment of any amount of interest for the benefit of a foreign person that is not a controlled foreign company must withhold an amount equal to 10 per cent of that amount of interest from that payment. 40
- (2) Any amount withheld in terms of subsection (1) must be paid to the Commissioner within 14 days after the end of the month during which the amount is withheld. 45
- (3) A person must not withhold any amount from any payment contemplated in subsection (1)—
- (a) to the extent that the interest is exempt from the withholding tax on interest in terms of section 37K(1); or
- (b) if the person to which the amount of interest is to be paid has, by the date of the payment of the amount of interest, submitted to that person a declaration in such form as may be prescribed by the Commissioner that the person to which the amount of interest is to be paid is exempt from the withholding tax on interest in terms of section 37K(3). 50
- (4) The rate referred to in subsection (1) must, for the purposes of that subsection, be reduced if the person to which the amount of interest is to be paid has, by the date of the payment of the amount of interest, submitted to 55

- Goewermentskennisgewing No. R.1111 van 1 Desember 1961 en gewysig tot en met Goewermentskennisgewing No. R.885 in *Staatskoerant* No. 20299 van 23 Julie 1999), op die instrument gesertifiseer het dat 'n ladingsbrief of ander stuk wat die invoer van die goedere dek, aan die gemagtigde handelaar getoon is; 5
- (v) ten opsigte van enige ander skuld verskuldig deur 'n buitelandse persoon, tensy die buitelandse persoon—
- (aa) 'n natuurlike persoon is wat gedurende daardie jaar fisies in die Republiek teenwoordig was vir 'n tydperk wat in totaal 183 dae oorskry; of 10
- (bb) te eniger tyd gedurende daardie jaar deur 'n permanente saak in die Republiek sake gedryf het; of
- (vi) indien daardie rente betaal word of betaal staan te word—
- (aa) deur 'n hoofkwartiermaatskappy; en 15
- (bb) ten opsigte van finansiële bystand wat nie aan artikel 31 onderhewig is nie as gevolg van die toepassing van artikel 31(4);
- (b) betaalbaar soos beoog in artikel 27(6) van die 'Securities Services Act, 2004' (Wet No. 36 van 2004), aan enige buitelandse persoon wat 'n kliënt soos omskryf in artikel 1 van daardie Wet is; of 20
- (c) wat ingevolge artikel 25BA(a) geag word aan enige buitelandse persoon toe te geval het.
- (2) Rente ontvang deur of toegeval aan 'n buitelandse persoon gedurende enige jaar van aanslag ten opsigte van enige bedrag voorgeskiet, hetsy regstreeks of onregstreeks, deur die buitelandse persoon aan 'n bank sal nie van die terughoudingsbelasting op rente vrygestel word nie indien die bedrag voorgeskiet word in die loop van enige reëling, transaksie, handeling of skema waarby die buitelandse persoon en enige ander persoon partye is en ingevolge waarvan die bank enige bedrag voorskiet aan daardie ander persoon regstreeks of onregstreeks op grond van die bedrag deur die buitelandse persoon aan die bank voorgeskiet. 25
- (3) 'n Buitelandse persoon word vrygestel van die terughoudingsbelasting op rente indien daardie buitelandse persoon—
- (a) 'n natuurlike persoon is wat gedurende daardie jaar fisies in die Republiek teenwoordig was vir 'n tydperk wat in totaal 183 dae oorskry; of 30
- (b) te eniger tyd gedurende daardie jaar deur 'n permanente saak in die Republiek sake gedryf het. 35

Terughouding en betaling van terughoudingsbelasting op rente deur betalers van rente 40

- 37L.** (1) Enige persoon wat betaling maak van enige bedrag van rente ten behoeve van 'n buitelandse persoon wat nie 'n beheerde buitelandse maatskappy is nie, moet 'n bedrag gelykstaande aan 10 persent van daardie bedrag van rente van daardie betaling terughou. 45
- (2) Enige bedrag ingevolge subartikel (1) teruggehou, moet aan die Kommissaris betaal word binne 14 dae na die einde van die maand waartydens die bedrag teruggehou word.
- (3) 'n Persoon moet nie enige bedrag terughou van enige betaling beoog in subartikel (1) nie— 50
- (a) namate die rente ingevolge artikel 37K(1) van die terughoudingsbelasting op rente vrygestel word; of
- (b) indien die persoon waaraan die bedrag van rente betaal staan te word, teen die datum van die betaling van die bedrag van rente, aan daardie persoon 'n verklaring voorgelê het in die vorm deur die Kommissaris voorgeskryf dat die persoon waaraan die bedrag van rente betaal staan te word ingevolge artikel 37K(3) van die terughoudingsbelasting op rente vrygestel word. 55
- (4) Die skaal bedoel in subartikel (1) moet, by die toepassing van daardie subartikel, verminder word indien die persoon waaraan die bedrag van rente betaal staan te word, teen die datum van die betaling van die bedrag 60

the person paying that amount of interest a declaration in such form as may be prescribed by the Commissioner that the interest is subject to that reduced rate of tax as a result of the application of an agreement for the avoidance of double taxation.

Recovery of unpaid withholding tax on interest

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37M. (1) If the Commissioner is satisfied that any withholding tax on interest has not been paid in full, he or she may estimate the unpaid amount and issue to the person by which the tax is due a notice of assessment of the unpaid amount.

(2) If a person fails to pay any amount due to the Commissioner in terms of this Part, interest must be paid by that person on the balance of the amount outstanding at the prescribed rate reckoned from the date that the amount is due.

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(3) The provisions of this Act relating to assessment and recovery of tax and administrative penalties in the event of default or omission apply, with the changes required by the context, in respect of any amount due to the Commissioner in terms of this Part.

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(4) Every person that controls or is regularly involved in the management of the overall financial affairs of an unlisted company as defined in section 41 that is liable to withhold or make payment of any amount in terms of this Part and that is a shareholder or director of that company is personally liable for any amount due to the Commissioner in terms of this Part, as well as any additional tax, penalty or interest for which that company may be liable as a result of the application of this Part.”

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(2) Subsection (1) comes into operation on 1 January 2013 and applies in respect of any interest that accrues on or after that date.

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Amendment of section 38 of Act 58 of 1962, as amended by section 21 of Act 90 of 1962, section 16 of Act 90 of 1964, section 28 of Act 89 of 1969, section 31 of Act 85 of 1974, section 27 of Act 94 of 1983, section 24 of Act 121 of 1984, section 32 of Act 53 of 1999, section 36 of Act 30 of 2000, section 43 of Act 60 of 2001, section 34 of Act 74 of 2002, section 213 of Act 45 of 2003, section 30 of Act 8 of 2007, section 24 of Act 3 of 2008 and section 45 of Act 17 of 2009

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59. (1) Section 38 of the Income Tax Act, 1962, is hereby amended—

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

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“(iii) that the memorandum **[and articles of association of the company contain no]** of incorporation prohibits such restrictions on the right to acquire or transfer any of its shares as are likely to preclude members of the general public from becoming shareholders in any class of the company’s shares; and”;

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(b) by the substitution in subsection (2)(b) for the words preceding subparagraph (i) of the following words:

“any other company, not being a private company as defined in section **[20] 1** of the Companies Act, **[1973 (Act No. 61 of 1973) (as in force on 1 January 1974)] 2008 (Act No. 71 of 2008)**, nor a close corporation, in respect of which the Commissioner is satisfied—”;

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(c) by the substitution in subsection (4)(a) for subparagraph (v) of the following subparagraph:

“(v) any man or his wife or any minor child of any man or his wife, if one or more of such persons are directly or indirectly interested (otherwise than by virtue of any shareholding in any public company or any private company which is interested in the shares of the company through a direct or indirect interest in the **[issued share capital of]** equity shares in a public company) in altogether

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van rente, aan die persoon wat daardie bedrag van rente betaal 'n verklaring voorgelê het in die vorm deur die Kommissaris voorgeskryf dat die rente as gevolg van die toepassing van 'n ooreenkoms vir die vermyding van dubbele belasting aan daardie verminderde skaal van belasting onderhewig is.

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Verhaal van onbetaalde terughoudingsbelasting op rente

37M. (1) Indien die Kommissaris tevrede is dat enige terughoudingsbelasting op rente nie ten volle betaal is nie, kan hy of sy die onbetaalde bedrag raam en aan die persoon waardeur die belasting verskuldig is 'n kennisgewing van aanslag van die onbetaalde bedrag uitreik.

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(2) Indien 'n persoon versuim om enige bedrag verskuldig aan die Kommissaris ingevolge hierdie Deel te betaal, moet rente deur daardie persoon betaal word op die saldo van die uitstaande bedrag teen die voorgeskrewe koers gereken vanaf die datum waarop die bedrag verskuldig is.

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(3) Die bepalinge van hierdie Wet met betrekking tot aanslag en verhaal van belasting en administratiewe boetes ingeval van versuim of nalaat is van toepassing, met die veranderinge deur die samehang vereis, ten opsigte van enige bedrag ingevolge hierdie Deel aan die Kommissaris verskuldig.

(4) Elke persoon wat beheer uitoefen oor of gereeld betrokke is by die bestuur van die oorhoofse finansiële sake van 'n ongenoteerde maatskappy soos omskryf in artikel 41 wat aanspreeklik is om enige bedrag ingevolge hierdie Deel terug te hou of te betaal en wat 'n aandeelhouer of direkteur van daardie maatskappy is, is persoonlik aanspreeklik vir enige bedrag ingevolge hierdie Deel aan die Kommissaris verskuldig, asook enige addisionele belasting, boete of rente waarvoor daardie maatskappy as gevolg van die toepassing van hierdie Deel aanspreeklik is."

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(2) Subartikel (1) tree op 1 Januarie 2013 in werking en is van toepassing ten opsigte van enige rente wat op of na daardie datum toeval.

Wysiging van artikel 38 van Wet 58 van 1962, soos gewysig deur artikel 21 van Wet 90 van 1962, artikel 16 van Wet 90 van 1964, artikel 28 van Wet 89 van 1969, artikel 31 van Wet 85 van 1974, artikel 27 van Wet 94 van 1983, artikel 24 van Wet 121 van 1984, artikel 32 van Wet 53 van 1999, artikel 36 van Wet 30 van 2000, artikel 43 van Wet 60 van 2001, artikel 34 van Wet 74 van 2002, artikel 213 van Wet 45 van 2003, artikel 30 van Wet 8 van 2007, artikel 24 van Wet 3 van 2008 en artikel 45 van Wet 17 van 2009

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59. (1) Artikel 38 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (2)(a) subparagraaf (iii) deur die volgende subparagraaf te vervang:

“(iii) dat die akte van oprigting [**en statute van die maatskappy geen**] die beperkings verbied op die reg om enige van sy aandele te verkry of oor te dra[, **bevat**] wat waarskynlik lede van die algemene publiek sal belet om aandeelhouders in enige kategorie van die aandele van die maatskappy te word [**nie**]; en”;

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(b) deur in subartikel (2)(b) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

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“'n ander maatskappy, behalwe 'n private maatskappy soos omskryf in artikel [20] 1 van die Maatskappywet, [1973 (Wet No. 61 van 1973) (soos van krag op 1 Januarie 1974)] 2008 (Wet No. 71 van 2008), of 'n beslote korporasie, ten opsigte waarvan die Kommissaris oortuig is—”;

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(c) deur in subartikel (4)(a) subparagraaf (v) deur die volgende subparagraaf te vervang:

“(v) 'n man of sy vrou of 'n minderjarige kind van 'n man of sy vrou, indien een of meer van bedoelde persone belang het of regstreeks of onregstreeks (behalwe uit hoofde van aandeelbesit in 'n publieke maatskappy of 'n private maatskappy wat deur 'n regstreekse of onregstreekse belang in die [**uitgereikte aandeelkapitaal van**] ekwiteitsaandele in 'n publieke maatskappy 'n belang het in die aandele van die maatskappy), in altesaam meer as [**vyftien**] 15

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- more than **[fifteen]** 15 per cent[.] of any class of equity shares issued by the company;”;
- (d) by the substitution in subsection (4)(c) for the words following subparagraph (ii) of the following words:
- “by virtue of **[his]** the said person being a shareholder in any private company and such interest is not attributable to a direct or indirect interest of such private company in the **[issued share capital of]** equity shares in a public company, the said person shall be deemed to be interested in only that portion of such shares as the Commissioner is satisfied such person would be entitled to receive if every company through which that person is interested in those shares were to be wound up or liquidated and the assets of each such company were, without regard to its liabilities, to be distributed among its shareholders;”;
- (e) by the substitution in subsection (4) for paragraph (d) of the following paragraph:
- “(d) where persons are jointly interested, whether directly or indirectly, but otherwise than through a direct or indirect interest in the **[issued share capital]** equity shares of a public company, in the shares of any company, each such person shall be deemed to be interested in only such proportion of those shares as the Commissioner is satisfied he would be entitled to receive if the joint interest of all such persons in such shares were to be divided between such persons.”.
- (2) Subsection (1) comes into operation on 1 January 2011.

Amendment of section 40A of Act 58 of 1962, as inserted by section 25 of Act 121 of 1984 and amended by section 28 of Act 101 of 1990

60. (1) Section 40A of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:
- “(1) Where **[any company registered under the Companies Act, 1973 (Act No. 61 of 1973), has under the provisions of section 27 of the Close Corporations Act, 1984 (Act No. 69 of 1984), been converted into a close corporation, or]** any close corporation has **[under the provisions of section 29C of the Companies Act, 1973,]** been converted into a company, such company and such close corporation shall for the purposes of this Act be deemed to be and to have been one and the same company.”.
- (2) Subsection (1) comes into operation on 1 January 2011.

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, section 32 of Act 8 of 2007, section 52 of Act 35 of 2007, section 25 of Act 3 of 2008, section 128 of Act 60 of 2008 and section 47 of Act 17 of 2009

61. (1) Section 41 of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subsection (1) for the definition of “allowance asset” of the following definition:
- “‘**allowance asset**’ means—
- (a) a capital asset in respect of which a deduction or allowance is allowable in terms of this Act for purposes other than the determination of any capital gain or capital loss; or
- (b) any debt contemplated in section 11(i) or (j);”;
- (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the definition of “foreign financial instrument holding company” of the following words:
- “‘**foreign financial instrument holding company**’ means any foreign company **[as defined in section 9D]**, where more than the prescribed proportion of all the assets of that company, together with the assets of all

- persent van enige kategorie van ekwiteitsaandele deur die maatskappy uitgereik;”;
- (d) deur in subartikel (4)(c) die woorde wat op subparagraaf (ii) volg deur die volgende woorde te vervang:
- “uit hoofde van die feit dat **[hy]** bedoelde persoon ’n aandeelhouer in ’n private maatskappy is, en sodanige belang nie aan ’n regstreekse of onregstreekse belang van die private maatskappy in die **[uitgereikte aandelekapitaal van]** ekwiteitsaandele in ’n publieke maatskappy toe te skryf is nie, word bedoelde persoon geag ’n belang te hê slegs in daardie gedeelte van bedoelde aandele wat daardie persoon volgens die Kommissaris se oortuiging geregtig sou wees om te ontvang indien elke maatskappy waardeur daardie persoon in daardie aandele ’n belang het, gelikwieder sou word en die bates van elke sodanige maatskappy, sonder inagneming van sy laste, onder sy aandeelhouers uitgekeer sou word;”;
- en
- (e) deur in subartikel (4) paragraaf (d) deur die volgende paragraaf te vervang:
- “(d) waar persone ’n gesamentlike belang, hetsy regstreeks of onregstreeks, maar anders as deur ’n regstreekse of onregstreekse belang in die **[uitgereikte aandelekapitaal]** ekwiteitsaandele van ’n publieke maatskappy, in die aandele van ’n maatskappy het, word elkeen van daardie persone geag ’n belang te hê slegs in daardie gedeelte van daardie aandele wat hy volgens die Kommissaris se oortuiging geregtig sou wees om te ontvang indien die gesamentlike belang van al daardie persone in bedoelde aandele onder daardie persone verdeel sou word.”.
- (2) Subartikel (1) tree op 1 Januarie 2011 in werking.

Wysiging van artikel 40A van Wet 58 van 1962, soos ingevoeg deur artikel 25 van Wet 121 van 1984 en gewysig deur artikel 28 van Wet 101 van 1990

60. (1) Artikel 40A van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:
- “(1) Waar [**’n maatskappy wat ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973), geregistreer is, ingevolge die bepalinge van artikel 27 van die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984), in ’n beslote korporasie omskep is, of**] ’n beslote korporasie [**ingevolge die bepalinge van artikel 29C van die Maatskappywet, 1973,**] in ’n maatskappy omskep is, word bedoelde maatskappy en bedoelde beslote korporasie vir die doeleindes van hierdie Wet geag een en dieselfde maatskappy te wees en te gewees het.”.
- (2) Subartikel (1) tree op 1 Januarie 2011 in werking.

Wysiging van artikel 41 van Wet 58 van 1962, soos vervang deur artikel 34 van Wet 74 van 2002 en gewysig deur artikel 49 van Wet 45 van 2003, artikel 32 van Wet 32 van 2004, artikel 37 van Wet 31 van 2005, artikel 28 van Wet 20 van 2006, artikel 32 van Wet 8 van 2007, artikel 52 van Wet 35 van 2007, artikel 25 van Wet 3 van 2008, artikel 128 van Wet 60 van 2008 en artikel 47 van Wet 17 van 2009

61. (1) Artikel 41 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (1) die omskrywing van “afskryfbare bate” deur die volgende omskrywing te vervang:
- “**afskryfbare bate**—
- (a) ’n kapitaalbate ten opsigte waarvan ’n aftrekking of toelae kragtens die Wet toelaatbaar is vir alle doeleindes behalwe die vasstelling van ’n kapitaalwinst of kapitaalverlies; of
- (b) ’n skuld beoog in artikel 11(i) of (j);”;
- (b) deur in subartikel (1) die woorde wat paragraaf (a) van die omskrywing van “buitelandse finansiële instrumenthouermaatskappy” voorafgaan deur die volgende woorde te vervang:
- “**buitelandse finansiële instrumenthouermaatskappy**’ enige buitelandse maatskappy [**soos in artikel 9D omskryf**], waar meer as die voorgeskrewe proporsie van alle bates van daardie maatskappy, tesame met die bates van alle beïnvloede maatskappye met betrekking tot

- influenced companies in relation to that foreign company, consist of financial instruments, other than—”;
- (c) by the substitution in subsection (1) for subparagraph (bb) of paragraph (i) of the proviso to the definition of “group of companies” of the following subparagraph: 5
 “(bb) that company is a non-profit company [**contemplated**] as defined in section [21] 1 of the Companies Act, [1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008);”;
- (d) by the substitution in subsection (1) for the proviso to paragraph (a) of the definition of “prescribed proportion” of the following proviso: 10
 “: Provided that in relation to the assets of a foreign company [**as defined in section 9D(1)**] and influenced companies (if any) the expression ‘or two-thirds of the actual cost’ shall be disregarded if any asset disposed of by that foreign company is deemed not to be attributable to a permanent establishment of that company in terms of paragraph (d) of the proviso to section 9D(6);” 15
- (e) by the substitution in subsection (1) for the words preceding paragraph (b)(i) of the definition of “prescribed proportion” of the following words: 20
 “where equity shares in [**the equity share capital of**] that company are to be disposed of between members of the same group of companies, either—”;
- (f) by the insertion in subsection (1) of the following definition before the definition of “shareholder”:
 “**‘resident’** does not include any headquarter company;”;
- (g) by the deletion of the word “and” at the end of paragraph (a) of the definition of “trading stock”; 25
- (h) by the deletion in subsection (1) of paragraph (b) of the definition of “trading stock”; and
- (i) by the substitution for subsection (7) of the following subsection: 30
 “(7) An amount contemplated in paragraph (j) of the definition of ‘gross income’ in section 1 and an amount to be included in gross income in terms of paragraph 14 of the First Schedule must for purposes of this Part be deemed to be an [**amount**] allowance that must be recovered or recouped.”.
- (2) Paragraph (a) of subsection (1) is deemed to have come into operation on 1 January 2010 and applies in respect of transfers taking place on or after that date. 35
- (3) Paragraphs (c) and (e) of subsection (1) come into operation on 1 January 2011.
- (4) Paragraph (f) of subsection (1) comes into operation on 1 January 2011 and applies in respect of transactions entered into during years of assessment commencing on or after that date. 40
- (5) Paragraph (h) of subsection (1) is deemed to have come into operation on 1 January 2010 and applies in respect of transactions entered into on or after that date.
- (6) Paragraph (i) of subsection (1) comes into operation on the date of promulgation of this Act and applies in respect of transactions entered into on or after that date.

- daardie buitelandse maatskappy, bestaan uit **[finansisle]** finansiële instrumente anders as—”;
- (c) deur in subartikel (1) subparagraaf (bb) van paragraaf (i) van die voorbehoudsbepaling tot die omskrywing van “groep van maatskappye” deur die volgende subparagraaf te vervang: 5
- “(bb) daardie maatskappy ’n maatskappy sonder winsoogmerk soos omskryf in artikel [21] 1 van die [Maatskappiewet, 1973 (Wet No. 61 van 1973)] Maatskappiewet, 2008 (Wet No. 71 van 2008), [beoog] uitmaak;”;
- (d) deur in subartikel (1) die voorbehoudsbepaling tot paragraaf (a) van die omskrywing van “voorgeskrewe proporsie” deur die volgende voorbehoudsbepaling te vervang: 10
- “: Met dien verstande dat met betrekking tot die bates van ’n buitelandse maatskappy **[soos in artikel 9D(1) omskryf]** en maatskappye wat geraak word (indien enige), die uitdrukking ‘of twee-derdes van die 15 werklike koste’ nie in berekening gebring word nie, indien enige bate waaroor deur daardie buitelandse maatskappy beskik word, geag word nie kragtens paragraaf (d) van die voorbehoudsbepaling by artikel 9D(6) aan ’n permanente saak van daardie maatskappy toeskryfbaar te wees nie”; 20
- (e) deur in subartikel (1) die woorde wat paragraaf (b)(i) van die omskrywing van “voorgeskrewe proporsie” voorafgaan deur die volgende woorde te vervang: 25
- “waar **[aandele]** ekwiteitsaandele in [die ekwiteitsaandelekapitaal van] daardie maatskappy oor beskik word tussen lede van dieselfde groep van maatskappye, of—”;
- (f) deur in subartikel (1) die volgende omskrywing na die omskrywing van “hou” in te voeg: 30
- “**[inwoner]** nie ook ’n hoofkwartiermaatskappy nie;”;
- (g) deur in subartikel (1) die woord “en” aan die einde van paragraaf (a) van die omskrywing van “handelsvoorraad” te skrap; 35
- (h) deur in subartikel (1) paragraaf (b) van die omskrywing van “handelsvoorraad” te skrap; en
- (i) deur subartikel (7) deur die volgende subartikel te vervang: 35
- “(7) ’n Bedrag in paragraaf (j) van die omskrywing van ‘bruto inkomste’ in artikel 1 beoog en ’n bedrag ingevolge paragraaf 14 van die Eerste Bylae by bruto inkomste ingesluit te word, moet by die toepassing van hierdie Deel geag word ’n [bedrag] toelae te wees wat verhaal of vergoed moet word.”.
- (2) Paragraaf (a) van subartikel (1) word geag op 1 Januarie 2010 in werking te getree het en is van toepassing ten opsigte van oordragte wat op of na daardie datum plaasvind. 40
- (3) Paragraawe (c) en (e) van subartikel (1) tree op 1 Januarie 2011 in werking.
- (4) Paragraaf (f) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van transaksies aangegaan gedurende jare van aanslag wat op of na daardie datum begin.
- (5) Paragraaf (h) van subartikel (1) word geag op 1 Januarie 2010 in werking te getree het en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan. 45
- (6) Paragraaf (i) van subartikel (1) tree in werking op die datum van promulgering van hierdie Wet en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

Amendment of section 42 of Act 58 of 1962, as amended by section 21 of Act 88 of 1965, section 17 of Act 95 of 1967, section 29 of Act 89 of 1969, section 19 of Act 52 of 1970, section 23 of Act 88 of 1971, section 18 of Act 90 of 1972, section 22 of Act 65 of 1973, section 32 of Act 85 of 1974, section 22 of Act 69 of 1975, section 18 of Act 103 of 1976, section 19 of Act 113 of 1977, section 20 of Act 91 of 1982, section 28 of Act 94 of 1983, section 31 of Act 129 of 1991, section 27 of Act 141 of 1992, section 23 of Act 21 of 1994, section 25 of Act 21 of 1995, section 44 of Act 60 of 2001, section 34 of Act 74 of 2002, 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 34 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 and section 48 of Act 17 of 2009

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

(a) by the addition in subsection (1) to paragraph (b) of the definition of “asset-for-share transaction” of the following proviso:

“: Provided that this paragraph does not apply in respect of any transaction which meets the requirements of paragraph (a) in terms of which a person disposes of an equity share in a listed company or in a portfolio of a collective investment scheme in securities to any other company and after that disposal, together with any other transaction that is concluded—

(i) on the same terms as that transaction; and
(ii) within a period of 90 days after that disposal,
that other company holds—

(aa) at least 35 per cent of the equity shares of that listed company or portfolio; or

(bb) at least 25 per cent of the equity shares of that listed company or portfolio if no person other than that other company holds an equal or greater amount of equity shares in the listed company or portfolio”;

(b) by the substitution in subsection (2)(b) for the words preceding subparagraph (i) of the following words:

“**[subject to paragraph (bA),]** that person and that company must, for purposes of determining—”;

(c) by the addition in subsection (2) to paragraph (b) of the following proviso:

“: Provided that this paragraph does not apply in respect of any asset-for-share transaction in terms of which a person disposes of an equity share in a listed company or in a portfolio of a collective investment scheme in securities to any other company and after that disposal, together with any other asset-for-share transaction that is concluded—

(i) on the same terms as that asset-for-share transaction; and
(ii) within a period of 90 days after that disposal,
that other company holds—

(aa) at least 35 per cent of the equity shares of that listed company or portfolio; or

(bb) at least 25 per cent of the equity shares of that listed company or portfolio if no person other than that other company holds an equal or greater amount of equity shares in the listed company or portfolio”;

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

“(bA) that company must, where that company is a listed company or a **[company contemplated in paragraph (e)(i) of the definition of ‘company’]** portfolio of a collective investment scheme in securities and the asset was acquired by that company from any person who does not hold more than 20 per cent of the equity share capital of that company after the asset-for-share transac-

Wysiging van artikel 42 van Wet 58 van 1962, soos gewysig deur artikel 21 van Wet 88 van 1965, artikel 17 van Wet 95 van 1967, artikel 29 van Wet 89 van 1969, artikel 19 van Wet 52 van 1970, artikel 23 van Wet 88 van 1971, artikel 18 van Wet 90 van 1972, artikel 22 van Wet 65 van 1973, artikel 32 van Wet 85 van 1974, artikel 22 van Wet 69 van 1975, artikel 18 van Wet 103 van 1976, artikel 19 van Wet 113 van 1977, artikel 20 van Wet 91 van 1982, artikel 28 van Wet 94 van 1983, artikel 31 van Wet 129 van 1991, artikel 27 van Wet 141 van 1992, artikel 23 van Wet 21 van 1994, artikel 25 van Wet 21 van 1995, artikel 44 van Wet 60 van 2001, artikel 34 van Wet 74 van 2002, artikel 50 van Wet 45 van 2003, artikel 33 van Wet 32 van 2004, artikel 38 van Wet 31 van 2005, artikel 29 van Wet 20 van 2006, artikel 34 van Wet 8 van 2007, artikel 53 van Wet 35 van 2007, artikel 26 van Wet 3 van 2008, artikel 49 van Wet 60 van 2008 en artikel 48 van Wet 17 van 2009

62. (1) Artikel 42 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (1) die volgende voorbehoudsbepaling tot paragraaf (b) van die omskrywing van “bate-vir-aandeel-transaksie” by te voeg:
- “: Met dien verstande dat hierdie paragraaf nie van toepassing is nie ten opsigte van ’n transaksie wat aan die vereistes van paragraaf (a) voldoen ingevolge waarvan ’n persoon oor ’n ekwiteitsaandeel in ’n genoteerde maatskappy beskik of in ’n portefeulje van ’n kollektiewe beleggingskema in effekte oor ’n ekwiteitsaandeel beskik aan enige ander maatskappy en na daardie beskikking, tesame met enige ander transaksie wat aangegaan word—
- (i) op dieselfde bedinge as daardie transaksie; en
- (ii) binne ’n tydperk van 90 dae na daardie beskikking, daardie ander maatskappy—
- (aa) minstens 35 persent van die ekwiteitsaandeel van daardie genoteerde maatskappy of portefeulje hou; of
- (bb) minstens 25 persent van die ekwiteitsaandeel van daardie genoteerde maatskappy of portefeulje hou indien geen persoon buiten daardie ander maatskappy ’n gelykstaande of groter bedrag aan ekwiteitsaandeel in die genoteerde maatskappy of portefeulje hou nie”;
- (b) deur in subartikel (2)(b) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:
- “[**behoudens paragraaf (bA),**] word daardie persoon en daardie maatskappy vir die doeleindes van die vasstelling van—”;
- (c) deur in subartikel (2) die volgende voorbehoudsbepaling by paragraaf (b) te voeg:
- “: Met dien verstande dat hierdie paragraaf nie van toepassing is nie ten opsigte van ’n bate-vir-aandeel-transaksie ingevolge waarvan ’n persoon oor ’n ekwiteitsaandeel in ’n genoteerde maatskappy of in ’n portefeulje van ’n kollektiewe beleggingskema in effekte beskik aan enige ander maatskappy en na daardie beskikking, tesame met enige ander bate-vir-aandeel-transaksie wat aangegaan word—
- (i) op dieselfde bedinge as daardie bate-vir-aandeel-transaksie; en
- (ii) binne ’n tydperk van 90 dae na daardie beskikking, daardie ander maatskappy—
- (aa) minstens 35 persent van die ekwiteitsaandeel van daardie genoteerde maatskappy of portefeulje hou; of
- (bb) minstens 25 persent van die ekwiteitsaandeel van daardie genoteerde maatskappy of portefeulje hou indien geen persoon buiten daardie ander maatskappy ’n gelykstaande of groter bedrag aan ekwiteitsaandeel in die genoteerde maatskappy of portefeulje hou nie”;
- (d) deur in subartikel (2) paragraaf (bA) deur die volgende paragraaf te vervang:
- “(bA) word daardie maatskappy, waar daardie maatskappy ’n genoteerde maatskappy of ’n [**maatskappy beoog in paragraaf (e)(i) van die omskrywing van ‘maatskappy’**] portefeulje van ’n kollektiewe beleggingskema in effekte is en die bate deur daardie maatskappy verkry is van enige persoon wat nie meer as 20 persent van die ekwiteitsaandelekapitaal in daardie maatskappy na die bate-vir-aandeel-transaksie hou nie, geag die bate te

- tion, be deemed to have acquired the asset at a cost equal to the market value of the asset; and”;
- (e) by the deletion in subsection (2) of paragraph (bA);
- (f) by the addition in subsection (7)(b) to subparagraph (i) of the following proviso: 5
 “: Provided that this subparagraph does not apply to any asset that constitutes trading stock that is regularly and continuously disposed of by that company”; and
- (g) by the substitution in subsection (8A) for paragraph (a) of the following paragraph: 10
 “(a) the person and the company **[jointly elect]** agree in writing that this section does not apply; or”.

(2) Paragraphs (a), (b), (c) and (e) of subsection (1) come into operation on the date of promulgation of this Act and apply in respect of transactions entered into on or after that date. 15

(3) Paragraph (d) of subsection (1) is deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 January 2010.

(4) Paragraph (f) of subsection (1) is deemed to have come into operation on 1 January 2010 and applies in respect of transactions entered into on or after that date.

(5) Paragraph (g) of subsection (1) comes into operation on 1 January 2011 and applies in respect of transactions entered into during years of assessment ending on or after that date. 20

Amendment of section 44 of Act 58 of 1962, as inserted by section 44 of Act 60 of 2001 and amended by section 34 of Act 74 of 2002, 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 and section 49 of Act 17 of 2009 25

63. (1) Section 44 of the Income Tax Act, 1962, is hereby amended—

- (a) by the addition in subsection (5)(b) to subparagraph (i) of the following proviso: 30
 “: Provided that this subparagraph does not apply to any asset that constitutes trading stock that is regularly and continuously disposed of by that resultant company”;
- (b) by the deletion of subsection (9A);
- (c) by the substitution for subsection (10) of the following subsection: 35
 “(10) For the purposes of section 64B, so much of the amount of any other consideration to which a person becomes entitled as contemplated in subsection (7)(b) as does not exceed the **[amalgamated company’s profits which are available for distribution as contemplated in section 64C(4)(c)]** market value of all the assets of the amalgamated company immediately before the amalgamation, conversion or merger less— 40
 (a) the liabilities; and
 (b) the sum of the contributed tax capital of all the classes of shares, of the amalgamated company immediately before the amalgamation, conversion or merger must be deemed to be a dividend declared and distributed **[out of profits of]** by that amalgamated company to that person and to have accrued as a dividend to that person on the date on which that person became entitled thereto.”; and 45
- (d) by the substitution in subsection (14) for paragraph (c) of the following paragraph: 50
 “(c) the resultant company is a non-profit company **[contemplated]** as defined in section **[21] 1** of the Companies Act, **[1973 (Act No. 61 of 1973)] 2008 (Act No. 71 of 2008)**.”

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on 1 January 2010 and applies in respect of transactions entered into on or after that date. 55

(3) Paragraphs (b), (c) and (d) of subsection (1) come into operation on 1 January 2011.

verkry het teen 'n koste gelykstaande aan die markwaarde van die bate; en”;

- (e) deur in subartikel (2) paragraaf (bA) te skrap;
 (f) deur in subartikel (7)(b) die volgende voorbehoudsbepaling by subparagraaf (i) te voeg: 5

“: Met dien verstande dat hierdie subparagraaf nie van toepassing is nie op enige bate wat handelsvoorraad uitmaak wat gereeld en deurlopend deur daardie maatskappy van die hand gesit word”; en

- (g) deur in subartikel (8A) paragraaf (a) deur die volgende paragraaf te vervang:
 (a) die persoon en die maatskappy [**gesamentlik kies**] skriftelik ooreenkom dat hierdie artikel nie van toepassing is nie; of”. 10

(2) Paragrafe (a), (b), (c) en (e) van subartikel (1) tree in werking op die datum van promulgering van hierdie Wet en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

(3) Paragraaf (d) van subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2010 begin. 15

(4) Paragraaf (f) van subartikel (1) word geag op 1 Januarie 2010 in werking te getree het en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

(5) Paragraaf (g) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van transaksies aangegaan gedurende jare van aanslag wat op of na daardie datum eindig. 20

Wysiging van artikel 44 van Wet 58 van 1962, soos ingevoeg deur artikel 44 van Wet 60 van 2001 en gewysig deur artikel 34 van Wet 74 van 2002, artikel 52 van Wet 45 van 2003, artikel 40 van Wet 31 van 2005, artikel 34 van Wet 8 van 2007, artikel 55 van Wet 35 van 2007, artikel 27 van Wet 3 van 2008, artikel 50 van Wet 60 van 2008 en artikel 49 van Wet 17 van 2009 25

63. (1) Artikel 44 van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur in subartikel (5)(b) die volgende voorbehoudsbepaling by subparagraaf (i) te voeg:

“: Met dien verstande dat hierdie subparagraaf nie van toepassing is nie op enige bate wat handelsvoorraad uitmaak wat gereeld en deurlopend deur daardie gevolglike maatskappy van die hand gesit word”; 30

- (b) deur subartikel (9A) te skrap;

- (c) deur subartikel (10) deur die volgende subartikel te vervang:

“(10) By die toepassing van artikel 64B, word soveel van die bedrag van enige vergoeding waarop 'n persoon geregtig word soos in subartikel 7(b) beoog wat nie die [**geamalgameerde maatskappy se winste wat vir uitkering beskikbaar is soos in artikel 64C(4)(c) beoog,**] markwaarde van al die bates van die geamalgameerde maatskappy onmiddellik voor die amalgamasie, omskepping of samesmelting minus— 35

(a) die laste; en

(b) die som van die toegevoegde belastingkapitaal van al die klasse van aandele, 40

van die geamalgameerde maatskappy onmiddellik voor die amalgamasie, omskepping of samesmelting oorskry nie, geag 'n dividend te wees wat verklaar en uitgekeer is aan daardie persoon [**uit die winste van**] deur die geamalgameerde maatskappy en wat aan daardie persoon as 'n dividend toegeval het op die datum waarop daardie persoon daarop geregtig geword het.”; en 45

- (d) deur in subartikel (14) paragraaf (c) deur die volgende paragraaf te vervang: 50

“(c) die gevolglike maatskappy 'n maatskappy sonder winsoogmerk soos omskryf in artikel [21] 1 van die [**Maatskappywet, 1973 (Wet No. 61 van 1973)**] Maatskappywet, 2008 (Wet No. 71 van 2008), [**beoog,**] uitmaak;”. 55

(2) Paragraaf (a) van subartikel (1) word geag op 1 Januarie 2010 in werking te getree het en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

(3) Paragrafe (b), (c) en (d) van subartikel (1) tree op 1 Januarie 2011 in werking.

Amendment of section 45 of Act 58 of 1962, as amended by section 24 of Act 55 of 1966, section 18 of Act 95 of 1967, section 25 of Act 21 of 1995, section 44 of Act 60 of 2001, section 34 of Act 74 of 2002, section 53 of Act 45 of 2003, section 35 of Act 32 of 2004, section 41 of Act 31 of 2005, section 35 of Act 8 of 2007, section 56 of Act 35 of 2007, section 28 of Act 3 of 2008 and section 51 of Act 60 of 2008 5

64. (1) Section 45 of the Income Tax Act, 1962, is hereby amended—

(a) by the addition in subsection (4) to paragraph (a) of the following proviso:

“: Provided that this subsection does not apply to any asset that constitutes trading stock that is regularly and continuously disposed of by the transferee company”;

(b) by the substitution in subsection (4)(b)(ii) for item (aa) of the following item:

“(aa) the greatest amount contemplated in paragraph (j) or (n) of the definition of ‘gross income’ that would have been included in income as a result of any disposal of the asset in terms of an intra-group transaction within the period of six years preceding the date on which the transferee company ceases to form part of the group of companies, had subsection (3) not applied in respect of that disposal; or”;

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

“(4A) Subsection 4(b) does not apply in respect of any asset disposed of—

(a) prior to 21 February 2008, where that transferee company and that transferor company contemplated in that subsection cease to form part of a group of companies by reason of the coming into operation of section 52(1)(c) of the Revenue Laws Amendment Act, 2007 (Act No. 35 of 2007); or

(b) on or after 1 January 2011, where that transferee company and that transferor company contemplated in that subsection cease to form part of a group of companies by reason of the coming into operation of section 6(1)(g) of the Taxation Laws Amendment Act, 2010.”;

(d) by the addition to subsection (5)(b)(i) of the following proviso:

“: Provided that this subparagraph does not apply to any asset that constitutes trading stock that is regularly and continuously disposed of by that transferee company”;

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

“(g) at the time of the disposal of the asset, the transferor company and the transferee company [jointly elect] agree in writing that this section does not apply to that disposal.”.

(2) Paragraphs (a) and (d) of subsection (1) are deemed to have come into operation on 1 January 2010 and apply in respect of transactions entered into on or after that date. 40

(3) Paragraph (b) of subsection (1) is deemed to have come into operation on 21 October 2008 and applies in respect of cessations on or after that date.

(4) Paragraph (c) of subsection (1) comes into operation on 1 January 2011.

(5) Paragraph (e) of subsection (1) comes into operation on 1 January 2011 and applies in respect of transactions entered into during years of assessment ending on or after that date. 45

Amendment of section 46 of Act 58 of 1962, as amended by section 25 of Act 21 of 1995, section 44 of Act 60 of 2001, section 34 of Act 74 of 2002, section 54 of Act 45 of 2003, section 36 of Act 32 of 2004, section 42 of Act 31 of 2005, section 36 of Act 8 of 2007, section 57 of Act 35 of 2007, section 29 of Act 3 of 2008 and section 52 of Act 60 of 2008 50

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

(a) by the deletion of subsection (6); and

Wysiging van artikel 45 van Wet 58 van 1962, soos gewysig deur artikel 24 van Wet 55 van 1966, artikel 18 van Wet 95 van 1967, artikel 25 van Wet 21 van 1995, artikel 44 van Wet 60 van 2001, artikel 34 van Wet 74 van 2002, artikel 53 van Wet 45 van 2003, artikel 35 van Wet 32 van 2004, artikel 41 van Wet 31 van 2005, artikel 35 van Wet 8 van 2007, artikel 56 van Wet 35 van 2007, artikel 28 van Wet 3 van 2008 en artikel 51 van Wet 60 van 2008 5

64. (1) Artikel 45 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (4) die volgende voorbehoudsbepaling by paragraaf (a) te voeg:
- “: Met dien verstande dat hierdie subartikel nie van toepassing is nie op enige bate wat handelsvoorraad uitmaak wat gereeld en deurlopend deur die oordragnemende maatskappy van die hand gesit word”;
- (b) deur in subartikel (4)(b)(ii) item (aa) deur die volgende item te vervang:
- “(aa) die grootste bedrag beoog in paragraaf (j) of (n) van die omskrywing van ‘bruto inkomste’ wat by inkomste ingesluit sou wees as gevolg van enige beskikking oor die bate ingevolge ’n intra-groep transaksie binne die tydperk van ses jaar voor die datum waarop die oordragnemende maatskappy ophou om deel van die groep van maatskappye uit te maak, indien subartikel (3) nie ten opsigte van daardie beskikking van toepassing was nie; of”;
- (c) deur subartikel (4A) deur die volgende subartikel te vervang:
- “(4A) Subartikel (4)(b) is nie van toepassing nie ten opsigte van ’n bate oor beskik—
- (a) voor 21 Februarie 2008, waar daardie oordragnemende maatskappy en daardie oordraggewende maatskappy beoog in daardie subartikel ophou om deel te vorm van ’n groep van maatskappye omrede die inwerkingtreding van artikel 52(1)(c) van die Wysigingswet op Inkomstewette, 2007 (Wet No. 35 van 2007); of
- (b) op of na 1 Januarie 2011, waar daardie oordragnemende maatskappy en daardie oordraggewende maatskappy in daardie subartikel beoog omrede die inwerkingtreding van artikel 6(1)(g) van die Wysigingswet op Belastingwette, 2010, ophou om deel van ’n groep van maatskappye uit te maak.”;
- (d) deur in subartikel (5)(b)(i) die volgende voorbehoudsbepaling by te voeg:
- “: Met dien verstande dat hierdie subartikel nie van toepassing is nie op enige bate wat handelsvoorraad uitmaak wat gereeld en deurlopend deur daardie oordragnemende maatskappy van die hand gesit word”;
- (e) deur in subartikel (6) paragraaf (g) deur die volgende paragraaf te vervang:
- “(g) ten tye van die beskikking oor die bate, die oordraggewende maatskappy en die oordragnemende maatskappy [gesamentlik kies] skriftelik ooreenkom dat hierdie artikel nie op daardie beskikking van toepassing is nie.”.
- (2) Paragrafe (a) en (d) van subartikel (1) word geag op 1 Januarie 2010 in werking te getree het en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan. 45
- (3) Paragraaf (b) van subartikel (1) word geag op 21 Oktober 2008 in werking te getree het en is van toepassing ten opsigte van stakings op of na daardie datum.
- (4) Paragraaf (c) van subartikel (1) tree op 1 Januarie 2011 in werking.
- (5) Paragraaf (e) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van transaksies aangegaan gedurende jare van aanslag wat op of na daardie datum eindig. 50

Wysiging van artikel 46 van Wet 58 van 1962, soos gewysig deur artikel 25 van Wet 21 van 1995, artikel 44 van Wet 60 van 2001, artikel 34 van Wet 74 van 2002, artikel 54 van Wet 45 van 2003, artikel 36 van Wet 32 van 2004, artikel 42 van Wet 31 van 2005, artikel 36 van Wet 8 van 2007, artikel 57 van Wet 35 van 2007, artikel 29 van Wet 3 van 2008 en artikel 52 van Wet 60 van 2008 55

65. Artikel 46 van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur subartikel (6) te skrap; en

(b) by the substitution in subsection (7)(b) for subparagraph (ii) of the following subparagraph:

“(ii) the [Government, a provincial administration or a municipality] government of the Republic in the national, provincial or local sphere, contemplated in section 10(1)(a);”

(2) Subsection (1)(a) comes into operation on 1 January 2011.

Amendment of section 47 of Act 58 of 1962, as amended by section 25 of Act 21 of 1995, section 34 of Act 74 of 2002, section 55 of Act 45 of 2003, section 37 of Act 32 of 2004, section 43 of Act 31 of 2005, section 31 of Act 20 of 2006, section 37 of Act 8 of 2007, section 58 of Act 35 of 2007, section 31 of Act 3 of 2008, section 53 of Act 60 of 2008 and section 50 of Act 17 of 2009

66. (1) Section 47 of the Income Tax Act, 1962, is hereby amended—

(a) by the addition to subparagraph (i) of subsection (4)(b) of the following proviso:

“: Provided that this subparagraph does not apply to any asset that constitutes trading stock that is regularly and continuously disposed of by that holding company”; and

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

“(b) the holding company and the liquidating company [jointly elect] agree in writing that this section does not apply;”

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on 1 January 2010 and applies in respect of transactions entered into on or after that date.

(3) Paragraph (b) of subsection (1) comes into operation on 1 January 2011 and applies in respect of transactions entered into during years of assessment ending on or after that date.

Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964, section 25 of Act 55 of 1966, section 33 of Act 89 of 1969, section 38 of Act 85 of 1974, section 21 of Act 113 of 1977, section 13 of Act 101 of 1978, section 23 of Act 96 of 1981, section 31 of Act 94 of 1983, section 4 of Act 30 of 1984, section 28 of Act 121 of 1984, section 18 of Act 96 of 1985, section 21 of Act 85 of 1987, section 26 of Act 90 of 1988, section 28 of Act 141 of 1992, section 32 of Act 113 of 1993, section 18 of Act 36 of 1996, section 39 of Act 30 of 1998, section 38 of Act 30 of 2000, section 41 of Act 59 of 2000, section 45 of Act 60 of 2001, section 24 of Act 30 of 2002, section 35 of Act 74 of 2002, section 56 of Act 45 of 2003, section 38 of Act 32 of 2004, section 45 of Act 31 of 2005, section 27 of Act 9 of 2006 and section 38 of Act 8 of 2007

67. Section 56 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph (h) of the following paragraph:

“(h) by or to any person (including any sphere of government) referred to in section 10(1)(a)[, (b)], (cA), (cE), (cN), (cO), (d) or (e);”

Amendment of section 64B of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967 and amended by section 35 of Act 89 of 1969, section 20 of Act 52 of 1970, section 19 of Act 90 of 1972, section 41 of Act 85 of 1974, section 33 of Act 94 of 1983, section 7 of Act 108 of 1986, section 32 of Act 90 of 1988, section 34 of Act 113 of 1993, section 34 of Act 113 of 1993, section 12 of Act 140 of 1993, section 24 of Act 21 of 1994, section 29 of Act 21 of 1995, section 21 of Act 36 of 1996, section 13 of Act 46 of 1996, section 25 of Act 28 of 1997, section 35 of Act 53 of 1999, section 39 of Act 30 of 2000, section 42 of Act 59 of 2000, section 18 of Act 5 of 2001, section 48 of Act 60 of 2001, section 25 of Act 30 of 2002, section 36 of Act 74 of 2002, section 58 of Act 45 of 2003, section 40 of Act 32 of 2004, section 47 of Act 31 of 2005, section 32 of Act 20 of 2006, section 39 of Act 8 of 2007, section 85 of Act 35 of 2007, section 32 of Act 3 of 2008, section 55 of Act 60 of 2008 and section 51 of Act 17 of 2009

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

(b) deur in subartikel (7)(b) subparagraaf (ii) deur die volgende subparagraaf te vervang:

“(ii) die [Regering, ’n provinsiale administrasie of ’n munisipaliteit] regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer, beoog in artikel 10(1)(a);”.

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(2) Subartikel (1)(a) tree op 1 Januarie 2011 in werking.

Wysiging van artikel 47 van Wet 58 van 1962, soos gewysig deur artikel 25 van Wet 21 van 1995, artikel 34 van Wet 74 van 2002, artikel 55 van Wet 45 van 2003, artikel 37 van Wet 32 van 2004, artikel 43 van Wet 31 van 2005, artikel 31 van Wet 20 van 2006, artikel 37 van Wet 8 van 2007, artikel 58 van Wet 35 van 2007, artikel 31 van Wet 3 van 2008, artikel 53 van Wet 60 van 2008 en artikel 50 van Wet 17 van 2009

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66. (1) Artikel 47 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (4)(b) die volgende voorbehoudsbepaling by subparagraaf (i) te voeg:

“: Met dien verstande dat hierdie subparagraaf nie van toepassing is nie op enige bate wat handelsvoorraad uitmaak wat gereeld en deurlopend deur daardie houermaatskappy van die hand gesit word”; en

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(b) deur in subartikel (6) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) die houermaatskappy en die likwiderende maatskappy [gesamentlik kies] skriftelik ooreenkom dat hierdie artikel nie van toepassing is nie;”.

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(2) Paragraaf (a) van subartikel (1) word geag op 1 Januarie 2010 in werking te getree het en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

(3) Paragraaf (b) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van transaksies aangegaan gedurende jare van aanslag wat op of na daardie datum eindig.

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Wysiging van artikel 56 van Wet 58 van 1962, soos gewysig deur artikel 18 van Wet 90 van 1964, artikel 25 van Wet 55 van 1966, artikel 33 van Wet 89 van 1969, artikel 38 van Wet 85 van 1974, artikel 21 van Wet 113 van 1977, artikel 13 van Wet 101 van 1978, artikel 23 van Wet 96 van 1981, artikel 31 van Wet 94 van 1983, artikel 4 van Wet 30 van 1984, artikel 28 van Wet 121 van 1984, artikel 18 van Wet 96 van 1985, artikel 21 van Wet 85 van 1987, artikel 26 van Wet 90 van 1988, artikel 28 van Wet 141 van 1992, artikel 32 van Wet 113 van 1993, artikel 18 van Wet 36 van 1996, artikel 39 van Wet 30 van 1998, artikel 38 van Wet 30 van 2000, artikel 41 van Wet 59 van 2000, artikel 45 van Wet 60 van 2001, artikel 24 van Wet 30 van 2002, artikel 35 van Wet 74 van 2002, artikel 56 van Wet 45 van 2003, artikel 38 van Wet 32 van 2004, artikel 45 van Wet 31 van 2005, artikel 27 van Wet 9 van 2006 en artikel 38 van Wet 8 van 2007

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67. Artikel 56 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) paragraaf (h) deur die volgende paragraaf te vervang:

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“(h) deur of aan enige persoon (insluitende enige sfeer van regering) in artikel 10(1)(a)[, (b)], (cA), (cE), (cN), (cO), (d) of (e) bedoel;”.

Wysiging van artikel 64B van Wet 58 van 1962, soos ingevoeg deur artikel 20 van Wet 95 van 1967 en gewysig deur artikel 35 van Wet 89 van 1969, artikel 20 van Wet 52 van 1970, artikel 19 van Wet 90 van 1972, artikel 41 van Wet 85 van 1974, artikel 33 van Wet 94 van 1983, artikel 7 van Wet 108 van 1986, artikel 32 van Wet 90 van 1988, artikel 34 van Wet 113 van 1993, artikel 34 van Wet 113 van 1993, artikel 12 van Wet 140 van 1993, artikel 24 van Wet 21 van 1994, artikel 29 van Wet 21 van 1995, artikel 21 van Wet 36 van 1996, artikel 13 van Wet 46 van 1996, artikel 25 van Wet 28 van 1997, artikel 35 van Wet 53 van 1999, artikel 39 van Wet 30 van 2000, artikel 42 van Wet 59 van 2000, artikel 18 van Wet 5 van 2001, artikel 48 van Wet 60 van 2001, artikel 25 van Wet 30 van 2002, artikel 36 van Wet 74 van 2002, artikel 58 van Wet 45 van 2003, artikel 40 van Wet 32 van 2004, artikel 47 van Wet 31 van 2005, artikel 32 van Wet 20 van 2006, artikel 39 van Wet 8 van 2007, artikel 85 van Wet 35 van 2007, artikel 32 van Wet 3 van 2008, artikel 55 van Wet 60 van 2008 en artikel 51 van Wet 17 van 2009

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68. (1) Artikel 64B van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) by the substitution for the definition of “declared” of the following definition:
 “**‘declared’**, in relation to any dividend (including a dividend *in specie*), means the approval of the payment or distribution thereof by the directors of the company or by some other person **[under] with comparable authority [conferred by the memorandum and articles of association of the company]** or, in the case of the liquidation of a company, by the liquidator thereof;” 5
- (b) by the substitution for subsection (2) of the following subsection:
 “(2) There shall be levied and paid for the benefit of the National Revenue Fund a tax, to be known as the secondary tax on companies, which is calculated at the rate of 10 per cent of the net amount, as determined in terms of subsection (3), of any dividend declared by any company, other than a headquarter company, which is a resident.”; 10
- (c) by the deletion in subsection (3A) of the word “or” at the end of paragraph (c); 15
- (d) by the substitution in subsection (3A) for the full stop at the end of paragraph (d) of the expression “; or”;
- (e) by the addition to subsection (3A) after paragraph (d) of the following paragraph:
 “(e) any dividend declared by a headquarter company.”; 20
- (f) by the deletion in subsection (5) of paragraph (c);
- (g) by the substitution in subsection (5)(f) for subparagraph (i) of the following subparagraph:
 “(i) that shareholder is a company forming part of the same group of companies as the company declaring the dividend **[and that dividend is taken into account in the determination of the profits of that shareholder]**”; 25
- (h) by the deletion in subsection (5) of the word “and” at the end of paragraph (i);
- (i) by the substitution in subsection (5) for paragraph (k) of the following paragraph:
 “(k) any dividend declared by a company to a natural person which constitutes a transfer of an interest in a residence as contemplated in paragraph 51 of the Eighth Schedule; **[and]**”; and 30
- (j) by the insertion in subsection (5) of the following paragraph:
 “(kA) any dividend declared by a company which constitutes a disposal of an interest in a residence as contemplated in paragraph 51A of the Eighth Schedule; and”. 35
- (2) Paragraphs (a), (f) and (g) of subsection (1) come into operation on 1 January 2011.
- (3) Paragraphs (b), (c), (d) and (e) of subsection (1) come into operation as from the commencement of years of assessment commencing on or after 1 January 2011. 40
- (4) Paragraph (h) of subsection (1) is deemed to have come into operation on 1 January 2009.
- (5) Paragraph (i) of subsection (1) is deemed to have come into operation on 11 February 2009 and applies in respect of transfers made on or after that date in respect of disposals made before 1 October 2010. 45
- (6) Paragraph (j) of subsection (1) comes into operation on 1 October 2010 and applies in respect of disposals made on or after that date and before 1 January 2013.

- (a) deur die omskrywing van “verklaarde” deur die volgende omskrywing te vervang:
 “[**verklaarde**] **verklaar**”, met betrekking tot ’n dividend (met inbegrip van ’n dividend *in specie*), die goedkeuring van die betaling of uitkering daarvan deur die direkteure van die maatskappy of deur ’n ander persoon
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[kragtens magtiging deur die akte van oprigting en statute van die maatskappy verleen] met vergelykbare gesag, of in die geval van die likwidasië van ’n maatskappy, deur die likwidateur daarvan;”;
- (b) deur subartikel (2) deur die volgende subartikel te vervang:
 “(2) Daar word ten bate van die Nasionale Inkomstefonds ’n belasting
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 gehef en betaal [**word**], bekend as die sekondêre belasting op maatskappye, wat bereken word teen die koers van 10 persent van die netto bedrag, soos vasgestel ingevolge subartikel (3), van enige dividend deur ’n maatskappy, buiten ’n hoofkwartiermaatskappy, wat ’n inwoner is, verklaar.”;
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- (c) deur in subartikel (3A) die woord “of” aan die einde van paragraaf (c) te skrap;
- (d) deur in subartikel (3A) die punt aan die einde van paragraaf (d) deur die uitdrukking “; of” te vervang;
- (e) deur in subartikel (3A) na paragraaf (d) die volgende paragraaf by te voeg: 20
 “(e) enige dividend deur ’n hoofkwartiermaatskappy verklaar.”;
- (f) deur in subartikel (5) paragraaf (c) te skrap.
- (g) deur in subartikel (5)(f) subparagraaf (i) deur die volgende subparagraaf te vervang:
 “(i) indien daardie aandeelhouer ’n maatskappy is wat deel vorm van 25
 dieselfde groep van maatskappye as die maatskappy wat die dividend verklaar [**en daardie dividend in berekening gebring word by die bepaling van die winste van daardie aandeelhouer**];”;
- (h) deur in subartikel (5) die woord “en” aan die einde van paragraaf (i) te skrap; 30
 en
- (i) deur in subartikel (5) paragraaf (k) deur die volgende paragraaf te vervang:
 “(k) ’n dividend verklaar deur ’n maatskappy aan ’n natuurlike persoon
 wat ’n oordrag van ’n belang in ’n woning soos beoog in paragraaf
 51 van die Agtste Bylae uitmaak; [**en**]”; en 35
- (j) deur in subartikel (5) die volgende paragraaf in te voeg:
 “(kA) enige dividend verklaar deur ’n maatskappy wat ’n beskikking oor ’n belang in ’n woning soos beoog in paragraaf 51A van die Agtste Bylae uitmaak; en”.
- (2) Paragraawe (a), (f) en (g) van subartikel (1) tree op 1 Januarie 2011 in werking. 40
- (3) Paragraaf (b), (c), (d) en (e) van subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin.
- (4) Paragraaf (h) van subartikel (1) word geag op 1 Januarie 2009 in werking te getree het.
- (5) Paragraaf (i) van subartikel (1) word geag op 11 Februarie 2009 in werking te 45
 getree het en is van toepassing ten opsigte van oordragte op of na daardie datum gemaak ten opsigte van beskikkings voor 1 Oktober 2010 gemaak.
- (6) Paragraaf (j) van subartikel (1) tree op 1 Oktober 2010 in werking en is van toepassing ten opsigte van beskikkings op of na daardie datum en voor 1 Januarie 2013 50
 gemaak.

Amendment of section 64C of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967 and amended by section 15 of Act 76 of 1968, section 36 of Act 89 of 1969, section 21 of Act 52 of 1970, section 26 of Act 88 of 1971, section 20 of Act 90 of 1972, section 42 of Act 85 of 1974, section 22 of Act 113 of 1977, section 14 of Act 104 of 1979, section 22 of Act 104 of 1980, section 24 of Act 96 of 1981, section 21 of Act 91 of 1982, section 34 of Act 94 of 1983, section 29 of Act 121 of 1984, section 18 of Act 65 of 1986, section 8 of Act 108 of 1986, section 22 of Act 85 of 1987, section 33 of Act 90 of 1988, section 34 of Act 113 of 1993, section 13 of Act 140 of 1993, section 25 of Act 21 of 1994, section 30 of Act 21 of 1995, section 22 of Act 36 of 1996, section 40 of Act 30 of 1998, section 36 of Act 53 of 1999, section 40 of Act 30 of 2000, section 43 of Act 59 of 2000, section 37 of Act 74 of 2002, section 38 of Act 12 of 2003, section 59 of Act 45 of 2003, section 41 of Act 32 of 2004, section 48 of Act 31 of 2005, section 60 of Act 35 of 2007, section 33 of Act 3 of 2008 and section 52 of Act 17 of 2009

69. (1) Section 64C of the Income Tax Act, 1962, is hereby amended—
- (a) by the addition in subsection (1) of the word “or” at the end of paragraph (a) of the definition of “share incentive scheme”;
- (b) by the deletion in subsection (1) of paragraph (b) of the definition of “share incentive scheme”;
- (c) by the substitution in subsection (2) for paragraph (e) of the following paragraph:
- “(e) that amount represents the greater of—
- (i) the difference between—
- (aa) the taxable income or assessed loss of that company; and
- (bb) the taxable income or assessed loss of that company without regard to section 31(2); and
- (ii) nil.”;
- (d) by the substitution in subsection (2) for paragraph (f) of the following paragraph:
- “(f) the company ceases to be a resident to the extent [**profits and reserves of that company are available for distribution immediately before so ceasing to be a resident (including any amount deemed in terms of the definition of ‘dividend’ in section 1 to be a profit available for distribution) : Provided that any prohibition or limitation on any distribution contained in the company’s memorandum and articles of association or founding statement or any agreement must be disregarded**] that the market value of all the assets of the company on the date immediately before the day on which the company ceases to be a resident exceeds—
- (i) the liabilities of that company as at that date; and
- (ii) the sum of the contributed tax capital of all the classes of shares of that company as at that date.”;
- (e) by the substitution for the proviso to subsection (2) of the following proviso:
- “: Provided that, for purposes of this subsection, in determining whether a person is a shareholder or connected person in relation to a shareholder in relation to any company, no regard must be had to any share that is a listed share”;
- (f) by the deletion in subsection (4) of paragraph (a);
- (g) by the substitution in subsection (4) for paragraph (c) of the following paragraph:
- “(c) to so much of any amount [**other than an amount**] contemplated in [subsection (2)(e)] as exceeds the company’s profits and reserves which are available for distribution, including any amount deemed in terms of the definition of ‘dividend’ in section 1 to be a profit available for distribution: Provided that any prohibition or limitation on any such distribution contained in the company’s memorandum and articles of association or founding statement or any agreement shall be disregarded in

Wysiging van artikel 64C van Wet 58 van 1962, soos ingevoeg deur artikel 20 van Wet 95 van 1967 en gewysig deur artikel 15 van Wet 76 van 1968, artikel 36 van Wet 89 van 1969, artikel 21 van Wet 52 van 1970, artikel 26 van Wet 88 van 1971, artikel 20 van Wet 90 van 1972, artikel 42 van Wet 85 van 1974, artikel 22 van Wet 113 van 1977, artikel 14 van Wet 104 van 1979, artikel 22 van Wet 104 van 1980, artikel 24 van Wet 96 van 1981, artikel 21 van Wet 91 van 1982, artikel 34 van Wet 94 van 1983, artikel 29 van Wet 121 van 1984, artikel 18 van Wet 65 van 1986, artikel 8 van Wet 108 van 1986, artikel 22 van Wet 85 van 1987, artikel 33 van Wet 90 van 1988, artikel 34 van Wet 113 van 1993, artikel 13 van Wet 140 van 1993, artikel 25 van Wet 21 van 1994, artikel 30 van Wet 21 van 1995, artikel 22 van Wet 36 van 1996, artikel 40 van Wet 30 van 1998, artikel 36 van Wet 53 van 1999, artikel 40 van Wet 30 van 2000, artikel 43 van Wet 59 van 2000, artikel 37 van Wet 74 van 2002, artikel 38 van Wet 12 van 2003, artikel 59 van Wet 45 van 2003, artikel 41 van Wet 32 van 2004, artikel 48 van Wet 31 van 2005, artikel 60 van Wet 35 van 2007, artikel 33 van Wet 3 van 2008 en artikel 52 van Wet 17 van 2009

69. (1) Artikel 64C van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in subartikel (1) die woord “of” aan die einde van paragraaf (a) van die omskrywing van “aandele-aansporingskema” by te voeg;
- (b) deur in subartikel (1) paragraaf (b) van die omskrywing van “aandele-aansporingskema” te skrap;
- (c) deur in subartikel (2) paragraaf (e) deur die volgende paragraaf te vervang:
 “(e) daardie bedrag die grootste voorstel van—
 (i) die verskil tussen—
 (aa) die belasbare inkomste of aangeslane verlies van daardie maatskappy; en
 (bb) die belasbare inkomste of aangeslane verlies van daardie maatskappy sonder inagneming van artikel 31(2); en
 (ii) nul.”;
- (d) deur in subartikel (2) paragraaf (f) deur die volgende paragraaf te vervang:
 “(f) die maatskappy ophou om ’n inwoner te wees in die mate wat [winste en reserwes van daardie maatskappy beskikbaar is vir uitkering onmiddellik voor dit aldus opgehou het om ’n inwoner te wees (waarby ingesluit word enige bedrag wat ingevolge die omskrywing van ‘dividend’ in artikel 1 geag word ’n wins beskikbaar vir uitkering te wees): Met dien verstande dat enige verbod of beperking op enige uitkering in die maatskappy se akte van oprigting en statute of stigtingsverklaring of in enige ooreenkoms vervat, verontagsaam word] die markwaarde van al die bates van die maatskappy op die datum onmiddellik voor die dag waarop die maatskappy ophou om ’n inwoner te wees—
 (i) die laste van daardie maatskappy op daardie datum oorskry; en
 (ii) die som van die toegevoegde belastingkapitaal van al die klasse van aandele van daardie maatskappy op daardie datum oorskry.”;
- (e) deur die voorbehoudsbepaling tot subartikel (2) deur die volgende voorbehoudsbepaling te vervang:
 “: Met dien verstande dat, by die toepassing van hierdie subartikel, by die bepaling of ’n persoon ’n aandeelhouer of verbonde persoon met betrekking tot ’n aandeelhouer met betrekking tot enige maatskappy, geen ag geslaan word op ’n aandeel wat ’n genoteerde aandeel is nie”;
- (f) deur in subartikel (4) paragraaf (a) te skrap;
- (g) deur in subartikel (4) paragraaf (c) deur die volgende paragraaf te vervang:
 “(c) op soveel van enige bedrag [(behalwe ’n bedrag in subartikel (2)(e) beoog] as wat die maatskappy se winste en reserwes wat vir uitkering beskikbaar is, oorskry, met inbegrip van enige bedrag wat ingevolge die omskrywing van ‘dividend’ in artikel 1 geag word ’n wins beskikbaar vir uitkering te wees: Met dien verstande dat enige verbod of beperking op enige bedoelde uitkering in die maatskappy se akte van oprigting en statute of stigtingsverklaring of in enige ooreenkoms vervat, by die

the application of this paragraph] subsection (2)(a), (b), (c), (d) or (g) that—

- (i) is distributed, transferred, released, relieved, paid, settled, used, applied, granted or made available for the benefit of any person; and
 - (ii) reduces the market value of all the assets of the company to an amount that is less than the liabilities of the company;”;
- (h) by the substitution in subsection (4)(l) for subparagraphs (i) and (ii) of the following subparagraphs:
- “(i) the company (whether alone or together with any other company forming part of the same group of companies as the company) directly or indirectly holds at least 20 per cent of the total equity **[share capital of] shares in** that other company; and
 - (ii) that other company does not hold any **[equity] shares in the company [, or in any company forming part of the same group of companies as the company].”**.

(2) Paragraphs (a), (b), (d), (f), (g) and (h) of subsection (1) come into operation on 1 January 2011.

(3) Paragraph (c) of subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 October 2011.

(4) Paragraph (e) of subsection (1) is deemed to have come into operation on 1 January 2009.

Amendment of section 64D of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009

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

- (a) by the deletion of the word “or” at the end of paragraph (d) of the definition of “regulated intermediary”;
- (b) by the addition of the word “or” at the end of paragraph (e) of the definition of “regulated intermediary”; and
- (c) by the insertion in the definition of “regulated intermediary” of the following paragraph:
 - “(f) transfer secretary that is a person other than a natural person and that has been approved by the Commissioner subject to such conditions and requirements as may be determined by the Commissioner;”.

(2) Subsection (1) comes into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation.

Amendment of section 64E of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009

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

- (a) by the substitution for subsection (1) of the following subsection:
 - “(1) There must be levied for the benefit of the National Revenue Fund a tax, to be known as the dividends tax, calculated at the rate of 10 per cent of the amount of any dividend paid by **[a] any company other than a headquarter company.**”;
- (b) by the substitution in subsection (3)(a) for subparagraph (ii) of the following paragraph:
 - “(ii) some other person or body of persons with comparable authority **[conferred under the memorandum and articles of association of the company making the distribution or]** under a law, rule or regulation to which that company is subject; or”.

(2) Subsection (1) comes into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation.

toepassing van hierdie paragraaf verontagsaam word] beoog in subartikel (2)(a), (b), (c), (d) of (g) wat—

- (i) ten behoeve van enige persoon uitgekeer, oorgedra, vry-geskeld, afgelos, betaal, vereffen, gebruik, toegepas, toegestaan of beskikbaar gestel word; en 5
- (ii) die markwaarde van al die bates van die maatskappy verminder tot 'n bedrag wat minder as die laste van die maatskappy is;” en

(h) deur in subartikel (4)(l) subparagrafe (i) en (ii) deur die volgende subparagrafe te vervang: 10

- “(i) die maatskappy (hetsy alleen of tesame met enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as die maatskappy) regstreeks of onregstreeks minstens 20 persent van die totale **[ekwiteitsaandelekapitaal van] ekwiteitsaandele** in daardie ander maatskappy hou; en 15
- (ii) daardie ander maatskappy nie **[ekwiteitsaandele] aandeel** in die maatskappy[, **of in enige maatskappy wat deel uitmaak van dieselfde groep van maatskappye as die maatskappy,**] hou nie.”.

(2) Paragrafe (a), (b), (d), (f), (g) en (h) van subartikel (1) tree op 1 Januarie 2011 in werking. 20

(3) Paragraaf (c) van subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Oktober 2011 begin.

(4) Paragraaf (e) van subartikel (1) word geag op 1 Januarie 2009 in werking te getree het.

Wysiging van artikel 64D van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009 25

70. (1) Artikel 64D van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur die woord “of” aan die einde van paragraaf (d) van die omskrywing van “gereguleerde tussenganger” te skrap;
- (b) deur die woord “of” aan die einde van paragraaf (e) van die omskrywing van “gereguleerde tussenganger” by te voeg; en 30
- (c) deur in die omskrywing van “gereguleerde tussenganger” die volgende paragraaf by te voeg:

“(f) oordragsekretaris wat 'n persoon anders as 'n natuurlike persoon is en wat deur die Kommissaris goedgekeur is behoudens die voorwaardes en vereistes deur die Kommissaris bepaal te word;”.

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van artikel 64E van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009 40

71. (1) Artikel 64E van die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
 - “(1) Daar moet ten bate van die Nasionale Inkomstefonds gehef word 'n belasting, die dividendbelasting genoem, bereken teen die koers van 10 persent van die bedrag van 'n dividend deur [**n**] **enige** maatskappy **buiten 'n hoofkwartiermaatskappy** betaal.”; en 45

(b) deur in subartikel (3A) subparagraaf (ii) deur die volgende paragraaf te vervang:

“(ii) 'n ander persoon of liggaam van persone met vergelykbare gesag **[wat verleen is kragtens die akte van oprigting en statute van die maatskappy wat die uitkering maak of]** kragtens 'n wet, reël of regulasie waaraan daardie maatskappy onderhewig is; of”.

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Amendment of section 64F of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009

72. (1) Section 64F of the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution for paragraph (i) of the following paragraph: 5
 “(i) a shareholder that is a natural person and the dividend constitutes a
[transfer] disposal of an interest in a residence as contemplated in
paragraph [51(2)] 51A of the Eighth Schedule; [or]”; and
- (b) by the insertion of the following paragraph:
 “(iA) the dividend constitutes a disposal of an interest in a residence as
contemplated in paragraph 51A of the Eighth Schedule; or”. 10

(2) Subsection (1) comes into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation and applies in respect of dividends paid on or after that date.

Amendment of section 64G of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 15

73. (1) Section 64G of the Income Tax Act, 1962, is hereby amended by the substitution for subsections (2) and (3) of the following subsections:

- “(2) A company must not withhold any dividends tax from the payment of a dividend contemplated in subsection (1) if—
- (a) the person to whom the payment is made has— 20
 (i) by a date determined by the company; or
 (ii) if the company did not determine a date as contemplated in subparagraph (i), by the date of payment of the dividend, submitted to the company—
 (aa) a declaration by the beneficial owner in such form as may be 25
 prescribed by the Commissioner that the dividend is exempt from the dividends tax in terms of section 64F; and
 (bb) a written undertaking in such form as may be prescribed by the Commissioner to forthwith inform the company in writing should the beneficial owner cease to be the beneficial 30
 owner;”

- (b) the beneficial owner forms part of the same group of companies, as defined in section 41, as the company that paid the dividend; or
 (c) the payment is made to a regulated intermediary.

(3) A company must withhold dividends tax from the payment of a dividend contemplated in subsection (1) at a reduced rate if the person to whom the payment is made has— 35

- (a) by a date determined by the company; or
 (b) if the company did not determine a date as contemplated in paragraph (a), by the date of payment of the dividend, 40
 submitted to the company—
 (i) a declaration by the beneficial owner in such form as may be prescribed by the Commissioner that the dividend is subject to that reduced rate as a result of the application of an agreement for the avoidance of double taxation; and 45
 (ii) a written undertaking in such form as may be prescribed by the Commissioner to forthwith inform the company in writing should the beneficial owner cease to be the beneficial owner.”

(2) Subsection (1) comes into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation. 50

Amendment of section 64H of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009

74. (1) Section 64H of the Income Tax Act, 1962, is hereby amended by the substitution for subsections (2) and (3) of the following subsections:

- “(2) A regulated intermediary must not withhold any dividends tax from the payment of a dividend contemplated in subsection (1) if— 55
 (a) the person to whom the payment is made has—

Wysiging van artikel 64F van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009

72. (1) Artikel 64F van die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur paragraaf (i) deur die volgende paragraaf te vervang: 5
- “(i) ’n aandeelhouer is wat ’n natuurlike persoon is en die dividend ’n [oordrag] beskikking uitmaak van ’n belang in ’n woning soos beoog in paragraaf [51(2)] 51A van die Agtste Bylae; [of]”; en
- (b) deur die volgende paragraaf in te voeg: 10
- “(iA) die dividend ’n beskikking uitmaak oor ’n belang in ’n woning soos beoog in paragraaf 51A van die Agtste Bylae; of”.
- (2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree en is van toepassing ten opsigte van dividende op of na daardie datum betaal.

Wysiging van artikel 64G van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009 15

73. (1) Artikel 64G van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikels (2) en (3) deur die volgende subartikels te vervang:
- “(2) ’n Maatskappy moet nie enige dividendbelasting van die betaling van ’n dividend beoog in subartikel (1) terughou nie indien—
- (a) die persoon aan wie die betaling gemaak word— 20
- (i) teen ’n datum bepaal deur die maatskappy; of
- (ii) indien die maatskappy nie ’n datum bepaal het soos beoog in subparagraaf (i) nie, teen die datum van betaling van die dividend, aan die maatskappy—
- (aa) ’n verklaring voorgelê het deur die uiteindelik geregtigde in die vorm deur die Kommissaris voorgeskryf dat die dividend ingevolge artikel 64F van die dividendbelasting vrygestel is; 25
- en
- (bb) ’n skriftelike onderneming in die vorm deur die Kommissaris voorgeskryf om die maatskappy onverwyld skriftelik in te lig sou die uiteindelik geregtigde ophou om die uiteindelik geregtigde te wees; 30
- (b) die uiteindelik geregtigde deel uitmaak van dieselfde groep van maatskappye, soos omskryf in artikel 41, as die maatskappy wat die dividend betaal; of
- (c) die betaling aan ’n geregleerde tussenganger gemaak word. 35
- (3) ’n Maatskappy moet dividendbelasting van die betaling van ’n dividend beoog in subartikel (1) teen ’n verminderde koers terughou indien die persoon aan wie die betaling gemaak word—
- (a) teen ’n datum deur die maatskappy bepaal; of
- (b) indien die maatskappy nie ’n datum bepaal het soos beoog in paragraaf (a) nie, teen die datum van betaling van die dividend, 40
- aan die maatskappy—
- (i) ’n verklaring voorgelê het deur die uiteindelik geregtigde in die vorm deur die Kommissaris voorgeskryf dat die dividend as gevolg van die toepassing van ’n ooreenkoms vir die voorkoming van dubbele belasting aan daardie verminderde koers onderhewig is; en 45
- (ii) ’n skriftelike onderneming in die vorm deur die Kommissaris voorgeskryf om die maatskappy onverwyld skriftelik in te lig sou die uiteindelik geregtigde ophou om die uiteindelik geregtigde te wees.”. 50
- (2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van artikel 64H van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009

74. (1) Artikel 64H van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikels (2) en (3) deur die volgende subartikels te vervang: 55
- “(2) ’n Geregleerde tussenganger moet nie dividendbelasting van die betaling van ’n dividend beoog in subartikel (1) terughou nie indien—
- (a) die persoon aan wie die betaling gemaak word—

- (i) by a date determined by the regulated intermediary; or
- (ii) if the regulated intermediary did not determine a date as contemplated in subparagraph (i), by the date of payment of the dividend, submitted to the regulated intermediary—
 - (aa) a **[written]** declaration by the beneficial owner in such form as may be prescribed by the Commissioner [may prescribe] that the dividend is exempt from the dividends tax in terms of section 64F; and
 - (bb) a written undertaking in such form as may be prescribed by the Commissioner to forthwith inform the regulated intermediary in writing should the beneficial owner cease to be the beneficial owner; or

(b) the payment is made to another regulated intermediary.

(3) A regulated intermediary must withhold dividends tax from the payment of a dividend contemplated in subsection (1) at a reduced rate if the person to whom the payment is made has—

- (a) by a date determined by the regulated intermediary; or
- (b) if the regulated intermediary did not determine a date as contemplated in paragraph (a), by the date of payment of the dividend, submitted to the regulated intermediary—
 - (i) a declaration by the beneficial owner in such form as may be prescribed by the Commissioner that the dividend is subject to that reduced rate as a result of the application of an agreement for the avoidance of double taxation; and
 - (ii) a written undertaking in such form as may be prescribed by the Commissioner to forthwith inform the regulated intermediary in writing should the beneficial owner cease to be the beneficial owner.

(2) Subsection (1) comes into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation.

Amendment of section 640 of Act 58 of 1962, as inserted by section 54 of Act 17 of 2009

75. (1) Section 640 of the Income Tax Act, 1962, is hereby amended by the substitution for the definition of “market-related rate” of the following definition:

- “ **‘market-related rate’**, in relation to financial assistance provided by a company for a period during a year of assessment, means[—
- (a) **where the financial assistance is provided to a natural person or a trust, the average of the official rate of interest, as defined in paragraph (1) of the Seventh Schedule, for that period; or**
 - (b) **where the financial assistance is provided to a person other than a natural person or a trust—**
 - (i) **in the case of financial assistance that is denominated in rands, a rate of interest equal to the average of the South African repurchase rate plus 100 basis points for the period; or**
 - (ii) **in the case of financial assistance that is denominated in any currency other than rands, a rate of interest equal to the average of the equivalent of the South African repurchase rate applicable in that currency plus 100 basis points for the period]**

a rate of interest equal to the rate that would have been applicable to that financial assistance had the company and the person to whom the financial assistance is granted been independent persons dealing at arm’s length;”.

(2) Subsection (1) comes into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation.

- (i) teen 'n datum bepaal deur die gereguleerde tussenganger; of
- (ii) indien die gereguleerde tussenganger nie 'n datum bepaal het soos beoog in subparagraaf (i) nie, teen die datum van betaling van die dividend,
- aan die gereguleerde tussenganger— 5
- (aa) 'n [skriftelike] verklaring voorgelê het deur die uiteindelik geregtigde in die vorm [wat] deur die Kommissaris [voorskryf] voorgeskryf dat die dividend ingevolge artikel 64F van die dividendbelasting vrygestel is; en
- (bb) 'n skriftelike onderneming voorgelê het in die vorm deur die Kommissaris voorgeskryf om die gereguleerde tussenganger onverwyld skriftelik in te lig sou die uiteindelik geregtigde ophou om die uiteindelik geregtigde te wees; of 10
- (b) die betaling aan 'n ander gereguleerde tussenganger gemaak word.
- (3) 'n Gereguleerde tussenganger moet dividendbelasting teen 'n verminderde koers van die betaling van 'n dividend beoog in subartikel (1) terughou indien die persoon aan wie die betaling gemaak word— 15
- (a) teen 'n datum bepaal deur die gereguleerde tussenganger; of
- (b) indien die gereguleerde tussenganger nie 'n datum bepaal het soos in paragraaf (a) beoog nie, teen die datum van betaling van die dividend, 20
- aan die gereguleerde tussenganger—
- (i) 'n verklaring voorgelê het deur die uiteindelik geregtigde in die vorm [wat] deur die Kommissaris [voorskryf] voorgeskryf dat die dividend as gevolg van die toepassing van 'n ooreenkoms vir die vermyding van dubbele belasting aan daardie verminderde koers onderhewig is; en 25
- (ii) 'n skriftelike onderneming voorgelê het in die vorm deur die Kommissaris voorgeskryf om die gereguleerde tussenganger onverwyld skriftelik in te lig sou die uiteindelik geregtigde ophou om die uiteindelik geregtigde te wees.’’ 30
- (2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van artikel 64O van Wet 58 van 1962, soos ingevoeg deur artikel 54 van Wet 17 van 2009

75. (1) Artikel 64O van die Inkomstebelastingwet, 1962, word hierby gewysig deur die omskrywing van “markverwante koers” deur die volgende omskrywing te vervang: 35
- “**markverwante koers**”, met betrekking tot finansiële bystand deur 'n maatskappy vir 'n tydperk gedurende 'n jaar van aanslag voorsien—
- (a) **waar die finansiële bystand aan 'n natuurlike persoon of 'n trust voorsien word, die gemiddelde van die amptelike rentekoers, soos omskryf in paragraaf 1 van die Sewende Bylae, vir daardie tydperk; of** 40
- (b) **waar die finansiële bystand aan 'n ander persoon as 'n natuurlike persoon of 'n trust voorsien word—**
- (i) **in die geval van finansiële bystand wat in rand gedenomineer word, 'n rentekoers gelykstaande aan die gemiddelde van die Suid-Afrikaanse heraankoopkoers plus 100 basispunte vir die tydperk; of** 45
- (ii) **in die geval van finansiële bystand in 'n ander geldeenheid as rand gedenomineer word, 'n rentekoers gelykstaande aan die gemiddelde van die ekwivalent van die Suid-Afrikaanse heraankoopkoers toepaslik in daardie geldeenheid plus 100 basispunte vir die tydperk]** 50
- , 'n rentekoers gelykstaande aan die koers wat op daardie finansiële bystand van toepassing sou gewees het indien die maatskappy en die persoon aan wie die finansiële bystand voorsien word onafhanklike persone was wat op uiterste voorwaardes beding het;’’. 55
- (2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Amendment of section 64Q of Act 58 of 1962, as inserted by section 54 of Act 17 of 2009

76. (1) Section 64Q of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) the company (whether alone or together with any other company forming part of the same group of companies as the company) directly or indirectly holds at least 20 per cent of the [total] equity [share capital of] shares in that other company; and”.

(2) Subsection (1) comes into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation and applies in respect of dividends paid on or after that date.

Amendment of section 80L of Act 58 of 1962, as inserted by section 34 of Act 20 of 2006 and amended by section 42 of Act 8 of 2007

77. Section 80L of the Income Tax Act, 1962, is hereby amended by the deletion of the definition of “tax benefit”.

Amendment of paragraph 11 of First Schedule to Act 58 of 1962, as substituted by section 44 of Act 113 of 1993 and amended by section 32 of Act 36 of 1996 and section 41 of Act 53 of 1999

78. (1) Paragraph 11 of the First Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (c) for item (iii) of the following item:

“(iii) where the farmer is a company, has on or after 21 June 1993 been distributed *in specie* [(whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital (including any share premium), a redemption of redeemable preference shares or an acquisition of shares in terms of section 85 of the Companies Act, 1973 (Act No. 61 of 1973),] to a shareholder of such company; or”.

(2) Subsection (1) comes into operation on 1 January 2011.

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

79. (1) Paragraph 1 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the definition of “lump sum benefit” of the following definition:

“‘lump sum benefit’ includes—

(a) any amount determined in respect of the commutation of an annuity or portion of an annuity—

(i) payable by; or

(ii) provided in consequence of membership or past membership of, a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; and

(b) any fixed or ascertainable amount (other than an annuity)—

(i) payable by; or

(ii) provided in consequence of membership or past membership of, a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund,

Wysiging van artikel 64Q van Wet 58 van 1962, soos vervang deur artikel 54 van Wet 17 van 2009

76. (1) Artikel 64Q van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) die maatskappy (hetsy alleen of tesame met ’n ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as die maatskappy) regstreeks of onregstreeks minstens 20 persent van die **[totale ekwiteitsaandelekapitaal van] aandeel** in daardie ander maatskappy hou; en”.

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree en is van toepassing ten opsigte van dividende op of na daardie datum betaal.

Wysiging van artikel 80L van Wet 58 van 1962, soos ingevoeg deur artikel 34 van Wet 20 van 2006 en gewysig deur artikel 42 van Wet 8 van 2007

77. Artikel 80L van die Inkomstebelastingwet, 1962, word hierby gewysig deur die omskrywing van “belastingvoordeel” te skrap.

Wysiging van paragraaf 11 van Eerste Bylae by Wet 58 van 1962, soos vervang deur artikel 44 van Wet 113 van 1993 en gewysig deur artikel 32 van Wet 36 van 1996 en artikel 41 van Wet 53 van 1999

78. (1) Paragraaf 11 van die Eerste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (c) item (iii) deur die volgende item te vervang:

“(iii) waar die boer ’n maatskappy is, op of na 21 Junie 1993 aan ’n aandeelhouer van bedoelde maatskappy *in specie* uitgekeer is **[(hetsy daardie uitkering plaasgevind het by wyse van ’n dividend, met inbegrip van ’n likwidasi-dividend, ’n algehele of gedeeltelike vermindering van kapitaal (met inbegrip van enige aandeelpremie), ’n afflossing van afflosbare voorkeuraandele) of ’n verkryging van aandele ingevolge artikel 85 van die Maatskappywet, 1973 (Wet No. 61 van 1973)]**; of”.

(2) Subartikel (1) tree op 1 Januarie 2011 in werking.

Wysiging van paragraaf 1 van Tweede Bylae by Wet 58 van 1962, soos gewysig deur artikel 31 van Wet 90 van 1962, artikel 23 van Wet 90 van 1964, artikel 34 van Wet 88 van 1971, artikel 34 van Wet 69 van 1975, artikel 26 van Wet 113 van 1977, artikel 17 van Wet 104 van 1979, artikel 27 van Wet 104 van 1980, artikel 28 van Wet 96 van 1981, artikel 46 van Wet 94 van 1983, artikel 24 van Wet 65 van 1986, artikel 17 van Wet 104 van 1979, artikel 24 van Wet 65 van 1986, artikel 43 van Wet 101 van 1990, artikel 35 van Wet 21 van 1995, artikel 41 van Wet 28 van 1997, artikel 47 van Wet 30 van 1998, artikel 82 van Wet 45 van 2003, artikel 43 van Wet 32 van 2004, artikel 46 van Wet 8 van 2007, artikel 61 van Wet 35 van 2007, artikel 36 van Wet 3 van 2008, artikel 58 van Wet 60 van 2008 en artikel 56 van Wet 17 van 2009

79. (1) Paragraaf 1 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die omskrywing van “enkelbedragvoordeel” deur die volgende omskrywing te vervang:

“‘enkelbedragvoordeel’ ook—

(a) ’n bedrag bepaal ten opsigte van die omsetting van ’n lyfrente of jaargeld of ’n gedeelte van ’n lyfrente of jaargeld—

(i) betaalbaar deur; of

(ii) **[, indien die lyfrente of jaargeld]** voorsien **[word]** as gevolg van lidmaatskap of gewese lidmaatskap **[deur enige persoon]** van, ’n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds; en

(b) enige bepaalde of bepaalbare bedrag (behalwe ’n lyfrente of jaargeld)—

(i) betaalbaar deur; of

(ii) as gevolg van lidmaatskap of gewese lidmaatskap van, ’n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds,

whether in one amount or in instalments, other than any amount deemed to be income accrued to a person in terms of section 7(11);”.

(2) Subsection (1) comes into operation on 1 March 2011 and applies in respect of any lump sum benefit accrued on or after that date.

Amendment of paragraph 2 of Second Schedule to Act 58 of 1962, as substituted by section 57 of Act 17 of 2009 5

80. (1) Paragraph 2 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the deletion in subparagraph (1)(a) of the word “or” at the end of subitem (i); 10

(b) by the substitution in subparagraph (1)(a)(ii) for the words preceding subsubitem (AA) of the following words:

“the termination or loss of his or her employment due to—”;

(c) by the substitution in subparagraph (1)(a)(ii) for subsubitem (AA) of the following subsubitem: 15

“(AA) his or her employer having ceased to carry on or intending to cease carrying on the trade in respect of which he or she was employed or appointed; or”;

(d) by the substitution in subparagraph (1)(a) for the proviso to subitem (ii) of the following proviso: 20

“Provided that this subitem does not apply to any amount received by or accrued to a person by way of a lump sum where that person’s employer is a company and that person was at any time a director of that company or at any time held more than five per cent of the **[issued share capital] equity shares** or members’ interest in that company[,; or”]; 25

(e) by the substitution in subparagraph (1)(a) for the proviso to subitem (ii) of the following proviso: 30

“Provided that this subitem does not apply to any amount received by or accrued to a person by way of a lump sum where that person’s employer is a company and that person **[was at any time a director of that company or]** at any time held more than five per cent of the equity shares or members’ interest in that company; or”;

(f) by the addition to subparagraph (1)(a) of the following subitem:

“(iii) the commutation of an annuity or portion of an annuity,”;

(g) by the substitution in subparagraph (1)(a) for the words following subitem (iii) of the following words: 35

“less any deduction permitted under the provisions of paragraph 5 or 6; and”;

(h) by the substitution in subparagraph (1)(b) for subitem (iA) of the following subitem: 40

“(iA) assigned in terms of a divorce order granted on or after 13 September 2007 under section 7(8)(a) of the Divorce Act, 1979 (Act No. 70 of 1979), to the extent that the amount so assigned is deducted from the minimum individual reserve of that person’s former spouse in terms of section 37D(1)(d)(i) of the Pension Funds Act, 1956 (Act No. 24 of 1956), or is so deducted in terms of section 37D(1)(d)(ii) of that Act as a result of the deduction contemplated in section 37D(1)(d)(i) of that Act;”.

(2) Paragraphs (a), (b), (c), (e) and (f) of subsection (1) come into operation on 1 March 2011. 50

(3) Paragraph (d) of subsection (1) comes into operation on 1 January 2011.

(4) Paragraph (g) of subsection (1) is deemed to have come into operation on 1 March 2009 and applies in respect of any lump sum benefit received or accrued on or after that date.

(5) Paragraph (h) of subsection (1) is deemed to have come into operation on 1 March 2009 and applies in respect of amounts deducted on or after that date. 55

hetsy in een bedrag of in paaiemente, buiten enige bedrag geag inkomste ingevolge artikel 7(11) aan 'n persoon toegeval te wees;”.

(2) Subartikel (1) tree op 1 Maart 2011 in werking en is van toepassing op enige enkelbedragvoordeel op of na daardie datum toegeval.

Wysiging van paragraaf 2 van Tweede Bylae by Wet 58 van 1962, soos vervang deur artikel 57 van Wet 17 van 2009 5

80. (1) Paragraaf 2 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (1)(a) die woord “of” aan die einde van subitem (i) te skrap; 10

(b) deur in subparagraaf (1)(a)(ii) die woorde wat subsubitem (AA) voorafgaan deur die volgende woorde te vervang:

“die beëindiging of verlies van sy of haar diens ten gevolge daarvan dat—”;

(c) deur in subparagraaf (1)(a)(ii) subsubitem (AA) deur die volgende subsubitem te vervang: 15

“(AA) sy of haar werkgewer opgehou het of van plan is om op te hou om die bedryf te beoefen ten opsigte waarvan hy of sy in diens geneem of aangestel is; of”;

(d) deur in subparagraaf (1)(a) die voorbehoudsbepaling tot subitem (ii) deur die volgende voorbehoudsbepaling te vervang: 20

“Met dien verstande dat hierdie subitem nie van toepassing is nie op 'n bedrag by wyse van 'n enkelbedragvoordeel ontvang deur of toegeval aan 'n persoon waar daardie persoon se werkgewer 'n maatskappy is en daardie persoon op enige tydstip 'n direkteur van daardie maatskappy was of op enige tydstip meer as vyf persent van die **[uitgereikte aandelekapitaal]** ekwiteitsaandele of ledebelang in daardie maatskappy gehou het; of”;

(e) deur in subparagraaf (1)(a) die voorbehoudsbepaling tot subitem (ii) deur die volgende voorbehoudsbepaling te vervang: 30

“Met dien verstande dat hierdie subitem nie van toepassing is nie op 'n bedrag by wyse van 'n enkelbedragvoordeel ontvang deur of toegeval aan 'n persoon waar daardie persoon se werkgewer 'n maatskappy is en daardie persoon **[op enige tydstip 'n direkteur van daardie maatskappy was of]** op enige tydstip meer as vyf persent van die ekwiteitsaandele of ledebelang in daardie maatskappy gehou het; of”;

(f) deur die volgende subitem by subparagraaf (1)(a) te voeg: 35

“(iii) die omskakeling van 'n annuïteit of gedeelte van 'n annuïteit;”;

(g) deur in subparagraaf (1)(a) die woorde wat op subitem (iii) volg deur die volgende woorde te vervang: 40

“verminder met enige aftrekking kragtens die bepalings van paragraaf 5 of 6 toegelaat; en”;

(h) deur in subparagraaf (1)(b) subitem (iA) deur die volgende subitem te vervang:

“(iA) toegeken ingevolge 'n egskedingsbevel op of na 13 September 2007 kragtens artikel 7(8)(a) van die Wet op Egskeding, 1979 (Wet No. 70 van 1979), toegestaan namate die bedrag aldus toegeken van die minimum individuele reserwe van daardie persoon se voormalige gade afgetrek word ingevolge artikel 37D(1)(d)(i) van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), of aldus afgetrek word ingevolge artikel 37D(1)(d)(ii) van daardie Wet as gevolg van die aftrekking beoog in artikel 37D(1)(d)(i) van daardie Wet;”.

(2) Paragraawe (a), (b), (c), (e) en (f) van subartikel (1) tree op 1 Maart 2011 in werking. 55

(3) Paragraaf (d) van subartikel (1) tree op 1 Januarie 2011 in werking.

(4) Paragraaf (g) van subartikel (1) word geag op 1 Maart 2009 in werking te getree het en is van toepassing ten opsigte van enige enkelbedragvoordeel op of na daardie datum ontvang of toegeval.

(5) Paragraaf (h) van subartikel (1) word geag op 1 Maart 2009 in werking te getree het en is van toepassing ten opsigte van bedrae op of na daardie datum afgetrek. 60

Amendment of paragraph 3 of Second Schedule to Act 58 of 1962, as amended by section 47 of Act 94 of 1983, section 50 of Act 30 of 1998, section 50 of Act 8 of 2007, section 40 of Act 3 of 2008, section 62 of Act 60 of 2008 and section 59 of Act 17 of 2009

81. (1) Paragraph 3 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for that paragraph of the following paragraph: 5

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

- (a) a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; or
- (b) an insurer as defined in section 29A(1) if that lump sum benefit is payable by, or provided in consequence of membership or past membership of, a fund contemplated in subparagraph (a), 10

in consequence of or following upon the death of a member or past member of **[a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity]** that fund must, on the date of payment of that lump sum benefit **[in terms of section 37C of the Pension Funds Act, 1956 (Act No. 24 of 1956),]** be deemed to have accrued to that member or past member immediately prior to the death of that member or past member: Provided that— 15

- (i) so much of any tax payable as is due to the provisions of this paragraph may be recovered from the person **[to] by whom [or in whose favour]** the lump sum benefit in question **[accrues]** is received; 20
- (ii) where any annuity or portion of an annuity (including a living annuity) which becomes payable on or in consequence of or following upon the death of a member or past member of any such fund has been commuted for a lump sum, such lump sum shall for the purposes of this paragraph be deemed to be a lump sum benefit which has become recoverable in consequence of or following upon the death of such member or past member; 25
- (iii) where any such lump sum benefit becomes payable but the dependants or nominees of that member or past member elect an annuity (including a living annuity) that is purchased or provided by that fund, no lump sum benefit shall be deemed to have so accrued to the extent that the lump sum benefit was utilised to purchase or provide the annuity; and 30
- (v) where any such lump sum benefit is paid to a pension preservation fund or provident preservation fund as an unclaimed benefit as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), no lump sum benefit shall be deemed to have so accrued.”. 35

(2) Subsection (1) comes into operation on 1 March 2011.

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

82. (1) The Second Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after paragraph 3 of the following paragraph: 40

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

- (a) a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; or
- (b) an insurer as defined in section 29A(1) if that lump sum benefit is payable by or provided in consequence of membership or past membership of a fund contemplated in subparagraph (a), 45

in consequence of or following upon the death of any person other than a member or past member of that fund shall, on the date of payment of that lump sum benefit, be deemed to have accrued to that person immediately prior to the death of that person: Provided that— 50

- (i) so much of any tax payable as is due to the provisions of this paragraph may be recovered from the person by whom the lump sum benefit in question is received;
- (ii) where any annuity or portion of an annuity (including a living annuity) which becomes payable on or in consequence of or following upon the death of a person other than a member or past member of any such fund has been commuted for a lump sum, such lump sum shall for the purposes of this 55

Wysiging van paragraaf 3 van Tweede Bylae by Wet 58 van 1962, soos gewysig deur artikel 47 van Wet 94 van 1983, artikel 50 van Wet 30 van 1998, artikel 50 van Wet 8 van 2007, artikel 40 van Wet 3 van 2008, artikel 62 van Wet 60 van 2008 en artikel 59 van Wet 17 van 2009

81. (1) Paragraaf 3 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur daardie paragraaf deur die volgende paragraaf te vervang:

“3. Enige enkelbedragvoordeel wat verhaalbaar word van—

- (a) ’n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds; of
- (b) ’n versekeraar soos omskryf in artikel 29A(1) indien daardie enkelbedragvoor-
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- voordeel betaalbaar word deur, of voorsien word as gevolg van lidmaatskap of voormalige lidmaatskap van, ’n fonds in subparagraaf (a) beoog, as gevolg van of na die dood van ’n lid of gewese lid van [**’n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds verhaalbaar word**] daardie fonds, moet, op die datum van betaling van daardie enkelbedragvoordeel [**ingevolge artikel 37C van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956),**] geag word onmiddellik voor die dood van daardie lid of gewese lid aan daardie lid of gewese lid toe te geval het: Met dien verstande dat—
- (i) soveel van enige belasting betaalbaar as wat toe te skryf is aan die bepalings van hierdie paragraaf, verhaal kan word op die persoon [**aan of ten gunste van wie**] deur wie die betrokke enkelbedragvoordeel [**toeval**] ontvang word;
- (ii) waar ’n jaargeld of gedeelte van ’n jaargeld (insluitend ’n lewende annuïteit) wat op of as gevolg van of na die dood van ’n lid of gewese lid van so ’n fonds betaalbaar word [**deur**] in ’n enkelbedrag [**vervang**] omgesit is, bedoelde enkelbedrag by die toepassing van hierdie paragraaf geag word ’n enkelbedragvoordeel te wees wat as gevolg van of na die dood van bedoelde lid of gewese lid verhaalbaar geword het;
- (iii) waar enige sodanige enkelbedragvoordeel betaalbaar word, maar die afhanklikes of benoemdes van daardie lid of voormalige lid ’n jaargeld (insluitend ’n lewende annuïteit) kies wat deur daardie fonds gekoop of verskaf word, word geen enkelbedragvoordeel geag aldus toe te geval het nie namate die enkelbedragvoordeel gebruik is om die jaargeld te koop of te verskaf; en
- (v) waar enige sodanige enkelbedragvoordeel as ’n ongeëiste voordeel soos omskryf in die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), aan ’n pensioenbewaringsfonds of voorsorgbewaringsfonds betaal word, word geen enkelbedragvoordeel geag aldus toe te geval het nie.”

(2) Subartikel (1) tree op 1 Maart 2011 in werking.

Invoeging van paragraaf 3A in Tweede Bylae by Wet 58 van 1962

82. (1) Die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur na paragraaf 3 die volgende paragraaf in te voeg:

“3A. ’n Enkelbedragvoordeel wat verhaalbaar word van—

- (a) ’n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds; of
- (b) ’n versekeraar soos omskryf in artikel 29A(1) indien daardie enkelbedragvoor-
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- deel betaalbaar is deur, of voorsien word as gevolg van lidmaatskap of voormalige lidmaatskap van, ’n fonds beoog in subparagraaf (a), as gevolg van of na die dood van ’n persoon buiten ’n lid of voormalige lid van daardie fonds word, op die datum van betaling van daardie enkelbedragvoor-
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- deel, geag daardie persoon toe te geval het onmiddellik voor die dood van daardie persoon: Met dien verstande dat—
- (i) soveel van enige belasting betaalbaar as wat toe te skryf is aan die bepalings van hierdie paragraaf verhaal kan word van die persoon deur wie die tersaaklike enkelbedragvoor-
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- deel ontvang word;
- (ii) waar ’n jaargeld of gedeelte van ’n jaargeld (insluitend ’n lewende annuïteit) wat betaalbaar word op of as gevolg van of na die dood van ’n persoon buiten ’n lid of voormalige lid van enige sodanige fonds in ’n enkelbedrag omgesit is, sodanige enkelbedrag by die toepassing van hierdie paragraaf geag word

- paragraph be deemed to be a lump sum benefit which has become recoverable in consequence of or following upon the death of such person;
- (iii) where any such lump sum benefit becomes payable but the dependants or nominees of that person elect an annuity (including a living annuity) that is purchased or provided by that fund, no lump sum benefit shall be deemed to have so accrued to the extent that the lump sum benefit was utilised to purchase or provide the annuity; and 5
- (iv) where any such lump sum benefit is paid to a pension preservation fund or provident preservation fund as an unclaimed benefit as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), no lump sum benefit shall be deemed to have so accrued.”. 10
- (2) Subsection (1) comes into operation on 1 March 2011.

Amendment of paragraph 4 of Second Schedule to Act 58 of 1962, as amended by section 20 of Act 72 of 1963, section 24 of Act 90 of 1964, section 36 of Act 21 of 1995, section 41 of Act 3 of 2008, section 63 of Act 60 of 2008 and section 60 of Act 17 of 2009 15

- 83.** (1) Paragraph 4 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (1) of the following subparagraph:
- “(1) Notwithstanding the rules of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, any lump sum benefit shall be deemed to have accrued to such member on the earliest of the date— 20
- (a) on which an election is made in respect of which the benefit becomes recoverable;
- (b) on which any amount is deducted from the benefit in terms of section 37D(1)(a), (b) or (c) of the Pension Funds Act, 1956 (Act No. 24 of 1956); 25
- (c) on which the benefit is transferred to another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;
- (d) of his or her retirement; or 30
- (e) of his or her death,
- and shall be assessed to tax in respect of the year of assessment during which such lump sum benefit is deemed to accrue.”.
- (2) Subsection (1) comes into operation on 1 March 2011 and applies in respect of lump sum benefits deemed to have accrued on or after that date. 35

Amendment of paragraph 6 of Second Schedule to Act 58 of 1962, as substituted by section 62 of Act 17 of 2009

- 84.** (1) Paragraph 6 of the Second Schedule to the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in subparagraph (1) for the words preceding item (a) of the following words: 40
- “The deduction to be allowed for the purposes of paragraph [2(1)(b)] 2(1)(a)(ii) or (b) is an amount equal to—”; and
- (b) by the substitution in subparagraph (1)(b) for subitem (v) of the following subitem: 45
- “(v) any other amounts in respect of which formula C applies, which have been paid into [such funds] a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund for the taxpayer’s benefit by a pension fund contemplated in paragraph (a) or (b) of the definition of ‘pension fund’ in section 1, less the amount represented by symbol A when applying that formula.”. 50
- (2) Subsection (1) is deemed to have come into operation on 1 March 2009.

- 'n enkelbedragvoordeel te wees wat as gevolg van of na die dood van sodanige persoon verhaalbaar geword het;
- (iii) waar enige sodanige enkelbedragvoordeel betaalbaar word maar die afhanklikes of benoemdes van daardie persoon 'n jaargeld (insluitend 'n lewende annuïteit) wat deur daardie fonds gekoop of voorsien word, kies, geen enkelbedragvoordeel geag word aldus toe te geval het nie, namate die enkelbedragvoordeel gebruik is om die jaargeld te koop of te verskaf; en 5
- (iv) waar enige sodanige enkelbedragvoordeel as 'n ongeëiste voordeel soos omskryf in die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), aan 'n pensioenbewaringsfonds of voorsorgbewaringsfonds betaal word, geen enkelbedragvoordeel geag word aldus toe te geval het nie." 10
- (2) Subartikel (1) tree op 1 Maart 2011 in werking.

Wysiging van paragraaf 4 van Tweede Bylae by Wet 58 van 1962, soos gewysig deur artikel 20 van Wet 72 van 1963, artikel 24 van Wet 90 van 1964, artikel 36 van Wet 21 van 1995, artikel 41 van Wet 3 van 2008, artikel 63 van Wet 60 van 2008 en artikel 60 van Wet 17 van 2009 15

- 83.** (1) Paragraaf 4 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (1) deur die volgende subparagraaf te vervang:
- “(1) Ondanks die reëls van 'n pensioenfonds, pensioenbewaringsfonds, voorsorgfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds word enige enkelbedragvoordeel geag sodanige lid toe te geval het op die vroegste van die datum—
- (a) waarop 'n keuse gemaak word ten opsigte waarvan die voordeel verhaalbaar word;
- (b) waarop enige bedrag van die voordeel afgetrek word ingevolge artikel 37D(1)(a), (b) of (c) van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956); 25
- (c) waarop die voordeel na 'n ander pensioenfonds, pensioenbewaringsfonds, voorsorgfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds oorge- dra word; 30
- (d) van sy of haar uittreding; of
- (e) van sy of haar dood,
- en word dit vir belasting aangeslaan ten opsigte van die jaar van aanslag waartydens sodanige enkelbedragvoordeel geag word toe te val.”
- (2) Subartikel (1) tree op 1 Maart 2011 in werking en is van toepassing ten opsigte van enkelbedragvoordele geag op of na daardie datum toe te geval het. 35

Wysiging van paragraaf 6 van Tweede Bylae by Wet 58 van 1962, soos vervang deur artikel 62 van Wet 17 van 2009

- 84.** (1) Paragraaf 6 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig— 40
- (a) deur in subparagraaf (1) die woorde wat item (a) voorafgaan deur die volgende woorde te vervang:
- “Die aftrekking toegelaat te word by die toepassing van paragraaf [2(1)(b)] 2(1)(a)(ii) of (b) is 'n bedrag gelyk aan—”; en
- (b) deur in subparagraaf (1)(b) subitem (v) deur die volgende subitem te vervang: 45
- “(v) enige ander bedrae ten opsigte waarvan formule C van toepassing is, wat by [**sodanige fonds**] 'n pensioenfonds, pensioenbewaringsfonds, voorsorgfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds vir die belastingpligtige se voordeel deur 'n pensioenfonds beoog in paragraaf (a) of (b) van die omskrywing van 'pensioenfonds' in artikel 1 inbetaal is, verminder met die bedrag wat deur simbool A voorgestel word by die toepassing van daardie formule.” 50
- (2) Subartikel (1) word geag op 1 Maart 2009 in werking te getree het.

Amendment of paragraph 1 of Sixth Schedule to Act 58 of 1962, as inserted by section 71 of Act 60 of 2008

85. (1) Paragraph 1 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the insertion before the definition of “micro business” of the following definition: 5

“**‘investment income’** means—

(i) any income in the form of annuities, dividends, interest, rental derived in respect of immovable property, royalties, or income of a similar nature; and 10

(ii) any proceeds derived from the disposal of financial instruments;”;
and

(b) by the substitution for the definition of “professional service” of the following definition:

“**‘professional service’** means a service in the field of accounting, 15
actuarial science, architecture, auctioneering, auditing, broadcasting,
[**broking, commercial arts,**] consulting, draftsmanship, education,
engineering, [**entertainment,**] financial service broking, health, infor-
mation technology, journalism, law, management, [**performing arts,**]
real estate broking, research, [**secretarial services,**] sport, surveying, 20
translation, valuation or veterinary science;”.

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 March 2011.

Amendment of paragraph 3 of Sixth Schedule to Act 58 of 1962, as inserted by section 71 of Act 60 of 2008 and amended by section 63 of Act 17 of 2009 25

86. (1) Paragraph 3 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended—

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

“(b) more than **[10] 20** per cent of that person’s total receipts during that year of assessment consists of [**investment income as defined in section 12E**]
— 30

(i) where that person is a natural person (or the deceased or insolvent estate of a natural person that was a registered micro business at the time of death or insolvency), income from the rendering of a professional service; and 35

(ii) where that person is a company, investment income and income from the rendering of a professional service;”;

(b) by the deletion of subparagraph (d);

(c) by the substitution in subparagraph (e) for items (i) and (ii) of the following items: 40

“(i) immovable property [**, to the extent that it was**] used mainly for business purposes; and

(ii) any other asset of a capital nature used mainly for business purposes, other than any financial instrument,”;

(d) by the substitution in the proviso to subparagraph (f)(iii) for paragraphs (aa) 45
and (bb) of the following paragraphs:

“(aa) has not during any year of assessment—

(A) carried on any trade; and

[(bb) has not during any year of assessment]

(B) owned assets, the total market value of which exceeds 50
R5 000; or

(bb) has taken the steps contemplated in section 41(4) to liquidate, wind up or deregister: Provided further that this paragraph ceases to apply if the company has at any stage withdrawn any step so taken or does anything to invalidate any step so taken, with the result that the company will not be liquidated, wound up or deregistered;” 55

(e) by the deletion of the word “or” at the end of item (ii) in subparagraph (g);

(f) by the addition of the expression “; or” at the end of item (iii) in subparagraph (g);

Wysiging van paragraaf 1 van Sesde Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 71 van Wet 60 van 2008

85. (1) Paragraaf 1 van die Sesde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur voor die omskrywing van “geregistreerde mikrobesigheid” die volgende omskrywing in te voeg:

“**‘beleggingsinkomste’** enige—

(i) inkomste in die vorm van jaargelde, dividende, rente, huur verkry ten opsigte van onroerende eiendom, tantième, of inkomste van ’n soortgelyke aard; en

(ii) opbrengs verkry uit die beskikking oor finansiële instrumente;”;

(b) deur die omskrywing van “professionele diens” deur die volgende omskrywing te vervang:

“**‘professionele diens’** ’n diens op die gebied van rekeningkunde, aktuariële wetenskap, argitektuur, afslaery, ouditering, uitsaaiwese, [makelary, kommersiële kunste,] konsultasie, tekonaarkuns, onderwys, ingenieurswese, [vermaak,] gesondheid, inligtingstechnologie, joernalistiek, reg, bestuur, [uitvoerende kunste, eiendom,] eiendoms-makelary, finansiële diensmakelary, navorsing, [sekretariële dienste,] sport, opmeting, vertaling, valuering of veeartsenykunde;”.

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Maart 2011 begin.

Wysiging van paragraaf 3 van Sesde Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 71 van Wet 60 van 2008 en gewysig deur artikel 63 van Wet 17 van 2009

86. (1) Paragraaf 3 van die Sesde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subparagraaf (b) deur die volgende subparagraaf te vervang:

“(b) meer as [10] 20 persent van daardie persoon se totale ontvangste gedurende daardie jaar van aanslag bestaan uit [beleggingsinkomste soos in artikel 12E omskryf]—

(i) waar daardie persoon ’n natuurlike persoon is (of die bestorwe of insolvente boedel van ’n natuurlike persoon wat ten tye van die dood of insolvensie ’n geregistreerde mikrobesigheid was), inkomste uit die lewering van ’n professionele diens; en

(ii) waar daardie persoon ’n maatskappy is, beleggingsinkomste en inkomste uit die lewering van ’n professionele diens;”;

(b) deur subparagraaf (d) te skrap;

(c) deur in subparagraaf (e) items (i) en (ii) deur die volgende items te vervang:

(i) onroerende eiendom, [in die mate waartoe dit] hoofsaaklik vir sakedoeleindes gebruik [is]; en

(ii) enige ander bate van ’n kapitale aard hoofsaaklik vir sakedoeleindes gebruik, buiten enige finansiële instrument;”;

(d) deur in die voorbehoudsbepaling tot subparagraaf (f)(iii) paragrawe (aa) en (bb) deur die volgende paragrawe te vervang:

“(aa) nie gedurende enige jaar van aanslag—

(A) enige bedryf beoefen het nie; en

[(bb) nie gedurende enige jaar van aanslag]

(B) bates besit het waarvan die totale markwaarde R5 000 oorskry nie; of

(bb) die stappe beoog in artikel 41(4) gedoen het om te likwiedeer of te deregistreer: Met dien verstande voorts dat hierdie paragraaf ophou om van toepassing te wees indien die maatskappy in enige stadium enige stap aldus gedoen teruggetrek het of enigiets doen om enige stap aldus gedoen ongeldig te maak, met die gevolg dat die maatskappy nie gelikwiedeer of gederegistreer sal word nie;”;

(e) deur in subparagraaf (g) die woord “of” aan die einde van item (ii) te skrap;

(f) deur in subparagraaf (g) die uitdrukking “; of” aan die einde van item (iii) by te voeg;

(g) by the addition to subparagraph (g) of the following item:

“(iv) that partnership is registered as a vendor in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991);”; and

(h) by the addition after subparagraph (g) of the following subparagraph:

“(h) that person is registered as a vendor in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).” 5

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 March 2011.

Amendment of paragraph 5 of Sixth Schedule to Act 58 of 1962

87. (1) The Sixth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph 5 of the following paragraph: 10

“Taxable Turnover

5. The taxable turnover of a registered micro business in relation to any year of assessment consists of all amounts not of a capital nature received by that registered micro business during that year of assessment from carrying on business activities in the Republic, including amounts described in paragraph 6 and excluding amounts described in paragraph 7, less any amounts refunded to any person by that registered micro business in respect of goods or services supplied by that registered micro business to that person during that year of assessment or any previous year of assessment.” 15 20

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 March 2011.

Amendment of paragraph 6 of Sixth Schedule to Act 58 of 1962, as inserted by section 71 of Act 60 of 2008

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88. (1) Paragraph 6 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (a) for items (i) and (ii) of the following items:

“(i) immovable property[**, to the extent that it was**] mainly used for business purposes, other than trading stock; and 30

(ii) any other asset used mainly for business purposes, other than any financial instrument; and”;

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

(b) in the case of a company, investment income [**as defined in section 12E**] (other than dividends)[**; and**].” 35

(c) by the deletion of subparagraph (c).

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 March 2011.

Amendment of paragraph 7 of Sixth Schedule to Act 58 of 1962, as inserted by section 71 of Act 60 of 2008

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89. (1) Paragraph 7 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended—

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

“(a) in the case of a natural person, investment income [**as defined in section 12E**];” 45

(b) by the addition of the expression “; and” at the end of subparagraph (c); and

(c) by the addition after subparagraph (c) of the following subparagraph:

“(d) any amount received by that registered micro business from any person by way of a refund in respect of goods or services supplied by that person to that registered micro business.” 50

(g) deur die volgende item by subparagraaf (g) te voeg:

“(iv) daardie vennootskap as ’n handelaar ingevolge die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), geregistreer is;” en

(h) deur na subparagraaf (g) die volgende subparagraaf by te voeg:

“(h) daardie persoon as ’n handelaar ingevolge die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), geregistreer is.”

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Maart 2011 begin.

Vervanging van paragraaf 5 van Sesde Bylae by Wet 58 van 1962

87. (1) Die Sesde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf 5 deur die volgende paragraaf te vervang:

“Belasbare omset

5. Die belasbare omset van ’n geregistreerde mikrobegigheid met betrekking tot enige jaar van aanslag bestaan uit alle bedrae nie van ’n kapitaal aard nie ontvang deur daardie geregistreerde mikrobegigheid gedurende daardie jaar van aanslag uit die beoefening van sakebedrywighede in die Republiek, met inbegrip van bedrae in paragraaf 6 beskryf en met uitsluiting van bedrae in paragraaf 7 beskryf, verminder met enige bedrae terugbetaal aan enige persoon deur daardie geregistreerde mikrobegigheid ten opsigte van goed of dienste gelewer deur daardie geregistreerde mikrobegigheid aan daardie persoon gedurende daardie jaar van aanslag of enige vorige jaar van aanslag.”

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Maart 2011 begin.

Wysiging van paragraaf 6 van Sesde Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 71 van Wet 60 van 2008

88. (1) Paragraaf 6 van die Sesde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (a) items (i) en (ii) deur die volgende items te vervang:

“(i) onroerende eiendom, **[in die mate waartoe dit]** hoofsaaklik vir sakedoeleindes gebruik **[is]**, buiten handelsvoorraad; en

(ii) enige ander bate hoofsaaklik vir sakedoeleindes gebruik, buiten enige finansiële instrument; en”;

(b) deur subparagraaf (b) deur die volgende subparagraaf te vervang:

“(b) in die geval van ’n maatskappy, beleggingsinkomste **[soos in artikel 12E omskryf]** (buiten dividende); **en**.”; en

(c) deur subparagraaf (c) te skrap.

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Maart 2011 begin.

Wysiging van paragraaf 7 van Sesde Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 71 van Wet 60 van 2008

89. (1) Paragraaf 7 van die Sesde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subparagraaf (a) deur die volgende subparagraaf te vervang:

“(a) in die geval van ’n natuurlike persoon, beleggingsinkomste **[soos in artikel 12E omskryf]**”;

(b) deur die uitdrukking “; en” aan die einde van subparagraaf (c) by te voeg; en

(c) deur na subparagraaf (c) die volgende subparagraaf in te voeg:

“(d) enige bedrag ontvang deur daardie geregistreerde mikrobegigheid van enige persoon by wyse van ’n terugbetaling ten opsigte van goed of dienste deur daardie persoon aan daardie geregistreerde mikrobegigheid voorsien.”.

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 March 2011.

Amendment of paragraph 1 of Seventh Schedule to Act 58 of 1962, as amended by section 26 of Act 96 of 1985, section 33 of Act 65 of 1986, section 28 of Act 85 of 1987, section 24 of Act 70 of 1989, section 55 of Act 101 of 1990, section 49 of Act 129 of 1991, section 35 of Act 141 of 1992, section 52 of Act 113 of 1993, section 30 of Act 21 of 1994, section 40 of Act 36 of 1996, section 54 of Act 30 of 2000, section 59 of Act 59 of 2000, section 62 of Act 74 of 2002 and section 47 of Act 3 of 2008

90. (1) Paragraph 1 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for the definition of “official rate of interest” of the following definition:

“ ‘official rate of interest’ means—

(a) in the case of a loan which is denominated in the currency of the Republic, [the] a rate of interest [fixed by the Minister from time to time by notice in the Gazette] equal to the South African repurchase rate plus 100 basis points; or

(b) in the case of a loan which is denominated in any other currency, a [market related] rate of interest that is the equivalent of the South African repurchase rate applicable in that currency plus 100 basis points:

Provided that where a new repurchase rate or equivalent rate is determined, the new rate of interest applies for the purposes of this definition from the first day of the month following the date on which that new repurchase rate or equivalent rate came into operation;”.

(2) Subsection (1) comes into operation on 1 March 2011.

Amendment of paragraph 7 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 30 of Act 96 of 1985, section 10 of Act 108 of 1986, Government Notice No. 956 of 11 May 1988, section 44 of Act 90 of 1988, Government Notice No. R.715 of 14 April 1989, section 25 of Act 70 of 1989, Government Notice No. R.764 of 29 March 1990, section 58 of Act 101 of 1990, section 50 of Act 129 of 1991, section 36 of Act 141 of 1992, section 32 of Act 21 of 1994, section 47 of Act 21 of 1995, section 50 of Act 28 of 1997, section 45 of Act 53 of 1999 and section 56 of Act 31 of 2005

91. (1) Paragraph 7 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—

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

“(a) where such motor vehicle (not being a vehicle in respect of which paragraph (b)(ii) of this definition applies) was acquired by the employer under a *bona fide* agreement of sale or exchange concluded by parties acting at arm’s length, the original cost thereof to [him] the employer (excluding any finance charge[,] or interest [or sales tax] payable by [him, or value-added tax borne by him ,] the employer in respect of [his] the employer’s acquisition thereof); or”;

(b) by the substitution in subparagraph (1)(b) for the words following subitem (ii) of the following words:

“the retail market value thereof at the time the employer first obtained the right of use of the vehicle or, where at such time such lease was [a financial lease for the purposes of the Sales Tax Act, 1978 (Act No. 103 of 1978), the cash value thereof as determined under Schedule 4 to that Act or, where at such time the lease was] a lease contemplated in paragraph (b) of the definition of ‘instalment credit agreement’ in section 1 of the Value-added Tax Act, 1991 (Act No. 89 of 1991), the cash value thereof as contemplated in the definition of ‘cash value’ in the said section[, but excluding the tax referred to therein]; or”;

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Maart 2011 begin.

Wysiging van paragraaf 1 van Sewende Bylae by Wet 58 van 1962, soos gewysig deur artikel 26 van Wet 96 van 1985, artikel 33 van Wet 65 van 1986, artikel 28 van Wet 85 van 1987, artikel 24 van Wet 70 van 1989, artikel 55 van Wet 101 van 1990, artikel 49 van Wet 129 van 1991, artikel 35 van Wet 141 van 1992, artikel 52 van Wet 113 van 1993, artikel 30 van Wet 21 van 1994, artikel 40 van Wet 36 van 1996, artikel 54 van Wet 30 van 2000, artikel 59 van Wet 59 van 2000, artikel 62 van Wet 74 van 2002 en artikel 47 van Wet 3 van 2008

90. (1) Paragraaf 1 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die omskrywing van “amptelike rentekoers” deur die volgende omskrywing te vervang:

“‘**amptelike rentekoers**’—

(a) in die geval van ’n lening wat in die geldeenheid van die Republiek aangedui word, **[die] ’n rentekoers [wat die Minister van tyd tot tyd by kennisgewing in die Staatskoerant vasstel] gelykstaande aan die Suid-Afrikaanse heraan-koopkoers plus 100 basispunte;** of

(b) in die geval van ’n lening wat in enige ander geldeenheid aangedui word, ’n **[markverwante] rentekoers wat die ekwivalent is van die Suid-Afrikaanse heraankoopkoers toepaslik in daardie geldeenheid plus 100 basispunte:**

Met dien verstande dat waar ’n nuwe heraankoopkoers of ekwivalente koers vasgestel word, die nuwe rentekoers van toepassing is by die toepassing van hierdie omskrywing vanaf die eerste dag van die maand wat volg op die datum waarop daardie nuwe heraankoopkoers of ekwivalente koers in werking getree het;”.

(2) Subartikel (1) tree op 1 Maart 2011 in werking.

Wysiging van paragraaf 7 van Sewende Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 30 van Wet 96 van 1985, artikel 10 van Wet 108 van 1986, Goewermentskennisgewing No. 956 van 11 Mei 1988, artikel 44 van Wet 90 van 1988, Goewermentskennisgewing No. R.715 van 14 April 1989, artikel 25 van Wet 70 van 1989, Goewermentskennisgewing No. R.764 van 29 Maart 1990, artikel 58 van Wet 101 van 1990, artikel 50 van Wet 129 van 1991, artikel 36 van Wet 141 van 1992, artikel 32 van Wet 21 van 1994, artikel 47 van Wet 21 van 1995, artikel 50 van Wet 28 van 1997, artikel 45 van Wet 53 van 1999 en artikel 56 van Wet 31 van 2005

91. (1) Paragraaf 7 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (1) item (a) deur die volgende item te vervang:

“(a) waar bedoelde motorvoertuig (synde nie ’n motorvoertuig ten opsigte waarvan paragraaf (b)(ii) van hierdie omskrywing van toepassing is nie) deur die werkgewer verkry is ingevolge ’n *bona fide*-verkoop- of ruiloooreenkoms gesluit tussen partye wat die uiterste voorwaardes beding, die oorspronklike koste daarvan vir **[hom] die werkgewer** (behalwe enige finansieringskoste[,] of rente **[of verkoopbelasting]** deur **[hom] die werkgewer** betaalbaar[, of **belasting op toegevoegde waarde deur hom gedra,**] ten opsigte van **[sy] die werkgewer** se verkryging daarvan); of”;

(b) deur in subparagraaf (1)(b) die woorde wat op subitem (ii) volg deur die volgende woorde te vervang:

“die kleinhandel-markwaarde daarvan op die tydstip toe die werkgewer vir die eerste keer die reg van gebruik van die motorvoertuig verkry het of, waar op bedoelde tydstip bedoelde huurooreenkoms **[’n bruikhuur vir die doeleindes van die Verkoopbelastingwet, 1978 (Wet No. 103 van 1978) was, die kontantwaarde daarvan soos vasgestel ingevolge Bylae 4 by daardie Wet of, waar op bedoelde tydstip die huurooreenkoms]** ’n verhuuringsooreenkoms was soos beoog in paragraaf (b) van die omskrywing van ‘paaientkredietooreenkoms’ in artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), die kontantwaarde daarvan soos beoog in die omskrywing van ‘kontantwaarde’ in genoemde artikel[, **maar behalwe die belasting daarin vermeld]**; of”;

- (c) by the substitution for subparagraph (2) of the following subparagraph:
 “(2) Where an employee has been granted the right to use any motor vehicle as contemplated in paragraph 2(b), the cash equivalent of the value of the taxable benefit shall be so much of the value of the private use of such vehicle (as determined under this paragraph in respect of the period of use) as exceeds any consideration given by the employee to the employer for the use of such vehicle during such period [**Provided that where the employee receives an allowance or advance contemplated in section 8(1)(b), such value of the private use of such vehicle shall not be reduced by any such consideration**], other than consideration in respect of the cost of the licence, insurance, maintenance or fuel in respect of such vehicle.”;
- (d) by the substitution in subparagraph (4) for the words preceding item (a) of the following words:
 “Subject to [**the provisions of subparagraphs (9) and**] subparagraph (10), the value to be placed on the private use of such vehicle shall be determined for each month or part of a month during which the employee was entitled to use the vehicle for private purposes (including travelling between the employee’s place of residence and his or her place of employment) and the said value shall—”;
- (e) by the substitution in subparagraph (4) for item (a) of the following item:
 “(a) as respects each such month, be an amount equal to 3,5 per cent of the determined value of such motor vehicle: Provided that where the motor vehicle is the subject of a maintenance plan at the time the employer acquired the motor vehicle or the right of use thereof, that amount shall be reduced to an amount equal to 3,25 per cent of the determined value of the motor vehicle; and”;
- (f) by the substitution for subparagraph (5) of the following subparagraph:
 “(5) [**Subject to the provisions of subparagraph (7), no**] No reduction in the value determined under subparagraph (4) shall be made for the purposes of item (b) of that subparagraph by reason of the fact that the vehicle in question was during any period for any reason temporarily not used by the employee for private purposes.”;
- (g) by the substitution for subparagraph (7) of the following subparagraph:
 “(7) Where it is proved to the satisfaction of the Commissioner that accurate records of distances travelled for business purposes in such vehicle are kept, the Commissioner must upon the assessment of the employee’s liability for normal tax for the year of assessment reduce the value placed on the private use of the vehicle, calculated under subparagraph (4), by an amount that bears to that calculated value the same ratio as the number of kilometres travelled for business purposes bears to the total amount of kilometres travelled in such vehicle during that year of assessment.”;
- (h) by the substitution for subparagraph (8) of the following subparagraph:
 “(8) Where it is proved to the satisfaction of the Commissioner that accurate records of distances travelled for private purposes in such vehicle are kept and the employee bears—
 (a) (i) the full cost of the licence for such vehicle, the Commissioner must upon the assessment of the employee’s liability for normal tax for the year of assessment reduce the value placed on the private use of such vehicle calculated under subparagraph (4) by an amount that bears to the amount of the cost of the licence for such vehicle the same ratio as the number of kilometres travelled for private purposes bears to the total number of kilometres travelled in such vehicle during that year of assessment;

- (c) deur subparagraaf (2) deur die volgende subparagraaf te vervang:
 “(2) Waar die reg aan ’n werknemer verleen is om ’n motorvoertuig te gebruik soos in paragraaf 2(b) beoog, is die kontantekwivalent van die waarde van die belasbare voordeel soveel van die waarde van die private gebruik van bedoelde voertuig (soos vasgestel ingevolge hierdie paragraaf ten opsigte van die tydperk van gebruik) as wat enige vergoeding deur die werknemer aan die werkgewer gegee vir die gebruik van daardie voertuig gedurende bedoelde tydperk te bowe gaan[: **Met dien verstande dat waar die werknemer ’n toelae of voorskoot beoog in artikel 8(1)(b) ontvang, bedoelde waarde van die private gebruik van bedoelde voertuig nie deur enige bedoelde vergoeding verminder word nie**], buiten vergoeding ten opsigte van die koste van die lisensie, versekering, onderhoud of brandstof ten opsigte van bedoelde voertuig.”;
- (d) deur in subparagraaf (4) die woorde wat item (a) voorafgaan deur die volgende woorde te vervang:
 “Behoudens [**die bepalinge van subparagraaf (9) en**] subparagraaf (10), moet die waarde wat op die private gebruik van bedoelde voertuig geplaas staan te word vir elke maand of gedeelte van ’n maand waartydens die werknemer geregtig was om die voertuig vir private doeleindes (met inbegrip van reise tussen die werknemer se woonplek en werkplek) te gebruik, vasgestel word en genoemde waarde is—”;
- (e) deur in subparagraaf (4) item (a) deur die volgende item te vervang:
 “(a) met betrekking tot elke bedoelde maand, ’n bedrag gelyk aan 3,5 persent van die vasgestelde waarde van bedoelde voertuig: Met dien verstande dat waar die motorvoertuig die onderwerp is van ’n onderhoudsplan op die tydstip dat die werkgewer die motorvoertuig of die reg van gebruik daarvan verkry het, daardie bedrag tot ’n bedrag gelyk aan 3,25 persent van die vasgestelde waarde van die motorvoertuig verminder word; en”;
- (f) deur subparagraaf (5) deur die volgende subparagraaf te vervang:
 “(5) [**Behoudens die bepalinge van subparagraaf (7) word geen**] Geen vermindering in die waarde ingevolge subparagraaf (4) vasgestel, word by die toepassing van item (b) van daardie subparagraaf gemaak nie as gevolg van die feit dat die betrokke voertuig gedurende enige tydperk om enige rede tydelik nie vir private doeleindes deur die werknemer gebruik is nie.”;
- (g) deur subparagraaf (7) deur die volgende subparagraaf te vervang:
 “(7) Waar daar tot oortuiging van die Kommissaris bewys word dat akkurate aantekeninge gehou word van die afstande wat met bedoelde voertuig vir besigheidsgebruik gereis is, moet die Kommissaris by die aanslaan van die werknemer se aanspreeklikheid vir normale belasting vir die jaar van aanslag die waarde wat op die private gebruik van die voertuig geplaas word, bereken kragtens subparagraaf (4), verminder met ’n bedrag wat tot daardie berekende waarde in dieselfde verhouding staan as wat die getal kilometers vir besigheidsgebruik gereis tot die totale getal kilometers in bedoelde voertuig gereis gedurende daardie jaar van aanslag staan.”;
- (h) deur subparagraaf (8) deur die volgende subparagraaf te vervang:
 “(8) Waar daar tot oortuiging van die Kommissaris bewys word dat akkurate aantekeninge gehou word van afstande wat vir private doeleindes in bedoelde voertuig gereis word en die werknemer—
 (a) (i) die volle koste van die lisensie vir bedoelde voertuig dra, moet die Kommissaris by die aanslaan van die werknemer se aanspreeklikheid vir normale belasting vir die jaar van aanslag die waarde wat op die private gebruik van bedoelde voertuig geplaas word, bereken kragtens subparagraaf (4), verminder met ’n bedrag wat tot die bedrag van die koste van die lisensie vir bedoelde voertuig in dieselfde verhouding staan as wat die getal kilometers gereis vir private gebruik tot die totale getal kilometers gereis in bedoelde voertuig gedurende daardie jaar van aanslag staan;

- (ii) the full cost of the insurance of such vehicle, the Commissioner must upon the assessment of the employee's liability for normal tax for the year of assessment reduce the value placed on the private use of such vehicle calculated under subparagraph (4) by an amount that bears to the amount of the cost of the insurance for such vehicle the same ratio as the number of kilometres travelled for private purposes bears to the total number of kilometres travelled in such vehicle during that year of assessment; or 5
- (iii) the full cost of the maintenance of such vehicle, the Commissioner must upon the assessment of the employee's liability for normal tax for the year of assessment reduce the value placed on the private use of such vehicle calculated under subparagraph (4) by an amount that bears to the amount of the cost of the maintenance for such vehicle the same ratio as the number of kilometres travelled for private purposes bears to the total number of kilometres travelled in such vehicle during that year of assessment; 10
- (b) the full cost of fuel for private use of such vehicle, the Commissioner must upon the assessment of the employee's liability for normal tax for the year of assessment reduce the value placed on the private use of the vehicle during that year of assessment calculated under subparagraph (4) by an amount determined for the total kilometres travelled for private purposes by applying the rate per kilometre for fuel fixed by the Minister in the *Gazette* for the purposes of section 8(1)(b)(ii) and (iii)."; 15
- (i) by the deletion of subparagraph (9); and 20
- (j) by the addition after subparagraph (10) of the following subparagraph: 25
- “(11) For the purposes of this paragraph, ‘**maintenance plan**’, in relation to a motor vehicle, means a contractual obligation undertaken by a provider in the ordinary course of trade with the general public to underwrite the costs of all maintenance of that motor vehicle, other than the costs related to top-up fluids, tyres or abuse of the motor vehicle, for at least a period of not less than three years and a distance travelled by the motor vehicle of not less than 60 000 kilometres from the date that the provider undertakes the contractual obligation: Provided that the contractual obligation may terminate at the earlier of— 30
- (a) the end of the period of three years; or 35
- (b) the date on which the distance of 60 000 kilometres is travelled by that motor vehicle.”. 40

(2) Subsection (1) comes into operation on 1 March 2011 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 13 of Seventh Schedule to Act 58 of 1962, as amended by section 51 of Act 129 of 1991, section 37 of Act 30 of 2002 and section 61 of Act 31 of 2005 45

92. (1) Paragraph 13 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (2) of the following subparagraph:

- “(2) No value shall be placed under this paragraph on the value of any taxable benefit derived by reason of the fact that an employer has paid—
- (b) **[has paid]** subscriptions due by his or her employee to a professional body, if membership of such body is a condition of the employee's employment; 50
- (bA) insurance premiums indemnifying an employee solely against claims arising from negligent acts or omissions on the part of the employee in rendering services to the employer; or
- (c) **[has paid]** any portion of the value of a benefit which is payable by a former member of a non-statutory force or service as defined in the Government 55

- (ii) die volle koste van die versekering van bedoelde voertuig dra, moet die Kommissaris by die aanslaan van die werknemer se aanspreeklikheid vir normale belasting vir die jaar van aanslag die waarde wat op die private gebruik van bedoelde voertuig geplaas word, bereken kragtens subparagraaf (4), verminder met 'n bedrag wat tot die bedrag van die koste van die versekering vir bedoelde voertuig in dieselfde verhouding staan as wat die getal kilometers gereis vir private gebruik tot die totale getal kilometers gereis in bedoelde voertuig gedurende daardie jaar van aanslag staan; of
- (iii) die volle koste van die onderhoud van bedoelde voertuig dra, moet die Kommissaris by die aanslaan van die werknemer se aanspreeklikheid vir normale belasting vir die jaar van aanslag die waarde wat op die private gebruik van bedoelde voertuig geplaas word, bereken kragtens subparagraaf (4), verminder met 'n bedrag wat tot die bedrag van die koste van die onderhoud van bedoelde voertuig in dieselfde verhouding staan as wat die getal kilometers gereis vir private gebruik tot die totale getal kilometers gereis in bedoelde voertuig gedurende daardie jaar van aanslag staan;
- (b) die volle koste van brandstof vir private gebruik van bedoelde voertuig dra, moet die Kommissaris by die aanslaan van die werknemer se aanspreeklikheid vir normale belasting vir die jaar van aanslag die waarde geplaas op die private gebruik van die voertuig gedurende daardie jaar van aanslag, bereken kragtens subparagraaf (4), verminder met 'n bedrag bepaal vir die totale kilometers gereis vir private gebruik teen die skaal per kilometer deur die Minister in die *Staatskoerant* by die toepassing van artikel 8(1)(b)(ii) en (iii) bepaal.”;
- (i) deur subparagraaf (9) te skrap; en
- (j) deur na subparagraaf (10) die volgende subparagraaf by te voeg:
- “(11) By die toepassing van hierdie paragraaf beteken ‘**onderhoudsplan**’, met betrekking tot 'n motorvoertuig, 'n kontraktuele verpligting deur 'n verskaffer onderneem in die gewone loop van handel met die algemene publiek om die koste te onderskryf van alle onderhoud van daardie motorvoertuig, behalwe die koste verbonde aan hervullingsvloei-stowwe, bande of misbruik van die motorvoertuig, vir minstens 'n tydperk van drie jaar en 'n afstand deur die motorvoertuig afgelê van minstens 60 000 kilometers vanaf die datum waarop die verskaffer die kontraktuele verpligting onderneem: Met dien verstande dat die kontraktuele verpligting mag eindig op die vroegste van—
- (a) die einde van die tydperk van drie jaar; of
- (b) die datum waarop die afstand van 60 000 kilometers deur daardie motorvoertuig afgelê word.”.
- (2) Subartikel (1) tree op 1 Maart 2011 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van paragraaf 13 van Sewende Bylae by Wet 58 van 1962, soos gewysig deur artikel 51 van Wet 129 van 1991, artikel 37 van Wet 30 van 2002 en artikel 61 van Wet 31 van 2005

92. (1) Paragraaf 13 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (2) deur die volgende subparagraaf te vervang:
- “(2) Geen waarde word ingevolge hierdie paragraaf geplaas nie op die waarde van enige belasbare voordeel verkry vanweë die feit dat 'n werkgewer—
- (b) subskripsies deur 'n werknemer aan 'n professionele liggaam verskuldig, betaal het, indien lidmaatskap van bedoelde liggaam 'n voorwaarde van die werknemer se diens is;
- (bA) versekeringspremies betaal het wat 'n werknemer alleenlik vrywaar teen eise wat voortspruit uit nalatige handeling of versuim aan die kant van die werknemer in die lewering van dienste aan die werkgewer; of
- (c) enige gedeelte betaal het van die waarde van 'n voordeel wat deur 'n 'former member of a non-statutory force or service' soos omskryf in die 'Government

Employees Pension Law, 1996 (Proclamation No. 21 of 1996), to the Government Employees' Pension Fund as contemplated in Rule 10(6)(d) or (e) of the Rules of the Government Employees Pension Fund contained in Schedule 1 to that Proclamation.”.

(2) Subsection (1) comes into operation on 1 March 2011 and applies in respect of years of assessment commencing on or after that date. 5

Amendment of paragraph 2 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 25 of Act 19 of 2001, section 66 of Act 60 of 2001, section 64 of Act 74 of 2002, section 91 of Act 45 of 2003, section 52 of Act 32 of 2004 and section 64 of Act 31 of 2005 10

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

“(b) in the case of a company or other entity, that person (whether alone or together with any connected person in relation to that person), directly or indirectly, holds at least 20 per cent of the equity [**share capital of**] shares in that company or ownership or right to ownership of that other entity.” 15

(2) Subsection (1) comes into operation on 1 January 2011.

Amendment of paragraph 12 of Eighth Schedule to Act 58 of 1962, as amended by section 72 of Act 60 of 2001, section 68 of Act 74 of 2002, section 93 of Act 45 of 2003, section 56 of Act 32 of 2004, section 67 of Act 31 of 2005, section 71 of Act 35 of 2007, section 50 of Act 3 of 2008 and section 75 of Act 60 of 2008 20

94. Paragraph 12 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (5)(a)(aa) for subsubitem (B) of the following subsubitem:

“(B) has been taken into account in terms of section 8(4)(m) or 20(1)(a)(ii), paragraph 2(h) of the Seventh Schedule or paragraph 20(3);” 25

Amendment of paragraph 20 of Eighth Schedule to Act 58 of 1962, as amended by section 26 of Act 19 of 2001, section 75 of Act 60 of 2001, section 71 of Act 74 of 2002, section 95 of Act 45 of 2003, section 58 of Act 32 of 2004, section 68 of Act 31 of 2005, section 45 of Act 20 of 2006, section 60 of Act 8 of 2007, section 73 of Act 35 of 2007, section 52 of Act 3 of 2008 and section 77 of Act 60 of 2008 30

95. Paragraph 20 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) (i) is or was allowable or is deemed to have been allowed as a deduction in determining the taxable income of that person [**before the inclusion of any taxable capital gain**]; and 35

(ii) is not included in the taxable income of that person in terms of section 9C(5), before the inclusion of any taxable capital gain; or” 40

Amendment of paragraph 29 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 81 of Act 60 of 2001, section 38 of Act 30 of 2002, section 76 of Act 74 of 2002, section 47 of Act 20 of 2006 and section 61 of Act 8 of 2007 45

96. (1) Paragraph 29 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (3) of the following subparagraph:

“(3) For the purposes of this paragraph, ‘**controlling interest**’ in a company [,] means an interest in more than 35 per cent of the equity [**share capital of**] shares in that company.” 50

(2) Subsection (1) comes into operation on 1 January 2011.

Employees' Pension Law, 1996' (Proklamasie 21 van 1996), [betaal] betaalbaar is aan die 'Government Employees' Pension Fund' soos in Reël 10(6)(d) of (e) van die 'Rules of the Government Employees Pension Fund' in Bylae 1 by daardie Proklamasie vervat, bedoel.'.

(2) Subartikel (1) tree op 1 Maart 2011 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin. 5

Wysiging van paragraaf 2 van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001 en gewysig deur artikel 25 van Wet 19 van 2001, artikel 66 van Wet 60 van 2001, artikel 64 van Wet 74 van 2002, artikel 91 van Wet 45 van 2003, artikel 52 van Wet 32 van 2004 en artikel 64 van Wet 31 van 2005 10

93. (1) Paragraaf 2 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (2) item (b) deur die volgende item te vervang:

“(b) in die geval van ’n maatskappy of ander entiteit, daardie persoon (hetsy alleen of tesame met enige verbonde persoon met betrekking tot daardie persoon), direk of indirek minstens 20 persent van die [ekwiteitsaandelekapitaal van] ekwiteitsaandele in daardie maatskappy of eienaarskap of reg tot eienaarskap van daardie ander entiteit hou.”. 15

(2) Subartikel (1) tree op 1 Januarie 2011 in werking.

Wysiging van paragraaf 12 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 72 van Wet 60 van 2001, artikel 68 van Wet 74 van 2002, artikel 93 van Wet 45 van 2003, artikel 56 van Wet 32 van 2004, artikel 67 van Wet 31 van 2005, artikel 71 van Wet 35 van 2007, artikel 50 van Wet 3 van 2008 en artikel 75 van Wet 60 van 2008 20

94. Paragraaf 12 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (5)(a)(aa) subsubitem (B) deur die volgende subsubitem te vervang: 25

“(B)ingevolge artikel 8(4)(m) of 20(1)(a)(ii), paragraaf 2(h) van die Sewende Bylae of paragraaf 20(3) in berekening gebring is;”.

Wysiging van paragraaf 20 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 26 van Wet 19 van 2001, artikel 75 van Wet 60 van 2001, artikel 71 van Wet 74 van 2002, artikel 95 van Wet 45 van 2003, artikel 58 van Wet 32 van 2004, artikel 68 van Wet 31 van 2005, artikel 45 van Wet 20 van 2006, artikel 60 van Wet 8 van 2007, artikel 73 van Wet 35 van 2007, artikel 52 van Wet 3 van 2008 en artikel 77 van Wet 60 van 2008 30

95. (1) Paragraaf 20 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang: 35

“(a) (i) as ’n aftrekking toelaatbaar is of was of geag word toegelaat te gewees het by die vasstelling van belasbare inkomste van daardie persoon [voor die insluiting van enige belasbare kapitaalwins]; en 40
(ii) nie ingevolge artikel 9C(5) by die belasbare inkomste van daardie persoon ingesluit word nie, voor die insluiting van enige belasbare kapitaalwins; of”.

Wysiging van paragraaf 29 van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001, gewysig deur artikel 81 van Wet 60 van 2001, artikel 38 van Wet 30 van 2002, artikel 76 van Wet 74 van 2002, artikel 47 van Wet 20 van 2006 en artikel 61 van Wet 8 van 2007 45

96. (1) Paragraaf 29 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (3) deur die volgende subparagraaf te vervang: 50

“(3) By die toepassing van hierdie paragraaf beteken ‘beherende belang’ in ’n maatskappy ’n belang in meer as 35 persent van die [ekwiteitsaandelekapitaal van] ekwiteitsaandele in daardie maatskappy.”.

(2) Subartikel (1) tree op 1 Januarie 2011 in werking.

Amendment of paragraph 31 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 83 of Act 60 of 2001, section 78 of Act 74 of 2002, section 49 of Act 20 of 2006 and section 62 of Act 8 of 2007

97. (1) Paragraph 31 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1)(c) for subitem (i) of the following subitem: 5

“(i) any [company contemplated in paragraph (e)(i) of the definition of ‘company’ in section 1 of the Act] portfolio of a collective investment scheme in securities, or any portfolio [comprised in any] of a collective investment scheme in property [contemplated in Part V of the Collective Investment Schemes Control Act, 2002], carried on in the Republic, the price at which a participatory interest can be sold to the management company of the scheme on that date; or” 10

(2) Subsection (1) is deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 January 2010. 15

Amendment of paragraph 38 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 87 of Act 60 of 2001, section 81 of Act 74 of 2002, section 63 of Act 32 of 2004 and section 72 of Act 31 of 2005

98. Paragraph 38 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the deletion in subparagraph (2) of item (d). 20

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

99. Paragraph 42 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (2) for item (c) of the following item: 25

“(c) has otherwise diminished risk of loss in respect of that [share] financial instrument by holding one or more contrary positions with respect to a financial instrument of the same kind and of the same or equivalent quality.” 30

Amendment of paragraph 43 of Eighth Schedule to Act 58 of 1962, as amended by section 91 of Act 60 of 2001, section 84 of Act 74 of 2002, section 101 of Act 45 of 2003, section 75 of Act 31 of 2005, section 51 of Act 33 of 2006 and section 76 of Act 35 of 2007 30

100. (1) Paragraph 43 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (2) for the words preceding item (a) of the following words: 35

“Where a person disposes of an asset, (other than an asset contemplated in subparagraph (1) or (4)), for proceeds which are [either] received or accrued [or denominated for purposes of financial reporting of a permanent establishment of that person] in any currency (hereinafter referred to as the ‘currency of disposal’) after having incurred expenditure in respect of that asset which is [either] actually incurred [or so denominated] in another currency (hereinafter referred to as the ‘currency of expenditure’), that person must for purposes of determining the capital gain or capital loss on the disposal of that asset—”; and 40

(b) by the substitution in subparagraph (7) for the definition of “local currency” of the following definition: 45

“‘local currency’ means—

(a) in relation to a permanent establishment of a person, the functional currency [used by] of that permanent establishment [for purposes of financial reporting] (other than the currency of any country in the common monetary area); 50

Wysiging van paragraaf 31 van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001 en gewysig deur artikel 83 van Wet 60 van 2001, artikel 78 van Wet 74 van 2002, artikel 49 van Wet 20 van 2006 en artikel 62 van Wet 8 van 2007

97. (1) Paragraaf 31 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (1)(c) subitem (i) deur die volgende subitem te vervang:

“(i) enige [maatskappy in paragraaf (e)(i) van die omskrywing van ‘maatskappy’ in artikel 1 van die Wet beoog] portefeulje van ’n kollektiewe beleggingskema in effekte, of enige portefeulje [wat deel uitmaak] van ’n kollektiewe beleggingskema in eiendom [in Deel V van die Wet op die Beheer oor Kollektiewe Beleggingskemas, 2002, bedoel] in die Republiek bedryf, die prys waarteen ’n deelnemende belang aan die bestuursmaatskappy van die skema op daardie datum verkoop kan word; of”.

(2) Subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2010 begin.

Wysiging van paragraaf 38 van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001 en gewysig deur artikel 87 van Wet 60 van 2001, artikel 81 van Wet 74 van 2002, artikel 63 van Wet 32 van 2004 en artikel 72 van Wet 31 van 2005

98. (1) Paragraaf 38 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (2) item (d) te skrap.

Wysiging van paragraaf 42 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 90 van Wet 60 van 2001, artikel 74 van Wet 31 van 2005, artikel 74 van Wet 35 van 2007 en artikel 55 van Wet 3 van 2008

99. Paragraaf 42 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (2) item (c) deur die volgende item te vervang:

“(c) andersins die risiko van verlies ten opsigte van daardie [aandeel] finansiële instrument verminder het deur een of meer teenoorgestelde posisies te hou ten opsigte van ’n finansiële instrument van dieselfde soort en van dieselfde of soortgelyke gehalte.”.

Wysiging van paragraaf 43 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 91 van Wet 60 van 2001, artikel 84 van Wet 74 van 2002, artikel 101 van Wet 45 van 2003, artikel 75 van Wet 31 van 2005, artikel 51 van Wet 33 van 2006 en artikel 76 van Wet 35 van 2007

100. (1) Paragraaf 43 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (2) die woorde wat item (a) voorafgaan deur die volgende woorde te vervang:

“Waar ’n persoon oor ’n bate, behalwe ’n bate in subparagraaf (1) of (4) bedoel, beskik vir ’n opbrengs wat in enige geldeenheid ontvang word[,] of toeval [of vir doeleindes van finansie verslagdoening ten aansien van ’n permanente saak van daardie persoon aangetoon word] (hierna die ‘geldeenheid van beskikking’ genoem) nadat onkoste ten opsigte van daardie bate wat [of] werklik aangegaan word [of aldus aangetoon word] in ’n ander geldeenheid (hierna die ‘geldeenheid van onkoste’ genoem), moet daardie persoon ten einde die kapitaalwins of kapitaalverlies by die beskikking van daardie bate te bepaal[,]—”; en

(b) deur in subparagraaf (7) die omskrywing van “plaaslike geldeenheid” deur die volgende omskrywing te vervang:

“‘plaaslike geldeenheid’—

(a) met betrekking tot ’n permanente saak van ’n persoon, die funksionele geldeenheid [deur] van daardie permanente saak [gebruik vir doeleindes van finansiële verslagdoening] (behalwe die geldeenheid van enige land in die gemeenskaplike monetêre gebied);

(b) [in any other case, the currency of the Republic] in relation to a headquarter company, the functional currency of that headquarter company; or

(c) in any other case, the currency of the Republic.”.

(2) Subsection (1) comes into operation on 1 January 2011 and applies in respect of disposals made during years of assessment commencing on or after that date. 5

Insertion of paragraph 43B in Eighth Schedule to Act 58 of 1962

101. (1) The Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after paragraph 43A of the following paragraph:

“Base cost of assets of controlled foreign companies 10

43B. Where the currency used by a controlled foreign company for the purposes of financial reporting—

(a) was the currency of a country which—
 (i) abandoned its currency; and
 (ii) had an official rate of inflation of 100 per cent or more for the foreign tax year preceding the abandonment of the currency; and 15

(b) the controlled foreign company adopted a new currency of financial reporting as a consequence of the abandonment contemplated in subparagraph (a)(i), 20

the controlled foreign company must, for the purposes of determining the base cost of an asset of the controlled foreign company, be deemed to have acquired the asset in that new currency—

(A) on the first day of the foreign tax year of the controlled foreign company in which; and 25
 (B) for an amount equal to the market value of the asset on the date on which,

the new currency was adopted by the controlled foreign company.”.

(2) Subsection (1) is deemed to have come into operation on 1 January 2009 and applies in respect of foreign tax years of controlled foreign companies ending during years of assessment commencing on or after that date. 30

Amendment of paragraph 43B of Eighth Schedule to Act 58 of 1962, as inserted by section 101 of Taxation Laws Amendment Act of 2010

102. (1) Paragraph 43B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended— 35

(a) by the substitution for the words preceding subparagraph (a) of the following words:

“Where the functional currency **[used by]** of a controlled foreign company **[for the purposes of financial reporting]**—”; and

(b) by the substitution for subparagraph (b) of the following subparagraph: 40

“(b) the controlled foreign company adopted a new functional currency **[of financial reporting]** as a consequence of the abandonment contemplated in subparagraph (a)(i).”.

(2) Subsection (1) comes into operation on 1 January 2011 and applies in respect of foreign tax years of controlled foreign companies ending during years of assessment commencing on or after that date. 45

Amendment of paragraph 45 of Eighth Schedule to Act 58 of 1962, as substituted by section 93 of Act 60 of 2001 and amended by section 33 of Act 9 of 2006, section 2 of Act 8 of 2007 and section 73 of Act 17 of 2009

103. (1) Paragraph 45 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for item (b) of the following item: 50

“(b) a capital gain **[or capital loss]** determined in respect of the disposal of the primary residence of that person or that special trust if the proceeds from the disposal of that primary residence do not exceed R2 million.”.

- (b) [in enige ander geval, die geldeenhed van die Republiek] met betrekking tot 'n hoofkwartiermaatskappy, die funksionele geldeenhed van daardie hoofkwartiermaatskappy; of
 (c) in enige ander geval, die geldeenhed van die Republiek.”.

(2) Subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin. 5

Invoeging van paragraaf 43B in Agtste Bylae by Wet 58 van 1962

101. (1) Die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur na paragraaf 43A die volgende paragraaf in te voeg:

“Basiskoste van beheerde buitelandse maatskappye se bates 10

43B. Waar die geldeenhed gebruik deur 'n beheerde buitelandse maatskappy vir doeleindes van finansiële verslagdoening—

- (a) die geldeenhed was van 'n land wat—
 (i) sy geldeenhed versak het; en
 (ii) 'n amptelike inflasiekoers van 100 persent of meer gehad het vir die buitelandse belastingjaar wat die versaking van die geldeenhed voorafgegaan het; en 15
- (b) die beheerde buitelandse maatskappy 'n nuwe geldeenhed van finansiële verslagdoening aangeneem het as gevolg van die versaking in subparagraaf (a)(i) beoog, 20
 moet die beheerde buitelandse maatskappy, by die bepaling van die basiskoste van 'n bate van die beheerde buitelandse maatskappy, geag word die bate in daardie nuwe geldeenhed te verkry het—
 (A) op die eerste dag van die buitelandse belastingjaar van die beheerde buitelandse maatskappy waarin; en 25
 (B) vir 'n bedrag gelyk aan die markwaarde van die bate op die datum waarop,
 die nuwe geldeenhed deur die beheerde buitelandse maatskappy aangeneem is.”.

(2) Subartikel (1) word geag op 1 Januarie 2009 in werking te getree het en is van toepassing ten opsigte van buitelandse belastingjare van beheerde buitelandse maatskappye wat eindig gedurende jare van aanslag wat op of na daardie datum begin. 30

Wysiging van paragraaf 43B van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 101 van Wysigingswet op Belastingwette van 2010

102. (1) Paragraaf 43B van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig— 35

- (a) deur die woorde wat subparagraaf (a) voorafgaan deur die volgende woorde te vervang:
 “Waar die funksionele geldeenhed **[gebruik deur]** van 'n beheerde buitelandse maatskappy **[vir die doeleindes van finansiële verslagdoening]**—”; en 40
- (b) deur subparagraaf (b) deur die volgende subparagraaf te vervang:
 “(b) die beheerde buitelandse maatskappy 'n nuwe funksionele geldeenhed **[van finansiële verslagdoening]** aangeneem het as gevolg van die versaking in subparagraaf (a)(i) beoog.”. 45

(2) Subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van buitelandse belastingjare van beheerde buitelandse maatskappye wat eindig gedurende jare van aanslag wat op of na daardie datum begin.

Wysiging van paragraaf 45 van Agtste Bylae by Wet 58 van 1962, soos vervang deur artikel 93 van Wet 60 van 2001 en gewysig deur artikel 33 van Wet 9 van 2006, artikel 2 van Wet 8 van 2007 en artikel 73 van Wet 17 van 2009 50

103. (1) Paragraaf 45 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (1) item (b) deur die volgende item te vervang:

- “(b) 'n kapitaalwinst **[of kapitaalverlies]** bepaal ten opsigte van die beskikking oor die primêre woning van daardie persoon of daardie spesiale trust 55

(2) Subsection (1) is deemed to have come into operation on 1 March 2009 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 51 of Eighth Schedule to Act 58 of 1962, as substituted by section 74 of Act 17 of 2009

104. (1) Paragraph 51 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended— 5

(a) by the substitution in subparagraph (1) for items (c) and (d) of the following items:

“(c) no allowance or deduction allowed to that company or trust in respect of that interest must be recovered or recouped by that company or trust or be included in the income of that company or trust in the year in which the transfer takes place; and 10

(d) that company or trust and that natural person must be deemed to be one and the same person for purposes of determining the amount of any allowance or deduction [— 15

(i) to which that company or trust may be entitled in respect of that interest; or

(ii) that is to be recovered or recouped by or included in the income of that [company or trust] natural person in respect of that interest.”; and 20

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

“(a) that natural person acquires that interest from the company or trust no later than [31 December 2011] 30 September 2010;”;

(c) by the addition in subparagraph (2)(b) of the word “and” at the end of subitem (ii); 25

(d) by the deletion in subparagraph (2) of the expression “; and” at the end of item (c); and

(e) by the deletion in subparagraph (2) of item (d).

(2) Subsection (1) is deemed to have come into operation on 11 February 2009 and applies in respect of transfers made on or after that date in respect of disposals made before 1 October 2010. 30

Insertion of paragraph 51A in Eighth Schedule to Act 58 of 1962

105. (1) The Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after paragraph 51 of the following paragraph:

“**Disposal of residence by company or trust and liquidation, winding up, deregistration or revocation of company or trust** 35

51A. (1) Subject to subparagraph (6), this paragraph applies where a company or trust disposes of an interest in a residence and—

(a) the disposal takes place on or before 31 December 2012; 40
(b) the residence to which that interest relates is mainly used for domestic purposes during the period commencing on 11 February 2009 and ending on the date of the disposal contemplated in item (a) by one or more natural persons who ordinarily resided in that residence during that period;

(c) the natural persons contemplated in item (b) are connected persons in relation to the company or trust; 45

(d) within a period of six months commencing on the date of the disposal contemplated in item (a)—

(i) in the case of a company making the disposal, that company has taken steps to liquidate, wind up or deregister as contemplated in section 41(4); or 50

(ii) in the case of a trust making the disposal—

verontagsaam indien die opbrengs uit die beskikking oor daardie primêre woning nie R2 miljoen te bowe gaan nie.”.

(2) Subartikel (1) word geag op 1 Maart 2009 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van paragraaf 51 van Agtste Bylae by Wet 58 van 1962, soos vervang deur artikel 74 van Wet 17 van 2009 5

104. (1) Paragraaf 51 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur in subparagraaf (1) items (c) en (d) deur die volgende items te vervang:
- “(c) geen toelae of aftrekking aan daardie maatskappy of trust toegelaat ten opsigte van daardie belang deur daardie maatskappy of trust verhaal of vergoed word nie of by die inkomste van daardie maatskappy of trust ingesluit word nie in die jaar waarin die oordrag plaasvind nie; en 10
- (d) daardie maatskappy of trust en daardie natuurlike persoon geag word een en dieselfde persoon te wees vir doeleindes van die berekening van die bedrag van enige toelae of aftrekking— 15
- (i) **waarop daardie maatskappy of trust ten opsigte van daardie belang geregtig mag wees; of**
- (ii) wat deur daardie **[maatskappy of trust]** natuurlike persoon verhaal of vergoed word of by die inkomste van daardie **[maatskappy of trust]** natuurlike persoon ten opsigte van daardie belang ingesluit word.”; en 20
- (b) deur in subparagraaf (2) item (a) deur die volgende item te vervang:
- “(a) daardie natuurlike persoon daardie belang nie later nie as **[31 Desember 2011]** 30 September 2010 van die maatskappy of trust verkry;”;
- (c) deur in subparagraaf (2)(b) die woord “en” aan die einde van subitem (ii) by te voeg;
- (d) deur in subparagraaf (2) die uitdrukking “; en” aan die einde van item (c) te skrap; en 30
- (e) deur in subparagraaf (2) item (d) te skrap.

(2) Subartikel (1) word geag op 11 Februarie 2009 in werking te getree het en is van toepassing ten opsigte van oordragte op of na daardie datum gemaak ten opsigte van beskikkings voor 1 Oktober 2010 gemaak. 35

Invoeging van paragraaf 51A in Agtste Bylae by Wet 58 van 1962

105. (1) Die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur na paragraaf 51 die volgende paragraaf in te voeg:

“Beskikking oor woning deur maatskappy of trust en likwidering, deregistrasie of herroeping van maatskappy of trust 40

51A. (1) Behoudens subparagraaf (6) is hierdie paragraaf van toepassing waar ’n maatskappy of ’n trust oor ’n belang in ’n woning beskik en—

- (a) die beskikking op of voor 31 Desember 2012 plaasvind;
- (b) die woning waarop daardie belang betrekking het gedurende die tydperk wat op 11 Februarie 2009 begin en eindig op die datum van die beskikking in item (a) beoog hoofsaaklik gebruik word vir huishoudelike doeleindes deur een of meer natuurlike persone wat gewoonlik gedurende daardie tydperk in daardie woning gewoon het; 45
- (c) die natuurlike persone in item (b) beoog verbonde persone met betrekking tot die maatskappy of trust is; 50
- (d) binne ’n tydperk van ses maande wat begin op die datum van die beskikking in item (a) beoog—
- (i) in die geval van ’n maatskappy wat die beskikking doen, daardie maatskappy stappe gedoen het om te likwideer of te deregistreer soos in artikel 41(4) beoog; of 55
- (ii) in die geval van ’n trust wat die beskikking doen—

- (aa) the founder, the trustees and the beneficiaries of that trust have agreed in writing to the revocation of the trust; or
 (bb) application has been made to a competent court for the revocation of the trust.
- (2) Where a company or a trust makes a disposal of an interest in a residence as contemplated in subparagraph (1), that company or trust must be deemed to have made that disposal for an amount equal to the base cost of that interest as at the date of that disposal. 5
- (3) Where—
- (a) an interest in a residence has been acquired by a person as a result of a disposal by a company of that interest to that person as contemplated in subparagraph (1); 10
- (b) that person (together with all other persons holding shares in that company) acquired all the shares in the company subsequent to the date of acquisition by the company of that interest; and 15
- (c) 90 per cent or more of the market value of the assets held by the company during the period commencing on 11 February 2009 and ending on the date of the disposal contemplated in subparagraph (1)(a) is attributable to that interest, 20
- that person must—
- (i) disregard the disposal of all shares held by that person in that company for purposes of determining his or her taxable income, assessed loss, aggregate capital gain or aggregate capital loss if that disposal is made in anticipation of or in the course of the liquidation, winding up or deregistration of that company; and 25
- (ii) be deemed to have acquired that interest at a cost equal to the base cost of the shares contemplated in subitem (i) as at the date of the acquisition by the person of those shares plus the cost of any improvements effected in respect of that interest subsequent to that date of acquisition. 30
- (4) Where an interest in a residence has been acquired by a person as a result of a disposal by a company of that interest to that person as contemplated in subparagraph (1) and where subparagraph (3) does not apply— 35
- (a) that person must disregard the disposal of any share in that company for purposes of determining his or her taxable income, assessed loss, aggregate capital gain or aggregate capital loss if that disposal is made in anticipation of or in the course of the liquidation, winding up or deregistration of that company; and 40
- (b) that person and that company must be deemed to be one and the same person with respect to—
- (i) the date of acquisition of that interest by that company; 45
- (ii) the amount and date of incurral by that company of any expenditure in respect of that interest allowable in terms of paragraph 20; and
- (iii) any valuation of that interest effected by that trust as contemplated in paragraph 29(4).
- (5) Where an interest in a residence has been acquired by a person as a result of a disposal by a trust of that interest to that person as contemplated in subparagraph (1), that person and that trust must for purposes of determining any capital gain or capital loss in respect of the disposal by that person of that interest so acquired be deemed to be one and the same person with respect to— 50
- (a) the date of acquisition of that interest by that trust; 55
- (b) the amount and date of incurral by that trust of any expenditure in respect of that interest allowable in terms of paragraph 20; and

- (aa) die stigter, die trustees en die begunstigdes van daardie trust skriftelik op die herroeping van die trust ooreengekom het; of
- (bb) by 'n bevoegde hof aansoek gedoen is om die trust te herroep. 5
- (2) Waar 'n maatskappy of 'n trust beskik oor 'n belang in 'n woning soos beoog in subparagraaf (1), moet daardie maatskappy of trust geag word daardie beskikking te gedoen het vir 'n bedrag gelykstaande aan die basiskoste van daardie belang op die datum van daardie beskikking.
- (3) Waar— 10
- (a) 'n belang in 'n woning verkry is deur 'n persoon as gevolg van 'n beskikking deur 'n maatskappy van daardie belang aan daardie persoon soos beoog in subparagraaf (1);
- (b) daardie persoon (tesame met alle ander persone wat aandele in daardie maatskappy hou) al die aandele in daardie maatskappy verkry het na 15
- (c) 90 persent of meer van die markwaarde van die bates gehou deur die maatskappy gedurende die tydperk wat op 11 Februarie 2009 begin en eindig op die datum van die beskikking in subparagraaf (1)(a) beoog aan daardie belang toeskryfbaar is, 20
- moet daardie persoon—
- (i) die beskikking oor alle aandele deur daardie persoon in daardie maatskappy gehou verontagsaam by die bepaling van sy of haar belasbare inkomste, aangeslane verlies, totale kapitaalwins of totale kapitaalverlies indien daardie beskikking 25
- gedoen word in afwagting op of in die loop van die likwidering of deregistrasie van daardie maatskappy; en
- (ii) geag word daardie belang te verkry het teen 'n koste gelykstaande aan die basiskoste van die aandele beoog in subitem (i) op die datum van die verkryging deur die persoon 30
- van daardie aandele plus die koste van enige verbeterings ten opsigte van daardie belang na daardie datum van verkryging aangebring.
- (4) Waar 'n belang in 'n woning verkry is deur 'n persoon as gevolg van 'n beskikking deur 'n maatskappy oor daardie belang aan daardie persoon 35
- soos beoog in subparagraaf (1) en waar subparagraaf (3) nie van toepassing is nie—
- (a) moet daardie persoon die beskikking oor enige aandeel in daardie maatskappy verontagsaam by die bepaling van sy of haar belasbare inkomste, aangeslane verlies, totale kapitaalwins of totale kapitaalverlies indien daardie beskikking gedoen word in afwagting op of in 40
- die loop van die likwidering of deregistrasie van daardie maatskappy; en
- (b) moet daardie persoon en daardie maatskappy geag word een en dieselfde persoon te wees ten opsigte van— 45
- (i) die datum van verkryging van daardie belang deur daardie maatskappy;
- (ii) die bedrag en datum van die aangaan deur daardie maatskappy van enige uitgawes ten opsigte van daardie belang ingevolge 50
- paragraaf 20 toelaatbaar; en
- (iii) enige waardering van daardie belang deur daardie trust te weeg gebring soos in paragraaf 29(4) beoog.
- (5) Waar 'n belang in 'n woning verkry is deur 'n persoon as gevolg van 'n beskikking deur 'n trust oor daardie belang aan daardie persoon soos 55
- beoog in subparagraaf (1), moet daardie persoon en daardie trust by die bepaling van enige kapitaalwins of kapitaalverlies ten opsigte van die beskikking deur daardie persoon oor daardie belang aldus verkry, geag word een en dieselfde persoon te wees met betrekking tot—
- (a) die datum van verkryging van daardie belang deur daardie trust;
- (b) die bedrag en datum van die aangaan deur daardie trust van enige 60
- uitgawes ten opsigte van daardie belang ingevolge paragraaf 20 toelaatbaar; en

- (c) any valuation of that interest effected by that trust as contemplated in paragraph 29(4).
- (6) This paragraph does not apply to any disposal made to a person that is a company or trust unless—
- (a) within a period of six months commencing on the date of that disposal—
- (i) where that person is a company, that company has taken steps to liquidate, wind up or deregister as contemplated in section 41(4); or
 - (ii) where that person is a trust—
 - (aa) the founder, the trustees and the beneficiaries of that trust have agreed in writing to the revocation of the trust; or
 - (bb) application has been made to a competent court for the revocation of the trust; and
- (b) one or more natural persons contemplated in subparagraph (1)(b) acquire the residence contemplated in that subparagraph on or before 31 December 2012.
- (7) For the purposes of this paragraph, ‘share’ means a share as defined in paragraph 74.”.

(2) Subsection (1) comes into operation on 1 October 2010 and applies in respect of disposals made on or after that date and before 1 January 2013.

Amendment of paragraph 61 of Eighth Schedule to Act 58 of 1962, as substituted by section 75 of Act 17 of 2009

106. (1) The Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph 61 of the following paragraph:

“Collective investment schemes in securities

61. (1) A holder of a participatory interest in a portfolio of a collective investment scheme in securities must [**disregard any**] determine a capital gain or capital loss in respect of the participatory interest only upon the disposal of that participatory interest.

(2) The capital gain or capital loss to be determined in terms of subparagraph (1) must be determined with reference to the proceeds from the disposal of that participatory interest and its base cost.”.

(2) Subsection (1) is deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 January 2010.

Amendment of paragraph 62 of Eighth Schedule to Act 58 of 1962, as substituted by section 103 of Act 45 of 2003 and amended by section 52 of Act 20 of 2006

107. Paragraph 62 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

- (a) by the substitution for subparagraph (a) of the following subparagraph:
- “(a) the [**Government or any provincial administration**] government of the Republic in the national, provincial or local sphere, as contemplated in section 10(1)(a);”;
- and
- (b) by the substitution for subparagraph (d) of the following subparagraph:
- “(d) a person referred to in section [**10(1)(b), (cE) or (e)**] 10(1)(cE) or (e); or”.

- (c) enige waardering van daardie belang deur daardie trust te weeg gebring soos in paragraaf 29(4) beoog.
- (6) Hierdie paragraaf is nie van toepassing nie op enige beskikking gedoen aan 'n persoon wat 'n maatskappy of 'n trust is tensy—
- (a) binne 'n tydperk van ses maande wat begin op die datum van daardie beskikking—
- (i) waar daardie persoon 'n maatskappy is, daardie maatskappy stappe gedoen het om te likwideer of te deregistreer soos in artikel 41(4) beoog; of
- (ii) waar daardie persoon 'n trust is—
- (aa) die stigter, die trustees en die bevoorreesdes van daardie trust skriftelik op die herroeping van die trust ooreengekom het; of
- (bb) by 'n bevoegde hof vir die herroeping van die trust aansoek gedoen is; en
- (b) een of meer natuurlike persone beoog in subparagraaf (1)(b) die woning beoog in daardie subparagraaf op of voor 31 Desember 2012 verkry.
- (7) By die toepassing van hierdie paragraaf beteken 'aandeel' 'n aandeel soos in paragraaf 74 omskryf.”
- (2) Subartikel (1) tree op 1 Oktober 2010 in werking en is van toepassing ten opsigte van oordragte op of na daardie datum en voor 1 Januarie 2013 gemaak.

Wysiging van paragraaf 61 van Agtste Bylae by Wet 58 van 1962, soos vervang deur artikel 90 van Wet 74 van 2002 en artikel 75 van Wet 17 van 2009

106. (1) Die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf 61 deur die volgende paragraaf te vervang:

“Kollektiewe beleggingskema in effekte

- 61. (1)** 'n **[Portefeulje]** Houer van 'n deelnemende belang in 'n portefeulje van 'n kollektiewe beleggingskema in effekte moet enige kapitaalwins of kapitaalverlies **[verontagsaam]** ten opsigte van die deelnemende belang slegs by beskikking oor daardie deelnemende belang bepaal.
- (2) Die kapitaalwins of kapitaalverlies ingevolge subparagraaf (1) bepaal te word, moet bepaal word met verwysing na die opbrengs uit die beskikking oor daardie deelnemende belang en die basiskoste daarvan.”
- (2) Subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2010 begin.

Wysiging van paragraaf 62 van Agtste Bylae by Wet 58 van 1962, soos vervang deur artikel 103 van Wet 45 van 2003 en gewysig deur artikel 52 van Wet 20 van 2006

107. Paragraaf 62 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur subparagraaf (a) deur die volgende subparagraaf te vervang:
- “(a) die **[Regering of enige provinsiale administrasie]** regering van die Republiek in die nasionale, provinsiale of plaaslike sfeer, soos beoog in artikel 10(1)(a);” en
- (b) deur subparagraaf (d) deur die volgende subparagraaf te vervang:
- “(d) 'n persoon **[waarna verwys word]** bedoel in artikel **[10(1)(b), (cE) of (e)]** 10(1)(cE) of (e); of”.

Amendment of paragraph 64B of Eighth Schedule to Act 58 of 1962, as inserted by section 105 of Act 45 of 2003 and amended by section 79 of Act 31 of 2005, section 35 of Act 9 of 2006, section 65 of Act 8 of 2007, section 77 of Act 35 of 2007, section 58 of Act 3 of 2008 and section 81 of Act 60 of 2008

108. (1) Paragraph 64B of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended— 5

- (a) by the substitution for the title of the following title:
“Disposal of [interest in] equity [share capital of] shares in foreign [company] companies”;
- (b) by the substitution in subparagraph (1) for the definition of “foreign company” of the following definition:
“‘foreign company’ means—
(a) a foreign company [as defined in section 9D]; or
(b) a headquarter company;”;
- (c) by the substitution in subparagraph (2) for the words preceding item (a) of the following words: 15
“Subject to subparagraph (5), a person must disregard any capital gain or capital loss determined in respect of the disposal of any [interest in the] equity share [capital of] in any foreign company (other than a foreign financial instrument holding company or an interest contemplated in paragraph 2(2)), if—”; 20
- (d) by the substitution in subparagraph (2)(a) for subitem (i) of the following subitem:
“(i) held at least 20 per cent of the equity [share capital] shares and voting rights in that foreign company; and”; 25
- (e) by the substitution in subparagraph (2) for the proviso to item (a) of the following proviso:
“: Provided that in determining the total equity [share capital] shares in a foreign company, there shall not be taken into account any share which would have constituted a hybrid equity instrument, as contemplated in section 8E, but for the three year period requirement contained in that section”; 30
- (f) by the substitution in subparagraph (3) for the words preceding item (a) of the following words:
“Paragraph 8(b) applies in respect of any capital gain determined in respect of any disposal of any [interest in the] equity share [capital of] in any foreign company by a person which is or was disregarded in terms of subparagraphs (2) and (5) in any year of assessment, if—”; 35
- (g) by the substitution in subparagraph (3) for item (b) of the following item:
“(b) the [interest in the] equity share [capital of] in that foreign company was disposed of to a connected person in relation to that person either before or after that disposal;”; 40
- (h) by the substitution in subparagraph (3)(c) for subitem (i) of the following subitem:
“(i) disposed of that equity share [capital] for no consideration or for consideration which does not reflect an arm’s length price, other than a distribution contemplated in subitem (ii);”; 45
- (i) by the substitution in subparagraph (3)(c)(ii) for the words preceding subsubitem (aa) of the following words:
“disposed of that equity share [capital] by means of a distribution unless the full amount of that distribution—”; 50
- (j) by the substitution in subparagraph (3)(c)(iii) for the words preceding subsubitem (aa) of the following words:
“disposed of any consideration received or accrued from the disposal of that equity share [capital] (or any amount received in exchange therefor) in terms of any transaction, operation or scheme of which the disposal of the equity share [capital] forms part—”; 55

Wysiging van paragraaf 64B van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 105 van Wet 45 van 2003 en gewysig deur artikel 79 van Wet 31 van 2005, artikel 35 van Wet 9 van 2006, artikel 65 van Wet 8 van 2007, artikel 77 van Wet 35 van 2007, artikel 58 van Wet 3 van 2008 en artikel 81 van Wet 60 van 2008

108. (1) Paragraaf 64B van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

- (a) deur die opskrif deur die volgende opskrif te vervang:
 “**Beskikking oor [’n belang in die ekwiteitsaandelekapitaal van] aandeel in [’n] buitelandse [maatskappy] maatskappye**”;
- (b) deur in subparagraaf (1) die omskrywing van “buitelandse maatskappy” deur die volgende omskrywing te vervang:
 “**‘buitelandse maatskappy’—**
 (a) ’n buitelandse maatskappy [**soos in artikel 9D omskryf**]; of
 (b) ’n hoofkwartiermaatskappy;”;
- (c) deur in subparagraaf (2) die woorde wat item (a) voorafgaan deur die volgende woorde te vervang:
 “Behoudens subparagraaf (5) moet ’n persoon enige kapitaalwins of kapitaalverlies vasgestel ten opsigte van ’n beskikking oor enige **[belang in die ekwiteitsaandelekapitaal van]** ekwiteitsaandeel in enige buitelandse maatskappy (behalwe ’n buitelandse finansiële instrumenthouermaatskappy of ’n belang in paragraaf 2(2) beoog) verontagsaam indien—”;
- (d) deur in subparagraaf (2)(a) subitem (i) deur die volgende subitem te vervang:
 “(i) minstens 20 persent van die **[ekwiteitsaandelekapitaal]** ekwiteitsaandeel en stemregte in daardie maatskappy gehou het; en”;
- (e) deur in subparagraaf (2) die voorbehoudsbepaling tot item (a) deur die volgende voorbehoudsbepaling te vervang:
 “: Met dien verstande dat geen aandeel in aanmerking geneem sal word by die bepaling van die totale **[ekwiteitsaandelekapitaal]** ekwiteitsaandeel in ’n buitelandse maatskappy nie indien daardie aandeel ’n hibriede ekwiteitsinstrument, soos in artikel 8E beoog, sou uitgemaak het was dit nie vir die tydperk van drie jaar as vereiste in daardie artikel gestel nie”;
- (f) deur in subparagraaf (3) die woorde wat item (a) voorafgaan deur die volgende woorde te vervang:
 “Paragraaf 8(b) is van toepassing ten opsigte van enige kapitaalwins vasgestel ten opsigte van enige beskikking oor enige **[belang in die ekwiteitsaandelekapitaal van]** ekwiteitsaandeel in ’n buitelandse maatskappy deur ’n persoon wat kragtens subparagraaf (2) en (5) in enige jaar van aanslag verontagsaam is, indien—”;
- (g) deur in subparagraaf (3) item (b) deur die volgende item te vervang:
 “(b) die **[belang in die ekwiteitsaandelekapitaal van]** ekwiteitsaandeel in daardie buitelandse maatskappy oor beskik is aan ’n verbonde persoon met betrekking tot daardie persoon voor of na daardie beskikking;”;
- (h) deur in subparagraaf (3)(c) subitem (i) deur die volgende subitem te vervang:
 “(i) oor daardie **[ekwiteitsaandelekapitaal]** ekwiteitsaandeel beskik het vir geen vergoeding of vir vergoeding wat nie ’n prys onder uiterste voorwaardes beding uitmaak nie, behalwe ’n uitkering in subitem (ii) bedoel;”;
- (i) deur in subparagraaf (3)(c)(ii) die woorde wat subsubitem (aa) voorafgaan deur die volgende woorde te vervang:
 “oor daardie **[ekwiteitsaandelekapitaal]** ekwiteitsaandeel beskik het by wyse van ’n uitkering tensy die volle bedrag van daardie uitkering—”;
- (j) deur in subparagraaf (3)(c)(iii) die woorde wat subsubitem (aa) voorafgaan deur die volgende woorde te vervang:
 “oor enige vergoeding ontvang of toegeval uit daardie beskikking oor die **[ekwiteitsaandelekapitaal]** ekwiteitsaandeel (of enige bedrag in ruil daarvoor ontvang) beskik het ingevolge ’n transaksie, handeling of skema waarvan die beskikking oor die **[ekwiteitsaandelekapitaal]** ekwiteitsaandeel deel gevorm het—”;

- (k) by the substitution in subparagraph (4) for the words following item (b) of the following words:
 “and the company to which that distribution was made, disposes of any amount of that distribution in the circumstances contemplated in subparagraph (3)(c)(i), (ii) or (iii), that company must be treated as having disposed of the **[interest in the]** equity share **[capital of]** in that foreign company by means of a disposal which is or was disregarded in terms of subparagraph (2).”;
- (l) by the substitution in subparagraph (5) for the words preceding the proviso of the following words:
 “A person must disregard any capital gain or capital loss determined in respect of any capital distribution contemplated in paragraph 67A, 76, 76A or 77 received by or accrued to that person from a ‘foreign company’ **[as defined in section 9D]** (other than a foreign financial instrument holding company or 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) holds at least 20 per cent of the total equity **[share capital]** shares and voting rights in that company”;
- (m) by the substitution in paragraph (5) for paragraph (a) of the proviso of the following paragraph:
 “(a) in determining the total equity **[share capital of]** shares in a company, there shall not be taken into account any share which would have constituted a hybrid equity instrument, as contemplated in section 8E, but for the three year period requirement contained in that section; and”;
- (n) by the substitution in subparagraph (6) for item (a) of the following item:
 “(a) the disposal of any **[interest in the]** equity share **[capital of]** in any portfolio contemplated in paragraph (e) of the definition of ‘company’ in section 1; and”.
- (2) Paragraphs (a), (c), (d), (e), (f), (g), (h), (i), (j), (k), (m) and (n) of subsection (1) come into operation on 1 January 2011.
- (3) Paragraphs (b) and (l) of subsection (1) come into operation as from the commencement of years of assessment commencing on or after 1 January 2011.

Amendment of paragraph 67A of Eighth Schedule to Act 58 of 1962, as substituted by section 93 of Act 74 of 2002 and amended by section 109 of Act 45 of 2003, section 81 of Act 35 of 2007 and section 82 of Act 60 of 2008

- 109.** (1) Paragraph 67A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:
 “(1) A holder of a participatory interest in a portfolio **[comprised in any]** of a collective investment scheme **[managed or carried on by any company registered as a manager under section 42 of the Collective Investment Schemes Control Act, 2002, for the purposes of Part V of that Act]** in property must determine a capital gain or capital loss in respect of any participatory interest in that portfolio only upon the disposal of that interest.”.
- (2) Subsection (1) is deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 January 2010.

Amendment of paragraph 74 of Eighth Schedule to Act 58 of 1962, as amended by section 106 of Act 60 of 2001, section 95 of Act 74 of 2002, section 113 of Act 45 of 2003, section 83 of Act 35 of 2007 and section 59 of Act 3 of 2008

- 110.** (1) Paragraph 74 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—
- (a) by the substitution in the definition of “date of distribution” for the words preceding paragraph (a) of the following words:
 “ ‘**date of distribution**’, in relation to any distribution, means the date of approval of the distribution by the directors or by some other person or body of persons with comparable authority **[conferred under the**

- (k) deur in subparagraaf (4) die woorde wat volg op item (b) deur die volgende woorde te vervang:
 “en die maatskappy aan wie die uitkering gemaak was oor enige bedrag van daardie uitkering beskik in die omstandighede in subparagraaf (3)(c)(i), (ii) of (iii) beoog, word daardie maatskappy geag as oor die **[belang van] ekwiteitsaandeel in** daardie buitelandse maatskappy **[in die ekwiteitsaandelekapitaal]** te beskik het by wyse van ’n beskikking wat ingevolge subparagraaf (2) verontagsaam word of is.”; 5
- (l) deur in subparagraaf (5) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang: 10
 “’n Persoon moet enige kapitaalwins of kapitaalverlies, vasgestel ten opsigte van enige kapitaal-uitkering in paragraaf 67A, 76, 76A of 77 beoog, ontvang deur of toegeval aan daardie persoon van ’n ‘buitelandse maatskappy’ **[soos in artikel 9D omskryf]** (buiten ’n buitelandse finansiële instrument houermaatskappy of ’n belang beoog in paragraaf 2(2)), verontagsaam, waar daardie persoon (hetsy alleen of tesame met enige ander persoon wat deel vorm van dieselfde groep van maatskappye as daardie persoon) minstens 20 present van die totale **[ekwiteitsaandelekapitaal]** ekwiteitsaandele en stemregte in daardie maatskappy hou”; 15 20
- (m) deur in paragraaf (5) paragraaf (a) van die voorbehoudsbepaling deur die volgende paragraaf te vervang:
 “(a) by die berekening van die totale **[ekwiteitsaandelekapitaal van]** ekwiteitsaandele in ’n maatskappy, word enige aandeel wat ’n hibriede ekwiteitsinstrument in artikel 8E beoog, sou uitmaak by onstentenis van die drie jaar tydperk vereiste in daardie artikel, buite rekening gelaat; en”; en 25
- (n) deur in subparagraaf (6) item (a) deur die volgende item te vervang:
 “(a) die beskikking oor enige **[belang in die ekwiteitsaandelekapitaal van]** ekwiteitsaandeel in enige portefeulje in paragraaf (e) van die omskrywing van ‘maatskappy’ in artikel 1 beoog; en”. 30
- (2) Paragrafe (a), (c), (d), (e), (f), (g), (h), (i), (j), (k), (m) en (n) van subartikel (1) tree op 1 Januarie 2011 in werking.
- (3) Paragrafe (b) en (l) van subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Januarie 2011 begin. 35

Wysiging van paragraaf 67A van Agtste Bylae by Wet 58 van 1962, soos vervang deur artikel 93 van Wet 74 van 2002 en gewysig deur artikel 109 van Wet 45 van 2003, artikel 81 van Wet 35 van 2007 en artikel 82 van Wet 60 van 2008

- 109.** (1) Paragraaf 67A van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 40
 “(1) ’n Houer van ’n deelnemende reg in ’n portefeulje **[in] van** ’n kollektiewe beleggingskema **[bestuur of bedryf deur enige maatskappy geregistreer as ’n bestuurder ingevolge artikel 42 van die Wet op die Beheer van Kollektiewe Beleggingskemas, 2002, vir doeleindes van Deel V van daardie Wet]** in eiendom, moet ’n kapitaalwins of kapitaalverlies ten opsigte van enige 45
 deelnemende belang in daardie portefeulje vasstel slegs by die beskikking **[van]** oor daardie belang.”.
- (2) Subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2010 begin.

Wysiging van paragraaf 74 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 106 van Wet 60 van 2001, artikel 95 van Wet 74 van 2002, artikel 113 van Wet 45 van 2003, artikel 83 van Wet 35 van 2007 en artikel 59 van Wet 3 van 2008 50

- 110.** (1) Paragraaf 74 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—
- (a) deur in die omskrywing van “datum van uitkering” die woorde wat paragraaf 55
 (a) voorafgaan deur die volgende woorde te vervang:
 “**‘datum van uitkering’**, met betrekking tot enige uitkering, die datum van goedkeuring van die uitkering deur die direkteure of deur ’n ander persoon of liggaam van persone met vergelykbare gesag **[wat kragtens]**

memorandum and articles of association of the company making the distribution or] under a law, regulation or rule to which that company is subject, except where the distribution is made—”;

(b) by the substitution in the definition of “share” for paragraph (a) of the following paragraph: 5

“(a) any share [**capital of**], or member’s interest, in [,] that company [**and any right or interest in or to such share capital or member’s interest,**] whether or not that share [**capital**] or [**member’s**] similar interest carries a right to participate [**in dividends or a capital**] beyond a specified amount in a distribution[; or].”;

(c) by the deletion in the definition of “share” of paragraph (b).

(2) Paragraphs (a) and (b) of subsection (1) come into operation on 1 January 2011.

(3) Paragraph (c) of subsection (1) is deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 January 2010. 15

Amendment of paragraph 78 of Eighth Schedule to Act 58 of 1962, as amended by section 97 of Act 74 of 2002, section 116 of Act 45 of 2003, section 31 of Act 16 of 2004 and section 85 of Act 60 of 2008

111. (1) Paragraph 78 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection: 20

“(1) Where a company [**issues capitalisation**] makes a distribution of shares for no consideration, those [**capitalisation**] shares must be treated as having been acquired on the date of distribution for expenditure incurred and paid of nil, except to the extent that the [**issue**] distribution of those shares constitutes a dividend, in which case they must be treated as having been acquired on the date of distribution for expenditure incurred and paid equal to the amount of that dividend.”. 25

(2) Subsection (1) comes into operation on 1 January 2011.

Amendment of paragraph 96 of Eighth Schedule to Act 58 of 1962, as substituted by section 100 of Act 74 of 2002 and amended by section 123 of Act 45 of 2003

112. (1) Paragraph 96 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection: 30

“(1) The provisions of paragraphs 11(2)(a)[, (e)] and (i), 12(1), 12(2)(a), 13, 14, 36, 38, 39, 40, 56, 62, 63, 68, 69, 70, 71, 72, 73, 80, 82 and 83 of [**the Eighth**] this Schedule [**to the Act,**] shall apply *mutatis mutandis* in respect of the determination of any foreign currency capital gain or foreign currency capital loss resulting from the disposal of any foreign currency asset.”. 35

(2) Subsection (1) is deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2009.

Amendment of paragraph 1 of Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006 and amended by section 70 of Act 8 of 2007, section 87 of Act 35 of 2007, section 65 of Act 3 of 2008 and section 84 of Act 17 of 2009 40

113. (1) Paragraph 1 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in paragraph (1) for the definition of “oil and gas right” of the following definition:

“ ‘**oil and gas right**’ means— 45

(a) any reconnaissance permit, technical co-operation permit, exploration right, or production right as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), or any right or interest therein;

(b) any exploration right acquired by virtue of a conversion contemplated in item 4 of Schedule II to the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), or any interest therein; or 50

die akte van oprigting en statute van die maatskappy wat die uitkering maak verleen is of] kragtens 'n wet, regulasie of reël waaraan daardie maatskappy onderhewig is, behalwe waar die uitkering gemaak word—”;

(b) deur in die omskrywing van “aandeel” paragraaf (a) deur die volgende paragraaf te vervang:

“(a) enige [**aandelekapitaal van**] aandeel, of ledebelang, in[,] daardie maatskappy [**en enige reg of belang in of tot daardie aandelekapitaal of ledebelang**], hetsy daardie [**aandelekapitaal aandeel of [ledebelang] soortgelyke belang die reg bevat om [aan dividende of 'n kapitaaluitkering] bokant 'n bepaalde bedrag in 'n uitkering deel te neem [of nie], al dan nie[; of].**”;

(c) deur in die omskrywing van “aandeel” paragraaf (b) te skrap.

(2) Paragrafe (a) en (b) van subartikel (1) tree op 1 Januarie 2011 in werking.

(3) Paragraaf (c) van subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2010 begin.

Wysiging van paragraaf 78 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 97 van Wet 74 van 2002, artikel 116 van Wet 45 van 2003, artikel 31 van Wet 16 van 2004 en artikel 85 van Wet 60 van 2008

111. (1) Paragraaf 78 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Waar 'n maatskappy [**kapitalisasie-aandele uitreik**] 'n uitkering van aandeel vir geen vergoeding maak, word daardie [**kapitalisasie-aandele**] aandeel geag verkry te gewees het op die datum van uitkering vir onkoste aangegaan en betaal van nul, behalwe tot die mate wat die [**uitreiking**] uitkering van daardie aandeel 'n dividend uitmaak, in welke geval hulle geag moet word verkry te gewees het op die datum van uitkering vir onkoste aangegaan en betaal wat gelyk is aan die bedrag van daardie dividend.”.

(2) Subartikel (1) tree op 1 Januarie 2011 in werking.

Wysiging van paragraaf 96 van Agtste Bylae by Wet 58 van 1962, soos vervang deur artikel 100 van Wet 74 van 2002 en gewysig deur artikel 123 van Wet 45 van 2003

112. (1) Paragraaf 96 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die bepalinge van paragrafe 11(2)(a)[, (e)] en (i), 12(1), 12(2)(a), 13, 14, 36, 38, 39, 40, 56, 62, 63, 68, 69, 70, 71, 72, 73, 80, 82 en 83 van [**die Agtste**] hierdie Bylae [**by die Wet,**] is *mutatis mutandis* van toepassing ten opsigte van die vasstelling van enige buitelandse valutakapitaalwinst of buitelandse valutakapitaalverlies weens die beskikking oor enige buitelandse valutabate.”.

(2) Subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Januarie 2009 eindig.

Wysiging van paragraaf 1 van Tiende Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 63 van Wet 20 van 2006 en gewysig deur artikel 70 van Wet 8 van 2007, artikel 87 van Wet 35 van 2007, artikel 65 van Wet 3 van 2008 en artikel 84 van Wet 17 van 2009

113. (1) Paragraaf 1 van die Tiende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in paragraaf (1) die omskrywing van “olie- en gasreg” deur die volgende omskrywing te vervang:

“‘**olie- en gasreg**’—

(a) enige ‘reconnaissance permit’, ‘technical cooperation permit’, ‘exploration right’ of ‘production right’ soos in artikel 1 van die ‘Mineral and Petroleum Resources Development Act, 2002’ (Wet No. 28 van 2002), omskryf, of enige reg of belang daarin;

(b) enige ‘exploration right’ verkry uit hoofde van 'n omskakeling beoog in item 4 van ‘Schedule II’ by die ‘Mineral and Petroleum Resources Development Act, 2002’ (Wet No. 28 van 2002), of enige belang daarin; of

(c) any production right acquired by virtue of a conversion contemplated in item 5 of Schedule II to the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), or any interest therein;”

(2) Subsection (1) is deemed to have come into operation on 30 October 2007 and applies in respect of conversions taking place on or after that date.

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Amendment of paragraph 4 of Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006

114. (1) Paragraph 4 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for subparagraphs (1) and (2) of the following subparagraphs:

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“(1) Currency gains or losses of an oil and gas company during any year of assessment (regardless of whether those gains or losses are realised or unrealised) must be determined solely with reference to—

(a) the functional currency of that company; and

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(b) the [currency and] translation method used by that company for purposes of financial reporting.

(2) Any amount received by or accrued to, or expenditure incurred by, an oil and gas company during any year of assessment in any currency other than that of the Republic must be—

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(a) determined in the functional currency of that company; and

(b) [in accordance with the translation method used by that oil and gas company for purposes of financial reporting for the relevant year of assessment and any tax in respect of that year must be] translated to the currency of the Republic by applying the average exchange rate for that year.”; and

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(b) by the deletion of subparagraph (3).

(2) Subsection (1) comes into operation on 1 January 2011 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 5 of Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006 and amended by section 73 of Act 8 of 2007 and section 86 of Act 17 of 2009

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115. (1) Paragraph 5 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after subparagraph (2) of the following subparagraph:

“(2A) For the purposes of determining the taxable income of an oil and gas company during the first year of assessment of that oil and gas company commencing on or after 2 November 2006, there will be brought forward and allowed as a deduction from the oil and gas income of that oil and gas company the amount determined in terms of section 36(7E) in respect of the immediately preceding year of assessment.”

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(2) Subsection (1) is deemed to have come into operation as from the commencement of years of assessment commencing on or after 2 November 2006.

Amendment of paragraph 6 of Tenth Schedule to Act 58 of 1962, as inserted by section 63 of Act 20 of 2006 and amended by section 74 of Act 8 of 2007

116.(1) Paragraph 6 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended—

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

“For purposes of determining the taxable income of an oil and gas company during any year of assessment, the Commissioner may not disallow a deduction of expenditure in respect of loans, advances and debts (or of any other financial assistance) on the grounds that those loans, advances and debts are excessive in relation to the [fixed capital of] market value of all the shares in that company (as determined on the last day of such year of assessment of that company) unless—”; and

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(c) enige ‘production right’ verkry uit hoofde van ’n omskakeling beoog in item 5 van ‘Schedule II’ by die ‘Mineral and Petroleum Resources Development Act, 2002’ (Wet No. 28 van 2002), of enige belang daarin;”

(2) Subartikel (1) word geag op 30 Oktober 2007 in werking te getree het en is van toepassing ten opsigte van omskakelings wat op of na daardie datum plaasvind. 5

Wysiging van paragraaf 4 van Tiende Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 63 van Wet 20 van 2006

114. (1) Paragraaf 4 van die Tiende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subparagraaf (1) en (2) deur die volgende subparagraaf te vervang: 10

“(1) Valuta winste of verliese van ’n olie en gas maatskappy gedurende ’n jaar van aanslag (ongeag of daardie winste of verliese gerealiseer of ongerealiseer is), word uitsluitlik met verwysing na—

(a) die funksionele geldeenheid van daardie maatskappy; en

(b) die [geldeenheid en] omrekeningsmetode deur daardie maatskappy gebruik vir doeleindes van finansiële verslagdoening, bepaal. 15

(2) ’n Bedrag ontvang deur of toegeval aan, of onkoste aangegaan deur, ’n olie en gas maatskappy gedurende enige jaar van aanslag in enige geldeenheid behalwe daardie van die Republiek, word—

(a) bepaal in die funksionele geldeenheid van daardie maatskappy; en 20

(b) [ooreenkomstig die omrekeningsmetode deur daardie olie en gas maatskappy vir doeleindes van finansiële verslagdoening vir die betrokke jaar van aanslag gebruik, en enige belasting ten opsigte van daardie jaar word] na die geldeenheid van die Republiek omgerekend deur die gemiddelde wisselkoers vir daardie jaar te gebruik.”; en 25

(b) deur subparagraaf (3) te skrap.

(2) Subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van paragraaf 5 van Tiende Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 63 van Wet 20 van 2006 en gewysig deur artikel 73 van Wet 8 van 2007 en artikel 86 van Wet 17 van 2009 30

115. (1) Paragraaf 5 van die Tiende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur die volgende subparagraaf in te voeg:

“(2A) By die bepaling van die belasbare inkomste van ’n olie en gas maatskappy gedurende die eerste jaar van aanslag van daardie olie en gas maatskappy wat op of na 2 November 2006 begin, word daar oorgedra en toegelaat as ’n aftrekking van die olie en gas inkomste van daardie olie en gas maatskappy die bedrag ingevolgt artikel 36(7E) ten opsigte van die onmiddellik voorafgaande jaar van aanslag bepaal.”. 35 40

(2) Subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 2 November 2006 begin.

Wysiging van paragraaf 6 van Tiende Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 63 van Wet 20 van 2006 en gewysig deur artikel 74 van Wet 8 van 2007

116. (1) Paragraaf 6 van die Tiende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig— 45

(a) deur in subparagraaf (1) die woorde wat item (a) voorafgaan deur die volgende woorde te vervang:

“By bepaling van die belasbare inkomste van ’n olie en gasmaatskappy gedurende ’n jaar van aanslag, kan nie Kommissaris nie ’n aftrekking van onkoste ten opsigte van lenings, voorskotte en skulde (of van enige ander finansiële bystand) afwys nie op grond daarvan dat daardie lenings, voorskotte en verliese oormatig is in verhouding tot die [vaste kapitaal van] markwaarde van al die aandele in daardie maatskappy (soos op die laaste dag van daardie jaar van aanslag van daardie maatskappy bepaal), tensy—”; en 50 55

- (b) by the substitution in subparagraph (1) for item (b) of the following item:
 “(b) all interest bearing loans, debts and advances contemplated in item (a) in the aggregate exceed an amount equal to three times the **[total fixed capital (being share capital, share premium and accumulated net realised and unrealised profits) of market value of all the shares in that company.**”.

(2) Subsection (1) comes into operation on 1 January 2011.

Amendment of Schedule No. 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 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 and section 88 of Act 17 of 2009

117. (1) Schedule No. 1 to the Customs and Excise Act, 1964, is hereby amended as set out in Appendix II to this Act.

(2) For the purposes of Appendix II to this Act any word or expression to which a meaning has been assigned in the Customs and Excise Act, 1964, bears the meaning so assigned unless the context indicates otherwise.

(3) Subject to section 58(1) of the Customs and Excise Act, 1964, subsection (1) is deemed to have come into operation on 17 February 2010.

Continuation of certain amendments of Schedules to Act 91 of 1964 30

118. Every amendment or withdrawal of or insertion in Schedule 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 August 2009 up to and including 31 July 2010, shall not lapse by virtue of section 48(6), 49, 56(3), 56A(3), 57(3), 60(4) or 75(16) of that Act. 35

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, section 81 of Act 8 of 2007, section 104 of Act 35 of 2007, section 68 of Act 3 of 2008 and section 104 of Act 60 of 2008 45

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

- (a) by the substitution in the definition of “exported” for paragraph (b) of the following paragraph:
 “(b) delivered by the vendor to the owner or charterer of any foreign-going ship contemplated in paragraph (a) or (c) of the definition of ‘foreign-going ship’ or to a foreign-going aircraft when such ship or aircraft is going to a destination in an export country

(b) deur in subparagraaf (1) item (b) deur die volgende item te vervang:

“(b) alle rentedraende lenings, skulde en voorskotte in item (a) bedoel in totaal meer is as ’n bedrag gelykstaande aan drie maal die **[totale vaste kapitaal (synde aandelekapitaal, aandelepremie en opgehoopte netto gerealiseerde en ongerealiseerde winste) van]** **markwaarde van al die aandele in daardie maatskappy.**” 5

(2) Subartikel (1) tree op 1 Januarie 2011 in werking.

Wysiging van Bylae no. 1 by Wet 91 van 1964, soos gewysig deur artikel 19 van Wet 95 van 1965, artikel 15 van Wet 57 van 1966, artikel 2 van Wet 96 van 1967, artikel 22 van Wet 85 van 1968, artikel 37 van Wet 105 van 1969, artikel 9 van Wet 98 van 1970, artikel 2 van Wet 89 van 1971, artikel 12 van Wet 103 van 1972, artikel 6 van Wet 68 van 1973, artikel 3 van Wet 64 van 1974, artikel 13 van Wet 71 van 1975, artikel 13 van Wet 105 van 1976, artikel 38 van Wet 112 van 1977, artikel 3 van Wet 114 van 1981, artikel 27 van Wet 86 van 1982, artikel 10 van Wet 89 van 1984, artikel 14 van Wet 101 van 1985, artikel 11 van Wet 69 van 1988, artikel 19 van Wet 68 van 1989, artikel 40 van Wet 59 van 1990, artikel 3 van Wet 111 van 1991, artikel 15 van Wet 105 van 1992, artikel 13 van Wet 98 van 1993, artikel 12 van Wet 19 van 1994, artikel 74 van Wet 45 van 1995, artikel 8 van Wet 44 van 1996, artikel 15 van Wet 27 van 1997, artikel 75 van Wet 30 van 1998, artikel 7 van Wet 32 van 1999, artikel 64 van Wet 30 van 2000, artikel 52 van Wet 19 van 2001, artikel 53 van Wet 30 van 2002, artikel 41 van Wet 12 van 2003, artikel 155 van Wet 45 van 2003, artikel 36 van Wet 16 van 2004, artikel 14 van Wet 9 van 2005, artikel 36 van Wet 9 van 2006, artikel 76 van Wet 8 van 2007, artikel 66 van Wet 3 van 2008 en artikel 88 van Wet 17 van 2009 10 15 20

117. (1) Bylae no. 1 by die Doeane- en Aksynswet, 1964, word hierby gewysig soos in Aanhangsel II tot hierdie Wet uiteengesit. 25

(2) By die toepassing van Aanhangsel II tot hierdie Wet dra enige woord of uitdrukking waaraan ’n betekenis in die Doeane- en Aksynswet, 1964, geheg is die betekenis aldus geheg, tensy uit die samehang anders blyk.

(3) Behoudens artikel 58(1) van die Doeane- en Aksynswet, 1964, word subartikel (1) geag op 17 Februarie 2010 in werking te getree het. 30

Voortdoring van sekere wysigings van Bylaes by Wet 91 van 1964

118. Geen wysiging aan of intrekking van of invoeging in Bylae no. 1 tot 6, 8 en 10 by die Doeane- en Aksynswet, 1964, wat aangebring is kragtens artikel 48, 49, 56, 56A, 57, 60 of 75(15) van daardie Wet gedurende die tydperk 1 Augustus 2009 tot en met 31 Julie 2010, verval uit hoofde van artikel 48(6), 49, 56(3), 56A(3), 57(3), 60(4) of 75(16) van daardie Wet nie. 35

Wysiging van artikel 1 van Wet 89 van 1991, soos gewysig deur artikel 21 van Wet 136 van 1991, paragraaf 1 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 12 van Wet 136 van 1992, artikel 1 van Wet 61 van 1993, artikel 22 van Wet 97 van 1993, artikel 9 van Wet 20 van 1994, artikel 18 van Wet 37 van 1996, artikel 23 van Wet 27 van 1997, artikel 34 van Wet 34 van 1997, artikel 81 van Wet 53 van 1999, artikel 76 van Wet 30 van 2000, artikel 64 van Wet 59 van 2000, artikel 65 van Wet 19 van 2001, artikel 148 van Wet 60 van 2001, artikel 114 van Wet 74 van 2002, artikel 47 van Wet 12 van 2003, artikel 164 van Wet 45 van 2003, artikel 43 van Wet 16 van 2004, artikel 92 van Wet 32 van 2004, artikel 8 van Wet 10 van 2005, artikel 101 van Wet 31 van 2005, artikel 40 van Wet 9 van 2006, artikel 77 van Wet 20 van 2006, artikel 81 van Wet 8 van 2007, artikel 104 van Wet 35 van 2007, artikel 68 van Wet 3 van 2008 en artikel 104 van Wet 60 van 2008 40 45

119. (1) Artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig— 50

(a) deur in die omskrywing van “uitgevoer” paragraaf (b) deur die volgende paragraaf te vervang:

“(b) gelewer deur die ondernemer aan die eienaar of bevrachter van ’n skip op vreemde vaart beoog in paragraaf (a) of (c) van die omskrywing van ‘skip op vreemde vaart’ of aan ’n lugvaartuig op vreemde vaart wanneer daardie skip of lugvaartuig na ’n 55

- and such goods are for use or consumption in such ship or aircraft, as the case may be; or”;
- (b) by the substitution for the definition of “foreign-going aircraft” of the following definition:
- “**foreign-going aircraft**” means any— 5
- (a) aircraft engaged in the transportation for reward of passengers or goods wholly or mainly on flights between airports in the Republic and airports in export countries or between airports in export countries; or
- (b) foreign military aircraft;” 10
- (c) by the deletion in the definition of “foreign-going ship” of the word “or” at the end of paragraph (a);
- (d) by the addition in the definition of “foreign-going ship” of the word “or” at the end of paragraph (b); and
- (e) by the addition to the definition of “foreign-going ship” of the following 15 paragraph:
“(c) any foreign naval ship;”.
- (2) Subsection (1) comes into operation on the date of the promulgation of this Act.

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 and section 91 of Act 17 of 2009 20 25

- 120.** (1) Section 8 of the Value-Added Tax Act, 1991, is hereby amended—
- (a) by the substitution in subsection (2) for the full stop at the end of paragraph (iv) of the proviso of a semi-colon;
- (b) by the addition in subsection (2) to the proviso of the following paragraphs: 30
- “(v) this subsection shall not apply to any such goods or right to the extent that output tax has been paid in terms of section 16(4) read with section 22(3) in respect of such goods or right; and
- (vi) this proviso shall not apply to the extent that input tax in respect of such goods or right has been deducted in terms of section 16(3) read with section 22(4).” 35
- (c) by the substitution for subsection (23) of the following subsection:
- “(23) For the purposes of this Act a vendor shall be deemed to supply services to any public authority or municipality to the extent of any payment [in terms of the Housing Subsidy Scheme referred to in section 3(5)(a) of the Housing Act, 1997 (Act No. 107 of 1997),] made to or on behalf of that vendor in [respect] terms of [the taxable supply of goods and services by the vendor] a national housing programme contemplated in the Housing Act, 1997 (Act No. 107 of 1997), which is approved by the Minister by regulation after consultation with the Minister responsible for Human Settlements.” 40 45

(2) Paragraphs (a) and (b) of subsection (1) come into operation on the date of the promulgation of this Act.

(3) Paragraph (c) of subsection (1) comes into operation on 1 April 2011 and applies in respect of supplies made on or after that date. 50

- bestemming in 'n uitvoerland gaan en bedoelde goed vir gebruik of verbruik in die skip of lugvaartuig is, na gelang van die geval; of”;
- (b) deur die omskrywing van “lugvaartuig op vreemde vaart” deur die volgende omskrywing te vervang:
- “**lugvaartuig op vreemde vaart** ’n— 5
- (a) lugvaartuig wat besig is met die vervoer teen vergoeding van passasiers of goed geheel en al of hoofsaaklik op vlugte tussen lughawens in die Republiek en lughawens in uitvoerlande of tussen lughawens in uitvoerlande; of
- (b) vreemde militêre lugvaartuig;” 10
- (c) deur in die omskrywing van “skip op vreemde vaart” die woord “of” aan die einde van paragraaf (a) te skrap;
- (d) deur in die omskrywing van “skip op vreemde vaart” die woord “of” aan die einde van paragraaf (b) by te voeg;
- (e) deur in die omskrywing van “skip op vreemde vaart” die volgende paragraaf 15 by te voeg:
- “(c) ’n vreemde oorlogskip;”.
- (2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Wysiging van artikel 8 van Wet 89 of 1991, soos gewysig deur artikel 24 van Wet 136 of 1991, paragraaf 4 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 15 van Wet 136 van 1992, artikel 24 van Wet 97 van 1993, artikel 11 van Wet 20 van 1994, artikel 20 van Wet 46 van 1996, artikel 25 van Wet 27 van 1997, artikel 83 van Wet 53 van 1999, artikel 67 van Wet 19 van 2001, artikel 151 van Wet 60 van 2001, artikel 166 van Wet 45 van 2003, artikel 95 van Wet 32 van 2004, artikel 102 van Wet 31 van 2005, artikel 172 van Wet 34 van 2005, artikel 42 van Wet 9 van 2006, artikel 79 van Wet 20 van 2006, artikel 27 van Wet 36 van 2007, artikel 106 van Wet 60 van 2008 en artikel 91 van Wet 17 van 2009 20 25

- 120.** (1) Artikel 8 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—
- (a) deur in subartikel (2) die punt aan die einde van paragraaf (iv) van die voorbehoudsbepaling deur ’n kommapunt te vervang; 30
- (b) deur in subartikel (2) die volgende paragrawe by die voorbehoudsbepaling te voeg:
- “(v) hierdie subartikel nie van toepassing is nie op enige sodanige goed of reg namate uitsetbelasting ingevolge artikel 16(4) gelees tesame met artikel 22(3) ten opsigte van sodanige goed of reg betaal is; en 35
- (vi) hierdie voorbehoudsbepaling nie van toepassing is nie namate insetbelasting ten opsigte van sodanige goed of reg ingevolge artikel 16(3) gelees tesame met artikel 22(4) afgetrek is.”; en
- (c) deur subartikel (23) deur die volgende subartikel te vervang: 40
- “(23) By die toepassing van hierdie Wet, sal ’n ondernemer geag word dienste te lewer aan ’n openbare bestuur of munisipaliteit tot die mate wat enige betaling **[ingevolge artikel 3(5)(a) van die Behuisingswet, 1997 (Wet No. 107 van 1997),]** gemaak aan of ten behoeve van daardie ondernemer **[ten opsigte van belasbare lewerings van goed of dienste deur daardie ondernemer gemaak]** ingevolge ’n nasionale behuisingsprogram beoog in die Behuisingswet, 1997 (Wet No. 107 van 1997), deur die Minister by regulasie na oorleg met die Minister verantwoordelik vir Menslike Nedersettings goedgekeur.”. 45
- (2) Paragrawe (a) en (b) van subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet. 50
- (3) Paragraaf (c) van subartikel (1) tree in werking op 1 April 2011 en is van toepassing ten opsigte van lewerings op of na daardie datum gemaak.

Insertion of section 8A in Act 89 of 1991

121. (1) The Value-Added Tax Act, 1991, is hereby amended by the insertion after section 8 of the following section:

“Sharia compliant financing arrangements

8A. (1) For the purposes of this Act, in the case of any murabaha as defined in section 24JA(1) of the Income Tax Act— 5

- (a) the bank shall be deemed not to have acquired or supplied goods under the sharia arrangement;
- (b) the client shall be deemed to have acquired the goods— 10
 - (i) from the seller for consideration equal to the amount paid by the bank to the seller; and
 - (ii) at such time as the supply was made by the seller by virtue of the transaction between the seller and the bank; and
- (c) any premium paid or payable to the bank by the client shall be deemed to be consideration in respect of an exempt financial service supplied by the bank as contemplated in section 2(1)(f): Provided that this paragraph shall not apply to the extent to which the consideration constitutes any fee, commission or similar charge. 15

(2) For the purposes of this Act, in the case of any diminishing musharaka as defined in section 24JA(1) of the Income Tax Act— 20

- (a) the bank shall be deemed not to have acquired or supplied goods under the sharia arrangement;
- (b) (i) where the bank and the client jointly acquire goods, the client shall be deemed to have acquired the bank’s interest in the goods— 25
 - (aa) for an amount equal to the amount payable by the bank in respect of its interest in the goods; and
 - (bb) at the time that the seller of the goods was divested of any interest in the goods by virtue of the transaction between the seller and the bank; or 30
- (ii) where the bank acquires an interest in the goods from the client, the client shall be deemed not to have supplied an interest in the goods to the bank; and
- (c) any amount contemplated in section 24JA(5)(d) of the Income Tax Act paid or payable to the bank by the client shall be deemed to be consideration in respect of an exempt financial service supplied by the bank as contemplated in section 2(1)(f): Provided that this paragraph shall not apply to the extent to which the consideration constitutes any fee, commission or similar charge.”. 35 40

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

Amendment of section 10 of Act 89 of 1991, as amended by section 26 of Act 136 of 1991, paragraph 5 of Government Notice 2695 of 8 November 1991, section 16 of Act 136 of 1992, section 26 of Act 97 of 1993, section 12 of Act 20 of 1994, section 21 of Act 37 of 1996, section 22 of Act 46 of 1996, section 27 of Act 27 of 1997, section 84 of Act 53 of 1999, section 68 of Act 19 of 2001, section 152 of Act 60 of 2001, section 168 of Act 45 of 2003, section 97 of Act 32 of 2004, section 104 of Act 31 of 2005, section 43 of Act 9 of 2006, section 80 of Act 20 of 2006, section 82 of Act 8 of 2007 and section 107 of Act 60 of 2008 45 50

122. (1) Section 10 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for subsection (5A) of the following subsection:

“(5A) Where goods or services are deemed to be supplied by a vendor in terms of section 8(2) and where section 8(2C) is applicable, the supply shall be deemed to be made for a consideration in money equal to the consideration as determined in subsection (5) reduced by R100 000: Provided that where the consideration as 55

Invoeging van artikel 8A in Wet 89 van 1991

121. Die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur na artikel 8 die volgende artikel in te voeg:

“Finansieringsreëlings ingevolge sharia

8A. (1) By die toepassing van hierdie Wet, in die geval van ’n murabaha soos omskryf in artikel 24JA(1) van die Inkomstebelastingwet— 5

(a) word die bank geag nie goed ingevolge die sharia-reëling te verkry of te gelewer het nie;

(b) word die kliënt geag die goed te verkry het—

(i) van die verkoper vir vergoeding gelykwaardig aan die bedrag deur die bank aan die verloper betaal; en 10

(ii) op die tydstip waarop die lewering deur die verkoper uit hoofde van die transaksie tussen die verkoper en die bank gedoen is; en

(c) word ’n premie deur die kliënt aan die bank betaal of betaalbaar geag vergoeding te wees ten opsigte van ’n vrygestelde finansiële diens deur die bank gelewer soos in artikel 2(1)(f) beoog: Met dien verstande dat hierdie paragraaf nie van toepassing is nie namate die vergoeding enige fooi, kommissie of soortgelyke gelde uitmaak. 15

(2) By die toepassing van hierdie Wet, in die geval van ’n afnemende musharaka soos omskryf in artikel 24JA(1) van die Inkomstebelastingwet— 20

(a) word die bank geag nie goed ingevolge die sharia-reëling te verkry of te gelewer het nie;

(b) (i) waar die bank en die kliënt gesamentlik goed verkry, word die kliënt geag die bank se belang in die goed te verkry het— 25

(aa) vir ’n bedrag gelykwaardig aan die bedrag betaalbaar deur die bank ten opsigte van die bank se belang in die goed; en

(bb) op die tydstip waarop die verkoper van die goed ontdoen is van enige belang in die goed uit hoofde van die transaksie tussen die verkoper en die bank; of 30

(ii) waar die bank ’n belang in die goed van die kliënt verkry, word die kliënt geag nie ’n belang in die goed aan die bank te gelewer het nie; en 35

(c) word enige bedrag beoog in artikel 24JA(5)(d) van die Inkomstebelastingwet betaal of betaalbaar aan die bank deur die kliënt geag vergoeding te wees ten opsigte van ’n vrygestelde finansiële diens deur die bank gelewer soos in artikel 2(1)(f) beoog: Met dien verstande dat hierdie paragraaf nie van toepassing is nie namate die vergoeding enige fooi, kommissie of soortgelyke gelde uitmaak.” 40

(2) Subartikel (1) tree in werking op ’n datum deur die Minister van Finansies by kennisgewing in die *Staatskoerant* bepaal.

Wysiging van artikel 10 van Wet 89 van 1991, soos gewysig deur artikel 26 van Wet 136 van 1991, paragraaf 5 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 16 van Wet 136 van 1992, artikel 26 van Wet 97 van 1993, artikel 12 van Wet 20 van 1994, artikel 21 van Wet 37 van 1996, artikel 22 van Wet 46 van 1996, artikel 27 van Wet 27 van 1997, artikel 84 van Wet 53 van 1999, artikel 68 van Wet 19 van 2001, artikel 152 van Wet 60 van 2001, artikel 168 van Wet 45 van 2003, artikel 97 van Wet 32 van 2004, artikel 104 van Wet 31 van 2005, artikel 43 van Wet 9 van 2006, artikel 80 van Wet 20 van 2006, artikel 82 van Wet 8 van 2007 en artikel 107 van Wet 60 van 2008 45

122. (1) Artikel 10 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur subartikel (5A) deur die volgende subartikel te vervang: 55

“(5A) Waar goed of dienste ingevolge artikel 8(2) geag word deur ’n ondernemer gelewer te wees en waar artikel 8(2C) van toepassing is, word die lewering geag gedoen te word vir vergoeding in geld gelyk aan die vergoeding bepaal in subartikel (5) verminder deur R100 000: Met dien verstande dat waar die

determined in subsection (5) is less than R100 000, the consideration in money, for the purposes of this section, shall be deemed to be nil;”.

(2) Subsection (1) comes into operation on the date of the promulgation of this Act.

Amendment of section 18 of Act 89 of 1991, as amended by section 32 of Act 136 of 1991, section 23 of Act 136 of 1992, section 32 of Act 97 of 1993, section 18 of Act 20 of 1994, section 34 of Act 27 of 1997, section 93 of Act 30 of 1998, section 89 of Act 53 of 1999, section 174 of Act 45 of 2003, section 103 of Act 32 of 2004, section 109 of Act 31 of 2005, section 49 of Act 9 of 2006, section 85 of Act 20 of 2006 and section 112 of Act 60 of 2008

123. (1) Section 18 of the Value-Added Tax Act, 1991, is hereby amended by the deletion in subsection (4) of the proviso to symbol “B”.

(2) Subsection (1) comes into operation on the date of the promulgation of this Act.

Amendment of section 23 of Act 89 of 1991, as amended by section 20 of Act 20 of 1994, section 37 of Act 27 of 1997, section 92 of Act 53 of 1999, section 178 of Act 45 of 2003, section 9 of Act 10 of 2005, section 36 of Act 32 of 2005, section 14 of Act 10 of 2006, section 24 of Act 4 of 2008, section 113 of Act 60 of 2008 and section 93 of Act 17 of 2009

124. (1) Section 23 of the Value-Added Tax Act, 1991, is hereby amended by the deletion of subsection (8).

(2) Subsection (1) comes into operation on 1 March 2011.

Insertion of paragraph 7A in Schedule 1 to Act 20 of 2006

125. (1) Schedule 1 to the Revenue Laws Amendment Act, 2006, is hereby amended by the insertion after paragraph 7 of the following paragraph:

“Secondary tax on companies treatment of dividends

7A. There shall be exempt from the secondary tax on companies so much of any dividend declared in the course or in anticipation of the liquidation, deregistration or final termination of the corporate existence of a company which was incorporated in the Republic with the sole purpose of carrying out the obligations of its shareholders as—

- (a) a *FIFA Designated Service Provider*;
- (b) a *Hospitality Service Provider*; or
- (c) an affiliated entity in relation to such *FIFA Designated Service Provider* or *Hospitality Service Provider* as contemplated in paragraph 1(2),

as is shown by the company to be from any receipt or accrual that was excluded from ‘**gross income**’ as defined in the Income Tax Act, 1962, by paragraph 7.”.

(2) Subsection (1) is deemed to have come into operation on 1 July 2010 and applies in respect of dividends declared on or after that date.

Insertion of paragraph 17 in Schedule 1 to Act 20 of 2006

126. (1) Schedule 1 to the Revenue Laws Amendment Act, 2006, is hereby amended by the addition after paragraph 16 of the following paragraph:

“Exemption from fringe benefit tax on 2010 FIFA World Cup South Africa clothing, other goods or match tickets supplied to employees

17. Notwithstanding anything to the contrary contained in the Seventh Schedule to the Income Tax Act, 1962, no value must be determined for any clothing, other goods or match tickets related to 2010 FIFA World Cup South Africa supplied to an employee on or before 11 July 2010, to the

vergoeding soos bepaal in subartikel (5) minder as R100 000 is, die vergoeding in geld, by die toepassing van hierdie artikel, geag word nul te wees;”.

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Wysiging van artikel 18 van Wet 89 van 1991, soos gewysig deur artikel 32 van Wet 136 van 1991, artikel 23 van Wet 136 van 1992, artikel 32 van Wet 97 van 1993, artikel 18 van Wet 20 van 1994, artikel 34 van Wet 27 van 1997, artikel 93 van Wet 30 van 1998, artikel 89 van Wet 53 van 1999, artikel 174 van Wet 45 van 2003, artikel 103 van Wet 32 van 2004, artikel 109 van Wet 31 van 2005, artikel 49 van Wet 9 van 2006, artikel 85 van Wet 20 van 2006 en artikel 112 van Wet 60 van 2008

123. (1) Artikel 18 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (4) die voorbehoudsbepaling tot simbool “B” te skrap.

(2) Subartikel (1) tree in werking op die datum van die promulgering van hierdie Wet.

Wysiging van artikel 23 van Wet 89 van 1991, soos gewysig deur artikel 20 van Wet 20 van 1994, artikel 37 van Wet 27 van 1997, artikel 92 van Wet 53 van 1999, artikel 178 van Wet 45 van 2003, artikel 9 van Wet 10 van 2005, artikel 36 van Wet 32 van 2005, artikel 14 van Wet 10 van 2006, artikel 24 van Wet 4 van 2008, artikel 113 van Wet 60 van 2008 en artikel 93 van Wet 17 van 2009

124. (1) Artikel 23 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur subartikel (8) te skrap.

(2) Subartikel (1) tree op 1 Maart 2011 in werking.

Invoeging van paragraaf 7A in Bylae 1 by Wet 20 van 2006

125. (1) Bylae 1 by die Wysigingswet op Inkomstewette, 2006, word hierby gewysig deur die volgende paragraaf in te voeg:

“Behandeling van dividende ten opsigte van sekondêre belasting op maatskappye

7A. Daar moet vrygestel word van die sekondêre belasting op maatskappye soveel van enige dividend verklaar in die loop van of in afwagting op die likwidering, deregistrasie of finale beëindiging van die korporatiewe bestaan van ’n maatskappy wat in die Republiek ingelyf is met die uitsluitlike doel om die verpligtinge uit te voer van sy aandeelhouders as ’n—

(a) *FIFA Aangewese Diensverskaffer*;

(b) *Gasvryheid Diensverskaffer*; of

(c) geaffilieerde entiteit met betrekking tot sodanige *FIFA Aangewese Diensverskaffer* of *Gasvryheid Diensverskaffer* soos in paragraaf 1(2) beoog,

as wat deur die maatskappy getoon word te wees van enige ontvangs of toevalling wat deur paragraaf 7 uitgesluit is van **‘bruto inkomste’** soos in die Inkomstebelastingwet, 1962, omskryf.”.

(2) Subartikel (1) word geag op 1 Julie 2010 in werking te getree het en is van toepassing ten opsigte van dividende op of na daardie datum verklaar.

Invoeging van paragraaf 17 in Bylae 1 by Wet 20 van 2006

126. (1) Bylae 1 by die Wysigingswet op Inkomstewette, 2006, word hierby gewysig deur na paragraaf 16 die volgende paragraaf in te voeg:

“Vrystelling van belasting op byvoordele op ‘2010 FIFA World Cup South Africa’ klerasie, ander goed of wedstrydkaartjies aan werknemers voorsien

17. Ondanks enigiets tot die teendeel vervat in die Sewende Bylae by die Inkomstebelastingwet, 1962, moet geen waarde bepaal word vir enige klerasie, ander goed of wedstrydkaartjies in verband met ‘2010 FIFA World Cup South Africa’ op of voor 11 Julie 2010 aan ’n werknemer verskaf nie,

extent that the aggregate of the cash equivalent of the value of the clothing, other goods or match tickets does not exceed an amount of R750 in respect of the employee.”

(2) Subsection (1) is deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 March 2010.

5

Amendment of section 8 of Act 25 of 2007, as amended by section 127 of Act 60 of 2008 and section 97 of Act 17 of 2009

127. (1) Section 8 of the Securities Transfer Tax Act, 2007, is hereby amended by the deletion in subsection (1)(a)(vi) of item (A).

(2) Subsection (1) is deemed to have come into operation on 1 January 2009 and applies in respect of disposals effected on or after that date.

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Insertion of section 8A in Act 25 of 2007

128. (1) The Securities Transfer Tax Act, 2007, is hereby amended by the insertion after section 8 of the following section:

“Sharia compliant financing arrangements

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8A. In the case of a murabaha between a collective investment scheme in securities and a bank as contemplated in paragraph (b) of the definition of ‘murabaha’ in section 24JA(1) of the Income Tax Act, 1962 (Act No. 58 of 1962), the collective investment scheme in securities is deemed not to have acquired beneficial ownership of the security under the sharia arrangement.”

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

Amendment of section 125 of Act 35 of 2007, as substituted by section 76 of Act 3 of 2008 and amended by section 132 of Act 60 of 2008

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129. (1) Section 125 of the Revenue Laws Amendment Act, 2007, is hereby amended by the substitution for subsection (10) of the following subsection:

“(10) Subsections (1) to (9) come into operation on 1 January 2008 and shall apply to any [disposal] transaction concluded on or before 31 December [2009] 2012.”

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(2) Subsection (1) is deemed to have come into operation on 1 January 2008.

Amendment of section 1 of Act 28 of 2008

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

(a) by the addition to the definition of “transfer” of the word “or” at the end of paragraph (a);

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(b) by the deletion in the definition of “transfer” of paragraph (b); and

(c) by the substitution in the definition of “transfer” for the words following paragraph (c) of the following words:

“if that mineral resource has not previously been disposed of, [exported,] consumed, stolen, destroyed or lost;”

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(2) Subsection (1) is deemed to have come into operation on 1 March 2010 and applies in respect of mineral resources transferred on or after that date.

namate die totaal van die kontantekwivalent van die waarde van die klerasie, ander goed of wedstrydkaartjies nie ten opsigte van die werknemer 'n bedrag van R750 oorskry nie.”

(2) Subartikel (1) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 Maart 2010 begin. 5

Wysiging van artikel 8 van Wet 25 van 2007, soos gewysig deur artikel 127 van Wet 60 van 2008 en artikel 97 van Wet 17 van 2009

127. (1) Artikel 8 van die Wet op Belasting op Oordrag van Sekuriteite, 2007, word hierby gewysig deur in subartikel (1)(a)(vi) item (A) te skrap.

(2) Subartikel (1) word geag op 1 Januarie 2009 in werking te getree het en is van toepassing ten opsigte van beskikkings op of na daardie datum gemaak. 10

Invoeging van artikel 8A in Wet 25 van 2007

128. (1) Die Wet op Belasting op Oordrag van Sekuriteite, 2007, word hierby gewysig deur die volgende artikel in te voeg:

“Finansieringsreëlings ingevolge sharia 15

8A. In die geval van 'n murabaha tussen 'n kollektiewe beleggingskema in effekte en 'n bank soos beoog in paragraaf (b) van die omskrywing van 'murabaha' in artikel 24JA(1) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), word die kollektiewe beleggingskema in effekte geag nie uiteindelige geregtigheid van die effek kragtens die sharia-reëling te verkry het nie.” 20

(2) Subartikel (1) tree in werking op 'n datum deur die Minister van Finansies by kennisgewing in die *Staatskoerant* bepaal.

Wysiging van artikel 125 van Wet 35 van 2007, soos vervang deur artikel 76 van Wet 3 van 2008 en gewysig deur artikel 132 van Wet 60 van 2008 25

129. Artikel 125 van die Wysigingswet op Inkomstewette, 2007, word hierby gewysig deur subartikel (10) deur die volgende subartikel te vervang:

“(10) Subartikels (1) tot (9) tree op 1 Januarie 2008 in werking en is van toepassing ten opsigte van enige [beskikking] transaksie op of voor 31 Desember [2009] 2012 aangegaan.”. 30

(2) Subartikel (1) word geag op 1 Januarie 2008 in werking te getree het.

Phetošo ya karolo ya 1 ya Molao wa 28 wa 2008

130. (1) Karolo ya 1 ya Molao wa Royalithi ya Methopo ya Diminerale le Phethroliamo, wa 2008, e a fetišwa—

(a) ka go tsenya tlhalošong ya “phetišetšo” ga lentšu la “goba” mafelelong a temana ya (a); 35

(b) ka go tloša tlhalošong ya “phetišetšo” temaneng ya (b); le

(c) ka go tloša ka tlhalošong ya “phetišetšo” ga mantšu ao a latelago temana ya (c) gomme gwa tsenywa mantšu ao a latelago:

“ge e le gore mothopo woo wa minerale ga se wa rekišwa mo nakong ye e fetilego, [romelwa ntle,] šomišwa, utswiwa, senywa goba lahlega;” 40

(2) Karolwana ya (1) e bonwa bjalo ka yeo e thomilego go šoma ka la 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminerale ye e fetišeditšwego ka la goba ka morago ka letšatšikgwedi leo.

Amendment of section 2 of Act 28 of 2008

131. (1) The Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended by the substitution for section 2 of the following section:

“Imposition of royalty

2. A person [**that wins or recovers a mineral resource from within the Republic**] must pay a royalty for the benefit of the National Revenue Fund in respect of the transfer of [**that**] a mineral resource extracted from within the Republic.” 5

(2) Subsection (1) is deemed to have come into operation on 1 March 2010 and applies in respect of mineral resources transferred on or after that date. 10

Amendment of section 5 of Act 28 of 2008, as amended by section 98 of Act 17 of 2009

132. (1) Section 5 of the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended—

(a) by the substitution in subsection (1) for the words following paragraph (b) of the following words: 15

“less any amount which in terms of that Act—

(i) is [**allowed to be deducted**] deductible from the income of the extractor during any year of assessment in respect of assets used or expenditure incurred to win, recover and develop those refined mineral resources to the condition specified in Schedule 1 for those mineral resources; or 20

(ii) would have been deductible from the income of the extractor during any year of assessment in respect of assets used or expenditure incurred to win, recover and develop those refined mineral resources had those mineral resources been developed to the condition specified in Schedule 1 for those mineral resources.”; 25

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

“less any amount which in terms of that Act— 30

(i) is [**allowed to be deducted**] deductible from the income of the extractor during any year of assessment in respect of assets used or expenditure incurred to win, recover and develop those unrefined mineral resources to the condition specified in Schedule 2 for those mineral resources; or 35

(ii) would have been deductible from the income of the extractor during any year of assessment in respect of assets used or expenditure incurred to win, recover and develop those unrefined mineral resources had those mineral resources been developed to the condition specified in Schedule 2 for those mineral resources.”; and 40

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

“(e) any deduction allowed in terms of section 24I of the Income Tax Act other than a deduction in respect of the adjustment referred to in section 6(5);” 45

(2) Subsection (1) is deemed to have come into operation on 1 March 2010 and applies in respect of a mineral resource transferred on or after that date.

Phetošo ya karolo ya 2 ya Molao wa 28 wa 2008

131. (1) Molao wa Royalithi ya Methopo ya Diminerale le Phethoroliamo, wa 2008, o a fetošwa ka go tloša karolwaneng ya (2) gomme gwa tsenywa temana ye e latelago:

“Go tsenya royalithi

2. Motho [yo a thopago goba a utullago mothopo wa minerale go tšwa ka Repabliking] o swanetše go lefa tšhelete ya royalithi gore Sekhwama sa Letseno la Ditšhelete sa Bosetšhaba se holege mabapi le phetišetšo ya mothopo [woo] wa minerale wo o epilwego go tšwa ka Repabliking.”

(2) Karolwana ya (1) e bonwa bjalo ka yeo e thomilego go šoma ka la 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminerale ye e fetišeditšwego ka la goba ka morago ka letšatšikgwedi leo.

Phetošo ya karolo ya 5 ya Molao wa 28 wa 2008, ka ge e fetošitšwe ke karolo ya 98 ya Molao wa 17 wa 2009

132. (1) Karolo ya 5 ya Molao wa Royalithi ya Methopo ya Diminerale le Phethoroliamo, wa 2008, e a fetošwa—

(a) ka go tloša karolwaneng ya (1) ga mantšu ao a latelago temana ya (b) gomme gwa tsenywa mantšu ao a latelago:

“go gogilwe tšhelete efe goba efe yeo go ya ka Molao woo—

(i) e [dumeletšwego go gogwa] gogwago go tšwa go letseno la morafi ka ngwaga ofe goba ofe wa tekolo mabapi le dithoto tše di šomišitšwego goba tshenyegelo ye e hweditšwego ka go thopa, go utulla le go hlabolla methopo yeo ya minerale tše di hlwekišitšwego go ba maemong ao a filwego Šetulong ya 1 a methopo yeo ya diminerale; goba

(ii) yeo e ka bego e gogilwe go tšwa go letseno la morafi ka ngwaga ofe goba ofe wa tekolo mabapi le dithoto tše di šomišitšwego goba tshenyegelo ye e hweditšwego ka go thopa, go utulla le go hlabolla methopo yeo ya minerale tše di sego tša hlwekišwa ge nkabe methopo yeo ya diminerale e hlabollotšwe go ba maemong ao a filwego Šetulong ya 1 a methopo yeo ya diminerale.”;

(b) ka go tloša karolwaneng ya (2) ga mantšu ao a latelago temana ya (b) gomme gwa tsenywa mantšu ao a latelago:

“go gogilwe tšhelete efe goba efe yeo go ya ka Molao woo—

(i) e [dumeletšwego go gogwa] gogwago go tšwa go letseno la morafi ka ngwaga ofe goba ofe wa tekolo mabapi le dithoto tše di šomišitšwego goba tshenyegelo ye e hweditšwego ka go thopa, go utulla le go hlabolla methopo yeo ya minerale tše sego tša hlwekišwa go ba maemong ao a filwego Šetulong ya 2 a methopo yeo ya diminerale; goba

(ii) yeo e ka bego e gogilwe go tšwa go letseno la morafi ka ngwaga ofe goba ofe wa tekolo mabapi le dithoto tše di šomišitšwego goba tshenyegelo ye e hweditšwego ka go thopa, go utulla le go hlabolla methopo yeo ya minerale tše di sego tša hlwekišwa ge nkabe methopo yeo ya diminerale e hlabollotšwe go ba maemong ao a filwego Šetulong ya 2 a methopo yeo ya diminerale.”;

(c) ka go tloša karolwaneng ya (3) ga temana ya (e) gomme gwa tsenywa temana ye e latelago:

“(e) go gogwa ga tšhelete efe goba efe mo go dumeletšwego go latela karolo ya 24I ya Molao wa Motšheo wa Letseno ye e sego ya go gogwa ga tšhelete ya mabapi le peakanyo ye e ukangwego ka go karolo ya 6(5).”

(2) Karolwana ya (1) e bonwa bjalo ka yeo e thomilego go šoma ka la 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminerale ye e fetišeditšwego ka la goba ka morago ka letšatšikgwedi leo.

Amendment of section 6 of Act 28 of 2008, as amended by section 99 of Act 17 of 2009

133. (1) Section 6 of the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended by the addition after subsection (4) of the following subsection:

“(5) The amount of gross sales in respect of the transfer of any mineral resource must be adjusted if the total amount received is—
 (a) more than the amount accrued, by including the difference between those amounts in the gross sales; or
 (b) less than the amount accrued, by subtracting the difference between those amounts when determining the gross sales.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2010 and applies in respect of a mineral resource transferred on or after that date.

Insertion of section 6A in Act 28 of 2008

134. (1) The Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended by the insertion after section 6 of the following section:

“Application of Schedule 2

6A. (1) If any unrefined mineral resource—

(a) is transferred below the minimum condition specified in Schedule 2 for that mineral resource, the mineral resource must be treated as having been brought to the minimum condition specified for that mineral resource; or
 (b) is transferred at a condition beyond the minimum condition specified in Schedule 2 for that mineral resource, the mineral resource must be treated as having been transferred at the higher of the minimum condition specified for that mineral resource or the condition in which that mineral resource was extracted.

(2) If—

(a) a concentrate mainly consists of a mineral resource listed in Schedule 2; and
 (b) the price of the concentrate at disposal thereof is determined solely with reference to the mineral resource listed in Schedule 2, the specified condition for the other minerals in the concentrate must not be taken into account for the purposes of the application of that Schedule.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2010 and applies in respect of a mineral resource transferred on or after that date.

Insertion of section 8A in Act 28 of 2008

135. (1) The Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended by the insertion after section 8 of the following section:

“Exemption for domestic refining

8A. (1) An extractor that transfers a mineral resource to another extractor is exempt from the royalty in respect of the transfer of that mineral resource if—

(a) the mineral resource is transferred between extractors that are registered in terms of the Administration Act; and
 (b) both extractors agree in writing that this section applies to that transfer.

(2) An extractor to whom a mineral resource is transferred under subsection (1) must be treated as the person that wins or recovers the mineral resource.

Phetošo ya karolo ya 6 ya Molao wa 28 wa 2008, ka ge e fetošitšwe ke karolo ya 99 ya Molao wa 17 wa 2009

133. (1) Karolo ya 6 ya Molao wa Royalithi ya Methopo ya Diminerale le Phethroliamo, wa 2008, e a fetošwa ka go tlaleletša ka morago ga karolwana ya (4) ya dikarolwana tše di latelago: 5

“(5) Dithekišo ka moka tša mabapi le phetišetšo ya mothopo ofe goba ofe wa minerale o swanetše go beakanywa ge e le gore tšhelete ka moka e amogetšwe—

(a) go feta tšhelete ye e hweditšwego, ka go akaretša phapano magareng ga ditšhelete tšeo ka dithekišong ka moka; goba

(b) ka fase ga tšhelete ye e hweditšwego, ka go ntšha phapano magareng ga ditšhelete tšeo ge go tsebja dithekišo ka moka.”. 10

(2) Karolwana ya (1) e bonwa bjalo ka yeo e thomilego go šoma ka la 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminerale ye e fetišeditšwego ka la goba ka morago ka letšatšikgwedi leo.

Go tsenywa ga karolo ya 6A ka go Molao wa 28 wa 2008 15

134. (1) Molao wa Royalithi ya Methopo ya Diminerale le Phethroliamo, wa 2008, o a fetošwa ka go tsenya ka morago ga karolo ya 6 karolo ye e latelago:

“Tirišo ya Šetulo ya 2

6A. (1) Ge mothopo ofe goba ofe wa minerale wo o sego wa hlwekišwa— 20

(a) o fetišetšwa ka fase ga seemo sa fasefase se se boletšwego ka go Setulo ya 2 sa mothopo woo wa minerale, mothopo wa minerale o swanetše go bonwa bjalo ka woo o fetišeditšwego ka seemong sa fasefase se se filwego sa mothopo woo wa minerale; goba

(b) o fetišetšwa ka seemo sa go feta seemo sa fasefase se se boletšwego ka go Setulo ya 2 sa mothopo woo wa minerale, mothopo wa minerale o swanetše go bonwa bjalo ka woo o fetišeditšwego ka seemong sa godimodimo se se filwego sa mothopo woo wa minerale goba seemo seo ka sona mothopo wa minerale o epilwego ka sona. 25

(2) Ge— 30

(a) motswakotii o na fela le mothopo wa minerale wo o filwego ka go Setulo ya 2; le

(b) theko ya motswakotii ge o rekišwa bjale o laolwa fela mabapi le mothopo wa minerale wo o filwego ka go Setulo ya 2, seemo se se itšego sa diminerale tše dingwe tše di lego ka motswakotii ga se tša swanela go hlokomelwa mabakeng a tirišo ya Setulo yeo.”. 35

(2) Karolwana ya (1) e bonwa bjalo ka yeo e thomilego go šoma ka la 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminerale ye e fetišeditšwego ka la goba ka morago ka letšatšikgwedi leo.

Go tsenywa ga karolo ya 8A ka go Molao wa 28 wa 2008 40

135. (1) Molao wa Royalithi ya Methopo ya Diminerale le Phethroliamo, wa 2008, o a fetošwa ka go tsenya ka morago ga karolo ya 8 karolo ye e latelago:

“Tokollo ya go hlwekiša ga ka nageng

8A. (1) Morafi yo a fetišetšago mothopo wa minerale go morafi yo mongwe o lokollwa go lefa royalithi ya mabapi le go fetišetša mothopo woo wa minerale ge— 45

(a) ge mothopo wa minerale o fetišetšwa magareng ga barafi bao ba ngwadišitšwego go latela Molao wa tshapedišo; le ge

(b) barafi ka bobedi ba dumela ka go ngwala gore karolo ye e šoma go phetišetšo yeo. 50

(2) Morafi yoo mothopo wa minerale o fetišetšwago go yena ka fase ga karolwana ya (1) o swanetše go bonwa bjalo ka motho yo a thopago goba a utollago mothopo wa minerale.

(3) This section does not apply to a transfer of a mineral resource from an extractor that is registered in terms of section 2(1)(c) of the Administration Act.”

(2) Subsection (1) is deemed to have come into operation on 1 March 2010 and applies in respect of a mineral resource transferred on or after that date. 5

Amendment of Schedule 1 to Act 28 of 2008

136. (1) Schedule 1 to the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended—

(a) by the insertion in the “Mineral resource name” column after “Talc” of the following word: 10

“Vanadium”; and

(b) by the insertion in the “Refined condition” column after “98.5% and minus 325µm mesh” and corresponding to “Vanadium” of the following words:

“Vanadium as chemically extracted and refined to a minimum purity of 10% V₂O₅ equivalent and above”. 15

(2) Subsection (1) is deemed to have come into operation on 1 March 2010 and applies in respect of a mineral resource transferred on or after that date.

Amendment of Schedule 2 to Act 28 of 2008, as amended by section 103 of Act 17 of 2009

137. (1) Schedule 2 to the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended— 20

(a) by the substitution for the words in the “Unrefined condition” column corresponding to “Coal” of the following words:

“minimum calorific value of 19.0MJ/kg”;

(b) by the substitution for the words in the “Unrefined condition” column corresponding to “Iron Ore” of the following words: 25

“plant feed with a minimum 61.5% Fe content”;

(c) by the deletion of the words “Mineral Sand” and “(Titanium)” in the “mineral resource” column;

(d) by the substitution for the words in the “Unrefined condition” column corresponding to “Ilminite” of the following words: 30

“a minimum of 80% FeTiO₃”;

(e) by the substitution for the words in the “Unrefined condition” column corresponding to “Rutile” of the following words:

“a minimum of 70% TiO₂ concentrate”;

(f) by the substitution for the words in the “Unrefined condition” column corresponding to “Zircon” of the following words: 35

“a minimum of 90% ZrO₂ + SiO₂+HfO₂”; and

(g) by the insertion in the “Refined condition” column after “98.5% and minus 325µm mesh” and corresponding to “Vanadium” of the following words: 40

“Vanadium as chemically extracted and refined to a minimum purity of 10% V₂O₅ equivalent and above”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2010 and applies in respect of a mineral resource transferred on or after that date.

Amendment of section 4 of Act 60 of 2008

45

138. (1) Section 4 of the Revenue Laws Amendment Act, 2008, is hereby amended—

(a) by the deletion in subsection (1) of paragraph (d); and

(3) Karolo ye ga e šome ge go fetišetšwa mothopo wa minerale go tšwa go morafi yo a ngwadišitšwego go latela karolo ya 2(1)(c) ya Molao wa Tshepedišo.”

(2) Karolwana ya (1) e bonwa bjalo ka yeo e thomilego go šoma ka la 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminerale ye e fetišeditšwego ka la goba ka morago ka letšatšikgwedi leo. 5

Go fetošwa ga Šetulo ya 1 go ba Molao wa 28 wa 2008

136. (1) Šetulo ya 1 ya Molao wa Royalithi ya Methopo ya Diminerale le Phethroliamo, wa 2008, e a fetošwa—

(a) ka go tsenya ka kholomong ya “Leina la mothopo wa minerale” ka morago ga “Talc” lentšu le le latelago: 10

“Banadiamo”; le

(b) ka go tsenya ka kholomong ya “Seemo se se hlwekišitšwego” ka morago ga “98.5% ntšha 325µm mesh” le go lebana le “Banadiamo” mantšu ao a latelago: 15

“Banadiamo bjalo ka ge e epilwe ka khemikhale gomme ya hlwekišwa go ba tlhwekong ya fasefase ya 10% V₂O₅ ya go lekana goba go feta”.

(2) Karolwana ya (1) e bonwa bjalo ka yeo e thomilego go šoma ka la 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminerale ye e fetišeditšwego ka la goba ka morago ka letšatšikgwedi leo. 20

Go fetošwa ga Šetulo ya 2 go ba Molao wa 28 wa 2008, ka ge e fetošitšwe ke karolo ya 103 ya Molao wa 17 wa 2009

137. (1) Šetulo ya 2 ya Molao wa Royalithi ya Methopo ya Diminerale le Phethroliamo, wa 2008, e a fetošwa—

(a) ka go tloša mantšu a ka kholomong ya “Seemo se se hlwekišitšwego” go lebana le “Malahla” gomme gwa tsenywa mantšu ao a latelago: 25

“minimum calorific value of 19.0MJ/kg”;

(b) ka go tloša mantšu a ka kholomong ya “Seemo se se hlwekišitšwego” go lebana le “Borale bja Tšhipi” gomme gwa tsenywa mantšu ao a latelago: 30

“dijo tša diteng tša dimela tša fasefase tša 61.5% Fe”;

(c) ka go phumola mantšu a “Leswika la Santa” le “(Thaethaniamo)” ka kholomong ya “mothopo wa minerale”;

(d) ka go tloša mantšu a ka kholomong ya “Seemo se se hlwekišitšwego” go lebana le “Ilemenaeete” gomme gwa tsenywa mantšu ao a latelago: 35

“tekano ya fasefase ya 80% FeTiO₃”;

(e) ka go tloša mantšu a ka kholomong ya “Seemo se se hlwekišitšwego” go lebana le “Ruthile” gomme gwa tsenywa mantšu ao a latelago: 40

“tekano ya fasefase ya motswakotii wa 70% TiO₂”;

(f) ka go tloša mantšu a ka kholomong ya “Seemo se se hlwekišitšwego” go lebana le “Zirikhone” gomme gwa tsenywa mantšu ao a latelago: 40

“tekano ya fasefase ya 90% ZrO₂ + SiO₂+HfO₂”;

(g) ka go tsenya ka kholomong ya “Seemo se se hlwekišitšwego” ka morago ga “98.5% le ntšha 325µm mesh” le go lebana le “Banadiamo” mantšu ao a latelago: 45

“Banadiamo bjalo ka ge e epilwe ka khemikhale gomme ya hlwekišwa go ba tlhwekong ya fasefase ya 10% V₂O₅ ya go lekana goba go feta”.

(2) Karolwana ya (1) e bonwa bjalo ka yeo e thomilego go šoma ka la 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminerale ye e fetišeditšwego ka la goba ka morago ka letšatšikgwedi leo.

Wysiging van artikel 4 van Wet 60 van 2008

50

138. (1) Artikel 4 van die Wysigingswet op Inkomstewette, 2008, word hierby gewysig—

(a) deur in subartikel (1) paragraaf (d) te skrap; en

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

“(2) Paragraphs (b)[,] and (c) [and (d)] of subsection (1) come into operation on [the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation] 1 January 2011.”

(2) Subsection (1) is deemed to have come into operation on 21 October 2008. 5

Amendment of section 47 of Act 60 of 2008

139. (1) Section 47 of the Revenue Laws Amendment Act, 2008, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) comes into operation on [the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation] 1 January 2011.” 10

(2) Subsection (1) is deemed to have come into operation on 21 October 2008.

Amendment of section 49 of Act 60 of 2008

140. (1) Section 49 of the Revenue Laws Amendment Act, 2008, is hereby amended by the substitution for subsection (5) of the following subsection: 15

“(5) Subsection (1)(g) comes into operation on [the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation] 1 January 2011.”

(2) Subsection (1) is deemed to have come into operation on 21 October 2009.

Amendment of section 50 of Act 60 of 2008

20

141. (1) Section 50 of the Revenue Laws Amendment Act, 2008, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1)(a) comes into operation on [the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation] 1 January 2011.” 25

(2) Subsection (1) is deemed to have come into operation on 21 October 2008.

Amendment of section 52 of Act 60 of 2008

142. (1) Section 52 of the Revenue Laws Amendment Act, 2008, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Subsection (1)(b) comes into operation on [the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation] 1 January 2011.” 30

(2) Subsection (1) is deemed to have come into operation on 21 October 2008.

Amendment of section 85 of Act 60 of 2008

143. (1) Section 85 of the Revenue Laws Amendment Act, 2008, is hereby amended by the substitution for subsection (2) of the following subsection: 35

“(2) Paragraph (a) of subsection (1) comes into operation on [the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation] 1 January 2011.”

(2) Subsection (1) is deemed to have come into operation on 21 October 2008. 40

Amendment of section 3 of Act 17 of 2009

144. (1) Section 3 of the Taxation Laws Amendment Act, 2009, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Paragraph (b) of subsection (1) is deemed to have come into operation on 11 February 2009 and applies in respect of [distributions made] acquisitions taking place on or after that date and before [1 January 2012] 1 October 2010.” 45

(2) Subsection (1) is deemed to have come into operation on 30 September 2009.

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Paragrafe (b)[,] en (c) [en (d)] van subartikel (1) tree in werking op [die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree] 1 Januarie 2011.”.

(2) Subartikel (1) word geag op 21 Oktober 2008 in werking te getree het. 5

Wysiging van artikel 47 van Wet 60 van 2008

139. (1) Artikel 47 van die Wysigingswet op Inkomstewette, 2008, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Subartikel (1) tree in werking op [die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree] 1 Januarie 2011.”. 10

(2) Subartikel (1) word geag op 21 Oktober 2008 in werking te getree het.

Wysiging van artikel 49 van Wet 60 van 2008

140. (1) Artikel 49 van die Wysigingswet op Inkomstewette, 2008, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang: 15

“(5) Subartikel (1)(g) tree in werking op [die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree] 1 Januarie 2011.”.

(2) Subartikel (1) word geag op 21 Oktober 2009 in werking te getree het.

Wysiging van artikel 50 van Wet 60 van 2008

141. (1) Artikel 50 van die Wysigingswet op Inkomstewette, 2008, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Subartikel (1)(a) tree in werking op [die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree] 1 Januarie 2011.”. 25

(2) Subartikel (1) word geag op 21 Oktober 2008 in werking te getree het.

Wysiging van artikel 52 van Wet 60 van 2008

142. (1) Artikel 52 van die Wysigingswet op Inkomstewette, 2008, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Subartikel (1)(b) tree in werking op [die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree] 1 Januarie 2011.”. 30

(2) Subartikel (1) word geag op 21 Oktober 2008 in werking te getree het.

Wysiging van artikel 85 van Wet 60 van 2008

143. (1) Artikel 85 van die Wysigingswet op Inkomstewette, 2008, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang: 35

“(2) Paragraaf (a) van subartikel (1) tree in werking op [die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree] 1 Januarie 2011.”.

(2) Subartikel (1) word geag op 21 Oktober 2008 in werking te getree het. 40

Wysiging van artikel 3 van Wet 17 van 2009

144. (1) Artikel 3 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Paragraaf (b) van subartikel (1) word geag op 11 Februarie 2009 in werking te getree het en is van toepassing [op uitkerings] ten opsigte van verkrygings wat op of na daardie datum en voor [1 Januarie 2012 gedoen] 1 Oktober 2010 plaasvind.”. 45

(2) Subartikel (1) word geag op 30 September 2009 in werking te getree het.

Amendment of section 7 of Act 17 of 2009

145. (1) Section 7 of the Taxation Laws Amendment Act, 2009, is hereby amended—

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

“(gA) by the insertion in the definition of ‘dividend’ of the following paragraph: 5

paragraph:

‘(k) any amount that constitutes an acquisition by a company of its own securities as contemplated in paragraph 5.67 of section 5 of the JSE Limited Listings Requirements, where that acquisition complies with the requirements prescribed by paragraphs 5.67 to 5.84 of section 5 of the JSE Limited Listings Requirements;’ ”; and 10

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

“(3) Paragraphs (g), (h) and (l) of subsection (1) come into operation on [the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation] 1 January 2011.”. 15

(2) Paragraph (a) of subsection (1) comes into operation on 1 January 2011 and applies in respect of years of assessment commencing on or after that date.

(3) Paragraph (b) of subsection (1) is deemed to have come into operation on 1 October 2009. 20

Amendment of section 12 of Act 17 of 2009

146. (1) Section 12 of the Taxation Laws Amendment Act, 2009, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Paragraphs (a) and (c) of subsection (1) are deemed to have come into operation on 1 January 2008 and apply in respect of foreign tax years of controlled foreign companies ending during [years] any year of assessment— 25

(a) ending on or after that date; and

(b) in respect of which a return for the assessment of tax is furnished to the Commissioner on or after 1 September 2009.”. 30

(2) Subsection (1) is deemed to have come into operation on 1 September 2009. 30

Amendment of section 51 of Act 17 of 2009

147. (1) Section 51 of the Taxation Laws Amendment Act, 2009, is hereby amended by the substitution in subsection (6) for paragraph (a) of the following paragraph:

“(a) to the extent that it inserts paragraph (k) into section 64B(5) is deemed to have come into operation on 11 February 2009 and applies to distributions made on or after that date and before [1 January 2012] 1 October 2010; and” 35

(2) Subsection (1) is deemed to have come into operation on 30 September 2009.

Amendment of section 53 of Act 17 of 2009

148. Section 53 of the Taxation Laws Amendment Act, 2009, is hereby amended by the substitution for subsection (2) of the following subsection: 40

“(2) Subsection (1) comes into operation on a date determined by the Minister of Finance by notice in the *Gazette*, which date must be at least three months after the date of the notice, and applies in respect of any dividend declared and paid on or after that date.”.

Wysiging van artikel 7 van Wet 17 van 2009

145. (1) Artikel 7 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig—

(a) deur in subartikel (1) na paragraaf (g) die volgende paragraaf in te voeg: 5

“(gA) deur in die omskrywing van ‘dividend’ die volgende paragraaf in

te voeg:

‘(k) enige bedrag wat ’n verkryging uitmaak deur ’n maatskappy van sy eie effekte soos beoog in paragraaf 5.67 van artikel 5 van die “JSE Limited Listings Requirements”, waar daardie verkryging voldoen aan die vereistes voorgeskryf deur paragrafe 5.67 tot 5.84 van artikel 5 van die “JSE Limited Listings Requirements”;’; en 10

(b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Paragrafe (d), (h) en (r) van subartikel (1) tree in werking op [die datum waarop Deel VIII van Hoofstuk II van die Inkomste-belastingwet, 1962, in werking tree] 1 Januarie 2011.” 15

(2) Paragraaf (a) van subartikel (1) tree op 1 Januarie 2011 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragraaf (b) van subartikel (1) word geag op 1 Oktober 2009 in werking te getree het. 20

Wysiging van artikel 12 van Wet 17 van 2009

146. (1) Artikel 12 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Paragrafe (a) en (c) van subartikel (1) word geag op 1 Januarie 2008 in werking te getree het en is van toepassing ten opsigte van buitelandse belastingjare van beheerde buitelandse maatskappye wat eindig gedurende [jare] enige jaar van aanslag— 25

(a) wat op of na daardie datum eindig; en

(b) ten opsigte waarvan ’n opgawe vir die aanslag van belasting op of na 1 September 2009 aan die Kommissaris voorsien is.” 30

(2) Subartikel (1) word geag op 1 September 2009 in werking te getree het.

Wysiging van artikel 51 van Wet 17 van 2009

147. (1) Artikel 51 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur in subartikel (6) paragraaf (a) deur die volgende paragraaf te vervang: 35

“(a) namate dit paragraaf (k) in artikel 64B(5) invoeg, [tree] word geag op 11 Februarie 2009 in werking te getree het en is van toepassing op uitkerings op of na daardie datum en voor [1 Januarie 2012] 1 Oktober 2010 gemaak; en”.

(2) Subartikel (1) word geag op 30 September 2009 in werking te getree het.

Wysiging van artikel 53 van Wet 17 van 2009 40

148. Artikel 53 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Subartikel (1) tree in werking op ’n datum deur die Minister van Finansies by kennisgewing in die *Staatskoerant* bepaal, welke datum minstens drie maande na die datum van die kennisgewing moet wees, en is van toepassing ten opsigte van ’n dividend op of na daardie datum verklaar en betaal.” 45

Amendment of section 54 of Act 17 of 2009

149. (1) Section 54 of the Taxation Laws Amendment Act, 2009, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) comes into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation, and applies in respect of— 5

- (a) financial assistance provided on or after that date to the extent that the amount of that financial assistance was not deemed to be a dividend as contemplated in section 64C of that Act;
- (b) any release or relief from any obligation measurable in money effected on or after that date to the extent that the amount of the obligation in respect of which the release or relief applies was not deemed to be a dividend as contemplated in section 64C of that Act;
- (c) the payment or settlement of any debt on or after that date to the extent that the amount of that debt was not deemed to be a dividend as contemplated in section 64C of that Act; and 15
- (d) any person that ceases to be a resident as defined in that Act on or after that date.”. 10

(2) Subsection (1) comes into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation. 20

Amendment of section 59 of Act 17 of 2009

150. (1) Section 59 of the Taxation Laws Amendment Act, 2009, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Paragraph (c) of subsection (1) is deemed to have come into operation on 1 March 2009 and applies in respect of lump sum benefits that— 25

- (a) accrue on or after that date; and
- (b) are not paid to a beneficiary fund as defined in section 1 of the [Income Tax Act, 1962] Pension Funds Act, 1956 (Act No. 24 of 1956), on or after 1 March 2009 and before 1 September 2009.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2009. 30

Amendment of section 60 of Act 17 of 2009

151. (1) Section 60 of the Taxation Laws Amendment Act, 2009, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) by the substitution for subparagraph (4) of the following subparagraph: 35

‘(4) If a person is awarded an amount in terms of an order of divorce [granted before 13 September 2007], that amount shall be deemed to have accrued to [that person] the member of the pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund on the date on which that person makes an election contemplated in section 37D(4)(b)(ii) of the Pension Funds Act, 1956 (Act No. 24 of 1956), or on the date the amount is [payable] paid in terms of section 37D(4)(b)(iv) of that Act, to the extent that the amount is payable by a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund.’; and”.

(2) Subsection (1) is deemed to have come into operation on 1 November 2008 and applies in respect of amounts awarded on or after that date. 45

Amendment of section 69 of Act 17 of 2009

152. (1) Section 69 of the Taxation Laws Amendment Act, 2009, is hereby amended—

(a) by the insertion in subsection (1) after paragraph (b) of the following paragraphs: 50

- “(bA) by the deletion in subparagraph (3)(b) of the word ‘and’ at the end of item (ii);
- (bB) by the addition in subparagraph (3)(b) of the word ‘and’ at the end of item (iii); and
- (bC) by the addition to subparagraph (3)(b) of the following item: 55

Wysiging van artikel 54 van Wet 17 van 2009

149. (1) Artikel 54 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- “(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree, en is van toepassing ten opsigte van—
- (a) finansiële bystand verleen op of na daardie datum namate die bedrag van daardie finansiële bystand nie geag is ’n dividend te wees soos in artikel 64C van daardie Wet beoog nie;
 - (b) enige vryskelding of verligting van enige verpligting in geld meetbaar op of na daardie datum aangegaan namate die bedrag van die verpligting ten opsigte waarvan die vryskelding of verligting van toepassing is nie geag is ’n dividend te wees soos in artikel 64C van daardie Wet beoog nie;
 - (c) die betaling of vereffening van enige skuld op of na daardie datum namate die bedrag van daardie skuld nie geag is ’n dividend te wees soos in artikel 64C van daardie Wet beoog nie; en
 - (d) enige persoon wat op of na daardie datum ophou om ’n inwoner te wees soos in daardie Wet omskryf.”.

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van artikel 59 van Wet 17 van 2009

150. (1) Artikel 59 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

- “(3) Paragraaf (c) van subartikel (1) word geag op 1 Maart 2009 in werking te getree het en is van toepassing ten opsigte van enkelbedragvoordele wat—
- (a) op of na daardie datum toeval; en
 - (b) nie op of na 1 Maart 2009 en voor 1 September 2009 aan ’n begunstigdefonds soos omskryf in artikel 1 van die **[Inkomstebelastingwet, 1962]** Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), betaal word nie.”.

(2) Subartikel (1) word geag op 1 Maart 2009 in werking te getree het.

Wysiging van artikel 60 van Wet 17 van 2009

151. (1) Artikel 60 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:

- “(a) deur subparagraaf (1A) deur die volgende subparagraaf te vervang:
- “**[(1A)]** (4) Indien ’n bedrag aan ’n persoon toegeken word ingevolge ’n egskeidingsbevel **[voor 13 September 2007 toegestaan]**, word daardie bedrag geag aan **[daardie persoon]** die lid van die pensioenfondse, pensioenbewaringsfondse, voorsorgfondse, voorsorgbewaringsfondse of uittredingannuïteitsfondse toe te geval het op die datum waarop daardie persoon ’n keuse beoog in artikel 37D(4)(b)(ii) van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), uitoefen of op die datum waarop die bedrag ingevolge artikel 37D(4)(b)(iv) van daardie Wet **[betaalbaar is]** betaal word, namate die bedrag deur ’n pensioenfondse, pensioenbewaringsfondse, voorsorgfondse, voorsorgbewaringsfondse of uittredingannuïteitsfondse betaalbaar is.’; en”.

(2) Subartikel (1) word geag op 1 November 2008 in werking te getree het en is van toepassing ten opsigte van bedrae op of na daardie datum toegeken.

Wysiging van artikel 69 van Wet 17 van 2009

152. (1) Artikel 69 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig—

- (a) deur in subartikel (1) die volgende paragrafe in te voeg:
 - “(bA) deur in subparagraaf (3)(b) die woord ‘en’ aan die einde van item (ii) te skrap;
 - (bB) deur in subparagraaf (3)(b) die woord ‘en’ aan die einde van item (iii) by te voeg; en
 - (bC) deur die volgende item by subparagraaf (3)(b) te voeg:

- (iv) any dividend comprising a capital distribution as defined in paragraph 74;
- (b) by the substitution for subsection (2) of the following subsection:
 “(2) **[Subsection (1)]** Paragraphs (a), (b), (c) and (d) of subsection (1), except insofar as **[it inserts]** they insert the words ‘or as part of’, **[comes]** come into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation.”; and
- (c) by the addition after subsection (2) of the following subsection:
 “(3) Paragraphs (bA), (bB) and (bC) of subsection (1) come into operation on 1 January 2011.”.
- (2) Subsection (1) is deemed to have come into operation on 30 September 2009.

Amendment of section 74 of Act 17 of 2009

- 153.** (1) Section 74 of the Taxation Laws Amendment Act, 2009, is hereby amended by the substitution for subsection (2) of the following subsection:
 “(2) Subsection (1) is deemed to have come into operation on 11 February 2009 and applies in respect of transfers made on or after that date **[and]** in respect of disposals made before [1 January 2012] 1 October 2010.”.
- (2) Subsection (1) is deemed to have come into operation on 30 September 2009.

Amendment of section 78 of Act 17 of 2009

- 154.** (1) Section 78 of the Taxation Laws Amendment Act, 2009, is hereby amended by the substitution for subsection (2) of the following subsection:
 “(2) Subsection (1) comes into operation on **[the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation]** 1 January 2011.”.
- (2) Subsection (1) is deemed to have come into operation on 30 September 2009.

Amendment of Appendix I of Act 17 of 2009

- 155.** Appendix I of the Taxation Laws Amendment Act, 2009, is hereby amended by the substitution for paragraph 6 of the following paragraph:
 “**6.** The rate of tax referred to in section 6(1) of this Act to be levied in respect of the taxable income of any **[company that is a]** personal service provider as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, that is a company, in respect of any year of assessment commencing on or after 1 March 2009 is 33 per cent.”.

Short title and commencement

- 156.** (1) This Act is called the Taxation Laws Amendment Act, 2010.
- (2) Except insofar as otherwise provided for in this Act or the context otherwise indicates, the amendments effected to the Income Tax Act, 1962, by this Act shall for the purposes of assessments in respect of normal tax under the Income Tax Act, 1962, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 2011.

- ‘(iv) ’n dividend wat bestaan uit ’n kapitaalluitkering soos omskryf in paragraaf 74;’”;
- (b) deur subartikel (2) deur die volgende subartikel te vervang:
 “(2) [Subartikel (1)] Paragrafe (a), (b), (c) en (d) van subartikel (1), behalwe insoverre [dit] hulle die woorde ‘of as deel van’ invoeg, tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.”; en
- (c) deur na subartikel (2) die volgende subartikel by te voeg:
 “(3) Paragrafe (bA), (bB) en (bC) van subartikel (1) tree op 1 Januarie 2011 in werking.”.
- (2) Subartikel (1) word geag op 30 September 2009 in werking te getree het.

Wysiging van artikel 74 van Wet 17 van 2009

- 153.** (1) Artikel 74 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:
 “(2) Subartikel (1) word geag op 11 Februarie 2009 in werking te getree het en is van toepassing ten opsigte van oordragte op of na daardie datum [en] gemaak ten opsigte van beskikkings voor [1 Januarie 2012] 1 Oktober 2010 gemaak.”.
- (2) Subartikel (1) word geag op 30 September 2009 in werking te getree het.

Wysiging van artikel 78 van Wet 17 van 2009

- 154.** (1) Artikel 78 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:
 “(2) Subartikel (1) tree in werking op [die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree] 1 Januarie 2011.”.
- (2) Subartikel (1) word geag op 30 September 2009 in werking te getree het.

Wysiging van Aanhangsel I van Wet 17 van 2009

- 155.** Aanhangsel I van die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur paragraaf 6 deur die volgende paragraaf te vervang:
 “6. Die skaal van belasting bedoel in artikel 6(1) van hierdie Wet wat gehef word ten opsigte van die belasbare inkomste van enige [maatskappy wat ’n] persoonlike diensverskaffer [is] soos omskryf in paragraaf 1 van die Vierde Bylae by die Inkomstebelastingwet, 1962, wat ’n maatskappy is, ten opsigte van enige jaar van aanslag wat op of na 1 Maart 2009 begin, is 33 persent.”.

Kort titel en inwerkingtreding

- 156.** (1) Hierdie Wet heet die Wysigingswet op Belastingwette, 2010.
- (2) Tensy hierdie Wet anders bepaal of dit uit die samehang anders blyk, word die wysigings aan die Inkomstebelastingwet, 1962, by hierdie Wet aangebring vir die doeleindes van aanslae ten opsigte van normale belasting kragtens die Inkomstebelastingwet, 1962, geag in werking te getree het met ingang van jare van aanslag wat op of na 1 Januarie 2011 eindig.

Appendix I

(Section 5)

RATES OF NORMAL TAX AND REBATES

1. The rate of tax referred to in section 5(1) of this Act to be levied in respect of the taxable income (excluding any retirement fund lump sum benefit or retirement fund lump sum withdrawal benefit) of any natural person, deceased estate, insolvent estate or special trust (other than a public benefit organisation or recreational club referred to in paragraph 5) in respect of any year of assessment commencing on 1 March 2010 is set out in the table below:

Taxable income	Rate of tax
Not exceeding R140 000	18 per cent of taxable income
Exceeding R140 000 but not exceeding R221 000	R25 200 plus 25 per cent of amount by which taxable income exceeds R140 000
Exceeding R221 000 but not exceeding R305 000	R45 450 plus 30 per cent of amount by which taxable income exceeds R221 000
Exceeding R305 000 but not exceeding R431 000	R70 650 plus 35 per cent of amount by which taxable income exceeds R305 000
Exceeding R431 000 but not exceeding R552 000	R114 750 plus 38 per cent of amount by which taxable income exceeds R431 000
Exceeds R552 000	R160 730 plus 40 per cent of amount by which taxable income exceeds R552 000

2.

Description	Reference to Income Tax Act, 1962	Amount
Primary rebate	Section 6(2)(a)	R10 260
Secondary rebate	Section 6(2)(b)	R5 675

3. The rate of tax referred to in section 5(1) of this Act to be levied in respect of the taxable income of a trust (other than a special trust or a public benefit organisation referred to in paragraph 5) in respect of any year of assessment ending on 28 February 2011 is 40 per cent.

4. The rate of tax referred to in section 5(1) of this Act to be levied in respect of the taxable income of a company (other than a public benefit organisation or recreational club referred to in paragraph 5 or a small business corporation referred to in paragraph 6) in respect of any year of assessment ending during the period of 12 months ending on 31 March 2011 is, subject to the provisions of paragraph 11, as follows:

- (a) 28 per cent of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d), (e), (f) and (g)) or, in the case of such a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 35 per cent;
- (b) in respect of the taxable income derived by any company from mining for gold on any gold mine with the exclusion of so much of the taxable income as the Commissioner of the South African Revenue Service determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the Income Tax Act, 1962, but after the set-off of any assessed loss in terms of section 20(1) of that Act, a percentage determined in accordance with the formula:

$$y = 34 - \frac{170}{x}$$

or, in the case of a company which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, in accordance with the formula:

Aanhangsel I*(Artikel 5)***SKALE VAN NORMALE BELASTING EN KORTINGS**

1. Die skale van belasting bedoel in artikel 5(1) van hierdie Wet wat gehef word ten opsigte van die belasbare inkomste (met uitsondering van enige uitreefonds enkel-bedragvoordeel of uitreefonds enkelbedragonttrekkingsvoordeel) van enige natuurlike persoon, gestorwe boedel, insolvente boedel of spesiale trust (behalwe 'n openbare weldaadsorganisasie of ontspanningsklub bedoel in paragraaf 5) ten opsigte van enige jaar van aanslag wat op 1 Maart 2010 begin, word in die tabel hieronder uiteengesit:

Belasbare inkomste	Skaal van belasting
Nie R140 000 te bowe gaan nie	18 persent van belasbare inkomste
R140 000 te bowe gaan maar nie R221 000 nie	R25 200 plus 25 persent van bedrag waarmee belasbare inkomste R140 000 te bowe gaan
R221 000 te bowe gaan maar nie R305 000 nie	R45 450 plus 30 persent van bedrag waarmee belasbare inkomste R221 000 te bowe gaan
R305 000 te bowe gaan maar nie R431 000 nie	R70 650 plus 35 persent van bedrag waarmee belasbare inkomste R305 000 te bowe gaan
R431 000 te bowe gaan maar nie R552 000 nie	R114 750 plus 38 persent van bedrag waarmee belasbare inkomste R431 000 te bowe gaan
R552 000 te bowe gaan	R160 730 plus 40 persent van bedrag waarmee belasbare inkomste R552 000 te bowe gaan

2.

Beskrywing	Verwysing na Inkomstebelastingwet, 1962	Bedrag
Primêre korting	Artikel 6(2)(a)	R10 260
Sekondêre korting	Artikel 6(2)(b)	R5 675

3. Die skaal van belasting bedoel in artikel 5(1) van hierdie Wet wat gehef word ten opsigte van die belasbare inkomste van 'n trust (behalwe 'n spesiale trust of 'n openbare weldaadsorganisasie bedoel in paragraaf 5) ten opsigte van enige jaar van aanslag wat op 28 Februarie 2011 eindig, is 40 persent.

4. Die skaal van belasting bedoel in artikel 5(1) van hierdie Wet wat gehef word ten opsigte van die belasbare inkomste van 'n maatskappy (behalwe 'n openbare weldaadsorganisasie of ontspanningsklub bedoel in paragraaf 5 of 'n klein-sakekorporasie bedoel in paragraaf 6) ten opsigte van enige jaar van aanslag wat eindig gedurende die tydperk van 12 maande wat op 31 Maart 2011 eindig, is, behoudens die bepalings van paragraaf 11, soos volg:

- (a) 28 persent van die belasbare inkomste van enige maatskappy (behalwe belasbare inkomste bedoel in subparagrafe (b), (c), (d), (e), (f) en (g)) of, in die geval van so 'n maatskappy wat myn vir goud op enige goudmyn en wat ingevolge 'n keuse deur die maatskappy uitgeoefen van die betaling van sekondêre belasting op maatskappye vrygestel is, 35 persent;
- (b) ten opsigte van die belasbare inkomste deur enige maatskappy uit die myn van goud op enige goudmyn verkry met uitsluiting van soveel van die belasbare inkomste as wat volgens die vasstelling van die Kommissaris van die Suid-Afrikaanse Inkomstediens toe te skryf is aan die insluiting by die bruto inkomste van enige bedrag bedoel in paragraaf (j) van die omskrywing van "bruto inkomste" in artikel 1 van die Inkomstebelastingwet, 1962, maar na die verrekening van enige vasgestelde verlies ingevolge artikel 20(1) van daardie Wet, 'n persentasie vasgestel ooreenkomstig die formule:

$$y = 34 - \frac{170}{x}$$

of, in die geval van 'n maatskappy wat ingevolge 'n keuse deur die maatskappy uitgeoefen van die betaling van sekondêre belasting op maatskappye vrygestel is, ooreenkomstig die formule:

$$y = 43 - \frac{215}{x}$$

in which formulae y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion, but before the set-off of any assessed loss or deduction which is not attributable to the mining for gold from the said mine) bears to the income so derived (with the said exclusion);

- (c) in respect of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner of the South African Revenue Service determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of “gross income” in section 1 of the Income Tax Act, 1962, a rate equal to the average rate of normal tax or 28 per cent, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from mining for gold on any gold mine for the period from which that company commenced its gold mining operations on that gold mine to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;
- (d) in respect of the taxable income derived by any company from carrying on long-term insurance business in respect of its—
 - (i) individual policyholder fund, 30 per cent; and
 - (ii) company policyholder fund and corporate fund, 28 per cent;
- (e) in respect of the taxable income of any personal service provider, as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, 33 per cent;
- (f) in respect of the taxable income (excluding taxable income referred to in subparagraphs (b), (c), (d), (e) and (g)) derived by a company which is not a resident, 33 per cent; and
- (g) in respect of the taxable income derived by a qualifying company contemplated in section 37H of the Income Tax Act, 1962, subject to the provisions of the said section, zero per cent.

5. The rate of tax referred to in section 5(1) of this Act to be levied in respect of the taxable income of any public benefit organisation that has been approved by the Commissioner for the South African Revenue Service in terms of section 30(3) of the Income Tax Act, 1962, or any recreational club that has been approved by the Commissioner of the South African Revenue Service in terms of section 30A(2) of that Act is 28 per cent—

- (a) in the case of an organisation or club that is a company, in respect of any year of assessment ending during the period of 12 months ending on 31 March 2011; or
- (b) in the case of an organisation that is a trust, in respect of any year of assessment ending on 28 February 2011.

6. The rate of tax referred to in section 5(1) of this Act to be levied in respect of the taxable income of any company which qualifies as a small business corporation as defined in section 12E of the Income Tax Act, 1962, in respect of any year of assessment ending during the period of 12 months ending on 31 March 2011 is, subject to the provisions of paragraph 11, set out in the table below:

$$y = 43 - \frac{215}{x}$$

in welke formules y bedoelde persentasie voorstel en x die verhouding is, as 'n persentasie uitgedruk, waarin die aldus verkreë belaspbare inkomste (met genoemde uitsluiting, maar voor die verrekening van enige vasgestelde verlies of aftrekking wat nie aan die myn van goud uit bedoelde myn toeskryfbaar is nie) staan tot die aldus verkreë inkomste (met genoemde uitsluiting);

- (c) ten opsigte van die belaspbare inkomste van enige maatskappy waarvan die enigste of vernaamste besigheid in die Republiek die myn van goud is of was en waarvan die vasstelling van die belaspbare inkomste vir die tydperk van aanslag nie op 'n vasgestelde verlies uitloop nie, wat volgens vasstelling van die Kommissaris van die Suid-Afrikaanse Inkomstediens toe te skryf is aan die insluiting by sy bruto inkomste van enige bedrag bedoel in paragraaf (j) van die omskrywing van "bruto inkomste" in artikel 1 van die Inkomstebelastingwet, 1962, 'n skaal gelykstaande aan die gemiddelde skaal van normale belasting of 28 persent, welke ook al die hoogste is: Met dien verstande dat by die toepassing van hierdie subparagraaf die gemiddelde skaal van normale belasting vasgestel word deur die totale normale belasting (met uitsondering van die belasting wat vir die tydperk van aanslag ooreenkomstig hierdie subparagraaf vasgestel is) wat deur die maatskappy betaal is ten opsigte van sy totale belaspbare inkomste uit die myn van goud op enige goudmyn vir die tydperk vanaf die begin van daardie maatskappy se goudmynbedrywighede op daardie goudmyn tot die einde van die tydperk van aanslag deur die getal rande vervat in genoemde totale belaspbare inkomste te deel;
- (d) ten opsigte van die belaspbare inkomste deur 'n maatskappy verkry uit bedryf van langtermynversekeringsbesigheid ten opsigte van sy—
 - (i) individuele polishouerfonds, 30 persent; en
 - (ii) maatskappypolishouerfonds en korporatiewe fonds, 28 persent;
- (e) ten opsigte van die belaspbare inkomste van enige persoonlike diensverskaffer, soos omskryf in paragraaf 1 van die Vierde Bylae by die Inkomstebelastingwet, 1962, 33 persent;
- (f) ten opsigte van die belaspbare inkomste (behalwe belaspbare inkomste bedoel in subparagraawe (b), (c), (d), (e) en (g)) verkry deur 'n maatskappy wat nie 'n inwoner is nie, 33 persent; en
- (g) ten opsigte van die belaspbare inkomste verkry deur 'n kwalifiserende maatskappy beoog in artikel 37H van die Inkomstebelastingwet, 1962, behoudens die bepalinge van gemelde artikel, nul persent.

5. Die skaal van belasting bedoel in artikel 5(1) van hierdie Wet wat gehef word ten opsigte van die belaspbare inkomste van enige openbare weldaadsorganisasie wat ingevolge artikel 30(3) van die Inkomstebelastingwet, 1962, deur die Kommissaris van die Suid-Afrikaanse Inkomstediens goedgekeur is of enige ontspanningsklub wat ingevolge artikel 30A(2) van daardie Wet deur die Kommissaris van die Suid-Afrikaanse Inkomstediens goedgekeur is, is 28 persent—

- (a) in die geval van 'n organisasie of klub wat 'n maatskappy is, ten opsigte van enige jaar van aanslag wat eindig gedurende die tydperk van 12 maande wat op 31 Maart 2011 eindig; of
- (b) in die geval van 'n organisasie wat 'n trust is, ten opsigte van 'n jaar van aanslag wat op 28 Februarie 2011 eindig.

6. Die skaal van belasting bedoel in artikel 5(1) van hierdie Wet wat gehef word ten opsigte van die belaspbare inkomste van enige maatskappy wat kwalifiseer as 'n kleinsakekorporasie soos omskryf in artikel 12E van die Inkomstebelastingwet, 1962, ten opsigte van enige jaar van aanslag wat eindig gedurende die tydperk van 12 maande wat op 31 Maart 2011 eindig, word, behoudens die bepalinge van paragraaf 11, in die tabel hieronder uiteengesit:

Taxable income	Rate of tax
Not exceeding R57 000	0 per cent of taxable income
Exceeding R57 000 but not exceeding R300 000	10 per cent of amount by which taxable income exceeds R57 000
Exceeding R300 000	R24 300 plus 28 per cent of amount by which taxable income exceeds R300 000

7. The rate of tax referred to in section 5(2) of this Act to be levied in respect of the taxable turnover of a person that is a registered micro business as defined in paragraph 1 of the Sixth Schedule to the Income Tax Act, 1962, in respect of any year of assessment ending during the period of 12 months ending on 31 March 2011 is set out in the table below:

Taxable turnover	Rate of tax
Not exceeding R100 000	0 per cent of taxable turnover
Exceeding R100 000 but not exceeding R300 000	1 per cent of amount by which taxable turnover exceeds R100 000
Exceeding R300 000 but not exceeding R500 000	R2 000 plus 3 per cent of amount by which taxable turnover exceeds R300 000
Exceeding R500 000 but not exceeding R750 000	R8 000 plus 5 per cent of amount by which taxable turnover exceeds R500 000
Exceeding R750 000	R20 500 plus 7 per cent of amount by which taxable turnover exceeds R750 000

8. (a) (i) If a retirement fund lump sum withdrawal benefit accrues to a person in any year of assessment commencing on or after 1 March 2010, the rate of tax referred to in section 5(1) of this Act to be levied on that person in respect of taxable income comprising the aggregate of—

- (aa) that retirement fund lump sum withdrawal benefit;
- (bb) retirement fund lump sum withdrawal benefits received by or accrued to that person on or after 1 March 2009 and prior to the accrual of the retirement fund lump sum withdrawal benefit contemplated in subitem (aa); and
- (cc) retirement fund lump sum benefits received by or accrued to that person on or after 1 October 2007 and prior to the accrual of the retirement fund lump sum withdrawal benefit contemplated in subitem (aa),

is set out in the table below:

Taxable income from lump sum benefits	Rate of tax
Not exceeding R22 500	0 per cent of taxable income
Exceeding R22 500 but not exceeding R600 000	18 per cent of taxable income exceeding R22 500
Exceeding R600 000 but not exceeding R900 000	R103 950 plus 27 per cent of taxable income exceeding R600 000
Exceeding R900 000	R184 950 plus 36 per cent of taxable income exceeding R900 000

(ii) The amount of tax levied in terms of item (i) must be reduced by an amount equal to the tax that would be leviable on the person in terms of that item in respect of taxable income comprising the aggregate of—

- (aa) retirement fund lump sum withdrawal benefits received by or accrued to that person on or after 1 March 2009 and prior to the accrual of the retirement fund lump sum withdrawal benefit contemplated in item (i)(aa); and
- (bb) retirement fund lump sum benefits received by or accrued to that person on or after 1 October 2007 and prior to the accrual of the retirement fund lump sum withdrawal benefit contemplated in item (i)(aa).

(b) (i) If a retirement fund lump sum benefit accrues to a person in any year of assessment commencing on or after 1 March 2010, the rate of tax referred to in section 5(1) of this Act to be levied on that person in respect of taxable income comprising the aggregate of—

- (aa) that retirement fund lump sum benefit;

Belasbare inkomste	Skaal van belasting
Nie R57 000 te bowe gaan nie	0 persent van belasbare inkomste
R57 000 te bowe gaan maar nie R300 000 nie	10 persent van bedrag waarmee belasbare inkomste R57 000 te bowe gaan
R300 000 te bowe gaan	R24 300 plus 28 persent van bedrag waarmee belasbare inkomste R300 000 te bowe gaan

7. Die skaal van belasting bedoel in artikel 5(2) van hierdie Wet wat gehef word ten opsigte van die belasbare omset van 'n persoon wat 'n geregistreerde mikrobesigheid is soos omskryf in paragraaf 1 van die Sesde Bylae by die Inkomstebelastingwet, 1962, ten opsigte van enige jaar van aanslag wat eindig gedurende die tydperk van 12 maande wat op 31 Maart 2011 eindig, word in die tabel hieronder uiteengesit:

Belasbare omset	Skaal van belasting
Nie R100 000 te bowe gaan nie	0 persent van belasbare omset
R100 000 te bowe gaan maar nie R300 000 nie	1 persent van bedrag waarmee belasbare omset R100 000 te bowe gaan
R300 000 te bowe gaan maar nie R500 000 nie	R2 000 plus 3 persent van bedrag waarmee belasbare omset R300 000 te bowe gaan
R500 000 te bowe gaan maar nie R750 000 nie	R8 000 plus 5 persent van bedrag waarmee belasbare omset R500 000 te bowe gaan
R750 000 te bowe gaan	R20 500 plus 7 persent van bedrag waarmee belasbare omset R750 000 te bowe gaan

8. (a)(i) Indien 'n uitreefonds enkelbedragonttrekkingsvoordeel toeval aan 'n persoon in enige jaar van aanslag wat op of na 1 Maart 2010 begin, word die skaal van belasting bedoel in artikel 5(1) van hierdie Wet wat gehef word op daardie persoon ten opsigte van belasbare inkomste wat bestaan uit die totaal van—

(aa) daardie uitreefonds enkelbedragonttrekkingsvoordeel;

(bb) uitreefonds enkelbedragonttrekkingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2009 en voor die toevalling van die uitreefonds enkelbedragonttrekkingsvoordeel beoog in subitem (aa); en

(cc) uitreefonds enkelbedragvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Oktober 2007 en voor die toevalling van die uitreefonds enkelbedragonttrekkingsvoordeel beoog in subitem (aa),

in die tabel hieronder uiteengesit:

Belasbare inkomste uit enkelbedragvoordele	Skaal van belasting
Nie R22 500 te bowe gaan nie	0 persent van belasbare inkomste
R22 500 te bowe gaan maar nie R600 000 nie	18 persent van belasbare inkomste wat R22 500 te bowe gaan
R600 000 te bowe gaan maar nie R900 000 nie	R103 950 plus 27 persent van belasbare inkomste wat R600 000 te bowe gaan
R900 000 te bowe gaan	R184 950 plus 36 persent van belasbare inkomste wat R900 000 te bowe gaan

(ii) Die bedrag van belasting ingevolge item (i) gehef, moet verminder word deur 'n bedrag gelykstaande aan die belasting wat op die persoon ingevolge daardie item hefbaar sou wees ten opsigte van belasbare inkomste wat bestaan uit die totaal van—

(aa) uitreefonds enkelbedragonttrekkingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2009 en voor die toevalling van die uitreefonds enkelbedragonttrekkingsvoordeel beoog in item (i)(aa); en

(bb) uitreefonds enkelbedragvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Oktober 2007 en voor die toevalling van die uitreefonds enkelbedragonttrekkingsvoordeel beoog in item (i)(aa).

(b)(i) Indien 'n uitreefonds enkelbedragvoordeel aan 'n persoon toeval in enige jaar van aanslag wat op of na 1 Maart 2010 begin, word die skaal van belasting bedoel in artikel 5(1) van hierdie Wet wat gehef word op daardie persoon ten opsigte van belasbare inkomste wat bestaan uit die totaal van—

(aa) daardie uitreefonds enkelbedragvoordeel;

(bb) retirement fund lump sum withdrawal benefits received by or accrued to that person on or after 1 March 2009 and prior to the accrual of the retirement fund lump sum benefit contemplated in subitem (aa); and

(cc) retirement fund lump sum benefits received by or accrued to that person on or after 1 October 2007 and prior to the accrual of the retirement fund lump sum benefit contemplated in subitem (aa),

is set out in the table below:

Taxable income from lump sum benefits	Rate of tax
Not exceeding R300 000	0 per cent of taxable income
Exceeding R300 000 but not exceeding R600 000	R0 plus 18 per cent of taxable income exceeding R300 000
Exceeding R600 000 but not exceeding R900 000	R54 000 plus 27 per cent of taxable income exceeding R600 000
Exceeding R900 000	R135 000 plus 36 per cent of taxable income exceeding R900 000

(ii) The amount of tax levied in terms of item (i) must be reduced by an amount equal to the tax that would be leviable on the person in terms of that item in respect of taxable income comprising the aggregate of—

(aa) retirement fund lump sum withdrawal benefits received by or accrued to that person on or after 1 March 2009 and prior to the accrual of the retirement fund lump sum benefit contemplated in item (i)(aa); and

(bb) retirement fund lump sum benefits received by or accrued to that person on or after 1 October 2007 and prior to the accrual of the retirement fund lump sum benefit contemplated in item (i)(aa).

9. The rates of tax set out in paragraphs 1, 3, 4, 5, 6 and 8 are the rates required to be fixed by Parliament in accordance with the provisions of section 5(2) of the Income Tax Act, 1962.

10. The rate of tax set out in paragraph 7 is the rate required to be fixed by Parliament in accordance with the provisions of section 48B(1) of the Income Tax Act, 1962.

11. For the purposes of this Appendix, income derived from mining for gold includes any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold and any other income which results directly from mining for gold.

(bb) uittreefonds enkelbedragonttrekkingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2009 en voor die toevalling van die uittreefonds enkelbedragvoordeel beoog in subitem (aa); en

(cc) uittreefonds enkelbedragvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Oktober 2007 en voor die toevalling van die uittreefonds enkelbedragvoordeel beoog in subitem (aa),

in die tabel hieronder uiteengesit:

Belasbare inkomste uit enkelbedragvoordele	Skaal van belasting
Nie R300 000 te bowe gaan nie	0 persent van belasbare inkomste
R300 000 te bowe gaan maar nie R600 000 nie	R0 plus 18 persent van belasbare inkomste wat R300 000 te bowe gaan
R600 000 te bowe gaan maar nie R900 000 nie	R54 000 plus 27 persent van belasbare inkomste wat R600 000 te bowe gaan
R900 000 te bowe gaan	R135 000 plus 36 persent van belasbare inkomste wat R900 000 te bowe gaan

(ii) Die bedrag van belasting ingevolge item (i) gehef, moet verminder word deur 'n bedrag gelykstaande aan die belasting wat hefbaar sou wees op die persoon ingevolge daardie item ten opsigte van belasbare inkomste wat bestaan uit die totaal van—

(aa) uittreefonds enkelbedragonttrekkingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2009 en voor die toevalling van die uittreefonds enkelbedragvoordeel beoog in item (i)(aa); en

(bb) uittreefonds enkelbedragvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Oktober 2007 en voor die toevalling van die uittreefonds enkelbedragvoordeel beoog in item (i)(aa).

9. Die skale van belasting uiteengesit in paragrawe 1, 3, 4, 5, 6 en 8 is die skale wat ooreenkomstig die bepalings van artikel 5(2) van die Inkomstebelastingwet, 1962, deur die Parlement vasgestel moet word.

10. Die skaal van belasting uiteengesit in paragraaf 7 is die skaal wat ooreenkomstig die bepalings van artikel 48B(1) van die Inkomstebelastingwet, 1962, deur die Parlement vasgestel moet word.

11. Vir die doeleindes van hierdie Aanhangsel sluit inkomste verkry uit die myn van goud enige inkomste verkry uit silwer, osmiridium, uraan, pirië of ander minerale wat in die loop van die myn van goud gewin word en enige ander inkomste wat regstreeks uit die myn van goud voortvloei, in.

Appendix II

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

(Section 117)

Tariff Item	Tariff heading	Description	Rate of duty	
			Excise	Customs
104.00		Prepared foodstuffs; beverages, spirits and vinegar; tobacco		
104.01	19.01	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 per cent by mass of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 04.01 to 04.04, not containing cocoa or containing less than 5 per cent by mass of cocoa calculated on a totally defatted basis not elsewhere specified or included:		
.10		Traditional African beer powder as defined in Additional Note 1 to Chapter 19	34,7 c/kg	34,7 c/kg
104.10	22.03	Beer made from malt:		
.10		Traditional African beer as defined in Additional Note 1 to Chapter 22	7,82 c/li	7,82 c/li
.20		Other	R50,20/li aa	R50,20/li aa
104.15	22.04	Wine of fresh grapes, including fortified wines; grape must (excluding that of heading 20.09):		
	22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:		
.02		Sparkling wine	R6,67/li	R6,67/li
.04		Unfortified wine	R2,14/li	R2,14/li
.06		Fortified wine	R4,03/li	R4,03/li
104.17	22.06	Other fermented beverages (for example cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included:		
.05		Traditional African beer as defined in Additional Note 1 to Chapter 22	7,82 c/li	7,82 c/li
.15		Other fermented beverages, unfortified	R2,52/li	R2,52/li
.17		Other fermented beverages, fortified	R5,15/li	R5,15/li
.22		Mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	R2,52/li	R2,52/li
.90		Other	R5.15/li	R5.15/li
104.20	22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent volume or higher; ethyl alcohol and other spirits, denatured, of any strength:		
	22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent volume; spirits, liqueurs and other spirituous beverages:		
.10		Wine spirits, manufactured by the distillation of wine	R84,57/li aa	R84,57/li aa

Aanhangsel II

WYSIGING VAN BYLAE NO. 1 BY DOEANE- EN AKSYNSWET, 1964

(Artikel 117)

Tarief-item	Tariefpos	Beskrywing	Skaal van reg	
			Aksyns	Doeane
104.00		Bereide voedsels; drank, spiritus en asyn; tabak		
104.01	19.01	Mout ekstrak; voedsel bereidings van meelblom, gort, meel, stysel of mout ekstrak wat nie kakao bevat nie of wat minder as 40 persent volgens massa van kakao bevat, bereken op 'n totaal ontvette basis, nie elders vermeld of ingesluit nie; voedsel bereidings van goedere van poste 04.01 tot 04.04, wat nie kakao bevat nie of wat minder as 5 persent volgens massa van kakao bevat, bereken op 'n totaal ontvette basis, nie elders vermeld of ingesluit nie:		
.10		Tradisionele Afrikaanse bierpoer soos omskryf in Addisionele Opmerking 1 by Hoofstuk 19	34,7 c/kg	34,7 c/kg
104.10	22.03	Bier van mout gemaak:		
.10		Tradisionele Afrikaanse bier soos omskryf in Addisionele Opmerking 1 by Hoofstuk 22	7,82 c/li	7,82 c/li
.20		Ander	R50,20/li aa	R50,20/li aa
104.15	22.04	Wyn van vars druive, met inbegrip van gefortifiseerde wyne; druiewinos (uitgesonderd dié van pos 20.09):		
	22.05	Vermoet en ander wyn van vars druive met plante of ander aromatiese stowwe geur:		
.02		Vonkelwyn	R6,67/li	R6,67/li
.04		Ongefortifiseerde wyn	R2,14/li	R2,14/li
.06		Gefortifiseerde wyn	R4,03/li	R4,03/li
104.17	22.06	Ander gegiste drank (byvoorbeeld appelsider, peersider, mee); mengsels van gegiste drank en mengsels van gegiste drank en nie-alkoholiese drank, nie elders vermeld of ingesluit nie:		
.05		Tradisionele Afrikaanse bier soos omskryf in Addisionele Opmerking 1 by Hoofstuk 22	7,82 c/li	7,82 c/li
.15		Ander gegiste drank, ongefortifiseerd	R2,52/li	R2,52/li
.17		Ander gegiste drank, gefortifiseerd	R5,15/li	R5,15/li
.22		Mengsels van gegiste drank en mengsels van gegiste drank en nie-alkoholiese drank	R2,52/li	R2,52/li
.90		Ander	R5,15/li	R5,15/li
104.20	22.07	Ongedenatureerde etielalkohol met 'n alkoholiese sterkte by volume van minstens 80 persent volgens volume; etielalkohol en ander spiritus, gedensatureer, van enige sterkte:		
	22.08	Ongedenatureerde etielalkohol met 'n alkoholiese sterkte by volume van minder as 80 persent volgens volume; spiritus, likeure en ander spiritus drank:		
.10		Wynspiritus, vervaardig deur die distillering van wyn	R84,57/li aa	R84,57/li aa

Tariff Item	Tariff heading	Description	Rate of duty	
			Excise	Customs
.15		Spirits, manufactured by the distillation of any sugar cane product	R84,57/li aa	R84,57/li aa
.25		Spirits, manufactured by the distillation of any grain product	R84,57/li aa	R84,57/li aa
.29		Other spirits	R84,57/li aa	R84,57/li aa
.40		Liqueurs and other spirituous beverages	R84,57/li aa	R84,57/li aa
104.30	24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:		
.10		Cigars, cheroots and cigarillos, of tobacco or of tobacco substitutes	R2 072,31/ kg net	R2072,31/ kg net
.20		Cigarettes, of tobacco or of tobacco substitutes	R4,47/10 cigarettes	R4,47/10 cigarettes
104.35	24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:		
.10		Cigarette tobacco and substitutes thereof	R194,60/ kg	R194,60/ kg
.20		Pipe tobacco and substitutes thereof	R108,08/ kg net	R108,08/ kg net

Tarief-item	Tariefpos	Beskrywing	Skaal van reg	
			Aksyns	Doeane
.15		Spiritus, vervaardig deur die distillering van enige suikerrietproduk	R84,57/li aa	R84,57/li aa
.25		Spiritus, vervaardig deur die distillering van enige graanproduk	R84,57/li aa	R84,57/li aa
.29		Ander spiritus	R84,57/li aa	R84,57/li aa
.40		Likeure en ander spiritus drankes	R84,57/li aa	R84,57/li aa
104.30	24.02	Sigare, seroete, sigarillos en sigarette, van tabak of van tabaksubstitueer:		
.10		Sigare, seroete en sigarillos, van tabak of van tabaksubstitueer	R2 072,31/ kg net	R2072,31/ kg net
.20		Sigarette, van tabak of van tabaksubstitueer	R4,47/10 sigarette	R4,47/10 sigarette
104.35	24.03	Ander bewerkte tabak en bewerkte tabaksubstitueer; "gehomogeniseerde" of "hersaamgestelde" tabak; tabakstrakke en essense:		
.10		Sigarettabak en substitueer daarvan	R194,60/ kg	R194,60/ kg
.20		Pyptabak en substitueer daarvan	R108,08/ kg net	R108,08/ kg net

