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REPUBLIC OF SOUTH AFRICA

**REVENUE LAWS
AMENDMENT BILL**

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

(MINISTER of FINANCE)

29 JULY 2022-TWO POT RETIREMENT SYSTEM

[Bxx—2022]

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GENERAL EXPLANATORY NOTE:

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

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

BILL

To amend the Income Tax Act, 1962, so as to amend certain definitions; to amend certain provisions; and to provide for matters connected therewith.

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

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Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice R780 of 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994, Government Notice 46 of 1994, section 2 of Act 21 of 1995, section 2 of Act 36 of 1996, section 2 of Act 28 of 1997, section 19 of Act 30 of 1998, Government Notice 1503 of 1998, section 10 of Act 53 of 1999, section 13 of Act 30 of 2000, section 2 of Act 59 of 2000, section 5 of Act 5 of 2001, section 3 of Act 19 of 2001, section 17 of Act 60 of 2001, section 9 of Act 30 of 2002, section 6 of Act 74 of 2002, section 33 of Act 12 of 2003, section 12 of Act 45 of 2003, section 3 of Act 16 of 2004, section 3 of Act 32 of 2004, section 3 of Act 32 of 2005, section 19 of Act 9 of 2006, section 3 of Act 20 of 2006, section 3 of Act 8 of 2007, section 5 of Act 35 of 2007, section 2 of Act 3 of 2008, section 4 of Act 60 of 2008, section 7 of Act 17 of 2009, section 6 of Act 7 of 2010, section 7 of Act 24 of 2011, section 271 of Act 28 of 2011, read with item 23 of Schedule 1 to that Act, section 2 of Act 22 of 2012, section 4 of Act 31 of 2013, section 1 of Act 43 of 2014, section 3 of Act 25 of 2015, section 5 of Act 15 of 2016, section 2 of Act 17 of 2017, section 1 of Act 23 of 2018, section 34 of Act 34 of 2019, section 2 of Act 23 of 2020 and section 4 of Act 20 of 2021

1. (1) Section 1(1) of the Income Tax Act, 1962, is hereby amended—
 - (a) by the insertion after the definition of “domestic treasury management company” of the following definitions:

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“Savings pot” means a pot established in terms of the rules of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund for a person who is a member of that fund, provided that the rules of the fund provide that:

- (a) not more than one-third of the total retirement contributions by that member and transfers to a pension preservation fund or provident preservation fund on or after 1 March 2023 is allocated to that pot: Provided that in determining the value of the contributions an amount calculated as follows must not be taken into account—
 - (i) any amount contributed or transferred to a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund relating to the period prior to 1 March 2023; and
 - (ii) charges and risk premiums;
- (b) contributions during a year of assessment that exceed one-third of the deductible amount for that person contemplated in section 11F(2) are not allowed to that pot;
- (c) the member may elect to transfer the value of the member’s interest in this pot into the member’s retirement pot in that fund or into the member’s savings pot or member’s retirement pot in another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;
- (d) the interest or portion thereof of the member in this pot may be paid in the form of a savings withdrawal benefit; and
- (e) on the death of the member or former member, or on retirement of the member, the interest of the member in this pot must be deemed to be paid to a nominee or dependant of the member or former member or to the retired member as a lump sum benefit contemplated in paragraph 2(1)(a) of the Second Schedule and in the absence of a nominee or dependant, to the deceased’s estate as a lump sum benefit contemplated in paragraph 2(1)(a) of the Second Schedule.”.

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“Savings withdrawal benefit” means a right of a member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund to a withdrawal from the “savings pot” provided by that fund, provided that:

(a) the member’s right is limited to one withdrawal in any 12-month period; and

(b) the value of each such withdrawal may not be less than R2000;”;

(b) by the addition after paragraph (eC) of the definition of “gross income” of the following paragraph:

“(eD) a “savings withdrawal benefit” other than any amount included under paragraph (e) and (eA);

(c) by the substitution in paragraph (i) of the proviso to the definition of “pension fund” of the following paragraph:

“(i) that the fund is a permanent fund *bona fide* established for the purpose of providing annuities on retirement date or for the dependants or nominees of deceased employees, or mainly for the said purpose and also for the purpose of providing benefits other than annuities for the persons aforesaid or for the purpose of providing any benefit contemplated in “savings withdrawal benefit” in section 1, paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and”

(d) by the substitution in paragraph (ii) of the proviso to the definition of “pension fund” for subparagraph (dd) of the following subparagraph:

“(dd) that not more than one-third of the total value of the retirement interest that exists in a vested pot prior to 1 March 2023 may be commuted for a single payment and that the remainder must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a

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pension preservation fund, provident preservation fund or a retirement annuity fund;”;

(e) by the addition to the definition of “pension fund” of the following further proviso:

“Provided further that the Commissioner may approve or recognise a fund contemplated in—

(i) paragraph (a), (b) (c) or (d) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide—

(aa) for the creation of the “savings pot”, “retirement pot” and “vested pot” as defined in section 1;

(bb) that a member shall, prior to his or her retirement date, be entitled to the payment of—

(A) an amount from the savings pot paid as a savings withdrawal benefit contemplated in section 1, where a member—

(AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(BB) departed from the Republic at the expiry of a visa obtained for the purposes of

(AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002);

or

(BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; and

(B) an amount from the retirement pot, deemed to be paid as a lump sum benefit contemplated in

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paragraph 2(1)(b)(ii) of the Second Schedule, where a member—

(AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(BB) departed from the Republic at the expiry of a visa obtained for the purposes of

(AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act;

- (ii) paragraph (a), (b) or (d) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide that not more than one-third of the total value of the retirement interest that exists in a vested pot prior to 1 March 2023 may be commuted for a single payment and that the remainder must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident fund or retirement annuity fund;”;

(f) by the substitution in paragraph (a) of the definition of “pension preservation fund” for subparagraph (i)(aa) of the following subparagraph:

“(aa) resignation, retrenchment or dismissal from employment and who elected to have any lump sum benefit that is payable as a result of the

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termination transferred to that fund or who elected to transfer the amounts to the savings pot or retirement pot of that fund;”;

(g) by the substitution in paragraph (a) of the definition of “pension preservation fund” for subparagraph (ii)(bb) of the following subparagraph:

“(bb) if the member elected to have any lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule transferred to this pension preservation fund and who have made this election while they were members of that other fund or who elected to transfer the amounts to the savings pot or retirement pot of that fund;”;

(h) by the substitution in paragraph (a) of the definition of “pension preservation fund” for subparagraph (v) of the following subparagraph:

“(v) former members of a pension fund, pension preservation fund, provident fund or provident preservation fund who have elected to have a lump sum benefit contemplated in paragraph 2(1)(c) of the Second Schedule transferred to this pension preservation fund and who have made this election while they were members of that other fund or who have elected to transfer the amounts to the savings pot or retirement pot of that fund;”;

(i) by the substitution in paragraph (b) of the definition of “pension preservation fund” of the following paragraph:

“(b) payments or transfers to the fund in respect of a member are limited to any amount contemplated in the savings pot or retirement pot or in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act that is paid or transferred to the fund by —;”;

(j) by the substitution in paragraph (c) of the definition of “pension preservation fund” for subparagraph (i) of the following subparagraph:

“(i) this paragraph applies separately to each payment or transfer to the **[fund contemplated in paragraph (b)]** vested pot or in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any unclaimed benefit as

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defined in the Pension Funds Act that is paid or transferred to the fund—
.”
; ;

(k) by the substitution in paragraph (c) of the proviso to the definition of “pension preservation fund” for subparagraph (ii) of the following subparagraph:

“(ii) a member shall, prior to his or her retirement date, be entitled to the payment of—

(aa) a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where a member—

(A) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes on exchange control in respect of applications for that recognition received or on before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of the currency on or before 28 February 2022; or

(B) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(C) departed from the Republic at the expiry of a visa obtained for the purposes of

(AA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; and

(bb) an amount from the savings pot paid as a savings withdrawal benefit contemplated in section 1, where a member—

(A) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(B) departed from the Republic at the expiry of a visa obtained for the purposes of

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- (AA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
- (BB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; and
- (cc) an amount from the retirement pot, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—

(A) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(B) departed from the Republic at the expiry of a visa obtained for the purposes of

(AA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; and

(l) by the substitution in paragraph (c) of the proviso to the definition of “pension preservation fund” for subparagraph (iii) of the following subparagraph:

“(iii) a member who has transferred a retirement interest in terms of paragraph 2(1)(c) of the Second Schedule to this fund shall not be entitled to payment of a withdrawal benefit as contemplated in paragraph 2(1)(b)(ii) of the Second Schedule in respect of that transferred amount, except to the extent that it is an amount contemplated in subparagraph (ii) or the savings pot of that fund; and;”;

Commented [RFT1]: In line with the previously used references to “the savings pot”.

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(m) by the substitution in paragraph (e) of the definition of “pension preservation fund” of the following paragraph:

“(e) not more than one-third of the total value of the retirement interest that exists in a vested pot prior to 1 March 2023 may be commuted for a single payment and that the remainder must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund;”;

(n) by the addition to the definition of “pension preservation fund” of the following further proviso:

“Provided further that the Commissioner may approve a fund in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide for the creation of the “savings pot”, “retirement pot” and “vested pot” as defined in section 1;”;

(o) by the insertion after the definition of “prescribed rate” of the following definition:

““Retirement pot” means a pot established in terms of the rules of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund for a person who is a member of that fund, provided that the rules of the fund provide that:

(a) not less than two-thirds of the total retirement contributions by that member or transfers to a pension preservation fund or provident preservation fund on or after 1 March 2023 is allocated to that pot; Provided that in determining the value of the contributions an amount calculated as follows must not be taken into account—

(i) any amount contributed or transferred to a pension fund, pension preservation fund, provident fund, provident

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- preservation fund or retirement annuity fund relating to the period prior to 1 March 2023; and
- (ii) charges and risk premiums
- (b) all contributions not allocated to the savings pot must be allocated to the retirement pot;
- (c) the total value of the retirement interest must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund: Provided that in determining the value of retirement interest an amount calculated as follows must not be taken into account—
- (i) in the case of a person who is or was a member of a provident fund or provident preservation fund and who is or was 55 years of age or older on 1 March 2021,
- (aa) two-thirds of the members contribution to a provident fund or transfers to a provident preservation fund on or after 1 March 2023;
- (bb) with the addition of any other amount credited to the member's individual account or minimum individual reserve of the provident fund or provident preservation fund on or after 1 March 2023; and
- (cc) any fund return, as defined in the Pension Funds Act, in relation to the contribution or transfers contemplated in item (aa) or amounts credited contemplated in item (bb);
- (d) the member may elect to transfer the value of the retirement interest in this pot into the member's retirement pot of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund."

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(p) by the substitution in paragraph (i) of the proviso to the definition of “provident fund” of the following paragraph:

“(i) that the fund is a permanent fund *bona fide* established solely for the purpose of providing benefits for employees on retirement date or solely for the purposes of providing **[benefits]** annuities for the dependants or nominees of deceased employees or deceased former employees or solely for a combination of such purposes or mainly for the said purpose and also for the purpose of providing benefits other than annuities for the persons aforesaid or for the purpose of providing any benefit contemplated in “savings withdrawal benefit” in section 1, paragraph 2C of the Second Schedule or section 15A or 15E of the Pension Funds Act; and”

(q) by the substitution in paragraph (ii) of the proviso to the definition of “provident fund” for subparagraph (dd) of the following subparagraph:

“(dd) that not more than one-third of the total value of the retirement interest that exists in a vested pot prior to 1 March 2023 may be commuted for a single payment and that the remainder must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund;”;

(r) by the addition to the definition of “provident fund” of the following further proviso:

“Provided further that the Commissioner may approve or recognise a fund contemplated in—

- (i) paragraph (a), (b) (c) or (d) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide—

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- (aa) for the creation of the “savings pot”, “retirement pot” and “vested pot” as defined in section 1;
- (bb) that a member shall, prior to his or her retirement date, be entitled to the payment of—
- (A) an amount from the savings pot paid as a savings withdrawal benefit contemplated in section 1, where a member—
- (AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or
- (BB) departed from the Republic at the expiry of a visa obtained for the purposes of
- (AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002);
- or
- (BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; and
- (B) an amount from the retirement pot, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—
- (AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or
- (BB) departed from the Republic at the expiry of a visa obtained for the purposes of
- (AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of

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the Immigration Act, 2002 (Act No. 13 of 2002); or

(BBB) a visit as contemplated in paragraph (b) of the definition of "visa" in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act;

- (iii) paragraph (a), (b) or (c) in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide that not more than one-third of the total value of the retirement interest that exists in a vested pot prior to 1 March 2023 may be commuted for a single payment and that the remainder must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident fund or retirement annuity fund;";

(s) by the substitution in paragraph (a) of the definition of "provident preservation fund" for subparagraph (j)(aa) of the following subparagraph:

"(aa) resignation, retrenchment or dismissal from employment and who elected to have any lump sum benefit that is payable as a result of the termination transferred to that fund or who elected to transfer the amounts to the savings pot or retirement pot of that fund;";

(t) by the substitution in paragraph (a) of the definition of "provident preservation fund" for subparagraph (ii)(bb) of the following subparagraph:

"(bb) if the member elected to have any lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule transferred to this pension preservation fund and who have made this election while they

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were members of that other fund or who elected to transfer the amounts to the savings pot or retirement pot of that fund;”;

(u) by the substitution in paragraph (a) of the definition of “provident preservation fund” for subparagraph (v) of the following subparagraph:

“(v) former members of a pension fund, pension preservation fund, provident fund or provident preservation fund who have elected to have a lump sum benefit contemplated in paragraph 2(1)(c) of the Second Schedule transferred to this pension preservation fund and who have made this election while they were members of that other fund or who have elected to transfer the amounts to the savings pot or retirement pot of that fund;”;

(v) by the substitution in paragraph (b) of the definition of “provident preservation fund” of the following paragraph:

“(b) payments or transfers to the fund in respect of a member are limited to any amount contemplated in the savings pot or retirement pot or in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act that is paid or transferred to the fund by —;”;

(w) by the substitution in paragraph (c) of the definition of “provident preservation fund” for subparagraph (i) of the following subparagraph:

“(i) this paragraph applies separately to each payment or transfer to the **[fund contemplated in paragraph (b)]** vested pot or in paragraph 2(1)(a)(ii), (b) or (c) of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act that is paid or transferred to the fund—”;

(x) by the substitution in paragraph (c) of the definition of “provident preservation fund” for subparagraph (ii) of the following subparagraph:

“(ii) a member shall, prior to his or her retirement date, be entitled to the payment of—

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(aa) a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where a member—

- (A) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes on exchange control in respect of applications for that recognition received or on before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of the currency on or before 28 February 2022; or
- (B) is a person who is not resident for an uninterrupted period of three years or longer on or after 1 March 2021; or
- (C) departed from the Republic at the expiry of a visa obtained for the purposes of
 - (AA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
 - (BB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; **[and]**

(bb) an amount from the savings pot paid as a savings withdrawal benefit contemplated in section 1, where a member—

- (A) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or
- (B) departed from the Republic at the expiry of a visa obtained for the purposes of
 - (AA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
 - (BB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of

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paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; and
(cc) an amount from the retirement pot, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—

(A) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(B) departed from the Republic at the expiry of a visa obtained for the purposes of

(AA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act;

(y) by the substitution in paragraph (c) of the definition of “provident preservation fund” for subparagraph (iii) of the following subparagraph:

“(iii) a member who has transferred a retirement interest in terms of paragraph 2(1)(c) of the Second Schedule to this fund shall not be entitled to payment of a withdrawal benefit as contemplated in paragraph 2(1)(b)(ii) of the Second Schedule in respect of that transferred amount, except to the extent that it is an amount contemplated in subparagraph (ii) or the savings pot of that fund; and;”;

Commented [RFT2]: In line with the previously used references to “the savings pot”.

(z) by the substitution in paragraph (e) of the definition of “provident preservation fund” of the following subparagraph:

“(e) not more than one-third of the total value of the retirement interest that exists in a vested pot prior to 1 March 2023 may be commuted for a single payment and that the remainder must be paid in the form of an annuity (including a living annuity), a combination of annuities (including

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a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund;”;

(aa) by the addition to the definition of “provident preservation fund” of the following further proviso:

“Provided further that the Commissioner may approve a fund in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide for the creation of the “savings pot”, “retirement pot” and “vested pot” as defined in section 1;”;

(bb) by the substitution in paragraph (a) of the proviso to the definition of “retirement annuity fund” of the following paragraph:

“(a) that the fund is a permanent fund *bona fide* established for the sole purpose of providing life annuities for the members of the fund or annuities for the dependants or nominees of deceased members or for the purpose of providing any benefit contemplated in “savings withdrawal benefit” in section 1; and”

(cc) by the substitution in paragraph (b) of the proviso to the definition of “retirement annuity fund” for subparagraph (ii) of the following subparagraph:

“(ii) that not more than one-third of the total value of the retirement interest that exists in a vested pot prior to 1 March 2023 may be commuted for a single payment and that the remainder must be paid in the form of an annuity (including a living annuity), a combination of annuities (including a combination of methods of paying the annuity) or a combination of types of annuities except where two-thirds of the total value does not exceed R165 000, where the employee is deceased or where the employee elects to transfer the retirement interest to a pension preservation fund, provident preservation fund or a retirement annuity fund;”;

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(dd) by the substitution in paragraph (b) of the proviso to the definition of “retirement annuity fund” for subparagraph (x)(dd) of the following subparagraph:

“(dd) the payment of—

(A) a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule where that member—

(AA) is a person who is or was a resident who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes on exchange control in respect of applications for that recognition received or on before 28 February 2021 and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of the currency on or before 28 February 2022; or

(BB) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(CC) departed from the Republic at the expiry of a visa obtained for the purposes of

(AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; **[and]**

(B) an amount from the savings pot paid as a savings withdrawal benefit contemplated in section 1, where a member—

(AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(BB) departed from the Republic at the expiry of a visa obtained for the purposes of

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(AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act; and

(C) an amount from the retirement pot, deemed to be paid as a lump sum benefit contemplated in paragraph 2(1)(b)(ii) of the Second Schedule, where a member—

(AA) is a person who is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021; or

(BB) departed from the Republic at the expiry of a visa obtained for the purposes of

(AAA) working as contemplated in paragraph (ii) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or

(BBB) a visit as contemplated in paragraph (b) of the definition of “visa” in section 1 of the Immigration Act, 2002 (Act no. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of the Act by the Director General, as defined in that Act;”;

(ee) by the addition to the definition of “retirement annuity fund” of the following further proviso:

“Provided further that the Commissioner may approve a fund in respect of any year of assessment, if the Commissioner is satisfied that the rules of the fund provide for the creation of the “savings pot”, “retirement pot” and “vested pot” as defined in section 1;”;

(ff) by the insertion after the definition of “this Act” of the following definition:

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“‘Total retirement contribution’ means any amount contributed to any pension fund, provident fund or retirement annuity fund in terms of the rules of that fund by the person that is a member of that fund on or after 1 March 2023;”; and

(gg) by the insertion after the definition of “Value-Added Tax Act” of the following definition:

“‘Vested pot’ means a pot established in terms of the rules of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund for a person who is a member of that fund, provided that the rules of the fund provide that:

(a) the total value in this pot consists of the value in the fund that exists immediately prior to 1 March 2023;

(b) the total value in this pot must be paid in accordance with the rules of the fund that exists immediately prior to 1 March 2023: Provided that in determining the value of this pot, the following amount must be taken into account—

(i) any amount credited to the member’s individual account or minimum individual reserve of the provident fund on or after 1 March 2023; and

(ii) any fund return, as defined in the Pension Funds Act, in relation to amounts credited contemplated in subparagraph (i).”

(c) no contributions may be made to this pot on or after 1 March 2023, except in the case of a person who was a member of a provident fund and who was 55 years of age or older on 1 March 2021; and

(d) the member may, in accordance with the rules of the fund that exists immediately prior to 1 March 2023, elect to transfer the value of this pot into the member’s vested pot of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;”.

(2) Subsection (1) comes into operation on 1 March 2023 and applies in respect of years of assessment commencing on or after that date.

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Amendment of section 10C of Act 58 of 1962, as inserted by section 21 of Act 22 of 2012 and amended by section 26 of Act 31 of 2013, section 16 of Act 43 of 2014, section 118 of Act 17 of 2017, section 24 of Act 23 of 2018 and section 14 of Act 34 of 2019 and section 12 of Act 23 of 2020

2. (1) Section 10C of the Income Tax Act, 1962, is hereby amended by the addition in subsection (1) of the definition of “qualifying annuity” after paragraph (e) of the following paragraphs:

“(f) as contemplated in paragraph (ii) of the further proviso to the definition of ‘pension fund’ in section 1(1);

(g) as contemplated in paragraph (c) of the definition of ‘retirement pot’ in section 1(1); or

(h) as contemplated in paragraph (ii) of the further proviso to the definition of ‘provident fund’ in section 1(1).”.

(2) Subsection (1) comes into operation on 1 March 2023 and applies in respect of years of assessment commencing 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 and amended by section 80 of Act 7 of 2010, section 92 of Act 22 of 2012, section 62 of Act 17 of 2017 and section 48 of Act 34 of 2019

3. (1) Paragraph 2 (1) of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the addition after item (c) of the following item:

“(d) any amount transferred for the benefit of that person, less any deductions permitted under the provisions of paragraph 6B.”.

(2) Subsection (1) comes into operation on 1 March 2023 and applies in respect of years of assessment commencing on or after that date.

Addition of paragraph 6B to Second Schedule to Act 58 of 1962

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4. (1) The following paragraph is hereby added to the Second Schedule to the Income Tax Act, 1962:

**“TRANSFER BETWEEN THE POTS OF THE TWO POT RETIREMENT SYSTEM:
DEDUCTIONS**

“6B. The deduction to be allowed from an amount contemplated in paragraph 2(1)(d) is equal to so much of that amount as is transferred for the benefit of a person from the —

(a) savings pot into the member’s retirement pot in that fund or into the member’s savings pot or member’s retirement pot in another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;

(b) retirement pot into the member’s retirement pot of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; and

(c) vested pot into the member’s vested pot of another pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund.”.

(2) Subsection (1) comes into operation on 1 March 2023 and applies in respect of years of assessment commencing on or after that date.

Short title

5. This Act is called the Revenue Laws Amendment Act, 2022.