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Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 559 Cape Town, Kaapstad, 10 January 2012 **No. 34927**

THE PRESIDENCY

No. 16 10 January 2012

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

No. 24 of 2011: Taxation Laws Amendment Act, 2011

DIE PRESIDENSIE

No. 16 10 Januarie 2012

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

No. 24 van 2011: Wysigingswet op Belastingwette, 2011

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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.

(English text signed by the President)
(Assented to 28 December 2011)

ACT

To—

- **amend the Transfer Duty Act, 1949, so as to amend and delete certain definitions; to modify rates and thresholds; to make new provision; and to effect textual and consequential amendments;**
- **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 the air passenger tax; to amend rates of duty in Schedule 1; and to make provision for continuations;**
- **amend the Value-Added Tax Act, 1991, so as to amend certain definitions; to make new provision; to amend certain provisions; to amend a Schedule; and to effect textual and consequential amendments;**
- **amend the Unemployment Insurance Contributions Act, 2002, so as to extend an exemption;**
- **amend the Securities Transfer Tax Act, 2007, so as to amend a definition; to amend a provision; and to effect consequential amendments;**
- **amend the Mineral and Petroleum Resources Royalty Act, 2008, so as to amend certain provisions; and to amend a Schedule;**
- **amend the Revenue Laws Amendment Act, 2008, so as to amend certain commencement provisions;**
- **amend the Taxation Laws Amendment Act, 2009, so as to repeal certain provisions;**
- **amend the Taxation Laws Amendment Act, 2010, so as to amend certain commencement provisions; to amend certain provisions; and to repeal certain provisions;**
- **make provision for special zero-rating in respect of goods and services supplied by Cricket South Africa;**

and to provide for matters connected therewith.

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 28 Desember 2011)

WET

Tot—

- **wysiging van die Wet op Hereregte, 1949, ten einde sekere woordomskrywings te wysig en te skrap; belastingskale te wysig; 'n nuwe bepaling te verorden; en tekstuele en gevolglike wysigings aan te bring;**
- **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 bepalings te herroep; sekere bepalings te wysig; 'n nuwe bepaling te verorden; en tekstuele en gevolglike wysigings aan te bring;**
- **wysiging van die Doeane- en Aksynswet, 1964, ten einde die lugpassasierbelasting te wysig; skale van reg in Bylae 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; sekere bepalings te wysig; 'n Bylae te wysig; en tekstuele en gevolglike wysigings aan te bring;**
- **wysiging van die "Unemployment Insurance Contributions Act, 2002" ten einde 'n vrystelling uit te brei;**
- **wysiging van die Wet op Belasting op Oordrag van Sekuriteite, 2007, ten einde 'n woordomskrywing te wysig; 'n bepaling te wysig; en gevolglike wysigings aan te bring;**
- **wysiging van die "Mineral and Petroleum Resources Royalty Act, 2008", ten einde sekere bepalings te wysig; en 'n Bylae te wysig;**
- **wysiging van die Wysigingswet op Inkomstewette, 2008, ten einde sekere inwerkingtredingsbepalings te wysig;**
- **wysiging van die Wysigingswet op Belastingwette, 2009, ten einde sekere bepalings te herroep;**
- **wysiging van die Wysigingswet op Belastingwette, 2010, ten einde sekere inwerkingtredingsbepalings te wysig; sekere bepalings te wysig; en sekere bepalings te herroep;**
- **die maak van voorsiening vir spesiale nulskaling ten opsigte van goed en dienste deur Krieket Suid-Afrika gelewer;**

en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

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

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, section 1 of Act 17 of 2009 and section 1 of Act 7 of 2010

1. Section 1 of the Transfer Duty Act, 1949 (Act No. 40 of 1949), is hereby amended—

(a) by the substitution for the definition of "deeds registry" of the following definition:

" **'deeds registry'** includes the **[office of the Registrar of Mining Titles and the Office of the Rand Townships Registrar]** <u>Mineral and Petroleum Titles Registration Office established by section 2 of the Mining Titles Registration Act, 1967 (Act No. 16 of 1967)</u>;";

(b) by the substitution in the definition of "fair value" for paragraphs *(a)* and *(d)* of the following paragraphs:

"*(a)* in relation to property as defined in paragraphs *(a)***[, *(b)*]** and *(c)* of the definition of 'property', means the fair market value of that property as at the date of acquisition thereof;

(d) in relation to a share in a company as contemplated in paragraph *(g)* of the definition of 'property', means so much of the fair market value, as at the date of acquisition of that share, of any property held by that company which constitutes property as contemplated in paragraphs *(a)***[, *(b)*]** and *(c)* of that definition (without taking into account any lease agreement or any liability in respect of any loan in relation to that residential property) as is attributable to that share";

(c) by the substitution in the definition of "property" for paragraph *(a)* of the following paragraph:

"*(a)* any real right in land but excluding any right under a mortgage bond or a lease of property other than a lease referred to in paragraph **[*(b)* or]** *(c)*;";

(d) by the deletion in the definition of "property" of paragraph *(b)*; and

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

"*(a)* in relation to paragraphs *(a)***[, *(b)*]** and *(c)* of the definition of 'property', an agreement whereby one party thereto agrees to sell, grant, waive, donate, cede, exchange, lease or otherwise dispose of property to another person or any act whereby any person renounces any right in or restriction in his or her favour upon the use or disposal of property; or".

Amendment of section 2 of Act 40 of 1949, as amended by section 1 of Act 59 of 1951, section 1 of Act 31 of 1953, section 1 of Act 32 of 1954, section 2 of Act 77 of 1964, section 1 of Act 56 of 1966, section 2 of Act 66 of 1973, section 3 of Act 88 of 1974, section 5 of Act 106 of 1980, section 3 of Act 87 of 1988, section 2 of Act 136 of 1992, section 3 of Act 97 of 1993, section 1 of Act 37 of 1995, section 9 of Act 37 of 1996, section 2 of Act 32 of 1999, section 2 of Act 30 of 2002, section 31 of Act 12 of 2003, section 1 of Act 16 of 2004, section 1 of Act 9 of 2005, section 1 of Act 31 of 2005, section 14 of Act 9 of 2006 and section 2 of Act 18 of 2009

2. (1) Section 2 of the Transfer Duty Act, 1949, is hereby amended—

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

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

"*(b)* subject to subsection (5)—

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

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, artikel 1 van Wet 17 van 2009 en artikel 1 van Wet 7 van 2010

1. Artikel 1 van die Wet op Hereregte, 1949 (Wet No. 40 van 1949), word hierby gewysig—

(a) deur in die woordomskrywing van "billike waarde" paragrawe *(a)* en *(d)* deur die volgende paragrawe te vervang:

"*(a)* met betrekking tot eiendom soos omskryf in paragrawe *(a)*[, ***(b)***] en *(c)* van die omskrywing van 'eiendom', die billike markwaarde van daardie eiendom op die datum van verkryging daarvan;

(d) met betrekking tot 'n aandeel in 'n maatskappy soos beoog in paragraaf *(g)* van die omskrywing van 'eiendom', soveel van die billike markwaarde, soos op die datum van verkryging van daardie aandeel, van enige eiendom gehou deur daardie maatskappy wat eiendom uitmaak soos beoog in paragrawe *(a)*[, ***(b)***] en *(c)* van daardie omskrywing (sonder inagneming van enige huurooreenkoms of enige aanspreeklikheid ten opsigte van enige lening met betrekking tot daardie residensiële eiendom) wat aan daardie aandeel toeskryfbaar is";

(b) deur in die woordomskrywing van "eiendom" paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* enige saaklike reg op grond behalwe 'n reg uit hoofde van 'n verband of 'n ander huur van eiendom dan 'n in paragraaf **[*(b)* of]** *(c)* bedoelde huur;";

(c) deur in die woordomskrywing van "eiendom" paragraaf *(b)* te skrap;

(d) deur die woordomskrywing van "registrasiekantoor" deur die volgende woordomskrywing te vervang:

" **'registrasiekantoor'** 'n registrasiekantoor van aktes en ook die **[kantoor van die Registrateur van Myntitels en die kantoor van die Registrateur van Randdorpe]** Registrasiekantoor vir Mineraal- en Petroleumtitels ingestel by artikel 2 van die Wet op die Registrasie van Myntitels, 1967 (Wet No. 16 van 1967);"; en

(e) deur in die woordomskrywing van "transaksie" paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* met betrekking tot paragrawe *(a)*[, ***(b)***] en *(c)* van die omskrywing van 'eiendom', 'n ooreenkoms waarby een party daarby ooreenkom om eiendom aan 'n ander persoon te verkoop, toe te ken, daarvan afstand te doen, te skenk, te sedeer, te verruil, te verhuur, of op 'n ander wyse aan 'n ander persoon af te staan, of enige handeling waarby iemand afstand doen van enige reg in of beperking in sy of haar guns op die gebruik van of beskikking oor eiendom; of".

Wysiging van artikel 2 van Wet 40 van 1949, soos gewysig deur artikel 1 van Wet 59 van 1951, artikel 1 van Wet 31 van 1953, artikel 1 van Wet 32 van 1954, artikel 2 van Wet 77 van 1964, artikel 1 van Wet 56 van 1966, artikel 2 van Wet 66 van 1973, artikel 3 van Wet 88 van 1974, artikel 5 van Wet 106 van 1980, artikel 3 van Wet 87 van 1988, artikel 2 van Wet 136 van 1992, artikel 3 van Wet 97 van 1993, artikel 1 van Wet 37 van 1995, artikel 9 van Wet 37 van 1996, artikel 2 van Wet 32 van 1999, artikel 2 van Wet 30 van 2002, artikel 31 van Wet 12 van 2003, artikel 1 van Wet 16 van 2004, artikel 1 van Wet 9 van 2005, artikel 1 van Wet 31 van 2005, artikel 14 van Wet 9 van 2006 en artikel 2 van Wet 18 van 2009

2. (1) Artikel 2 van die Wet op Hereregte, 1949, word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(a)* te skrap;

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

"*(b)* behoudens subartikel (5)—

(i) 0 per cent of so much of the said value or the said amount, as the case may be, as does not exceed **[R500 000]** R600 000;

(ii) **[5]** 3 per cent of so much of the said value or the said amount, as the case may be, as exceeds **[R500 000]** R600 000 but does not exceed R1 million; **[and]**

(iii) **[8]** 5 per cent of so much of the said value or the said amount, as the case may be, as exceeds R1 million but does not exceed R1,5 million; and

(iv) 8 per cent of so much of the said value or the said amount, as the case may be, as exceeds R1,5 million **[,**

if the person who acquires the property or in whose favour or for whose benefit the said interest or restriction is renounced is a natural person].'';

(c) by the substitution in subsection (5) for the words preceding the formula of the following words:

''Where a **[natural]** person acquires any property consisting of or including an undivided share in any property (hereinafter in this subsection referred to as the joint property), the duty payable in respect of such acquisition shall be calculated in accordance with the formula''; and

(d) by the deletion of subsection (8).

(2) Subsection (1) is deemed to have come into operation on 23 February 2011 and applies in respect of property acquired or interest or restriction in any property renounced on or after that date.

Amendment of section 3A of Act 40 of 1949, as inserted by section 2 of Act 7 of 2010

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

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

''*(a)* the **[bank]** financier 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—

(i) for an amount equal to the consideration paid by the **[bank]** financier to the seller; and

(ii) at such time as the **[bank]** financier acquired the property from the seller by virtue of the transaction between the seller and the **[bank]** financier.''; and

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

''(3) For the purpose of the payment of duty in respect of any sukuk as defined in section 24JA(1) of the Income Tax Act, 1962 (Act No. 58 of 1962), the trust shall be deemed not to have acquired the asset from the government of the Republic.''.

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

Amendment of section 5 of Act 40 of 1949, as amended by section 6 of Act 103 of 1969, section 2 of Act 86 of 1987, section 3 of Act 136 of 1992, section 2 of Act 20 of 1994, section 2 of Act 45 of 2003 and section 15 of Act 9 of 2006

4. Section 5 of the Transfer Duty Act, 1949, is hereby amended—

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

''(5) In the case of the cession of a lease or sub-lease referred to in paragraph **[*(b)* or]** *(c)* of the definition of 'property' in section *one*, the value on which duty shall be payable shall be the amount of the consideration payable by the cessionary to the cedent in respect of the cession or, if no consideration is so payable, the declared value of the property acquired under the cession.'';

(i) 0 persent van soveel van bedoelde waarde of bedoelde bedrag, na gelang van die geval, as wat nie **[R500 000]** R600 000 **[nie]** te bowe gaan nie;

(ii) **[5]** 3 persent van soveel van bedoelde waarde of bedoelde bedrag, na gelang van die geval, as wat **[R500 000]** R600 000 te bowe gaan maar nie R1 miljoen te bowe gaan nie; **[en]**

(iii) **[8]** 5 persent van soveel van bedoelde waarde of bedoelde bedrag, na gelang van die geval, as wat R1 miljoen te bowe gaan maar nie R1,5 miljoen te bowe gaan nie; en

(iv) 8 persent van soveel van bedoelde waarde of bedoelde bedrag, na gelang van die geval, as wat R1,5 miljoen te bowe gaan**[, indien die persoon wat die eiendom verkry of ten gunste of ten voordele van wie van bedoelde belang of beperking afstand gedoen word 'n natuurlike persoon is]**.";

(c) deur in subartikel (5) die woorde wat die formule voorafgaan deur die volgende woorde te vervang:

"Waar 'n **[natuurlike]** persoon eiendom verkry wat uit 'n onverdeelde aandeel in eiendom (hierna in hierdie subartikel die gesamentlike eiendom genoem) bestaan of dit insluit, word die hereregte wat ten opsigte van bedoelde verkryging betaalbaar is, ooreenkomstig die formule"; en

(d) deur subartikel (8) te skrap.

(2) Subartikel (1) word geag op 23 Februarie 2011 in werking te getree het en is van toepassing ten opsigte van eiendom op of na daardie datum verkry of belang of beperking in enige eiendom waarvan op of na daardie datum afstand gedoen word.

Wysiging van artikel 3A van Wet 40 van 1949, soos ingevoeg deur artikel 2 van Wet 7 van 2010

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

(a) deur in subartikel (1) paragrawe *(a)* en *(b)* deur die volgende paragrawe te vervang:

"*(a)* word die **[bank]** finansier 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—

(i) vir 'n bedrag gelykstaande aan die vergoeding betaalbaar deur die **[bank]** finansier aan die verkoper; en

(ii) op die tydstip wat die **[bank]** finansier die eiendom uit hoofde van die transaksie tussen die verkoper en die **[bank]** finansier van die verkoper verkry het."; en

(b) deur na subartikel (2) die volgende subartikel by te voeg:

"(3) Met die oog op die betaling van reg ten opsigte van 'n sukuk soos in artikel 24JA(1) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), omskryf, word die trust geag nie die bate van die regering van die Republiek te verkry het nie.".

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

Wysiging van artikel 5 van Wet 40 van 1949, soos gewysig deur artikel 6 van Wet 103 van 1969, artikel 2 van Wet 86 van 1987, artikel 3 van Wet 136 van 1992, artikel 2 van Wet 20 van 1994, artikel 2 van Wet 45 van 2003 en artikel 15 van Wet 9 van 2006

4. Artikel 5 van die Wet op Hereregte, 1949, word hierby gewysig—

(a) deur subartikel (5) deur die volgende subartikel te vervang:

"(5) In die geval van 'n sessie van 'n huur of onderhuur bedoel in paragraaf **[*(b)* of]** *(c)* van die omskrywing van 'eiendom' in artikel *een*, is die waarde waarop hereregte betaalbaar is die vergoeding wat deur die sessionaris aan die sedent ten opsigte van die sessie betaalbaar is of, indien geen vergoeding aldus betaalbaar is nie, die verklaarde waarde van die eiendom wat ingevolge die sessie verkry is.";

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

"*(d)* any valuation made by the **[Government Mining Engineer]** Director-General: Mineral Resources or by any other competent and disinterested person appointed by the Commissioner."; and

(c) by the substitution in subsection (8) for paragraph *(a)* of the following paragraph:

"*(a)* exceeds the amount of the consideration payable in respect of that property, or the declared value, as the case may be, by not less than one-third of the consideration payable or the declared value, as the case may be, the costs of any valuation made by a person referred to in paragraph *(d)* of subsection (7) (other than the **[Government Mining Engineer]** Director-General: Mineral Resources) shall be paid by the person liable for the payment of the duty;".

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, section 3 of Act 17 of 2009 and section 3 of Act 7 of 2010

5. (1) Section 9 of the Transfer Duty Act, 1949, is hereby amended by the insertion in subsection (1)*(l)* after subparagraph (i) of the following subparagraph:

"(iA) an asset-for-share transaction contemplated in section 42 of that Act;".

(2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of property acquired or interest or restriction in any property renounced on or after that date.

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

6. (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 otherwise indicates.

(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 2011;

(b) any company for any year of assessment ending during the period of 12 months ending on 31 March 2012; and

(c) any trust (other than a special trust) for any year of assessment commencing on 1 March 2011 or ending on 29 February 2012.

(b) deur in subartikel (7) paragraaf *(d)* deur die volgende paragraaf te vervang:
"*(d)* enige waardering gemaak deur die **[Staatsmyningenieur]** Direkteur-Generaal: Minerale Hulpbronne of deur enige ander deur die Kommissaris aangestelde bevoegde en onpartydige persoon."; en

(c) deur in subartikel (8) paragraaf *(a)* deur die volgende paragraaf te vervang:
"*(a)* die bedrag van die vergoeding betaalbaar ten opsigte van daardie eiendom, of die verklaarde waarde, na gelang van die geval, met minstens een-derde van die betaalbare vergoeding of die verklaarde waarde, na gelang van die geval, oorskry, word die koste van 'n waardering deur 'n ander in paragraaf *(d)* van subartikel (7) bedoelde persoon dan die **[Staatsmyningenieur]** Direkteur-Generaal: Minerale Hulpbronne gemaak, betaal deur die persoon wat vir die betaling van die hereregte aanspreeklik is;".

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, artikel 3 van Wet 17 van 2009 en artikel 3 van Wet 7 van 2010

5. (1) Artikel 9 van die Wet op Hereregte, 1949, word hierby gewysig deur in subartikel (1)*(l)* na subparagraaf (i) die volgende subparagraaf in te voeg:
"(iA) 'n bate-vir-aandeel-transaksie in artikel 42 van daardie Wet bedoel;".

(2) Subartikel (1) tree in werking op 1 Januarie 2012 en is van toepassing ten opsigte van eiendom op of na daardie datum verkry of belang of beperking in enige eiendom waarvan op of na daardie datum afstand gedoen word.

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

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

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

(4) Vir doeleindes van Aanhangsel 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) 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 2011 begin;

(b) enige maatskappy vir enige jaar van aanslag wat eindig gedurende die tydperk van 12 maande wat op 31 Maart 2012 eindig; en

(c) enige trust (buiten 'n spesiale trust) vir enige jaar van aanslag wat op 1 Maart 2011 begin of op 29 Februarie 2012 eindig.

(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 2011.

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 and section 6 of Act 7 of 2010

7. (1) Section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), is hereby amended—

(a) by the substitution in the definition of ''connected person'' for subparagraphs (i) and (v) of paragraph *(d)* of the following subparagraphs:

"(i) any other company that would be part of the same group of companies as that company if the expression 'at least 70 per cent of the equity shares of' in paragraphs *(a)* and *(b)* of the definition of 'group of companies' in this section were replaced by the expression 'more than 50 per cent of the equity shares of or voting rights in';

(v) any other company if at least 20 per cent of the equity shares of or voting rights in the company are held by that other company, and no shareholder holds the majority voting rights in the company;'';

(b) 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 the shares in that company of that class 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 of that class on or after the date on which that company becomes a resident,

(6) Die skaal van belasting bedoel in subartikel (2) is van toepassing ten opsigte van die belasbare omset van 'n persoon wat 'n geregistreerde mikrobesigheid 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 2011 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 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 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 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, artikel 7 van Wet 17 van 2009 en artikel 6 van Wet 7 van 2010

7. (1) Artikel 1 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), word hierby gewysig—

(a) deur voor die omskrywing van "aandeelhouer" die volgende omskrywing in te voeg:

" **'aandeel'**, met betrekking tot 'n maatskappy, enige aandeel of soortgelyke ekwiteitsbelang in daardie maatskappy;";

(b) deur die omskrywing van "aandeelhouer" te skrap;

(c) deur in paragraaf *(c)* van die omskrywing van "bruto inkomste" die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

" 'n bedrag, met inbegrip van 'n vrywillige toekenning, ontvang of toegeval ten opsigte van bewese dienste of van dienste wat nog bewys moet word of 'n bedrag (behalwe 'n bedrag in artikel 8(1) bedoel) ontvang of toegeval ten opsigte van **[of uit hoofde van]** enige diens of die bekleding van 'n amp";

(d) deur in die Engelse teks in paragraaf *(c*A*)* van die omskrywing van "bruto inkomste" die woorde wat volg op subparagraaf (iv) deur die volgende woorde te vervang:

"as **[compensation]** consideration for any restraint of trade imposed on such person;";

(e) deur in die omskrywing van "bruto inkomste" paragraaf *(d)* deur die volgende paragraaf te vervang:

"*(d)* 'n bedrag (buiten 'n bedrag beoog in paragraaf *(a)*), met inbegrip van 'n vrywillige toekenning, ontvang of toegeval—

(i) ten opsigte van die afstand, beëindiging, verlies, verwerping, herroeping of verandering van 'n amp of diensbetrekking of van 'n aanstelling (of reg of aanspraak om aangestel te word) in 'n amp of diensbetrekking;

(ii) deur of aan 'n persoon, of afhanklike of benoemde van die persoon, ten opsigte van opbrengs uit 'n versekeringspolis

reduced by so much of that amount as the company has transferred on or after the date on which the company becomes a resident 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 to be an amount so transferred; or

(b) in the case of any other company, an amount equal to the sum of—

(i) the stated capital or share capital and share premium of that company immediately before 1 January 2011 in relation to shares in that company of that class issued by that company before that date, less so much of that stated capital or share capital and share premium as would have constituted a dividend, as defined before that date, had that stated capital or share capital and share premium been distributed by that company immediately before that date; and

(ii) the consideration received by or accrued to that company for the issue of shares of that class on or after 1 January 2011,

reduced by so much of that amount as the company has transferred on or after 1 January 2011 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 to be an amount so transferred:

Provided that the amount transferred as contemplated in paragraph *(a)* or *(b)* to a shareholder of any class of shares must not exceed an amount that bears to the total of the amount of contributed tax capital attributable to that class of shares immediately before the transfer 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;”;

(c) 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 the shares in that company of that class 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 of that class on or after the date on which that company becomes a resident,

reduced by so much of that amount as—

(aa) the company has transferred on or after the date on which the company becomes a resident **[to shareholders in relation to those shares,]** for the benefit of any person holding a share in that company of that class in respect of that share; and

(bb) 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 to be an amount so transferred; or

(b) in the case of any other company, an amount equal to the sum of—

(i) the stated capital or share capital and share premium of that company immediately before 1 January 2011 in relation to shares in that company of that class issued by that company before that date, less so much of that 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

waar die persoon 'n werknemer of direkteur van die polishouer is of was; of

(iii) deur of aan 'n persoon, of afhanklike of benoemde van die persoon, ten opsigte van enige versekeringspolis (buiten 'n risikopolis met geen kontantwaarde of afkoopwaarde) wat gesedeer is aan—

(aa) die persoon;

(bb) 'n afhanklike of benoemde van die persoon; of

(cc) 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds,

ten behoewe van die persoon, of afhanklike of benoemde van die persoon, deur—

(A) die werkgewer of voormalige werkgewer van die persoon; of

(B) die maatskappy waarvan die persoon 'n direkteur is of was:

Met dien verstande dat—

[(i)]*(aa)* die bepalings van **[hierdie paragraaf]** subparagrawe (i) en (ii) nie op 'n enkelbedragtoekenning uit 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds van toepassing is nie;

[(ii)]*(bb)* so 'n bedrag wat as gevolg van of na die dood van 'n persoon betaalbaar word, geag word 'n bedrag te wees wat onmiddellik voor sy of haar dood aan bedoelde persoon toegeval het;

(cc) by die toepassing van subparagrawe (ii) en (iii) 'n bedrag ontvang deur of toegeval aan 'n afhanklike of benoemde van 'n persoon geag word deur daardie persoon ontvang of aan daardie persoon toegeval te wees;";

(f) deur in die omskrywing van "bruto inkomste" paragraaf *(e)* deur die volgende paragraaf te vervang:

"*(e)* enige uittreefonds enkelbedragvoordeel of uittreefonds enkelbedrag-onttrekkingsvoordeel buiten enige bedrag kragtens paragraaf *(e*A*)* ingesluit;";

(g) deur in paragraaf *(g)* van die omskrywing van "bruto inkomste" die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

" 'n bedrag ontvang of toegeval van 'n ander persoon, as 'n premie of **[dergelike]** vergoeding van dieselfde aard as 'n premie—";

(h) deur in die omskrywing van "bruto inkomste" paragraaf *(g*A*)* deur die volgende paragraaf te vervang:

"*(g*A*)* 'n bedrag ontvang of toegeval van 'n ander persoon as vergoeding **[(of 'n betaling van dergelike aard)]** vir die meedeling van wetenskaplike, tegniese, industriële of kommersiële kennis of inligting, of vir die onderneming om sulke kennis of inligting mee te deel, of vir die verlening van hulp of die lewering van 'n diens in verband met die aanwending of benutting van bedoelde kennis of inligting, of vir die onderneming om sulke hulp te verleen of om so 'n diens te lewer;";

(i) deur in die omskrywing van "bruto inkomste" paragraaf *(j*A*)* deur die volgende paragraaf te vervang:

"*(j*A*)* enige bedrag ontvang deur of toegeval aan 'n persoon gedurende die jaar van aanslag **[uit]** ten opsigte van die beskikking oor 'n bate deur daardie persoon vervaardig, geproduseer, opgerig of aanmekaargesit, wat soortgelyk is aan enige ander bate deur daardie persoon vervaardig, geproduseer, opgerig of aanmekaargesit vir doeleindes van vervaardiging, verkoop of ruil deur daardie persoon of ten behoewe van daardie persoon;";

(j) deur in die omskrywing van "bruto inkomste" paragraaf *(k)* deur die volgende paragraaf te vervang:

"*(k)* 'n bedrag ontvang of toegeval by wyse van 'n dividend of 'n buitelandse dividend;";

(ii) the consideration received by or accrued to that company for the issue of shares of that class on or after 1 January 2011,

reduced by so much of that amount as—

(aa) the company has transferred on or after 1 January 2011 **[to shareholders in relation to those shares,]** for the benefit of any person holding a share in that company of that class in respect of that share; and

(bb) 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 to be an amount so transferred:

Provided that the amount transferred by a company as contemplated in paragraph *(a)* or *(b)* **[to a shareholder]** for the benefit of a person holding shares of any class of shares of that company must not exceed an amount that bears to the total of the amount of contributed tax capital attributable to that class of shares immediately before the transfer the same ratio as the number of shares of that class held by that **[shareholder]** person bears to the total number of shares of that class;";

(d) by the deletion of the word "or" at the end of subparagraph (iii) of the definition of "dividend";

(e) by the addition of the word "or" at the end of subparagraph (iv) of the definition of "dividend";

(f) by the addition in the definition of "dividend" after subparagraph (iv) of the following subparagraph:

"(v) constitutes a foreign dividend;";

(g) by the substitution for the definition of "dividend" of the following definition:

" **'dividend'** means any amount transferred or applied by a company that is a resident for the benefit or on behalf of any **[shareholder in relation to that company by virtue]** person in respect of any share **[held by that shareholder]** in that company, whether that amount is transferred or applied—

(a) by way of a distribution made by; or

(b) as consideration for the acquisition of any share in,

that company, but does not include any amount so transferred or applied **[by the company]** to the extent that the amount so transferred or applied—

(i) results in a reduction of contributed tax capital of the company;

(ii) constitutes shares in **[that]** the company; or

(iii) constitutes an acquisition by **[a]** the company of its own securities by way of a general repurchase of securities as contemplated in subparagraph *(b)* of paragraph **[5.67]** 5.67(B) of section 5 of the JSE Limited Listings Requirements, where that acquisition complies with **[the]** any applicable requirements prescribed by paragraphs **[5.67]** 5.68 and 5.72 to 5.84 of section 5 of the JSE Limited Listings Requirements;

[(iv) constitutes a redemption of a participatory interest in an arrangement or scheme contemplated in paragraph *(e)*(ii) of the definition of 'company'; or

(v) constitutes a foreign dividend;]";

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

" **'equity share'** means**[, in relation to any company,]** any share or similar interest in **[that]** a company, excluding any share or similar interest that **[does not carry]**, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution;";

(k) deur paragraaf *(m)* van die omskrywing van "bruto inkomste" deur die volgende paragraaf te vervang:

"*(m)* 'n bedrag ontvang of toegeval ten opsigte van 'n versekeringspolis waarvan die belastingpligtige die polishouer is, waar die polis betrekking het op die dood, ongeskikstelling of ernstige siekte van 'n werknemer of direkteur (of voormalige werknemer of direkteur) van die belastingpligtige, ook by wyse van 'n lening of voorskot: Met dien verstande dat—

(i) 'n bedrag aldus ontvang of toegeval verminder word deur die bedrag van enige sodanige lening of voorskot wat by die belastingpligtige se bruto inkomste ingesluit is of word;

(ii) namate paragraaf *(a)* of *(d)* van hierdie omskrywing op 'n bedrag van toepassing is, hierdie paragraaf nie op daardie bedrag van toepassing is nie;";

(l) deur die omskrywing van "buitelandse dividend" deur die volgende omskrywing te vervang:

" **'buitelandse dividend'** enige bedrag betaal of betaalbaar deur 'n buitelandse maatskappy ten opsigte van 'n aandeel in daardie 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—

(a) belasting op inkomste op maatskappye van die land waarin daardie buitelandse maatskappy **[ingelyf, gestig of opgerig is]** sy plek van effektiewe bestuur het; of

(b) maatskappye van die land waarin daardie buitelandse maatskappy ingelyf, gestig of opgerig is, waar **[daardie]** die land waarin daardie buitelandse maatskappy sy plek van effektiewe bestuur het geen toepaslike wette met betrekking tot belasting op inkomste het nie,

maar nie ook nie enige bedrag aldus betaal of betaalbaar wat—

(i) 'n aflossing uitmaak van 'n deelnemende belang in 'n reëling of skema beoog in paragraaf *(e)*(ii) van die omskrywing van 'maatskappy'; of

(ii) aftrekbaar is deur daardie buitelandse maatskappy by die bepaling van enige belasting op inkomste op maatskappye van die land waarin daardie buitelandse maatskappy sy plek van effektiewe bestuur het;";

(m) deur voor die omskrywing van "buitelandse vennootskap" die volgende omskrywing in te voeg:

" **'buitelandse teruggawe van kapitaal'** enige bedrag wat deur 'n buitelandse maatskappy betaal word of betaalbaar is, ten opsigte van enige aandeel in daardie buitelandse maatskappy waar daardie bedrag as 'n uitkering of soortgelyke betaling (buiten 'n bedrag wat 'n buitelandse dividend uitmaak) behandel word deur daardie buitelandse maatskappy by die toepassing van die wette met betrekking tot—

(a) belasting op inkomste op maatskappye van die land waarin daardie buitelandse maatskappy sy plek van effektiewe bestuur het; of

(b) maatskappye van die land waarin daardie buitelandse maatskappy ingelyf, gestig of opgerig is, waar die land waarin daardie buitelandse maatskappy sy plek van effektiewe bestuur het geen toepaslike wette met betrekking tot belasting op inkomste het nie,

maar nie ook nie enige bedrag aldus betaal of betaalbaar namate die bedrag aldus betaal of betaalbaar deur daardie buitelandse maatskappy aftrekbaar is by die bepaling van enige belasting op inkomste op maatskappye van die land waarin daardie buitelandse maatskappy sy plek van effektiewe bestuur het;";

(n) deur die omskrywing van "buitelandse vennootskap" deur die volgende omskrywing te vervang:

" **'buitelandse vennootskap'**, ten opsigte van enige jaar van aanslag, enige vennootskap, vereniging, **[of]** liggaam van persone of entiteit gestig of opgerig kragtens die wette van enige ander land as die Republiek indien—

(i) by the substitution for the definition of "equity share" of the following definition:

" **'equity share'** means any share **[or similar interest]** in a company, excluding any share **[or similar interest]** that, neither as respects dividends nor as respects returns of capital, carries any right to participate beyond a specified amount in a distribution;";

(j) by the substitution in the definition of "financial instrument" for paragraph *(a)* of the following paragraph:

"*(a)* a loan, advance, debt, **[stock,]** bond, debenture, bill, share, promissory note, banker's acceptance, negotiable certificate of deposit, deposit with a financial institution, a participatory interest in a portfolio of a collective investment scheme, or a similar instrument;";

(k) 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 in respect of a share in that 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 on companies of the country in which that foreign company **[is incorporated, formed or established]** has its place of effective management; or

(b) companies of the country in which that foreign company is incorporated, formed or established, where **[that]** the country in which that foreign company has its place of effective management does not have any applicable laws relating to tax on income,

but does not include any amount so paid or payable that—

(i) constitutes a redemption of a participatory interest in an arrangement or scheme contemplated in paragraph *(e)*(ii) of the definition of 'company'; or

(ii) is deductible by that foreign company in the determination of any tax on income on companies of the country in which that foreign company has its place of effective management;";

(l) by the substitution for the definition of "foreign partnership" of the following definition:

" **'foreign partnership'**, in respect of any year of assessment, means any partnership, association, **[or]** body of persons or entity 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 or entity is formed or established—

(i) each member of the partnership, association, **[or]** body of persons or entity 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 or entity when that amount is received by or accrued to the partnership, association, **[or]** body of persons or entity; and

(ii) the partnership, association, **[or]** body of persons or entity 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 or entity is formed or established does not have any applicable laws relating to tax on income—

(a) by die toepassing van die wette met betrekking tot belasting op inkomste van die land waarin daardie vennootskap, vereniging, **[of]** liggaam van persone of entiteit gestig of opgerig is—

(i) elke lid van die vennootskap, vereniging, **[of]** liggaam van persone of entiteit 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 of entiteit wanneer daardie bedrag deur die vennootskap, vereniging, **[of]** liggaam van persone of entiteit ontvang word of daaraan toeval; en

(ii) die vennootskap, vereniging, **[of]** liggaam van persone of entiteit 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 of entiteit gestig of opgerig is nie toepaslike wette met betrekkig 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 of entiteit tegelykertyd met die ontvangs, toevalling of aangaan aan die lede van daardie vennootskap, vereniging, **[of]** liggaam van persone of entiteit toegeken word ingevolge 'n ooreenkoms tussen daardie lede; en

(ii) geen bedrag uitgekeer aan 'n lid van 'n vennootskap, vereniging, **[of]** liggaam van persone of entiteit die toekenning beoog in subparagraaf (i) mag oorskry nie, na inagneming van enige vorige uitkerings deur die vennootskap, vereniging, **[of]** liggaam van persone of entiteit gemaak;";

(o) deur die woord "of" aan die einde van subparagraaf (iii) van die omskrywing van "dividend" te skrap;

(p) deur die woord "of" aan die einde van subparagraaf (iv) van die omskrywing van "dividend" by te voeg;

(q) deur by die omskrywing van "dividend" die volgende subparagraaf na subparagraaf (iv) by te voeg:

"(v) 'n buitelandse dividend uitmaak;";

(r) deur die omskrywing van "dividend" deur die volgende omskrywing te vervang:

" **'dividend'** enige bedrag oorgedra of aangewend deur 'n maatskappy wat 'n inwoner is ten behoewe van of namens enige **[aandeelhouer met betrekking tot daardie maatskappy uit hoofde]** persoon ten opsigte van enige aandeel **[deur daardie aandeelhouer]** in daardie maatskappy **[gehou]**, hetsy daardie bedrag oorgedra of toegepas word—

(a) deur middel van 'n uitkering gemaak deur; of

(b) as vergoeding vir die aankoop van enige aandeel in,

daardie maatskappy, maar nie ook enige bedrag aldus **[deur die maatskappy]** oorgedra of aangewend nie namate die bedrag aldus oorgedra of aangewend—

(i) 'n vermindering van toegevoegde belastingkapitaal van die maatskappy tot gevolg het;

(ii) aandele in **[daardie]** die maatskappy uitmaak; of

(iii) 'n verkryging deur **['n]** die maatskappy van sy eie effekte deur middel van 'n algemene heraankoop van effekte, soos beoog in subparagraaf *(b)* van paragraaf **[5.67]** 5.67(B) van artikel 5 van die 'JSE Limited Listings Requirements' uitmaak, waar daardie verkryging voldoen aan **[die]** enige toepaslike vereistes voorgeskryf deur paragrawe **[5.67]** 5.68 en 5.72 tot 5.84 van artikel 5 van die 'JSE Limited Listings Requirements';

[(iv) 'n aflossing van 'n deelnemingsbelang in 'n reëling of skema beoog in paragraaf *(e)*(ii) van die omskrywing van 'maatskappy' uitmaak; of

(v) 'n buitelandse dividend uitmaak;]";

(i) any amount—
(aa) that is received by or accrued to; or
(bb) of expenditure that is incurred by,
the partnership, association, **[or]** body of persons or entity is allocated concurrently with the receipt, accrual or incurral to the members of that partnership, association, **[or]** body of persons or entity in terms of an agreement between those members; and

(ii) no amount distributed to a member of a partnership, association, **[or]** body of persons or entity may exceed the allocation contemplated in subparagraph (i) after taking into account any prior distributions made by the partnership, association, **[or]** body of persons or entity;";

(m) by the insertion after the definition of "foreign partnership" of the following definition:

" **'foreign return of capital'** means any amount that is paid or payable by a foreign company in respect of any share in that foreign company where that amount is treated as a distribution or similar payment (other than an amount that constitutes a foreign dividend) by that foreign company for the purposes of the laws relating to—
(a) tax on income on companies of the country in which that foreign company has its place of effective management; or
(b) companies of the country in which that foreign company is incorporated, formed or established, where that country in which that foreign company has its place of effective management does not have any applicable laws relating to tax on income,
but does not include any amount so paid or payable to the extent that the amount so paid or payable is deductible by that foreign company in the determination of any tax on income of companies of the country in which that foreign company has its place of effective management;";

(n) by the substitution in paragraph *(c)* of the definition of "gross income" for the words preceding the proviso of the following words:

"any amount, including any voluntary award, received or accrued in respect of services rendered or to be rendered or any amount (other than an amount referred to in section 8(1)) received or accrued in respect of **[or by virtue of]** any employment or the holding of any office";

(o) by the substitution in paragraph *(c*A*)* of the definition of "gross income" for the words following subparagraph (iv) of the following words:

"as **[compensation]** consideration for any restraint of trade imposed on such person;";

(p) by the substitution in the definition of "gross income" for paragraph *(d)* of the following paragraph:

"*(d)* any amount (other than an amount contemplated in paragraph *(a)*), including any voluntary award, received or accrued—
(i) in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment or of any appointment (or right or claim to be appointed) to any office or employment;
(ii) by or to a person, or dependant or nominee of the person, in respect of proceeds from a policy of insurance where the person is or was an employee or director of the policyholder; or
(iii) by or to a person, or dependant or nominee of the person, in respect of any policy of insurance (other than a risk policy with no cash value or surrender value) that has been ceded to—
(aa) the person;
(bb) a dependant or nominee of the person; or
(cc) a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund,
for the benefit of the person, or dependant or nominee of the person, by—
(A) the employer or former employer of the person; or
(B) the company of which the person is or was a director:

(s) deur die omskrywing van ''ekwiteitsaandeel'' deur die volgende omskrywing te vervang:

'' **'ekwiteitsaandeel' [, met betrekking tot enige maatskappy,]** enige aandeel of soortgelyke belang in **[daardie]** 'n maatskappy, behalwe enige aandeel of soortgelyke belang wat **[nie]**, nog wat dividende nog wat kapitaal betref, enige reg tot deelneming bo 'n bepaalde bedrag in 'n uitkering inhou nie;

(t) deur die omskrywing van ''ekwiteitsaandeel'' deur die volgende omskrywing te vervang:

'' **'ekwiteitsaandeel'** enige aandeel **[of soortgelyke belang]** in 'n maatskappy, behalwe enige aandeel **[of soortgelyke belang]** wat, nog wat dividende nog wat teruggawes van kapitaal betref, enige reg tot deelneming bo 'n bepaalde bedrag in 'n uitkering inhou nie;'';

(u) deur in die omskrywing van ''finansiële instrument'' paragraaf *(a)* deur die volgende paragraaf te vervang:

''*(a)* 'n lening, voorskot, skuld, **[effek,]** skuldbrief, wissel, aandeel, promesse, bankaksep, verhandelbare depositosertifikaat, deposito by 'n finansiële instelling, 'n deelnemende belang in 'n portefeulje van 'n **[gesamentlike]** kollektiewe beleggingskema, of 'n soortgelyke instrument;'';

(v) deur in die omskrywing van ''groep van maatskappye'' paragraaf *(a)* deur die volgende paragraaf te vervang:

''*(a)* minstens 70 persent van die ekwiteitsaandele **[van]** in elke beheerde groepsmaatskappy direk deur die beherende groepsmaatskappy, een of meer ander beheerde groepsmaatskappye of enige kombinasie daarvan, gehou word; en'';

(w) deur die omskrywing van ''hoofkwartiermaatskappy'' deur die volgende omskrywing te vervang:

'' **'hoofkwartiermaatskappy'**, ten opsigte van enige jaar van aanslag, 'n maatskappy beoog in artikel 9I(1) ten opsigte waarvan 'n keuse ingevolge daardie artikel uitgeoefen is;'';

(x) deur in die omskrywing van ''lewende annuïteit'' paragraaf *(e)* deur die volgende paragraaf te vervang:

''*(e)* by die afsterwe van die lid of voormalige lid, die waarde van die bates in paragraaf *(a)* bedoel aan 'n benoemde van die lid of voormalige lid as 'n annuïteit of enkelbedrag of as 'n annuïteit en 'n enkelbedrag, of, by gebrek aan 'n benoemde, as 'n enkelbedrag aan die boedel van die gestorwene betaal kan word; en'';

(y) deur in die Engelse teks van die omskrywing van ''pensioenbewaringsfonds'' die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

'' **'pension preservation fund'** a pension fund organisation which is registered under the **[Pensions]** Pension Funds Act, 1956 (Act No. 24 of 1956), and which is approved by the Commissioner in respect of the year of assessment in question'';

(z) deur in paragraaf *(a)*(i) van die voorbehoudsbepaling tot die omskrywing van ''pensioenbewaringsfonds'' die woorde wat item *(aa)* voorafgaan deur die volgende woorde te vervang:

''voormalige lede van 'n pensioenfonds of voorsorgsfonds wie se lidmaatskap van daardie fonds beëindig is as gevolg van—'';

*(z*A*)* deur in paragraaf *(a)*(ii) van die voorbehoudsbepaling tot die omskrywing van ''pensioenbewaringsfonds'' die woorde wat item *(aa)* voorafgaan deur die volgende woorde te vervang:

''voormalige lede van 'n ander pensioenbewaringsfonds of 'n voorsorgbewaringsfonds—'';

*(z*B*)* deur in paragraaf *(a)* van die voorbehoudsbepaling tot die omskrywing van ''pensioenbewaringsfonds'' subparagraaf (iii) deur die volgende subparagraaf te vervang:

''(iii) voormalige lede van 'n pensioenfonds of benoemdes of afhanklikes van daardie voormalige lid ten opsigte van wie 'n **[voordeel]** 'onopgeëiste voordeel' soos omskryf in die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), deur daardie fonds verskuldig of

Provided that—

[(i)]*(aa)* the provisions of **[this paragraph]** subparagraphs (i) and (ii) shall not apply to any lump sum award from any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;

[(ii)]*(bb)* any such amount which becomes payable in consequence of or following upon the death of any person shall be deemed to be an amount which accrued to such person immediately prior to his or her death;

(cc) for the purposes of subparagraphs (ii) and (iii), any amount received by or accrued to a dependant or nominee of a person shall be deemed to be received by or to accrue to that person;'';

(q) by the substitution in the definition of ''gross income'' for paragraph *(e)* of the following paragraph:

''*(e)* a retirement fund lump sum benefit or retirement fund lump sum withdrawal benefit other than any amount included under paragraph *(e*A*)*;'';

(r) by the substitution in paragraph *(g)* of the definition of ''gross income'' for the words preceding subparagraph *(i)* of the following words:

''any amount received or accrued from another person, as a premium or **[like]** consideration in the nature of a premium—'';

(s) by the substitution in the definition of ''gross income'' for paragraph *(g*A*)* of the following paragraph:

''*(g*A*)* any amount received or accrued from another person as consideration **[(or payment of like nature)]** for the imparting of or the undertaking to impart any scientific, technical, industrial or commercial knowledge or information, or for the rendering of or the undertaking to render any assistance or service in connection with the application or utilization of such knowledge or information;'';

(t) by the substitution in the definition of ''gross income'' for paragraph *(j*A*)* of the following paragraph:

''*(j*A*)* any amount received by or accrued to any person during the year of assessment **[from]** in respect of the disposal of any asset manufactured, produced, constructed or assembled by that person, which is similar to any other asset manufactured, produced, constructed or assembled by that person for purposes of manufacture, sale or exchange by that person or on that person's behalf;'';

(u) by the substitution in the definition of ''gross income'' for paragraph *(k)* of the following paragraph:

''*(k)* any amount received or accrued by way of a dividend or a foreign dividend;'';

(v) by the substitution for paragraph *(m)* of the definition of ''gross income'' for the following paragraph:

''*(m)* any amount received or accrued in respect of a policy of insurance of which the taxpayer is the policyholder, where the policy relates to the death, disablement or severe illness of an employee or director (or former employee or director) of the taxpayer, including by way of any loan or advance: Provided that—

(i) any amount so received or accrued shall be reduced by the amount of any such loan or advance which is or has been included in the taxpayer's gross income;

(ii) to the extent that paragraph *(a)* or *(d)* of this definition applies to an amount, this paragraph does not apply to that amount;'';

betaalbaar is **[wat nog nie binne 24 maande van die datum verskuldig betaal is nie]**; of”;

*(z*C*)* deur in paragraaf *(b)* van die voorbehoudsbepaling tot die omskrywing van “pensioenbewaringsfonds” die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“betalings of oordragte aan die fonds met betrekking tot ’n lid beperk word tot ’n bedrag beoog in paragraaf **[2(1)*(b)*]** 2(1)*(a)*(ii) of *(b)* van die Tweede Bylae of ’n **[ongeëiste]** onopgeëiste voordeel soos omskryf in die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), wat aan die fonds betaal of oorgedra word deur—”;

*(z*D*)* deur in die omskrywing van “pensioenfonds” subparagraaf *(bb)* van paragraaf (ii) van die voorbehoudsbepaling tot paragraaf *(c)* deur die volgende subparagraaf te vervang:

“*(bb)* dat lidmaatskap van die fonds gedurende die hele dienstermyn ’n voorwaarde is van die indiensneming deur die werkgewer van alle persone in die daarin vermelde kategorie of kategorieë wat op of na die datum waarop—
(i) die fonds in werking tree; of
(ii) die werkgewer ’n deelnemer in daardie fonds word,
by **[hom]** die werkgewer in diens gaan;”;

*(z*E*)* deur in die omskrywing van “skeidingsvoordeel” die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

“ **‘skeidingsvoordeel’** enige bedrag (buiten ’n enkelbedragvoordeel of ’n bedrag beoog in **[artikel 23*(p)*]** paragraaf *(d)*(ii) of (iii) van die omskrywing van ‘bruto inkomste’) 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 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—”;

*(z*F*)* deur in die omskrywing van “skeidingsvoordeel” die woorde wat op paragraaf *(c)*(ii) volg deur die volgende woorde te vervang:

“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 **[aandelekapitaal]** aandele of ledebelang in die maatskappy gehou het”;

*(z*G*)* deur in die omskrywing van “skeidingsvoordeel” in die Engelse teks die voorbehoudsbepaling deur die volgende voorbehoudsbepaling te vervang:

“: Provided that any such amount which becomes payable in consequence of or following upon the death of a person must be deemed **[to]** to be an amount which accrued to such person immediately prior to his or her death”;

*(z*H*)* deur voor die omskrywing van “toegevoegde belastingkapitaal” die volgende omskrywing in te voeg:

“ **‘teruggawe van kapitaal’** enige bedrag oorgedra deur ’n maatskappy wat ’n inwoner is ten behoewe van of namens enige persoon ten opsigte van enige aandeel in daardie maatskappy namate daardie oordrag ’n vermindering van toegevoegde belastingkapitaal van die maatskappy tot gevolg het, hetsy daardie bedrag oorgedra word—
(a) by wyse van ’n uitkering gemaak deur; of
(b) as vergoeding vir die verkryging van enige aandeel in,
daardie maatskappy, maar nie ook nie enige bedrag aldus oorgedra namate die bedrag aldus oorgedra—
(i) aandele in die maatskappy uitmaak; of
(ii) ’n verkryging deur die maatskappy van sy eie effekte by wyse van ’n algemene heraankoop van effekte soos beoog in subparagraaf *(b)* van paragraaf 5.67(B) van artikel 5 van die ‘JSE Limited Listings Requirements’ uitmaak, waar daardie verkryging voldoen aan enige toepaslike vereistes voorgeskryf deur paragrawe 5.68 en 5.72 tot 5.84 van artikel 5 van die ‘JSE Limited Listings Requirements’;”;

(w) by the substitution in the definition of "group of companies" for paragraph *(a)* of the following paragraph:

"*(a)* at least 70 percent of the equity shares **[of]** in each controlled group company are directly held by the controlling group company, one or more other controlled group companies or any combination thereof; and";

(x) by the substitution for the definition of "headquarter company" of the following definition:

" **'headquarter company'** in respect of any year of assessment means a company contemplated in section 9I(1) in respect of which an election has been made in terms of that section;";

(y) by the substitution in the definition of "living annuity" for paragraph *(e)* of the following paragraph:

"*(e)* on the death of the member or former member, the value of the assets referred to in paragraph *(a)* may be paid to a nominee of the member or former member as an annuity or lump sum or as an annuity and a lump sum, or, in the absence of a nominee, to the deceased's estate as a lump sum; and";

(z) by the substitution in the definition of "pension fund" for subparagraph *(bb)* of paragraph (ii) of the proviso to paragraph *(c)* of the following subparagraph:

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

(A) the fund comes into operation; or

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

*(z*A*)* by the substitution in the definition of "pension preservation fund" for the words preceding the proviso of the following words:

" **'pension preservation fund'** means a pension fund organisation which is registered under the **[Pensions]** Pension Funds Act, 1956 (Act No. 24 of 1956), and which is approved by the Commissioner in respect of the year of assessment in question";

*(z*B*)* by the substitution in paragraph *(a)*(i) of the proviso to the definition of "pension preservation fund" for the words preceding item *(aa)* of the following words:

"former members of a pension fund or provident fund whose membership of that fund has terminated due to—";

*(z*C*)* by the substitution in paragraph *(a)*(ii) of the proviso to the definition of "pension preservation fund" for the words preceding item *(aa)* of the following words:

"former members of any other pension preservation fund or a provident preservation fund—";

*(z*D*)* by the substitution in paragraph *(a)* of the proviso to the definition of "pension preservation fund" for subparagraph (iii) of the following subparagraph:

"(iii) former members of a pension fund or nominees or dependants of that former member in respect of whom **[a benefit]** an 'unclaimed benefit' as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), is due or payable by that fund **[that has not been paid within 24 months of the due date]**; or";

*(z*E*)* by the substitution in paragraph *(b)* of the proviso to the definition of "pension preservation fund" for the words preceding subparagraph (i) of the following words:

"payments or transfers to the fund in respect of a member are limited to any amount contemplated in paragraph **[2(1)*(b)*]** 2(1)*(a)*(ii) or *(b)* of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), that is paid or transferred to the fund by—";

(zI) deur die omskrywing van "toegevoegde belastingkapitaal" deur die volgende omskrywing te vervang:

" **'toegevoegde belastingkapitaal'**, met betrekking tot 'n klas van aandele deur 'n maatskappy uitgereik—

(a) in die geval van 'n maatskappy wat nie 'n inwoner is nie en wat 'n inwoner op of na 1 Januarie 2011 word, 'n bedrag gelykstaande aan die som van—

(i) die markwaarde van al die aandele in daardie maatskappy van daardie klas onmiddellik voor die datum waarop daardie maatskappy 'n inwoner word; en

(ii) die vergoeding ontvang deur of toegeval aan daardie maatskappy vir die uitreiking van aandele van daardie klas op of na die datum waarop daardie maatskappy 'n inwoner word,

verminder deur soveel van daardie bedrag wat die maatskappy oorgedra het op of na die datum waarop die maatskappy 'n inwoner word aan aandeelhouers met betrekking tot daardie aandele, en teen die datum van die oordrag deur die direkteure van die maatskappy of deur 'n ander persoon of liggaam van persone met vergelykbare gesag bepaal is 'n bedrag aldus oorgedra te wees; of

(b) in die geval van enige ander maatskappy, 'n bedrag gelykstaande aan die som van—

(i) die opbetaalde kapitaal of aandelekapitaal en aandelepremie van daardie maatskappy onmiddellik voor 1 Januarie 2011 met betrekking tot aandele in daardie maatskappy van daardie klas uitgereik deur daardie maatskappy voor daardie datum, min soveel van daardie opbetaalde kapitaal of aandelekapitaal en aandelepremie wat 'n dividend, soos omskryf voor daardie datum, sou uitgemaak het indien daardie opbetaalde kapitaal of aandelekapitaal en aandelepremie onmiddellik voor daardie datum deur daardie maatskappy uitgekeer was; en

(ii) die vergoeding ontvang deur of toegeval aan daardie maatskappy vir die uitreiking van aandele van daardie klas op of na 1 Januarie 2011,

verminder deur soveel van daardie bedrag wat die maatskappy op of na 1 Januarie 2011 oorgedra het aan aandeelhouers met betrekking tot daardie aandele, en teen die datum van die oordrag deur die direkteure van die maatskappy of deur 'n ander persoon of liggaam van persone met vergelykbare gesag bepaal is 'n bedrag aldus oorgedra te wees:

Met dien verstande dat die bedrag oorgedra soos beooog in paragraaf *(a)* of *(b)* aan 'n aandeelhouer van enige klas van aandele nie 'n bedrag te bowe gaan nie wat tot die totaal van die bedrag van toegevoegde belastingkapitaal toeskryfbaar aan daardie klas van aandele onmiddellik voor die oordrag in dieselfde verhouding staan as wat die getal aandele van daardie klas deur daardie aandeelhouer gehou tot die totale getal aandele van daardie klas staan;";

(zJ) deur die omskrywing van "toegevoegde belastingkapitaal" deur die volgende omskrywing te vervang:

" **'toegevoegde belastingkapitaal'**, met betrekking tot 'n klas van aandele deur 'n maatskappy uitgereik—

(a) in die geval van 'n maatskappy wat nie 'n inwoner is nie en wat 'n inwoner op of na 1 Januarie 2011 word, 'n bedrag gelykstaande aan die som van—

(i) die markwaarde van al die aandele in daardie maatskappy van daardie klas onmiddellik voor die datum waarop daardie maatskappy 'n inwoner word; en

(ii) die vergoeding ontvang deur of toegeval aan daardie maatskappy vir die uitreiking van aandele van daardie klas op of na die datum waarop daardie maatskappy 'n inwoner word,

verminder deur soveel van daardie bedrag wat—

(aa) die maatskappy oorgedra het op of na die datum waarop die maatskappy 'n inwoner word **[aan aandeelhouers met betrekking tot daardie aandele,]** ten behoewe van enige

*(z*F*)* by the substitution in paragraph *(a)* of the proviso to the definition of ''provident preservation fund'' for subparagraph (iii) of the following subparagraph:

''(iii) former members of a provident fund or nominees or dependants of that former member in respect of whom **[a benefit became due but has not been paid within 24 months of the due date]** an 'unclaimed benefit' as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), is due or payable by that fund; **[or]**'';

*(z*G*)* by the substitution in paragraph *(b)* of the proviso to the definition of ''provident preservation fund'' for the words preceding subparagraph (i) of the following words:

''payments or transfers to the fund in respect of a member are limited to any amount contemplated in paragraph **[2(1)*(b)*]** 2(1)*(a)*(ii) or *(b)* of the Second Schedule or any unclaimed benefit as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956), that is paid or transferred to the fund by—'';

*(z*H*)* by the substitution in paragraph *(b)* of the proviso to the definition of ''retirement annuity fund'' for subparagraph (i) of the following subparagraph:

''(i) for contributions by the members, including contributions made by way of transfer of members' interests in approved pension funds, pension preservation funds, provident funds, provident preservation funds or other retirement annuity funds;'';

*(z*I*)* by the substitution for the definition of ''retirement date'' of the following definition:

'' **'retirement date'** means the date on which—

(a) a member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, in terms of the rules of that fund, becomes entitled to an annuity or a lump sum benefit contemplated in **[paragrah 2(1)*(a)*]** paragraph 2(1)*(a)*(i) of the Second Schedule on or subsequent to attaining normal retirement age; or

(b) a nominee or dependant of a deceased member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, in terms of the rules of that fund, becomes entitled to an annuity or a lump sum benefit contemplated in paragraph **[2(1)*(a)*]** 2(1)*(a)*(i) of the Second Schedule on the death of the member;'';

*(z*J*)* by the insertion after the definition of ''retirement interest'' of the following definition:

'' **'return of capital'** means any amount transferred by a company that is a resident for the benefit or on behalf of any person in respect of any share in that company to the extent that that transfer results in a reduction of contributed tax capital of the company, whether that amount is transferred—

(a) by way of a distribution made by; or

(b) as consideration for the acquisition of any share in,

that company, but does not include any amount so transferred to the extent that the amount so transferred constitutes—

(i) shares in the company; or

(ii) an acquisition by the company of its own securities by way of a general repurchase of securities as contemplated in subparagraph *(b)* of paragraph 5.67(B) of section 5 of the JSE Limited Listings Requirements, where that acquisition complies with any applicable requirements prescribed by paragraphs 5.68 and 5.72 to 5.84 of section 5 of the JSE Limited Listings Requirements;'';

persoon wat 'n aandeel in daardie maatskappy van daardie klas hou ten opsigte van daardie aandeel; en

(bb) teen die datum van die oordrag deur die direkteure van die maatskappy of deur 'n ander persoon of liggaam van persone met vergelykbare gesag bepaal is 'n bedrag aldus oorgedra te wees; of

(b) in die geval van enige ander maatskappy, 'n bedrag gelykstaande aan die som van—

(i) die opbetaalde kapitaal of aandelekapitaal en aandelepremie van daardie maatskappy onmiddellik voor 1 Januarie 2011 met betrekking tot aandele in daardie maatskappy van daardie klas uitgereik deur daardie maatskappy voor daardie datum, min soveel van daardie opbetaalde kapitaal of aandelekapitaal en aandelepremie wat 'n dividend, soos omskryf voor daardie datum, sou uitgemaak het indien daardie opbetaalde kapitaal of aandelekapitaal en aandelepremie onmiddelik voor daardie datum deur daardie maatskappy uitgekeer was; en

(ii) die vergoeding ontvang deur of toegeval aan daardie maatskappy vir die uitreiking van aandele van daardie klas op of na 1 Januarie 2011,

verminder deur soveel van daardie bedrag wat—

(aa) die maatskappy op of na 1 Januarie 2011 oorgedra het **[aan aandeelhouers met betrekking tot daardie aandele,]** ten behoewe van enige persoon wat 'n aandeel in daardie maatskappy van daardie klas hou ten opsigte van daardie aandeel; en

(bb) teen die datum van die oordrag deur die direkteure van die maatskappy of deur 'n ander persoon of liggaam van persone met vergelykbare gesag bepaal is 'n bedrag aldus oorgedra te wees:

Met dien verstande dat die bedrag oorgedra deur 'n maatskappy soos beoog in paragraaf *(a)* of *(b)* **[aan 'n aandeelhouer]** ten behoewe van 'n persoon wat aandele van enige klas van aandele van daardie maatskappy hou nie 'n bedrag te bowe gaan nie wat tot die totaal van die bedrag van toegevoegde belastingkapitaal toeskryfbaar aan daardie klas van aandele onmiddellik voor die oordrag in dieselfde verhouding staan as wat die getal aandele van daardie klas deur daardie **[aandeelhouer]** persoon gehou tot die totale getal aandele van daardie klas staan;";

*(z*K*)* deur die omskrywing van "uittreedatum" deur die volgende omskrywing te vervang:

" **'uittreedatum'** die datum waarop—

(a) 'n lid van 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds, ingevolge die reëls van daardie fonds, geregtig word op 'n annuïteit of 'n enkelbedragvoordeel beoog in paragraaf **[2(1)*(a)*]** 2(1)*(a)*(i) van die Tweede Bylae op of na die bereiking van normale uittree-ouderdom; of

(b) 'n benoemde of afhanklike van 'n afgestorwe lid van 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds, ingevolge die reëls van daardie fonds, geregtig word op 'n annuïteit of 'n enkelbedragvoordeel beoog in paragraaf **[2(1)*(a)*]** 2(1)*(a)*(i) van die Tweede Bylae by afsterwe van die lid;";

*(z*L*)* deur in paragraaf *(b)* van die voorbehoudsbepaling tot die omskrywing van "uittredingannuïteitsfonds" subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) vir bydraes deur die lede, met inbegrip van bydraes gemaak by wyse van oordrag van belange van lede in goedgekeurde pensioenfondse, pensioenbewaringsfondse, voorsorgsfondse, voorsorgbewaringsfondse of ander uittredingannuïteitsfondse;";

*(z*M*)* deur in die omskrywing van "verbonde persoon" subparagrawe (i) en (v) van paragraaf *(d)* deur die volgende subparagrawe te vervang:

*(z*K*)* by the substitution in the definition of "severance benefit" for the words preceding paragraph *(a)* of the following words:

" **'severance benefit'** means any amount (other than a lump sum benefit or an amount contemplated in **[section 23*(p)*]** paragraph *(d)*(ii) or (iii) of the definition of 'gross income') 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—";

*(z*L*)* by the substitution in the definition of "severance benefit" for the words following paragraph *(c)*(ii) of the following words:

"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]** shares or members' interest in the company";

*(z*M*)* by the substitution in the definition of "severance benefit" for the proviso of the following proviso:

": Provided that any such amount which becomes payable in consequence of or following upon the death of a person must be deemed **[to]** to be an amount which accrued to such person immediately prior to his or her death;";

*(z*N*)* by the insertion after the definition of "severance benefit" of the following definition:

" **'share'** means, in relation to any company, any share or similar equity interest in that company;"; and

*(z*O*)* by the deletion of the definition of "shareholder".

(2) Paragraphs *(a)* and *(j)* of subsection (1) come into operation on 1 January 2012.

(3) Paragraphs *(b)*, *(d)*, *(e)*, *(f)*, *(h)*, *(k)*, *(m)* and *(z*J*)* of subsection (1) are deemed to have come into operation on 1 January 2011.

(4) Paragraphs *(c)*, *(g)*, *(i)*, *(u)*, *(w)*, *(z*L*)*, *(z*N*)* and *(z*O*)* of subsection (1) come into operation on 1 April 2012.

(5) Paragraph *(l)* of subsection (1) is deemed to have come 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 2011; 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.

(6) Paragraphs *(n)*, *(o)*, *(r)*, *(s)* and *(t)* 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.

(7) Paragraphs *(p)*, *(v)* and *(z*K*)* of subsection (1) come into operation on 1 March 2012 and apply in respect of receipts and accruals on or after that date.

(8) Paragraph *(x)* of subsection (1) is deemed to have come into operation on 1 January 2011 and applies in respect of years of assessment commencing on or after that date.

(9) Paragraphs *(y)*, *(z*A*)*, *(z*B*)*, *(z*C*)* and *(z*H*)* of subsection (1) come into operation on 1 March 2012.

(10) Paragraphs *(z*D*)*, *(z*E*)*, *(z*F*)*, *(z*G*)* and *(z*I*)* of subsection (1) are deemed to have come into operation on 1 March 2009.

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, section 8 of Act 17 of 2009 and section 7 of Act 7 of 2010

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

(a) by the substitution in subsection (10) for the words preceding the formula of the following words:

"Where any taxpayer's income includes any special remuneration, or where the provisions of section 7A(4A) or paragraph 15(3), 17 or 19(1)

"(i) enige ander maatskappy wat deel van dieselfde groep van maatskappye as daardie maatskappy sou wees indien die uitdrukking 'minstens 70 persent van die ekwiteitsaandele van' in paragrawe *(a)* en *(b)* van die omskrywing van 'groep van maatskappye' in hierdie artikel vervang word deur die uitdrukking 'meer as 50 persent van die ekwiteitsaandele van of stemregte in';

(v) enige ander maatskappy indien **[ten minste]** minstens 20 persent van die ekwiteitsaandele van of stemregte in die maatskappy deur daardie ander maatskappy gehou word, en geen aandeelhouer die meerderheid stemregte in die maatskappy hou nie;";

*(z*N*)* deur in paragraaf *(a)* van die voorbehoudsbepaling tot die omskrywing van "voorsorgbewaringsfonds" subparagraaf (iii) deur die volgende subparagraaf te vervang:

"(iii) voormalige lede van 'n pensioenfonds of benoemdes of afhanklikes van daardie voormalige lid ten opsigte van wie 'n **[voordeel verskuldig geword het maar nog nie betaal is nie binne 24 maande van die datum verskuldig]** 'onopgeëiste voordeel' soos omskryf in die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), deur daardie fonds verskuldig of betaalbaar is; **[of]**"; en

*(z*O*)* deur in paragraaf *(b)* van die voorbehoudsbepaling tot die omskrywing van "voorsorgbewaringsfonds" die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

"betalings of oordragte ten opsigte van 'n lid aan die fonds beperk word tot 'n bedrag beoog in paragraaf **[2(1)*(b)*]** 2(1)*(a)*(ii) of *(b)* van die Tweede Bylae of 'n **[ongeëiste]** onopgeëiste voordeel soos omskryf in die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), wat aan die fonds betaal of oorgeplaas word deur—".

(2) Paragrawe *(a)*, *(b)*, *(j)*, *(r)*, *(t)*, *(v)*, *(z*F*)* en *(zJ)* tree op 1 April 2012 in werking.

(3) Paragrawe *(c)*, *(d)*, *(f)*, *(g)* en *(h)* van subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

(4) Paragrawe *(e)*, *(k)* en *(z*E*)* van subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van ontvangste en toevallings op of na daardie datum.

(5) Paragrawe *(l)*, *(m)*, *(o)*, *(p)*, *(q)*, *(s)*, *(z*H*)* en *(z*I*)* word geag op 1 Januarie 2011 in werking te getree het.

(6) Paragraaf *(n)* van subartikel (1) word geag in werking te getree het—

(a) in die geval van 'n buitelandse vennootskap wat voor 24 Augustus 2010 gestig of opgerig is, vanaf die begin van jare van aanslag wat op of na 1 Oktober 2011 begin;

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

(7) Paragrawe *(u)* en *(z*M*)* van subartikel (1) tree op 1 Januarie 2012 in werking.

(8) Paragraaf *(w)* van subartikel (1) word geag op 1 Januarie 2011 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(9) Paragrawe *(x)*, *(y)*, *(z)*, *(z*A*)* en *(z*L*)* van subartikel (1) tree op 1 Maart 2012 in werking.

(10) Paragrawe *(z*B*)*, *(z*C*)*, *(z*N*)*, *(z*O*)* en *(z*K*)* van subartikel (1) word geag op 1 Maart 2009 in werking te getree het.

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, artikel 8 van Wet 17 van 2009 en artikel 7 van Wet 7 van 2010

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

(a) deur in subartikel (10) die woorde wat die formule voorafgaan deur die volgende woorde te vervang:

"Waar 'n belastingpligtige se inkomste spesiale besoldiging insluit, of waar die bepalings van artikel 7A(4A) of paragraaf 15(3), 17 of 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—''; and

(b) by the substitution in subsection (10) for the words preceding the formula of the following words:

''Where any taxpayer's income includes any special remuneration, or where the provisions of **[section 7A(4A) or]** 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 or severance 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—''.

(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 January 2010.

(3) Paragraph *(b)* of subsection (1) is deemed to have come into operation on 1 March 2011 and applies in respect of amounts received or accrued on or after that date.

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, section 1 of Act 3 of 2008, section 7 of Act 60 of 2008, section 6 of Act 17 of 2009 and section 8 of Act 7 of 2010

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

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

''(1) There shall be deducted from the normal tax payable by any natural person, other than normal tax in respect of any retirement fund lump sum benefit **[or]**, retirement fund lump sum withdrawal benefit or severance benefit, an amount equal to the sum of the amounts allowed to the taxpayer by way of rebates under subsection (2).'';

(b) by the deletion in subsection (2) of the word ''and'' at the end of paragraph *(a)*;

(c) by the substitution in subsection (2) for the full stop at the end of paragraph *(b)* of the expression ''; and'';

(d) by the addition in subsection (2) after paragraph *(b)* of the following paragraph:

''*(c)* a tertiary rebate if the taxpayer was or, had he or she lived, would have been 75 years of age or older on the last day of the year of assessment, an amount of R2 000.''; and

(e) by the substitution for subsection (5) of the following subsection:

''(5) Where the taxable income of a taxpayer consists solely of **['net remuneration' as defined]** remuneration of which the full amount is subject to the Standard Income Tax on Employees contemplated in paragraph 11B of the Fourth Schedule, the **[normal]** amount of tax payable by that taxpayer—

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 voor die aftrekking van enige korting), ooreenkomstig die formule—"; en

(b) deur in subartikel (10) die woorde wat die formule voorafgaan deur die volgende woorde te vervang:

"Waar 'n belastingpligtige se inkomste spesiale besoldiging insluit, of waar die bepalings van **[artikel 7A(4A) of]** 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 of skeidingsvoordeel) wat deur die belastingpligtige ten opsigte van daardie jaar betaalbaar is (soos vasgestel voor die aftrekking van enige korting), ooreenkomstig die formule—".

(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 Januarie 2010 eindig.

(3) Paragraaf *(b)* van subartikel (1) word geag op 1 Maart 2011 in werking te getree het en is van toepassing ten opsigte van bedrae op of na daardie datum ontvang of toegeval.

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, artikel 1 van Wet 3 van 2008, artikel 7 van Wet 60 van 2008, artikel 6 van Wet 17 van 2009 en artikel 8 van Wet 7 van 2010

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

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

"(1) Daar word van normale belasting betaalbaar deur 'n natuurlike persoon, behalwe normale belasting ten aansien van enige uittreefonds enkelbedragvoordeel **[of]**, uittreefonds enkelbedragonttrekkingsvoordeel of skeidingsvoordeel, 'n bedrag afgetrek wat gelyk is aan die som van die bedrae wat ingevolge subartikel (2) by wyse van korting aan die belastingpligtige toegelaat word.";

(b) deur in subartikel (2) die woord "en" aan die einde van paragraaf *(a)* te skrap;

(c) deur in subartikel (2) die punt aan die einde van paragraaf *(b)* deur die uitdrukking "; en" te vervang;

(d) deur in subartikel (2) na paragraaf *(b)* die volgende paragraaf by te voeg:

"*(c)* 'n tersiêre korting toegelaat, indien die belastingpligtige op die laaste dag van die jaar van aanslag 75 jaar of ouer was of sou gewees het indien hy of sy die lewe behou het, 'n bedrag van R2 000."; en

(e) deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Waar 'n belastingpligtige se belasbare inkomste uitsluitlik bestaan uit **['netto besoldiging' soos omskryf]** besoldiging waarvan die volle bedrag onderhewig is aan die Standaard Inkomstebelasting op Werknemers beoog in paragraaf 11B van die Vierde Bylae, moet die **[normale]** bedrag van belasting betaalbaar deur daardie belastingpligtige—

(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—

(i) the **[normal]** amount of 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) is deemed to have come into operation on 1 March 2011 and applies in respect of years of assessment commencing on or after that date.

Insertion of section 6A in Act 58 of 1962

10. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 6 of the following section:

''**Medical scheme fees tax credit**

6A. (1) A rebate, to be known as the medical scheme fees tax credit must be deducted from the normal tax payable by a taxpayer who is a natural person, unless the taxpayer is entitled to a rebate under section 6(2)*(b)*.

(2) *(a)* The medical scheme fees tax credit applies in respect of fees paid by the taxpayer to—

(i) a medical scheme registered under the Medical Schemes Act, 1998 (Act No. 131 of 1998); or

(ii) a fund which is registered under any similar provision contained in the laws of any other country where the medical scheme is registered.

(b) The amount of the medical scheme fees tax credit must be—

(i) R216, in respect of benefits to the taxpayer;

(ii) R432, in respect of benefits to the taxpayer and one dependant; or

(iii) R432, in respect of benefits to the taxpayer and one dependant, plus R144 in respect of benefits to each additional dependant,

for each month in that year of assessment in respect of which those fees are paid.

(3) For the purposes of this section, any amount contemplated in subsection (2) that has been paid by—

(a) the estate of a deceased taxpayer is deemed to have been paid by the taxpayer on the day before his or her death; or

(b) an employer of the taxpayer is, to the extent that the amount has been included in the income of that taxpayer as a taxable benefit in terms of the Seventh Schedule, deemed to have been paid by that taxpayer.

(4) For the purposes of this section a **'dependant'** in relation to a taxpayer means a 'dependant' as defined in section 1 of the Medical Schemes Act, 1998 (Act No. 131 of 1998).''.

(2) Subsection (1) comes into operation on 1 March 2012 and applies in respect of years of assessment commencing on or after that date.

(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) die **[normale]** bedrag van 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) word geag op 1 Maart 2011 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Invoeging van artikel 6A in Wet 58 van 1962

10. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 6 die volgende artikel in te voeg:

"**Belastingkrediet vir mediese skemafooie**

6A. (1) 'n Korting, die belastingkrediet vir mediese skemafooie genoem, moet afgetrek word van die normale belasting betaalbaar deur 'n belastingpligtige wat 'n natuurlike persoon is, tensy die belastingpligtige kragtens artikel 6(2)*(b)* op 'n korting geregtig is.

(2) *(a)* Die belastingkrediet vir mediese skemafooie is van toepassing ten opsigte van fooie betaal deur die belastingpligtige aan—

(i) 'n mediese skema ingevolge die Wet op Mediese Skemas, 1998 (Wet No. 131 van 1998), geregistreer; of

(ii) 'n fonds wat geregistreer is ingevolge enige soortgelyke bepaling vervat in die wette van 'n ander land waar die mediese skema geregistreer is.

(b) Die bedrag van die belastingkrediet vir mediese skemafooie is—

(i) R216, ten opsigte van voordele aan die belastingpligtige;

(ii) R432, ten opsigte van voordele aan die belastingpligtige en een afhanklike; of

(iii) R432, ten opsigte van voordele aan die belastingpligtige en een afhanklike, plus R144 ten opsigte van voordele aan elke bykomende afhanklike,

vir elke maand in daardie jaar van aanslag ten opsigte waarvan daardie fooie betaal word.

(3) By die toepassing van hierdie artikel word enige bedrag beoog in subartikel (2) wat betaal is deur—

(a) die boedel van 'n oorlede belastingpligtige geag deur die belastingpligtige betaal te gewees het op die dag voor sy of haar afsterwe; of

(b) 'n werkgewer van die belastingpligtige, namate die bedrag by die inkomste van daardie belastingpligtige as 'n belasbare voordeel ingevolge die Sewende Bylae ingesluit is, geag deur daardie belastingpligtige betaal te gewees het.

(4) By die toepassing van hierdie artikel beteken 'n **'afhanklike'** met betrekking tot 'n belastingpligtige 'n 'afhanklike' soos in artikel 1 van die Wet op Mediese Skemas, 1998 (Wet No. 131 van 1998), omskryf.".

(2) Subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Amendment of section 6*quat* of Act 58 of 1962, as inserted by section 9 of Act 89 of 1969 and amended by section 5 of Act 94 of 1983, section 5 of Act 85 of 1987, section 5 of Act 28 of 1997, section 12 of Act 53 of 1999, section 16 of Act 30 of 2000, section 4 of Act 59 of 2000, section 8 of Act 5 of 2001, section 20 of Act 60 of 2001, section 9 of Act 74 of 2002, section 16 of Act 45 of 2003, section 4 of Act 32 of 2004, section 8 of Act 31 of 2005, section 7 of Act 35 of 2007, section 9 of Act 17 of 2009 and section 7 of Act 18 of 2009

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

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

"(1) Subject to **[the provisions of]** subsection (2), **[a rebate determined in accordance with this section shall be deducted from the normal tax payable by]** where the taxable income of any resident **[in whose taxable income there is included]** during a year of assessment includes—

(a) any income received by or accrued to such resident from any source outside the Republic **[(other than any foreign dividend contemplated in paragraph *(d)*) which is—**

(i) not deemed to be from a source within the Republic]; or

(b) any proportional amount contemplated in section 9D; or

[*(d)* any foreign dividend; or]

(e) any taxable capital gain contemplated in section 26A, from a source outside the Republic **[which is not deemed to be from a source in the Republic]**; or

(f) any amount—

(i) contemplated in **[paragraphs]** paragraph *(a)* **[,]** or *(b)* **[or *(d)*]** which is received by or accrued to any other person and which is deemed to have been received by or accrued to such resident in terms of section 7;

(ii) of capital gain of any other person from a source outside the Republic **[which is not deemed to be from a source in the Republic]** and which is attributed to that resident in terms of paragraph 68, 69, 70, 71, 72 or 80 of the Eighth Schedule; or

(iii) contemplated in paragraphs *(a)*, *(b)* **[, *(d)*]** or *(e)* which represents capital of a trust, and which is included in the income of that resident in terms of section 25B(2A) or taken into account in determining the aggregate capital gain or aggregate capital loss of that resident in terms of paragraph 80(3) of the Eighth Schedule,

there must be deducted from the normal tax payable in respect of that taxable income a rebate determined in accordance with this section.";

(b) by the deletion in subsection (1A)*(a)* of subparagraph (ii);

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

"the rebate or rebates of any tax proved to be payable as contemplated in subsection (1A), shall not in aggregate exceed an amount which bears to the total normal tax payable the same ratio as the total taxable income attributable to the income, proportional amount, **[foreign dividend,]** taxable capital gain or amount, as the case may be, which is included as contemplated in subsection (1), bears to the total taxable income";

(d) by the substitution in subsection (1B) for paragraph (i) of the proviso to paragraph *(a)* of the following paragraph:

"(i) in determining the amount of the taxable income that is attributable to that income, proportional amount, **[foreign dividend,]** taxable capital gain or amount, any allowable deductions contemplated in sections 11*(n)*, 18 and 18A must be deemed to have been incurred proportionately in respect of income derived from sources within and outside the Republic;";

Wysiging van artikel 6*quat* van Wet 58 van 1962, soos ingevoeg deur artikel 9 van Wet 89 van 1969 en gewysig deur artikel 5 van Wet 94 van 1983, artikel 5 van Wet 85 van 1987, artikel 5 van Wet 28 van 1997, artikel 12 van Wet 53 van 1999, artikel 16 van Wet 30 van 2000, artikel 4 van Wet 59 van 2000, artikel 8 van Wet 5 van 2001, artikel 20 van Wet 60 van 2001, artikel 9 van Wet 74 van 2002, artikel 16 van Wet 45 van 2003, artikel 4 van Wet 32 van 2004, artikel 8 van Wet 31 van 2005, artikel 7 van Wet 35 van 2007, artikel 9 van Wet 17 van 2009 en artikel 7 van Wet 18 van 2009

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

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

"(1) Behoudens **[die bepalings van]** subartikel (2), **[word daar 'n korting ooreenkomstig hierdie artikel bepaal, afgetrek van die normal belasting betaalbaar deur]** waar by die belasbare inkomste van 'n inwoner **[in wie se belasbare inkomste daar]** gedurende 'n jaar van aanslag ingesluit is—

(a) enige inkomste ontvang deur of toegeval aan daardie inwoner uit 'n bron buite die Republiek **[(behalwe 'n buitelandse dividend in paragraaf *(d)* bedoel) wat—**

(i) nie geag word uit 'n bron in die Republiek te wees nie]; of

(b) enige proporsionele bedrag in artikel 9D beoog; of

[*(d)* enige buitelandse dividend; of]

(e) enige belasbare kapitaalwins in artikel 26A beoog van 'n bron buite die Republiek **[wat nie geag word van 'n bron binne die Republiek te wees nie]**; of

(f) enige bedrag—

(i) in **[paragrawe]** paragraaf *(a)* **[,]** of *(b)* **[of *(d)*]** bedoel wat ontvang is deur of toegeval het aan 'n ander persoon en wat geag word **[ontvang deur of toegeval te gewees het aan]** ingevolge artikel 7 deur daardie inwoner **[ingevolge artikel 7]** ontvang of aan daardie inwoner toegeval te gewees het;

(ii) van kapitaalwins van enige ander persoon van 'n bron buite die Republiek **[wat nie geag word van'n bron binne die Republiek te wees nie]** en wat aan daardie inwoner toegereken word ingevolge paragraaf 68, 69, 70, 71, 72 of 80 van die Agtste Bylae; of

(iii) in paragrawe *(a)*, *(b)* **[, *(d)*]** of *(e)* bedoel wat kapitaal van 'n trust daarstel, en wat ingesluit word in die inkomste van daardie inwoner ingevolge artikel 25B(2A) of in berekening gebring is by die vasstelling van die totale kapitaalwins of totale kapitaalverlies van daardie inwoner ingevolge paragraaf 80(3) van die Agtste Bylae,

moet daar van die normale belasting betaalbaar ten opsigte van daardie belasbare inkomste 'n korting bepaal ooreenkomstig hierdie artikel afgetrek word.";

(b) deur in subartikel (1A)*(a)* subparagraaf (ii) te skrap;

(c) deur in subartikel (1B)*(a)* die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

"mag die korting of kortings van enige belasting wat bewys word betaalbaar te wees soos in subartikel (1A) beoog, nie in totaal 'n bedrag wat tot die totale normale belasting betaalbaar in dieselfde verhouding staan as wat die totale belasbare inkomste toeskryfbaar aan die inkomste, proporsionele bedrag, **[buitelandse dividend,]** belasbare kapitaalwins of bedrag, na gelang van die geval, wat soos in subartikel (1) beoog ingesluit is tot die totale belasbare inkomste staan, te bowe gaan nie";

(d) deur in subartikel (1B) paragraaf (i) van die voorbehoudsbepaling tot paragraaf *(a)* deur die volgende paragraaf te vervang:

"(i) by die vasstelling van die bedrag van die belasbare inkomste wat toeskryfbaar is aan daardie inkomste, proporsionele bedrag, **[buitelandse dividend,]** belasbare kapitaalwins of bedrag, word enige toelaatbare aftrekkings in artikels 11*(n)*, 18 en 18A bedoel, geag proporsioneel ten opsigte van inkomste verkry vanuit bronne binne en buite die Republiek aangegaan te wees;";

(e) by the deletion in subsection (1B) of subparagraph *(aa)* of paragraph (iA) of the proviso;

(f) by the substitution in subsection (1B) for subparagraph *(bb)* of paragraph (iA) of the proviso of the following subparagraph:

"*(bb)* relates to any amount contemplated in **[section 9D(9)*(b)*(ii) or (iii)]** section 9D(9A)*(a)* which **[are]** is not excluded from the application of section 9D(2) in terms of **[those subparagraphs]** that section or section 9D(9)*(b)*,"; and

(g) by the substitution for subsection (5) of the following subsection:

"(5) Notwithstanding sections 79 and 81(5), an additional or reduced assessment in respect of a year of assessment to give effect to subsections (1) and (1A) may be made within six years from the date of the original assessment in respect of that year.".

(2) Paragraphs *(a)*, *(b)*, *(c)*, *(d)* and *(g)* of subsection (1) come into operation on 1 January 2012 and apply in respect of years of assessment commencing on or after that date.

(3) Paragraphs *(e)* and *(f)* of subsection (1) come into operation on 1 April 2012 and apply in respect of years of assessment commencing on or after that date.

Insertion of section 6*quin* in Act 58 of 1962

12. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 6*quat* of the following section:

"**Rebate in respect of foreign taxes on income from source within Republic**

6*quin.* (1) Subject to subsection (3), where any portion of the taxable income of a resident is attributable to an amount that is from a source within the Republic and is received by or accrued to that resident in respect of services rendered within the Republic, and an amount of tax in respect of that amount is—

(a) (i) levied by any sphere of government of any country—
(aa) other than the Republic; and
(bb) with which the Republic has concluded an agreement for the avoidance of double taxation; and
(ii) withheld when the amount is paid to that resident by the person making the payment; or

(b) imposed by any sphere of government of any country other than the Republic in terms of the laws of that country,

a rebate determined in accordance with subsection (2) must be deducted from the normal tax payable by that resident.

(2) *(a)* For the purposes of paragraph *(a)* of subsection (1), the rebate is an amount equal to the lesser of—
(i) the amount of normal tax which is attributable to the amount received or accrued as contemplated in that subsection; or
(ii) the amount of tax levied and withheld as contemplated in that paragraph.

(b) For the purposes of paragraph *(b)* of subsection (1), the rebate is an amount equal to the lesser of—
(i) the amount of normal tax which is attributable to the amount received or accrued as contemplated in that subsection; or
(ii) the amount of tax imposed as contemplated in that paragraph.

(3) No rebate may be deducted in terms of this section if—
(a) the amount of tax levied and withheld as contemplated in subsection (1)*(a)*;
(b) the amount of tax imposed as contemplated in subsection (1)*(b)*; or
(c) any portion of any amount contemplated in paragraph *(a)* or *(b)*,

is deducted from the income of that resident in terms of section 6*quat*(1C).

(4) For the purposes of subsection (2)*(a)*(ii) and *(b)*(ii), the amount of any tax—

(e) deur in subartikel (1B) subparagraaf *(aa)* van paragraaf (iA) van die voorbehoudsbepaling te skrap;

(f) deur in subartikel (1B) subparagraaf *(bb)* van paragraaf (iA) van die voorbehoudsbepaling deur die volgende subparagraaf te vervang:

"*(bb)* verband hou met enige bedrag in **[artikel 9D(9)*(b)*(ii) of (iii)]** <u>artikel 9D(9A)*(a)*</u> bedoel wat nie by die toepassing van artikel 9D(2) uitgesluit is ingevolge **[daardie subparagrawe]** <u>daardie artikel of artikel 9D(9)*(b)*</u> nie,";

(g) deur subartikel (5) deur die volgende subartikel te vervang:

"<u>(5) Ondanks artikels 79 en 81(5) kan 'n addisionele of verminderde aanslag ten opsigte van 'n jaar van aanslag om aan subartikels (1) en (1A) uitvoering te gee, binne ses jaar vanaf die datum van die oorspronklike aanslag ten opsigte van daardie jaar gemaak word.</u>".

(2) Paragrawe *(a)*, *(b)*, *(c)*, *(d)* en *(g)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragrawe *(e)* en *(f)* van subartikel (1) tree op 1 April 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Invoeging van artikel 6*quin* in Wet 58 van 1962

12. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 6*quat* die volgende artikel in te voeg:

"**Korting ten opsigte van buitelandse belastings op inkomste van bron binne Republiek**

6*quin*. (1) Behoudens subartikel (3) waar enige gedeelte van die belasbare inkomste van 'n inwoner toeskryfbaar is aan 'n bedrag wat van 'n bron binne die Republiek is en ontvang word deur of toeval aan daardie inwoner ten opsigte van enige dienste bewys binne die Republiek, en 'n bedrag van belasting ten opsigte van daardie bedrag—

(a) (i) gehef word deur enige regeringsfeer van enige land—

(aa) buiten die Republiek; en

(bb) waarmee die Republiek 'n ooreenkoms aangegaan het vir die vermyding van dubbele belasting; en

(ii) teruggehou word wanneer die bedrag aan daardie inwoner betaal word deur die persoon wat die betaling maak; of

(b) opgelê word deur enige regeringsfeer van enige land buiten die Republiek ingevolge die wette van daardie land,

moet 'n korting bepaal ooreenkomstig subartikel (2) afgetrek word van die normale belasting deur daardie inwoner betaalbaar.

(2) *(a)* By die toepassing van paragraaf *(a)* van subartikel (1) is die korting 'n bedrag gelyk aan die minste van—

(i) die bedrag van normale belasting wat toeskryfbaar is aan die bedrag ontvang of toegeval soos in daardie subartikel beoog; of

(ii) die bedrag van belasting gehef en teruggehou soos in daardie paragraaf beoog.

(b) By die toepassing van paragraaf *(b)* van subartikel (1) is die korting 'n bedrag gelyk aan die minste van—

(i) die bedrag van normale belasting wat toeskryfbaar is aan die bedrag ontvang of toegeval soos in daardie subartikel beoog; of

(ii) die bedrag van belasting opgelê soos in daardie paragraaf beoog.

(3) Geen korting mag ingevolge hierdie artikel afgetrek word nie indien—

(a) die bedrag van belasting gehef en teruggehou soos in subartikel (1)*(a)* beoog;

(b) die bedrag van belasting opgelê soos in subartikel (1)*(b)* beoog; of

(c) enige gedeelte van enige bedrag in paragraaf *(a)* of *(b)* beoog,

ingevolge artikel 6*quat*(1C) van die inkomste van daardie inwoner afgetrek word.

(4) By die toepassing van subartikels (2)*(a)*(ii) en *(b)*(ii) moet die bedrag van enige belasting—

(a) levied and withheld as contemplated in subsection (1)*(a)*; or
(b) imposed as contemplated in subsection (1)*(b)*,
must be translated to the currency of the Republic on the last day of the year of assessment in which that tax is so levied and withheld or imposed, by applying the average exchange rate for that year of assessment.''.

(2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of amounts of tax withheld or imposed by any sphere of government of any country other than the Republic during years of assessment commencing on or after that date.

Amendment of section 6*quin* of Act 58 of 1962

13. (1) Section 6*quin* of the Income Tax Act, 1962, is hereby amended—
(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:
''Subject to **[subsection]** subsections (3) and (3A), where any portion of the taxable income of a resident is attributable to an amount that is from a source within the Republic and is received by or accrued to that resident in respect of services rendered within the Republic, and an amount of tax in respect of that amount is—''; and
(b) by the insertion of the following subsection after subsection (3):
''(3A) Where an amount of tax is levied and withheld as contemplated in subsection (1)*(a)*, no rebate may be deducted in terms of this section if the resident contemplated in subsection (1) does not, within 60 days from the date on which that amount of tax is withheld, submit to the Commissioner a declaration in such form as may be required by the Commissioner that the amount of tax was levied and withheld as contemplated in subsection (1)*(a)*.''.

(2) Subsection (1) comes into operation on a date determined by the Minister by notice in the *Gazette*, which date must be later than 1 January 2012, and applies in respect of amounts of tax withheld or imposed by any sphere of government of any country other than the Republic during years of assessment commencing on or after the date so determined.

Insertion of section 6*sex* in Act 58 of 1962

14. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 6*quin* of the following section:

''**Rebate in respect of dividends tax on income of foreign companies**

6*sex*. (1) For the purposes of this section—
'dividend' means any dividend as defined in section 1, but does not include any dividend paid or declared by a headquarter company; and
'foreign dividend' means any foreign dividend as defined in section 10B(1).

(2) If, during any year of assessment—
(a) (i) any dividend, foreign dividend or amount of any foreign dividend is, by virtue of section 10(1)*(k)*(i) or 22B, included in the income of a foreign company;
(ii) the foreign company contemplated in subparagraph (i) is the beneficial owner, as defined in section 64D, of the share to which that dividend, foreign dividend or amount relates at the time of the inclusion contemplated in subparagraph (i); and
(iii) the dividend, foreign dividend or amount would, but for—
(aa) paragraph *(ee)* or *(ff)* of the proviso to section 10(1)*(k)*(i); or
(bb) section 22B,

(a) gehef en teruggehou soos in subartikel (1)*(a)* beoog; of

(b) opgelê soos in subartikel (1)*(b)* beoog,

omgeskakel word na die valuta van die Republiek op die laaste dag van die jaar van aanslag waarin daardie belasting aldus gehef en teruggehou of opgelê word deur die gemiddelde wisselkoers vir daardie jaar van aanslag toe te pas.”.

(2) Subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van bedrae van belasting teruggehou of opgelê deur enige regeringsfeer van enige land buiten die Republiek gedurende jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 6*quin* van Wet 58 van 1962

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

(a) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

“Behoudens **[subartikel]** subartikels (3) en (3A) waar enige gedeelte van die belasbare inkomste van ’n inwoner toeskryfbaar is aan ’n bedrag wat van ’n bron binne die Republiek is en ontvang word deur of toeval aan daardie inwoner ten opsigte van enige dienste bewys binne die Republiek, en ’n bedrag van belasting ten opsigte van daardie bedrag—”; en

(b) deur na subartikel (3) die volgende subartikel in te voeg:

“(3A) Waar ’n bedrag van belasting gehef en teruggehou word soos in subartikel (1)*(a)* beoog, mag geen korting ingevolge hierdie artikel afgetrek word nie indien die inwoner in subartikel (1) beoog nie, binne 60 dae vanaf die datum waarop daardie bedrag van belasting teruggehou word, aan die Kommissaris ’n verklaring in die vorm deur die Kommissaris vereis voorlê dat die bedrag van belasting gehef en teruggehou is soos in subartikel (1)*(a)* beoog.”.

(2) Subartikel (1) tree in werking op ’n datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal, welke datum later as 1 Januarie 2012 moet wees, en is van toepassing ten opsigte van bedrae van belasting teruggehou of opgelê deur enige regeringsfeer van enige land buiten die Republiek gedurende jare van aanslag wat begin op of na die datum aldus bepaal.

Invoeging van artikel 6*sex* in Wet 58 van 1962

14. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 6*quin* die volgende artikel in te voeg:

“**Korting ten opsigte van dividendbelasting op inkomste van buitelandse maatskappye**

6*sex*. (1) By die toepassing van hierdie artikel beteken—

‘dividend’ enige dividend soos omskryf in artikel 1, maar nie ook ’n dividend deur ’n hoofkwartiermaatskappy betaal of verklaar nie; en

‘buitelandse dividend’ enige buitelandse dividend soos omskryf in artikel 10B(1).

(2) Indien, gedurende enige jaar van aanslag—

(a) (i) enige dividend, buitelandse dividend of bedrag van enige buitelandse dividend, uit hoofde van artikel 10(1)*(k)*(i) of 22B, by die inkomste van ’n buitelandse maatskappy ingesluit word;

(ii) die buitelandse maatskappy in subparagraaf (i) beoog die uiteindelik geregtigde, soos omskryf in artikel 64D, is van die aandeel waarop daardie dividend, buitelandse dividend of bedrag betrekking het op die tydstip van die insluiting beoog in subparagraaf (i); en

(iii) die dividend, buitelandse dividend of bedrag, by ontstentenis van—

(aa) paragraaf *(ee)* of *(ff)* van die voorbehoudsbepaling tot artikel 10(1)*(k)*(i); of

(bb) artikel 22B,

have been exempt from tax in terms of section 10(1)*(k)*(i) or 10B; or

(b) (i) the proceeds from the disposal by a foreign company of shares in another company are, by virtue of paragraph 43A of the Eighth Schedule, increased by an amount equal to the amount of any dividend received by or accrued to that foreign company in respect of any share held by the foreign company in that other company;

(ii) that foreign company is the beneficial owner, as defined in section 64D, of the share contemplated in subparagraph (i) at the time of the disposal contemplated in that subparagraph; and

(iii) there would have been no increase in proceeds as contemplated in subparagraph (i) but for paragraph 43A of the Eighth Schedule,

a rebate determined in accordance with subsection (3) must be deducted from the normal tax payable by that foreign company.

(3) For the purposes of subsection (2), a rebate is an amount equal to the dividends tax borne by the foreign company during the year of assessment or the following year of assessment which—

(a) in the case of any dividend, foreign dividend or amount contemplated in subsection (2)*(a)*(i), is attributable to that dividend, foreign dividend or amount; or

(b) in the case of any amount contemplated in subsection (2)*(b)*(i), is attributable to that amount.

(4) The determination of the rebate as contemplated in subsection (3) must be made—

(a) after taking into account any applicable agreement for the prevention of double taxation; and

(b) irrespective of whether a declaration contemplated in section 64G(3) or section 64H(3) has been submitted as contemplated in those sections in respect of the relevant dividend or foreign dividend.".

(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—

(a) any dividend, foreign dividend or amount of foreign dividend included in income; or

(b) any dividend received by or accrued to a foreign company,

during any year of assessment commencing on or after that date.

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

15. (1) Section 7 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:

"Any income received by or accrued to any person married **[with or without]** in or out of community of property (hereinafter referred to as the recipient) shall be deemed for the purposes of this Act to be income accrued to such person's spouse (hereinafter referred to as the donor) if—";

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

"*(a)* the donor's right to receive or have paid to him or for his benefit any amount by way of rent, dividend, foreign dividend, interest, royalty or similar income in respect of any movable or immovable property (including without limiting the foregoing any lease, company share,

van belasting ingevolge artikel 10(1)*(k)*(i) of artikel 10B vrygestel sou wees; of

(b) (i) die opbrengs uit die beskikking deur 'n buitelandse maatskappy van aandele in 'n ander maatskappy, uit hoofde van paragraaf 43A van die Agtste Bylae, vermeerder word deur 'n bedrag gelyk aan die bedrag van enige dividend ontvang deur of toegeval aan daardie buitelandse maatskappy ten opsigte van enige aandeel gehou deur die buitelandse maatskappy in daardie ander maatskappy;

(ii) daardie buitelandse maatskappy die uiteindelik geregtigde, soos omskryf in artikel 64D, is van die aandeel beoog in subparagraaf (i) op die tydstip van die beskikking beoog in daardie subparagraaf; en

(iii) daar geen toename in opbrengs soos beoog in subparagraaf (i) sou wees nie by ontstentenis van paragraaf 43A van die Agtste Bylae,

moet 'n korting bepaal ooreenkomstig subartikel (3) afgetrek word van die normale belasting betaalbaar deur daardie buitelandse maatskappy.

(3) By die toepassing van subartikel (2) is die korting 'n bedrag gelyk aan die dividendbelasting gedra deur die buitelandse maatskappy gedurende die jaar van aanslag of die volgende jaar van aanslag wat—

(a) in die geval van enige dividend, buitelandse dividend of bedrag beoog in subartikel (2)*(a)*(i), toeskryfbaar is aan daardie dividend, buitelandse dividend of bedrag; of

(b) in die geval van enige bedrag beoog in subartikel (2)*(b)*(i), aan daardie bedrag toeskryfbaar is.

(4) Die bepaling van die korting soos beoog in subartikel (3) moet gemaak word—

(a) nadat in berekening gebring is enige toepaslike ooreenkoms vir die vermyding van dubbele belasting; en

(b) ongeag of 'n verklaring beoog in artikel 64G(3) of artikel 64H(3) soos beoog in daardie artikels ten opsigte van die betrokke dividend of buitelandse dividend voorgelê is.".

(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) enige dividend, buitelandse dividend of bedrag van buitelandse dividend by inkomste ingesluit; of

(b) enige dividend ontvang deur of toegeval aan 'n buitelandse maatskappy,

gedurende enige jaar van aanslag wat op of na daardie datum begin.

Wysiging van artikel 7 van Wet 58 van 1962, soos gewysig deur artikel 5 van Wet 90 van 1962, artikel 8 van Wet 88 van 1965, artikel 5 van Wet 55 van 1966, artikel 7 van Wet 94 van 1983, artikel 2 van Wet 30 van 1984, artikel 5 van Wet 90 van 1988, artikel 5 van Wet 70 van 1989, artikel 4 van Wet 101 van 1990, artikel 7 van Wet 129 van 1991, artikel 5 van Wet 141 van 1992, artikel 6 van Wet 21 van 1995, artikel 23 van Wet 30 van 1998, artikel 13 van Wet 53 van 1999, artikel 5 van Wet 59 van 2000, artikel 10 van Wet 74 van 2002, artikel 17 van Wet 45 van 2003, artikel 5 van Wet 32 van 2004, artikel 9 van Wet 31 van 2005, artikel 8 van Wet 35 van 2007, artikel 4 van Wet 3 van 2008, artikel 8 van Wet 60 van 2008 en artikel 10 van Wet 17 van 2009

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

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

"Any income received by or accrued to any person married **[with or without]** in or out of community of property (hereinafter referred to as the recipient) shall be deemed for the purposes of this Act to be income accrued to such person's spouse (hereinafter referred to as the donor) if—";

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

"*(a)* die skenker se reg om 'n bedrag te ontvang of aan hom of tot sy voordeel te laat betaal by wyse van huurgeld, dividend, buitelandse dividend, rente, tantième of soortgelyke inkomste ten opsigte van

marketable security, deposit, loan, copyright, design or trade mark) or in respect of the use of, or the granting of permission to use, such property, is ceded or otherwise made over to any other person or to a third party for that other person's benefit in such manner that the donor remains the owner of or retains an interest in the said property or if the said property or interest is transferred, delivered or made over to the said other person or to a third party for the said other person's benefit, in such manner that the donor is or will at a fixed or determinable time be entitled to regain ownership of or the interest in the said property; or''; and

(c) by the substitution in subsection (7) for the words following paragraph *(b)* of the following words:

''any such rent, dividend, foreign dividend, interest, royalty or income (including any amount which, but for this subsection, would have been exempt from tax in the hands of the said other person) as is received by or accrues to or for the benefit of the said other person on or after 1 July 1983 and which would otherwise, but for the said donation, settlement or other disposition, have been received by or have accrued to or for the benefit of the donor, shall be deemed to have been received by or to have accrued to the donor.''.

(2) Paragraphs *(b)* and *(c)* of subsection (1) come into operation on 1 April 2012.

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, section 11 of Act 17 of 2009 and section 10 of Act 7 of 2010

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

(a) by the substitution in subsection (1)*(b)*(iiiA) for item *(bb)* of the following item:

''*(bb)* in any other case—

(A) the wear and tear of that vehicle must be determined over a period of seven years from the date of original acquisition by that recipient and the cost of the vehicle must for this purpose be limited to **[R400 000]** R480 000, or such other amount determined by the Minister by notice in the *Gazette*; and

(B) the finance charges in respect of any debt incurred in respect of the purchase of that vehicle must be limited to an amount which would have been incurred had the original debt been **[R400 000]** R480 000, or such other amount determined by the Minister in terms of subitem (A);''; and

enige roerende of onroerende eiendom (met inbegrip, sonder om die voorafgaande te beperk, van enige huurooreenkoms, maatskappyaandeel, handelseffekte, deposito, lening, outeursreg, model of handelsmerk) of ten opsigte van die gebruik van bedoelde eiendom, of die verlening van toestemming om bedoelde eiendom te gebruik, gesedeer of andersins oorgemaak word aan 'n ander persoon of aan 'n derde party ten bate van bedoelde ander persoon, op so 'n wyse dat die skenker die eienaar bly van, of 'n belang behou in, genoemde eiendom, of indien bedoelde eiendom of belang oorgedra, gelewer of oorgemaak word aan bedoelde ander persoon of aan 'n derde party ten bate van bedoelde ander persoon, op so 'n wyse dat die skenker geregtig is of op 'n bepaalde of bepaalbare tydstip geregtig sal word om eiendomsreg op of die belang in genoemde eiendom weer te verkry; of"; en

(c) deur in subartikel (7) die woorde wat op paragraaf *(b)* volg deur die volgende woorde te vervang:

"word enige sodanige huurgeld, dividend, <u>buitelandse dividend,</u> rente, tantième of inkomste (met inbegrip van 'n bedrag wat, as dit nie vir hierdie subartikel was nie, in die hande van bedoelde ander persoon van belasting vrygestel sou gewees het) wat op of na 1 Julie 1983 ontvang is deur of toeval aan of ten gunste van bedoelde ander persoon en wat andersins, as dit nie vir genoemde skenking, oormaking of ander beskikking was nie, ontvang sou gewees het deur of sou toegeval het aan of ten gunste van die skenker, geag ontvang te gewees het deur of toe te geval het aan die skenker.".

(2) Paragrawe *(b)* en *(c)* van subartikel (1) tree op 1 April 2012 in werking.

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, artikel 11 van Wet 17 van 2009 en artikel 10 van Wet 7 van 2010

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

(a) deur in subartikel (1)*(b)*(iiiA) item *(bb)* deur die volgende item te vervang:

"*(bb)* in enige ander geval—

(A) moet die slytasie van daardie voertuig bereken word oor 'n tydperk van sewe jaar vanaf die datum van oorspronklike verkryging deur daardie ontvanger en die koste van die voertuig moet vir die doel beperk word tot **[R400 000]** <u>R480 000</u>, of daardie ander bedrag deur die Minister by kennisgewing in die *Staatskoerant* bepaal; en

(B) moet die finansieringskoste ten opsigte van enige skuld aangegaan ten opsigte van die koop van daardie voertuig beperk word tot 'n bedrag wat aangegaan sou gewees het indien die oorspronklike skuld **[R400 000]** <u>R480 000</u>, of daardie ander bedrag deur die Minister ingevolge subitem (A) bepaal, was;"; en

(b) by the substitution in subsection (4)*(a)* for the words preceding the proviso of the following words:

"There shall be included in the taxpayer's income all amounts allowed to be deducted or set off under the provisions of sections 11 to 20, inclusive, section 24D, section 24F, section 24G, section 24I, section 24J, section 27(2)*(b)* and section 37B(2) of this Act, except section 11*(k)*, *(p)* and *(q)*, section 11D(1), section 12(2) or section 12(2) as applied by section 12(3), section 12A(3), section 13(5), or section 13(5), as applied by section 13(8), or section 13*bis*(7), **[or]** section 15*(a)***[,]** or section 15A, or under the corresponding provisions of any previous Income Tax Act, whether in the current or any previous year of assessment which have been recovered or recouped during the current year of assessment".

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 March 2011 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 8A of Act 58 of 1962, as inserted by section 11 of Act 89 of 1969 and amended by section 8 of Act 88 of 1971, section 7 of Act 32 of 2004 and section 10 of Act 31 of 2005

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

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

"*(a)* There shall be included in the taxpayer's income for the year of assessment the amount of any gain made by the taxpayer after the first day of June, 1969, by the exercise, cession or release during such year of any right to acquire any marketable security (whether such right be exercised, ceded or released in **[while]** whole or part), if such right was obtained by the taxpayer before 26 October 2004 as a director or former director of any company or in respect of services rendered or to be rendered by him or her as an employee to an employer."; and

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

"(10) For the purposes of this section **'marketable security'** means any security, **[stock,]** debenture, share, option or other interest capable of being sold in a share-market or exchange or otherwise.".

(2) Subsection (1) comes into operation on 1 January 2012.

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

18. (1) Section 8B of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3) for paragraph *(c)* of the definition of "broad-based employee share plan" of the following paragraph:

"*(c)* the employees who acquire the equity shares as contemplated in paragraph *(a)* are entitled to all dividends and foreign dividends and full voting rights in relation to those equity shares; and".

(2) Subsection (1) comes into operation on 1 April 2012.

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, section 11 of Act 60 of 2008 and section 12 of Act 7 of 2010

19. (1) Section 8C of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1A) of the following subsection:

"(1A) If a **[capital distribution as contemplated in paragraph 74 of the Eighth Schedule]** return of capital or foreign return of capital, other than a **[capital distribution]** return of capital or foreign return of capital by way of a distribution

(b) deur in subartikel (4)*(a)* die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

"By die belastingpligtige se inkomste word ingereken alle bedrae wat ingevolge die bepalings van artikels 11 tot en met 20, artikel 24D, artikel 24F, artikel 24G, artikel 24I, artikel 24J, artikel 27(2)*(b)* en artikel 37B(2) van hierdie Wet, behalwe artikel 11*(k)*, *(p)* en *(q)*, artikel 11D(1), artikel 12(2), of artikel 12(2) soos toegepas deur artikel 12(3), artikel 12A(3), artikel 13(5), of artikel 13(5), soos toegepas deur artikel 13(8), of artikel 13*bis*(7), **[of]** artikel 15*(a)***[,]** of artikel 15A, of ingevolge die ooreenstemmende bepalings van 'n vorige Inkomstebelastingwet toegelaat is, hetsy in die lopende of 'n vorige jaar van aanslag, om afgetrek of verreken te word, en gedurende die lopende jaar van aanslag verhaal of vergoed is".

(2) Paragraaf *(a)* van subartikel (1) word geag op 1 Maart 2011 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 8A van Wet 58 van 1962, soos ingevoeg deur artikel 11 van Wet 89 van 1969 en gewysig deur artikel 8 van Wet 88 van 1971, artikel 7 van Wet 32 van 2004 en artikel 10 van Wet 31 van 2005

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

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

"*(a)* There shall be included in the taxpayer's income for the year of assessment the amount of any gain made by the taxpayer after the first day of June, 1969, by the exercise, cession or release during such year of any right to acquire any marketable security (whether such right be exercised, ceded or released in **[while]** whole or part), if such right was obtained by the taxpayer before 26 October 2004 as a director or former director of any company or in respect of services rendered or to be rendered by him or her as an employee to an employer."; en

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

"(10) By die toepassing van hierdie artikel, beteken **'handelseffekte'** sekuriteite, **[effekte,]** skuldbriewe, aandele, opsies of ander belange wat op 'n aandelemark of -beurs of andersins verkoop kan word.".

(2) Subartikel (1) tree op 1 Januarie 2012 in werking.

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

18. (1) Artikel 8B van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (3) paragraaf *(c)* van die omskrywing van "uitgebreide werknemers-aandeleplan" deur die volgende paragraaf te vervang:

"*(c)* die werknemers wat die ekwiteitsaandele soos in paragraaf *(a)* beoog verkry geregtig is op alle dividende en buitelandse dividende en die volle stemreg met betrekking tot daardie ekwiteitsaandele; en".

(2) Subartikel (1) tree op 1 April 2012 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, artikel 11 van Wet 60 van 2008 en artikel 12 van Wet 7 van 2010

19. (1) Artikel 8C van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1A) deur die volgende subartikel te vervang:

"(1A) Indien 'n **[kapitaaluitkering soos beoog in paragraaf 74 van die Agtste Bylae]** teruggawe van kapitaal of buitelandse teruggawe van kapitaal, buiten **['n kapitaaluitkering]** teruggawe van kapitaal of buitelandse teruggawe van kapitaal

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]** return of capital or foreign return of capital in his or her income for the year of assessment during which the amount is received or accrues.”.

(2) Subsection (1) comes into operation on 1 April 2012.

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, section 7 of Act 8 of 2007 and section 13 of Act 7 of 2010

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

(a) by the deletion in subsection (1) of paragraph *(b)* of the definition of “date of issue”;

(b) by the substitution in subsection (1) for paragraph *(a)* of the definition of “hybrid equity instrument” of the following paragraph:

“*(a)* any share other than an equity share if—

(i) the issuer of that share is obliged to redeem that share in whole or in part; or

(ii) that share may at the option of the holder be redeemed in whole or in part,

within a period of three years from the date on which that share is issued;”;

(c) by the substitution in subsection (1) for subparagraph (i) of paragraph *(b)* of the definition of “hybrid equity instrument” of the following subparagraph:

“(i) *(aa)* the issuer of that share is obliged to redeem that share in whole or in part within a period of three years from the date on which that share is issued;

(bb) that share may at the option of the holder be redeemed in whole or in part within a period of three years from the date on which that share is issued; or

(cc) at the time of issue of that share, the existence of the company issuing that share—

(A) is to be terminated within a period of three years; or

(B) is likely to be terminated within a period of three years upon a reasonable consideration of all the facts at that time; and”;

(d) by the substitution in subsection (1) for the words preceding item *(aa)* of paragraph *(b)*(ii) of the definition of “hybrid equity instrument” of the following words:

“such share does not rank *pari passu* as regards its participation in dividends or foreign dividends with all other ordinary shares in the capital of the relevant company or, where the ordinary shares in such company are divided into two or more classes, with the shares of at least one of such classes, or any dividend or foreign dividend payable on such share is to be calculated directly or indirectly with reference to—”;

(e) by the addition in subsection (1) of the word “or” at the end of item *(cc)* of paragraph *(b)*(ii) of the definition of “hybrid equity instrument”;

(f) by the addition in subsection (1) to the definition of “hybrid equity instrument” of the following paragraph:

“*(c)* any share if—

(i) any dividend or foreign dividend payable on such share is to be calculated directly or indirectly with reference to any specified rate of interest or the amount of capital subscribed for such share; and

(ii) such share is directly or indirectly secured by a financial instrument other than an equity share.”;

(g) by the deletion in subsection (1) of the definition of “right of disposal”; and

by wyse van 'n uitkering 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]** teruggawe van kapitaal of buitelandse teruggawe van kapitaal by sy of haar inkomste insluit vir die jaar van aanslag waartydens die bedrag ontvang word of toeval.".

(2) Subartikel (1) tree op 1 April 2012 in werking.

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, artikel 7 van Wet 8 van 2007 and artikel 13 van Wet 7 van 2010

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

(a) deur in subartikel (1) paragraaf *(b)* van die omskrywing van "datum van uitreiking" te skrap;

(b) deur in subartikel (1) paragraaf *(a)* van die omskrywing van "hibriede ekwiteitsinstrument" deur die volgende paragraaf te vervang:

"*(a)* enige aandeel buiten 'n ekwiteitsaandeel indien—

(i) die uitreiker van daardie aandeel verplig is om daardie aandeel in geheel of gedeeltelik af te los; of

(ii) daardie aandeel by keuse van die houer in geheel of gedeeltelik afgelos kan word,

binne 'n tydperk van drie jaar vanaf die datum waarop daardie aandeel uitgereik word;";

(c) deur in subartikel (1) subparagraaf (i) van paragraaf *(b)* van die omskrywing van "hibriede ekwiteitsinstrument" deur die volgende subparagraaf te vervang:

"(i) *(aa)* die uitreiker van daardie aandeel verplig is om daardie aandeel in geheel of gedeeltelik af te los binne 'n tydperk van drie jaar vanaf die datum waarop daardie aandeel uitgereik word;

(bb) daardie aandeel by keuse van die houer in geheel of gedeeltelik afgelos kan word binne 'n tydperk van drie jaar vanaf die datum waarop daardie aandeel uitgereik word; of

(cc) ten tye van die uitreiking van daardie aandeel die bestaan van die maatskappy wat daardie aandeel uitreik—

(A) binne 'n tydperk van drie jaar beëindig staan te word;

(B) by redelike oorweging van al die feite op daardie tydstip waarskynlik binne 'n tydperk van drie jaar beëindig sal word; en";

(d) deur in subartikel (1) die woorde wat item *(aa)* van paragraaf *(b)*(ii) van die omskrywing van "hibriede ekwiteitsinstrument" voorafgaan deur die volgende woorde te vervang:

"daardie aandeel nie in gelyke mate staan nie wat betref sy aandeel in dividende of buitelandse dividende met alle ander gewone aandele in die kapitaal van die betrokke maatskappy of, waar die gewone aandele in daardie maatskappy in twee of meer klasse verdeel is, met die aandele van minstens een van daardie klasse, of enige dividend of buitelandse dividend betaalbaar ten opsigte van daardie aandeel bereken moet word direk of indirek met verwysing na—";

(e) deur in subartikel (1) die woord "of" aan die einde van item *(cc)* van paragraaf *(b)*(ii) van die omskrywing van "hibriede ekwiteitsinstrument" by te voeg;

(f) deur in subartikel (1) by die omskrywing van "hibriede ekwiteitsinstrument" die volgende paragraaf by te voeg:

"*(c)* enige aandeel indien—

(i) enige dividend of buitelandse dividend betaalbaar op sodanige aandeel bereken staan te word direk of indirek met verwysing na enige bepaalde rentekoers of die bedrag van kapitaal vir sodanige aandeel ingeskryf; en

(ii) sodanige aandeel direk of indirek deur 'n finansiële instrument buiten 'n ekwiteitsaandeel gesekureer word.";

(g) deur in subartikel (1) die omskrywing van "reg van beskikking" te skrap; en

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

"(2) Any dividend **[declared by a company on]** or foreign dividend received by or accrued to a person in respect of a **[hybrid equity instrument]** share which is **[declared on or after the date that the share becomes]** received or accrues during any year of assessment during which that share at any time during that year constitutes a hybrid equity instrument **[shall for the purposes of this Act]** must be deemed in relation to **[the recipient thereof]** that person only to be an amount of interest accrued to **[the recipient from a source within the Republic]** that person.".

(2) Subsection (1) comes into operation on 1 April 2012 and applies in respect of dividends or foreign dividends received or accrued on or after that date.

Insertion of section 8EA in Act 58 of 1962

21. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 8E of the following section:

"**Dividends on third-party backed shares deemed to be income in relation to recipients thereof**

8EA. (1) For the purposes of this section—

'enforcement obligation' in relation to a share means any obligation, whether fixed or contingent, of any person other than the issuer of that share to—

(a) acquire the share from the holder of that share;

(b) make any payment in respect of that share in terms of a guarantee, indemnity or similar arrangement; or

(c) procure, facilitate or assist with any acquisition contemplated in paragraph *(a)* or the making of any payment contemplated in paragraph *(b)*;

'enforcement right' in relation to a share means any right, whether fixed or contingent, of the holder of that share or of any person that is a connected person in relation to that holder to require any person other than the issuer of that share to—

(a) acquire that share from the holder;

(b) make any payment in respect of that share in terms of a guarantee, indemnity or similar arrangement; or

(c) procure, facilitate or assist with any acquisition contemplated in paragraph *(a)* or the making of any payment contemplated in paragraph *(b)*;

'equity share' means an equity share as defined in section 1, other than an equity share that would have constituted a hybrid equity instrument, as defined in section 8E(1), but for the three-year period requirement contemplated in paragraph *(a)* of the definition of 'hybrid equity instrument' in that section;

'operating company' means—

(a) any company that carries on business continuously, and in the course or furtherance of that business provides goods or services for consideration; or

(b) any company that is a controlling group company in relation to a company contemplated in paragraph *(a)*;

'third-party backed share' means any share in respect of which an enforcement right is exercisable or an enforcement obligation is enforceable as a result of any amount of any specified dividend or foreign dividend attributable to that share not being received by or accruing to the person holding that share: Provided that, where the consideration received by or accrued to the issuer of a share which, but for this proviso, would have constituted a third-party backed share was used by that issuer to—

(a) acquire an equity share in an operating company;

(b) indirectly acquire an equity share in an operating company by means of the acquisition of any other share in any other company, if that consideration is used or applied directly or indirectly for the purpose of acquiring an equity share in an operating company;

(h) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) 'n Dividend **[deur 'n maatskappy op 'n hibriede ekwiteitsinstrument verklaar wat verklaar word op of na die datum waarop daardie aandeel]** of buitelandse dividend ontvang deur of toegeval aan 'n persoon ten opsigte van 'n aandeel wat ontvang word of toeval gedurende enige jaar van aanslag waartydens daardie aandeel te eniger tyd gedurende daardie jaar 'n hibriede ekwiteitsinstrument **[word, word by die toepassing van hierdie Wet]** uitmaak, moet geag word met betrekking tot **[die ontvanger daarvan alleenlik]** slegs daardie persoon 'n bedrag aan rente te wees wat **[uit 'n bron binne die Republiek]** aan **[die ontvanger]** daardie persoon toegeval het.".

(2) Subartikel (1) tree op 1 April 2012 in werking en is van toepassing ten opsigte van dividende of buitelandse dividende op of na daardie datum ontvang of toegeval.

Invoeging van artikel 8EA in Wet 58 van 1962

21. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 8E die volgende artikel in te voeg:

"**Dividende op derdeparty-ondersteunde aandele geag rente met betrekking tot ontvangers daarvan te wees**

8EA. (1) By die toepassing van hierdie artikel beteken—

'afdwingingsreg', met betrekking tot 'n aandeel, enige reg, hetsy gewis of voorwaardelik, van die houer van daardie aandeel of van enige persoon wat 'n verbonde persoon met betrekking tot daardie houer is om van enige persoon buiten die uitreiker van daardie aandeel te vereis om—

(a) daardie aandeel van die houer te verkry;

(b) enige betaling ten opsigte van daardie aandeel ingevolge 'n waarborg, vrywaring of soortgelyke reëling te maak; of

(c) enige verkryging beoog in paragraaf *(a)* of die maak van 'n betaling beoog in paragraaf *(b)* te bewerkstellig of te fasiliteer of bystand daarmee te verleen;

'afdwingingsverpligting', met betrekking tot 'n aandeel, enige verpligting, hetsy gewis of voorwaardelik, van enige persoon buiten die uitreiker van daardie aandeel om—

(a) daardie aandeel van die houer te verkry;

(b) enige betaling ten opsigte van daardie aandeel ingevolge 'n waarborg, vrywaring of soortgelyke reëling te maak; of

(c) enige verkryging beoog in paragraaf *(a)* of die maak van 'n betaling beoog in paragraaf *(b)* te bewerkstellig of te fasiliteer of bystand daarmee te verleen;

'bedryfsmaatskappy' enige—

(a) maatskappy wat voortdurend besigheid dryf, en in die loop of bevordering van daardie besigheid goedere of dienste vir vergoeding verskaf; of

(b) maatskappy wat 'n beheerde groepsmaatskappy met betrekking tot 'n maatskappy beoog in paragraaf *(a)* is;

'derdeparty-ondersteunde aandeel' enige aandeel ten opsigte waarvan 'n afdwingingsreg uitoefenbaar is of 'n afdwingingsverpligting afdwingbaar is as gevolg daarvan dat enige bedrag van enige bepaalde dividend of buitelandse dividend toeskryfbaar aan daardie aandeel nie ontvang word deur of toeval aan die persoon wat daardie aandeel hou nie: Met dien verstande dat waar die vergoeding ontvang deur of toegeval aan die uitreiker van 'n aandeel wat, by ontstentenis van hierdie voorbehoudsbepaling, 'n derdeparty-ondersteunde aandeel sou uitgemaak het deur daardie uitreiker gebruik is om—

(a) 'n ekwiteitsaandeel in 'n bedryfsmaatskappy te verkry;

(b) indirek 'n ekwiteitsaandeel in 'n bedryfsmaatskappy te verkry deur middel van die verkryging van enige ander aandeel in enige ander maatskappy, indien daardie vergoeding direk of indirek gebruik of toegepas word met die doel om 'n ekwiteitsaandeel in 'n bedryfsmaatskappy te verkry;

(c) settle any—
(i) debt incurred by that issuer for the purpose of acquiring an equity share in an operating company; or
(ii) interest accrued on any debt contemplated in subparagraph (i); or

(d) acquire any other share issued by that issuer if—
(i) that other share, but for this proviso, would have constituted a third-party backed share; and
(ii) that consideration does not exceed the amount outstanding in respect of that share, being—
(aa) the capital subscribed for the acquisition of; and
(bb) any amount of dividends or interest accrued in respect of, that other share,

in determining whether—

(A) an enforcement right is exercisable in respect of that share, no regard must be had to any arrangement in terms of which the holder of that share has an enforcement right in respect of that share and that right is exercisable only against—
(AA) that operating company or any person that directly or indirectly holds more than 20 per cent of the equity shares in that operating company;
(BB) any person that directly or indirectly holds more than 20 per cent of the equity shares in that issuer; or
(CC) any company that is a controlled group company in relation to that operating company or that issuer; and

(B) an enforcement obligation is enforceable in respect of that share, no regard must be had to any arrangement in terms of which—
(AA) that operating company or any person that directly or indirectly holds more than 20 per cent of the equity shares in that operating company;
(BB) any person that directly or indirectly holds more than 20 per cent of the equity shares in that issuer; or
(CC) any company that is a controlled group company in relation to that operating company or that issuer,

has an enforcement obligation in respect of that share and that obligation is enforceable by the holder of that share.

(2) Any dividend or foreign dividend received by or accrued to a person in respect of a share which is received or accrued during any year of assessment during which that share at any time during that year constitutes a third-party backed share must be deemed in relation to that person only to be an amount of income received by or accrued to that person.”.

(2) Subsection (1) comes into operation on 1 October 2012 and applies in respect of dividends and foreign dividends received or accrued on or after that date.

(c) enige—
(i) skuld te delg wat aangegaan word deur daardie uitreiker met die doel om ’n ekwiteitsaandeel in ’n bedryfsmaatskappy te verkry; of
(ii) rente te delg wat toeval op enige skuld beoog in subparagraaf (i); of

(d) enige ander aandeel uitgereik deur daardie uitreiker te verkry indien—
(i) daardie ander aandeel, by ontstentenis van hierdie voorbehoudsbepaling, ’n derdeparty-ondersteunde aandeel sou uitgemaak het; en
(ii) daardie vergoeding nie die bedrag te bowe gaan wat ten opsigte van daardie aandeel uitstaande is nie, synde—
(aa) die kapitaal ingeskryf vir die verkryging van; en
(bb) enige bedrag van dividende of rente toegeval ten opsigte van,
daardie ander aandeel,

by die bepaling of—
(A) ’n afdwingingsreg uitoefenbaar is ten opsigte van daardie aandeel, moet geen ag geslaan word nie op enige reëling ingevolge waarvan die houer van daardie aandeel ’n afdwingingsreg ten opsigte van daardie aandeel het en daardie reg uitoefenbaar is slegs teen—
(AA) daardie bedryfsmaatskappy of enige persoon wat direk of indirek meer as 20 persent van die ekwiteitsaandele in daardie bedryfsmaatskappy hou;
(BB) enige persoon wat direk of indirek meer as 20 persent van die ekwiteitsaandele in daardie uitreiker hou; of
(CC) enige maatskappy wat ’n beheerde groepsmaatskappy met betrekking tot daardie bedryfsmaatskappy of daardie uitreiker is; en
(B) ’n afdwingingsverpligting afdwingbaar is ten opsigte van daardie aandeel, moet geen ag geslaan word nie op enige reëling ingevolge waarvan—
(AA) daardie bedryfsmaatskappy of enige persoon wat direk of indirek meer as 20 persent van die ekwiteitsaandele in daardie bedryfsmaatskappy hou;
(BB) enige persoon wat direk of indirek meer as 20 persent van die ekwiteitsaandele in daardie uitreiker hou; of
(CC) enige maatskappy wat ’n beheerde groepsmaatskappy met betrekking tot daardie bedryfsmaatskappy of daardie uitreiker is,
’n afdwingingsverpligting het ten opsigte van daardie aandeel en daardie verpligting deur die houer van daardie aandeel afdwingbaar is;

‘ekwiteitsaandeel’ ’n ekwiteitsaandeel soos in artikel 1 omskryf, buiten ’n ekwiteitsaandeel wat ’n hibriede ekwiteitsinstrument, soos in artikel 8E(1) omskryf, sou uitgemaak het by ontstentenis van die vereiste van ’n drie-jaar tydperk beoog in paragraaf *(a)* van die omskrywing van ‘hibriede ekwiteitsinstrument’ in daardie artikel.

(2) Enige dividend of buitelandse dividend ontvang deur of toegeval aan ’n persoon ten opsigte van ’n aandeel wat ontvang word of toeval gedurende enige jaar van aanslag waartydens daardie aandeel te enige tyd gedurende daardie jaar ’n derdeparty-ondersteunde aandeel uitmaak, moet geag word met betrekking tot slegs daardie persoon ’n bedrag van inkomste te wees deur daardie persoon ontvang of aan daardie persoon toegeval.”.

(2) Subartikel (1) tree op 1 Oktober 2012 in werking en is van toepassing ten opsigte van dividende en buitelandse dividende op of na daardie datum ontvang of toegeval.

Substitution of section 9 of Act 58 of 1962

22. (1) The Income Tax Act, 1962, is hereby amended by the substitution for section 9 of the following section:

"**Source of income**

9. (1) For the purposes of this section, **'royalty'** means any amount that is received or accrues in respect of the use, right of use or permission to use any intellectual property as defined in section 23I.

(2) An amount is received by or accrues to a person from a source within the Republic if that amount—

(a) constitutes a dividend received by or accrued to that person;

(b) constitutes interest as defined in section 24J or deemed interest as contemplated in section 8E(2) where that interest—

(i) is attributable to an amount incurred by a person that is a resident, unless the interest is attributable to a permanent establishment which is situated outside the Republic; or

(ii) is received or accrues in respect of the utilisation or application in the Republic by any person of any funds or credit obtained in terms of any form of interest-bearing arrangement;

(c) constitutes a royalty that is attributable to an amount incurred by a person that is a resident, unless that royalty is attributable to a permanent establishment which is situated outside the Republic;

(d) constitutes a royalty that is received or accrues in respect of the use or right of use of or permission to use in the Republic any intellectual property as defined in section 23I;

(e) is attributable to an amount incurred by a person that is a resident and is received or accrues in respect of the imparting of or the undertaking to impart any scientific, technical, industrial or commercial knowledge or information, or the rendering of or the undertaking to render, any assistance or service in connection with the application or utilisation of such knowledge or information, unless the amount so received or accrued is attributable to a permanent establishment which is situated outside the Republic;

(f) is received or accrues in respect of the imparting of or the undertaking to impart any scientific, technical, industrial or commercial knowledge or information for use in the Republic, or the rendering of or the undertaking to render, any assistance or service in connection with the application or utilisation of such knowledge or information;

(g) is received or accrues in respect of the holding of a public office to which that person has been appointed or is deemed to have been appointed in terms of an Act of Parliament;

(h) is received or accrues in respect of services rendered to or work or labour performed for or on behalf of any employer—

(i) in the national, provincial or local sphere of government of the Republic;

(ii) that is a constitutional institution listed in Schedule 1 to the Public Finance Management Act, 1999 (Act No. 1 of 1999);

(iii) that is a public entity listed in Schedule 2 or 3 to that Act; or

(iv) that is a municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

(i) constitutes a pension or an annuity and the services in respect of which that amount is so received or accrues were rendered within the

Vervanging van artikel 9 van Wet 58 van 1962

22. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur artikel 9 deur die volgende artikel te vervang:

"**Bron van inkomste**

9. (1) By die toepassing van hierdie artikel beteken **'tantième'** enige bedrag wat ontvang word of toeval ten opsigte van die gebruik, reg van gebruik of toestemming tot gebruik van enige immateriële goedere soos in artikel 23I omskryf.

(2) 'n Bedrag word ontvang deur of val toe aan 'n persoon uit 'n bron binne die Republiek indien daardie bedrag—

(a) 'n dividend ontvang deur of toegeval aan daardie persoon uitmaak;

(b) rente soos omskryf in artikel 24J of geagte rente soos beoog in artikel 8E(2) uitmaak, waar daardie rente—

(i) toeskryfbaar is aan 'n bedrag aangegaan deur 'n persoon wat 'n inwoner is, tensy die rente toeskryfbaar is aan 'n permanente saak wat buite die Republiek geleë is; of

(ii) ontvang word of toeval ten opsigte van die gebruik of toepassing in die Republiek deur enige persoon van enige fondse of krediet ingevolge enige vorm van rentedraende reëling verkry;

(c) tantième uitmaak wat toeskryfbaar is aan 'n bedrag aangegaan deur 'n persoon wat 'n inwoner is, tensy daardie tantième toeskryfbaar is aan 'n permanente saak wat buite die Republiek geleë is;

(d) tantième uitmaak wat ontvang word of toeval ten opsigte van die gebruik, reg van gebruik of toestemming tot gebruik in die Republiek van enige immateriële goedere soos in artikel 23I omskryf;

(e) toeskryfbaar is aan 'n bedrag aangegaan deur 'n persoon wat 'n inwoner is en wat ontvang word of toeval ten opsigte van die mededeling van enige wetenskaplike, tegniese, industriële of kommersiële kennis of inligting, of die onderneming om sodanige kennis of inligting mee te deel, of die verlening van hulp of die lewering van 'n diens in verband met die toepassing of gebruik van sodanige kennis of inligting, of die onderneming om sodanige hulp te verleen of diens te lewer, tensy die bedrag aldus ontvang of toegeval toeskryfbaar is aan 'n permanente saak wat buite die Republiek geleë is;

(f) ontvang word of toeval ten opsigte van die mededeling van enige wetenskaplike, tegniese, industriële of kommersiële kennis of inligting vir gebruik in die Republiek, of die onderneming om sodanige kennis of inligting mee te deel, of die verlening van hulp of die lewering van diens in verband met die toepassing of gebruik van sodanige kennis of inligting, of die onderneming om sodanige hulp te verleen of diens te lewer;

(g) ontvang word of toeval ten opsigte van die bekleding van 'n openbare amp waartoe daardie persoon aangestel is of geag word aangestel te gewees het ingevolge 'n Wet van die Parlement;

(h) ontvang word of toeval ten opsigte van dienste bewys aan of werk of arbeid verrig vir of namens enige werkgewer—

(i) in die nasionale, provinsiale of plaaslike regeringsfeer van die Republiek;

(ii) wat 'n grondwetlike instelling vermeld in Bylae 1 by die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is;

(iii) wat 'n openbare instelling of entiteit vermeld in Bylae 2 of 3 by daardie Wet is;

(iv) wat 'n munisipale entiteit is soos omskryf in artikel 1 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000);

(i) 'n pensioen of 'n jaargeld uitmaak en die dienste ten opsigte waarvan daardie bedrag aldus ontvang word of toeval binne die Republiek

Republic: Provided that if the amount is received or accrues in respect of services which were rendered partly within and partly outside the Republic, only so much of that amount as bears to the total of that amount the same ratio as the period during which the services were rendered in the Republic bears to the total period during which the services were rendered must be regarded as having been received by or accrued to the person from a source within the Republic;

(j) constitutes an amount received or accrued in respect of the disposal of an asset that constitutes immovable property held by that person or any interest or right of whatever nature of that person to or in immovable property and that property is situated in the Republic;

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

(i) that person is a resident and—

(aa) that asset is not attributable to a permanent establishment of that person which is situated outside the Republic; and

(bb) the proceeds from the disposal of that asset are not subject to any taxes on income payable to any sphere of government of any country other than the Republic; or

(ii) that person is not a resident and that asset is attributable to a permanent establishment of that person which is situated in the Republic; or

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

(i) that person is a resident and—

(aa) that exchange item is not attributable to a permanent establishment of that person which is situated outside the Republic; and

(bb) that amount is not subject to any taxes on income payable to any sphere of government of any country other than the Republic; or

(ii) that person is not a resident and that exchange item is attributable to a permanent establishment of that person which is situated in the Republic.

(3) For the purposes of—

(a) paragraph *(i)* of subsection (2), any amount granted to a person by way of pension or annuity must be deemed to have been received by or to have accrued to that person in respect of services rendered by that person; and

(b) paragraph *(j)* of subsection (2), an interest in immovable property held by a person includes any equity shares in a company or ownership or the right to ownership of any other entity or a vested interest in any assets of any trust, if—

(i) 80 per cent or more of the market value of those equity shares, ownership or right to ownership or vested interest, as the case may be, at the time of disposal thereof, is attributable directly or indirectly to immovable property held otherwise than as trading stock; and

(ii) 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 shares in that company or ownership or right to ownership of that other entity.

(4) An amount is received by or accrues to a person from a source outside the Republic if that amount—

(a) constitutes a foreign dividend received by or accrued to that person;

gelewer is: Met dien verstande dat indien die bedrag ontvang word of toeval ten opsigte van dienste wat deels binne en deels buite die Republiek gelewer is, slegs soveel van daardie bedrag as wat tot die totaal van daardie bedrag in dieselfde verhouding staan as wat die tydperk waartydens die dienste in die Republiek gelewer is, staan tot die totale tydperk waartydens die dienste gelewer is, geag moet word van ’n bron binne die Republiek deur of aan die persoon ontvang of toegeval te wees;

(j) ’n bedrag uitmaak wat ontvang is of toegeval het ten opsigte van die beskikking oor ’n bate wat onroerende eiendom gehou deur daardie persoon uitmaak of enige belang of reg van watter aard ook al van daardie persoon tot of in onroerende eiendom uitmaak en daardie eiendom in die Republiek geleë is;

(k) ’n bedrag ontvang of toegeval ten opsigte van die beskikking oor ’n bate uitmaak buiten ’n bate beoog in paragraaf *(j)* indien—

(i) daardie persoon ’n inwoner is en—

(aa) daardie bate nie toeskryfbaar is nie aan ’n permanente saak van daardie persoon wat buite die Republiek geleë is; en

(bb) die opbrengs uit die beskikking oor daardie bate nie onderhewig is nie aan enige belastings op inkomste betaalbaar aan enige regeringsfeer van enige land buiten die Republiek; of

(ii) daardie persoon nie ’n inwoner is nie en daardie bate toeskryfbaar is aan ’n permanente saak van daardie persoon wat in die Republiek geleë is; of

(l) toeskryfbaar is aan enige valutaverskil bepaal ingevolge artikel 24I ten opsigte van enige valuta-item soos in daardie artikel omskryf waarby daardie persoon ’n party is indien—

(i) daardie persoon ’n inwoner is en—

(aa) daardie valuta-item nie toeskryfbaar is nie aan ’n permanente saak van daardie persoon wat buite die Republiek geleë is; en

(bb) daardie bedrag nie onderhewig is nie aan belastings op inkomste betaalbaar aan enige regeringsfeer van enige land buiten die Republiek; of

(ii) daardie persoon nie ’n inwoner is nie en daardie valuta-item toeskryfbaar is aan ’n permanente saak van daardie persoon wat in die Republiek geleë is.

(3) By die toepassing van—

(a) paragraaf *(i)* van subartikel (2) moet enige bedrag toegestaan aan ’n persoon by wyse van pensioen of jaargeld geag word deur of aan daardie persoon ontvang of toegeval te wees ten opsigte van dienste deur daardie persoon gelewer; en

(b) paragraaf *(j)* van subartikel (2) sluit ’n belang in onroerende eiendom gehou deur ’n persoon in enige ekwiteitsaandele in ’n maatskappy of eienaarskap of die reg op eienaarskap van enige ander entiteit of ’n gevestigde belang in enige bates van enige trust, indien—

(i) 80 persent of meer van die markwaarde van daardie ekwiteitsaandele, eienaarskap of reg op eienaarskap of gevestigde belang, na gelang van die geval, ten tye van beskikking daaroor, direk of indirek toeskryfbaar is aan onroerende eiendom gehou anders as handelsvoorraad; en

(ii) in die geval van ’n maatskappy of ander entiteit, daardie persoon (hetsy alleen of saam met enige verbonde persoon met betrekking tot daardie persoon) direk of indirek minstens 20 persent van die ekwiteitsaandele in daardie maatskappy of eienaarskap of reg op eienaarskap van daardie ander entiteit hou.

(4) ’n Bedrag word ontvang deur of val toe aan ’n persoon van ’n bron buite die Republiek indien daardie bedrag—

(a) ’n buitelandse dividend ontvang deur of toegeval aan daardie persoon uitmaak;

(b) constitutes interest as defined in section 24J(1) or deemed interest as contemplated in section 8E(2) received by or accrued to that person that is not from a source within the Republic in terms of subsection (2)*(b)*;

(c) constitutes a royalty received by or accrued to that person that is not from a source within the Republic in terms of subsection (2)*(c)* or *(d)*;

(d) constitutes an amount received or accrued to that person in respect of the disposal of an asset that is not from a source within the Republic in terms of subsection (2)*(j)* or *(k)*; or

(e) is attributable to any exchange difference determined in terms of section 24I in respect of any exchange item as defined in that section to which that person is a party and is not from a source within the Republic in terms of subsection (2)*(l)*.".

(2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of amounts received or accrued during years of assessment commencing on or after that date.

Amendment of section 9A of Act 58 of 1962, as substituted by section 12 of Act 35 of 2007 and amended by section 6 of Act 3 of 2008

23. (1) Section 9A of the Income Tax Act, 1962, is hereby amended by the substitution for subsections (3) and (4) of the following subsections:

"(3) Where any amount, or any portion of any amount, of the net income of a controlled foreign company in respect of a foreign tax year of the controlled foreign company may not be remitted to the Republic for the reasons contemplated in subsection (1), there shall be allowed to be deducted from the net income of the controlled foreign company for that foreign tax year an amount equal to so much of the amount or portion which may not be remitted.

(4) The amount or portion which may not be remitted **[during the year of assessment]** as contemplated in subsection (3) shall be deemed to be an amount received by or accrued to the controlled foreign company contemplated in that subsection in the following foreign tax year of **[assessment]** the controlled foreign company.".

(2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of foreign tax years of controlled foreign companies ending during years of assessment commencing on or after that date.

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, section 12 of Act 60 of 2008 and section 15 of Act 7 of 2010

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

(a) by the deletion in subsection (1) of the word "and" at the end of the definition of "connected person";

(b) by the insertion in subsection (1) after the definition of "connected person" of the following definition:

" **'equity share'** includes a participatory interest in a portfolio of a collective investment scheme in securities;";

(c) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the definition of "qualifying share" of the following words:

" **'qualifying share'**, in relation to any taxpayer, means an equity share **[contemplated in section 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—";

(b) rente soos omskryf in artikel 24J(1) of geagte rente soos beoog in artikel 8E(2) uitmaak, ontvang deur of toegeval aan daardie persoon, wat nie ingevolge subartikel (2)*(b)* van 'n bron binne die Republiek is nie;

(c) tantième ontvang deur of toegeval aan daardie persoon uitmaak wat nie ingevolge subartikel (2)*(c)* of *(d)* van 'n bron binne die Republiek is nie;

(d) 'n bedrag uitmaak ontvang deur of toegeval aan daardie persoon ten opsigte van die beskikking oor 'n bate wat nie ingevolge subartikel (2)*(j)* of *(k)* van 'n bron binne die Republiek is nie; of

(e) toeskryfbaar is aan enige valutaverskil bepaal ingevolge artikel 24I ten opsigte van enige valuta-item soos in daardie artikel omskryf waarby daardie persoon 'n party is en nie ingevolge subartikel (2)*(l)* van 'n bron binne die Republiek is nie.".

(2) Subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van bedrae ontvang of toegeval gedurende jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 9A van Wet 58 van 1962, soos vervang deur artikel 12 van Wet 35 van 2007 en gewysig deur artikel 6 van Wet 3 van 2008

23. (1) Artikel 9A van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikels (3) en (4) deur die volgende subartikels te vervang:

"(3) Waar enige bedrag of enige gedeelte van 'n bedrag van die netto inkomste van 'n beheerde buitelandse maatskappy ten opsigte van 'n buitelandse belastingjaar van die beheerde buitelandse maatskappy weens die redes in subartikel (1) beoog nie na die Republiek oorgeplaas kan word nie, word daar as aftrekking van die netto inkomste van daardie beheerde buitelandse maatskappy vir daardie **[jaar van aanslag]** buitelandse belastingjaar 'n bedrag toegestaan gelykstaande aan soveel van die bedrag of gedeelte wat nie aldus oorgeplaas kan word nie.

(4) Die bedrag of gedeelte wat nie oorgeplaas kan word **[gedurende die jaar van aanslag]** soos in subartikel (3) beoog nie, word geag 'n bedrag te wees wat ontvang is deur of toegeval het aan daardie beheerde buitelandse maatskappy in daardie subartikel beoog in die daaropvolgende **[jaar van aanslag]** buitelandse belastingjaar van die beheerde buitelandse maatskappy."

(2) Subartikel (1) tree op 1 Januarie 2012 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 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, artikel 12 van Wet 60 van 2008 en artikel 15 van Wet 7 van 2010

24. (1) Artikel 9C van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die woord "en" aan die einde van die omskrywing van "verbonde persoon" te skrap;

(b) deur in subartikel (1) na die omskrywing van "verbonde persoon" die volgende omskrywing in te voeg:

" **'ekwiteitsaandeel'** ook 'n deelnemende belang in 'n portefeulje van 'n kollektiewe beleggingskema in effekte;";

(c) deur in subartikel (1) die woorde wat paragraaf *(a)* van die omskrywing van "kwalifiserende aandeel" voorafgaan deur die volgende woorde te vervang:

" **'kwalifiserende aandeel'**, met betrekking tot enige belastingpligtige, 'n ekwiteitsaandeel **[beoog in artikel 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—";

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

"(2) Any amount other than a dividend or foreign dividend received by or accrued to a taxpayer in respect of a qualifying share shall be deemed to be of a capital nature.";

(e) by the substitution for subsection (2A) of the following subsection:

"(2A) Subsection (2) does not apply in respect of so much of the amount received or accrued in respect of the disposal of a qualifying share contemplated in that subsection as does not exceed the expenditure allowed in respect of that share in terms of section **[12J(3)]** 12J(2).";

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

"more than 50 per cent of the market value of the equity shares**[, contemplated in section 44,]** of that company was attributable directly or indirectly to immovable property other than—"; and

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

"(6) Where the taxpayer holds identical shares in the same company which were acquired by the taxpayer on different dates and the taxpayer has disposed of any of those shares, the taxpayer shall for the purposes of this section be deemed to have disposed of the shares held by the taxpayer for the longest period of time.".

(2) Paragraphs *(a)*, *(b)*, *(c)*, *(f)* and *(g)* 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.

(3) Paragraph *(d)* of subsection (1) comes into operation on 1 April 2012.

(4) Paragraph *(e)* of subsection (1) comes into operation on 1 January 2012 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 9D of Act 58 of 1962, as inserted by section 9 of Act 28 of 1997 and amended by section 28 of Act 30 of 1998, section 17 of Act 53 of 1999, section 19 of Act 30 of 2000, section 10 of Act 59 of 2000, section 9 of Act 5 of 2001, section 22 of Act 60 of 2001, section 14 of Act 74 of 2002, section 22 of Act 45 of 2003, section 13 of Act 32 of 2004, section 14 of Act 31 of 2005, section 9 of Act 20 of 2006, 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, section 12 of Act 17 of 2009 and section 16 of Act 7 of 2010

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

(a) by the insertion in subsection (1) after the definition of "foreign business establishment" of the following definition:

" **'foreign company'** means any—

(a) cell or segregated account contemplated in the definition of 'protected cell company';

(b) protected cell company to the extent that—

(i) specified assets of that company are not segregated into structurally independent cells or segregated accounts as contemplated in paragraph *(a)* of the definition of 'protected cell company'; or

(ii) specified assets and liabilities of that company are not linked or attributed to cells or segregated accounts as contemplated in paragraph *(b)* of the definition of 'protected cell company'; or

(c) foreign company, as defined in section 1, other than a protected cell company;";

(b) by the substitution in subsection (1) for the full-stop at the end of the definition of "participation rights" of the expression "; and";

(c) by the insertion in subsection (1) after the definition of "participation rights" of the following definition:

" **'protected cell company'** means any entity incorporated, established or formed, whether by way of conversion or otherwise, in terms of any law of any country other than the Republic—

(a) if the principal trading activities of that entity constitute the business of an insurer; and

(d) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Enige bedrag anders as 'n dividend of buitelandse dividend ontvang deur of toegeval aan 'n belastingpligtige ten opsigte van 'n kwalifiserende aandeel word geag van 'n kapitale aard te wees.";

(e) deur subartikel (2A) deur die volgende subartikel te vervang:

"(2A) Subartikel (2) is nie van toepassing nie ten opsigte van soveel van die bedrag ontvang of toegeval ten opsigte van die beskikking oor 'n kwalifiserende aandeel in daardie subartikel beoog wat nie die uitgawe oorskry nie wat ingevolge artikel **[12J(3)]** 12J(2) ten opsigte van daardie aandeel toegelaat word.";

(f) deur in subartikel (3)*(a)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

"meer as vyftig persent van die markwaarde van die ekwiteitsaandele**[, beoog in artikel 44,]** van daardie maatskappy direk of indirek toeskryfbaar was aan onroerende eiendom, behalwe—"; en

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

"(6) Waar die belastingpligtige identiese aandele in dieselfde maatskappy hou wat op verskillende datums deur die belastingpligtige verkry is en die belastingpligtige oor enige van daardie aandele beskik, word die belastingpligtige by die toepassing van hierdie artikel geag te beskik het oor die aandele wat vir die langste tydperk deur die belastingpligtige gehou is.".

(2) Paragrawe *(a)*, *(b)*, *(c)*, *(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 2010 begin.

(3) Paragraaf *(d)* van subartikel (1) tree op 1 April 2012 in werking.

(4) Paragraaf *(e)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

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, artikel 12 van Wet 17 van 2009 en artikel 16 van Wet 7 van 2010

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

(a) deur in subartikel (1) voor die omskrywing van "buitelandse belastingjaar" die volgende omskrywing in te voeg:

" **'beskermde selmaatskappy'** 'n entiteit ingelyf, gestig of opgerig, hetsy by wyse van omskepping of andersins, kragtens enige reg van enige ander land as die Republiek—

(a) indien die hoof handelsbedrywighede van daardie entiteit die besigheid van 'n versekeraar uitmaak; en

(b) waar daardie wet voorsiening maak vir—

(i) die segregering van bepaalde bates van daardie entiteit in struktureel onafhanklike selle of gesegregeerde rekenings;

(ii) die verbinding of toeskrywing van bepaalde bates en laste met of aan daardie selle of gesegregeerde rekenings; of

(iii) aparte deelnemende regte ten opsigte van elke sodanige sel of gesegregeerde rekening,

ongeag of daardie wet bepaal dat die stigting of oprigting van 'n sel of gesegregeerde rekening 'n regspersoon skep wat van daardie entiteit onderskeibaar is, al dan nie;";

(b) deur in subartikel (1) voor die omskrywing van "deelnemende regte" die volgende omskrywing in te voeg:

" **'buitelandse maatskappy'** 'n—

(a) sel of gesegregeerde rekening beoog in die omskrywing van 'beskermde selmaatskappy';

(b) beskermde selmaatskappy namate—

(i) bepaalde bates van daardie maatskappy nie gesegregeer is in struktureel onafhanklike selle of gesegregeerde rekenings soos

(b) where that law makes provision for—
(i) the segregation of specified assets of that entity into structurally independent cells or segregated accounts;
(ii) the linking or attribution of specified assets and liabilities to those cells or segregated accounts; or
(iii) separate participation rights in respect of each such cell or segregated account,

irrespective of whether or not that law provides that the establishment or formation of a cell or segregated account creates a legal person distinct from that entity.'';

(d) by the substitution in subsection (2A) for the words following subparagraph (iv) of paragraph *(c)* of the proviso of the following words:

''where that controlled foreign company and that other controlled foreign company form part of the same group of companies, unless **[any resident has elected in terms of subsection (12) that the provisions of subsection (9) shall not apply in respect of the net income of that other controlled foreign company for the relevant foreign tax year or]** that interest, rental, royalty, other income, adjusted amount, exchange difference, reduction or discharge is taken into account to determine the net income of that other controlled foreign company;'';

(e) by the deletion in subsection (2A) of paragraph *(i)* of the proviso;

(f) by the substitution in subsection (6) for the words preceding the proviso of the following words:

''The net income of a controlled foreign company in respect of a foreign tax year shall be determined in the functional currency of that controlled foreign company 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 section, be translated to the currency of the Republic by applying the average exchange rate for that **[year of assessment]** foreign tax year'';

(g) by the substitution in subsection (9) for the words preceding paragraph *(b)* of the following words:

''**[In]** Subject to subsection (9A), in determining the net income of **[the]** a controlled foreign company in terms of subsection (2A), there must not be taken into account any amount which—'';

(h) by the substitution in subsection (9) for paragraph *(b)* of the following paragraph:

''*(b)* is attributable to any foreign business establishment of that controlled foreign company (whether or not as a result of the disposal or deemed disposal of any assets forming part of that foreign business establishment) and, in determining that amount and whether that amount is attributable to a foreign business establishment—
(i) that foreign business establishment must be treated as if that foreign business establishment were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the controlled foreign company of which the foreign business establishment is a foreign business establishment; and
(ii) that determination must be made as if the amount arose in the context of a transaction, operation, scheme, agreement or understanding that was entered into on the terms and conditions that would have existed had the parties to that transaction, operation, scheme, agreement or understanding been independent persons dealing at arm's length;'';

beoog in paragraaf *(a)* van die omskrywing van 'beskermde selmaatskappy' nie; of

(ii) bepaalde bates en laste van daardie maatskappy nie verbind is met of toegeskryf word aan selle of gesegregeerde rekenings soos beoog in paragraaf *(b)* van die omskrywing van 'beskermde selmaatskappy' nie; of

(c) buitelandse maatskappy, soos omskryf in artikel 1, buiten 'n beskermde selmaatskappy;";

(c) deur in subartikel (1) die kommapunt aan die einde van die omskrywing van "deelnemende regte" deur die uitdrukking "; en" te vervang;

(d) deur in subartikel (2A) die woorde wat op subparagraaf (iv) van paragraaf *(c)* van die voorbehoudsbepaling volg deur die volgende woorde te vervang:

"waar daardie beheerde buitelandse maatskappy en daardie ander beheerde buitelandse maatskappy deel van dieselfde groep van maatskappye vorm, tensy **[enige inwoner 'n keuse ingevolge subartikel (12) uitgeoefen het dat die bepalings van subartikel (9) nie van toepassing is nie ten opsigte van die netto inkomste van daardie ander beheerde buitelandse maatskappy vir die betrokke buitelandse belastingjaar of]** daardie rente, huurgeld, tantième, ander inkomste, aangepaste bedrag, valutaverskil, vermindering of delging in berekening gebring word om die netto inkomste van daardie ander beheerde buitelandse maatskappy te bepaal;";

(e) deur in subartikel (2A) paragraaf *(i)* van die voorbehoudsbepaling te skrap;

(f) deur in subartikel (6) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

"Die netto inkomste van 'n beheerde buitelandse maatskappy ten opsigte van 'n buitelandse belastingjaar word bepaal in die funksionele geldeenheid van daardie beheerde buitelandse maatskappy 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 wisselkoers vir daardie **[jaar van aanslag]** buitelandse belastingjaar toe te pas";

(g) deur in subartikel (9) die woorde wat paragraaf *(b)* voorafgaan deur die volgende woorde te vervang:

"**[By]** Behoudens subartikel (9A) by die berekening van die netto inkomste van **[die]** 'n beheerde buitelandse maatskappy ingevolge subartikel (2A), word nie in berekening gebring nie enige bedrag wat—";

(h) deur in subartikel (9) paragraaf *(b)* deur die volgende paragraaf te vervang:

"*(b)* toeskryfbaar is aan enige buitelandse besigheidsaak van daardie beheerde buitelandse maatskappy (hetsy as gevolg van die beskikking of geagte beskikking oor enige bates wat deel uitmaak van daardie buitelandse besigheidsaak al dan nie) en, by die berekening van daardie bedrag en of daardie bedrag aan 'n buitelandse besigheidsaak toeskryfbaar is—

(i) word daardie buitelandse besigheidsaak behandel asof daardie buitelandse besigheidsaak 'n onderskeibare en aparte onderneming is wat by dieselfde of soortgelyke bedrywighede betrokke is in dieselfde of soortgelyke omstandighede en wat algeheel onafhanklik handel met die beheerde buitelandse maatskappy waarvan die buitelandse besigheidsaak 'n buitelandse besigheidsaak is; en

(ii) word daardie berekening gemaak asof die bedrag ontstaan het in die verband van 'n transaksie, handeling, skema, ooreenkoms of verstandhouding wat aangegaan is op die voorwaardes en bedinge wat sou bestaan het indien die partye by daardie transaksie, handeling, skema, ooreenkoms of verstandhouding onafhanklike persone was wat op uiterste voorwaardes beding het;";

(i) by the substitution in subsection (9)*(f)* for subitem (A) of item *(bb)* of the following subitem:

"(A) excluded from the application of this section in terms of this paragraph or section **[10(1)*(k)*(ii)*(dd)*]** 10B(2)*(a)*, *(b)* or *(c)*;";

(j) by the deletion in subsection (9) of the proviso to paragraph *(f*A*)*;

(k) by the insertion after subsection (9) of the following subsection:

"(9A) *(a)* Any amount which is attributable to a foreign business establishment of a controlled foreign company as contemplated in subsection (9)*(b)* must, notwithstanding that subsection, be taken into account in determining the net income of that controlled foreign company if that amount—

(i) is derived from the disposal of goods by that controlled foreign company where those goods will be acquired directly or indirectly by a connected person (in relation to that controlled foreign company) who is a resident, unless—

(aa) the aggregate amount of tax payable to all spheres of government of any country other than the Republic by the controlled foreign company in respect of the foreign tax year of that controlled foreign company is more than 50 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; or

(bb) that amount is attributable to a permanent establishment of the controlled foreign company;

(ii) is derived from any service performed by that controlled foreign company to a connected person (in relation to that controlled foreign company) who is a resident, unless that service is performed outside the Republic and—

(aa) the service relates directly to the creation, extraction, production, assembly, repair or improvement of goods utilised within one or more countries other than the Republic;

(bb) the service relates directly to the sale or marketing of goods of a connected person (in relation to that controlled foreign company) who is a resident and those goods are sold to persons who are not connected persons in relation to that controlled foreign company for physical delivery to customers' premises situated within the country of residence of that controlled foreign company;

(cc) the service is rendered mainly in the country of residence of that controlled foreign company for the benefit of customers that have premises situated in that country; or

(dd) to the extent that no deduction is allowed of any amount paid by that connected person to that controlled foreign company in respect of the service;

(iii) arises in respect of a financial instrument—

(aa) unless that financial instrument is attributable to the principal trading activities of the foreign business establishment and those principal trading activities—

(A) constitute the activities of a bank, financial service provider or insurer; and

(B) do not constitute the activities of a treasury operation or captive insurer;

(bb) unless—

(A) that amount is attributable to any exchange difference determined in terms of section 24I in respect of that financial instrument;

(B) the exchange difference contemplated in subitem (A) arises in the ordinary course of business of the principal trading activities of that foreign business establishment; and

(i) deur in subartikel (9)*(f)* subitem (A) van item *(bb)* deur die volgende subitem te vervang:

"(A) van die toepassing van hierdie artikel uitgesluit was ingevolge hierdie paragraaf of artikel **[10(1)*(k)*(ii)*(dd)*]** 10B(2)*(a)*, *(b)* of *(c)*; of";

(j) deur in subartikel (9) die voorbehoudsbepaling tot paragraaf *(f*A*)* te skrap;

(k) deur na subartikel (9) die volgende subartikel in te voeg:

"(9A)*(a)* Enige bedrag wat toeskryfbaar is aan 'n buitelandse besigheidsaak van 'n beheerde buitelandse maatskappy soos beoog in subartikel (9)*(b)* word, ondanks daardie subartikel, in berekening gebring by die berekening van die netto inkomste van daardie beheerde buitelandse maatskappy indien daardie bedrag—

(i) voortspruit uit die beskikking oor goed deur daardie beheerde buitelandse maatskappy waar daardie goed verkry sal word direk of indirek deur 'n verbonde persoon (met betrekking tot daardie beheerde buitelandse maatskappy) wat 'n inwoner is, tensy—

(aa) die totale bedrag van belasting betaalbaar aan alle regeringsfere van enige land buiten die Republiek deur die beheerde buitelandse maatskappy ten opsigte van die buitelandse belastingjaar van daardie beheerde buitelandse maatskappy meer as 50 persent is van die bedrag van normale belasting wat betaalbaar sou gewees het ten opsigte van enige belasbare inkomste van die beheerde buitelandse maatskappy indien die beheerde buitelandse maatskappy vir daardie buitelandse belastingjaar 'n inwoner was; of

(bb) daardie bedrag aan 'n permanente saak van die beheerde buitelandse maatskappy toeskryfbaar is;

(ii) voortspruit uit enige diens uitgevoer deur daardie beheerde buitelandse maatskappy aan 'n verbonde persoon (met betrekking tot daardie beheerde buitelandse maatskappy) wat 'n inwoner is, tensy daardie diens buite die Republiek gelewer word en—

(aa) die diens direk verband hou met die skepping, ontginning, produksie, montering, herstel of verbetering van goed gebruik in een of meer lande buiten die Republiek;

(bb) die diens direk verband hou met die verkoop of bemarking van goed van 'n verbonde persoon (met betrekking tot daardie beheerde buitelandse matskappy) wat 'n inwoner is en daardie goed word verkoop aan persone wat nie verbonde persone met betrekking tot daardie beheerde buitelandse maatskappy is nie vir fisiese aflewering aan kliënte se persele geleë in die land van inwoning van daardie beheerde buitelandse maatskappy;

(cc) die diens gelewer word hoofsaaklik in die land van inwoning van daardie beheerde buitelandse maatskappy ten behoewe van kliënte wat persele geleë in daardie land het; of

(dd) namate geen aftrekking toegelaat word van enige bedrag betaal deur daardie verbonde persoon aan daardie beheerde buitelandse maatskappy ten opsigte van die diens nie;

(iii) voortspruit ten opsigte van 'n finansiële instrument—

(aa) tensy daardie finansiële instrument toeskryfbaar is aan die hoof handelsbedrywighede van die buitelandse besigheidsaak en daardie hoof handelsbedrywighede—

(A) maak die bedrywighede van 'n bank, finansiële diensverskaffer of versekeraar uit; en

(B) maak nie die bedrywighede van 'n skatkishandeling of selfversekeraar uit nie;

(bb) tensy—

(A) daardie bedrag toeskryfbaar is aan enige valutaverskil ingevolge artikel 24I ten opsigte van daardie finansiële instrument bepaal;

(B) die valutaverskil beoog in subitem (A) voortspruit in die gewone verloop van besigheid van die hoof handelsbedrywighede van daardie buitelandse besigheidsaak; en

(C) the principal trading activities contemplated in subitem (B) do not constitute the activities of a treasury operation or captive insurer; or

(cc) to the extent that the total of—

(A) those amounts arising in respect of financial instruments attributable to activities of that foreign business establishment; and

(B) amounts arising from exchange gains determined in terms of section 24I attributable to activities of that foreign business establishment,

other than amounts in respect of which paragraphs *(e)* to *(f*B*)* of subsection (9) apply, does not exceed five per cent of the total of all amounts received by or accrued to the controlled foreign company that are attributable to that foreign business establishment;

(iv) arises by way of rental in respect of any movable property, unless that movable property is leased by the controlled foreign company in terms of—

(aa) an operating lease; and

(bb) a lease that constitutes a financial instrument;

(v) arises in respect of the use or right of use of or permission to use any intellectual property as defined in section 23I, unless that controlled foreign company directly and regularly creates, develops or substantially upgrades any intellectual property as defined in section 23I which gives rise to that amount;

(vi) is a capital gain determined in respect of the disposal or deemed disposal of any intellectual property as defined in section 23I unless—

(aa) that controlled foreign company directly and regularly creates, develops or substantially upgrades any intellectual property as defined in section 23I which gives rise to that amount; and

(bb) that intellectual property does not constitute property which, if that controlled foreign company were a resident, would constitute tainted intellectual property as defined in section 23I in relation to that controlled foreign company; or

(vii) is in the form of an insurance premium, unless that amount is attributable to the principal trading activities of the foreign business establishment and those principal trading activities—

(aa) constitute the activities of an insurer; and

(bb) do not consititute the activities of a captive insurer:

Provided that if any amount which is attributable to a foreign business establishment of a controlled foreign company as contemplated in subsection (9)*(b)* is, solely as a result of the application of subparagraph (iii) of this paragraph, not taken into account in determining the net income of that controlled foreign company, that amount must be so taken into account—

(A) to the extent that a deduction is allowed in respect of any other amount incurred by a connected person (in relation to that controlled foreign company) who is a resident; and

(B) where that amount is attributable to that other amount.

(b) For the purposes of—

(i) item *(aa)* of paragraph *(a)*(i), the aggregate amount of tax payable contemplated in that item must be determined—

(aa) after taking into account any applicable agreement for the prevention of double taxation and any credit, rebate or other right of recovery of tax from any sphere of government of any country other than the Republic; and

(bb) after disregarding any loss in respect of a year other than a year contemplated in that item or from a company other

(C) die hoof handelsbedrywighede beoog in subitem (B) nie die bedrywighede van 'n skatkishandeling of selversekeraar uitmaak nie; of

(cc) namate die totaal van—

(A) daardie bedrae wat voortspruit ten opsigte van finansiële instrumente toeskryfbaar aan daardie buitelandse besigheidsaak; en

(B) bedrae wat voortspruit uit valutawinste ingevolge artikel 24I bepaal aan die bedrywighede van daardie buitelandse besigheidsaak toeskryfbaar,

behalwe bedrae ten opsigte waarvan paragrawe *(e)* tot *(f*B*)* van subartikel (9) van toepassing is, nie vyf persent van die totaal van alle bedrae ontvang deur of toegeval aan die beheerde buitelandse maatskappy wat aan die buitelandse besigheidsaak toeskryfbaar is, oorskry nie;

(iv) voortspruit by wyse van huurgeld ten opsigte van enige roerende eiendom, tensy daardie roerende eiendom deur die beheerde buitelandse maatskappy gehuur word ingevolge—

(aa) 'n bedryshuur; en

(bb) 'n huurooreenkoms wat 'n finansiële instrument uitmaak;

(v) voortspruit ten opsigte van die gebruik, reg van gebruik of toestemming tot gebruik van enige immateriële goedere soos omskryf in artikel 23I, tensy daardie beheerde buitelandse maatskappy direk en gereeld enige immateriële goedere soos omskryf in artikel 23I skep, ontwikkel of wesenlik opgradeer, wat tot daardie bedrag aanleiding gee;

(vi) 'n kapitaalwins is wat bepaal word ten opsigte van die beskikking oor of geagte beskkikking oor enige immateriële goedere soos omskryf in artikel 23I tensy—

(aa) daardie beheerde buitelandse maatskappy direk en gereeld enige immateriële goedere soos omskryf in artikel 23I skep, ontwikkel of wesenlik opgradeer, wat tot daardie bedrag aanleiding gee; en

(bb) daardie immateriële goedere nie goedere uitmaak nie wat, indien daardie beheerde buitelandse maatskappy 'n inwoner was, besmette immateriële goedere soos omskryf in artikel 23I met betrekking tot daardie beheerde buitelandse maatskappy sou uitmaak; of

(vii) in die vorm van 'n versekeringspremie is, tensy daardie bedrag toeskryfbaar is aan die hoof handelsbedrywighede van die buitelandse besigheidsaak en daardie hoof handelsbedrywighede—

(aa) maak die bedrywighede van 'n versekeraar uit; en

(bb) maak nie die bedrywighede van 'n selversekeraar uit nie:

Met dien verstande dat indien enige bedrag wat aan 'n buitelandse besigheidsaak van 'n beheerde buitelandse maatskappy soos beoog in subartikel (9)*(b)* toeskryfbaar is, slegs as gevolg van die toepassing van subparagraaf (iii) van hierdie paragraaf, nie in berekening gebring word by die bepaling van die netto inkomste van daardie beheerde buitelandse maatskappy nie, daardie bedrag aldus in berekening gebring moet word—

(A) namate 'n aftrekking toegelaat word ten opsigte van enige ander bedrag aangegaan deur 'n verbonde persoon (met betrekking tot daardie beheerde buitelandse maatskappy) wat 'n inwoner is; en

(B) waar daardie bedrag aan daardie ander bedrag toeskryfbaar is.

(b) By die toepassing van—

(i) item *(aa)* van paragraaf *(a)*(i) word die totale bedrag van belasting betaalbaar in daardie item beoog, bereken—

(aa) na inagneming van enige toepaslike ooreenkoms vir die voorkoming van dubbele belasting en enige krediet, korting of ander reg van verhaal van belasting van enige regeringsfeer van enige land buiten die Republiek; en

(bb) na verontagsaming van enige verlies ten opsigte van 'n jaar buiten 'n jaar in daardie item beoog of van 'n maatskappy

than a controlled foreign company contemplated in that item;

(ii) item *(bb)* of paragraph *(a)*(i), in determining whether an amount is attributable to a permanent establishment of a controlled foreign company—

(aa) that permanent establishment must be treated as if that permanent establishment were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the controlled foreign company of which it is a permanent establishment; and

(bb) that determination must be made as if the amount arose in the context of a transaction, operation, scheme, agreement or understanding that was entered into on the terms and conditions that would have existed had the parties to that transaction been independent persons dealing at arm's length;

(iii) items *(aa)* and *(bb)* of paragraph *(a)*(iii), where the principal trading activities of a foreign business establishment do not constitute the activities of a treasury operation, the principal trading activities of that foreign business establishment must be deemed to constitute the activities of a treasury operation where—

(aa) less of those principal trading activities are conducted in the country in which the foreign business establishment is located than in any other single country;

(bb) those principal trading activities do not involve the regular and continuous acceptance of deposits from or the provision of credit to clients who are not connected persons in relation to that controlled foreign company; or

(cc) less than 50 per cent of the amounts attributable to the activities of the foreign business establishment are derived from those principal trading activities with respect to clients who are not connected persons in relation to that controlled foreign company;

(iv) items *(aa)* and *(bb)* of paragraph *(a)*(iii) and paragraph *(a)*(vii), where the principal trading activities of a foreign business establishment do not constitute the activities of a captive insurer, the principal trading activities of that foreign business establishment must be deemed to constitute the activities of a captive insurer where—

(aa) less of those principal trading activities are conducted in the country in which that foreign business establishment is located than in any other single country;

(bb) those principal trading activities do not involve the regular transaction of business as an insurer with clients who are not connected persons in relation to that controlled foreign company; or

(cc) less than 50 per cent of the amounts attributable to activities of that foreign business establishment are derived from those principal trading activities with respect to clients who are not connected persons in relation to that controlled foreign company; and

(v) paragraph *(a)*(iv), **'operating lease'** means a lease of movable property concluded by a lessor in the ordinary course of business of letting such property if—

(aa) such property may be hired by members of the general public directly from that lessor in terms of such a lease, for a period of no more than five years;

(bb) either—

(A) the cost of maintaining such property and of carrying out repairs thereto required in consequence of normal wear and tear is ultimately borne by the lessor; or

buiten 'n beheerde buitelandse maatskappy in daardie item beoog;

(ii) item *(bb)* van paragraaf *(a)*(i) by die bepaling of 'n bedrag aan die permanente saak van 'n beheerde buitelandse maatskappy toeskryfbaar is—

(aa) word daardie permanente saak behandel asof daardie permanente saak 'n onderskeibare en aparte onderneming is wat by dieselfde of soortgelyke bedrywighede betrokke is in dieselfde of soortgelyke omstandighede en wat algeheel onafhanklik handel met die beheerde buitelandse maatskappy waarvan dit 'n permanente saak is; en

(bb) word daardie bepaling gemaak asof die bedrag voortgespruit het in die verband van 'n transaksie, handeling, skema, ooreenkoms of verstandhouding wat aangegaan is op die voorwaardes en bedinge wat sou bestaan het indien die partye by daardie transaksie, handeling, skema, ooreenkoms of verstandhouding onafhanklike persone was wat op uiterste voorwaardes beding het;

(iii) items *(aa)* en *(bb)* van paragraaf *(a)*(iii), waar die hoof handelsbedrywighede van 'n buitelandse besigheidsaak nie die bedrywighede van 'n skatkishandeling uitmaak nie, word die hoof handelsbedrywighede van daardie buitelandse besigheidsaak geag die bedrywighede van 'n skatkishandeling uit te maak waar—

(aa) minder van daardie hoof handelsbedrywighede uitgevoer word in die land waarin die buitelandse besigheidsaak geleë is as in enige ander enkele land;

(bb) daardie hoof handelsbedrywighede nie die gereelde en voortdurende aanvaarding van deposito's van of die verlening van krediet aan kliënte wat nie verbonde persone met betrekking tot daardie beheerde buitelandse maatskappy is nie, uitmaak nie; of

(cc) minder as 50 persent van die bedrae toeskryfbaar aan die bedrywighede van die buitelandse besigheidsaak verkry word uit daardie hoof handelsbedrywighede wat betref kliënte wat nie verbonde persone met betrekking tot daardie beheerde buitelandse maatskappy is nie;

(iv) items *(aa)* en *(bb)* van paragraaf *(a)*(iii) en paragraaf *(a)*(vii), waar die hoof handelsbedrywighede van 'n buitelandse besigheidsaak nie die bedrywighede van 'n selfversekeraar uitmaak nie, word die hoof handelsbedrywighede van daardie buitelandse besigheidsaak geag die bedrywighede van 'n selfversekeraar uit te maak waar—

(aa) minder van daardie hoof handelsbedrywighede uitgevoer word in die land waarin daardie buitelandse besigheidsaak geleë is as in enige ander enkele land;

(bb) daardie hoof handelsbedrywighede nie die gereelde doen van sake as 'n versekeraar met kliënte wat nie verbonde persone met betrekking tot daardie beheerde buitelandse maatskappy is nie, inhou nie; of

(cc) minder as 50 persent van die bedrae toeskryfbaar aan bedrywighede van daardie buitelandse besigheidsaak verkry word van daardie hoof handelsbedrywighede wat betref kliënte wat nie verbonde persone met betrekking tot daardie beheerde buitelandse maatskappy is nie; en

(v) paragraaf *(a)*(iv) beteken **'bedryfshuur'** 'n verhuring van roerende eiendom gesluit deur 'n verhuurder in die gewone loop van besigheid van verhuring van sodanige eiendom indien—

(aa) sodanige eiendom gehuur kan word deur lede van die algemene publiek direk van daardie verhuurder ingevolge so 'n huurooreenkoms vir 'n tydperk van nie meer nie as vyf jaar;

(bb) óf—

(A) die koste om sodanige eiendom te onderhou en om herstelwerk ten gevolge van normale slytasie daaraan uit te voer uiteindelik deur die verhuurder gedra word; of

(B) the activities of maintaining and repairing such property that are required in consequence of normal wear and tear are performed by the lessor; and

(cc) subject to any claim that the lessor may have against the lessee by reason of the lessee's failure to take proper care of the property, the risk of destruction or loss of or other disadvantage to such property is not assumed by the lessee.";

(l) by the deletion of subsections (10), (12) and (13);

(m) by the addition after subsection (13) of the following subsection:

"(14) Any resident who makes an election contemplated in subsection (12) or (13) may also elect that the further proviso to subsection (2A) must not apply in respect of the foreign tax year in respect of which the election contemplated in subsection (12) or (13) is made."; and

(n) by the deletion of subsection (14).

(2) Paragraphs *(a)*, *(b)*, *(c)* and *(f)* of subsection (1) come into operation on 1 January 2012 and apply in respect of foreign tax years of controlled foreign companies ending during years of assessment commencing on or after that date.

(3) Paragraphs *(d)*, *(e)*, *(g)*, *(h)*, *(i)*, *(j)*, *(k)*, *(l)* and *(n)* of subsection (1) come into operation on 1 April 2012 and apply in respect of foreign tax years of controlled foreign companies ending during years of assessment commencing on or after that date.

(4) Paragraph *(m)* of subsection (1) is deemed to have come into operation on 1 January 2011 and applies in respect of foreign tax years of controlled foreign companies ending during years of assessment—

(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 that date.

Insertion of section 9H in Act 58 of 1962

26. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 9G of the following section:

"**Change of residence or becoming headquarter company**

9H. (1) For the purposes of this section—

'asset' means an asset as defined in paragraph 1 of the Eighth Schedule;

'market value' in relation to an asset means the price which could be obtained upon a sale of that asset between a willing buyer and a willing seller dealing at arm's length in an open market.

(2) Subject to subsection (3), where a person ceases to be a resident or becomes a headquarter company, that person must be treated as having—

(a) disposed of each of that person's assets on the date immediately before the day on which that person so ceases to be a resident or becomes a headquarter company for an amount received or accrued equal to the market value of the asset on that date; and

(b) reacquired each of those assets immediately after the time of the disposal contemplated in paragraph *(a)* and at an expenditure equal to the market value contemplated in that paragraph.

(3) Subsection (2) does not apply in respect of an asset of a person where that asset constitutes—

(a) immovable property, any interest in immovable property or any right to or in immovable property situated in the Republic as contemplated in paragraph 2(2) of the Eighth Schedule and held by that person;

(b) any asset which will, after the person ceases to be a resident or becomes a headquarter company as contemplated in subsection (2), be attributable to a permanent establishment of that person in the Republic;

(B) die bedrywighede van onderhoud en herstel van sodanige eiendom ten gevolge van normale slytasie deur die verhuurder uitgevoer word; en

(cc) behoudens enige eis wat die verhuurder teen die huurder kan hê weens die huurder se gebrek om behoorlik na die eiendom om te sien, die risiko van vernietiging of verlies van of ander skade aan sodanige eiendom nie deur die huurder aangeneem word nie.'';

(l) deur subartikels (10), (12) en (13) te skrap;

(m) deur na subartikel (13) die volgende subartikel by te voeg:

''(14) Enige inwoner wat 'n keuse beoog in subartikel (12) of (13) maak, kan ook kies dat die verdere voorbehoudsbepaling tot subartikel (2A) nie van toepassing moet wees nie ten opsigte van die buitelandse belastingjaar ten opsigte waarvan die keuse beoog in subartikel (12) of (13) gemaak word.''; en

(n) deur subartikel (14) te skrap.

(2) Paragrawe *(a)*, *(b)*, *(c)* en *(f)* van subartikel (1) tree op 1 Januarie 2012 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) Paragrawe *(d)*, *(e)*, *(g)*, *(h)*, *(i)*, *(j)*, *(k)*, *(l)* en *(n)* van subartikel (1) tree op 1 April 2012 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.

(4) Paragraaf *(m)* van subartikel (1) word geag op 1 Januarie 2011 in werking te getree het en is van toepassing ten opsigte van buitelandse belastingjare van beheerde buitelandse maatskappye wat eindig gedurende jare van aanslag—

(a) wat op of na daardie datum eindig; en

(b) ten opsigte waarvan 'n opgawe vir belastingaanslag op of na daardie datum aan die Kommissaris voorgelê word.

Invoeging van artikel 9H in Wet 58 van 1962

26. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 9G die volgende artikel in te voeg:

''**Verandering van inwonerskap of word van hoofkwartiermaatskappy**

9H. (1) By die toepassing van hierdie artikel beteken—

'bate' 'n bate soos omskryf in paragraaf 1 van die Agtste Bylae;

'markwaarde', met betrekking tot 'n bate, die prys wat verkry kon word by die verkoop van daardie bate tussen 'n gewillige koper en 'n gewillige verkoper wat op uiterste voorwaardes op 'n oop mark beding.

(2) Behoudens subartikel (3) waar 'n persoon ophou om 'n inwoner te wees of 'n hoofkwartiermaatskappy word, word daardie persoon behandel asof die persoon—

(a) oor elkeen van daardie persoon se bates beskik het op die datum onmiddellik voor die dag waarop die persoon aldus ophou om 'n inwoner te wees of 'n hoofkwartiermaatskappy word vir 'n bedrag ontvang of toegeval gelyk aan die markwaarde van die bate op daardie datum; en

(b) elkeen van daardie bates herverkry het onmiddellik na die tyd van die beskikking beoog in paragraaf *(a)* en teen 'n uitgawe gelyk aan die markwaarde in daardie paragraaf beoog.

(3) Subartikel (2) is nie van toepassing nie ten opsigte van 'n bate van 'n persoon waar daardie bate—

(a) onroerende eiendom, enige belang in onroerende eiendom of enige reg op of in onroerende eiendom geleë in die Republiek soos in paragraaf 2(2) van die Agtste Bylae beoog en deur daardie persoon gehou, uitmaak;

(b) enige bate uitmaak wat, nadat die persoon ophou om 'n inwoner te wees of 'n hoofkwartiermaatskappy word soos in subartikel (2) beoog, aan 'n permanente saak van daardie persoon in die Republiek toeskryfbaar sal wees;

(c) any qualifying equity share contemplated in section 8B that was granted to that person less than five years before the date on which that person ceases to be a resident or becomes a headquarter company as contemplated in subsection (2);

(d) any equity instrument contemplated in section 8C, which had not yet vested as contemplated in that section at the time that the person ceases to be a resident or becomes a headquarter company as contemplated in subsection (2); or

(e) any right of that person to acquire any marketable security contemplated in section 8A.".

(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.

Insertion of section 9I in Act 58 of 1962

27. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 9H of the following section:

"**Headquarter companies**

9I. (1) Any company that—

(a) is a resident; and

(b) complies with the requirements prescribed by subsection (2),

may elect in the form and manner determined by the Commissioner to be a headquarter company for a year of assessment of that company.

(2) A company complies with the requirements contemplated in subsection (1)*(b)* for a year of assessment of that company if—

(a) for the duration of that year of assessment and of all previous years of assessment of the company, each shareholder in the company (whether alone or together with any other company forming part of the same group of companies as that shareholder) held 10 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

(iii) any intellectual property as defined in section 23I(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 10 per cent of the equity shares and voting rights: Provided that in determining the total assets of the company, there must not be taken into account any amount in cash or in the form of a bank deposit payable on demand; and

(c) where the gross income of that company for that year of assessment exceeds R5 million, 50 per cent or more of that gross income consisted of amounts in the form of one or both of the following:

(i) any rental, dividend, interest, royalty or service 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):

Provided that in determining the gross income of the company, there must not be taken into account any exchange difference determined in terms of section 24I in respect of any exchange item as defined in that section to which that company is a party.

(c) enige kwalifiserende ekwiteitsaandeel beoog in artikel 8B uitmaak, wat aan daardie persoon verleen is minder as vyf jaar voor die datum waarop daardie persoon ophou om 'n inwoner te wees of 'n hoofkwartiermaatskappy word soos in subartikel (2) beoog;

(d) enige ekwiteitsinstrument beoog in artikel 8C uitmaak, wat nog nie gevestig het nie soos in daardie artikel beoog op die tydstip waarop die persoon ophou om 'n inwoner te wees of 'n hoofkwartiermaatskappy word soos in subartikel (2) beoog; of

(e) enige reg uitmaak van daardie persoon om enige handelseffek beoog in artikel 8A te verkry.''.

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Invoeging van artikel 9I in Wet 58 van 1962

27. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 9H die volgende artikel in te voeg:

''**Hoofkwartiermaatskappye**

9I. (1) Enige maatskappy wat—

(a) 'n inwoner is; en

(b) voldoen aan die vereistes deur subartikel (2) voorgeskryf,

kan op die wyse deur die Kommissaris bepaal kies om 'n hoofkwartiermaatskappy te wees vir 'n jaar van aanslag van daardie maatskappy.

(2) 'n Maatskappy voldoen aan die vereistes beoog in subartikel (1)*(b)* vir 'n jaar van aanslag van daardie maatskappy indien—

(a) vir die duur van daardie jaar van aanslag en van alle vorige jare van aanslag van die maatskappy, elke aandeelhouer in die maatskappy (hetsy alleen of tesame met enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie aandeelhouer) 10 persent of meer van die ekwiteitsaandele en stemregte in daardie maatskappy gehou het;

(b) aan die einde van daardie jaar van aanslag en van alle vorige jare van aanslag van daardie maatskappy, 80 persent of meer van die koste van die total bates van die maatskappy toeskryfbaar was aan een of meer van die volgende:

(i) enige belang in ekwiteitsaandele in;

(ii) enige bedrag geleen of voorgeskiet aan; of

(iii) enige immateriële goedere soos omskryf in artikel 23I(1) wat deur daardie maatskappy gelisensieer word aan,

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 10 persent van die ekwiteitsaandele en stemregte gehou het: Met dien verstande dat by die bepaling van die totale bates van die maatskappy daar nie in berekening gebring moet word nie enige bedrag in kontant of in die vorm van 'n bankdeposito op aanvraag betaalbaar; en

(c) waar die bruto inkomste van daardie maatskappy vir daardie jaar van aanslag R5 miljoen oorskry, 50 persent of meer van daardie bruto inkomste bestaan het uit bedrae in die vorm van een of beide van die volgende:

(i) enige huur, dividend, rente, tantième of diensfooi 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 oor enige immateriële goedere beoog in paragraaf *(b)*(iii):

Met dien verstande dat by die bepaling van die bruto inkomste van die maatskappy daar nie in berekening gebring moet word nie enige valutaverskil bepaal ingevolge artikel 24I ten opsigte van enige valuta-item soos in daardie artikel omskryf waarby daardie maatskappy 'n party is.

(3) An election made by a company in terms of subsection (1) is effective from the commencement of the year of assessment in respect of which that election is made.

(4) A headquarter company must submit to the Minister an annual report providing the Minister with the information that the Minister may prescribe within such time and containing such information as the Minister may prescribe.".

(2) Subsection (1) is deemed to have come into operation on 1 January 2011 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994, section 10 of Act 21 of 1995, section 8 of Act 36 of 1996, section 9 of Act 46 of 1996, section 1 of Act 49 of 1996, section 10 of Act 28 of 1997, section 29 of Act 30 of 1998, section 18 of Act 53 of 1999, section 21 of Act 30 of 2000, section 13 of Act 59 of 2000, sections 9 and 78 of Act 19 of 2001, section 26 of Act 60 of 2001, section 13 of Act 30 of 2002, section 18 of Act 74 of 2002, section 36 of Act 12 of 2003, section 26 of Act 45 of 2003, 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, section 13 of Act 17 of 2009 and section 18 of Act 7 of 2010

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

(a) by the substitution in subsection (1)*(c*A*)*(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), or the Companies Act, 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—";

(b) by the substitution in subsection (1)*(c*N*)*(ii)*(dd)* for subitem (ii) of the following subitem:

"(ii) **[R150 000]** R200 000;";

(c) by the substitution in subsection (1)*(c*O*)*(iv) for item *(bb)* of the following item:

"*(bb)* **[R100 000]** R120 000;";

(d) by the substitution in subsection (1)*(e)*(i) for item *(bb)* of the following item:

"*(bb)* a share block company **[established in terms of]** as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980), from its shareholders; or";

(e) 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), or the Companies Act, 2008 (Act No. 71 of 2008), any

(3) ’n Keuse gemaak deur ’n maatskappy ingevolge subartikel (1) tree in werking vanaf die begin van die jaar van aanslag ten opsigte waarvan daardie keuse uitgeoefen word.

(4) ’n Hoofkwartiermaatskappy moet aan die Minister voorlê ’n jaarverslag wat die Minister van die inligting voorsien wat die Minister voorskryf binne die tyd en wat die inligting bevat wat die Minister voorskryf.”.

(2) Subartikel (1) word geag op 1 Januarie 2011 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum 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, artikel 13 van Wet 17 van 2009 en artikel 18 van Wet 7 van 2010

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

(a) deur in subartikel (1)*(c*A*)*(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), of die Maatskappywet, 2008 (Wet No. 71 van 2008), ’n koöperasie, beslote korporasie, trust of waterdiensverskaffer, 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—”;

(b) deur in subartikel (1)*(c*N*)*(ii)*(dd)* subitem (ii) deur die volgende subitem te vervang:

“(ii) **[R150 000]** R200 000;”;

(c) deur in subartikel (1)*(c*O*)*(iv) item *(bb)* deur die volgende item te vervang:

“*(bb)* **[R100 000]** R120 000;”;

(d) deur in subartikel (1)*(e)*(i) item *(bb)* deur die volgende item te vervang:

“*(bb)* ’n aandeleblokmaatskappy **[ingevolge]** soos omskryf in die Wet op die Beheer van Aandeleblokke, 1980 (Wet No. 59 van 1980), **[ingestel]**, van sy aandeelhouers; of”;

(e) 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), of die Maatskappywet, 2008 (Wet No. 71

co-operative, close corporation and trust, but including a company contemplated in section 21 of the Companies Act, 1973 (Act No. 61 of 1973), and a non-profit company as defined in section 1 of the Companies Act, 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—";

(f) by the substitution in subsection (1)*(g*B*)*(iii) for item (B) of the following item:

"(B) does not exceed an amount of R300 000 **[less the sum of any other amounts which have been excluded from the person's income by virtue of the exemption conferred by paragraph *(x)*, whether in the current or any previous year of assessment]**; and";

(g) by the addition to subsection (1)*(g*B*)* of the following subparagraph after subparagraph (iii):

"(iv) compensation paid in terms of section 17 of the Road Accident Fund Act, 1996 (Act No. 56 of 1996);";

(h) by the insertion in subsection (1) after paragraph *(g*F*)* of the following paragraphs:

"*(g*G*)* any amount received by or accrued to a person as contemplated in subparagraph (ii) or (iii) of paragraph *(d)* of the definition of 'gross income'—

(i) in the case of a policy that is a risk policy with no cash value or surrender value, if the amount of premiums paid in respect of that policy by the employer of the person has been deemed to be a taxable benefit of the person in terms of the Seventh Schedule since the later of—

(aa) the date on which the employer or company contemplated in those subparagraphs became the policyholder of that policy; or

(bb) 1 March 2012,

unless the amount of the premiums paid was deductible by the person in terms of section 11*(a)*;

(ii) in the case of any other policy, if an amount equal to the aggregate of the amount of any premiums has been included in the income of the person as a taxable benefit in terms of the Seventh Schedule since the date on which the policy was entered into;

*(g*H*)* in respect of a policy of insurance contemplated in section 11*(w)*(ii), where it is not stated that section 11*(w)*(ii) applies to premiums payable in respect of that policy as contemplated in section 11*(w)*(ii)*(dd)*(A) or (B), any amount received or accrued in respect of that policy;";

(i) by the insertion in subsection (1) of the following paragraph after paragraph *(h)*:

"*(h*A*)* any amount received by or accrued to the holder of a debt instrument as defined in section 23K(1)—

(i) if the holder of that debt instrument is a company that forms part of the same group of companies, as defined in section 41, as the issuer of that debt instrument; and

(ii) to the extent that the amount is attributable to any amount of interest as defined in section 23K(1) that is not deductible as a result of the application of section 23K;";

(j) by the substitution in subsection (1)*(i)*(xv)*(bb)* for subitems (A) and (B) of the following subitems:

"(A) in the case of any 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 **[R32 000]** R33 000; or

(B) in any other case, the amount of **[R22 300]** R22 800,";

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

"*(i)* in the case of any taxpayer who is a natural person, so much of the aggregate of any interest received by or accrued to him or her from

van 2008), 'n koöperasie, beslote korporasie en trust, maar ingesluit enige maatskappy beoog in artikel 21 van die Maatskappywet, 1973 (Wet No. 61 van 1973), en 'n maatskappy sonder winsoogmerk soos omskryf in artikel 1 van die Maatskappywet, 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—";

(f) deur in subartikel (1)*(g*B*)*(iii) item (B) deur die volgende item te vervang:

"(B) nie meer is nie as die bedrag van R300 000 **[verminder deur die som van enige bedrae wat van die persoon se inkomste uitgesluit is uit hoofde van die vrystelling kragtens paragraaf *(x)* toegestaan, hetsy in die huidige of enige vorige jaar van aanslag]**; en";

(g) deur by subartikel (1)*(g*B*)* die volgende subparagraaf na subparagraaf (iii) te voeg:

"(iv) vergoeding ingevolge artikel 17 van die Padongelukfondswet, 1996 (Wet No. 56 van 1996), betaal;";

(h) deur in subartikel (1) na paragraaf *(g*F*)* die volgende paragrawe in te voeg:

"*(g*G*)* enige bedrag ontvang deur of toegeval aan 'n persoon soos in subparagraaf (ii) of (iii) van paragraaf *(d)* van die omskrywing van 'bruto inkomste' beoog—

(i) in die geval van 'n polis wat 'n risikopolis is met geen kontantwaarde of afloswaarde nie, indien die bedrag van premies betaal ten opsigte van daardie polis deur die werkgewer van die persoon geag is 'n belasbare voordeel van die persoon te wees ingevolge die Sewende Bylae sedert die laaste van—

(aa) die datum waarop die werkgewer of maatskappy in daardie subparagrawe beoog die polishouer van daardie polis geword het; of

(bb) 1 Maart 2012,

tensy die bedrag van die premies betaal deur die persoon ingevolge artikel 11*(a)* aftrekbaar was;

(ii) in die geval van enige ander polis, indien 'n bedrag gelyk aan die totaal van die bedrag van enige premies by die inkomste van die persoon as 'n belasbare voordeel ingevolge die Sewende Bylae ingesluit is sedert die datum waarop die polis aangegaan is;

*(g*H*)* ten opsigte van 'n versekeringspolis in artikel 11*(w)*(ii) beoog, waar dit nie verklaar word nie dat artikel 11*(w)*(ii) van toepassing is op premies betaalbaar ten opsigte van daardie polis soos in artikel 11*(w)*(ii)*(dd)*(A) of (B) beoog nie, enige bedrag ontvang of toegeval ten opsigte van daardie polis;";

(i) deur in subartikel (1) na paragraaf *(h)* die volgende paragraaf in te voeg:

"*(h*A*)* enige bedrag ontvang deur of toegeval aan die houer van 'n skuldinstrument soos in artikel 23K(1) omskryf—

(i) indien die houer van daardie skuldinstrument 'n maatskappy is wat deel uitmaak van dieselfde groep van maatskappye, soos in artikel 41 omskryf, as die uitreiker van daardie skuldinstrument; en

(ii) namate die bedrag toeskryfbaar is aan enige bedrag van rente soos in artikel 23K(1) omskryf wat nie aftrekbaar is nie as gevolg van die toepassing van artikel 23K;";

(j) 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 **[R32 000]** R33 000 te bowe gaan; of

(B) in enige ander geval, die bedrag van **[R22 300]** R22 800 te bowe gaan,";

(k) deur in subartikel (1) paragraaf (*i*) deur die volgende paragraaf te vervang:

"*(i)* in die geval van 'n belastingpligtige wat 'n natuurlike persoon is, so veel van die totaal van enige rente ontvang deur of toegeval aan

a source in the Republic as does not during the year of assessment exceed—

(i) in the case of any 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 R33 000; or

(ii) in any other case, the amount of R22 800;";

(l) 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";

(m) by the deletion in subsection (1)*(k)* of item *(cc)* of the proviso to subparagraph (i);

(n) by the substitution in subsection (1)*(k)*(i) for item *(dd)* of the proviso of the following paragraph:

"*(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, other than an equity share that would have constituted a hybrid equity instrument as defined in section 8E(1) but for the three-year period requirement contemplated in that definition; **[or]**

(B) the dividend constitutes an equity instrument as defined in that section; or

(C) the restricted equity instrument constitutes an interest in a trust and, where that trust holds shares, all of those shares constitute equity shares, other than equity shares that would have constituted hybrid equity instruments as defined in section 8E(1) but for the three-year period requirement contemplated in that definition;";

(o) by the addition in subsection (1)*(k)* to the proviso to subparagraph (i) of the following paragraphs:

"*(ee)* to any dividend received by or accrued to or in favour of a company in consequence of—

(A) any cession; or

(B) any right of that company acquired in consequence of any cession;

(ff) to any dividends received by or accrued to or in favour of a company in respect of a share held by that company to the extent that the aggregate of those dividends does not exceed the aggregate of any amounts incurred by that company by way of direct or indirect compensation for any distributions in respect of any share borrowed by the company where that share so borrowed constitutes an identical asset as defined in paragraph 32(2) of the Eighth Schedule in relation to the share so held; or

(gg) to any dividends received by or accrued to or in favour of a company in respect of a share borrowed by that company;";

(p) by the deletion in subsection (1)*(k)* of subparagraph (ii);

(q) by the substitution in subsection (1)*(t)* for subparagraph (x) of the following subparagraph:

"(x) of the Development Bank of Southern Africa established on 23 June**[,]** 1983**[:]**;";

(r) by the insertion in subsection (1)*(t)* of the following subparagraph:

"(xvi) of—

(aa) the compensation fund established by section 15 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);

(bb) the reserve fund established by section 19 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993); and

hom of haar van 'n bron in die Republiek as wat nie gedurende die jaar van aanslag—

(i) 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 R33 000 te bowe gaan nie; of

(ii) in enige ander geval, die bedrag van R22 800 te bowe gaan nie;";

(l) 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";

(m) deur in subartikel (1)*(k)* item *(cc)* van die voorbehoudsbepaling tot subparagraaf (i) te skrap;

(n) deur in subartikel (1)*(k)*(i) item *(dd)* van die voorbehoudsbepaling deur die volgende paragraaf te vervang:

"*(dd)* op enige dividend ten opsigte van 'n beperkte ekwiteitsinstrument soos omskryf in artikel 8C, tensy—

(A) die beperkte ekwiteitsinstrument 'n ekwiteitsaandeel uitmaak, buiten 'n ekwiteitsaandeel wat 'n hibriede ekwiteitsinstrument soos omskryf in artikel 8E(1) sou uitgemaak het by ontstentenis van die vereiste van 'n drie-jaar tydperk in daardie omskrywing beoog; **[of]**

(B) die dividend 'n ekwiteitsinstrument soos in daardie artikel omskryf, uitmaak; of

(C) die beperkte ekwiteitsinstrument 'n belang uitmaak in 'n trust en, waar daardie trust aandele hou, al daardie aandele ekwiteitsaandele uitmaak, buiten ekwiteitsaandele wat hibriede ekwiteitsinstrumente soos omskryf in artikel 8E(1) sou uitgemaak het by ontstentenis van die vereiste van 'n drie-jaar tydperk in daardie omskrywing beoog;";

(o) deur in subartikel (1)*(k)* by die voorbehoudsbepaling tot subparagraaf (i) die volgende paragrawe te voeg:

"*(ee)* op enige dividend ontvang deur of toegeval aan of ten gunste van 'n maatskappy ten gevolge van—

(A) enige sessie; of

(B) enige reg van daardie maatskappy ten gevolge van enige sessie verkry;

(ff) op enige dividende ontvang deur of toegeval aan of ten gunste van 'n maatskappy ten opsigte van 'n aandeel gehou deur daardie maatskappy namate die totaal van daardie dividende nie die totaal oorskry nie van enige bedrae aangegaan deur daardie maatskappy by wyse van direkte of indirekte vergoeding vir enige uitkerings ten opsigte van enige aandeel geleen deur die maatskappy waar daardie aandeel aldus geleen 'n identiese bate soos omskryf in paragraaf 32(2) van die Agtste Bylae uitmaak met betrekking tot die aandeel aldus gehou; of

(gg) op enige dividende ontvang deur of toegeval aan of ten gunste van 'n maatskappy ten opsigte van 'n aandeel deur daardie maatskappy geleen;";

(p) deur in subartikel (1)*(k)* subparagraaf (ii) te skrap;

(q) deur in subartikel (1)*(t)* subparagraaf (x) deur die volgende subparagraaf te vervang:

"(x) van die Ontwikkelingsbank van Suider-Afrika gestig op 23 Junie 1983**[:]**;";

(r) deur in subartikel (1)*(t)* die volgende subparagraaf in te voeg:

"(xvi) van—

(aa) die vergoedingsfonds ingestel by artikel 15 van die Wet op Vergoeding vir Beroepsbeserings en -siektes, 1993 (Wet No. 130 van 1993);

(bb) die reserwefonds ingestel by artikel 19 van die Wet op Vergoeding vir Beroepsbeserings en -siektes, 1993 (Wet No. 130 van 1993); en

(cc) a mutual association licensed in terms of section 30 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), to carry on the business of insurance of employers against their liabilities to employees, if the compensation paid by the mutual association is identical to compensation that would have been payable in similar circumstances in terms of that Act:"; and

(s) by the deletion in subsection (1) of paragraph *(z*G*)*.

(2) Paragraphs *(a)*, *(e)*, *(l)* and *(n)* of subsection (1) are deemed to have come into operation on 1 January 2011.

(3) Paragraphs *(b)*, *(c)*, *(f)* and *(j)* of subsection (1) are deemed to have come into operation on 1 March 2011 and apply in respect of amounts received or accrued on or after that date.

(4) Paragraphs *(g)* and *(h)* of subsection (1) come into operation on 1 March 2012 and apply in respect of amounts received or accrued on or after that date.

(5) Paragraph *(i)* of subsection (1) is deemed to have come into operation on 3 June 2011 and applies in respect of years of assessment ending on or after that date.

(6) Paragraph *(k)* of subsection (1) comes into operation on 1 March 2012.

(7) Paragraphs *(m)*, *(o)* and *(q)* of subsection (1) come into operation on 1 April 2012.

(8) Paragraph *(p)* of subsection (1) comes into operation—

(a) insofar as it applies to any person that is a natural person, deceased estate, insolvent estate or special trust, on 1 March 2012 and applies in respect of years of assessment commencing on or after that date; and

(b) insofar as it applies to any person that is a person other than a natural person, deceased estate, insolvent estate or special trust, on 1 April 2012 and applies in respect of years of assessment commencing on or after that date.

(9) Paragraph *(r)* of subsection (1) comes into operation on 1 January 2012.

(10) Paragraph *(s)* of subsection (1) comes into operation on 1 January 2012 and applies in respect of all receipts and accruals in respect of films of which principal photography commences on or after that date.

Insertion of section 10B in Act 58 of 1962

29. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 10A of the following section:

"**Exemption of foreign dividends and dividends paid or declared by headquarter companies**

10B. (1) For the purposes of this section, **'foreign dividend'** means any—

(a) foreign dividend as defined in section 1; or

(b) dividend paid or declared by a headquarter company.

(2) Subject to subsection (4), there must be exempt from normal tax any foreign dividend received by or accrued to a person—

(a) 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 10 per cent of the total equity shares and voting rights in the company declaring the foreign dividend;

(b) if that person is a company and the foreign dividend is paid or declared by another foreign company that is resident in the same country as that company;

(c) who is a resident to the extent that the foreign dividend does not exceed the aggregate of all amounts which are included in the income of that resident in terms of section 9D in any year of assessment, which relate to the net income of—

(i) the company declaring the foreign dividend; or

(ii) any other company which has been included in the income of that resident in terms of section 9D by virtue of that resident's

(cc) ’n onderlinge vereniging gelisensieer ingevolge artikel 30 van die Wet op Vergoeding vir Beroepsbeserings en -siektes, 1993 (Wet No. 130 van 1993), om die besigheid te dryf van versekering van werkgewers teen hulle aanspreeklikheid teenoor werknemers, indien die vergoeding betaal deur die onderlinge vereniging identies is aan vergoeding wat in soortgelyke omstandighede ingevolge daardie Wet betaalbaar sou wees:”; en

(s) deur in subartikel (1) paragraaf *(z*G*)* te skrap.

(2) Paragrawe *(a)*, *(e)*, *(l)* en *(n)* van subartikel (1) word geag op 1 Januarie 2011 in werking te getree het.

(3) Paragrawe *(b)*, *(c)*, *(f)* en *(j)* van subartikel (1) word geag op 1 Maart 2011 in werking te getree het en is van toepassing ten opsigte van bedrae op of na daardie datum ontvang of toegeval.

(4) Paragrawe *(g)* en *(h)* van subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van bedrae ontvang of toegeval op of na daardie datum.

(5) Paragraaf *(i)* van subartikel (1) word geag op 3 Junie 2011 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum eindig.

(6) Paragraaf *(k)* van subartikel (1) tree op 1 Maart 2012 in werking.

(7) Paragrawe *(m)*, *(o)* en *(q)* van subartikel (1) tree op 1 April 2012 in werking.

(8) Paragraaf *(p)* van subartikel (1) tree in werking—

(a) wat betref ’n persoon wat ’n natuurlike persoon, gestorwe boedel, insolvente boedel of spesiale trust is, op 1 Maart 2012 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin; en

(b) wat betref ’n persoon wat ’n persoon behalwe ’n natuurlike persoon, gestorwe boedel, insolvente boedel of spesiale trust is, op 1 April 2012 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(9) Paragraaf *(r)* van subartikel (1) tree op 1 Januarie 2012 in werking.

(10) Paragraaf *(s)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van alle ontvangste en toevallings ten opsigte van rolprente waarvan die hoof fotografie op of na daardie datum begin.

Invoeging van artikel 10B in Wet 58 van 1962

29. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 10A die volgende artikel in te voeg:

“**Vrystelling van buitelandse dividende en dividende betaal of verklaar deur hoofkwartiermaatskappye**

10B. (1) By die toepassing van hierdie artikel beteken **‘buitelandse dividend’** ’n—

(a) buitelandse dividend soos omskryf in artikel 1; of

(b) dividend deur ’n hoofkwartiermaatskappy betaal of verklaar.

(2) Behoudens subartikel (4) word daar vrygestel van normale belasting ’n buitelandse dividend ontvang deur of toegeval aan ’n persoon—

(a) indien daardie persoon (hetsy alleen of tesame met enige ander maatskappy wat deel uitmaak van dieselfde groep van maatskappye as daardie persoon) minstens 10 persent hou van die totale ekwiteitsaandele en stemregte in die maatskappy wat die buitelandse dividend verklaar;

(b) indien daardie persoon ’n maatskappy is en die buitelandse dividend betaal of verklaar word deur ’n ander buitelandse maatskappy wat ’n inwoner is in dieselfde land as daardie maatskappy;

(c) wat ’n inwoner is namate die buitelandse dividend nie die totaal oorskry nie van alle bedrae wat ingevolge artikel 9D in enige jaar van aanslag by die inkomste van daardie inwoner ingesluit word, wat betrekking het op die netto inkomste van—

(i) die maatskappy wat die buitelandse dividend verklaar; of

(ii) ’n ander maatskappy, wat ingesluit is by die inkomste van daardie inwoner ingevolge artikel 9D uit hoofde van daardie inwoner se deelnemende regte in daardie ander maatskappy

participation rights in that other company held indirectly through the company declaring the foreign dividend,

reduced by—

(aa) the amount of any foreign tax payable in respect of the amounts so included in that resident's income; and

(bb) so much of all foreign dividends received by or accrued to that resident at any time from any company contemplated in subparagraph (i) or (ii), as was—

(A) exempt from tax in terms of paragraph *(a)*, *(b)* or *(d)*; or

(B) previously not included in the income of that resident by virtue of any prior inclusion in terms of section 9D; or

(d) to the extent that the foreign dividend is received by or accrues to that person in respect of a listed share and does not consist of a distribution of an asset *in specie.*

(3) In addition to the exemption provided for in subsection (2), there must be exempt from normal tax so much of the amount of the aggregate of any foreign dividends received by or accrued to a person during a year of assessment as—

(a) is not exempt from normal tax in terms of subsection (2) for that year of assessment; and

(b) does not during the year of assessment exceed an amount determined in accordance with the following formula:

$$A = B \times C$$

in which formula:

(i) 'A' represents the amount to be exempted for a year of assessment in terms of this paragraph;

(ii) 'B' represents—

(aa) where the person is a natural person, deceased estate, insolvent estate or special trust, the ratio of the number 30 to the number 40; or

(bb) where the person is a person other than a natural person, deceased estate, insolvent estate or special trust, the ratio of the number 18 to the number 28; and

(iii) 'C' represents the aggregate of any foreign dividends received by or accrued to the person during a year of assessment that is not exempt from normal tax in terms of subsection (2).

(4) Subsections (2)*(a)* and (2)*(b)* do not apply in respect of any foreign dividend received by or accrued to any person—

(a) if—

(i) *(aa)* any amount of that foreign dividend is determined directly or indirectly with reference to; or

(bb) that foreign dividend arises directly or indirectly from,

any amount payable by any person to any other person; and

(ii) the amount so paid or payable is deductible by the person and—

(aa) is not subject to normal tax in the hands of that other person; or

(bb) where that other person is a controlled foreign company, is not taken into account in determining the net income, contemplated in section 9D(2A), of that controlled foreign company; or

indirek gehou deur middel van die maatskappy wat die buitelandse dividend verklaar,

verminder deur—

(aa) die bedrag van enige buitelandse belasting betaalbaar ten opsigte van die bedrae aldus by die inkomste van daardie inwoner ingesluit; en

(bb) soveel van alle buitelandse dividende te eniger tyd deur of aan daardie inwoner toegeval of ontvang van 'n maatskappy beoog in subparagraaf (i) of (ii), as wat—

(A) ingevolge paragraaf *(a)*, *(b)* of *(d)* van belasting vrygestel is; of

(B) uit hoofde van 'n vroeëre insluiting ingevolge artikel 9D tevore nie by die inkomste van daardie inwoner ingesluit is nie; of

(d) namate die buitelandse dividend ontvang word deur of toeval aan daardie persoon ten opsigte van 'n genoteerde aandeel en nie uit 'n uitkering van 'n bate *in specie* bestaan nie.

(3) Bykomstig tot die vrystelling waarvoor in subartikel (2) voorsiening gemaak word, word vrygestel van normale belasting soveel van die bedrag van die totaal van enige buitelandse dividende ontvang deur of toegeval aan 'n persoon gedurende 'n jaar van aanslag as wat—

(a) nie ingevolge subartikel (2) vir daardie jaar van aanslag van normale belasting vrygestel word nie; en

(b) nie gedurende die jaar van aanslag 'n bedrag oorskry wat ooreenkomstig die volgende formule bepaal word nie:

$$A = B \times C$$

in welke formule:

(i) 'A' die bedrag voorstel wat vir 'n jaar van aanslag ingevolge hierdie paragraaf vrygestel staan te word;

(ii) 'B'—

(aa) waar die persoon 'n natuurlike persoon, gestorwe boedel, insolvente boedel of spesiale trust is, die verhouding van die getal 30 tot die getal 40 voorstel; of

(bb) waar die persoon 'n persoon behalwe 'n natuurlike persoon, gestorwe boedel, insolvente boedel of spesiale trust is, die verhouding van die getal 18 tot die getal 28 voorstel; en

(iii) 'C' die totaal voorstel van buitelandse dividende ontvang deur of toegeval aan die persoon gedurende 'n jaar van aanslag wat nie ingevolge subartikel (2) van normale belasting vrygestel word nie.

(4) Subartikels (2)*(a)* en (2)*(b)* is nie van toepassing nie ten opsigte van 'n buitelandse dividend ontvang deur of toegeval aan 'n persoon—

(a) indien—

(i) *(aa)* enige bedrag van daardie buitelandse dividend bepaal word direk of indirek met verwysing na; of

(bb) daardie buitelandse dividend direk of indirek voortspruit uit,

'n bedrag betaalbaar deur 'n persoon aan enige ander persoon; en

(ii) die bedrag aldus betaal of betaalbaar aftrekbaar is deur die persoon en—

(aa) nie aan normale belasting in die hande van daardie ander persoon onderhewig is nie; of

(bb) waar daardie ander persoon 'n beheerde buitelandse maatskappy is, nie in berekening gebring word by die bepaling van die netto inkomste, beoog in artikel 9D(2A), van daardie beheerde buitelandse maatskappy nie; of

(b) from any portfolio contemplated in paragraph *(e)*(ii) of the definition of 'company' in section 1.

(5) The exemptions from tax provided by this section do not extend to any payments out of any foreign dividend received by or accrued to any person.".

(2) Subsection (1) comes into operation—

(a) insofar as it applies to any person that is a natural person, deceased estate, insolvent estate or special trust, on 1 March 2012 and applies in respect of dividends received or accrued on or after that date; and

(b) insofar as it applies to any person that is a person other than a natural person, deceased estate, insolvent estate or special trust, on 1 April 2012 and applies in respect of dividends received or accrued on or after that date.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 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, section 14 of Act 17 of 2009 and section 19 of Act 7 of 2010

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

(a) by the deletion of paragraph *(b*A*)*;

(b) by the deletion of paragraph *(h*A*)*;

(c) by the substitution in paragraph *(n)*(i)*(aa)* for subitem (A) of the following subitem:

"(A) 15 per cent of an amount equal to the amount remaining after deducting from, or setting off against, the income derived by the taxpayer during the year of assessment (excluding income derived from any retirement-funding employment (being the income or part thereof referred to in the definition of 'retirement-funding employment' in section 1), and any retirement fund lump sum benefit **[and]**, retirement fund lump sum withdrawal benefit and severance benefit) the deductions or assessed losses admissible against such income under this Act (excluding this paragraph, sections 17A, 18 and 18A and items *(c)* to *(i)*, inclusive, of paragraph 12(1) of the First Schedule); or"; and

(d) by the substitution for paragraph *(w)* of the following paragraph:

"*(w)* expenditure incurred by a taxpayer in respect of any premiums payable under a policy of insurance (other than a policy of insurance solely against an accident as defined in section 1 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993)) of which the taxpayer is the policyholder, where—

(b) van 'n portefeulje beoog in paragraaf *(e)*(ii) van die omskrywing van 'maatskappy' in artikel 1.

(5) Die vrystellings van belasting waarvoor in hierdie artikel voorsiening gemaak word, word nie uitgebrei nie tot enige betalings uit 'n buitelandse dividend ontvang deur of toegeval aan 'n persoon.".

(2) Subartikel (1) tree in werking—

(a) wat betref 'n persoon wat 'n natuurlike persoon, gestorwe boedel, insolvente boedel of spesiale trust is, op 1 Maart 2012 en is van toepassing ten opsigte van dividende op of na daardie datum ontvang of toegeval; en

(b) wat betref 'n persoon wat 'n persoon behalwe 'n natuurlike persoon, gestorwe boedel, insolvente boedel of spesiale trust is, op 1 April 2012 en is van toepassing ten opsigte van dividende op of na daardie datum ontvang of toegeval.

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 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, artikel 14 van Wet 17 van 2009 en artikel 19 van Wet 7 van 2010

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

(a) deur paragraaf *(b*A*)* te skrap;

(b) deur paragraaf *(h*A*)* te skrap;

(c) deur in paragraaf *(n)*(i)*(aa)* subitem (A) deur die volgende subitem te vervang:

"(A) 15 persent van 'n bedrag gelyk aan die bedrag wat oorbly na aftrekking van, of verrekening teen, die inkomste deur die belastingpligtige gedurende die jaar van aanslag verkry (uitgesonderd inkomste verkry uit enige uittredingfunderingsdiens (synde die inkomste of gedeelte daarvan bedoel in die omskrywing van 'uittredingfunderingsdiens' in artikel 1), en enige uittreefonds enkelbedragvoordeel **[en]**, uittreefonds enkelbedragonttrekkingsvoordeel en skeidingsvoordeel) van die aftrekkings of vasgestelde verliese wat teen daardie inkomste ingevolge hierdie Wet (behalwe hierdie paragraaf, artikels 17A, 18 en 18A en items *(c)* tot en met *(i)* van paragraaf 12(1) van die Eerste Bylae) toelaatbaar is; of"; en

(d) deur paragraaf *(w)* deur die volgende paragraaf te vervang:

"*(w)* uitgawes aangegaan deur 'n belastingpligtige ten opsigte van enige premies betaalbaar ingevolge 'n versekeringspolis (behalwe 'n versekeringspolis slegs teen 'n ongeluk soos in artikel 1 van die Wet op Vergoeding vir Beroepsbeserings en -siektes, 1993 (Wet No. 130 van 1993), omskryf) waarvan die belastingpligtige die polishouer is, waar—

(i) *(aa)* the policy relates to the death, disablement or severe illness of an employee or director of the taxpayer; and

(bb) the amount of expenditure incurred by the taxpayer in respect of the premiums payable under the policy is deemed to be a taxable benefit granted to an employee or director of the taxpayer in terms of paragraph 2*(k)* of the Seventh Schedule; 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;

(bb) the policy is a risk policy with no cash value or surrender value;

(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 creditor of the taxpayer as security for a debt of the taxpayer; and

(dd) in respect of any policy entered into—

(A) on or after 1 March 2012, the policy agreement states that this paragraph applies in respect of premiums payable under that policy; or

(B) before 1 March 2012, it is stated in an addendum to the policy agreement by no later than 31 August 2012 that this paragraph applies in respect of premiums payable under that policy;".

(2) Paragraphs *(a)* and *(b)* of subsection (1) come into operation on 1 January 2012 and apply in respect of years of assessment commencing on or after that date.

(3) Paragraph *(c)* of subsection (1) is deemed to have come into operation on 1 March 2011.

(4) Paragraph *(d)* of subsection (1) comes into operation on 1 March 2012 and applies in respect of premiums incurred on or after that date.

Repeal of section 11C of Act 58 of 1962

31. (1) The Income Tax Act, 1962, is hereby amended by the repeal of section 11C.

(2) Subsection (1) comes into operation on 1 April 2012.

Amendment of section 11D of Act 58 of 1962

32. (1) Section 11D of the Income Tax Act, 1962, is hereby amended by the substitution for subsections (1) to (10) of the following subsections:

"(1) For the purposes of this section **'research and development'** means—

(a) systematic investigative or systematic experimental activities of which the result is uncertain for the purpose of—

(i) discovering non-obvious scientific or technological knowledge; or

(ii) creating—

(aa) an invention as defined in section 2 of the Patents Act, 1978 (Act No. 57 of 1978);

(bb) a design as defined in section 1 of the Designs Act, 1993 (Act No. 195 of 1993), that qualifies for registration under section 14 of that Act;

(cc) a computer program as defined in section 1 of the Copyright Act, 1978 (Act No. 98 of 1978); or

(i) *(aa)* die polis betrekking het op die dood, ongeskikstelling of ernstige siekte van 'n werknemer of direkteur van die belastingpligtige; en

(bb) die bedrag van uitgawes aangegaan deur die belastingpligtige ten opsigte van die premies betaalbaar ingevolge die polis ingevolge paragraaf 2*(k)* van die Sewende Bylae geag word 'n belasbare voordeel toegestaan aan 'n werknemer of direkteur van die belastingpligtige te wees; of

(ii) *(aa)* die belastingpligtige verseker word teen enige verlies ten gevolge van die dood, ongeskikstelling of ernstige siekte van 'n werknemer of direkteur van die belastingpligtige;

(bb) die polis 'n risikopolis is met geen kontantwaarde of afloswaarde nie;

(cc) die polis nie die eiendom van enige persoon buiten die belastingpligtige is nie ten tye van die betaling van die premie: Met dien verstande dat geen premie betaal as 'n aftrekking geweier word nie ten gevolge daarvan dat die polis deur 'n krediteur van die belastingpligtige as sekuriteit vir 'n skuld van die belastingpligtige gehou word; en

(dd) ten opsigte van 'n polis—

(A) op of na 1 Maart 2012 aangegaan, die polisooreenkoms verklaar dat hierdie paragraaf van toepassing is ten opsigte van premies ingevolge daardie polis betaalbaar; of

(B) voor 1 Maart 2012 aangegaan, teen nie later nie as 31 Augustus 2012 in 'n aanhangsel tot die polisooreenkoms verklaar word dat hierdie paragraaf van toepassing is ten opsigte van premies ingevolge daardie polis betaalbaar;";

(2) Paragrawe *(a)* en *(b)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragraaf *(c)* van subartikel (1) word geag op 1 Maart 2011 in werking te getree het.

(4) Paragraaf *(d)* van subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing op premies op of na daardie datum aangegaan.

Herroeping van artikel 11C van Wet 58 van 1962

31. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur artikel 11C te herroep.

(2) Subartikel (1) tree op 1 April 2012 in werking.

Vervanging van artikel 11D van Wet 58 van 1962

32. (1) Artikel 11D van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikels (1) tot (10) deur die volgende artikels te vervang:

"(1) By die toepassing van hierdie artikel beteken **'navorsing en ontwikkeling'**—

(a) sistematies ondersoekende of sistematies eksperimentele bedrywighede waarvan die uitkoms onseker is met as oogmerk—

(i) om nuwe nie-voor-die-hand-liggende wetenskaplike of tegniese kennis te ontdek; of

(ii) die skepping van—

(aa) 'n uitvinding soos omskryf in artikel 2 van die Wet op Patente, 1978 (Wet No. 57 van 1978);

(bb) 'n model soos omskryf in artikel 1 van die Wet op Modelle, 1993 (Wet No. 195 van 1993), wat kwalifiseer vir registrasie ingevolge artikel 14 van daardie Wet;

(cc) 'n rekenaarprogram soos omskryf in artikel 1 van die Wet op Outeursreg, 1978 (Wet No. 98 van 1978); of

(dd) knowledge essential to the use of such invention, design or computer program; or

(b) developing or significantly improving any invention, design, computer program or knowledge contemplated in paragraph *(a)* if that development or improvement relates to any—
(i) new or improved function;
(ii) improvement of performance;
(iii) improvement of reliability; or
(iv) improvement of quality,
of that invention, design, computer program or knowledge.

(2) For the purposes of determining the taxable income of a taxpayer in respect of any year of assessment there shall be allowed as a deduction from the income of that taxpayer an amount equal to so much of any expenditure actually incurred by that taxpayer directly and solely in respect of research and development undertaken in the Republic if that expenditure is incurred—
(a) in the production of income; and
(b) in the carrying on of any trade.

(3) In addition to the deduction allowable in terms of subsection (2), a taxpayer that is a company may deduct an amount equal to 50 per cent of the expenditure contemplated in subsection (2) if—
(a) that research and development is approved by the Minister of Science and Technology in terms of subsection (9);
(b) that expenditure is incurred in respect of research and development carried on by that taxpayer; and
(c) that expenditure is incurred on or after the date of receipt of the application by the Department of Science and Technology for approval of that research and development in terms of subsection (9).

(4) In addition to the deduction allowable in terms of subsection (2), where any amount of expenditure is incurred by a taxpayer to fund expenditure of another person carrying on research and development on behalf of that taxpayer, the taxpayer may deduct an amount equal to 50 per cent of the expenditure contemplated in subsection (2)—
(a) if that research and development is approved by the Minister of Science and Technology in terms of subsection (9);
(b) if that expenditure is incurred in respect of research and development carried on by that taxpayer;
(c) to the extent that the other person carrying on the research and development is—
(i) *(aa)* an institution, board or body that is exempt from normal tax under section 10(1)*(c*A*)*; or
(bb) the Council for Scientific and Industrial Research; or
(ii) a company forming part of the same group of companies, as defined in section 41, if the company that carries on the research and development does not claim a deduction under subsection (3); and
(d) if that expenditure is incurred on or after the date of receipt of the application by the Department of Science and Technology for approval of that research and development in terms of subsection (9).

(5) Where a company funds expenditure incurred by another company as contemplated in subsection (4)*(c)*(ii), any deduction under that subsection by the company that funds the expenditure must be limited to an amount of 50 per cent of the actual expenditure incurred directly and solely in respect of that research and development carried on by the other company that is being funded.

(6) For the purposes of subsections (3) and (4), a person carries on research and development if that person may determine or alter the methodology of the research.

(7) Where any government grant is received by or accrues to a taxpayer to fund expenditure in respect of any research and development, an amount equal to the amount that is funded must not be taken into account for purposes of the deduction under subsection (3) or (4).

(dd) kennis wat noodsaaklik is vir die gebruik van so 'n uitvinding, model of rekenaarprogram; of

(b) ontwikkeling of beduidende verbetering van enige uitvinding, model, rekenaarprogram of kennis in paragraaf *(a)* beoog indien daardie ontwikkeling of verbetering betrekking het op enige—

(i) nuwe of verbeterde funksie;

(ii) verbetering van prestasie;

(iii) verbetering van betroubaarheid; of

(iv) verbetering van kwaliteit,

van daardie uitvinding, model, rekenaarprogram of kennis.

(2) By die bepaling van die belasbare inkomste van 'n belastingpligtige ten opsigte van 'n jaar van aanslag word daar toegelaat as 'n aftrekking van die inkomste van daardie belastingpligtige 'n bedrag gelyk aan soveel van enige uitgawes werklik aangegaan deur daardie belastingpligtige direk en uitsluitlik ten opsigte van navorsing en ontwikkeling in die Republiek onderneem indien daardie uitgawes aangegaan word—

(a) in die voortbrenging van inkomste; en

(b) in die beoefening van 'n beroep.

(3) Benewens die aftrekking ingevolge subartikel (2) toelaatbaar kan 'n belastingpligtige wat 'n maatskappy is 'n bedrag gelyk aan 50 persent van die uitgawes beoog in subartikel (2) aftrek, indien—

(a) daardie navorsing en ontwikkeling ingevolge subartikel (9) deur die Minister van Wetenskap en Tegnologie goedgekeur word;

(b) daardie uitgawes aangegaan word ten opsigte van navorsing en ontwikkeling deur daardie belastingpligtige beoefen; en

(c) daardie uitgawes aangegaan word op of na die datum van ontvangs deur die Departement van Wetenskap en Tegnologie van die aansoek om goedkeuring van daardie navorsing en ontwikkeling ingevolge subartikel (9).

(4) Benewens die aftrekking ingevolge subartikel (2) toelaatbaar, waar 'n bedrag van uitgawes deur 'n belastingpligtige aangegaan word om uitgawes van 'n ander persoon wat navorsing en ontwikkeling ten behoewe van daardie belastingpligtige beoefen, te befonds, kan die belastingpligtige 'n bedrag gelyk aan 50 persent van die uitgawes beoog in subartikel (2) aftrek—

(a) indien daardie navorsing en ontwikkeling ingevolge subartikel (9) deur die Minister van Wetenskap en Tegnologie goedgekeur word;

(b) indien daardie uitgawes aangegaan word ten opsigte van navorsing en ontwikkeling deur daardie belastingpligtige beoefen;

(c) namate die ander persoon wat die navorsing en ontwikkeling beoefen—

(i) *(aa)* 'n instelling, raad of liggaam is wat ingevolge artikel 10(1)*(c*A*)* van normale belasting vrygestel is; of

(bb) die Wetenskaplike- en Nywerheidnavorsingsraad is; of

(ii) 'n maatskappy is wat deel uitmaak van dieselfde groep van maatskappye, soos omskryf in artikel 41, indien die maatskappy wat die navorsing en ontwikkeling beoefen nie 'n aftrekking ingevolge subartikel (3) eis nie; en

(d) indien daardie uitgawes aangegaan word op of na die datum van ontvangs deur die Departement van Wetenskap en Tegnologie van die aansoek om goedkeuring van daardie navorsing en ontwikkeling ingevolge subartikel (9).

(5) Waar 'n maatskappy uitgawes aangegaan deur 'n ander maatskappy befonds soos in subartikel (4)*(c)*(ii) beoog, word enige aftrekking ingevolge daardie subartikel deur die maatskappy wat die uitgawes befonds beperk tot 'n bedrag van 50 persent van die werklike uitgawes aangegaan direk en uitsluitlik ten opsigte van daardie navorsing en ontwikkeling beoefen deur die ander maatskappy wat befonds word.

(6) By die toepassing van subartikels (3) en (4) beoefen 'n persoon navorsing en ontwikkeling indien daardie persoon die metodologie van die navorsing kan bepaal of verander.

(7) Waar 'n staatstoekenning ontvang word deur of toeval aan 'n belastingpligtige om uitgawes ten opsigte van enige navorsing en ontwikkeling te befonds, word 'n bedrag gelyk aan die bedrag wat befonds word nie vir die doeleindes van die aftrekking ingevolge subartikel (3) of (4) in berekening gebring nie.

(8) No deduction shall be allowed under this section for expenditure incurred in respect of—
(a) market research, market testing or sales promotion;
(b) administration, financing, compliance or similar expenditure;
(c) routine testing, analysis, collection of information or quality control in the normal course of business;
(d) development of internal business processes unless those internal business processes are mainly intended for sale or for granting the use or right of use or the grant of permission to use thereof;
(e) social science research, including the arts and humanities;
(f) oil and gas or mineral exploration or prospecting, except research and development carried on to develop technology used for that exploration or prospecting;
(g) the creation or development of financial instruments or financial products;
(h) the creation or enhancement of trademarks or goodwill; and
(i) any expenditure contemplated in section 11*(g*B*)* or *(g*C*)*.

(9) The Minister of Science and Technology must approve any research and development being carried on or funded for the purposes of subsections (3) and (4) having regard to—
(a) the innovative nature of the research and development;
(b) the extent to which carrying on that research and development requires specialised skills; and
(c) such other criteria as the Minister of Science and Technology in consultation with the Minister of Finance may prescribe by regulation.

(10) If research and development is approved under subsection (9) and—
(a) any material fact changes which would have had the effect that approval under subsection (9) would not have been granted had that fact been known to the Minister of Science and Technology at the time of granting approval; or
(b) the taxpayer carrying on that research and development fails to submit a report to the committee as required by subsection (13),

the Minister of Science and Technology may, after taking into account the recommendations of the committee, withdraw the approval granted in respect of that research and development with effect from a date specified by that Minister.".

(2) Subsection (1) comes into operation on 1 April 2012 unless a later date is determined by the Minister by notice in the *Gazette* and applies in respect of expenditure incurred in respect of research and development on or after 1 April 2012 or such later date determined by the Minister by notice in the *Gazette* but before 1 April 2022.

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

33. (1) Section 12C of the Income Tax Act, 1962, is hereby amended—
(a) by the insertion in subsection (1) after paragraph *(g)* of the following paragraph:
"*(g*A*)* new or unused machinery or plant, which is owned by a taxpayer, or acquired by a 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

(8) Geen aftrekking word ingevolge hierdie artikel toegelaat nie vir uitgawes aangegaan ten opsigte van—

(a) marknavorsing, marktoetsing of verkoopsbevordering;

(b) administrasie, finansiering, nakoming of soortgelyke uitgawes;

(c) roetinetoetse, ontleding, versameling van inligting of kwaliteitsbeheer in die normale verloop van besigheid;

(d) ontwikkeling van interne besigheidsprosesse tensy daardie interne besigheidsprosesse hoofsaaklik bestem is vir verkoop of vir die verlening van die gebruik of reg van gebruik of die verlening van toestemming tot gebruik daarvan;

(e) navorsing in die menswetenskappe, met inbegrip van die kunste en geesteswetenskappe;

(f) olie en gas of mineraal eksplorasie of prospektering, behalwe navorsing en ontwikkeling beoefen om tegnologie gebruik vir daardie eksplorasie of prospektering te ontwikkel;

(g) die skepping of ontwikkeling van finansiële instrumente of finansiële produkte;

(h) die skepping of uitbouing van handelsmerke of goeie wil; en

(i) enige uitgawes in artikel 11*(g*B*)* of *(g*C*)* beoog.

(9) Die Minister van Wetenskap en Tegnologie moet by die toepassing van subartikels (3) en (4) enige navorsing en ontwikkeling goedkeur wat beoefen word of befonds word met inagneming van—

(a) die innoverende aard van die navorsing en ontwikkeling;

(b) die mate waartoe die beoefening van daardie navorsing en ontwikkeling gespesialiseerde vaardighede vereis; en

(c) die ander maatstawwe wat die Minister van Wetenskap en Tegnologie in oorleg met die Minister van Finansies by regulasie voorskryf;

(10) Indien navorsing en ontwikkeling kragtens subartikel (9) goedgekeur word en—

(a) enige wesenlike feit verander, wat ten gevolge sou gehad het dat goedkeuring ingevolge subartikel (9) nie verleen sou word nie indien daardie feit aan die Minister van Wetenskap en Tegnologie bekend was ten tye van die verlening van goedkeuring; of

(b) die belastingpligtige wat daardie navorsing en ontwikkeling beoefen, versuim om 'n verslag aan die komitee voor te lê soos deur subartikel (13) vereis,

kan die Minister van Wetenskap en Tegnologie, na inagneming van die aanbevelings van die komitee, die goedkeuring verleen ten opsigte van daardie navorsing en ontwikkeling intrek met ingang van 'n datum deur daardie Minister vermeld.”.

(2) Subartikel (1) tree op 1 April 2012 in werking, tensy 'n later datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal word, en is van toepassing ten opsigte van uitgawes aangegaan ten opsigte van daardie navorsing en ontwikkeling op of na 1 April 2012 of die latere datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal, maar voor 1 April 2022.

Wysiging van artikel 12C van Wet 58 van 1962, soos ingevoeg deur artikel 14 van Wet 101 van 1990 en gewysig deur artikel 11 van Wet 113 van 1993, artikel 7 van Wet 140 van 1993, artikel 11 van Wet 21 van 1994, artikel 13 van Wet 21 van 1995, artikel 10 van Wet 46 van 1996, artikel 18 van Wet 59 van 2000, artikel 11 van Wet 19 van 2001, artikel 15 van Wet 30 van 2002, artikel 30 van Wet 45 van 2003, artikel 8 van Wet 9 van 2005, artikel 20 van Wet 31 van 2005, artikel 14 van Wet 8 van 2007, artikel 22 van Wet 35 van 2007, artikel 20 van Wet 60 van 2008 en artikel 19 van Wet 17 van 2009

33. Artikel 12C van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) na paragraaf *(g)* die volgende paragraaf in te voeg:

“*(g*A*)* nuwe of ongebruikte masjinerie of installasie, waarvan 'n belastingpligtige die eienaar is, of wat deur 'n belastingpligtige verkry word as koper ingevolge 'n ooreenkoms beoog in paragraaf *(a)* van die omskrywing van ‘paaiementkrediet-ooreenkoms’ in artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), en wat vir

(Act No. 89 of 1991), and is first brought into use by that taxpayer for purposes of research and development as defined in section 11D;";

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

"*(h)* improvement (other than repairs) to any machinery, plant, implement, utensil or article referred to in paragraph *(a)*, *(b)*, *(c)*, *(d)* **[or]**, *(e)* or *(g*A*)*, which is during the year of assessment used as contemplated in that paragraph,";

(c) by the addition in subsection (1) to the proviso of the following paragraph:

"*(d)* any new or unused machinery or plant referred to in paragraph *(g*A*)* of this subsection or improvement referred to in paragraph *(h)* of this subsection, is or was—

(i) acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement on or after 1 January 2012; and

(ii) brought into use by the taxpayer on or after that date for the purpose of research and development as defined in section 11D,"; and

(d) by the addition to subsection (1) of the following further proviso:

": Provided further that where any machinery, plant, implement, utensil, article or improvement qualifying for an allowance under this section is mounted on or affixed to any concrete or other foundation or supporting structure and the Commissioner is satisfied that—

(a) the foundation or supporting structure is designed for such machinery, plant, implement, utensil, article or improvement and constructed in such manner that it is or should be regarded as being integrated with the machinery, plant, implement, utensil, article or improvement; and

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

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

(2) Paragraphs *(a)*, *(b)* and *(c)* of subsection (1) come into operation on 1 April 2012 unless a later date is determined by the Minister by notice in the *Gazette* and apply in respect of expenditure incurred in respect of research and development on or after 1 April 2012 or such later date determined by the Minister by notice in the *Gazette* but before 1 April 2022.

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 24 of Act 9 of 2006, section 14 of Act 20 of 2006, section 15 of Act 8 of 2007, section 25 of Act 35 of 2007, section 13 of Act 3 of 2008, section 23 of Act 60 of 2008, section 21 of Act 17 of 2009 and section 23 of Act 7 of 2010

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

(a) by the substitution in subsection (4)*(c)* for subparagraph (i) of the following subparagraph:

"(i) any income in the form of dividends, foreign dividends, royalties, rental derived in respect of immovable property, annuities or income of a similar nature;"; and

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

"*(d)* **'personal service'**, in relation to a company, co-operative or close corporation, means any service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, consulting, draftsmanship, education, engineering, financial service

die eerste keer deur daardie belastingpligtige met die oog op navorsing en ontwikkeling soos omskryf in artikel 11D in gebruik geneem word;'';

(b) deur in subartikel (1) paragraaf *(h)* deur die volgende paragraaf te vervang:

''*(h)* verbetering (behalwe herstelwerk) aan enige masjinerie, installasie, gereedskap, werktuig of artikel bedoel in paragraaf *(a)*, *(b)*, *(c)*, *(d)* **[of]**, *(e)* of *(g*A*)* wat gedurende die jaar van aanslag gebruik word soos in daardie paragraaf beoog,'';

(c) deur in subartikel (1) by die voorbehoudsbepaling die volgende paragraaf te voeg:

''*(d)* enige nuwe of ongebruikte masjinerie of installasie bedoel in paragraaf *(g*A*)* van hierdie subartikel of verbetering bedoel in paragraaf *(h)* van hierdie subartikel—

(i) deur die belastingpligtige verkry word of is ingevolge 'n ooreenkoms formeel en finaal geteken deur elke party by die ooreenkoms op of na 1 Januarie 2012; en

(ii) deur die belastingpligtige op of na daardie datum in gebruik geneem word of is met die oog op navorsing en ontwikkeling soos in artikel 11D omskryf,''; en

(d) deur by subartikel (1) die volgende verdere voorbehoudsbepaling te voeg:

'': Met dien verstande voorts dat waar enige masjinerie, installasie, gereedskap, werktuig, artikel of verbetering wat kwalifiseer vir 'n vermindering ingevolge hierdie artikel gemonteer is op of vasgeheg is aan enige beton- of ander fondament of steunende bouwerk en die Kommissaris oortuig is dat—

(a) die fondament of steunende bouwerk vir sodanige masjinerie, installasie, gereedskap, werktuig, artikel of verbetering ontwerp is en op so 'n wyse opgerig is dat dit met die masjinerie, installasie, gereedskap, werktuig, artikel of verbetering geïntegreer is of dat dit as aldus geïntegreer beskou moet word; en

(b) die nuttige lewe van die fondament of steunende bouwerk beperk word of sal word tot die nuttige lewe van die masjinerie, installasie, gereedskap, werktuig, artikel of verbetering wat daarop gemonteer of daaraan vasgeheg is,

word die fondament of steunende bouwerk geag deel uit te maak van die masjinerie, installasie, gereedskap, werktuig, artikel of verbetering wat daarop gemonteer of daaraan vasgeheg is''.

(2) Paragrawe *(a)*, *(b)* en *(c)* van subartikel (1) tree op 1 April 2012 in werking, tensy 'n later datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal word, en is van toepassing ten opsigte van uitgawes ten opsigte van navorsing en ontwikkeling aangegaan op of na 1 April 2012 of die later datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal, maar voor 1 April 2022.

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, artikel 21 van Wet 17 van 2009 en artikel 23 van Wet 7 van 2010

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

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

''(i) enige inkomste in die vorm van dividende, buitelandse dividende, tantième, huurinkomste verkry uit onroerende eiendom, jaargelde of inkomste van 'n dergelike aard;''; en

(b) deur in subartikel (4) paragraaf *(d)* deur die volgende paragraaf te vervang:

''*(d)* **'persoonlike diens'**, met betrekking tot 'n maatskappy, koöperasie of beslote korporasie, enige diens in die rigting van afslaery, aktuariële wetenskap, argitektuur, bestuurswese, eiendoms-makelary, finansiëlediens-makelary, gesondheid, ingenieurswese, inligtingstegnologie, joernalistiek, navorsing, onderrig, opmeting,

broking, health, information technology, journalism, law, management, real estate broking, research, sport, surveying, translation, valuation or veterinary science, if—

(i) that service is performed personally by any person who holds an interest in that company, co-operative or close corporation; and

(ii) that company, co-operative or close corporation does not throughout the year of assessment employ three or more full-time employees (other than any employee who is a shareholder of the company or member of the co-operative or close corporation, as the case may be, or who is a connected person in relation to a shareholder or member), who are on a full-time basis engaged in the business of that company, co-operative or close corporation of rendering that service.".

(2) Paragraph *(a)* of subsection (1) comes into operation on 1 April 2012.

Amendment of section 12G of Act 58 of 1962, as inserted by section 12 of Act 19 of 2001 and amended by section 29 of Act 60 of 2001, section 22 of Act 74 of 2002 and section 27 of Act 35 of 2007

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

(a) by the substitution in subsection (9) for paragraph *(b)* of the following paragraph:

"*(b)* any company carrying on a qualifying strategic industrial project during any year of **[assessments]** assessment fails to submit a report to the Minister of Trade and Industry, as required in terms of subsection (8); or"; and

(b) by the substitution in the proviso to subsection (9) for the words preceding subparagraph (i) of the following words:

"Provided that where the change in material facts or failure to meet any requirement, as contemplated in paragraph *(a)*, takes place as a result of any event which is outside the control of the company, that Minister may, taking into account the circumstances of that event**[,]**—".

(2) Subsection (1) comes into operation on 1 January 2012.

Amendment of section 12H of Act 58 of 1962, as substituted by section 23 of Act 17 of 2009 and amended by section 25 of Act 7 of 2010

36. Section 12H of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) for paragraph *(a)* of the definition of "registered learnership agreement" of the following paragraph:

"*(a)* a contract of apprenticeship entered into before 1 October **[2011]** 2016 and registered in terms of section 18 of the Manpower Training Act, 1981 (Act No. 56 of 1981), if the minimum period of training required in terms of the Conditions of Apprenticeship prescribed in terms of section 13(2)*(b)* of that Act before the apprentice is permitted to undergo a trade test is more than 12 months; or"; and

(b) by the substitution in subsection (1) for subparagraph (ii) of paragraph *(b)* of the definition of "registered learnership agreement" of the following subparagraph:

"(ii) entered into between a learner and an employer before 1 October **[2011]** 2016;".

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 and section 26 of Act 7 of 2010

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

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

ouditering, raadgewende dienste, regte, rekeningkunde, tekenkuns, sport, uitsaaiery, veeartsenykunde, vertaling of waardering indien—

(i) daardie diens persoonlik deur 'n persoon wat 'n belang in daardie maatskappy, koöperasie of beslote korporasie hou, uitgevoer word; en

(ii) daardie maatskappy, koöperasie of beslote korporasie nie gedurende die hele jaar van aanslag drie of meer voltydse werknemers (behalwe enige werknemer wat 'n aandeelhouer van die maatskappy of 'n lid van die koöperasie of beslote korporasie, na gelang van die geval, is of wat 'n verbonde persoon met betrekking tot 'n aandeelhouer of lid is), in diens neem wat op 'n voltydse basis betrokke is in die besigheid van daardie maatskappy, koöperasie of beslote korporasie om daardie diens te lewer nie.”.

(2) Paragraaf *(a)* van subartikel (1) tree op 1 April 2012 in werking.

Wysiging van artikel 12G van Wet 58 van 1962, soos ingevoeg deur artikel 12 van Wet 19 van 2001 en gewysig deur artikel 29 van Wet 60 van 2001, artikel 22 van Wet 74 van 2002 en artikel 27 van Wet 35 van 2007

35. (1) Artikel 12G van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (9) in die Engelse teks paragraaf *(b)* deur die volgende paragraaf te vervang:

“*(b)* any company carrying on a qualifying strategic industrial project during any year of **[assessments]** assessment fails to submit a report to the Minister of Trade and Industry, as required in terms of subsection (8); or”; en

(b) deur in die voorbehoudsbepaling tot subartikel (9) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“Met dien verstande dat waar die verandering in wesenlike feite of versuim om enige vereiste na te kom, soos in paragraaf (*a*) bedoel, plaasvind as gevolg van enige gebeurtenis wat buite die beheer van die maatskappy is, kan daardie Minister, na inagneming van die omstandighede van daardie gebeurtenis**[,]**—”.

(2) Subartikel (1) tree op 1 Januarie 2012 in werking.

Wysiging van artikel 12H van Wet 58 van 1962, soos vervang deur artikel 23 van Wet 17 van 2009 en gewysig deur artikel 25 van Wet 7 van 2010

36. (1) Artikel 12H van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(a)* van die omskrywing van “geregistreerde leerlingooreenkoms” deur die volgende paragraaf te vervang:

“*(a)* 'n kontrak van vakleerlingskap aangegaan voor 1 Oktober **[2011]** 2016 en geregistreer ingevolge artikel 18 van die Wet op Mannekragopleiding, 1981 (Wet No. 56 van 1981), indien die minimum tydperk van opleiding vereis ingevolge die ‘Voorwaardes van Vakleerlingskap’ voorgeskryf ingevolge artikel 13(2)*(b)* van daardie Wet voordat die vakleerling toegelaat word om 'n vaktoets af te lê meer as 12 maande is; of”; en

(b) deur in subartikel (1) subparagraaf (ii) van paragraaf *(b)* van die omskrywing van “geregistreerde leerlingooreenkoms” deur die volgende subparagraaf te vervang:

“(ii) voor 1 Oktober **[2011]** 2016 tussen 'n leerling en 'n werkgewer aangegaan is;”.

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 en artikel 26 van Wet 7 van 2010

37. (1) Artikel 12I van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (2) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* (i) 55 per cent of the cost of any new and unused manufacturing asset used in an industrial policy project with preferred status; or

(ii) 100 per cent of the cost of any new and unused manufacturing asset used in an industrial policy project with preferred status that is located within an industrial development zone; or";

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

"*(b)* (i) 35 per cent of the cost of any new and unused manufacturing asset used in any **[other]** industrial policy project other than an industrial policy project with preferred status; or

(ii) 75 per cent of the cost of any new and unused manufacturing asset used in any industrial policy project other than an industrial policy project with preferred status that is located within an industrial development zone,";

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

"in the year of assessment during which that asset is first brought into use by the company as owner thereof for the furtherance of the industrial policy project carried on by that company, if that asset was acquired **[or]** and contracted for on or after the date of approval and was brought into use within four years from the date of approval.";

(d) by the substitution for subsection (9) of the following subsection:

"(9) Notwithstanding subsection (8), the Minister of Trade and Industry may not approve any industrial project where the potential additional investment and training allowances in respect of that project and all other approved industrial projects (other than those projects where the approval thereof has been withdrawn under subsection (12)), will in the aggregate exceed R20 billion."; and

(e) by the substitution in subsection (19)*(e)* for subparagraph (vi) of the following subparagraph:

"(vi) any **[decisions]** decision not to withdraw the approval of an industrial policy project, despite any material change in facts.".

(2) Paragraphs *(a)*, *(b)* and *(e)* of subsection (1) come into operation on 1 January 2012 and apply in respect of projects approved on or after that date.

(3) Paragraphs *(c)* and *(d)* of subsection (1) are deemed to have come into operation on 5 January 2009.

Amendment of section 12J of Act 58 of 1962, as inserted by section 27 of Act 60 of 2008 and amended by section 25 of Act 17 of 2009

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

(a) by the substitution in subsection (1) for paragraph *(b)* of the definition of "impermissible trade" of the following paragraph:

"*(b)* any trade carried on by a bank as defined in the Banks Act, 1990 (Act No. 94 of 1990), a long-term insurer as defined in the Long-Term Insurance Act, 1998 (Act No. 52 of 1998), a short-term insurer as defined in the Short-Term Insurance Act, **[2008]** 1998 (Act No. 53 of 1998), and any trade carried on in respect of money-lending or hire-purchase financing;";

(b) by the deletion in subsection (1) of paragraph *(f)* of the definition of "impermissible trade";

(c) by the substitution in subsection (1) for paragraph *(b)* of the definition of "qualifying company" of the following paragraph:

"*(b)* the company is not a controlled group company in relation to a group of companies **[contemplated in paragraph *(d)*(i) of the definition of 'connected person']**;";

"*(a)* (i) 55 persent van die koste van 'n nuwe en ongebruikte vervaardigingsbate gebruik in 'n nywerheidsbeleidprojek met voorkeurstatus; of

(ii) 100 persent van die koste van 'n nuwe en ongebruikte vervaardigingsbate gebruik in 'n nywerheidsbeleidprojek met voorkeurstatus wat binne 'n nywerheidsontwikkelingsone geleë is; of";

(b) deur in subartikel (2) paragraaf *(b)* deur die volgende paragraaf te vervang:

"*(b)* (i) 35 persent van die koste van 'n nuwe en ongebruikte vervaardigingsbate gebruik in enige **[ander]** nywerheidsbeleidprojek behalwe 'n nywerheidsbeleidprojek met voorkeurstatus; of

(ii) 75 persent van die koste van 'n nuwe en ongebruikte vervaardigingsbate gebruik in enige nywerheidsbeleidprojek behalwe 'n nywerheidsbeleidprojek met voorkeurstatus wat binne 'n nywerheidsontwikkelingsone geleë is,";

(c) deur in subartikel (2) die woorde wat op paragraaf *(b)* volg deur die volgende woorde te vervang:

"in die jaar van aanslag waartydens daardie bate vir die eerste maal deur die maatskappy as eienaar daarvan in gebruik geneem word vir die uitbouing van die nywerheidsbeleidprojek deur daardie maatskappy beoefen, indien daardie bate op of na die datum van goedkeuring verkry **[of]** en voor gekontrakteer is en binne vier jaar van die datum van goedkeuring in gebruik gestel word.";

(d) deur subartikel (9) deur die volgende subartikel te vervang:

"(9) Ondanks subartikel (8) mag die Minister van Handel en Nywerheid nie 'n nywerheidsprojek goedkeur nie waar die potensiële addisionele **[beleggingstoelaes]** beleggings- en opleidingstoelaes ten opsigte van daardie project en alle ander goedgekeurde nywerheidsprojekte (buiten daardie projekte waarvan die goedkeuring kragtens subartikel (12) teruggetrek is), in totaal R20 miljard sal oorskry."; en

(e) deur in subartikel (19)*(e)* in die Engelse teks subparagraaf (vi) deur die volgende subparagraaf te vervang:

"(vi) any **[decisions]** decision not to withdraw the approval of an industrial policy project, despite any material change in facts.".

(2) Paragrawe *(a)*, *(b)* en *(e)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van projekte op of na daardie datum goedgekeur.

(3) Paragrawe *(c)* en *(d)* van subartikel (1) word geag op 5 Januarie 2009 in werking te getree het.

Wysiging van artikel 12J van Wet 58 van 1962, soos ingevoeg deur artikel 27 van Wet 60 van 2008 en gewysig deur artikel 25 van Wet 17 van 2009

38. (1) Artikel 12J van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(b)* van die omskrywing van "ontoelaatbare bedryf" deur die volgende paragraaf te vervang:

"*(b)* enige bedryf beoefen deur 'n bank soos omskryf in die Bankwet, 1990 (Wet No. 94 van 1990), 'n langtermynversekeraar soos omskryf in die Wet op Langtermynversekering, 1998 (Wet No. 52 van 1998), 'n korttermynversekeraar soos omskryf in die Wet op Korttermynversekering, **[2008]** 1998 (Wet No. 53 van 1998), en enige bedryf ten opsigte van geldleen of huurkoopfinansiering beoefen;";

(b) deur in subartikel (1) paragraaf *(f)* van die omskrywing van "ontoelaatbare bedryf" te skrap;

(c) deur in subartikel (1) paragraaf *(b)* van die omskrywing van "kwalifiserende maatskappy" deur die volgende paragraaf te vervang:

"*(b)* die maatskappy nie 'n beheerde groepmaatskappy met betrekking tot 'n groep van maatskappye **[beoog in paragraaf *(d)*(i) van die omskrywing van 'verbonde persoon']** is nie;";

(d) by the substitution in subsection (1) for the definition of "qualifying share" of the following definition:

" **'qualifying share'** means an equity share held by a venture capital company which is issued to that company by a qualifying company, **[unless]** and does not include any share which—

(a) that venture capital company has an option to dispose of **[the share]**, or the qualifying company has an obligation to redeem **[that share]**, for an amount other than the market value of the share at the time of that disposal or redemption; or

(b) would have constituted a hybrid equity instrument, as defined in section 8E(1), but for the three-year period requirement contemplated in paragraph *(a)* of the definition of 'hybrid equity instrument' in that section;";

(e) by the substitution in subsection (1) for the definition of "qualifying share" of the following definition:

" **'qualifying share'** means an equity share held by a venture capital company which is issued to that company by a qualifying company, and does not include any share which—

[*(a)* that venture capital company has an option to dispose of, or the qualifying company has an obligation to redeem, for an amount other than the market value of the share at the time of that disposal or redemption; or]

(b) would have constituted a hybrid equity instrument, as defined in section 8E(1), but for the three-year period requirement contemplated in paragraph *(a)* of the definition of 'hybrid equity instrument' in that section; or

(c) constitutes a third-party backed share as defined in section 8EA(1);";

(f) by the substitution in subsection (1) for the full stop at the end of the definition of "venture capital company" of a semicolon;

(g) by the insertion in subsection (1) of the following definition:

" **'venture capital share'** means an equity share held by a taxpayer in a venture capital company which is issued to that taxpayer by a venture capital company, and does not include any share which—

(a) that taxpayer has an option to dispose of, or the venture capital company has an obligation to redeem, for an amount other than the market value of the share at the time of that disposal or redemption; or

(b) would have constituted a hybrid equity instrument, as defined in section 8E(1), but for the three-year period requirement contemplated in paragraph *(a)* of the definition of 'hybrid equity instrument' in that section.";

(h) by the substitution in subsection (1) for the definition of "venture capital share" of the following definition:

" **'venture capital share'** means an equity share held by a taxpayer in a venture capital company which is issued to that taxpayer by a venture capital company, and does not include any share which—

[*(a)* that taxpayer has an option to dispose of, or the venture capital company has an obligation to redeem, for an amount other than the market value of the share at the time of that disposal or redemption; or]

(b) would have constituted a hybrid equity instrument, as defined in section 8E(1), but for the three-year period requirement contemplated in paragraph *(a)* of the definition of 'hybrid equity instrument' in that section; or

(c) constitutes a third-party backed share as defined in section 8EA(1).";

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

"(2) **[There]** Subject to subsections (3), (3A) and (4), there must be allowed as a deduction from the income of a **[natural person, a listed**

(d) deur in subartikel (1) die omskrywing van "kwalifiserende aandeel" deur die volgende omskrywing te vervang:

" **'kwalifiserende aandeel'** 'n ekwiteitsaandeel gehou deur 'n waagkapitaalmaatskappy wat aan daardie maatskappy uitgereik word deur 'n kwalifiserende maatskappy, **[tensy]** en nie ook nie 'n aandeel wat—

(a) daardie waagkapitaalmaatskappy 'n opsie het om oor **[die aandeel]** te beskik, of die kwalifiserende maatskappy 'n verpligting het om **[daardie aandeel]** af te koop, vir 'n ander bedrag as die markwaarde van die aandeel ten tye van daardie beskikking of afkoop; of

(b) 'n hibriede ekwiteitsinstrument, soos omskryf in artikel 8E(1), sou uitgemaak het, by ontstentenis van die vereiste van 'n drie-jaar tydperk beoog in paragraaf *(a)* van die omskrywing van 'hibriede ekwiteitsinstrument' in daardie artikel;";

(e) deur in subartikel (1) die omskrywing van "kwalifiserende aandeel" deur die volgende omskrywing te vervang:

" **'kwalifiserende aandeel'** 'n ekwiteitsaandeel gehou deur 'n waagkapitaalmaatskappy wat aan daardie maatskappy uitgereik word deur 'n kwalifiserende maatskappy, maar nie ook nie 'n aandeel wat—

[*(a)* daardie waagkapitaalmaatskappy 'n opsie het om oor te beskik, of die kwalifiserende maatskappy 'n verpligting het om af te koop, vir 'n ander bedrag as die markwaarde van die aandeel ten tye van daardie beskikking of afkoop; of]

(b) 'n hibriede ekwiteitsinstrument, soos omskryf in artikel 8E(1), sou uitgemaak het by ontstentenis van die vereiste van 'n drie-jaar tydperk beoog in paragraaf *(a)* van die omskrywing van 'hibriede ekwiteitsinstrument' in daardie artikel; of

(c) 'n derdeparty-ondersteunde aandeel soos omskryf in artikel 8EA(1) uitmaak;";

(f) deur in subartikel (1) die punt aan die einde van die omskrywing van "waagkapitaalmaatskappy" deur 'n kommapunt te vervang;

(g) deur in subartikel (1) die volgende omskrywing in te voeg:

" **'waagkapitaalaandeel'** 'n ekwiteitsaandeel gehou deur 'n belastingpligtige in 'n waagkapitaalmaatskappy uitgereik aan daardie belastingpligtige deur 'n waagkapitaalmaatskappy, maar nie ook nie 'n aandeel wat—

(a) daardie belastingpligtige 'n opsie het om oor te beskik, of die waagkapitaalmaatskappy 'n verpligting het om af te koop, vir 'n ander bedrag as die markwaarde van die aandeel ten tye van daardie beskikking of afkoop; of

(b) 'n hibriede ekwiteitsinstrument, soos omskryf in artikel 8E(1), sou uitgemaak het by ontstentenis van die vereiste van 'n drie-jaar tydperk beoog in paragraaf *(a)* van die omskrywing van 'hibriede ekwiteitsinstrument' in daardie artikel.";

(h) deur in subartikel (1) die omskrywing van "waagkapitaalaandeel" deur die volgende omskrywing te vervang:

" **'waagkapitaalaandeel'** 'n ekwiteitsaandeel gehou deur 'n belastingpligtige in 'n waagkapitaalmaatskappy uitgereik aan daardie belastingpligtige deur 'n waagkapitaalmaatskappy, maar nie ook nie 'n aandeel wat—

[*(a)* daardie belastingpligtige 'n opsie het om oor te beskik, of die waagkapitaalmaatskappy 'n verpligting het om af te koop, vir 'n ander bedrag as die markwaarde van die aandeel ten tye van daardie beskikking of afkoop; of]

(b) 'n hibriede ekwiteitsinstrument, soos omskryf in artikel 8E(1), sou uitgemaak het by ontstentenis van die vereiste van 'n drie-jaar tydperk beoog in paragraaf *(a)* van die omskrywing van 'hibriede ekwiteitsinstrument' in daardie artikel; of

(c) 'n derdeparty-ondersteunde aandeel soos omskryf in artikel 8EA(1) uitmaak.";

(i) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) **[Daar]** Behoudens subartikels (3), (3A) en (4) moet daar toegelaat word as 'n aftrekking van die inkomste van 'n **[natuurlike**

company or a controlled group company in relation to a listed company as contemplated in the definition of group of companies in section 41, a deduction determined in terms of subsection (3) in respect of] taxpayer expenditure actually incurred by that **[person or company]** taxpayer in acquiring **[shares]** any venture capital share issued to that **[person or company]** taxpayer by a venture capital company.'';

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

''(3) *(a)* Where, during any year of assessment—

(i) any loan or credit has been used by a taxpayer for the payment or financing of the whole or any portion of any expenditure contemplated in subsection (2); and

(ii) any portion of that loan or credit is owed by the taxpayer on the last day of the year of assessment,

the amount which may be taken into account as expenditure that qualifies for a deduction in terms of subsection (2) must be limited to the amount for which the taxpayer is in terms of paragraph *(b)* deemed to be at risk on the last day of the year of assessment.

(b) For the purposes of paragraph *(a)*, a taxpayer must be deemed to be at risk to the extent that—

(i) the incurral of the expenditure contemplated in subsection (2); or

(ii) the repayment of any loan or credit (other than any loan or credit contemplated in paragraph (ii) of the proviso to this paragraph) used by the taxpayer for the payment or financing of any expenditure contemplated in subsection (2),

would (having regard to any transaction, agreement, arrangement, understanding or scheme entered into before or after such expenditure is incurred) result in an economic loss to the taxpayer were no income to be received by or accrue to the taxpayer in future years from the disposal of any venture capital share issued to the taxpayer as a result of the incurral of that expenditure: Provided that the taxpayer must not be deemed to be at risk to the extent that—

(aa) the loan or credit is not repayable within a period of five years from the date on which that loan or credit was advanced to the taxpayer; and

(bb) any loan or credit used by the taxpayer for the payment or financing of the whole or any portion of any expenditure contemplated in subsection (2) is (having regard to any transaction, agreement, arrangement, understanding or scheme entered into before or after such expenditure is incurred) granted directly or indirectly to the taxpayer by the venture capital company by which the qualifying shares are issued as a result of the incurral of that expenditure.'';

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

''(3A) If, during any year of assessment—

(a) a taxpayer incurs expenditure as contemplated in subsection (2); and

(b) as a result of or immediately after the acquisition of a venture capital share in a venture capital company that taxpayer is a connected person in relation to that venture capital company,

no deduction must be allowed in terms of subsection (2) during that year of assessment in respect of any expenditure incurred by the taxpayer in acquiring any venture capital share issued to that taxpayer by that venture capital company.'';

(l) by the deletion in subsection (5) of paragraphs *(c)*, *(d)* and *(f)*;

persoon, 'n genoteerde maatskappy of 'n beheerde groepmaatskappy met betrekking tot 'n genoteerde maatskappy soos in die omskrywing van groep van maatskappye in artikel 41 beoog, 'n aftrekking bepaal ingevolge subartikel (3) ten opsigte van] belastingpligtige uitgawes werklik aangegaan deur daardie **[persoon of maatskappy]** belastingpligtige in die verkryging van **[aandele]** enige waagkapitaalaandeel aan daardie **[persoon of maatskappy]** belastingpligtige deur 'n waagkapitaalmaatskappy uitgereik.";

(j) deur subartikel (3) deur die volgende subartikel te vervang:

"(3)*(a)* Waar, gedurende 'n jaar van aanslag—

(i) enige lening of krediet deur 'n belastingpligtige gebruik is vir die betaling of finansiering van die hele of enige gedeelte van enige uitgawes beoog in subartikel (2); en

(ii) enige gedeelte van daardie lening of krediet deur die belastingpligtige op die laaste dag van die jaar van aanslag verskuldig word,

word die bedrag wat as uitgawes wat vir 'n aftrekking ingevolge subartikel (2) kwalifiseer in berekening gebring kan word, beperk tot die bedrag waarvoor die belastingpligtige ingevolge paragraaf *(b)* geag word op die laaste dag van die jaar van aanslag op risiko te wees.

(b) By die toepassing van paragraaf *(a)* word 'n belastingpligtige geag op risiko te wees namate—

(i) die aangaan van die uitgawes beoog in subartikel (2); of

(ii) die terugbetaling van 'n lening of krediet (behalwe enige lening of krediet beoog in paragraaf (ii) van die voorbehoudsbepaling tot hierdie paragraaf) gebruik deur die belastingpligtige vir die betaling of finansiering van enige uitgawes beoog in subartikel (2),

sou uitloop (met betrekking tot enige transaksie, ooreenkoms, reëling, verstandhouding of skema aangegaan voor of na sodanige uitgawes aangegaan is) op 'n ekonomiese verlies vir die belastingpligtige indien geen inkomste ontvang word deur of toeval aan die belastingpligtige in toekomstige jare uit die beskikking oor 'n waagkapitaalaandeel utgereik aan die belastingpligtige as gevolg van die aangaan van daardie uitgawes: Met dien verstande dat die belastingpligtige nie geag word op risiko te wees nie namate—

(aa) die lening of krediet nie terugbetaalbaar is nie binne 'n tydperk van vyf jaar vanaf die datum waarop daardie lening of krediet aan die belastingpligtige voorgeskiet is; en

(bb) enige lening of krediet deur die belastingpligtige gebruik vir die betaling of finansiering van die hele of enige gedeelte van enige uitgawes beoog in subartikel (2) (met betrekking tot enige transaksie, ooreenkoms, reëling, verstandhouding of skema aangegaan voor of na sodanige uitgawes aangegaan word) direk of indirek aan die belastingpligtige toegestaan word deur die waagkapitaalmaatskappy waardeur die kwalifiserende aandele as gevolg van die aangaan van daardie uitgawes uitgereik word.";

(k) deur die volgende subartikel na subartikel (3) in te voeg:

"(3A) Indien, gedurende 'n jaar van aanslag—

(a) 'n belastingpligtige uitgawes soos beoog in subartikel (2) aangaan; en

(b) as gevolg van of onmiddellik na die verkryging van 'n waagkapitaalaandeel in 'n waagkapitaalmaatskappy daardie belastingpligtige 'n verbonde persoon met betrekking tot daardie waagkapitaalmaatskappy is,

word geen aftrekking ingevolge subartikel (2) gedurende daardie jaar van aanslag ten opsigte van enige uitgawes aangegaan deur die belastingpligtige by die verkryging van enige waagkapitaalaandeel uitgereik aan daardie belastingpligtige deur daardie waagkapitaalmaatskappy toegelaat nie.";

(l) deur in subartikel (5) paragrawe *(c)*, *(d)* en *(f)* te skrap;

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

"(6) If the Commissioner is satisfied that any venture capital company approved in terms of subsection (5) has during a year of assessment **[—**

***(a)*]** failed to comply with the provisions of that subsection **[; or**

***(b)* derived more than 20 per cent of its gross income from investment income as defined in section 12E(4)*(c)*, other than—**

(i) dividends from qualifying shares; and

(ii) proceeds derived from investment in qualifying shares],

the Commissioner must, after due notice to the company withdraw that approval from the commencement of that year if corrective steps acceptable to the Commissioner are not taken by the company within a period stated in that notice.";

(n) by the deletion in subsection (6A) of paragraph *(a)*;

(o) by the substitution in subsection (6A)*(b)* for subparagraphs (i) and (ii) of the following subparagraphs:

"(i) **[R100]** R300 million, where the qualifying company was a junior mining company; or

(ii) **[R10]** R20 million, where the qualifying company was a company other than a junior mining company; or"; and

(p) by the substitution in subsection (6A) for paragraph *(c)* of the following subparagraph:

"*(c)* no more than **[15]** 20 per cent of the expenditure incurred by the company to acquire qualifying shares held by the company was incurred for qualifying shares issued to the company by any one qualifying company,".

(2) Paragraphs *(a)*, *(b)*, *(c)*, *(d)*, *(f)*, *(g)*, *(i)*, *(j)*, *(k)*, *(l)*, *(m)*, *(n)*, *(o)* and *(p)* of subsection (1) come into operation on 1 January 2012 and apply in respect of years of assessment commencing on or after that date.

(3) Paragraphs *(e)* and *(h)* of subsection (1) come into operation on 1 October 2012.

Insertion of section 12O in Act 58 of 1962

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

"**Exemption in respect of films**

12O. (1) For the purposes of this section—

'completion date' means the date on which a qualifying film is for the first time in a form in which it can be regarded as ready for copies of it to be made and distributed, for presentation to the general public;

'exploitation rights' means the right to any receipts and accruals in respect of—

(a) the use of;

(b) the right of use of; or

(c) the granting of permission to use,

any film to the extent that those receipts and accruals are wholly dependent on profits and losses in respect of the film;

'film' means—

(a) a feature film;

(b) a documentary or documentary series; or

(c) an animation,

conforming to the requirements stipulated by the Department of Trade and Industry in the Programme Guidelines for the South African Film and Television Production and Co-production Incentive;

'National Film and Video Foundation' means the National Film and Video Foundation established by the National Film and Video Foundation Act, 1997 (Act No. 73 of 1997); and

'special purpose corporate vehicle' means a company responsible for the production of a film as required by the Department of Trade and Industry in

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

"(6) Indien die Kommissaris tevrede is dat enige **[waagkapitaal maatskappy]** waagkapitaalmaatskappy goedgekeur ingevolge subartikel (5) gedurende 'n jaar van aanslag **[—**

***(a)*]** versuim het om die bepalings van daardie subartikel na te kom**[; of**

(b) **meer as 20 persent van sy bruto inkomste verkry het uit beleggingsinkomste soos in artikel 12E(4)*(c)* omskryf, behalwe—**

(i) dividende vanaf kwalifiserende aandele; en

(ii) opbrengs verkry uit belegging in kwalifiserende aandele],

moet die Kommissaris na behoorlike kennisgewing aan die maatskappy daardie goedkeuring intrek van die begin van daardie jaar indien korrektiewe stappe wat vir die Kommissaris aanvaarbaar is nie deur daardie maatskappy gedoen word binne 'n tydperk wat in daardie kennisgewing vermeld word nie.";

(n) deur in subartikel (6A) paragraaf *(a)* te skrap;

(o) deur in subartikel (6A)*(b)* subparagrawe (i) en (ii) deur die volgende subparagrawe te vervang:

"(i) **[R100]** R300 miljoen, waar die kwalifiserende maatskappy 'n junior mynmaatskappy was; of

(ii) **[R10]** R20 miljoen, waar die kwalifiserende maatskappy 'n maatskappy buiten 'n junior mynmaatskappy was; of"; en

(p) deur in subartikel (6A) paragraaf *(c)* deur die volgende subparagraaf te vervang:

"*(c)* hoogstens **[15]** 20 persent van die uitgawes aangegaan deur die maatskappy om kwalifiserende aandele te verkry wat deur die maatskappy gehou word, aangegaan is vir kwalifiserende aandele uitgereik aan die maatskappy deur enige enkele kwalifiserende maatskappy,".

(2) Paragrawe *(a)*, *(b)*, *(c)*, *(d)*, *(f)*, *(g)*, *(i)*, *(j)*, *(k)*, *(l)*, *(m)*, *(n)*, *(o)* en *(p)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragrawe *(e)* en *(h)* van subartikel (1) tree op 1 Oktober 2012 in werking.

Invoeging van artikel 12O in Wet 58 van 1962

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

"**Vrystelling ten opsigte van rolprente**

12O. (1) By die toepassing van hierdie artikel beteken—

'benuttingsregte' die reg op enige ontvangste en toevallings ten opsigte van—

(a) die gebruik van;

(b) gebruiksreg van; of

(c) die verlening van toestemming vir die gebruik van,

enige rolprent namate daardie ontvangste en toevallings ten volle afhanklik is van winste en verliese ten opsigte van die rolprent;

'Nasionale Stigting vir Rolprente en Video's' die Nasionale Stigting vir Rolprente en Video's opgerig by die Wet op die Nasionale Stigting vir Rolprente en Video's, 1997 (Wet No. 73 van 1997);

'rolprent'—

(a) 'n vollengterolprent;

(b) 'n dokumentêre rolprent of dokumentêre reeks; of

(c) 'n animasie,

wat voldoen aan die vereistes vasgestel deur die Departement van Handel en Nywerheid in die 'Programme Guidelines for the South African Film and Television Production and Co-production Incentive';

'spesialedoelwit- korporatiewe voertuig' 'n maatskappy verantwoordelik vir die produksie van 'n rolprent soos vereis deur die Departement van

terms of the Programme Guidelines for the South African Film and Television Production and Co-production Incentive.

(2) There must be exempt from normal tax the receipts and accruals in respect of income derived from the exploitation rights of a film—

(a) if the National Film and Video Foundation has approved the film in terms of section 3*(c)* read with section 4(1) of the National Film and Video Foundation Act, 1997 (Act No. 73 of 1997), as a local production or co-production whereby a film is co-produced in terms of an international co-production agreement between the government of the Republic and the government of another country, which agreement must be subject to the Constitution;

(b) if income is derived from the exploitation rights of the film—

(i) by a person who acquired the exploitation rights in respect of that film prior to the date that the principal photography of that film commenced; or

(ii) by a person who acquired the exploitation rights in respect of that film after the date that principal photography of that film commenced but before the completion date of that film if consideration for those exploitation rights was not directly or indirectly paid or applied for the benefit of a person contemplated in subparagraph (i); and

(c) to the extent that the income is received or accrues within a period of 10 years after the completion date of that film.

(3) No exemption shall be allowed under this section to a person that is a broadcaster as defined in section 1 of the Broadcasting Act, 1999 (Act No. 4 of 1999), or any person that is a connected person in relation to that broadcaster.

(4) *(a)* A special purpose corporate vehicle or collection account manager—

(i) that manages exploitation rights under a collection account management agreement; and

(ii) that is approved by the Minister for the purpose of this section by notice in the *Gazette*,

must provide a report to the National Film and Video Foundation containing such information, within such time and in such manner as is prescribed by the Minister when income arising from exploitation rights of a film is distributed to a person within a period of 10 years commencing from the completion date of the film.

(b) The National Film and Video Foundation must provide a report annually to the Minister in respect of all films approved in terms of subsection (2)*(a)* containing such information, within such time and in such manner as is prescribed by the Minister for a period of 10 years commencing from the completion date of a film if—

(i) any income is received or accrues in respect of the film; and

(ii) the income is eligible for the exemption under subsection (2).

(5) *(a)* A taxpayer may deduct from the income of the taxpayer an amount in respect of any expenditure incurred to acquire exploitation rights in respect of a film in accordance with paragraph *(b)*.

(b) The amount of the deduction contemplated in paragraph *(a)* is equal to the amount of any expenditure incurred as contemplated in that paragraph less any amount received or accrued during any year of assessment in respect of that film.

Handel en Nywerheid ingevolge die 'Programme Guidelines for the South African Film and Television Production and Co-production Incentive';
'voltooiïngsdatum' die datum waarop 'n kwalifiserende rolprent vir die eerste keer in 'n vorm is waarin dit beskou kan word as gereed daarvoor dat kopieë daarvan gemaak en versprei kan word, vir aanbieding aan die algemene publiek.

(2) Daar word vrygestel van normale belasting die ontvangste en toevallings ten opsigte van inkomste verkry uit die benuttingsregte van 'n rolprent—

(a) indien die Nasionale Stigting vir Rolprente en Video's die rolprent ingevolge artikel 3*(c)* tesame met artikel 4(1) van die Wet op die Nasionale Stigting vir Rolprente en Video's, 1997 (Wet No. 73 van 1997), goedgekeur het as 'n plaaslike produksie of koproduksie waardeur 'n rolprent 'n koproduksie is ingevolge 'n internasionale koproduksie-ooreenkoms tussen die regering van die Republiek en die regering van 'n ander land, welke ooreenkoms aan die Grondwet onderhewig moet wees;

(b) indien inkomste verkry word uit die benuttingsregte van die rolprent—
   (i) deur 'n persoon wat die benuttingsregte ten opsigte van daardie rolprent verkry het voor die datum waarop die hoof fotografie van daardie rolprent begin het; of
   (ii) deur 'n persoon wat die benuttingsregte ten opsigte van daardie rolprent verkry het na die datum waarop die hoof fotografie van daardie rolprent begin het, maar voor die voltooiïngsdatum van daardie rolprent indien vergoeding vir daardie benuttingsregte nie direk of indirek betaal of toegepas is ten behoewe van 'n persoon in subparagraaf (i) beoog nie; en

(c) namate die inkomste ontvang word deur of toeval binne 'n tydperk van 10 jaar na die voltooiïngsdatum van daardie rolprent.

(3) Geen vrystelling word kragtens hierdie artikel toegelaat nie aan 'n persoon wat 'n uitsaaier soos omskryf in artikel 1 van die Uitsaaiwet, 1999 (Wet No. 4 van 1999), of 'n persoon wat 'n verbonde persoon met betrekking tot daardie uitsaaier is.

(4) *(a)* 'n Spesialedoelwit- korporatiewe voertuig of invorderingsrekeningbestuurder—
   (i) wat benuttingsregte bestuur kragtens 'n ooreenkoms vir invorderingsrekeningbestuur; en
   (ii) wat goedgekeur word deur die Minister vir die doeleindes van hierdie artikel by kennisgewing in die *Staatskoerant*,

moet 'n verslag aan die Nasionale Stigting vir Rolprente en Video's voorlê wat die inligting bevat en binne die tyd en op die wyse deur die Minister voorgeskryf wanneer inkomste wat voortspruit uit benuttingsregte van 'n rolprent uitgekeer word aan 'n persoon binne 'n tydperk van 10 jaar wat op die voltooiïngsdatum van die rolprent begin.

(b) Die Nasionale Stigting vir Rolprente en Video's moet jaarliks 'n verslag aan die Minister voorlê ten opsigte van alle rolprente goedgekeur ingevolge subartikel (2)*(a)*, wat die inligting bevat en binne die tyd en op die wyse deur die Minister voorgeskryf vir 'n tydperk van 10 jaar wat begin op die voltooiïngsdatum van 'n rolprent indien—
   (i) enige inkomste ontvang word of toeval ten opsigte van die rolprent; en
   (ii) die inkomste vir die vrystelling kragtens subartikel (2) in aanmerking kom.

(5) *(a)* 'n Belastingpligtige kan ooreenkomstig paragraaf *(b)* van die inkomste van die belastingpligtige 'n bedrag aftrek ten opsigte van enige uitgawes aangegaan om benuttingsregte ten opsigte van 'n rolprent te verkry.

(b) Die bedrag van die aftrekking in paragraaf *(a)* beoog, is gelyk aan die bedrag van enige uitgawes aangegaan soos in daardie paragraaf beoog minus enige bedrag gedurende enige jaar van aanslag ten opsigte van daardie rolprent ontvang of toegeval.

(c) No deduction may be made under this subsection to the extent that the expenditure was funded from a loan, credit or similar financing.

(d) The deduction contemplated in paragraph *(a)* may only be made in any year of assessment commencing at least two years after the completion date of the film to the extent that the amount of expenditure incurred exceeds the total amount received by or accrued to that taxpayer in respect of the exploitation rights.

(e) Subsection (2) and paragraph *(a)* of this subsection cease to apply to any income derived from a film in any year of assessment subsequent to the date of a deduction made under paragraph *(a)* in respect of that film.

(6) *(a)* In addition to the exemption under subsection (2), any amount received by or accrued to a special purpose corporate vehicle by way of a grant payable by the State under the South African Film and Television Production and Co-production Incentive administered by the Department of Trade and Industry shall be exempt from normal tax subject to section 8(4).

(b) Where a special purpose corporate vehicle that received a grant contemplated in paragraph *(a)*, or to whom such grant has accrued, pays the whole or any portion of the amount of the grant to another person pursuant to any exploitation rights in respect of that film, the exemption under this paragraph must also apply to the amount received by or accrued to that other person to the extent that the amount does not exceed any amount that the other person contributed to the production of the film.".

(2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of all receipts and accruals in respect of films of which principal photography commences on or after that date but before 1 January 2022.

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, section 3 of Act 4 of 2008 and section 30 of Act 7 of 2010

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

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

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

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

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

(c) Geen aftrekking mag kragtens hierdie subartikel gemaak word nie namate die uitgawes uit 'n lening, krediet of soortgelyke finansiering befonds is.

(d) Die aftrekking in paragraaf *(a)* beoog, kan slegs gemaak word in enige jaar van aanslag wat begin minstens twee jaar na die voltooiïngsdatum van die rolprent namate die bedrag van uitgawes aangegaan die totale bedrag ontvang deur of toegeval aan daardie belastingpligtige ten opsigte van die benuttingsregte oorskry.

(e) Subartikel (2) en paragraaf *(a)* van hierdie subartikel hou op om van toepassing te wees op enige inkomste verkry uit 'n rolprent in enige jaar van aanslag wat volg op die datum van 'n aftrekking kragtens paragraaf *(a)* ten opsigte van daardie rolprent gemaak.

(6) *(a)* Bykomend tot die vrystelling ingevolge subartikel (2) word enige bedrag ontvang deur of toegeval aan 'n spesialedoelwit- korporatiewe voertuig by wyse van 'n toekenning betaalbaar deur die Staat kragtens die 'South African Film and Television Production and Co-production Incentive' deur die Departement van Handel en Nywerheid geadministreer van normale belasting vrygestel behoudens artikel 8(4).

(b) Waar 'n spesialedoelwit- korporatiewe voertuig wat 'n toekenning beoog in paragraaf *(a)* ontvang het of aan wie sodanige toekenning toegeval het, die hele of enige gedeelte van die bedrag van die toekenning betaal aan 'n ander persoon uit hoofde van enige benuttingsregte ten opsigte van daardie rolprent, is die vrystelling kragtens hierdie paragraaf ook van toepassing op die bedrag ontvang deur of toegeval aan daardie ander persoon namate die bedrag nie enige bedrag wat die ander persoon tot die produksie van die rolprent bygedra het, oorskry nie.".

(2) Subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van alle ontvangste en toevallings ten opsigte van rolprente waarvan hoof fotografie op of na daardie datum maar voor 1 Januarie 2022 begin.

Wysiging van artikel 13 van Wet 58 van 1962, soos gewysig deur artikel 12 van Wet 90 van 1962, artikel 5 van Wet 6 van 1963, artikel 11 van Wet 72 van 1963, artikel 12 van Wet 90 van 1964, artikel 14 van Wet 88 van 1965, artikel 17 van Wet 55 van 1966, artikel 13 van Wet 52 van 1970, artikel 13 van Wet 88 van 1971, artikel 12 van Wet 90 van 1972, artikel 13 van Wet 65 van 1973, artikel 16 van Wet 85 van 1974, artikel 13 van Wet 69 van 1975, artikel 7 van Wet 101 van 1978, artikel 10 van Wet 104 van 1980, artikel 14 van Wet 96 van 1981, artikel 12 van Wet 85 van 1987, artikel 12 van Wet 90 van 1988, artikel 12 van Wet 113 van 1993, artikel 11 van Wet 46 van 1996, artikel 22 van Wet 53 van 1999, artikel 20 van Wet 59 van 2000, artikel 13 van Wet 19 van 2001, artikel 30 van Wet 60 van 2001, artikel 3 van Wet 4 van 2008 en artikel 30 van Wet 7 van 2010

40. (1) Artikel 13 van die Inkomstebelastingwet, 1962, word hierby gewysig—

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

"*(b)* 'n gebou waarvan die oprigting deur die belastingpligtige op of na die vyftiende dag van Maart 1961 begin is, indien bedoelde gebou deur die belastingpligtige gedurende die jaar van aanslag geheel en al of hoofsaaklik in die loop van sy bedryf (behalwe mynbou of boerdery) gebruik is ten einde daarin 'n vervaardigingsproses, navorsing en ontwikkeling of 'n ander proses wat volgens die Kommissaris se oordeel van dergelike aard is, uit te voer, of bedoelde gebou deur die belastingpligtige verhuur is en geheel en al of hoofsaaklik in die loop van 'n bedryf (behalwe mynbou of boerdery) deur 'n huurder of onderhuurder gebruik is ten einde 'n proses soos voormeld daarin uit te voer; of";

(b) deur in subartikel (1) paragraaf *(d)* deur die volgende paragraaf te vervang:

"*(d)* 'n gebou waarvan die oprigting op of na die vyftiende dag van Maart 1961 begin is, indien bedoelde gebou deur die belastingpligtige deur aankoop verkry is van iemand anders wat ingevolge paragraaf *(b)* of hierdie paragraaf of die ooreenstemmende bepalings van 'n vorige Inkomstebelastingwet op 'n vermindering ten opsigte daarvan geregtig was, en bedoelde gebou gedurende die jaar van aanslag geheel en al of hoofsaaklik gebruik

process which in the opinion of the Commissioner is of a similar nature, or such building was let by the taxpayer and was wholly or mainly used by a tenant or subtenant for the purpose of carrying on therein in the course of any trade (other than mining or farming) any process as aforesaid; or''; and

(c) by the substitution in subsection (1) for paragraph *(d*A*)* of the following paragraph:

''*(d*A*)* any building that has never been used, if such building has been acquired by the taxpayer by purchase from any other person and such building was wholly or mainly used during the year of assessment by the taxpayer for the purpose of carrying on therein in the course of his trade (other than mining or farming) a process of manufacture, research and development or any other process which in the opinion of the Commissioner is of a similar nature, or such building was let by the taxpayer and was wholly or mainly used by a tenant or subtenant for the purpose of carrying on therein in the course of any trade (other than mining or farming) any process as aforesaid; or''.

(2) Subsection (1) comes into operation on 1 April 2012 unless a later date is determined by the Minister by notice in the *Gazette* and applies in respect of buildings in which research and development is carried on on or after 1 April 2012 or such later date determined by the Minister by notice in the *Gazette* but before 1 April 2022.

Amendment of section 13*quat* of Act 58 of 1962, as inserted by section 33 of Act 45 of 2003 and amended by section 12 of Act 16 of 2004, section 19 of Act 32 of 2004, section 23 of Act 31 of 2005, section 16 of Act 8 of 2007, section 5 of Act 4 of 2008, section 29 of Act 60 of 2008, section 29 of Act 17 of 2009 and section 33 of Act 7 of 2010

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

(a) by the substitution in subsection (1) for the definition of ''developer'' of the following definition:

'' **'developer'** means a person who**[—**

***(a)*]** erects, extends, adds to or improves a building or part of a building—

(a) with the **[sole]** purpose of disposing of that building or part thereof immediately after completion of that erection, extension, addition or improvement; and

(b) **[does not use]** disposes of the building or part of a building **[which is to be disposed of as contemplated in paragraph *(a)* for purposes of his or her trade in any other manner]** within three years after completion of that erection, extension, addition or improvement;''; and

(b) by the substitution for subsection (3B) of the following subsection:

''(3B) For purposes of subsection (3) or (3A), where the taxpayer purchased a building or part of a building from a developer—

(a) 55 per cent of the purchase price of that building or part of a building, in the case of a new building erected, extended or added to by that developer as contemplated in subsection (3)*(a)* or (3A)*(a)*; and

(b) 30 per cent of the purchase price of that building or part of a building, in the case of a building improved by that developer as contemplated in subsection (3)*(b)* or (3A)*(b)*,

is deemed to be costs incurred by that taxpayer in respect of the erection, extension, addition to or improvement of that building or part of a building.''.

is deur die belastingpligtige ten einde in die loop van sy bedryf (behalwe mynbou of boerdery) 'n vervaardigingsproses, navorsing en ontwikkeling of 'n ander proses wat volgens die Kommissaris se oordeel van dergelike aard is, daarin uit te voer, of indien bedoelde gebou deur die belastingpligtige verhuur is en geheel en al of hoofsaaklik in die loop van 'n bedryf (behalwe mynbou of boerdery) deur 'n huurder of onderhuurder gebruik is om 'n proses soos voormeld daarin uit te voer; of"; en

(c) deur in subartikel (1) paragraaf *(d*A*)* deur die volgende paragraaf te vervang:

"*(d*A*)* 'n gebou wat nooit gebruik is nie, indien bedoelde gebou deur die belastingpligtige deur aankoop verkry is van enige ander persoon en bedoelde gebou gedurende die jaar van aanslag geheel en al of hoofsaaklik gebruik is deur die belastingpligtige ten einde in die loop van sy bedryf (behalwe mynbou of boerdery) 'n vervaardigingsproses, navorsing en ontwikkeling of 'n ander proses wat volgens die Kommissaris se oordeel van dergelike aard is, daarin uit te voer, of indien bedoelde gebou deur die belastingpligtige verhuur is en geheel en al of hoofsaaklik in die loop van 'n bedryf (behalwe mynbou of boerdery) deur 'n huurder of onderhuurder gebruik is om 'n proses soos voormeld daarin uit te voer; of".

(2) Subartikel (1) tree op 1 April 2012 in werking tensy 'n later datum deur die Minister by kennisgewing in die *Staatskoerant* aangekondig word en is van toepassing ten opsigte van geboue waarin navorsing en ontwikkeling beoefen word op of na 1 April 2012 of die later datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal, maar voor 1 April 2022.

Wysiging van artikel 13*quat* 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, artikel 29 van Wet 17 van 2009 en artikel 33 van Wet 7 van 2010

41. (1) Artikel 13*quat* van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die omskrywing van "ontwikkelaar" deur die volgende omskrywing te vervang:

" **'ontwikkelaar'** 'n persoon wat**[—**

***(a)*]** 'n gebou of gedeelte van 'n gebou oprig, uitbrei, daarby toevoeg of verbeter—

(a) met die **[uitsluitlike]** doel om oor daardie gebou **[or]** of gedeelte daarvan te beskik onmiddellik na voltooiïng van daardie oprigting, uitbreiding, toevoeging of verbetering; en

(b) **[nie]** beskik oor die gebou of gedeelte van 'n gebou **[waaroor beskik gaan word soos in paragraaf *(a)* beoog, op enige ander wyse vir doeleindes van sy of haar bedryf gebruik nie]** binne drie jaar na voltooïng van daardie oprigting, uitbreiding, toevoeging of verbetering;"; en

(b) deur subartikel (3B) deur die volgende subartikel te vervang:

"(3B) By die toepassing van subartikel (3) of (3A), waar die belastingpligtige 'n gebou of gedeelte van 'n gebou van 'n ontwikkelaar gekoop het, word—

(a) 55 persent van die koopprys van daardie gebou of gedeelte van 'n gebou, in die geval van 'n nuwe gebou wat deur daardie ontwikkelaar opgerig, uitgebrei of toegevoeg word soos in subartikel (3)*(a)* of (3A)*(a)* beoog; en

(b) 30 persent van die koopprys van daardie gebou of gedeelte van 'n gebou, in die geval van 'n gebou deur daardie ontwikkelaar verbeter soos in subartikel (3)*(b)* of (3A)*(b)* beoog,

geag koste deur daardie belastingpligtige aangegaan ten opsigte van die oprigting, uitbreiding, toevoeging of verbetering van daardie gebou of gedeelte van 'n gebou te wees.".

Amendment of section 14 of Act 58 of 1962, as substituted by section 19 of Act 55 of 1966 and amended by section 17 of Act 85 of 1974, section 12 of Act 103 of 1976, section 11 of Act 104 of 1979, section 10 of Act 65 of 1986, section 14 of Act 21 of 1995, section 14 of Act 28 of 1997, section 23 of Act 59 of 2000 and section 14 of Act 3 of 2008

42. Section 14 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (2) for the definition of ''adjustable cost'' or ''adjustable cost price'' of the following definition:

'' **'adjustable cost'** or **'adjustable cost price'**, in relation to any ship, means the cost to the taxpayer of such ship, or, if such ship was acquired by the taxpayer to replace a ship **[and the ship so acquired is a ship in relation to which the Commissioner is satisfied in regard to the matters in regard to which he is required to be satisfied in terms of section 8(4)*(b)*]**, the cost to the taxpayer of the ship so acquired, less so much of any amount referred to in section 8(4)*(a)* which has on or after 17 August 1966 been recovered or recouped in respect of the ship so replaced as does not exceed such cost, and **'adjustable estimated cost price'** shall be construed accordingly;''.

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. section 31 of Act 17 of 2009 and section 36 of Act 7 of 2010

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

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

''*(b)* any amounts (other than amounts recoverable by the taxpayer or his or her spouse) which were paid by the taxpayer during the year of assessment to any duly registered—

(i) medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor or orthopedist for professional services rendered or medicines supplied to the taxpayer, his or her spouse or his or her children, or any dependant of the taxpayer **[if the taxpayer was a member of a scheme or fund contemplated in paragraph *(a)* and that dependant was, at the time such amounts were paid, admitted as a dependant of the taxpayer in terms of that scheme or fund]**; or

(ii) nursing home or hospital or any duly registered or enrolled nurse, midwife or nursing assistant (or to any nursing agency in respect of the services of such a nurse, midwife or nursing assistant) in respect of the illness or confinement of the taxpayer, his or her spouse or his or her children, or any dependant of the taxpayer **[contemplated in subparagraph (i)]**; or

(iii) pharmacist for medicines supplied on the prescription of any person mentioned in subparagraph (i) for the taxpayer, his or her spouse or his or her children, or any dependant of the taxpayer **[contemplated in subparagraph (i)]**; and

(c) any amounts (other than amounts recoverable by the taxpayer or his or her spouse) which were paid by the taxpayer during the year of assessment in respect of expenditure incurred outside the Republic

Wysiging van artikel 14 van Wet 58 van 1962, soos vervang deur artikel 19 van Wet 55 van 1966 en gewysig deur artikel 17 van Wet 85 van 1974, artikel 12 van Wet 103 van 1976, artikel 11 van Wet 104 van 1979, artikel 10 van Wet 65 van 1986, artikel 14 van Wet 21 van 1995, artikel 14 van Wet 28 van 1997, artikel 23 van Wet 59 van 2000 en artikel 14 van Wet 3 van 2008

42. Artikel 14 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (2) die omskrywing van "veranderbare koste" of "veranderbare kosprys" deur die volgende omskrywing te vervang:

" **'veranderbare koste'** of **'veranderbare kosprys'** met betrekking tot 'n skip, die koste van so 'n skip vir die belastingpligtige of, indien so 'n skip deur die belastingpligtige ter vervanging van 'n skip verkry is **[en die aldus verkreë skip 'n skip is met betrekking waartoe die Kommissaris oortuig is met betrekking tot die sake met betrekking waartoe hy volgens artikel 8(4)*(b)* oortuig moet wees]**, die koste van die aldus verkreë skip vir die belastingpligtige, min soveel van enige bedrag bedoel in artikel 8(4)(*a*) wat ten opsigte van die skip wat aldus vervang is, op of na 17 Augustus 1966 verhaal of vergoed is, as wat bedoelde koste nie te bowe gaan nie, en word **'veranderbare geraamde kosprys'** dienooreenkomstig uitgelê;".

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 and 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. artikel 31 van Wet 17 van 2009 en artikel 36 van Wet 7 van 2010

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

(a) deur in subartikel (1) paragrawe *(b)*, *(c)* en *(d)* deur die volgende paragrawe te vervang:

"*(b)* enige bedrae (behalwe bedrae wat deur die belastingpligtige of sy of haar gade verhaalbaar is) wat gedurende die jaar van aanslag deur die belastingpligtige betaal is aan 'n behoorlik geregistreerde—

(i) geneesheer, tandarts, gesigkundige, homeopaat, naturopaat, osteopaat, kruiekundige, fisioterapeut, chiropraktisyn of ortopeed vir professionele dienste gelewer of medisyne verskaf aan die belastingpligtige, sy of haar gade of sy of haar kinders, of enige afhanklike van die belastingpligtige **[indien die belastingpligtige 'n lid was van 'n skema of fonds in paragraaf *(a)* beoog en daardie afhanklike, op die tydstip wat daardie bedrae betaal is, as 'n afhanklike van daardie belastingpligtige ingevolge daardie skema of fonds toegelaat was]**; of

(ii) verpleeginrigting of hospitaal of 'n behoorlik geregistreerde of ingeskrewe verpleegster, vroedvrou of verpleegassistent (of aan 'n verplegingsagentskap ten opsigte van die dienste van so 'n verpleegster, vroedvrou of verpleegassistent) ten opsigte van siekte of 'n bevalling van die belastingpligtige, sy of haar gade of sy of haar kinders, of enige afhanklike van die belastingpligtige **[in subparagraaf (i) beoog]**; of

(iii) apteker vir medisyne wat op die voorskrif van 'n persoon bedoel in subparagraaf (i) verskaf is vir die belastingpligtige, sy of haar gade of sy of haar kinders, of enige afhanklike van die belastingpligtige **[in subparagraaf (i) beoog]**;

(c) enige bedrae (behalwe bedrae wat deur die belastingpligtige of sy of haar gade verhaalbaar is) wat gedurende die jaar van aanslag deur die belastingpligtige betaal is ten opsigte van onkoste buite die

on services rendered or medicines supplied to the taxpayer or his or her spouse or children, or any dependant of the taxpayer **[contemplated in paragraph *(b)*(i)]**, and which are substantially similar to the services and medicines in respect of which a deduction may be made under paragraph *(b)* of this subsection; and

(d) any expenditure that is prescribed by the Commissioner (other than expenditure recoverable by the taxpayer or his or her spouse) necessarily incurred and paid by the taxpayer in consequence of any physical impairment or disability suffered by the taxpayer, his or her spouse or child, or any dependant of the taxpayer **[contemplated in paragraph *(b)*(i)]**.";

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

"*(b)* where the taxpayer, his or her spouse or his or her child is a person with a disability, the aggregate of—

(i) the sum of the amounts referred to in subsection **[(1)]** (1)*(b)*, *(c)* and *(d)*; and

(ii) so much of the contributions made by the taxpayer as contemplated in subsection (1)*(a)* as exceeds four times the amount of the medical scheme fees tax credit in respect of that taxpayer in terms of section 6A; or";

(c) by the substitution in subsection (2)*(c)*(i) for items *(aa)*, *(bb)* and *(cc)* of the following items:

"*(aa)* **[R670]** R720 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 340]** R1 440 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 **[R410]** R440 for every additional dependant for each month in that year in respect of which those contributions were made;";

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

"*(c)* in any other case—

(i) so much of the contributions made by the taxpayer during the relevant year of assessment as contemplated in subsection (1)*(a)*, as **[does not exceed—**

***(aa)* R720 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 440 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 R440 for every additional dependant for each month in that year in respect of which those contributions were made]** exceeds four times the amount of the medical scheme fees tax credit in respect of that taxpayer in terms of section 6A; and

(ii) so much of**[—**

***(aa)* any contributions contemplated in subsection (1)*(a)* as have not been allowed as a deduction under subparagraph (i); and**

***(bb)*]**the sum of all amounts contemplated in subsection (1)*(b)*, *(c)* and *(d)*,

Republiek aangegaan aan dienste of medisyne gelewer aan die belastingpligtige of sy of haar gade of kinders, of enige afhanklike van die belastingpligtige **[in paragraaf *(b)*(i) beoog]**, en wat wesentlik soortgelyk is aan die dienste of medisyne ten opsigte waarvan 'n aftrekking kragtens paragraaf *(b)* van hierdie subartikel gedoen kan word; en

(d) enige koste deur die Kommissaris voorgeskryf (behalwe koste wat deur die belastingpligtige of sy of haar gade verhaalbaar is) noodsaaklikerwys deur die belastingpligtige aangegaan en betaal as gevolg van 'n gestremdheid waaraan die belastingpligtige, sy of haar gade of kind, of enige afhanklike van die belastingpligtige **[in paragraaf *(b)*(i) beoog]**, ly.'';

(b) deur in subartikel (2) paragraaf *(b)* deur die volgende paragraaf te vervang:

''*(b)* waar die belastingpligtige, sy of haar gade of sy of haar kind 'n persoon met 'n gestremdheid is, die totaal van—

(i) die som van die bedrae in subartikel **[(1)]** (1)*(b)*, *(c)* en *(d)* bedoel; en

(ii) soveel van die bydraes deur die belastingpligtige gemaak soos in subartikel (1)*(a)* beoog as wat vier maal die bedrag van die krediet vir mediese skemafooie ten opsigte van daardie belastingpligtige ingevolge artikel 6A oorskry; of'';

(c) deur in subartikel (2)*(c)*(i) items *(aa)*, *(bb)* en *(cc)* deur die volgende items te vervang:

''*(aa)* **[R670]** R720 vir elke maand in daardie jaar ten opsigte waarvan daardie bydraes gemaak is uitsluitlik met betrekking tot die voordele van daardie belastingpligtige;

(bb) **[R1 340]** R1 440 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 **[R410]** R440 vir elke bykomende afhanklike vir elke maand in daardie jaar ten opsigte waarvan daardie bydraes gemaak is;'';

(d) deur in subartikel (2) paragraaf *(c)* deur die volgende paragraaf te vervang:

''*(c)* in enige ander geval—

(i) soveel van die bydraes deur die belastingpligtige gedurende die betrokke jaar van aanslag gemaak soos in subartikel (1)*(a)* beoog, as wat **[nie meer is nie as—**

***(aa)* R720 vir elke maand in daardie jaar ten opsigte waarvan daardie bydraes gemaak is uitsluitlik met betrekking tot die voordele van daardie belastingpligtige;**

***(bb)* R1 440 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 R440 vir elke bykomende afhanklike vir elke maand in daardie jaar ten opsigte waarvan daardie bydraes gemaak is]** vier maal die bedrag van die krediet vir mediese skemafooie ten opsigte van daardie belastingpligtige ingevolge artikel 6A oorskry; en

(ii) soveel van**[—**

***(aa)* enige bydraes in subartikel (1)*(a)* beoog as wat nie as 'n aftrekking kragtens subparagraaf (i) toegelaat is nie; en**

***(bb)*]**die som van alle bedrae in subartikel (1)*(b)*, *(c)* en *(d)* beoog,

as in the aggregate exceeds 7,5 per cent of the taxpayer's taxable income (excluding any retirement fund lump sum benefit and retirement fund lump sum withdrawal benefit) as determined before allowing any deduction under this subparagraph.'';

(e) by the substitution in subsection (4) for the words preceding paragraph *(a)* of the following words:

''For the purposes of this section **[the expression] 'child [in relation to the taxpayer]'** means the taxpayer's child or child of his or her spouse who was alive during any portion of the year of assessment, and who on the last day of the year of assessment—'';

(f) by the deletion in subsection (4) of the proviso; and

(g) by the insertion after subsection (4) of the following subsection:

''(4A) For the purposes of this section **'dependant'** in relation to a taxpayer means—

(a) his or her spouse;

(b) his or her child and the child of his or her spouse;

(c) any other member of his or her immediate family in respect of whom he or she is liable for family care and support; and

(d) any other person who is recognised as a dependant of that person in terms of the rules of a medical scheme or fund contemplated in subsection (1)*(a)*(i) or (ii),

at the time the contributions contemplated in subsection (1)*(a)* were made, the amounts contemplated in subsection (1)*(b)* or *(c)* were paid or the expenditure contemplated in subsection (1)*(d)* was incurred and paid.''.

(2) Paragraphs *(a)*, *(b)*, *(d)*, *(e)* and *(g)* of subsection (1) come into operation on 1 March 2012 and apply in respect of years of assessment commencing on or after that date

(3) Paragraphs *(c)* and *(f)* of subsection (1) are deemed to have come into operation on 1 March 2011 and apply in respect of the year of assessment commencing on or after that date.

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, section 34 of Act 60 of 2008 and section 37 of Act 7 of 2010

44. (1) Section 18A of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for the words following paragraph *(c)* of the following words:

''as does not exceed—

(A) where the taxpayer is a portfolio of a collective investment scheme, an amount determined in accordance with the following formula:

$$A = B \times 0{,}005$$

in which formula:

(AA) 'A' represents the amount to be determined;

(BB) 'B' represents the average value of the aggregate of all of the participatory interests held by investors in the portfolio for the year of assessment, determined by using the aggregate value of all of the participatory interests in the portfolio at the end of each day during that year; or

(B) in any other case, ten per cent of the taxable income (excluding any retirement fund lump sum benefit and retirement fund lump sum withdrawal benefit) of the taxpayer as calculated before allowing any deduction under this section or section 18.''.

as wat in totaal 7,5 persent van die belastingpligtige se belasbare inkomste (uitgesluit enige uittreefonds-enkelbedragvoordeel en uittreefonds-enkelbedragonttrekkingsvoordeel) soos vasgestel voor enige bedrag kragtens hierdie subparagraaf as aftrekking toegelaat is, oorskry.";

(e) deur in subartikel (4) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"By die toepassing van hierdie artikel beteken **[die uitdrukking] 'kind [met betrekking tot 'n belastingpligtige,]'** die belastingpligtige se kind of kind van sy of haar gade wat gedurende enige gedeelte van die jaar van aanslag in lewe was, en wat op die laaste dag van die jaar van aanslag—";

(f) deur in subartikel (4) die voorbehoudsbepaling te skrap; en

(g) deur na subartikel (4) die volgende subartikel in te voeg:

"(4A) By die toepassing van hierdie artikel beteken **'afhanklike'** met betrekking tot 'n belastingpligtige—

(a) sy of haar gade;

(b) sy of haar kind en die kind van sy of haar gade;

(c) enige ander lid van sy of haar onmiddellike familie ten opsigte van wie hy of sy vir gesinsorg en -ondersteuning verantwoordelik is; en

(d) enige ander persoon wat as 'n afhanklike van daardie persoon erken word ingevolge die reëls van 'n mediese skema of fonds beoog in subartikel (1)*(a)*(i) of (ii),

op die tydstip waarop die bydraes beoog in subartikel (1)*(a)* gemaak is, die bedrae in subartikel (1)*(b)* of *(c)* betaal is of die uitgawes beoog in subartikel (1)*(d)* aangegaan en betaal is.".

(2) Paragrawe *(a)*, *(b)*, *(d)*, *(e)* en *(g)* van subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragrawe *(c)* en *(f)* van subartikel (1) word geag op 1 Maart 2011 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

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, artikel 34 van Wet 60 van 2008 en artikel 37 van Wet 7 van 2010

44. (1) Artikel 18A van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) die woorde wat op paragraaf *(c)* volg deur die volgende woorde te vervang:

"as wat nie—

(A) waar die belastingpligtige 'n portefeulje van 'n kollektiewe beleggingskema is, 'n bedrag bepaal ooreenkomstig die volgende formule:

$$A = B \times 0{,}005$$

in welke formule:

(AA) 'A' die bedrag bepaal te word, voorstel;

(BB) 'B' die gemiddelde waarde voorstel van die totaal van al die deelnemende belange gehou deur beleggers in die portefeulje vir die jaar van aanslag, bepaal deur die totale waarde van al die deelnemende belange in die portefeulje aan die einde van elke dag gedurende daardie jaar te gebruik; of

(B) in enige ander geval, tien persent van die belasbare inkomste (uitgesluit enige uittreefonds enkelbedragvoordeel en uittreefonds enkelbedragonttrekkingsvoordeel) van die belastingpligtige soos bereken voordat 'n aftrekking ingevolge hierdie artikel **[en]** of artikel 18 toegelaat word,

te bowe gaan nie.".

(2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of amounts paid or transferred during years of assessment commencing on or after that date.

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, section 36 of Act 60 of 2008 and section 39 of Act 7 of 2010

45. (1) Section 22 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (3)*(a)*(iii) for items *(aa)* and *(bb)* of the following items:

"*(aa)* a right in a controlled foreign company held directly by a resident, include an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph 10 of the Eighth Schedule) of that company and of any other controlled foreign company in which that controlled foreign company and that resident directly or indirectly have an interest, which was included in the income of that resident in terms of section 9D during any year of assessment, less the amount of any foreign dividend distributed by that company to that resident during any year of assessment which was exempt from tax in terms of section **[10(1)*(k)*(ii)*(cc)*]** 10B(2)*(c)*; or

(bb) a right in a controlled foreign company held directly by another controlled foreign company, include an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph 10 of the Eighth Schedule) of that first-mentioned controlled foreign company and of any other controlled foreign company in which both the first- and second-mentioned controlled foreign companies directly or indirectly have an interest, which during any year of assessment would have been included in the income of that second-mentioned controlled foreign company in terms of section 9D had it been a resident, less the amount of any foreign dividend distributed by that first-mentioned controlled foreign company to the second-mentioned controlled foreign company if that dividend would have been exempt from tax in terms of section **[10(1)*(k)*(ii)*(cc)*]** 10B(2)*(c)* had that second-mentioned controlled foreign company been a resident;".

(2) Subsection (1) comes into operation on 1 April 2012 and applies in respect of trading stock acquired during years of assessment commencing on or after that date.

Substitution of section 22B of Act 58 of 1962

46. (1) The Income Tax Act, 1962, is hereby amended by the substitution for section 22B of the following section:

"**Dividends treated as income on disposal of certain shares**

22B. (1) For the purposes of this section, **'exempt dividend'** means any dividend or foreign dividend to the extent that the dividend or foreign dividend is—

(a) not subject to tax under Part VIII of Chapter II; and

(b) exempt from normal tax in terms of section 10(1)*(k)*(i) or section 10B(2)*(a)* or *(b)*.

(2) Where a taxpayer that is a company disposes of shares in another company, the amount of any exempt dividend received by or accrued to the

(2) Subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van bedrae betaal of oorgedra gedurende jare van aanslag wat op of na daardie datum begin.

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, artikel 36 van Wet 60 van 2008 en artikel 39 van Wet 7 van 2010

45. (1) Artikel 22 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (3)*(a)*(iii) items *(aa)* en *(bb)* deur die volgende items te vervang:

“*(aa)* ’n reg in ’n beheerde buitelandse maatskappy direk gehou deur ’n inwoner, ook ’n bedrag gelyk aan die proporsionele bedrag van die netto inkomste (sonder inagneming van die persentasieregstellings beoog in paragraaf 10 van die Agtste Bylae) van daardie maatskappy en van enige ander beheerde buitelandse maatskappy waarin daardie beheerde buitelandse maatskappy en daardie inwoner direk of indirek ’n belang het, wat gedurende enige jaar van aanslag ingevolge artikel 9D by die inkomste van daardie inwoner ingesluit is, min die bedrag van enige buitelandse dividend deur daardie maatskappy aan daardie inwoner gedurende enige jaar van aanslag uitgekeer wat ingevolge artikel **[10(1)*(k)*(ii)*(cc)*]** 10B(2)*(c)* van belasting vrygestel was; of

(bb) ’n reg in ’n beheerde buitelandse maatskappy direk gehou deur ’n ander beheerde buitelandse maatskappy, ook ’n bedrag gelyk aan die proporsionele bedrag van die netto inkomste (sonder inagneming van die persentasieregstellings beoog in paragraaf 10 van die Agtste Bylae) van daardie eersgenoemde beheerde buitelandse maatskappy en van enige ander beheerde buitelandse maatskappy waarin beide die eers- en tweedegenoemde beheerde buitelandse maatskappye direk of indirek ’n belang het, wat gedurende enige jaar van aanslag ingevolge artikel 9D by die inkomste van daardie tweede-genoemde beheerde buitelandse maatskappy ingesluit sou gewees het, indien dit ’n inwoner was, min die bedrag van enige buitelandse dividend deur daardie eersgenoemde beheerde buitelandse maatskappy aan die tweede-genoemde beheerde buitelandse maatskappy uitgekeer indien daardie dividend ingevolge artikel **[10(1)*(k)*(ii)*(cc)*]** 10B(2)*(c)* van belasting vrygestel sou gewees het indien daardie tweedegenoemde beheerde buitelandse maatskappy ’n inwoner was;”.

(2) Subartikel (1) tree op 1 April 2012 in werking en is van toepassing ten opsigte van handelsvoorraad verkry gedurende jare van aanslag wat op of na daardie datum begin.

Vervanging van artikel 22B van Wet 58 van 1962

46. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur artikel 22B deur die volgende artikel te vervang:

“**Dividende behandel as inkomste by beskikking oor sekere aandele**

22B. (1) By die toepassing van hierdie artikel beteken **‘vrygestelde dividend’** enige dividend of buitelandse dividend namate die dividend of buitelandse dividend—

(a) nie aan belasting kragtens Deel VIII van Hoofstuk II onderhewig is nie; en

(b) ingevolge artikel 10(1)*(k)*(i) of artikel 10B(2)*(a)* of *(b)* van normale belasting vrygestel is.

(2) Waar ’n belastingpligtige wat ’n maatskappy is oor aandele in ’n ander maatskappy beskik, word die bedrag van enige vrygestelde dividend ontvang deur of toegeval aan die belastingpligtige ten opsigte van ’n

taxpayer in respect of any share held by the taxpayer in that other company must be included in the income of the taxpayer—

(a) (i) to the extent that the exempt dividend is received by or accrues to the taxpayer within a period of 18 months prior to or as part of the disposal;

(ii) if the taxpayer immediately before the disposal—

(aa) held the shares disposed of as trading stock; and

(bb) held more than 50 per cent of the equity shares in the other company; and

(iii) if the other company (or any company in which that other company directly or indirectly holds more than 50 per cent of the equity shares) has, within a period of 18 months prior to that disposal, obtained any loan or advance or incurred any debt by reason of or in consequence of the disposal—

(aa) owing to the person acquiring the shares or any connected person in relation to that person; or

(bb) that is guaranteed or otherwise secured by the person acquiring the shares or any connected person in relation to that person; and

(b) if the share in respect of which the exempt dividend is so received or accrues is disposed of by that company within a period of 45 days after the date of accrual in respect of that exempt dividend.

(3) For the purposes of subsection (2)*(a)*, the amount that must be included in the income of the taxpayer is limited to the amount of the loan, advance or debt contemplated in subparagraph (iii) of that 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.

Amendment of section 23 of Act 58 of 1962, as amended by section 18 of Act 65 of 1973, section 20 of Act 121 of 1984, section 23 of Act 129 of 1991, section 20 of Act 141 of 1992, section 18 of Act 113 of 1993, section 15 of Act 21 of 1994, section 28 of Act 30 of 2000, section 21 of Act 30 of 2002, section 38 of Act 45 of 2003, section 13 of Act 16 of 2004, section 28 of Act 31 of 2005, section 17 of Act 20 of 2006, section 20 of Act 8 of 2007, section 37 of Act 60 of 2008 and section 41 of Act 7 of 2010

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

(a) by the substitution after paragraph *(o)* for the full stop of a semicolon;

(b) by the addition after paragraph *(o)* of the following paragraph:

“*(p)* the value in respect of any cession of a policy of insurance ceded by a taxpayer to—

(i) any—

(aa) employee (or former employee);

(bb) director (or former director); or

(cc) dependant or nominee of the employee (or former employee) or director (or former director),

of the taxpayer; or

(ii) any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund for the benefit of any—

(aa) employee (or former employee);

(bb) director (or former director); or

aandeel deur die belastingpligtige in daardie ander maatskappy gehou, ingesluit by die inkomste van die belastingpligtige—

(a) (i) namate die vrygestelde dividend ontvang word deur of toeval aan die belastingpligtige binne 'n tydperk van 18 maande voor of as deel van die beskikking;

(ii) indien die belastingpligtige onmiddellik voor die beskikking—

(aa) die aandele waaroor beskik word as handelsvoorraad gehou het; en

(bb) meer as 50 persent van die ekwiteitsaandele in die ander maatskappy gehou het; en

(iii) indien die ander maatskappy (of enige maatskappy waarin daardie ander maatskappy direk of indirek meer as 50 persent van die ekwiteitsaandele hou) binne 'n tydperk van 18 maande voor daardie beskikking, enige lening of voorskot verkry het of enige skuld aangegaan het omrede of ten gevolge van die beskikking—

(aa) verskuldig aan die persoon wat die aandele verkry of enige verbonde persoon met betrekking tot daardie persoon; of

(bb) wat gewaarborg of andersins gesekuritiseer word deur die persoon wat die aandele verkry of enige verbonde persoon met betrekking tot daardie persoon; en

(b) indien oor die aandeel ten opsigte waarvan die vrygestelde dividend aldus ontvang word of toeval deur daardie maatskappy beskik word binne 'n tydperk van 45 dae na die datum van toevalling ten opsigte van daardie vrygestelde dividend.

(3) By die toepassing van subartikel (2)*(a)* word die bedrag wat by die inkomste van die belastingpligtige ingesluit moet word, beperk tot die bedrag van die lening, voorskot of skuld in subparagraaf (iii) van daardie subartikel beoog.".

(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 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, artikel 37 van Wet 60 van 2008 en artikel 41 van Wet 7 van 2010

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

(a) deur die punt aan die einde van paragraaf *(o)* deur 'n kommapunt te vervang; en

(b) deur die volgende paragraaf na paragraaf *(o)* by te voeg:

"*(p)* die waarde ten opsigte van enige sessie van 'n versekeringspolis gesedeeer deur 'n belastingpligtige aan—

(i) enige—

(aa) werknemer (of voormalige werknemer);

(bb) direkteur (of voormalige direkteur); of

(cc) afhanklike of benoemde van die werknemer (of voormalige werknemer) of direkteur (of voormalige direkteur),

van die belastingpligtige; of

(ii) enige pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingsannuïteitsfonds ten behoewe van enige—

(aa) werknemer (of voormalige werknemer);

(bb) direkteur (of voormalige direkteur); of

(cc) dependant or nominee of the employee (or former employee) or director (or former director),

of the taxpayer;"; and

(c) by the addition after paragraph *(p)* of the following paragraph:

"*(q)* any expenditure incurred in the production of income in the form of foreign dividends.".

(2) Paragraphs *(a)* and *(b)* of subsection (1) come into operation on 1 March 2012 and apply in respect of policies ceded on or after that date.

(3) Paragraph *(c)* of subsection (1) comes into operation—

(a) insofar as it applies to any person that is a natural person, deceased estate, insolvent estate or special trust, on 1 March 2012 and applies in respect of years of assessment commencing on or after that date; and

(b) insofar as it applies to any person that is a person other than a natural person, deceased estate, insolvent estate or special trust, on 1 April 2012 and applies in respect of years of assessment commencing 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, section 18 of Act 20 of 2006 and section 42 of Act 7 of 2010

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

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

"(4) The provisions of subsection (3) shall not apply in respect of the deduction of expenditure incurred in respect of research and development contemplated in section 11D(8)."; and

(b) by the addition after subsection (4) of the following subsection:

"(5) 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 policy of insurance contemplated in section 11*(w)*.".

(2) Paragraph *(a)* of subsection (1) comes into operation on 1 April 2012 unless a later date is determined by the Minister by notice in the *Gazette* and applies in respect of expenditure incurred in respect of research and development on or after 1 April 2012 or such later date determined by the Minister by notice in the *Gazette* but before 1 April 2022.

(3) Paragraph *(b)* of subsection (1) comes into operation on 1 March 2012 and applies in respect of premiums incurred on or after that date.

Insertion of section 23K in Act 58 of 1962

49. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 23J of the following section:

"**Limitation of deductions in respect of reorganisation transactions**

23K. (1) For the purposes of this section—

'acquiring company' means a transferee company contemplated in the definition of 'intra-group transaction' in section 45(1);

'debt instrument' means a debt instrument as defined in section 37I(1);

'interest' means interest as defined in section 24J;

'reorganisation transaction' means an intra-group transaction as defined in section 45(1) to which section 45 applies.

(2) Subject to subsections (3) and (9), no deduction is allowed in respect of any amount of interest incurred by an acquiring company in terms of a debt instrument if that debt instrument was issued or used directly or indirectly—

(a) for the purpose of procuring, enabling, facilitating or funding the acquisition by that acquiring company of any asset in terms of a reorganisation transaction; or

(b) in substitution for any debt instrument issued or used as contemplated in paragraph *(a)*.

(cc) afhanklike of benoemde van die werknemer (of voormalige werknemer) of direkteur (of voormalige direkteur),

van die belastingpligtige;"; en

(c) deur na paragraaf *(p)* die volgende paragraaf by te voeg:

"*(q)* enige uitgawes aangegaan by die voortbrenging van inkomste in die vorm van buitelandse dividende.".

(2) Paragrawe *(a)* en *(b)* van subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van polisse op of na daardie datum gesedeer.

(3) Paragraaf *(c)* van subartikel (1) tree in werking—

(a) wat betref 'n persoon wat 'n natuurlike persoon, gestorwe boedel, insolvente boedel of spesiale trust is, op 1 Maart 2012 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin; en

(b) wat betref 'n persoon wat 'n persoon behalwe 'n natuurlike persoon, gestorwe boedel, insolvente boedel of spesiale trust is, op 1 April 2012 en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

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, artikel 18 van Wet 20 van 2006 en artikel 42 van Wet 7 van 2010

48. (1) Artikel 23B van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur na subartikel (3) die volgende subartikel by te voeg:

"(4) Die bepalings van subartikel (3) is nie van toepassing nie ten opsigte van die aftrekking van onkoste aangegaan ten opsigte van navorsing en ontwikkeling in artikel 11D(8) beoog."; en

(b) deur na subartikel (4) die volgende subartikel by te voeg:

"(5) Geen aftrekking word kragtens artikel 11*(a)* toegelaat nie ten opsigte van enige uitgawes aangegaan deur 'n belastingpligtige ten opsigte van enige premie betaal kragtens 'n versekeringspolis in artikel 11*(w)* beoog.".

(2) Paragraaf *(a)* van subartikel (1) tree op 1 April 2012 in werking tensy 'n later datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal word en is van toepassing ten opsigte van uitgawes aangegaan ten opsigte van navorsing en ontwikkeling op of na 1 April 2012 of die later datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal, maar voor 1 April 2022.

(2) Paragraaf *(b)* van subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van premies op of na daardie datum aangegaan.

Invoeging van artikel 23K in Wet 58 van 1962

49. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 23J die volgende artikel in te voeg:

"**Beperking van aftrekkings ten opsigte van reorganisasietransaksies**

23K. (1) By die toepassing van hierdie artikel beteken—

'rente' rente soos in artikel 24J omskryf; en

'reorganisasietransaksie' 'n intragroeptransaksie soos omskryf in artikel 45(1) waarop artikel 45 van toepassing is;

'skuldinstrument' 'n skuldinstrument soos in artikel 37I(1) omskryf;

'verkrygende maatskappy' 'n oordragnemende maatskappy beoog in die omskrywing van 'intragroeptransaksie' in artikel 45(1).

(2) Behoudens subartikels (3) en (9) word geen aftrekking toegelaat nie ten opsigte van enige bedrag van rente aangegaan deur 'n verkrygende maatskappy ingevolge 'n skuldinstrument indien daardie skuldinstrument direk of indirek uitgereik of gebruik is—

(a) ten einde die verkryging deur daardie verkrygende maatskappy van enige bate ingevolge 'n reorganisasietransaksie te bewerkstellig, in staat te stel, te fasiliteer of te befonds; of

(b) ter vervanging van enige skuldinstrument uitgereik of gebruik soos in paragraaf *(a)* beoog.

(3) Subject to subsection (5), the Commissioner may, on application by an acquiring company, issue a directive that subsection (2) does not apply in respect of an amount of interest incurred as contemplated in that subsection.

(4) In considering an application for a directive contemplated in subsection (3), the Commissioner—

(a) must take into account—
  (i) the amount of interest incurred as contemplated in subsection (2) by an acquiring company in terms of a debt instrument contemplated in that subsection; and
  (ii) all amounts of interest incurred, received or accrued in respect of all debt instruments issued or used directly or indirectly to fund a debt instrument in respect of which any amount of interest is incurred by an acquiring company as contemplated in subsection (2); and

(b) may only issue a directive contemplated in subsection (3) if and to the extent that the Commissioner is, having regard to the criteria prescribed by the Regulations contemplated in subsection (7), satisfied that the issuing of that directive will not lead nor be likely to lead to a significant reduction of the aggregate taxable income of all parties who incur, receive or accrue interest—
  (i) in respect of; and
  (ii) for all periods during which any amounts are outstanding in terms of,

  any debt instrument contemplated in subparagraphs (i) and (ii) of paragraph *(a)*:

Provided that in determining whether a reduction of taxable income is significant for the purpose of this subsection, the Commissioner must have regard to the criteria prescribed by the regulations contemplated in subsection (7).

(5) Any directive issued by the Commissioner in terms of subsection (3) may be made subject to such conditions and limitations as may be determined by the Commissioner.

(6) A directive issued by the Commissioner in terms of subsection (3) in respect of an amount of interest incurred in terms of a debt instrument must be effective from—

(a) the date on which that debt instrument was issued if the application for that directive is made—
  (i) on or before 31 December 2011, where that debt instrument was issued before 25 October 2011; or
  (ii) within 60 days of the date of issue of that debt instrument, where that debt instrument is issued on or after 25 October 2011; or

(b) the date on which the application for that directive is made if—
  (i) that debt instrument was issued before 25 October 2011 and that application is made after 31 December 2011; or
  (ii) that debt instrument is issued on or after 25 October 2011 and that application is made later than 60 days after the date of issue of that debt instrument.

(7) The Minister must make regulations that prescribe criteria that the Commissioner must, in terms of subsection (4)*(b)*, have regard to in considering any application made in terms of subsection (3) by an acquiring company in respect of any amount of interest incurred by such an acquiring company in terms of any debt instrument, which criteria must relate to—

(a) amounts of debt in relation to equity of such an acquiring company;

(b) total amounts of interest to be incurred by such an acquiring company in relation to total income of such an acquiring company;

(3) Behoudens subartikel (5) kan die die Kommissaris, by aansoek deur 'n verkrygende maatskappy, 'n aanwysing uitreik dat subartikel (2) nie van toepassing is nie ten opsigte van enige bedrag van rente aangegaan soos in daardie subartikel beoog.

(4) By die oorweging van 'n aansoek vir 'n aanwysing beoog in subartikel (3)—

(a) moet die Kommissaris in berekening bring—
   (i) die bedrag van rente aangegaan soos in subartikel (2) beoog deur 'n verkrygende maatskappy ingevolge 'n skuldinstrument beoog in daardie subartikel; en
   (ii) alle bedrae van rente aangegaan, ontvang of toegeval ten opsigte van alle skuldinstrumente direk of indirek uitgereik of gebruik vir die befondsing van 'n skuldinstrument ten opsigte waarvan enige bedrag van rente deur 'n verkrygende maatskappy aangegaan word soos in subartikel (2) beoog; en

(b) kan die Kommissaris slegs 'n aanwysing beoog in subartikel (3) uitreik indien en in die mate wat die Kommissaris, met inagneming van die maatstawwe voorgeskryf deur die Regulasies beoog in subartikel (7), tevrede is dat die uitreiking van daardie aanwysing nie sal lei of waarskynlik sal lei tot 'n beduidende vermindering van die totale belasbare inkomste van alle partye wat rente aangaan of ontvang of waaraan rente toeval—
   (i) ten opsigte van; en
   (ii) vir alle tydperke waartydens enige bedrae uitstaande is ingevolge,

   enige skuldinstrument beoog in subparagrawe (i) en (ii) van paragraaf *(a)* nie:

Met dien verstande dat by die bepaling of 'n vermindering van belasbare inkomste beduidend is al dan nie by die toepassing van hierdie subartikel die Kommissaris in ag moet neem die maatstawwe voorgeskryf deur die regulasies in subartikel (7) beoog.

(5) Enige aanwysing uitgereik deur die Kommissaris ingevolge subartikel (3) kan onderhewig gemaak word aan die voorwaardes en beperkings deur die Kommissaris bepaal.

(6) 'n Aanwysing uitgereik deur die Kommissaris ingevolge subartikel (3) ten opsigte van enige bedrag van rente aangegaan ingevolge 'n skuldinstrument tree in werking vanaf—

(a) die datum waarop daardie skuldinstrument uitgereik is indien die aansoek vir daardie aanwysing gemaak is—
   (i) op of voor 31 Desember 2011, waar daardie skuldinstrument voor 25 Oktober 2011 uitgereik is; of
   (ii) binne 60 dae vanaf die datum van uitreiking van daardie skuldinstrument, waar daardie skuldinstrument op of na 25 Oktober 2011 uitgereik is; of

(b) die datum waarop die aansoek om daardie aanwysing gemaak is indien—
   (i) daardie skuldinstrument voor 25 Oktober 2011 uitgereik is en daardie aansoek na 31 Desember 2011 gemaak word; of
   (ii) daardie skuldinstrument op of na 25 Oktober 2011 uitgereik word en daardie aansoek gemaak word meer as 60 dae na die datum van uitreiking van daardie skuldinstrument.

(7) Die Minister moet regulasies utvaardig wat maatstawwe voorskryf wat die Kommissaris, ingevolge subartikel (4)*(b)*, in ag moet neem by die oorweging van enige aansoek ingevolge subartikel (3) deur 'n verkrygende maatskappy gedoen ten opsigte van enige bedrag van rente aangegaan deur so 'n verkrygende maatskappy ingevolge enige skuldinstrument, welke maatstawwe betrekking moet hê op—

(a) bedrae van skuld met betrekking tot ekwiteit van so 'n verkrygende maatskappy;

(b) totale bedrae van rente aangegaan te word deur so 'n verkrygende maatskappy met betrekking tot totale inkomste van so 'n verkrygende maatskappy;

(c) terms of such a debt instrument, including the economic effect of such a debt instrument, having regard to any debt or equity features of such a debt instrument;
(d) the direct or indirect holding of shares in such an acquiring company by any holder (or any company that forms part of the same group of companies as the holder) of such a debt instrument; and
(e) any other factor prescribed by the Minister.

(8) *(a)* If, subsequent to the date on which a directive is issued by the Commissioner pursuant to an application made by an acquiring company in terms of subsection (3)—
(i) there is any material change in respect of any fact or circumstance which influenced any decision of the Commissioner relating to the issuing of that directive; and
(ii) that change would, had the change been anticipated by the Commissioner at the time of issuing the directive, have resulted in the Commissioner not issuing the directive or issuing the directive on terms that are less favourable to that acquiring company,

the directive will cease to apply with effect from the date on which that change takes effect.

(b) Where any decision relating to the issuing of a directive by the Commissioner in terms of subsection (3) was made by the Commissioner as a direct or indirect result of fraud, misrepresentation or non-disclosure of material facts, that directive will cease to apply with effect from the date that the directive took effect.

(9) The Minister may make regulations prescribing circumstances in which subsection (2) does not apply.”.

(2) Subsection (1) is deemed to have come into operation on 3 June 2011 and applies in respect of any amount of interest incurred in terms of a debt instrument where that debt instrument was issued or used for the purpose of procuring, enabling, facilitating or funding the acquisition by an acquiring company of an asset in terms of a reorganisation transaction entered into on or after that date.

Amendment of section 23K of Act 58 of 1962

50. (1) Section 23K of the Income Tax Act, 1962, is hereby amended—
(a) by the substitution in subsection (1) for the definition of “acquiring company” of the following definition:
“ **‘acquiring company’** means—
(a) a transferee company contemplated in the definition of ‘intra-group transaction’ in section 45(1); or
(b) a holding company contemplated in the definition of ‘liquidation distribution’ in section 47(1);”; and
(b) by the substitution in subsection (1) for the definition of “reorganisation transaction” of the following definition:
“ **‘reorganisation transaction’** means—
(a) an intra-group transaction as defined in section 45(1) to which section 45 applies; or
(b) a liquidation distribution as defined in section 47(1) to which section 47 applies.”.

(2) Subsection (1) is deemed to have come into operation on 3 August 2011 and applies in respect of any amount of interest incurred in terms of a debt instrument where that debt instrument was issued or used for the purpose of procuring, enabling, facilitating or funding the acquisition by an acquiring company of an asset in terms of a reorganisation transaction entered into on or after that date.

(c) bedinge van so ’n skuldinstrument, insluitend die ekonomiese uitwerking van so ’n skuldinstrument, met inagneming van enige skuld- of ekwiteitskenmerke van so ’n skuldinstrument;

(d) die direkte of indirekte hou van aandele in so ’n verkrygende maatskappy deur enige houer (of enige maatskappy wat deel uitmaak van dieselfde groep van maatskappye as die houer) van so ’n skuldinstrument; en

(e) enige ander faktor deur die Minister voorgeskryf.

(8) *(a)* Indien, na die datum waarop ’n aanwysing deur die Kommissaris uitgereik word uit hoofde van ’n aansoek ingevolge subartikel (3) deur ’n verkrygende maatskappy gedoen—

(i) daar enige wesenlike verandering is ten opsigte van enige feit of omstandigheid wat enige besluit van die Kommissaris met betrekking tot die uitreiking van daardie aanwysing beïnvloed het; en

(ii) daardie verandering, was die Kommissaris die verandering te wagte ten tye van die uitreiking van die aanwysing, tot gevolg sou gehad het dat die Kommissaris nie die aanwysing uitgereik het nie of die aanwysing sou uitgereik het op bedinge wat vir daardie verkrygende maatskappy minder gunstig is,

hou die aanwysing op om van toepassing te wees met ingang van die datum waarop daardie verandering plaasvind.

(b) Waar enige besluit met betrekking tot die uitreiking van ’n aanwysing deur die Kommissaris ingevolge subartikel (3) deur die Kommissaris geneem is as ’n direkte of indirekte gevolg van bedrog, wanvoorstelling of nie-openbaarmaking van wesenlike feite, hou daardie aanwysing op om van toepassing te wees met ingang van die datum waarop die aanwysing in werking getree het.

(9) Die Minister kan regulasies uitvaardig wat omstandighede voorskryf waarin subartikel (2) nie van toepassing is nie.”.

(2) Subartikel (1) word geag op 3 Junie 2011 in werking te getree het en is van toepassing ten opsigte van enige bedrag van rente aangegaan ingevolge ’n skuldinstrument waar daardie skuldinstrument uitgereik of gebruik is met die doel om die verkryging van ’n bate deur ’n verkrygende maatskappy te bewerkstellig, in staat te stel, te fasiliteer of te befonds ingevolge ’n reorganisasietransaksie op of na daardie datum aangegaan.

Wysiging van artikel 23K van Wet 58 van 1962

50. (1) Artikel 23K van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die omskrywing van “verkrygende maatskappy” deur die volgende omskrywing te vervang:

“ **‘verkrygende maatskappy’**—

(a) ’n oordragnemende maatskappy beoog in die omskrywing van ‘intragroeptransaksie’ in artikel 45(1); of

(b) ’n houermaatskappy beoog in die omskrywing van ‘likwidasie-uitkering’ in artikel 47(1).”; en

(b) deur in subartikel (1) die omskrywing van “reorganisasietransaksie” deur die volgende omskrywing te vervang:

“ **‘reorganisasietransaksie**—

(a) ’n intragroeptransaksie soos omskryf in artikel 45(1) waarop artikel 45 van toepassing is; of

(b) ’n likwidasie-uitkering soos omskryf in artikel 47(1) waarop artikel 47 van toepassing is;”.

(2) Subartikel (1) word geag op 3 Augustus 2011 in werking te getree het en is van toepassing ten opsigte van enige bedrag van rente aangegaan ingevolge ’n skuldinstrument waar daardie skuldinstrument uitgereik of gebruik is met die doel om die verkryging van ’n bate deur ’n verkrygende maatskappy te bewerkstellig, in staat te stel, te fasiliteer of te befonds ingevolge ’n reorganisasietransaksie op of na daardie datum aangegaan.

Amendment of section 24F of Act 58 of 1962, as amended by section 17 of Act 85 of 1987, section 19 of Act 90 of 1988, section 24 of Act 101 of 1990, section 26 of Act 129 of 1991, section 30 of Act 59 of 2000, section 25 of Act 74 of 2002, section 32 of Act 31 of 2005 and section 22 of Act 8 of 2007

51. (1) Section 24F of the Income Tax Act, 1962, is hereby amended by the addition in subsection (2) after paragraph *(c)* of the following paragraph:

"*(d)* No deduction shall be allowed under this section in respect of any expenditure incurred in respect of—

(i) any film of which principal photography commences on or after 1 January 2012; or

(ii) any film after 31 December 2012.".

(2) Subsection (1) comes into operation on 1 January 2012.

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, section 20 of Act 3 of 2008 and section 47 of Act 7 of 2010

52. (1) Section 24I of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (11A) of the following subsection:

"(11A) **[An]** No amount shall **[not]** be included in or deducted from the income of a **[resident]** person in terms of this section in respect of any exchange difference arising from any forward exchange contract or foreign currency option contract or premium in respect of any foreign currency option contract entered into by that **[resident]** person to hedge the purchase price in respect of the acquisition of the equity shares of a company by that **[resident]** person, or by any other **[resident]** person forming part of the same group of companies as that **[resident]** person, to the extent that—

(a) **[that resident, or that other resident, as the case may be, acquires or is entitled to acquire,]** no less than 20 per cent of the equity shares of that company will, after that acquisition, be held by that person or that other person, as the case may be; and

[*(b)* that company will, after that acquisition, be a controlled foreign company (as defined in section 9D(1)) in relation to that resident or that other resident, as the case may be; and]

(c) (i) in the case of an acquisition by that **[resident]** person, that amount is not included in the income statement of that **[resident]** person utilised for financial reporting purposes pursuant to International Financial Reporting Standards**[,]** ; or

(ii) in the case of an acquisition by another **[resident]** person forming part of the same group of companies as that **[resident]** person, that amount is not included in the consolidated income statement forming part of the annual financial statements of a group for purposes of financial reporting pursuant to International Financial Reporting Standards or South African Statements of Generally Accepted Accounting Practice in terms of which the aforementioned **[residents]** persons are viewed as part of that group for purposes of those Standards or Statements.".

(2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of years of assessment commencing on or after that date.

Wysiging van artikel 24F van Wet 58 van 1962, soos gewysig deur artikel 17 van Wet 85 van 1987, artikel 19 van Wet 90 van 1988, artikel 24 van Wet 101 van 1990, artikel 26 van Wet 129 van 1991, artikel 30 van Wet 59 van 2000, artikel 25 van Wet 74 van 2002, artikel 32 van Wet 31 van 2005 en artikel 22 van Wet 8 van 2007

51. (1) Artikel 24F van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (2) na paragraaf *(c)* die volgende paragraaf by te voeg:

"*(d)* Geen aftrekking word kragtens hierdie artikel toegelaat nie ten opsigte van enige uitgawes aangegaan ten opsigte van—

(i) enige rolprent waarvan hoof fotografie op of na 1 Januarie 2012 begin; of

(ii) enige rolprent na 31 Desember 2012.".

(2) Subartikel (1) tree op 1 Januarie 2012 in werking.

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, artikel 20 van Wet 3 van 2008 en artikel 47 van Wet 7 van 2010

52. (1) Artikel 24I van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (11A) deur die volgende subartikel te vervang:

"(11A) **['n Bedrag]** Geen bedrag word **[nie]** by die inkomste van 'n **[inwoner]** persoon ingevolge hierdie artikel ingesluit of daarvan afgetrek nie ten opsigte van enige valutaverskil wat ontstaan uit enige valutatermynkontrak of buitelandse valuta-opsiekontrak of premie ten opsigte van enige buitelandse valuta-opsiekontrak deur daardie **[inwoner]** persoon aangegaan om as dekking te dien vir die koopprys ten opsigte van die verkryging van die ekwiteitsaandele van 'n maatskappy deur daardie **[inwoner]** persoon of deur enige ander **[inwoner]** persoon wat deel van dieselfde groep van maatskappye as daardie **[inwoner]** persoon vorm, in die mate wat—

(a) **[daardie inwoner, of daardie ander inwoner, na gelang van die geval,]** nie minder nie as 20 persent van die ekwiteitsaandele van daardie maatskappy **[te verkry of geregtig is om dit te verkry]** na daardie verkryging deur daardie persoon of daardie ander persoon, na gelang van die geval, gehou sal word; en

[*(b)* daardie maatskappy, na daardie verkryging, 'n beheerde buitelandse maatskappy (soos in artikel 9D(1) omskryf) met betrekking tot daardie inwoner of ander inwoner, na gelang van die geval, sal wees; en]

(c) (i) in die geval van 'n verkryging deur daardie **[inwonder]** persoon, daardie bedrag nie ingesluit is nie by die inkomstestaat van daardie **[inwoner]** persoon gebruik vir doeleindes van finansiële verslagdoening volgens Internasionale Finansiële Verslagdoening Standaarde; of

(ii) in die geval van 'n verkryging deur 'n ander **[inwoner]** persoon wat deel vorm van dieselfde groep van maatskappye as daardie **[inwoner]** persoon, daardie bedrag nie ingesluit is nie by die gekonsolideerde inkomstestaat wat deel uitmaak van die finansiële jaarstate van 'n groep vir doeleindes van finansiële verslagdoening volgens Internasionale Finansiële Verslagdoening Standaarde of Suid-Afrikaanse Standpunte van Algemeen Aanvaarde Rekeningkundige Praktyk **[in terme]** ingevolge waarvan die voormelde **[inwoners]** persone beskou word as deel van daardie groep vir doeleindes van daardie Standaarde of Standpunte.".

(2) Subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Amendment of section 24J of Act 58 of 1962, as inserted by section 21 of Act 21 of 1995 and amended by section 14 of Act 36 of 1996, section 19 of Act 28 of 1997, section 27 of Act 53 of 1999, section 24 of Act 32 of 2004, section 10 of Act 9 of 2005 and section 20 of Act 20 of 2006

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

(a) by the insertion in subsection (1) of the following definition after the definition of ''alternative method'':

'' **'date of redemption'**, in relation to an instrument other than a demand instrument, means—

(a) where—

(i) the terms of that instrument specify a date on which all liability to pay all amounts in terms of that instrument will be discharged; and

(ii) the date so specified is not, in terms of the instrument, subject to change, whether as a result of any right, fixed or contingent, of the holder of that instrument or otherwise,

that date; or

(b) where—

(i) the terms of that instrument do not specify a date as contemplated in paragraph *(a)*(i); or

(ii) that date, if so specified, is subject to change as contemplated in paragraph *(a)*(ii),

the date on which, on a balance of probabilities, all liability to pay all amounts in terms of that instrument is likely to be discharged;'';

(b) by the insertion in subsection (1) after the definition of ''deferred interest'' of the following definition:

'' **'demand instrument'** means any instrument where the holder of that instrument has, at any time during a year of assessment, a right to require the redemption of that instrument at any time before the date specified in terms of that instrument as the date of redemption of that instrument;'';

(c) by the substitution in subsection (1) for paragraph *(a)* of the definition of ''instrument'' of the following paragraph:

''*(a)* any **[stock,]** bond, debenture, bill, promissory note, certificate or similar arrangement;''; and

(d) by the substitution in subsection (1) for the definition of ''term'' of the following definition:

'' **'term'**, in relation to—

(a) a demand instrument, means a period of 365 days commencing on the date of issue or transfer of that instrument; or

(b) an instrument other than a demand instrument, means the period commencing on the date of issue or transfer of that instrument and ending on the date of redemption of that instrument;''.

(2) Paragraphs *(a)*, *(b)* and *(d)* of subsection (1) come into operation on 1 April 2012 and apply in respect of amounts received by or accrued to or incurred by any person during years of assessment commencing on or after that date.

Amendment of section 24JA of Act 58 of 1962, as inserted by section 48 of Act 7 of 2010

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

(a) by the substitution in subsection (1) for the definition of ''murabaha'' of the following definition:

'' **'murabaha'** means a sharia arrangement between a financier and a client of that financier, one of which is a bank, whereby—

(a) the financier will acquire an asset from a third party (the seller) for the benefit of the client on such terms and conditions as are agreed upon between the client and the seller;

(b) the client—

Wysiging van artikel 24J van Wet 58 van 1962, soos ingevoeg deur artikel 21 van Wet 21 van 1995 en gewysig deur artikel 14 van Wet 36 van 1996, artikel 19 van Wet 28 van 1997, artikel 27 van Wet 53 van 1999, artikel 24 van Wet 32 van 2004, artikel 10 van Wet 9 van 2005 en artikel 20 van Wet 20 van 2006

53. (1) Artikel 24J van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die volgende omskrywing na die omskrywing van ''aflossingsbetaling'' in te voeg:

'' **'aflossingsdatum'**, met betrekking tot 'n instrument behalwe 'n opeisbare instrument—

(a) waar—

(i) die bedinge van daardie instrument 'n datum vermeld waarop die volle verpligting om alle bedrae ingevolge daardie instrument te betaal, afgelos sal word; en

(ii) die datum aldus vermeld nie, ingevolge die instrument, aan verandering onderhewig is nie, hetsy as gevolg van 'n reg, vas of gebeurlik, van die houer van daardie instrument of andersins,

daardie datum; of

(b) waar—

(i) die bedinge van daardie instrument nie 'n datum vermeld soos beoog in paragraaf *(a)*(i) nie; of

(ii) daardie datum, indien aldus vermeld, aan verandering onderhewig is soos in paragraaf *(a)*(ii) beoog,

die datum waarop, volgens oorwig van waarskynlikheid, die volle verpligting om alle bedrae ingevolge daardie instrument te betaal, waarskynlik afgelos sal word;'';

(b) deur in subartikel (1) die volgende omskrywing na die omskrywing van ''opbrengs tot op vervaldatum'' in te voeg:

'' **'opeisbare instrument'** enige instrument waar die houer van daardie instrument, te enige tyd gedurende 'n jaar van aanslag, 'n reg het om die aflossing van daardie instrument te vereis te enige tyd voor die datum ingevolge daardie instrument as die aflossingsdatum van daardie instrument vermeld;'';

(c) deur in subartikel (1) paragraaf *(a)* van die omskrywing van ''instrument'' deur die volgende paragraaf te vervang:

''*(a)* 'n **[effek,]** obligasie, skuldbrief, wissel, promesse, sertifikaat of soortgelyke reëling;''; en

(d) deur in subartikel (1) die omskrywing van ''termyn'' deur die volgende omskrywing te vervang:

'' **'termyn'**, met betrekking tot—

(a) 'n opeisbare instrument, 'n tydperk van 365 dae wat begin op die datum van uitreiking of oordrag van daardie instrument; of

(b) 'n instrument behalwe 'n opeisbare instrument, die tydperk wat begin op die datum van uitreiking of oordrag van daardie instrument en wat eindig op die aflossingsdatum van daardie instrument;''.

(2) Paragrawe *(a)*, *(b)* en *(d)* van subartikel (1) tree op 1 April 2012 in werking en is van toepassing ten opsigte van bedrae ontvang deur of toegeval aan of aangegaan deur 'n persoon gedurende jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 24JA van Wet 58 van 1962, soos ingevoeg deur artikel 48 van Wet 7 van 2010

54. (1) Artikel 24JA van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die omskrywing van ''murabaha'' deur die volgende omskrywing te vervang:

'' **'murabaha'** 'n sharia-reëling tussen 'n finansier en 'n kliënt van daardie finansier, waarvan een 'n bank is, ingevolge waarvan—

(a) die finansier 'n bate van 'n derde party (die verkoper) sal verkry ten behoewe van die kliënt op die voorwaardes en bedinge waarop deur die kliënt en die verkoper ooreengekom word;

(b) die kliënt—

(i) will acquire the asset from the financier within 180 days after the acquisition of the asset by the financier contemplated in paragraph *(a)*; and

(ii) agrees to pay to the financier a total amount that—

(aa) exceeds the amount payable by the financier to the seller as consideration to acquire the asset;

(bb) is calculated with reference to the consideration payable by the financier to the seller in combination with the duration of the sharia arrangement; and

(cc) may not exceed the amount agreed upon between the financier and the client when the sharia arrangement is entered into; and

(c) no amount is received by or accrues to the financier in respect of that asset other than an amount contemplated in paragraph *(b)*(ii);";

(b) by the insertion in subsection (1) after the definition of "sharia arrangement" of the following definition:

" **'sukuk'** means a sharia arrangement whereby—

(a) the government of the Republic disposes of an interest in an asset to a trust; and

(b) the disposal of the interest in the asset to the trust by the government is subject to an agreement in terms of which the government undertakes to reacquire on a future date from that trust the interest in the asset disposed of at a cost equal to the cost paid by the trust to the government to obtain the asset.";

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

"(2) **[For the purposes of section 10(1)*(i)*(xv)*(bb)*(A) and (B), any]** Any amount received by or accrued to a client in terms of a mudaraba is deemed to be interest as defined in section 24J(1).";

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

"(3) Where any murabaha is entered into between a **[bank]** financier and a client of that **[bank]** financier as contemplated in paragraph *(a)* of the definition of 'murabaha'—

(a) the **[bank]** financier is deemed not to have acquired or disposed of the asset under the sharia arrangement;

(b) the client is deemed to have acquired the asset from the seller—

(i) for consideration equal to the amount paid by the **[bank]** financier to the seller; and

(ii) at such time as the **[bank]** financier acquired the asset from the seller by virtue of the transaction between the seller and the **[bank]** financier;

(c) the murabaha is deemed to be an instrument for the purposes of section 24J;

(d) the difference between the amount of consideration paid for the asset by the **[bank]** financier to the seller and the consideration payable to the **[bank]** financier 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

(e) the amount of consideration paid by the **[bank]** financier 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.";

(e) by the deletion of subsection (4);

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

"(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 must be determined in accordance with paragraph *(b)*, is deemed to be interest as defined in section 24J(1).

(i) die bate van die finansier sal verkry binne 180 dae na die verkryging van die bate deur die finansier in paragraaf *(a)* beoog; en

(ii) ooreenkom om aan die finansier 'n totale bedrag te betaal wat—

(aa) die bedrag betaalbaar deur die finansier aan die verkoper as vergoeding om die bate te verkry, oorskry;

(bb) bereken word met verwysing na die vergoeding betaalbaar deur die finansier aan die verkoper in kombinasie met die duur van die sharia-reëling; en

(cc) nie die bedrag ooreengekom tussen die finansier en die kliënt toe die sharia-reëling aangegaan is, mag oorskry nie; en

(c) geen bedrag ontvang word deur of toeval aan die finansier ten opsigte van daardie bate buiten 'n bedrag in paragraaf *(b)*(ii) beoog nie;";

(b) deur in subartikel (1) na die omskrywing van "sharia-reëling" die volgende omskrywing in te voeg:

" **'sukuk'** 'n sharia-reëling ingevolge waarvan—

(a) die regering van die Republiek oor 'n belang in 'n bate aan 'n trust beskik; en

(b) die beskikking oor die belang in die bate aan die trust deur die regering onderhewig is aan 'n ooreenkoms ingevolge waarvan die regering onderneem om op 'n toekomstige datum die belang in die bate waaroor beskik is van daardie trust te herverkry teen 'n koste gelyk aan die koste betaal deur die trust aan die regering om die bate te verkry.";

(c) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) **[By die toepassing van artikel 10(1)*(i)*(xv)*(bb)*(A) en (B) moet enige]** Enige bedrag ontvang deur of toegeval aan 'n kliënt ingevolge 'n mudaraba word geag **[word]** rente soos omskryf in artikel 24J(1) te wees.";

(d) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Waar enige murabaha aangegaan word tussen 'n **[bank]** finansier en 'n kliënt van daardie **[bank]** finansier soos in paragraaf *(a)* van die omskrywing van 'murabaha' beoog—

(a) word die **[bank]** finansier geag nie ingevolge die sharia-reëling die bate te verkry of te verhandel het nie;

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

(i) vir vergoeding gelyk aan die bedrag deur die **[bank]** finansier aan die verkoper betaal; en

(ii) op die tydstip wat die **[bank]** finansier die bate van die verkoper verkry het uit hoofde van die transaksie tussen die verkoper en die **[bank]** finansier;

(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]** finansier aan die verkoper betaal en die vergoeding betaalbaar aan die **[bank]** finansier 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

(e) word die bedrag aan vergoeding deur die **[bank]** finansier 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.";

(e) deur subartikel (4) te skrap;

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

"(6)*(a)* By die toepassing van subartikel (5), waar 'n paaiement deur die kliënt aan die bank betaal word, word 'n gedeelte van daardie paaiement, waarvan die bedrag ooreenkomstig paragraaf *(b)* bepaal moet word, geag rente soos omskryf in artikel 24J(1) te wees.

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

$$X = A - B$$

in which formula—

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

(ii) 'A' represents the total amount of the instalment payable by the client to the bank;

(iii) 'B' represents the expenditure incurred by the bank to acquire the portion of the interest in the asset transferred to the client in exchange for the instalment payable by the client to the bank."; and

(g) by the addition after subsection (6) of the following subsection:

"(7) Where any sukuk is entered into—

(a) the trust is deemed not to have acquired the asset from the government of the Republic under the sharia arrangement;

(b) the government is deemed not to have disposed of or reacquired the asset; and

(c) any consideration paid by the government in respect of the use of the asset held by the trust is deemed to be interest as defined in section 24J(1).".

(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 and amended by section 49 of Act 7 of 2010

55. (1) Section 25BA of the Income Tax Act, 1962, is hereby amended by the substitution for paragraph *(b)* of the following paragraph:

"*(b)* to the extent that the amount is not distributed as contemplated in paragraph *(a)* within 12 months of its receipt by that portfolio**[,]**—

(i) be deemed to have accrued to that portfolio on the last day of the period of 12 months commencing on the date of its receipt by that portfolio; and

(ii) to the extent that the amount is attributable to a dividend received by or accrued to that portfolio, be deemed to be income of that portfolio.".

(2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of amounts received by or accrued to a portfolio of a collective investment scheme during years of assessment of the portfolio commencing on or after that date.

Amendment of section 30B of Act 58 of 1962, as inserted by section 55 of Act 7 of 2010

56. (1) Section 30B 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:

"**[The]** Subject to subsections (3) and (4), the Commissioner must approve an entity for the purposes of section 10(1)*(d)*(iii) or (iv) if—".

(2) Subsection (1) is deemed to have come into operation on 31 October 2010.

Substitution of section 31 of Act 58 of 1962

57. (1) The Income Tax Act, 1962, is hereby amended by the substitution for section 31 of the following section:

"**Tax payable in respect of international transactions to be based on arm's length principle**

31. (1) For the purposes of this section—

'affected transaction' means any transaction, operation, scheme, agreement or understanding where—

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

$$X = A - B$$

in welke formule—

(i) 'X' die bedrag bepaal te word, voorstel;

(ii) 'A' die totale bedrag voorstel van die paaiement betaalbaar deur die kliënt aan die bank;

(iii) 'B' die uitgawes voorstel deur die bank aangegaan om die gedeelte van die belang te verkry in die bate na die kliënt oorgedra in ruil vir die paaiment deur die kliënt aan die bank betaalbaar."; en

(g) deur na subartikel (6) die volgende subartikel by te voeg:

"(7) Waar enige sukuk aangegaan word—

(a) word die trust geag nie die bate van die regering van die Republiek kragtens die sharia-reëling te verkry het nie;

(b) word die regering geag nie oor die bate te beskik het of die bate te herverkry het nie; en

(c) word enige vergoeding betaal deur die regering ten opsigte van die gebruik van die bate deur die trust gehou, geag rente soos omskryf in artikel 24J(1) te wees.".

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

Wysiging van artikel 25BA van Wet 58 van 1962, soos ingevoeg deur artikel 39 van Wet 17 van 2009 en gewysig deur artikel 49 van Wet 7 van 2010

55. (1) Artikel 25BA van die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf *(b)* deur die volgende paragraaf te vervang—

"*(b)* namate die bedrag nie soos beoog in paragraaf *(a)* binne 12 maande na ontvangs daarvan deur daardie portefeulje uitgekeer word nie**[,]**—

(i) geag word aan daardie portefeulje toe te geval het op die laaste dag van die tydperk van 12 maande wat op die datum van ontvangs daarvan deur die portefeulje begin; en

(ii) namate die bedrag toeskryfbaar is aan 'n dividend ontvang deur of toegeval aan daardie portefeulje, geag word inkomste van daardie portefeulje te wees.".

(2) Subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van bedrae ontvang deur of toegeval aan 'n portefeulje van 'n kollektiewe beleggingskema gedurende jare van aanslag van die portefeulje wat op of na daardie datum begin.

Wysiging van artikel 30B van Wet 58 van 1962, soos ingevoeg deur artikel 55 van Wet 7 van 2010

56. (1) Artikel 30B van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (2) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"**[Die]** Behoudens subartikels (3) en (4) moet die Kommissaris **[moet]** 'n entiteit vir die doeleindes van artikel 10(1)*(d)*(iii) of (iv) goedkeur indien—".

(2) Subartikel (1) word geag op 31 Oktober 2010 in werking te getree het.

Vervanging van artikel 31 van Wet 58 van 1962

57. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur artikel 31 deur die volgende artikel te vervang:

"**Belasting betaalbaar ten opsigte van internasionale transaksies op beginsel van beding op uiterste voorwaardes gebaseer te wees**

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

'finansiële bystand' ook die voorsiening van 'n—

(a) lening, voorskot of skuld; of

(a) that 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; or
(iv) *(aa)* a person that is not a resident; and
(bb) any other person that is a controlled foreign company in relation to any resident,

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 is different from any term or condition that would have existed had those persons been independent persons dealing at arm's length;

'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 constitutes an affected transaction; and
(b) any term or condition of that transaction, operation, scheme, agreement or understanding—
(i) is a term or condition contemplated in paragraph *(b)* of the definition of 'affected transaction'; and
(ii) results or will result in any tax benefit being derived by a person that is a party to that transaction, operation, scheme, agreement or understanding,

the taxable income or tax payable by any person contemplated in paragraph *(b)*(ii) that derives a tax benefit contemplated in that paragraph 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) To the extent that there is a difference between—
(a) any amount that is, after taking subsection (2) into account, applied in the calculation of the taxable income of any resident that is a party to an affected transaction; and
(b) any amount that would, but for subsection (2), have been applied in the calculation of the taxable income of the resident contemplated in paragraph *(a)*,

the amount of that difference must, for purposes of subsection (2), be deemed to be a loan that constitutes an affected transaction.

(4) 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
(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) Where any transaction, operation, scheme, agreement or understanding has been entered into between a headquarter company and—

(b) sekuriteit of waarborg;

'geaffekteerde transaksie' enige transaksie, handeling, skema, ooreenkoms of verstandhouding waar—

(a) daardie transaksie, handeling, skema, ooreenkoms of verstandhouding direk of indirek aangegaan is of gesluit is tussen of ten behoewe van een of beide 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; of

(iv) *(aa)* 'n persoon wat nie 'n inwoner is nie; en

(bb) enige ander persoon wat 'n beheerde buitelandse maatskappy met betrekking tot enige inwoner is,

en daardie persone verbonde persone met betrekking tot mekaar is; en

(b) enige beding of voorwaarde van daardie transaksie, handeling, skema, ooreenkoms of verstandhouding verskil van 'n beding of voorwaarde wat sou gegeld het indien daardie persone onafhanklike persone was wat op uiterste voorwaardes beding het.

(2) Waar—

(a) enige transaksie, handeling, skema, ooreenkoms of verstandhouding 'n geaffekteerde transaksie uitmaak; en

(b) enige beding of voorwaarde van daardie transaksie, handeling, skema, ooreenkoms of verstandhouding—

(i) 'n beding of voorwaarde beoog in paragraaf *(b)* van die omskrywing van 'geaffekteerde transaksie' is; en

(ii) tot gevolg het of sal hê dat enige belastingvoordeel verkry word deur 'n persoon wat 'n party by daardie transaksie, handeling, skema, ooreenkoms of verstandhouding is,

word die belasbare inkomste of belasting betaalbaar deur 'n persoon beoog in paragraaf *(b)*(ii) wat 'n belastingvoordeel beoog in daardie paragraaf verkry, bereken asof daardie transaksie, handeling, skema, ooreenkoms of verstandhouding aangegaan is op die bedinge en voorwaardes wat sou gegeld het indien daardie persone onafhanklike persone was wat op uiterste voorwaardes beding het.

(3) Namate daar 'n verskil is tussen—

(a) 'n bedrag wat, na inagneming van subartikel (2), toegepas word by die berekening van die belasbare inkomste van 'n inwoner wat 'n party by 'n geaffekteerde transaksie is; en

(b) 'n bedrag wat, by ontstentenis van subartikel (2), toegepas sou word by die berekening van die belasbare inkomste van die inwoner beoog in paragraaf *(a)*,

word die bedrag van daardie verskil, by die toepassing van subartikel (2) geag 'n lening te wees wat 'n geaffekteerde transaksie uitmaak.

(4) By die toepassing van subartikel (2), waar enige transaksie, handeling, skema, ooreenkoms of verstandhouding direk of indirek aangegaan is of gesluit is soos beoog in daardie subartikel ten opsigte van—

(a) die toestaan van enige finansiële bystand; of

(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 in die maatskappy hou nie' in paragraaf *(d)*(v) van daardie omskrywing verontagsaam moet word.

(5) Waar enige transaksie, handeling, skema, ooreenkoms of verstandhouding aangegaan is tussen 'n hoofkwartiermaatskappy en—

(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 10 per cent of the equity shares and voting rights; or

(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 10 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.".

(2) Subsection (1) comes into operation on 1 April 2012 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 35 of Act 58 of 1962, as amended by section 20 of Act 90 of 1962, section 20 of Act 65 of 1973, section 27 of Act 85 of 1974, section 24 of Act 94 of 1983, section 21 of Act 21 of 1994, section 39 of Act 59 of 2000, section 32 of Act 74 of 2002, section 48 of Act 45 of 2003, section 4 of Act 32 of 2005 and section 45 of Act 35 of 2007

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

"(1) *(a)* Subject to paragraph *(b)*, there must be levied for the benefit of the National Revenue Fund a tax, to be known as the withholding tax on royalties, calculated at the rate of 12 per cent of any amount contemplated in section 9(2)*(c)*, *(d)*, *(e)* or *(f)* that is received by or accrues to a person (other than a resident or a controlled foreign company).

(b) Paragraph *(a)* does not apply in respect of any amount which is received by or accrues to any person who is not a resident, if such amount is effectively connected with a permanent establishment of that person in the Republic.".

(2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of amounts received or accrued during years of assessment commencing on or after that date.

Amendment of section 35A of Act 58 of 1962, as inserted by section 30 of Act 32 of 2004 and amended by section 5 of Act 32 of 2005 and section 3 of Act 61 of 2008

59. (1) Section 35A of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) If an amount has been withheld in terms of subsection (1) from any amount payable in a foreign currency, that amount so withheld must be translated to the currency of the Republic at the spot rate on the date that the amount is paid to the Commissioner.".

(2) Subsection (1) comes into operation on 1 January 2012.

(a) enige ander persoon wat nie 'n inwoner is nie en daardie transaksie, handeling, skema, ooreenkoms of verstandhouding is ten opsigte van die toestaan van finansiële bystand deur daardie ander persoon aan daardie hoofkwartiermaatskappy, is hierdie artikel nie van toepassing nie op soveel van daardie finansiële bystand wat direk as finansiële bystand aangewend word op enige buitelandse maatskappy waarin die hoofkwartiermaatskappy direk of indirek (hetsy alleen of tesame met enige ander maatskappy wat deel van dieselfde groep van maatskappye as daardie hoofkwartiermaatskappy uitmaak) minstens 10 persent van die ekwiteitsaandele en stemregte hou; of

(b) enige buitelandse maatskappy waarin die hoofkwartiermaatskappy direk of indirek (hetsy alleen of tesame met enige ander maatskappy wat deel van dieselfde groep van maatskappye as daardie hoofkwartiermaatskappy uitmaak) minstens 10 persent van die ekwiteitsaandele en stemregte hou en daardie transaksie, handeling, skema, ooreenkoms of verstandhouding uit die toestaan van finansiële bystand deur daardie hoofkwartiermaatskappy aan daardie buitelandse maatskappy bestaan, is hierdie artikel nie op daardie finansiële bystand van toepassing nie.".

(2) Subartikel (1) tree op 1 April 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 35 van Wet 58 van 1962, soos gewysig deur artikel 20 van Wet 90 van 1962, artikel 20 van Wet 65 van 1973, artikel 27 van Wet 85 van 1974, artikel 24 van Wet 94 van 1983, artikel 21 van Wet 21 van 1994, artikel 39 van Wet 59 van 2000, artikel 32 van Wet 74 van 2002, artikel 48 van Wet 45 van 2003, artikel 4 van Wet 32 van 2005 en artikel 45 van Wet 35 van 2007

58. (1) Artikel 35 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) *(a)* Behoudens paragraaf *(b)* word daar ten bate van die Nasionale Inkomstefonds 'n belasting gehef, wat die terughoudingsbelasting op tantième genoem word, bereken teen die koers van 12 persent van 'n bedrag beoog in artikel 9(2)*(c)*, *(d)*, *(e)* of *(f)* wat ontvang word deur of toeval aan 'n persoon (buiten 'n inwoner of 'n beheerde buitelandse maatskappy).

(b) Paragraaf *(a)* is nie van toepassing nie ten opsigte van 'n bedrag wat ontvang word deur of toeval aan 'n persoon wat nie 'n inwoner is nie, indien sodanige bedrag effektief met 'n permanente saak van daardie persoon in die Republiek verbind word.".

(2) Subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van bedrae ontvang of toegeval gedurende jare van aanslag wat op of na daardie datum begin.

Wysiging van artikel 35A van Wet 58 van 1962, soos ingevoeg deur artikel 30 van Wet 32 of 2004 en gewysig deur artikel 5 van Wet 32 van 2005 en artikel 3 van Wet 61 van 2008

59. (1) Artikel 35A van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (5) in die Engelse teks deur die volgende subartikel te vervang:

"(5) If an amount has been withheld in terms of subsection (1) from any amount payable in a foreign currency, that amount so withheld must be translated to the currency of the Republic at the spot rate on the date that the amount is paid to the Commissioner.".

(2) Subartikel (1) tree op 1 Januarie 2012 in werking.

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

60. (1) Section 36 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (7G)*(b)* for subparagraph (ii) of the following subparagraph:

"(ii) if the taxpayer is a company and its acquisition of the right to mine or the mineral rights in respect of such mine was financed wholly or partly by the issue of any share in respect of which any dividend or foreign dividend is to be calculated with reference to that portion of the company's profits which is attributable to the operation of such mine.".

(2) Subsection (1) comes into operation on 1 April 2012.

Amendment of section 37J of Act 58 of 1962, as inserted by section 58 of Act 7 of 2010

61. (1) Section 37J 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 withholding tax on interest, calculated at the rate of 10 per cent of the amount of any interest that is regarded as having been received or accrued from a source within the Republic in terms of section 9(2)*(b)* received by or accrued to any foreign person that is not a controlled foreign company."; and

(b) by the deletion of subsection (2).

(2) Subsection (1) comes into operation on 1 January 2013 and applies in respect of any interest that accrues on or after that date.

Insertion of section 37JA in Act 58 of 1962

62. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 37J of the following section:

"**Liability for tax**

37JA. A foreign person to which an amount of interest is paid or accrues is liable for the withholding tax on interest.".

(2) Subsection (1) comes into operation on 1 January 2013 and applies in respect of any interest that accrues on or after that date.

Amendment of section 37K of Act 58 of 1962, as inserted by section 58 of Act 7 of 2010

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

(a) by the deletion in subsection (1)*(a)* of subparagraph (v);

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

"*(c)* that is deemed to have accrued to any **[non-resident]** foreign person in terms of section 25BA*(a)*.";

(c) by the deletion in subsection (3) of the word "or" at the end of paragraph *(a)*;

(d) by the substitution in subsection (3) for the full stop of the expression "; or" at the end of paragraph *(b)*; and

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, artikel 43 van Wet 17 van 2009 en artikel 57 van Wet 7 van 2010

60. (1) Artikel 36 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (7G)*(b)* subparagraaf (ii) deur die volgende subparagraaf te vervang:

“(ii) indien die belastingpligtige ’n maatskappy is en sy verkryging van die reg om te myn of die mineraalregte ten opsigte van bedoelde myn geheel en al of gedeeltelik gefinansier is deur die uitreiking van ’n aandeel ten opsigte waarvan ’n dividend <u>of buitelandse dividend</u> bereken staan te word met betrekking tot daardie gedeelte van die maatskappy se winste wat toeskryfbaar is aan die bedryf van bedoelde myn.”.

(2) Subartikel (1) tree op 1 April 2012 in werking.

Wysiging van artikel 37J van Wet 58 van 1962, soos ingevoeg deur artikel 58 van Wet 7 van 2010

61. (1) Artikel 37J van die Inkomstebelastingwet, 1962, word hierby gewysig—

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

“(1) Daar moet gehef word ten behoewe 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 <u>wat ingevolge artikel 9(2)*(b)* geag word van ’n bron binne die Republiek ontvang of toegeval te wees,</u> ontvang deur of toegeval aan enige buitelandse persoon wat nie ’n beheerde buitelandse maatskappy is nie.”; en

(b) deur subartikel (2) te skrap.

(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.

Invoeging van artikel 37JA in Wet 58 van 1962

62. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 37J die volgende artikel in te voeg:

“**<u>Aanspreeklikheid vir belasting</u>**

<u>**37JA.** ’n Buitelandse persoon waaraan ’n bedrag van rente betaal word of toeval, is vir die terughoudingsbelasting op rente aanspreeklik.</u>”.

(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 37K van Wet 58 van 1962, soos ingevoeg deur artikel 58 van Wet 7 van 2010

63. (1) Artikel 37K van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1)*(a)* subparagraaf (v) te skrap;

(b) deur in subartikel (1) paragraaf *(c)* in die Engelse teks deur die volgende paragraaf te vervang:

“*(c)* that is deemed to have accrued to any **[non-resident]** <u>foreign person</u> in terms of artikel 25BA*(a)*.”;

(c) deur in subartikel (3) die woord “of” aan die einde van paragraaf *(a)* te skrap;

(d) deur in subartikel (3) die punt deur die utdrukking “; of” aan die einde van paragraaf *(b)* te vervang; en

(e) by the addition in subsection (3) after paragraph *(b)* of the following paragraph:

"*(c)* is a controlled foreign company as defined in section 9D.".

(2) Subsection (1) comes into operation on 1 January 2013 and applies in respect of any interest that accrues on or after that date.

Amendment of section 37L of Act 58 of 1962, as inserted by section 58 of Act 7 of 2010

64. (1) Section 37L of the Income Tax Act, 1962, is hereby amended by the deletion of subsection (2).

(2) Subsection (1) comes into operation on 1 January 2013 and applies in respect of any interest that accrues on or after that date.

Substitution of section 37M of Act 58 of 1962, as inserted by section 58 of Act 7 of 2010

65. (1) The Income Tax Act, 1962, is hereby amended by the substitution for section 37M of the following section:

"**Payment and recovery of tax**

37M. (1) If, in terms of section 37JA, a foreign person is liable for any amount of withholding tax on interest in respect of any amount of interest that is paid or that accrues to the foreign person, that foreign person must pay that amount of withholding tax by the last day of the month following the month during which the interest is paid, unless the tax has been paid by any other person.

(2) Any person that withholds any withholding tax on interest in terms of section 37L must pay the tax to the Commissioner by the last day of the month following the month during which the interest is paid.".

(2) Subsection (1) comes into operation on 1 January 2013 and applies in respect of any interest that accrues on or after that date.

Insertion of section 37N in Act 58 of 1962

66. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 37M of the following section:

"**Refund of withholding tax on interest**

37N. (1) Notwithstanding section 102, if—

(a) an amount is withheld from the payment of interest in terms of section 37L(1);

(b) a declaration contemplated in section 37L(3)*(b)* or (4) in respect of that interest is not submitted to the person paying that interest by the date of the payment of that interest; and

(c) a declaration contemplated in section 37L(3)*(b)* or (4) is submitted to the person paying that interest within three years after the payment of the interest in respect of which the declaration is made,

so much of that amount as would not have been withheld had that declaration been submitted by the date contemplated in the relevant subsection is refundable to the person to whom the interest was paid.

(2) Subject to subsection (3), if any amount is refundable to any person in terms of subsection (1), the person to whom the interest was paid as contemplated in subsection (1) may recover the refundable amount from the Commissioner.".

(2) Subsection (1) comes into operation on 1 January 2013 and applies in respect of any interest that accrues on or after that date.

(e) deur by subartikel (3) na paragraaf *(b)* die volgende paragraaf te voeg:
"*(c)* 'n beheerde buitelandse maatskappy soos omskryf in artikel 9D is.".

(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 37L van Wet 58 van 1962, soos ingevoeg deur artikel 58 van Wet 7 van 2010

64. (1) Artikel 37L van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (2) te skrap.

(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.

Vervanging van artikel 37M van Wet 58 van 1962, soos ingevoeg deur artikel 58 van Wet 7 van 2010

65. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur artikel 37M deur die volgende artikel te vervang:

"**Betaling en verhaal van belasting**

37M. (1) Indien, ingevolge artikel 37JA, 'n buitelandse persoon aanspreeklik is vir 'n bedrag van terughoudingsbelasting op rente ten opsigte van 'n bedrag van rente wat betaal word of wat toeval aan die buitelandse persoon, moet daardie buitelandse persoon daardie bedrag van terughoudingsbelasting betaal teen die laaste dag van die maand wat volg op die maand waartydens die rente betaal word, tensy die belasting deur enige ander persoon betaal is.

(2) 'n Persoon wat enige terughoudingsbelasting op rente ingevolge artikel 37L terughou, moet die belasting aan die Kommissaris betaal teen die laaste dag van die maand wat volg op die maand waartydens die rente betaal word.".

(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.

Invoeging van artikel 37N in Wet 58 van 1962

66. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 37M die volgende artikel in te voeg:

"**Terugbetaling van terughoudingsbelasting op rente**

37N. (1) Ondanks artikel 102, indien—

(a) 'n bedrag van die betaling van enige rente ingevolge artikel 37L(1) teruggehou word;

(b) 'n verklaring beoog in artikel 37L(3)*(b)* of (4) ten opsigte van daardie rente nie aan die persoon wat daardie rente betaal teen die datum van die betaling van daardie rente voorgelê word nie; en

(c) 'n verklaring beoog in artikel 37L(3)*(b)* of (4) aan die persoon wat daardie rente betaal, voorgelê word binne drie jaar na die betaling van die rente ten opsigte waarvan die verklaring gemaak word,

is soveel van daardie bedrag as wat nie teruggehou sou wees nie indien daardie verklaring teen die datum beoog in die betrokke subartikel voorgelê was terugbetaalbaar aan die persoon aan wie die rente betaal is.

(2) Behoudens subartikel (3), indien 'n bedrag aan 'n persoon ingevolge subartikel (1) terugbetaalbaar is, kan die persoon aan wie die rente soos beoog in subartikel (1) betaal is die terugbetaalbare bedrag van die Kommissaris verhaal.".

(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.

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, section 47 of Act 17 of 2009 and section 61 of Act 7 of 2010

67. (1) Section 41 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) for the definition of "company" of the following definition:

" **'company'** does not include a headquarter company and, for the purposes of sections 42 and 44, includes any portfolio of a collective investment scheme in securities;";

(b) by the deletion in subsection (1) of the definition of "resident";

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

"(2) The provisions of this Part must, subject to subsection (3), apply in respect of an asset-for-share transaction, an amalgamation transaction, an intra-group transaction, an unbundling transaction and a liquidation distribution as contemplated in sections 42, 44, 45, 46 and 47, respectively, notwithstanding any provision to the contrary contained in the Act, other than sections 24B(2) **[and (3)]** and 103 and Part IIA of Chapter III.";

(d) by the substitution in subsection (4)*(a)* for subparagraph (i) of the following subparagraph:

"(i) that company has lodged a resolution authorising the voluntary **[liquidation or]** winding-up of that company**[, for registration]** in terms of—

(aa) section **[200]** 80(2) of the Companies Act, **[1973]** 2008 (Act No. **[61]** 71 of **[1973]** 2008), in the case of a company **[registered in terms of that Act]** to which that section applies;

(bb) **[section 67(2) of the Close Corporations Act, 1984 (Act No. 69 of 1984), in the case of a close corporation]** Regulation 21 of the Regulations under the Co-operatives Act, 2005 (Act No. 14 of 2005), published under section 95 of that Act in Government Notice R. 366 of 30 April 2007, in the case of a co-operative; or

(cc) a similar provision contained in any foreign law relating to the liquidation of companies, in the case where that company is incorporated in a country other than the Republic, if such foreign law so requires; and";

(e) by the substitution in subsection (4) for paragraphs *(b)* and *(c)* of the following paragraphs:

"*(b)* in the case of a deregistration of a company, that company has **[submitted a written statement signed by each of its directors confirming that the company has ceased to carry on business and has no assets or liabilities]** lodged a request for the deregistration of that company in the prescribed manner and form—

(i) to the **[Registrar of Companies]** Companies and Intellectual Property Commission in terms of section **[73(5)]** 82(3)*(b)*(ii) of the Companies Act, **[1973]** 2008, in the case of a company **[registered in terms of that Act]** to which that section applies; or

[(ii) to the Registrar of Close Corporations in terms of section 26(2) of the Close Corporations Act, 1984, in the case of a close corporation; or]

(iii) in the case where that company is incorporated in a country other than the Republic, to a person who, in terms of any similar provision contained in any foreign law, exercises the powers and performs the duties assigned to **[a Registrar]** the

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, artikel 47 van Wet 17 van 2009 en artikel 61 van Wet 7 van 2010

67. (1) Artikel 41 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die omskrywing van "maatskappy" deur die volgende omskrywing te vervang:

" **'maatskappy'** nie ook nie 'n hoofkwartiermaatskappy en, by die toepassing van artikels 42 en 44, ook 'n portefeulje van 'n kollektiewe beleggingskema in effekte;";

(b) deur in subartikel (1) die omskrywing van "inwoner" te skrap;

(c) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die bepalings van hierdie Deel moet, behoudens **[die bepalings van]** subartikel (3), toegepas word ten opsigte van 'n **[bate-vir-aandele transaksie]** bate-vir-aandeel-transaksie, 'n amalgamasietransaksie, 'n intragroeptransaksie, 'n ontbondelingstransaksie en 'n likwidasie-uitkering soos in artikels 42, 44, 45, 46 en 47, respektiewelik beoog, ondanks enige andersluidende bepaling vervat in hierdie Wet, behalwe artikels 24B(2) **[en (3)]** en 103 en Deel IIA van Hoofstuk III.";

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

"(i) daardie maatskappy 'n besluit wat die vrywillige likwidasie van daardie maatskappy magtig, ingedien het **[vir registrasie]** ingevolge—

(aa) artikel **[200]** 80(2) van die Maatskappywet, **[1973]** 2008 (Wet No. **[61]** 71 van **[1973]** 2008), in die geval **[waar]** van 'n maatskappy **[ingevolge daardie Wet geregistreer is]** waarop daardie artikel van toepassing is;

(bb) **[artikel 67(2) van die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984), in die geval van 'n beslote korporasie]** Regulasie 21 van die 'Regulations under the Co-operatives Act, 2005 (Act No. 14 of 2005)', gepubliseer ingevolge artikel 95 van daardie Wet in Goewermentskennisgewing R. 366 van 30 April 2007, in die geval van 'n koöperasie; of

(cc) 'n soortgelyke bepaling in buitelandse reg vervat wat met die likwidasie van maatskappye verband hou, in die geval waar daardie maatskappy in 'n land anders as die Republiek opgerig is, indien sodanige buitelandse reg dit vereis; en";

(e) deur in subartikel (4) paragrawe *(b)* en *(c)* deur die volgende paragrawe te vervang:

"*(b)* in die geval van 'n deregistrasie van 'n maatskappy, daardie maatskappy **['n skriftelike verklaring deur elkeen van sy direkteure onderteken, waarin bevestig word dat die maatskappy opgehou het om 'n besigheid te bedryf en geen bates of laste het nie,]** 'n versoek vir die deregistrasie van daardie maatskappy op die wyse en in die vorm voorgeskryf ingedien het—

(i) by die **[Registrateur van Maatskappye]** Kommissie vir Maatskappye en Intellektuele Eiendom ingevolge artikel **[73(5)]** 82(3)*(b)*(ii) van die Maatskappywet, **[1973]** 2008, in die geval van 'n maatskappy **[ingevolge daardie Wet geregistreer]** waarop daardie artikel van toepassing is; of

[(ii) by die Registrateur van Beslote Korporasies ingevolge artikel 26(2) van die Wet op Beslote Korporasies, 1984, in die geval van 'n beslote korporasie; of]

(iii) in die geval waar daardie maatskappy in 'n land anders as die Republiek opgerig is, by 'n persoon wat ingevolge enige soortgelyke bepaling in enige buitelandse reg vervat, die bevoegdhede uitoefen en die pligte wat aan die **[Registrateur]**

Commission contemplated in subparagraph (i) **[or (ii)]**, if such foreign law so requires;

(c) that company has submitted a copy of the resolution contemplated in paragraph *(a)*(i) or the **[written statement]** request contemplated in paragraph *(b)* to the Commissioner; and";

(f) by the substitution in subsection (8) for paragraph *(a)* of the following paragraph:

"*(a)* This subsection applies where a **[capital distribution]** return of capital in respect of any share as contemplated in paragraph 76(1)*(b)* of the Eighth Schedule has been received by or has accrued to any person, and that person has disposed of that share, after that receipt or accrual, in terms of a disposal or distribution in respect of which the provisions of sections 42, 44, 45 or 47 apply."; and

(g) by the substitution in subsection (8)*(b)* for the words preceding subparagraph (i) of the following words:

"Where paragraph *(a)* applies, that **[capital distribution]** return of capital must for purposes of paragraph 76(1)*(b)* of the Eighth Schedule be deemed to have been received by or to have accrued to—".

(2) Paragraphs *(a)* and *(b)* of subsection (1) come into operation on 1 January 2012.

(3) Paragraph *(c)* of subsection (1) is deemed to have come into operation on 21 October 2008 and applies in respect of shares or debt instruments acquired, issued or disposed of on or after that date.

(4) Paragraphs *(d)* and *(e)* of subsection (1) are deemed to have come into operation on 1 January 2011.

(5) Paragraphs *(f)* and *(g)* of subsection (1) come into operation on 1 April 2012.

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, section 48 of Act 17 of 2009 and section 62 of Act 7 of 2010

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

(a) by the substitution in subsection (1) for the definition of "asset-for-share transaction" of the following definition:

" **'asset-for-share transaction'** means any transaction—

(a) (i) in terms of which a person disposes of an asset (other than an asset which constitutes a restraint of trade or personal goodwill), the market value of which is equal to or exceeds—

[(i)] *(aa)* in the case of an asset held as a capital asset, the base cost of that asset on the date of that disposal; or

(ii)] *(bb)* in the case of an asset held as trading stock, the amount taken into account in respect of that asset in terms of section 11*(a)* or 22(1) or (2),

to a company which is a resident, in exchange for an equity share or shares of that company and that person—

[*(aa)*] (A) at the close of the day on which that asset is disposed of, holds a qualifying interest in that company; or

[*(bb)*] (B) is a natural person who will be engaged on a full-time basis in the business of that company,

Kommissie in subparagraaf (i) **[of (ii)]** beoog opgedra is, uitvoer indien daardie buitelandse reg dit vereis;

(c) daardie maatskappy 'n afskrif van die besluit in paragraaf *(a)*(i) beoog of die **[skriftelike verklaring]** versoek in paragraaf *(b)* beoog by die Kommissaris ingedien het; en";

(f) deur in subartikel (8) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* Hierdie subartikel is van toepassing waar 'n **[kapitaaluitkering]** teruggawe van kapitaal ten opsigte van enige aandeel soos in paragraaf 76(1)*(b)* van die Agtste Bylae beoog, ontvang is deur of toegeval het aan 'n persoon en daardie persoon oor daardie aandeel beskik het na daardie ontvangs of toevalling, ingevolge 'n beskikking of uitkering ten opsigte waarvan die bepalings van artikels 42, 44, 45 of 47 van toepassing is."; en

(g) deur in subartikel (8)*(b)* die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

"Waar paragraaf *(a)* van toepassing is, word daardie **[kapitaaluitkering]** teruggawe van kapitaal by die toepassing van paragraaf 76(1)*(b)* van die Agtste Bylae geag ontvang te gewees het deur of toe te geval het aan—".

(2) Paragrawe *(a)* en *(b)* van subartikel (1) tree op 1 Januarie 2012 in werking.

(3) Paragraaf *(c)* van subartikel (1) word geag op 21 Oktober 2008 in werking te getree het en is van toepassing ten opsigte van aandele of skuldinstrumente op of na daardie datum verkry, uitgereik of oor beskik.

(4) Paragrawe *(d)* en *(e)* van subartikel (1) word geag op 1 Januarie 2011 in werking te getree het.

(5) Paragrawe *(f)* en *(g)* van subartikel (1) tree op 1 April 2012 in werking.

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, artikel 48 van Wet 17 van 2009 en artikel 62 van Wet 7 van 2010

68. (1) Artikel 42 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die omskrywing van "bate-vir-aandeel-transaksie" deur die volgende omskrywing te vervang:

" **'bate-vir-aandeel-transaksie'** enige transaksie—

(a) (i) ingevolge waarvan 'n persoon oor 'n bate (behalwe 'n bate wat 'n handelsbeperking of persoonlike klandisiewaarde uitmaak) beskik, waarvan die markwaarde gelyk is aan of meer is as—

[(i)] *(aa)* in die geval van 'n bate wat as 'n kapitaalbate gehou word, die basiskoste van daardie bate op die datum van die beskikking; of

[(ii)] *(bb)* in die geval van 'n bate wat as handelsvoorraad gehou word, die bedrag wat ten opsigte van daardie bate ingevolge artikel 11*(a)* of 22(1) of (2) in ag geneem is,

aan 'n maatskappy wat 'n inwoner is, in ruil vir 'n ekwiteitsaandeel of ekwiteitsaandele van daardie maatskappy en daardie persoon—

[*(aa)*] (A) aan die einde van die dag waarop oor daardie bate **[oor]** beskik is, 'n kwalifiserende belang in daardie maatskappy hou; of

[*(bb)*] (B) 'n natuurlike persoon is wat op 'n voltydse basis betrokke sal wees in die besigheid van daardie maatskappy, of 'n beheerde groepmaatskappy

or a controlled group company in relation to that company, of rendering a service; and

[*(b)*](ii) as a result of which that company acquires that asset from that person—

[(i)] *(aa)* as trading stock, where that person holds it as trading stock;

[(ii)] *(bb)* as a capital asset, where that person holds it as a capital asset; or

[(iii)] *(cc)* as trading stock, where that person holds it as a capital asset and that company and that person do not form part of the same group of companies:

Provided that this **[paragraph]** subparagraph does not apply in respect of any transaction which meets the requirements of **[paragraph *(a)*]** subparagraph (i) 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)]*(aa)* on the same terms as that transaction; and

[(ii)]*(bb)* within a period of 90 days after that disposal,

that other company holds—

[*(aa)*] (A) at least 35 per cent of the equity shares of that listed company or portfolio; or

[*(bb)*] (B) 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; or

(b) in terms of which a person disposes of an asset that constitutes an equity share in a foreign company, the market value of which is equal to or exceeds—

(i) in the case of an equity share held as a capital asset, the base cost of that equity share on the date of that disposal; or

(ii) in the case of an equity share held as trading stock, the amount taken into account in respect of that equity share in terms of section 11*(a)* or 22(1) or (2),

to another foreign company, in exchange for an equity share in that other foreign company and immediately before and at the close of the day on which the asset is disposed of in terms of that transaction—

(aa) that person holds a qualifying interest in the other foreign company; and

(bb) the other foreign company is a controlled foreign company in relation to any company that forms part of the same group of companies, as defined in section 1, as that person;'';

(b) by the substitution in subsection (1) for the definition of ''qualifying interest'' of the following definition:

'' **'qualifying interest'** of a person **[means]**—

(a) for the purposes of paragraph *(a)* of the definition of 'asset-for-share transaction', means—

[*(a)*] (i) an equity share held by that person in a company which is a listed company or will become a listed company within 12 months after the transaction as a result of which that person holds that share;

met betrekking tot daardie maatskappy, om 'n diens te lewer; en

[*(b)*] (ii) wat tot gevolg het dat daardie maatskappy daardie bate vanaf daardie persoon verkry—

[(i)] *(aa)* as handelsvoorraad, waar daardie persoon dit as handelsvoorraad hou;

[(ii)] *(bb)* as 'n kapitaalbate, waar daardie persoon dit as 'n kapitaalbate hou; of

[(iii)] *(cc)* as handelsvoorraad, waar daardie persoon dit as 'n kapitaalbate hou en daardie maatskappy en daardie persoon nie deel van dieselfde groep van maatskappye uitmaak nie:

Met dien verstande dat hierdie **[paragraaf]** subparagraaf nie van toepassing is nie ten opsigte van 'n transaksie wat aan die vereistes van **[paragraaf *(a)*]** subparagraaf (i) 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)] *(aa)* op dieselfde bedinge as daardie transaksie; en

[(ii)] *(bb)* binne 'n tydperk van 90 dae na daardie beskikking,

daardie ander maatskappy—

[*(aa)*] (A) minstens 35 persent van die ekwiteitsaandele van daardie genoteerde maatskappy of portefeulje hou; of

[*(bb)*] (B) minstens 25 persent van die ekwiteitsaandele van daardie genoteerde maatskappy of portefeulje hou indien geen persoon buiten daardie ander maatskappy 'n gelykstaande of groter bedrag aan ekwiteitsaandele in die genoteerde maatskappy of portefeulje hou nie; of

(b) ingevolge waarvan 'n persoon oor 'n bate beskik wat 'n ekwiteitsaandeel in 'n buitelandse maatskappy uitmaak, waarvan die markwaarde gelyk is aan of meer is as—

(i) in die geval van 'n ekwiteitsaandeel wat as 'n kapitaalbate gehou word, die basiskoste van daardie ekwiteitsaandeel op die datum van daardie beskikking; of

(ii) in die geval van 'n ekwiteitsaandeel wat as handelsvoorraad gehou word, die bedrag wat ten opsigte van daardie ekwiteitsaandeel ingevolge artikel 11*(a)* of 22(1) of (2) in ag geneem is,

aan 'n ander buitelandse maatskappy, in ruil vir 'n ekwiteitsaandeel in daardie ander buitelandse maatskappy en onmiddellik voor en aan die einde van die dag waarop oor die bate ingevolge daardie transaksie beskik word—

(aa) daardie persoon'n kwalifiserende belang in die buitelandse maatskappy hou; en

(bb) die ander buitelandse maatskappy 'n beheerde buitelandse maatskappy is met betrekking tot enige persoon wat deel van dieselfde groep van maatskappye, soos omskryf in artikel 1, as daardie persoon uitmaak;";

(b) deur in subartikel (1) die omskrywing van "kwalifiserende belang" deur die volgende omskrywing te vervang:

" **'kwalifiserende belang'** van 'n persoon—

(a) by die toepassing van paragraaf *(a)* van die omskrywing van 'bate-vir-aandeel-transaksie'—

[*(a)*] (i) 'n ekwiteitsaandeel gehou deur daardie persoon in 'n maatskappy wat 'n genoteerde maatskappy is of 'n genoteerde maatskappy sal word binne 12 maande na die transaksie as gevolg waarvan daardie persoon daardie aandeel hou;

[*(b)*] (ii) an equity share held by that person in a portfolio of a collective investment scheme in securities;

[*(c)*] (iii) equity shares held by that person in a company that constitute at least 20 per cent of the equity shares and that confer at least 20 per cent of the voting rights of **[a]** that company; or

[*(d)*] (iv) an equity share held by that person in a company which forms part of the same group of companies as that person; or

(b) for the purposes of paragraph *(b)* of the definition of 'asset-for-share transaction', means equity shares held by that person in a foreign company that constitute at least 20 per cent of the equity shares and that confer at least 20 per cent of the voting rights of the foreign company.";

(c) by the substitution in subsection (2)*(a)* for subparagraph (i) of the following subparagraph:

"(i) disposed of that asset—

(aa) in the case of an asset-for-share transaction contemplated in paragraph *(a)* of the definition of 'asset-for-share transaction', for an amount equal to the amount contemplated in **[subparagraphs (i) or (ii) of paragraph *(a)* of the definition of 'asset-for-share transaction']** item *(aa)* or *(bb)* of subparagraph (i) of that paragraph, as the case may be; **[and]** or

(bb) in the case of an asset-for-share transaction contemplated in paragraph *(b)* of the definition of 'asset-for-share transaction', for an amount equal to the amount contemplated in subparagraph (i) or (ii) of that paragraph, as the case may be; and";

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

"For the purposes of the definition of 'contributed tax capital', if an asset is disposed of by a person to a company in terms of an asset-for-share transaction contemplated in paragraph *(a)* of the definition of 'asset-for-share transaction' and that person at the close of the day on which that asset is disposed of holds a qualifying interest in that company as contemplated in **[paragraph *(c)*]** paragraph *(a)*(iii) of the definition of 'qualifying interest', or is a natural person who will be engaged on a full-time basis in the business of that company or a controlled group company in relation to that company of rendering a service, the amount received by or accrued to the company for the issue of the shares is deemed to be equal to—";

(e) by the addition in subsection (3A) of the following proviso:

": Provided that this subsection 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";

[*(b)*] (ii) 'n ekwiteitsaandeel gehou deur daardie persoon in 'n portefeulje van 'n kollektiewe beleggingskema in effekte;

[*(c)*] (iii) ekwiteitsaandele gehou deur daardie persoon in 'n maatskappy wat minstens 20 persent van die ekwiteitsaandele uitmaak en minstens 20 persent van die stemregte van **['n]** daardie maatskappy **[uitmaak]** toeken; of

[*(d)*] (iv) 'n ekwiteitsaandeel gehou deur daardie persoon in 'n maatskappy wat deel vorm van dieselfde groep van maatskappye as daardie persoon; of

(b) by die toepassing van paragraaf *(b)* van die omskrywing van 'bate-vir-aandeel-transaksie', ekwiteitsaandele gehou deur daardie persoon in 'n buitelandse maatskappy wat minstens 20 persent van die ekwiteitsaandele uitmaak en wat minstens 20 persent van die stemregte van die buitelandse maatskappy toeken.";

(c) deur in subartikel (2)*(a)* subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) oor daardie bate te beskik het—

(aa) in die geval van 'n bate-vir-aandeel-transaksie beoog in paragraaf *(a)* van die omskrywing van 'bate-vir-aandeel-transaksie', vir 'n bedrag gelykstaande aan die bedrag **[soos]** in **[subparagraaf (i) of (ii) van paragraaf *(a)* van die omskrywing van 'bate-vir-aandeel-transaksie']** item *(aa)* of *(bb)* van subparagraaf (i) van daardie paragraaf beoog, na gelang van die geval; **[en]** of

(bb) in die geval van 'n bate-vir-aandeel-transaksie beoog in paragraaf *(b)* van die omskrywing van 'bate-vir-aandeel-transaksie', vir 'n bedrag gelykstaande aan die bedrag in subparagraaf (i) of (ii) van daardie paragraaf beoog, na gelang van die geval; en";

(d) deur in subartikel (3A) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"By die toepassing van die omskrywing van 'toegevoegde belasting-kapitaal', indien oor 'n bate beskik word deur 'n persoon aan 'n maatskappy ingevolge 'n bate-vir-aandeel-transaksie beoog in paragraaf *(a)* van die omskrywing van 'bate-vir-aandeel-transaksie' en daardie persoon teen die einde van die dag waarop oor daardie bate beskik word 'n kwalifiserende belang hou in daardie maatskappy soos beoog in **[paragraaf *(c)*]** paragraaf *(a)*(iii) van die omskrywing van 'kwalifiserende belang', of 'n natuurlike persoon is wat voltyds betrokke sal wees by die besigheid van daardie maatskappy of 'n beheerde groepmaatskappy met betrekking tot daardie maatskappy om 'n diens te lewer, word die bedrag ontvang deur of toegeval aan die maatskappy vir die uitreik van aandele geag gelykstaande te wees aan—";

(e) deur in subartikel (3A) die volgende voorbehoudsbepaling by te voeg:

": Met dien verstande dat hierdie subartikel nie van toepassing is nie ten opsigte van enige bate-vir-aandeel-transaksie ingevolge waarvan 'n persoon beskik oor 'n ekwiteitsaandeel in 'n genoteerde maatskappy of in 'n portefeulje van 'n kollektiewe beleggingskema in effekte aan enige ander maatskappy en na daardie beskikking, tesame met enige ander bate-vir-aandeel-transaksie wat gesluit 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 ekwiteitsaandele van daardie genoteerde maatskappy of portefeulje hou; of

(bb) minstens 25 persent van die ekwiteitsaandele van daardie genoteerde maatskappy of portefeulje hou indien geen persoon buiten daardie ander maatskappy 'n gelyke of groter bedrag aan ekwiteitsaandele in die genoteerde maatskappy of portefeulje hou nie";

(f) by the substitution in subsection (6) for the words preceding the proviso of the following words:

"(6) Where a person—

(a) disposed of **[any]** an asset to a company in terms of an asset-for-share transaction contemplated in paragraph *(a)* of the definition of 'asset-for-share transaction' and, within a period of 18 months after the date of that disposal, that person ceases—

(i) to hold a qualifying interest in that company, as contemplated in **[paragraphs *(c)* and *(d)*]** paragraph *(a)*(iii) and (iv) of the definition of 'qualifying interest' **[, within a period of 18 months after the date of the disposal of that asset]** (whether or not **[by way]** as a result of the disposal of shares in that company)**[,]**; or

(ii) **[ceases within that period]** to be engaged on a full-time basis in the business of the company, or controlled group company in relation to that company, of rendering the service contemplated in **[subsection (1)*(a)*(ii)*(bb)*]** paragraph *(a)*(i)(B) of the definition of 'asset-for-share transaction'; or

(b) disposed of an equity share to a foreign company in terms of an asset-for-share transaction contemplated in paragraph *(b)* of the definition of 'asset-for-share transaction' and, within a period of 18 months after the date of that disposal and whether or not as a result of the disposal of shares in that foreign company—

(i) that person ceases to hold a qualifying interest in the foreign company, as contemplated in paragraph *(b)* of the definition of 'qualifying interest'; or

(ii) the foreign company—

(aa) ceases to be a controlled foreign company in relation to that person; or

(bb) ceases to form part of the same group of companies as that person (without regard to paragraph (i)*(ee)* of the proviso to the definition of 'group of companies' in section 41),

that person is for purposes of subsection (5), section 22 or the Eighth Schedule deemed to have—

[*(a)*] (A) disposed of all the equity shares acquired in terms of that asset-for-share transaction that are still held immediately after that person ceased to hold such a qualifying interest, for an amount equal to the market value of those equity shares as at the beginning of that period of 18 months; and

[*(b)*] (B) immediately reacquired all the equity shares contemplated in paragraph *(a)* at a cost equal to the amount contemplated in that paragraph:";

(g) by the substitution in subsection (8) for the words following paragraph *(b)* of the following words:

"that person must, upon the disposal of any equity share acquired in terms of that asset-for-share transaction and notwithstanding the fact that that person may be liable as surety for the payment of the debt referred to in subparagraph *(a)* or *(b)*, treat so much of the face value of that debt as relates to that equity share**[,]**—

(aa) where that equity share is held as a capital asset, as a **[capital distribution]** return of capital by way of a distribution of cash in respect of that equity share **[, for the purposes of paragraph 76 of the Eighth Schedule, where that equity share is held as a capital asset]** that accrues to that person immediately after the acquisition by that person of that equity share in terms of that asset-for-share transaction; or **[,]**

(f) deur in subartikel (6) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

"(6) Waar 'n persoon—

(a) ingevolge 'n bate-vir-aandeel-transaksie beoog in paragraaf *(a)* van die omskrywing van 'bate-vir-aandeel-transaksie' oor 'n bate aan 'n maatskappy beskik het en daardie persoon binne 'n tydperk van 18 maande na die datum van **[die]** daardie beskikking **[oor die bate]**—

(i) (hetsy **[by wyse]** as gevolg van die beskikking oor aandele in daardie maatskappy of nie) ophou om 'n kwalifiserende belang in daardie maatskappy te hou, soos in **[paragrawe *(c)* en *(d)*]** paragraaf *(a)*(iii) en (iv) van die omskrywing van 'kwalifiserende belang' beoog**[,]**; of

(ii) **[binne daardie tydperk]** ophou om op 'n voltydse basis betrokke te wees in die besigheid van die maatskappy, of 'n beheerde groepmaatskappy met betrekking tot daardie maatskappy, om diens te lewer in **[subartikel (1)*(a)*(ii)*(bb)*]** paragraaf *(a)*(i)(B) van die omskrywing van 'bate-vir-aandeel-transaksie' beoog; of

(b) ingevolge 'n bate-vir-aandeel-transaksie beoog in paragraaf *(b)* van die omskrywing van 'bate-vir-aandeel-transaksie' oor 'n ekwiteitsaandeel aan 'n buitelandse maatskappy beskik het en, binne 'n tydperk van 18 maande na die datum van daardie beskikking en hetsy as gevolg van die beskikking van aandele in daardie buitelandse maatskappy al dan nie—

(i) daardie persoon ophou om 'n kwalifiserende belang in die buitelandse maatskappy, soos beoog in paragraaf *(b)* van die omskrywing van 'kwalifiserende belang' te hou; of

(ii) die buitelandse maatskappy—

(aa) ophou om 'n beheerde buitelandse maatskappy met betrekking tot daardie persoon te wees; of

(bb) ophou om deel te vorm van dieselfde groep van maatskappye as daardie persoon (sonder inagneming van paragraaf (i)*(ee)* van die voorbehoudsbepaling tot die omskrywing van 'groep van maatskappye' in artikel 41),

word daardie persoon by die toepassing van subartikel (5), artikel 22 of die Agtste Bylae geag—

[*(a)*] (A) oor al die ekwiteitsaandele wat ingevolge **['n]** daardie bate-vir-aandeel-transaksie verkry is en wat nog gehou word onmiddellik na daardie persoon opgehou het om sodanige kwalifiserende belang te hou, te beskik het vir 'n bedrag gelykstaande aan die markwaarde van daardie ekwiteitsaandele soos aan die begin van **[die]** daardie tydperk van 18 maande; en

[*(b)*] (B) al die ekwiteitsaandele in paragraaf *(a)* beoog onmiddellik weer te verkry het teen 'n koste gelykstaande aan die bedrag **[soos]** in daardie paragraaf beoog:";

(g) deur in subartikel (8) die woorde wat op paragraaf *(b)* volg deur die volgende woorde te vervang:

"moet daardie persoon, indien daardie persoon beskik oor enige ekwiteitsaandeel ingevolge daardie bate-vir-aandeel-transaksie verkry, ondanks die feit dat daardie persoon as borg vir die betaling van die skuld waarna in subparagraaf *(a)* en *(b)* verwys word, verantwoordelik is, die deel van die sigwaarde van daardie skuld wat betrekking het op daardie ekwiteitsaandeel—

(aa) waar daardie ekwiteitsaandeel as 'n kapitaalbate gehou word, hanteer as 'n **[kapitaaluitkering]** teruggawe van kapitaal by wyse van 'n uitkering van kontant ten opsigte van die ekwiteitsaandeel **[hanteer, vir die doeleindes van paragraaf 76 van die Agtste Bylae, indien daardie ekwiteitsaandeel as 'n kapitaalbate gehou word]** wat daardie persoon toeval onmiddellik na die verkryging deur daardie persoon van daardie ekwiteitsaandeel ingevolge daardie bate-vir-aandeel-transaksie; of **[,]**

(bb) where that equity share is held as trading stock, as income to be included in that person's income for the year of assessment during which that equity share is acquired by that person in terms of that asset-for-share transaction.''; and

(h) by the substitution in subsection (8A) for paragraph *(b)* of the following paragraph:

''*(b)* the disposal would not be taken into account for purposes of determining—

(i) any taxable income or assessed loss of that person; or

(ii) any proportional amount of the net income of a controlled foreign company which is included in the income of that person in terms of section 9D.''.

(2) Paragraphs *(a)*, *(b)*, *(c)*, *(d)*, *(f)* and *(h)* come into operation on 1 January 2012 and apply in respect of transactions entered into on or after that date.

(3) Paragraph *(e)* 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.

(4) Paragraph *(g)* of subsection (1) comes into operation on 1 April 2012 and applies in respect of transactions entered into on or after that date.

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, section 49 of Act 17 of 2009 and section 63 of Act 7 of 2010

69. (1) Section 44 of the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subsection (1) for the words preceding the definition of ''qualifying interest'' of the following words:

''For the purposes of this section—

'amalgamation transaction' means any transaction—

(a) (i) in terms of which any company (hereinafter referred to as the 'amalgamated company') disposes of all of its assets (other than assets it elects to use to settle any debts incurred by it in the ordinary course of its trade) to another company (hereinafter referred to as the 'resultant company') which is a resident, by means of an amalgamation, conversion or merger; and

[*(b)*] (ii) as a result of which that amalgamated company's existence will be terminated**[:**

Provided that the provisions of this section will not apply to a disposal of an asset by an amalgamated company to a resultant company where that resultant company and the person contemplated in subsection (6) form part of the same group of companies immediately before and after that disposal, if that amalgamated company, resultant company and person jointly so elect.]; or

(b) (i) in terms of which an amalgamated company which is a foreign company disposes of all of its assets (other than assets it elects to use to settle any debts incurred by it in the ordinary course of its trade) to a resultant company which is a foreign company, by means of an amalgamation, conversion or merger;

(ii) if—

(aa) that amalgamated company and that resultant company form part of the same group of companies (without regard to paragraph (i)*(ee)* of the proviso to the definition of 'group of companies' in section 41) immediately before that transaction: Provided that for the purposes of this item an amalgamated company and a resultant company

(bb) indien daardie ekwiteitsaandeel as handelsvoorraad gehou word, hanteer as inkomste wat in daardie persoon se inkomste ingesluit moet word vir die jaar van aanslag waartydens daardie ekwiteitsaandeel ingevolge daardie bate-vir-aandeel-transaksie deur daardie persoon verkry word.''; en

(h) deur in subartikel (8A) paragraaf *(b)* deur die volgende paragraaf te vervang:

''*(b)* die beskikking nie in berekening gebring sou word nie met die doel om—

(i) enige belasbare inkomste of vasgestelde verlies van daardie persoon te bepaal; of

(ii) enige proporsionele bedrag van die netto inkomste van 'n beheerde buitelandse maatskappy wat ingevolge artikel 9D by die inkomste van daardie persoon ingesluit word, te bepaal.''.

(2) Paragrawe *(a)*, *(b)*, *(c)*, *(d)*, *(f)* en *(h)* tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

(3) Paragraaf *(e)* van subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

(4) Paragraaf *(g)* van subartikel (1) tree op 1 April 2012 in werking en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

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, artikel 49 van Wet 17 van 2009 en artikel 63 van Wet 7 van 2010

69. (1) Artikel 44 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die woorde wat die omskrywing van ''kwalifiserende belang'' voorafgaan deur die volgende woorde te vervang:

''By die toepassing van hierdie artikel, beteken—

'amalgamasietransaksie' 'n transaksie—

(a) (i) ingevolge waarvan enige maatskappy (hierna die 'geamalgameerde maatskappy' genoem) oor al sy bates (behalwe bates wat dit na keuse wil aanwend ter delging van skulde in die gewone loop van besigheid aangegaan) aan 'n ander maatskappy (hierna die 'gevolglike maatskappy' genoem) wat 'n inwoner is, by wyse van 'n amalgamasie, omskepping of samesmelting beskik; en

[*(b)*] (ii) as gevolg waarvan die geamalgameerde maatskappy se bestaan beëindig sal word**[:**

Met dien verstande dat hierdie artikel nie van toepassing is nie ten aansien van 'n beskikking oor 'n bate deur 'n geamalgameerde maatskappy aan 'n gevolglike maatskappy indien daardie gevolglike maatskappy en die persoon in subartikel (6)beoog onmiddellik voor en na daardie beskikking deel vorm van dieselfde groep van maatskappye en daardie geamalgameerde maatskappy, gevolglike maatskappy en persoon gesamentlik so 'n keuse uitoefen.]; of

(b) (i) ingevolge waarvan 'n geamalgameerde maatskappy wat 'n buitelandse maatskappy is, oor al sy bates (behalwe bates wat dit na keuse wil aanwend ter delging van skulde in die gewone loop van besigheid aangegaan) aan 'n gevolglike maatskappy wat 'n buitelandse maatskappy is, by wyse van 'n amalgamasie, omskepping of samesmelting beskik;

(ii) indien—

(aa) daardie geamalgameerde maatskappy en daardie gevolglike maatskappy deel vorm van dieselfde groep van maatskappye (sonder inagneming van paragraaf (i)*(ee)* van die voorbehoudsbepaling tot die omskrywing van 'groep van maatskappye' in artikel 41) onmiddellik voor daardie transaksie: Met dien verstande dat by die toepassing van hierdie item 'n geamalgameerde maatskappy en 'n gevolglike maatskappy slegs deel sal vorm van dieselfde groep van maatskappye indien die

will only form part of the same group of companies if the expression 'at least 70 per cent' in paragraphs *(a)* and *(b)* of the definition of 'group of companies' in section 1 were replaced by the expression 'at least 95 per cent'; and

(bb) that resultant company is a controlled foreign company in relation to any company that is a resident and that forms part of the group of companies contemplated in item *(aa)* immediately before and after that transaction; and

(iii) as a result of which that amalgamated company's existence will be terminated.";

(b) by the deletion in subsection (1) of the definition of "qualifying interest";

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

"(4) The provisions of subsections (2) and (3) will not apply to a disposal of an asset by an amalgamated company to a resultant company as part of an amalgamation transaction **[only]** to the extent that such asset is so disposed of in exchange for consideration other than—

(a) an equity share or shares in that resultant company; or

(b) the assumption by that resultant company of a debt of that amalgamated company, unless that debt—

(i) was incurred by that amalgamated company—

[(i)] *(aa)* more than 18 months before that disposal; or

[(ii)] *(bb)* within a period of 18 months before that disposal, to the extent that the debt—

[*(aa)*] (A) constitutes the refinancing of any debt incurred as contemplated in subparagraph **[(i)]***(aa)*; or

[*(bb)*] (B) is attributable to and arose in the **[ordinary]** normal course of the disposal, as a going concern, of a business undertaking **[disposed of, as a going concern,]** to that resultant company as part of that amalgamation transaction; and

(ii) was not incurred by that amalgamated company for the purpose of procuring, enabling, facilitating or funding the acquisition by that resultant company of any asset in terms of that amalgamation transaction.";

(d) by the substitution in subsection (6)*(a)*(i) for the expression "; and" at the end of item *(bb)* of a full stop;

(e) by the deletion in subsection (6)*(a)* of subparagraph (ii);

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

"*(a)* the disposal by that amalgamated company of those shares must be deemed not to be a dividend **[with respect to that amalgamated company]** for purposes of **[section 64B(3)]** Part VIII of Chapter II; and";

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

"(10) **[For the purposes of section 64B, so]** 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 market value of all the assets of the amalgamated company immediately before the amalgamation, conversion or merger less—

(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, for the purposes of the definitions of 'dividend', 'foreign dividend', 'foreign return of capital' and 'return of capital' in section 1, be deemed to be **[a dividend declared and**

uitdrukking 'minstens 70 persent' in paragrawe *(a)* en *(b)* van die omskrywing van 'groep van maatskappye' in artikel 1 deur die uitdrukking 'minstens 95 persent' vervang word; en

(bb) daardie gevolglike maatskappy 'n beheerde buitelandse maatskappy is met betrekking tot enige maatskappy wat 'n inwoner is en wat deel vorm van die groep van maatskappye beoog in item *(aa)* onmiddellik voor en na daardie transaksie; en

(iii) as gevolg waarvan daardie geamalgameerde maatskappy se bestaan beëindig sal word.";

(b) deur in subartikel (1) die omskrywing van "kwalifiserende belang" te skrap;

(c) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) Die bepalings van subartikels (2) en (3) is nie van toepassing nie ten opsigte van 'n beskikking oor 'n bate deur 'n geamalgameerde maatskappy aan 'n gevolglike maatskappy as deel van 'n amalgamasietransaksie **[slegs]** tot die mate waarin daar oor daardie bate beskik is in ruil vir vergoeding buiten—

(a) 'n ekwiteitsaandeel of aandele in daardie gevolglike maatskappy; of

(b) die oorname deur daardie gevolglike maatskappy van 'n skuld van daardie geamalgameerde maatskappy **[wat]** tensy daardie skuld—

(i) deur daardie geamalgameerde maatskappy aangegaan is—

[(i)] *(aa)* meer as 18 maande voor daardie beskikking; of

[(ii)] *(bb)* binne 'n tydperk van 18 maande voor daardie beskikking, in die mate wat daardie skuld—

[*(aa)*] (A) die herfinansiering van enige skuld in subparagraaf **[(i)]***(aa)* beoog, uitmaak; of

[*(bb)*] (B) toeskryfbaar is aan en ontstaan het in die normale verloop van die beskikking, as 'n lopende saak, oor 'n besigheidsonderneming **[waaroor as 'n lopende saak beskik is]** aan daardie gevolglike maatskappy as deel van daardie amalgamasietransaksie; en

(ii) nie deur daardie geamalgameerde maatskappy aangegaan is met die doel om die verkryging deur daardie gevolglike maatskappy van enige bate ingevolge daardie amalgamasietransaksie te bewerkstellig, in staat te stel, te fasiliteer of te befonds nie.";

(d) deur in subartikel (6)*(a)*(i) die uitdrukking "; en" aan die einde van item *(bb)* deur 'n punt te vervang;

(e) deur in subartikel (6)*(a)* subparagraaf (ii) te skrap;

(f) deur in subartikel (9) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* word die beskikking deur daardie geamalgameerde maatskappy oor daardie aandele geag nie 'n dividend **[met betrekking tot daardie geamalgameerde maatskappy]** by die toepassing van **[artikel 64B(3)]** Deel VIII van Hoofstuk II te wees nie; en";

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

"(10) **[By die toepassing van artikel 64B, word soveel]** Soveel van die bedrag van enige ander vergoeding waarop 'n persoon geregtig word soos in subartikel (7)*(b)* beoog wat nie die markwaarde van al die bates van die geamalgameerde maatskappy onmiddellik voor die amalgamasie, omskepping of samesmelting minus—

(a) die laste; en

(b) die som van die toegevoegde belastingkapitaal van al die klasse van aandele,

van die geamalgameerde maatskappy onmiddellik voor die amalgamasie, omskepping of samesmelting oorskry nie, by die toepassing van die omskrywings van 'dividend', 'buitelandse dividend', 'buitelandse teruggawe van kapitaal' en 'teruggawe van kapitaal' in artikel 1, geag 'n **[dividend]** bedrag te wees wat **[verklaar en uitgekeer]** oorgedra is

distributed] an amount transferred by **[of]** that amalgamated company **[to]** for the benefit or on behalf of that person **[and to have accrued as a dividend to that person on the date on which that person became entitled thereto]** in respect of a share held by that person in the amalgamated company.";

(h) by the deletion of subsection (11);

(i) by the addition to subsection (13) of the following proviso:

": Provided that any tax which becomes payable as a result of the application of this subsection may be recovered from the resultant company";

(j) by the substitution in subsection (14) for paragraph *(b*A*)* of the following paragraph:

"*(b*A*)* the resultant company is a **[company contemplated in paragraph *(e)*(i) of the definition of 'company']** portfolio of a collective investment scheme in securities and the amalgamated company is not a **[company contemplated in that paragraph]** portfolio of a collective investment scheme in securities;"; and

(k) by the substitution for subsection (14) of the following subsection:

"(14) The provisions of this section do not apply **[in respect of any transaction if]**—

(a) in respect of any transaction if the resultant company holds at least 70 per cent of the equity shares in the amalgamated company immediately before the amalgamation, conversion or merger;

(b) in respect of any transaction if the resultant company is a company contemplated in paragraph *(c)* or *(d)* of the definition of 'company';

*(b*A*)* in respect of any transaction if the resultant company is a portfolio of a collective investment scheme in securities and the amalgamated company is not a portfolio of a collective investment scheme in securities;

(c) in respect of any transaction if the resultant company is a non-profit company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008);

(d) in respect of any transaction contemplated in paragraph *(a)* of the definition of 'amalgamated company' if the resultant company is a company contemplated in paragraph *(b)* or *(e)*(ii) of the definition of 'company' **[in section 1]** and does not have its place of effective management in the Republic;

(e) in respect of any transaction if any amount constituting gross income of whatever nature would be exempt from tax in terms of section 10 were it to be received by or to accrue to the resultant company; **[or]**

(f) in respect of any transaction if the resultant company is a public benefit organisation or recreational club approved by the Commissioner in terms of section 30 or 30A; or

(g) to a disposal of an asset by an amalgamated company to a resultant company—

(i) in terms of an amalgamation transaction contemplated in paragraph *(a)* of the definition of 'amalgamation transaction' where that resultant company and the person contemplated in subsection (6) form part of the same group of companies immediately before and after that disposal; or

(ii) in terms of an amalgamation transaction contemplated in paragraph *(b)* of the definition of 'amalgamation transaction' where that resultant company and the person contemplated in subsection (6) form part of the same group of companies (without regard to paragraph (i)*(ee)* of the proviso to the definition of 'group of companies' in section 41) immediately before and after that disposal,

if that amalgamated company, resultant company and person jointly so elect.".

[aan] ten behoewe van of namens daardie persoon deur die geamalgameerde maatskappy **[en wat aan daardie persoon as 'n dividend toegeval het op die datum waarop daardie persoon daarop geregtig geword het]** ten opsigte van 'n aandeel deur daardie persoon in die geamalgameerde maatskappy gehou.";

(h) deur subartikel (11) te skrap;

(i) deur by subartikel (13) die volgende voorbehoudsbepaling te voeg:

": Met dien verstande dat enige belasting wat betaalbaar word as gevolg van die toepassing van hierdie subartikel van die gevolglike maatskappy verhaal kan word";

(j) deur in subartikel (14) paragraaf *(b*A*)* deur die volgende paragraaf te vervang:

"*(b*A*)* die gevolglike maatskappy 'n **[maatskappy beoog in paragraaf *(e)*(i) van die omskrywing van 'maatskappy']** portefeulje van 'n kollektiewe beleggingskema in effekte uitmaak en die geamalgameerde maatskappy nie 'n **[maatskappy beoog in daardie paragraaf]** portefeulje van 'n kollektiewe beleggingskema in effekte uitmaak nie;"; en

(k) deur subartikel (14) deur die volgende subartikel te vervang:

"(14) Die bepalings van hierdie artikel is nie van toepassing nie **[ten opsigte van enige transaksie indien]**—

(a) ten opsigte van 'n transaksie indien die gevolglike maatskappy minstens 70 persent van die ekwiteitsaandele in die geamalgameerde maatskappy hou onmiddellik voor die amalgamasie, **[omskepping]** omskakeling of samesmelting;

(b) ten opsigte van 'n transaksie indien die gevolglike maatskappy 'n maatskappy in paragraaf *(c)* of *(d)* van die omskrywing van 'maatskappy' beoog, uitmaak;

*(b*A*)* ten opsigte van 'n transaksie indien die gevolglike maatskappy 'n portefeulje van 'n kollektiewe beleggingskema in effekte uitmaak en die geamalgameerde maatskappy nie 'n portefeulje van 'n kollektiewe beleggingskema in effekte uitmaak nie;

(c) ten opsigte van 'n transaksie indien die gevolglike maatskappy 'n maatskappy sonder winsoogmerk soos omskryf in artikel 1 van die Maatskappywet, 2008 (Wet No. 71 van 2008), uitmaak;

(d) ten opsigte van 'n transaksie beoog in paragraaf *(a)* van die omskrywing van 'geamalgameerde maatskappy' indien die gevolglike maatskappy 'n maatskappy in paragraaf *(b)* of *(e)*(ii) van die omskrywing van 'maatskappy' **[in artikel 1]** beoog, uitmaak, en nie sy plek van effektiewe bestuur in die Republiek het nie;

(e) ten opsigte van 'n transaksie indien enige bedrag wat bruto inkomste van welke aard ookal uitmaak, kragtens artikel 10 van belasting vrygestel sou wees, sou dit ontvang wees deur of toeval aan die gevolglike maatskappy; **[of]**

(f) ten opsigte van 'n transaksie indien die gevolglike maatskappy 'n openbare weldaadsorganisasie of ontspanningsklub uitmaak wat kragtens artikel 30 of 30A deur die Kommissaris goedgekeur is; of

(g) op 'n beskikking oor 'n bate deur 'n geamalgameerde maatskappy aan 'n gevolglike maatskappy—

(i) ingevolge 'n amalgamasietransaksie beoog in paragraaf *(a)* van die omskrywing van 'amalgamasietransaksie' waar daardie gevolglike maatskappy en die persoon beoog in subartikel (6) deel vorm van dieselfde groep van maatskappye onmiddellik voor en na daardie beskikking; of

(ii) ingevolge 'n amalgamasietransaksie beoog in paragraaf *(b)* van die omskrywing van 'amalgamasietransaksie' waar daardie gevolglike maatskappy en die persoon beoog in subartikel (6) deel vorm van dieselfde groep van maatskappye (sonder inagneming van paragraaf (i)*(ee)* van die voorbehoudsbepaling tot die omskrywing van 'groep van maatskappye' in artikel 41) onmiddellik voor en na daardie beskikking,

indien daardie geamalgameerde maatskappy, gevolglike maatskappy en persoon gesamentlik so 'n keuse uitoefen.".

(2) Paragraphs *(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(h)*, *(i)* and *(k)* of subsection (1) come into operation on 1 January 2012 and apply in respect of transactions entered into on or after that date.

(3) Paragraphs *(f)* and *(g)* 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 and apply in respect of disposals made on or after that date.

(4) Paragraph *(j)* 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.

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 and section 64 of Act 7 of 2010

70. (1) Section 45 of the Income Tax Act, 1962, is hereby amended—

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

"(3A) *(a)* This subsection applies where an asset is acquired by a transferee company from a transferor company in terms of an intra-group transaction and—

(i) any amount incurred by that transferee company as consideration for the acquisition of that asset from that transferor company is funded directly or indirectly by the issue of any—

(aa) debt instrument as defined in section 37I(1); or

(bb) share other than an equity share; and

(ii) that debt instrument or share—

(aa) is issued by a company that forms part of the same group of companies as the transferee company or the transferor company; and

(bb) is issued or used for the purposes of directly or indirectly facilitating or funding that intra-group transaction.

(b) The holder of any debt instrument or share contemplated in paragraph *(a)* who is part of the same group of companies as the issuer of that debt instrument or share must, for the purposes of—

(i) paragraph 20 of the Eighth Schedule, be deemed to have acquired that debt instrument or share for an amount of expenditure of nil; and

(ii) section 11*(a)* or 22(1) or (2), be deemed to have acquired that debt instrument or share for an amount of expenditure or cost of nil.

(c) Where an amount, other than an amount of interest, is received by or accrued to a holder in respect of a debt instrument contemplated in paragraph *(a)* from any company that forms part of the same group of companies as that holder and that amount is applied by the holder in settlement of the amount outstanding in respect of that debt instrument, that amount must be disregarded in determining the aggregate capital gain or the taxable income of that holder.

(d) Where an amount, other than an amount that constitutes a dividend, is received by or accrued to a holder in respect of a share contemplated in paragraph *(a)* from any company that forms part of the same group of companies as that holder and that amount is applied in reduction of the capital subscribed for that share, that amount must be disregarded in determining the aggregate capital gain or the taxable income of that holder.";

(b) by the substitution in subsection (5)*(a)* for subparagraph (i) of the following paragraph:

"(i) so much of any **[a]** capital gain determined in respect of the disposal of that asset as does not exceed the amount that would have been determined had that asset been disposed of at the beginning of that period of 18 months for proceeds equal to the market value of that asset as at that date, may not be taken into account in determining any net capital gain or assessed capital loss of that transferee company but is subject to paragraph 10 of the Eighth Schedule for

(2) Paragrawe *(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(h)*, *(i)* en *(k)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

(3) Paragrawe *(f)* en *(g)* van 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 beskikkings op of na daardie datum gemaak.

(4) Paragraaf *(j)* 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 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 en artikel 64 van Wet 7 van 2010

70. (1) Artikel 45 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur na subartikel (3) die volgende subartikel in te voeg:

"(3A)*(a)* Hierdie subartikel is van toepassing waar 'n bate verkry word deur 'n oordragnemende maatskappy van 'n oordraggewende maatskappy ingevolge 'n intragroeptransaksie en—

(i) enige bedrag aangegaan deur daardie oordragnemende maatskappy as vergoeding vir die verkryging van daardie bate van daardie oordraggewende maatskappy direk of indirek befonds word deur die uitreiking van enige—

(aa) skuldinstrument soos in artikel 37(1) omskryf; of

(bb) aandeel buiten 'n ekwiteitsaandeel; en

(ii) daardie skuldinstrument of aandeel—

(aa) uitgereik word deur 'n maatskappy wat deel vorm van dieselfde groep van maatskappye as die oordragnemende maatskappy of die oordraggewende maatskappy; en

(bb) uitgereik of gebruik word met die doel om direk of indirek daardie intragroeptransaksie te fasiliteer of befonds.

(b) Die houer van enige skuldinstrument of aandeel in paragraaf *(a)* beoog wat deel is van dieselfde groep van maatskappy as die uitreiker van daardie skuldinstrument of aandeel moet, by die toepassing van—

(i) paragraaf 20 van die Agtste Bylae geag word daardie skuldinstrument of aandeel te verkry het vir 'n bedrag van uitgawes van nul; en

(ii) artikel 11*(a)* of 22(1) of (2) geag word daardie skuldinstrument of aandeel te verkry het vir 'n bedrag van uitgawes of koste van nul.

(c) Waar 'n bedrag, buiten 'n bedrag van rente, ontvang word of toeval aan 'n houer ten opsigte van 'n skuldinstrument beoog in paragraaf *(a)* van enige maatskappy wat deel vorm van dieselfde groep van maatskappye as daardie houer en daardie bedrag word toegepas deur die houer ter vereffening van die uitstaande bedrag ten opsigte van daardie skuldinstrument, word daardie bedrag verontagsaam by die bepaling van die saamgestelde kapitaalwins of die belasbare inkomste van daardie houer.

(d) Waar 'n bedrag, buiten 'n bedrag wat 'n dividend uitmaak, ontvang word deur of toeval aan 'n houer ten opsigte van 'n aandeel beoog in paragraaf *(a)* van enige maatskappy wat deel vorm van dieselfde groep van maatskappye as daardie houer en daardie bedrag word toegepas ter vermindering van die kapitaal ingeskryf vir daardie aandeel, word daardie bedrag verontagsaam by die bepaling van die saamgestelde kapitaalwins of die belasbare inkomste van daardie houer.";

(b) deur in subartikel (5)*(a)* in die Engelse teks subparagraaf (i) deur die volgende paragraaf te vervang:

"(i) so much of any **[a]** capital gain determined in respect of the disposal of that asset as does not exceed the amount that would have been determined had that asset been disposed of at the beginning of that period of 18 months for proceeds equal to the market value of that asset as at that date, may not be taken into account in determining

purpose of determining an amount of taxable capital gain derived from that gain, which taxable capital gain may not be set off against any assessed loss or balance of assessed loss of that transferee company; or"; and

(c) by the substitution in subsection (6) for paragraph *(c)* of the following paragraph:

"*(c)* the asset was disposed of by the transferor company in exchange for equity shares issued by the transferee company;".

(2) Paragraph *(a)* of subsection (1) comes into operation on 1 January 2012 and applies in respect of years of assessment commencing on or after that date.

(3) Paragraphs *(b)* and *(c)* of subsection (1) come into operation on 30 August 2010 and apply in respect of transactions entered into—

(a) on or after that date; and

(b) on or before 31 December 2012.

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, section 52 of Act 60 of 2008 and section 65 of Act 7 of 2010

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

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

"For purposes of this section, 'unbundling transaction' means any transaction—

(a) (i) in terms of which all the equity shares of a company (hereinafter referred to as the 'unbundled company') which is a resident **[or a controlled foreign company (hereinafter referred to as the 'unbundled company')]** that are held by a company (hereinafter referred to as the 'unbundling company') which **[, if listed,]** is a resident, are distributed by that unbundling company to the shareholder or shareholders of that unbundling company in accordance with the effective interest of that shareholder or those shareholders, as the case may be, in the shares of that unbundling company, but only to the extent to which those shares are so distributed—

[*(a)*] *(aa)* where that unbundling company is a listed company and the shares of the unbundled company are listed shares or will **[be]** become listed shares within 12 months after that distribution, to the shareholders of that unbundling company;

[*(b)*] *(bb)* where that unbundling company is an unlisted company, to any shareholder of that unbundling company that forms part of the same group of companies as that unbundling company; or

[*(c)*] *(cc)* pursuant to an order in terms of the Competition Act, 1998 (Act No. 89 of 1998), made by the Competition Tribunal or the Competition Appeal Court, to the shareholders of that unbundling company; **[or**

(d) **where that unbundled company is a controlled foreign company, to a person that holds at least 95 per cent of the equity shares in that unbundling company]** and

(ii) if the shares distributed as contemplated in subparagraph (i) constitute—

any net capital gain or assessed capital loss of that transferee company but is subject to paragraph 10 of the Eighth Schedule for purpose of determining an amount of taxable capital gain derived from that gain, which taxable capital gain may not be set off against any assessed loss or balance of assessed loss of that transferee company; or"; en

(c) deur in subartikel (6) paragraaf *(c)* deur die volgende paragraaf te vervang:

"*(c)* die bate beskik was deur die oordraggewende maatskappy in ruil vir **[aandele]** ekwiteitsaandele deur die oordragnemende maatskappy uitgereik;".

(2) Paragraaf *(a)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragrawe *(b)* en *(c)* van subartikel (1) tree op 30 Augustus 2010 in werking en is van toepassing ten opsigte van transaksies gesluit—

(a) op of na daardie datum; en

(b) op of voor 31 Desember 2012.

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, artikel 52 van Wet 60 van 2008 en artikel 65 van Wet 7 van 2010

71. (1) Artikel 46 van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (1) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

"By die toepassing van hierdie artikel beteken, 'ontbondelingstransaksie' 'n transaksie—

(a) (i) ingevolge waarvan al die ekwiteitsaandele van 'n maatskappy (hierna die 'ontbondelde maatskappy' genoem) wat 'n inwoner **[of 'n beheerde buitelandse maatskappy is (hierna die 'ontbondelde maatskappy' genoem)]** wat gehou word deur 'n maatskappy (hierna die 'ontbondelingsmaatskappy' genoem) en wat **[in die geval van 'n genoteerde maatskappy]** 'n inwoner is, uitgekeer word deur daardie ontbondelingsmaatskappy aan die aandeelhouer of aandeelhouers van daardie ontbondelingsmaatskappy ooreenkomstig die effektiewe belang van daardie aandeelhouer of aandeelhouers, na gelang van die geval, in die aandele van daardie ontbondelingsmaatskappy, maar slegs tot die mate waarin daardie aandele so uitgekeer word—

[*(a)*] *(aa)* waar daardie ontbondelingsmaatskappy 'n genoteerde maatskappy is en die aandele van die ontbondelde maatskappy binne 12 maande na daardie uitkering **[genoteer]** genoteerde aandele is of sal word, aan die aandeelhouers van daardie ontbondelingsmaatskappy;

[*(b)*] *(bb)* waar daardie ontbondelingsmaatskappy 'n ongenoteerde maatskappy is, aan enige aandeelhouer van daardie ontbondelingsmaatskappy wat deel van dieselfde groep van maatskappye as daardie ontbondelingsmaatskappy vorm; of

[*(c)*] *(cc)* aan die aandeelhouers van daardie ontbondelingsmaatskappy ter nakoming van 'n bevel uitgereik deur die Mededingingstribunaal of die Appèlhof vir Mededinging ingevolge die Wet op Mededinging, 1998 (Wet No. 89 van 1998); **[of**

(d) **waar daardie ontbondelde maatskappy'n beheerde buitelandse maatskappy is, aan 'n persoon wat minstens 95 persent van die ekwiteitsaandele in daardie ontbondelingsmaatskappy hou]** en

(ii) indien die aandele uitgekeer soos beoog in subparagraaf (i)—

(aa) where that unbundled company is a listed company immediately before that distribution—

(A) and no shareholder in the unbundled company other than the unbundling company holds the same number of equity shares as or more equity shares than the unbundling company in that unbundled company, more than 25 per cent of the equity shares of the unbundled company; or

(B) and any shareholder in the unbundled company other than the unbundling company holds the same number of equity shares as or more equity shares than the unbundling company in that unbundled company, at least 35 per cent of the equity shares of that unbundled company; or

(bb) where that unbundled company is an unlisted company immediately before that distribution, more than 50 per cent of the equity shares of that unbundled company; or

(b) (i) in terms of which all the equity shares of an unbundled company which is a controlled foreign company that are held by an unbundling company which is a resident or a controlled foreign company are distributed by that unbundling company to the shareholder or shareholders of that unbundling company in accordance with the effective interest of that shareholder or those shareholders, as the case may be, in the shares of that unbundling company, but only to the extent to which those shares are so distributed to shareholders of that unbundling company that form part of the same group of companies as that unbundling company (without regard to paragraph (i)*(ee)* of the proviso to the definition of 'group of companies' in section 41) immediately after that distribution; and

(ii) if, immediately before the distribution contemplated in subparagraph (i), the unbundling company holds more than 50 per cent of the equity shares of the unbundled company.";

(b) by the deletion of the proviso and the further proviso to subsection (1);

(c) by the substitution for subsection (5) of the following subsection:

"(5) Where shares are distributed by an unbundling company to a shareholder in terms of an unbundling transaction**[—**

***(a)*]** , the distribution by that unbundling company of the shares must, for the purposes of the definition of 'dividend' and the definition of 'return of capital' in section 1, be deemed not to be **[a dividend with respect to]** an amount transferred by that unbundling company for the purposes of **[section 64B(3)]** Part VIII of Chapter II. **[and**

(b) **any shares acquired by a company in terms of that distribution must be deemed not to be a dividend which accrued to that company for the purposes of section 64B(3).]**";

(d) by the substitution in subsection (7)*(b)* for subparagraph (i) of the following subparagraph:

"(i) a person that is not a resident, unless that person is a controlled foreign company;"; and

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

"(8) Where an unlisted unbundling company disposes of shares in an unlisted unbundled company in terms of an unbundling transaction to a shareholder and that unbundled company is a controlled group company

(aa) waar daardie ontbondelde maatskappy 'n genoteerde maatskappy is onmiddellik voor daardie uitkering—

(A) en geen aandeelhouer in die ontbondelde maatskappy behalwe die ontbondelingsmaatskappy dieselfde getal ekwiteitsaandele as of meer ekwiteitsaandele as die ontbondelingsmaatskappy in daardie ontbondelde maatskappy hou, meer as 25 persent van die ekwiteitsaandele van die ontbondelde maatskappy uitmaak; of

(B) en enige aandeelhouer in die ontbondelde maatskappy behalwe die ontbondelingsmaatskappy dieselfde getal ekwiteitsaandele as of meer ekwiteitsaandele as die ontbondelingsmaatskappy in daardie ontbondelde maatskappy hou, minstens 35 persent van die ekwiteitsaandele van daardie ontbondelde maatskappy uitmaak; of

(bb) waar daardie ontbondelde maatskappy 'n ongenoteerde maatskappy is onmiddellik voor daardie uitkering, meer as 50 persent van die ekwiteitsaandele van daardie ontbondelde maatskappy uitmaak; of

(b) (i) ingevolge waarvan al die ekwiteitsaandele van 'n ontbondelde maatskappy wat 'n beheerde buitelandse maatskappy is wat gehou word deur 'n ontbondelingsmaatskappy wat 'n inwoner of 'n beheerde buitelandse maatskappy is, uitgekeer word deur daardie ontbondelingsmaatskappy aan die aandeelhouer of aandeelhouers van daardie ontbondelingsmaatskappy ooreenkomstig die effektiewe belang van daardie aandeelhouer of daardie aandeelhouers, na gelang van die geval, in die aandele van daardie ontbondelingsmaatskappy, maar slegs tot die mate waarin daardie aandele aldus uitgekeer word aan aandeelhouers van daardie ontbondelingsmaatskappy wat deel vorm van dieselfde groep van maatskappye as daardie ontbondelingsmaatskappy (sonder inagneming van paragraaf (i)*(ee)* van die voorbehoudsbepaling tot die omskrywing van 'groep van maatskappye' in artikel 41) onmiddellik na daardie uitkering; en

(ii) indien, onmiddellik voor die uitkering beoog in subparagraaf (i), die ontbondelingsmaatskappy meer as 50 persent hou van die ekwiteitsaandele van die ontbondelde maatskappy.";

(b) deur die voorbehoudsbepaling en die verdere voorbehoudsbepaling tot subartikel (1) te skrap;

(c) deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Waar 'n ontbondelingsmaatskappy aandele aan 'n aandeelhouer ingevolge 'n ontbondelingstransaksie uitkeer**[—**

***(a)*]** , word die uitkering deur daardie ontbondelingsmaatskappy van die aandele, by die toepassing van **[artikel 64B(3)]** die omskrywing van 'dividend' en die omskrywing van 'teruggawe van kapitaal' in artikel 1, geag nie 'n **[dividend te wees nie ten opsigte van]** bedrag oorgedra deur daardie ontbondelingsmaatskappy te wees nie by die toepassing van Deel VIII van Hoofstuk II. **[; en**

(b) **word enige aandele deur 'n maatskappy ingevolge daardie uitkering verkry, geag by die toepassing van artikel 64B(3) nie 'n dividend te wees nie wat aan daardie maatskappy toegeval het.]**";

(d) deur in subartikel (7)*(b)* subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) 'n persoon wat nie 'n inwoner is nie, tensy daardie persoon 'n beheerde buitelandse maatskappy is;"; en

(e) deur subartikel (8) deur die volgende subartikel te vervang:

"(8) Waar 'n ongenoteerde ontbondelingsmaatskappy oor aandele in 'n ongenoteerde ontbondelde maatskappy aan 'n aandeelhouer ingevolge 'n ontbondelingstransaksie beskik en daardie ontbondelde maatskappy onmiddellik voor en na daardie beskikking 'n beheerde groepmaat-

in relation to that shareholder immediately before and after that disposal, the provisions of this section will not apply to that disposal if that shareholder and that unbundling company **[jointly so elect]** agree in writing that this section does not apply to that disposal.".

(2) Paragraphs *(a)*, *(b)*, *(d)* and *(e)* of subsection (1) come into operation on 1 January 2013 and apply in respect of transactions entered into on or after that date.

(3) Paragraph *(c)* 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 and applies in respect of distributions made on or after that date.

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, section 50 of Act 17 of 2009 and section 66 of Act 7 of 2010

72. (1) Section 47 of the Income Tax Act, 1962, is hereby amended—

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

"*(a)* in terms of which any company (hereinafter referred to as the 'liquidating company') distributes all its assets (other than assets it elects to use to settle any debts incurred by it in the ordinary course of its trade) to its shareholders in anticipation of or in the course of the liquidation, winding up or deregistration of that company, but only to the extent to which those assets are so disposed of to another company (hereinafter referred to as the 'holding company') which is a resident and which—";

(b) by the deletion in subsection (1)*(a)*(i) of item *(aa)*;

(c) by the insertion in subsection (1)*(a)*(i) of the word "or" at the end of item *(cc)*;

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

"(ii) on the date of that disposal forms part of the same group of companies as the liquidating company **[or holds at least 95 per cent of the equity shares in that company.]**; or";

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

"*(b)* in terms of which a liquidating company distributes all its assets (other than assets it elects to use to settle any debts incurred by it in the ordinary course of its trade) to its shareholders in anticipation of or in the course of the liquidation, winding up or deregistration of that company, if those assets are so disposed of to a holding company which—

(i) forms part of the same group of companies as the liquidating company (without regard to paragraph *(i)(ee)* of the proviso to the definition of 'group of companies' in section 41) immediately before that distribution; and

(ii) is a controlled foreign company in relation to any resident that forms part of the group of companies contemplated in subparagraph (i) immediately before and after that distribution.";

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

"*(b)* in anticipation of or in the course of the liquidation, winding up or deregistration of a liquidating company, a **[capital distribution]** return of capital by way of a distribution of cash or an asset *in specie* by that company is received by or accrues to a holding company,";

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

"the holding company must disregard that disposal or **[distribution]**

skappy met betrekking tot daardie aandeelhouer is, is die bepalings van hierdie artikel nie van toepassing ten opsigte van daardie beskikking nie indien daardie aandeelhouer en daardie ontbondelingsmaatskappy **[gesamentlik so 'n keuse uitoefen]** skriftelik ooreenkom dat hierdie artikel nie op daardie beskikking van toepassing is nie.".

(2) Paragrawe *(a)*, *(b)*, *(d)* en *(e)* van subartikel (1) tree op 1 Januarie 2013 in werking en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

(3) Paragraaf *(c)* van 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 uitkerings op of na daardie datum gemaak.

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, artikel 50 van Wet 17 van 2009 en artikel 66 van Wet 7 van 2010

72. (1) Artikel 47 van die Inkomstebelastingwet, 1962, word hierby gewysig—

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

"*(a)* ingevolge waarvan 'n maatskappy (hierna die 'likwiderende maatskappy' genoem) al sy bates (behalwe bates wat dit na keuse wil aanwend ter delging van skulde in die gewone loop van besigheid aangegaan) aan sy aandeelhouers uitkeer in afwagting van of in die loop van die likwidasie of deregistrasie van daardie maatskappy, maar slegs tot die mate waarin daar oor daardie bates so beskik word aan 'n ander maatskappy (hierna die 'houermaatskappy' genoem) wat 'n inwoner is en wat—";

(b) deur in subartikel (1)*(a)*(i) item *(aa)* te skrap;

(c) deur in subartikel (1)*(a)*(i) die woord "of" aan die einde van item *(cc)* in te voeg;

(d) deur in subartikel (1)*(a)* subparagraaf (ii) deur die volgende paragraaf te vervang:

"(ii) op die datum van daardie beskikking deel van dieselfde groep van maatskappye as daardie likwiderende maatskappy vorm **[of minstens 95 persent van die ekwiteitsaandele in daardie maatskappy hou.]**; of";

(e) deur by subartikel (1) die volgende paragraaf te voeg:

"*(b)* ingevolge waarvan 'n likwiderende maatskappy al sy bates (behalwe bates wat dit na keuse wil aanwend ter delging van skulde in die gewone loop van besigheid aangegaan) aan sy aandeelhouers uitkeer in afwagting op of in die loop van die likwidasie of deregistrasie van daardie maatskappy, indien aldus oor daardie bates beskik word aan 'n houermaatskappy wat—

(i) deel van dieselfde groep van maatskappye as die likwiderende maatskappy (sonder inagneming van paragraaf (i)*(ee)* van die voorbehoudsbepaling tot die omskrywing van 'groep van maatskappye' in artikel 41) onmiddellik voor daardie uitkering vorm; en

(ii) 'n beheerde buitelandse maatskappy is met betrekking tot enige inwoner wat deel van die groep van maatskappye beoog in subparagraaf (i) vorm onmiddellik voor en na daardie uitkering.";

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

"*(b)* in afwagting op of in die loop van die likwidasie of deregistrasie van 'n likwiderende maatskappy, 'n **[kapitaaluitkering]** teruggawe van kapitaal by wyse van 'n uitkering van kontant of 'n bate *in specie* deur daardie maatskappy deur 'n houermaatskappy ontvang word of aan hom toeval,";

(g) deur in subartikel (5) die woorde wat op paragraaf *(b)* volg deur die volgende woorde te vervang:

"moet die houermaatskappy daardie beskikking of **[uitkering]** teruggawe van kapitaal buite rekening laat vir doeleindes van die

return of capital for purposes of determining its taxable income, assessed loss, aggregate capital gain or aggregate capital loss.'';

(h) by the substitution in subsection (6) for paragraph *(b*A*)* of the following paragraph:

''*(b*A) the distribution would not be taken into account—

(i) for purposes of determining any taxable income or assessed loss of the liquidating company; or

(ii) where the liquidating company is a controlled foreign company, for purposes of determining the net income, as contemplated in section 9D(2A), of the liquidating company; or''; and

(i) by the substitution in subsection (6) for the proviso to paragraph *(c)* of the following proviso:

'': Provided that any tax which becomes payable as a result of the application of this paragraph shall be recoverable from the holding company or, where the holding company is a controlled foreign company, from any resident who directly or indirectly holds any participation rights in that controlled foreign company as contemplated in section 9D(2).''.

(2) Paragraphs *(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(h)* and *(i)* of subsection (1) come into operation on 1 January 2012 and apply in respect of transactions entered into on or after that date.

(3) Paragraphs *(f)* and *(g)* of subsection (1) come into operation on 1 April 2012 and apply in respect of transactions entered into on or after that date.

Substitution of section 57 of Act 58 of 1962

73. (1) The Income Tax Act, 1962, is hereby amended by the substitution for section 57 of the following section:

''**Disposals by companies under donations at the instance of any person**

57. If—

(a) any property is disposed of by any company at the instance of any person; and

(b) that disposal would have been treated as a donation had that disposal been made by that person,

that property must for the purposes of this Part be deemed to be disposed of under a donation by that person.''.

(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 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, section 52 of Act 17 of 2009 and section 69 of Act 7 of 2010

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

(a) by the deletion in subsection (1) of the word ''or'' at the end of paragraph *(a)* of the definition of ''share incentive scheme'';

vasstelling van sy belasbare inkomste, vasgestelde verlies, totale kapitaalwins of totale kapitaalverlies.";

(h) deur in subartikel (6) paragraaf *(b*A*)* deur die volgende paragraaf te vervang:

"*(b*A*)* die uitkering nie in berekening gebring sou word—

(i) met die doel om enige belasbare inkomste of vasgestelde verlies van die likwiderende maatskappy te bepaal nie; of

(ii) waar die likwiderende maatskappy 'n beheerde buitelandse maatskappy is, met die doel om die netto inkomste, soos beoog in artikel 9D(2A), van die likwiderende maatskappy te bepaal nie; of"; en

(i) deur in subartikel (6) die voorbehoudsbepaling tot paragraaf *(c)* deur die volgende voorbehoudsbepaling te vervang:

": Met dien verstande dat enige belasting wat as gevolg van die toepassing van hierdie paragraaf betaalbaar word, van die houermaatskappy of, waar die houermaatskappy 'n beheerde buitelandse maatskappy is, van 'n inwoner wat direk of indirek enige deelnemende regte in daardie beheerde buitelandse maatskappy hou soos beoog in artikel 9D(2) verhaalbaar is".

(2) Paragrawe *(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(h)* en *(i)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

(3) Paragrawe *(f)* en *(g)* van subartikel (1) tree op 1 April 2012 in werking en is van toepassing ten opsigte van transaksies op of na daardie datum aangegaan.

Vervanging van artikel 57 van Wet 58 van 1962

73. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur artikel 57 deur die volgende artikel te vervang:

"**Beskikkings deur maatskappye ingevolge skenkings op aandrang van enige persoon**

57. Indien—

(a) oor enige eiendom beskik word deur 'n maatskappy op aandrang van 'n persoon; en

(b) daardie beskikking as 'n skenking behandel sou wees indien daardie beskikking deur daardie persoon gedoen was,

word daardie eiendom by die toepassing van hierdie Deel geag ingevolge 'n skenking deur daardie persoon oor beskik te wees.".

(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 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, artikel 52 van Wet 17 van 2009 en artikel 69 van Wet 7 van 2010

74. (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" te skrap;

(b) by the insertion in subsection (1) after paragraph *(a)* of the definition of "share incentive scheme" of the following paragraph:

"*(b)* held by a trustee for the benefit of such directors and employees under an employee share scheme as defined in section 95(1)*(c)* of the Companies Act, 2008 (Act No. 71 of 2008); or";

(c) by the insertion in subsection (4) before paragraph *(b)* of the following paragraph:

"*(a)* where the amount constitutes a dividend;"; and

(d) by the substitution in subsection (4) for paragraph *(i)* of the following paragraph:

"*(i)* to any loan or credit granted to a trust by a company to enable that trust to purchase shares in—

(i) that company **[or]**;

(ii) the controlling company in relation to that company; or

(iii) an associated institution, as defined in paragraph 1 of the Seventh Schedule, in relation to that company,

with a view to the resale of those shares by that trust to employees of that company or that associated institution, under a share incentive scheme operated by the company or the associated institution for the benefit of those employees;".

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

Amendment of section 64D of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 and amended by section 70 of Act 7 of 2010

75. (1) Section 64D of the Income Tax Act, 1962, is hereby amended by the substitution for the definition of "dividend" of the following definition:

" **'dividend'** means any dividend or foreign dividend as defined in section 1 that is—

(a) paid by a company that is a resident; or

(b) paid by a company that is not a resident—

(i) if the share in respect of which that **[dividend]** foreign dividend is paid is a listed share; and

(ii) to the extent that that foreign dividend does not consist of a distribution of an asset *in specie*;".

(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 and amended by section 71 of Act 7 of 2010

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

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

"(2) For the purposes of this Part, a dividend is deemed to be paid on the earlier of the date on which **[it accrues to a shareholder]** the dividend is paid or becomes payable by the company that declared the dividend.";

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

"(3) Where a company declares and pays a dividend and that dividend consists of a distribution of an asset *in specie,* the amount of the dividend must, for the purposes of subsection (1), be deemed to be equal to the market value of the asset on the date that the dividend is, in terms of subsection (2), deemed to be paid."; and

(c) by the addition after subsection (3) of the following subsections:

"(4) *(a)* Where, during any year of assessment, any amount is owing to a company in respect of a loan or advance provided by the company to—

(i) a person that is—

(aa) not a company;

(bb) a resident; and

(cc) a connected person in relation to that company; or

(ii) a person that is—

(b) deur in subartikel (1) die volgende paragraaf na paragraaf *(a)* van die omskrywing van "aandele-aansporingskema" in te voeg:

"*(b)* gehou word deur 'n trustee ten behoewe van bedoelde direkteure en werknemers ingevolge 'n aandeleskema vir werknemers soos in artikel 95(1)*(c)* van die Maatskappywet, 2008 (Wet No. 71 van 2008), omskryf; of";

(c) deur in subartikel (4) die volgende paragraaf voor paragraaf *(b)* in te voeg:

"*(a)* waar die bedrag 'n dividend uitmaak;"; en

(d) deur in subartikel (4) paragraaf *(i)* deur die volgende paragraaf te vervang:

"*(i)* op enige lening of krediet toegestaan aan 'n trust deur 'n maatskappy om daardie trust in staat te stel om aandele in—

(i) daardie maatskappy **[of]**;

(ii) die beherende maatskappy met betrekking tot daardie maatskappy; of

(iii) 'n verwante inrigting, soos omskryf in paragraaf 1 van die Sewende Bylae, met betrekking tot daardie maatskappy,

te koop, met die oog op die herverkoop van daardie aandele deur daardie trust aan werknemers van daardie maatskappy of daardie verwante inrigting, ingevolge 'n aandele-aansporingskema deurdie maatskappy of die verwante inrigting bedryf vir die voordeel van daardie werknemers;".

(2) Subartikel (1) word geag op 1 Januarie 2011 in werking te getree het.

Wysiging van artikel 64D van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009 en gewysig deur artikel 70 van Wet 7 van 2010

75. (1) Artikel 64D van die Inkomstebelastingwet, 1962, word hierby gewysig deur die omskrywing van "dividend" deur die volgende omskrywing te vervang:

" **'dividend'** 'n dividend of buitelandse dividend soos omskryf in artikel 1 wat—

(a) betaal word deur 'n maatskappy wat 'n inwoner is; of

(b) betaal word deur 'n maatskappy wat nie 'n inwoner is nie—

(i) indien die aandeel ten opsigte waarvan daardie buitelandse dividend betaal word 'n genoteerde aandeel is; en

(ii) namate daardie buitelandse dividend nie 'n uitkering van 'n bate *in specie* uitmaak nie;".

(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 en gewysig deur artikel 71 van Wet 7 van 2010

76. (1) Artikel 64E van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) By die toepassing van hierdie Deel word 'n dividend geag betaal te word op die vroegste van die datum waarop **[die dividend aan 'n aandeelhouer toeval]** die dividend betaal word of betaalbaar word deur die maatskappy wat die dividend verklaar.";

(b) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Waar 'n maatskappy 'n dividend verklaar en betaal en daardie dividend 'n uitkering van 'n bate *in specie* uitmaak, word die bedrag van die dividend, by die toepassing van subartikel (1), geag gelyk te wees aan die markwaarde van die bate op die datum waarop die dividend, ingevolge subartikel (2), geag word betaal te wees."; en

(c) deur die volgende subartikels by te voeg:

"(4)*(a)* Waar, gedurende enige jaar van aanslag, 'n bedrag verskuldig is aan 'n maatskappy ten opsigte van 'n lening of voorskot verskaf deur die matskappy aan—

(i) 'n persoon wat—

(aa) nie 'n maatskappy is nie;

(bb) 'n inwoner is; en

(cc) 'n verbonde persoon met betrekking tot daardie maatskappy is; of

(ii) 'n persoon wat—

(aa) not a company;
(bb) a resident; and
(cc) a connected person in relation to a person contemplated in subparagraph (i),

that company must, for the purposes of this Part, be deemed to have paid a dividend if that loan or advance is provided by the company by virtue of any share held in that company by a person contemplated in subparagraph (i).

(b) The amount of the dividend that is deemed to have been paid in terms of paragraph *(a)* must, for the purposes of subsection (1), be deemed to be equal to the greater of—

(i) the market-related interest in respect of that loan or advance, less the amount of interest that is payable to that company in respect of that loan or advance for that year of assessment; or
(ii) nil.

(c) Where during any year of assessment a company is deemed to have paid a dividend in terms of paragraph *(a)*, that dividend must be deemed to have been paid on the last day of that year of assessment.

(d) For the purposes of this subsection, **'market-related interest'**, in relation to any loan or advance provided by a company means the amount of interest that would be payable to that company on the amount owing to that company in respect of that loan or advance for a period during a year of assessment if the loan or advance had been provided for that period at the official rate of interest as defined in paragraph (1) of the Seventh Schedule.

(5) For the purposes of subsection (1), where any amount of any dividend is denominated in any currency other than the currency of the Republic, that amount must be translated to the currency of the Republic by applying the spot rate applicable at the time that the dividend is paid.".

(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.

Insertion of section 64EA in Act 58 of 1962

77. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 64E of the following section:

"**Liability for tax**

64EA. Any—

(a) beneficial owner of a dividend, to the extent that the dividend does not consist of a distribution of an asset *in specie*; or
(b) company that is a resident that declares and pays a dividend to the extent that the dividend consists of a distribution of an asset *in specie*,

is liable for the dividends tax in respect of that dividend.".

(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 64F of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 and amended by section 72 of Act 7 of 2010

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

(a) by the substitution for the title of the following title:
"**Exemption from tax in respect of dividends other than dividends *in specie***";
(b) by the substitution for the words preceding paragraph *(a)* of the following words:

(aa) nie 'n maatskappy is nie;

(bb) 'n inwoner is; en

(cc) 'n verbonde persoon met betrekking tot 'n persoon beoog in subparagraaf (i) is,

word die maatskappy, by die toepassing van hierdie Deel, geag 'n dividend te betaal het indien daardie lening of voorskot deur die maatskappy verskaf word uit hoofde van enige aandeel in daardie maatskappy gehou deur 'n persoon in subparagraaf (i) beoog.

(b) Die bedrag van die dividend wat ingevolge paragraaf *(a)* geag word betaal te wees, word, by die toepassing van subartikel (1), geag gelyk te wees aan die grootste van—

(i) die markverwante rente ten opsigte van daardie lening of voorskot, minus die bedrag van enige rente wat aan daardie maatskappy ten opsigte van daardie lening of voorskot vir daardie jaar van aanslag betaalbaar is; of

(ii) nul.

(c) Waar 'n maatskappy, ingevolge paragraaf *(a)*, geag word 'n dividend te betaal het, word daardie dividend geag betaal te gewees het op die laaste dag van daardie jaar van aanslag.

(d) By die toepassing van hierdie subartikel beteken **'markverwante rente'**, met betrekking tot enige lening of voorskot verskaf deur 'n maatskappy, die bedrag van enige rente wat aan daardie maatskappy betaalbaar sou wees op die bedrag aan daardie maatskappy verskuldig ten opsigte van daardie lening of voorskot vir 'n tydperk gedurende 'n jaar van aanslag indien die lening of voorskot vir daardie tydperk teen die amptelike rentekoers soos omskryf in paragraaf (1) van die Sewende Bylae verskaf is.

(5) By die toepassing van subartikel (1), waar 'n bedrag van 'n dividend in enige geldeenheid anders as die geldeenheid van die Republiek gedenomineer word, word daardie bedrag na die geldeenheid van die Republiek omgereken deur die heersende wisselkoers toepaslik op die tydstip wat die dividend betaal word, toe te pas.".

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Invoeging van artikel 64EA in Wet 58 van 1962

77. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 64E die volgende artikel in te voeg:

"**Aanspreeklikheid vir belasting**

64EA. Enige—

(a) uiteindelik geregtigde van 'n dividend namate die dividend nie 'n uitkering van 'n bate *in specie* uitmaak nie; of

(b) maatskappy wat 'n inwoner is wat 'n dividend verklaar en betaal namate die dividend 'n uitkering van 'n bate *in specie* uitmaak,

is aanspreeklik vir die dividendbelasting ten opsigte van daardie dividend.".

(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 64F van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009 en gewysig deur artikel 72 van Wet 7 van 2010

78. (1) Artikel 64F van die Inkomstebelastingwet, 1962, word hierby gewysig—

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

"**Vrystelling van belasting ten opsigte van dividende behalwe dividende *in specie***";

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

"**[A]** Any dividend is exempt from the dividends tax to the extent that it does not consist of a dividend *in specie* if the beneficial owner is—"; and

(c) by the deletion of paragraphs *(i)* and *(i*A*)*.

(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.

Insertion of section 64FA in Act 58 of 1962

79. (1) The Income Tax Act, 1962, is hereby amended by the insertion after section 64F of the following section:

"**Exemption from and reduction of tax in respect of dividends *in specie***

64FA. (1) Where a company declares and pays a dividend that consists of a distribution of an asset *in specie*, that dividend is exempt from the dividends tax to the extent that it constitutes a distribution of an asset *in specie* if—

(a) the person to whom the payment is made has, by the date of payment of the dividend, submitted to the company—

(i) a declaration by the beneficial owner in such form as may be prescribed by the Commissioner that the portion of the dividend that constitutes a distribution of an asset *in specie* would, if that portion had not constituted a distribution of an asset *in specie*, have been exempt from the dividends tax in terms of section 64F; and

(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 a beneficial owner;

(b) the beneficial owner forms part of the same group of companies, as defined in section 41, as that company; or

(c) the dividend constitutes a disposal as contemplated in paragraph 51A of the Eighth Schedule.

(2) A company that declares and pays a dividend that consists of a distribution of an asset *in specie* is liable for the dividends tax at a reduced rate in respect of the portion of the dividend that constitutes the distribution of an asset *in specie* if the person to whom the payment is made has, by the date of payment of the dividend, submitted to the company—

(a) a declaration by the beneficial owner in such form as may be prescribed by the Commissioner that the portion of the dividend that constitutes a distribution of an asset *in specie* would, if that portion had not constituted a distribution of an asset *in specie*, have been subject to that reduced rate as a result of the application of an agreement for the avoidance of double taxation; and

(b) 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.

Amendment of section 64G of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 and amended by section 73 of Act 7 of 2010

80. (1) Section 64G of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to subsections (2) and (3), a company that declares and pays a dividend, to the extent that the dividend does not consist of a distribution of an asset *in specie*, must withhold dividends tax from that payment at a rate of 10 per cent of the amount of that dividend.".

"**['n Dividend]** Enige dividend namate dit nie 'n uitkering van 'n dividend *in specie* uitmaak nie word van die dividendbelasting vrygestel indien die uiteindelik geregtigde—"; en

(c) deur paragrawe *(i)* en *(i*A*)* te skrap.

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Invoeging van artikel 64FA in Wet 58 van 1962

79. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur na artikel 64F die volgende artikel in te voeg:

"**Vrystelling van en vermindering van belasting ten opsigte van dividende *in specie***

64FA. (1) Waar 'n maatskappy 'n dividend verklaar en betaal wat uit 'n uitkering van 'n bate *in specie* bestaan, word daardie dividend namate dit 'n uitkering van 'n bate *in specie* uitmaak, vrygestel van die dividendbelasting indien—

(a) die persoon waaraan die betaling gemaak word, teen die datum van betaling van die dividend, aan die maatskappy—

(i) 'n verklaring voorgelê het deur die uiteindelik geregtigde in die vorm deur die Kommissaris voorgeskryf dat die deel van die dividend wat 'n uitkering van 'n bate *in specie* uitmaak, indien daardie gedeelte nie 'n uitkering van 'n bate *in specie* uitgemaak het nie, ingevolge artikel 64F van die dividendbelasting vrygestel sou wees; en

(ii) 'n skriftelike onderneming voorgelê het in die vorm deur die Kommissaris voorgeskryf om die maatskappy onmiddellik skriftelik te verwittig indien die uiteindelik geregtigde ophou om 'n uiteindelik geregtigde te wees;

(b) die uiteindelik geregtigde deel van dieselfde groep van maatskappye, soos omskryf in artikel 41, as daardie maatskappy vorm; of

(c) die dividend 'n beskikking soos beoog in paragraaf 51A van die Agtste Bylae uitmaak.

(2) 'n Maatskappy wat 'n dividend verklaar en betaal wat bestaan uit 'n uitkering van 'n bate *in specie* is aanspreeklik vir die dividendbelasting ten opsigte van die gedeelte van die dividend wat die uitkering van 'n bate *in specie* uitmaak teen 'n verminderde koers indien die persoon waaraan die betaling gemaak word, teen die datum van betaling van die dividend, aan die maatskappy—

(a) 'n verklaring voorgelê het deur die uiteindelik geregtigde in die vorm deur die Kommissaris voorgeskryf dat die gedeelte van die dividend wat 'n uitkering van 'n bate *in specie* uitmaak, indien daardie gedeelte nie 'n uitkering van 'n bate *in specie* uitgemaak het nie, aan daardie verminderde koers onderhewig sou wees as gevolg van die toepassing van 'n ooreenkoms vir die vermyding van dubbele belasting; en

(b) 'n skriftelike onderneming voorgelê het in die vorm deur die Kommissaris voorgeskryf om die maatskappy onmiddellik skriftelik te verwittig indien die uiteindelik geregtigde ophou om die uiteindelik geregtigde te wees.".

(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 64G van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009 en gewysig deur artikel 73 van Wet 7 van 2010

80. (1) Artikel 64G van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Behoudens subartikels (2) en (3) moet 'n maatskappy wat 'n dividend verklaar en betaal, namate die dividend nie bestaan uit 'n uitkering van 'n bate *in specie* nie, dividendbelasting terughou van daardie betaling teen 'n koers van 10 persent van die bedrag van daardie dividend.".

(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 64H of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009 and amended by section 74 of Act 7 of 2010

81. (1) Section 64H of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to subsections (2) and (3), a regulated intermediary that pays a dividend, <u>to the extent that the dividend does not consist of a distribution of an asset *in specie*,</u> that was declared by any other person must withhold dividends tax from that payment at a rate of 10 per cent of the amount of that dividend.".

(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.

Substitution of section 64I of Act 58 of 1962

82. (1) The Income Tax Act, 1962, is hereby amended by the substitution for section 64I of the following section:

"**Withholding of dividends tax by insurers**

64I. If a dividend<u>, to the extent that the dividend does not consist of a distribution of an asset *in specie*,</u> is paid to an insurer as defined in section 29A, the insurer must be deemed to be a regulated intermediary and the dividend must, to the extent that the dividend is allocated to a fund contemplated in section 29A(4)*(b)*, be deemed to be paid to a natural person that is a resident by the regulated intermediary on the date that the dividend is paid to the insurer.".

(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 64J of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009

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

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

"*(b)* the dividends accrued to that company <u>on or after the effective date,</u> to the extent that the person paying the dividend submits **[prior]** <u>a</u> written notice to the company <u>prior to paying the dividend</u> of the amount by which the dividend reduces the STC credit of **[that person or any other person on behalf of whom the dividend is paid by that person]** <u>the company paying the dividend</u>,"; and

(b) by the substitution for subsection (3) of the following subsection

"(3) For purposes of subsections (1)*(b)* and (2)*(b)*, the amount by which the STC credit of a company **[or person]** is reduced is deemed to be equal to an amount which bears to the dividend paid by that company **[or person]** to the person or company contemplated in those subsections the same ratio as the amount by which the STC credit of that company **[or person]** is reduced as a result of the payment of that dividend to all shareholders bears to the total dividend paid to all shareholders.".

(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.

(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 en gewysig deur artikel 74 van Wet 7 van 2010

81. (1) Artikel 64H van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

> "(1) Behoudens subartikels (2) en (3) moet 'n gereguleerde tussenganger wat 'n dividend betaal wat deur 'n ander persoon verklaar is, namate die dividend nie bestaan uit 'n uitkering van 'n bate *in specie* nie, dividendbelasting teen 'n koers van 10 persent van die bedrag van daardie dividend van daardie betaling terughou.".

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Vervanging van artikel 64I van Wet 58 van 1962

82. (1) Die Inkomstebelastingwet, 1962, word hierby gewysig deur artikel 64I deur die volgende artikel te vervang:

> "**Terughouding van dividendbelasting deur versekeraars**
>
> **64I.** Indien 'n dividend, namate die dividend nie bestaan uit 'n uitkering van 'n bate *in specie* nie, betaal word aan 'n versekeraar soos omskryf in artikel 29A, moet die versekeraar geag word 'n gereguleerde tussenganger te wees en moet die dividend, namate die dividend toegeken word aan 'n fonds beoog in artikel 29A(4)*(b)*, geag word betaal te word aan 'n natuurlike persoon wat 'n inwoner is deur die gereguleerde tussenganger op die datum waarop die dividend aan die versekeraar betaal 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 64J van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009

83. (1) Artikel 64J van die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subartikel (2) paragraaf *(b)* deur die volgende paragraaf te vervang:

> "*(b)* die dividende wat op of na die intreedatum aan daardie maatskappy toeval namate die persoon wat die dividend betaal **[vooraf]** 'n skriftelike kennisgewing aan die maatskappy voorlê voordat die dividend betaal word van die bedrag waarmee die dividend die SBM krediet verminder van **[daardie persoon of enige ander persoon namens wie die dividend deur daardie persoon betaal word]** die maatskappy wat die dividend betaal,"; en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

> "(3) By die toepassing van subartikels (1)*(b)* en (2)*(b)* word die bedrag waarmee die SBM krediet van 'n maatskappy **[of persoon]** verminder word, geag gelykstaande te wees aan 'n bedrag wat tot die dividend deur daardie maatskappy **[of persoon]** betaal aan die persoon of maatskappy in daardie subartikels beoog in dieselfde verhouding staan as wat die bedrag waarmee die SBM krediet van daardie maatskappy **[of persoon]** verminder word as gevolg van die betaling van daardie dividend aan alle aandeelhouers tot die totale dividend betaal aan alle aandeelhouers staan.".

(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 64K of Act 58 of 1962, as substituted by section 53 of Act 17 of 2009

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

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

"(1) *(a)* **[A]** If, in terms of section 64EA*(a)*, a beneficial owner is liable for **[the]** any amount of dividends tax **[and]** in respect of a dividend, that beneficial owner must pay **[the tax]** that amount to the Commissioner by the last day of the month following the month during which **[the]** that dividend is paid by the company that declared the dividend, unless the tax has been paid by any other person.

(b) If, in terms of section 64EA*(b)*, a company is liable for any amount of dividends tax in respect of a dividend, that company must pay that amount to the Commissioner by the last day of the month following the month during which that dividend is paid by the company.

(c) If, in terms of this Part, a person is required to withhold any amount of dividends tax in respect of a dividend, that person must pay that amount, less any amount refundable in terms of section 64L or 64M, to the Commissioner by the last day of the month following the month during which that dividend is paid by that person as contemplated in section 64G or 64H.

(d) If, in terms of this Part, a person is required to make payment of any amount of dividends tax, that person must, together with that payment, submit a return to the Commissioner.";

(b) by the deletion of subsection (2); and

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

"(4) Where a person—

(a) has, in terms of section 64G(3) or 64H(3), withheld dividends tax in accordance with a reduced rate in respect of the payment of any dividend; or

(b) that is a company which was, in terms of section 64FA(2), liable for dividends tax at a reduced rate in respect of the declaration and payment of any dividend,

[the] that person must submit to the Commissioner any declaration—

(i) submitted to the person by or on behalf of a beneficial owner; and

(ii) relied upon by the person in determining the amount of dividends tax so withheld,

at the time and in the manner prescribed 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.

Repeal of Part IX of Chapter II of Act 58 of 1962

85. (1) Chapter II of the Income Tax Act, 1962, is hereby amended by the repeal of Part IX.

(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 68 of Act 58 of 1962, as substituted by section 20 of Act 5 of 2001

86. Section 68 of the Income Tax Act, 1962, is hereby amended by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* income received by or accrued to or in favour of any person married **[with or without]** in or out of community of property which in terms of section 7(2) is deemed to be income received by or accrued to such person's spouse; or".

Wysiging van artikel 64K van Wet 58 van 1962, soos vervang deur artikel 53 van Wet 17 van 2009

84. (1) Artikel 64K van die Inkomstebelastingwet, 1962, word hierby gewysig—

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

"(1) *(a)* **['n Uiteindelik]** Indien, ingevolge artikel 64EA*(a)*, 'n uiteindelik geregtigde **[is]** aanspreeklik is vir **[die]** 'n bedrag van dividendbelasting **[en moet die belasting]** ten opsigte van 'n dividend, moet daardie uiteindelik geregtigde daardie bedrag aan die Kommissaris betaal teen die laaste dag van die maand wat volg op die maand waartydens **[die]** daardie dividend betaal word deur die maatskappy wat die dividend verklaar het, tensy die belasting deur enige ander persoon betaal is.

(b) Indien, ingevolge artikel 64EA*(b)*, 'n maatskappy aanspreeklik is vir 'n bedrag van dividendbelasting ten opsigte van 'n dividend, moet daardie maatskappy daardie bedrag aan die Kommissaris betaal teen die laaste dag van die maand wat volg op die maand waartydens daardie dividend deur die maatskappy betaal word.

(c) Indien, ingevolge hierdie Deel, van 'n persoon vereis word om 'n bedrag van dividendbelasting ten opsigte van 'n dividend terug te hou, moet daardie persoon daardie bedrag, minus 'n bedrag ingevolge artikel 64L of 64M terugbetaalbaar, aan die Kommissaris betaal teen die laaste dag van die maand wat volg op die maand waartydens daardie dividend deur daardie persoon betaal word soos in artikel 64G of 64H beoog.

(d) Indien, ingevolge hierdie Deel, van 'n persoon vereis word om betaling te maak van 'n bedrag van dividendbelasting, moet daardie persoon, tesame met daardie betaling, 'n opgawe aan die Kommissaris voorlê.";

(b) deur subartikel (2) te skrap; en

(c) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) Waar 'n persoon—

(a) ingevolge artikel 64G(3) of 64H(3) dividendbelasting teruggehou het ooreenkomstig 'n verminderde koers ten opsigte van die betaling van 'n dividend; of

(b) wat 'n maatskappy is wat, ingevolge artikel 64FA(2), aanspreeklik was vir dividendbelasting teen 'n verminderde koers ten opsigte van die verklaring en betaling van 'n dividend,

moet **[die]** daardie persoon aan die Kommissaris voorlê enige verklaring—

(i) aan die persoon voorgelê deur of namens 'n uiteindelik geregtigde; en

(ii) waarop die persoon staatgemaak het by die berekening van die bedrag van dividendbelasting aldus teruggehou,

op die tyd en wyse deur die Kommissaris voorgeskryf.".

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Herroeping van Deel IX van Hoofstuk II van Wet 58 van 1962

85. (1) Hoofstuk II van die Inkomstebelastingwet, 1962, word hierby gewysig deur Deel IX te herroep.

(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 68 van Wet 58 van 1962, soos vervang deur artikel 20 van Wet 5 van 2001

86. Artikel 68 van die Inkomstebelastingwet, 1962, word hierby gewysig deur in subartikel (1) paragraaf *(a)* in die Engelse teks deur die volgende paragraaf te vervang:

"*(a)* income received by or accrued to or in favour of any person married **[with or without]** in or out of community of property which in terms of section 7(2) is deemed to be income received by or accrued to such person's spouse; or".

Amendment of section 80T, as inserted by section 6 of Act 20 of 2006

87. (1) Section 80T of the Income Tax Act, 1962, is hereby amended by the substitution for the definition of ''arrangement'' of the following definition:

'' **'arrangement'** means any transaction, operation **[or]**, scheme, agreement or understanding (whether enforceable or not), including all steps therein or parts thereof, and includes any of the foregoing involving the alienation of property;''.

(2) Subsection (1) comes into operation on 1 April 2012.

Amendment of section 101 of Act 58 of 1962, as amended by section 29 of Act 90 of 1962, section 22 of Act 52 of 1970, section 39 of Act 94 of 1983, section 40 of Act 129 of 1991, section 27 of Act 36 of 1996, section 49 of Act 30 of 2000, section 50 of Act 74 of 2002 and section 13 of Act 61 of 2008

88. (1) Section 101 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (1) of the following subsection:

''(1) Every company carrying on business or having an office in the Republic and every portfolio of a collective investment scheme **[constituting a company in terms of paragraph *(e)*(i) of the definition of 'company' in section *one*,]** shall at all times be represented by an individual residing therein.''.

(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 section 103 of Act 58 of 1962, as amended by section 14 of Act 101 of 1978, section 37 of Act 121 of 1984, section 19 of Act 70 of 1989, section 29 of Act 36 of 1996, section 45 of Act 30 of 1998, section 52 of Act 59 of 2000, section 33 of Act 5 of 2001, section 42 of Act 32 of 2004 and section 36 of Act 20 of 2006

89. (1) Section 103 of the Income Tax Act, 1962, is hereby amended by the substitution for subsection (5) of the following subsection:

''(5) Where under any transaction, operation or scheme—

(a) any taxpayer has ceded the right to receive any amount in exchange for the right to receive any amount of dividends; and

(b) in consequence of that cession the liability for normal tax of the taxpayer or any other party to the transaction, operation or scheme, as determined before applying the provisions of this subsection, has been reduced or extinguished,

the Commissioner shall determine the liability for normal tax of the taxpayer and any other party to the transaction, operation or scheme as if that cession had not been effected.''.

(2) Subsection (1) comes into operation on 1 April 2012 and applies in respect of amounts received or accrued on or after that date.

Amendment of paragraph 2C of Second Schedule to Act 58 of 1962, as inserted by section 49 of Act 8 of 2007 and amended by section 39 of Act 3 of 2008 and section 61 of Act 60 of 2008

90. The Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph 2C of the following paragraph:

''2C. Any lump sum benefit, or part thereof, received by or accrued to a person subsequent to the person's retirement or death, or withdrawal or resignation from any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund or the winding up of any such fund, and in consequence of or following upon an event that is prescribed by the Minister by notice in the *Gazette* and contemplated by the rules of any such fund or the approval of a scheme in terms of section 15B of the **[Pensions]** Pension Funds Act, 1956 (Act No. 24 of 1956), or paragraph 5.3(1)*(b)* of the Schedule which amends regulation 30 of the Regulations under the Long-Term Insurance Act, 1998 (Act No. 52 of 1998), shall not constitute gross income of that person.''.

Wysiging van artikel 80T, soos ingevoeg deur artikel 6 van Wet 20 van 2006

87. (1) Artikel 80T van die Inkomstebelastingwet, 1962, word hierby gewysig deur die omskrywing van "reëling" deur die volgende omskrywing te vervang:

" **'reëling'** enige transaksie, handeling **[of]**, skema, ooreenkoms of verstandhouding (hetsy afdwingbaar of nie), ook alle stappe daarin of dele daarvan, en ook enige van die voorafgaande wat die vervreemding van eiendom behels;".

(2) Subartikel (1) tree op 1 April 2012 in werking.

Wysiging van artikel 101 van Wet 58 van 1962, soos gewysig deur artikel 29 van Wet 90 van 1962, artikel 22 van Wet 52 van 1970, artikel 39 van Wet 94 van 1983, artikel 40 van Wet 129 van 1991, artikel 27 van Wet 36 van 1996, artikel 49 van Wet 30 van 2000, artikel 50 van Wet 74 van 2002 en artikel 13 van Wet 61 van 2008

88. (1) Artikel 101 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Elke maatskappy wat in die Republiek besigheid dryf of 'n kantoor het en elke portefeulje van 'n kollektiewe beleggingskema **[wat ingevolge paragraaf *(e)*(i) van die omskrywing van 'maatskappy' in artikel *een* 'n maatskappy is,]** word te alle tye deur 'n in die Republiek woonagtige indiwidu verteenwoordig.".

(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 artikel 103 van Wet 58 van 1962, soos gewysig deur artikel 14 van Wet 101 van 1978, artikel 37 van Wet 121 van 1984, artikel 19 van Wet 70 van 1989, artikel 29 van Wet 36 van 1996, artikel 45 van Wet 30 van 1998, artikel 52 van Wet 59 van 2000, artikel 33 van Wet 5 van 2001, artikel 42 van Wet 32 van 2004 en artikel 36 van Wet 20 van 2006

89. (1) Artikel 103 van die Inkomstebelastingwet, 1962, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Waar ingevolge enige transaksie, handeling of skema—

(a) enige belastingpligtige die reg gesedeer het om enige bedrag te ontvang in ruil vir die reg om enige bedrag van dividende te ontvang; en

(b) ten gevolge van daardie sessie die aanspreeklikheid vir normale belasting van die belastingpligtige of enige ander party by die transaksie, handeling of skema, soos bepaal voor die toepassing van die bepalings van hierdie subartikel, verminder of uitgewis is,

moet die Kommissaris die aanspreeklikheid vir normale belasting van die belastingpligtige en enige ander party by die transaksie, handeling of skema bepaal asof daardie sessie nie plaasgevind het nie.".

(2) Subartikel (1) tree op 1 April 2012 in werking en is van toepassing ten opsigte van bedrae op of na daardie datum ontvang of toegeval.

Wysiging van paragraaf 2C van Tweede Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 49 van Wet 8 van 2007 en gewysig deur artikel 39 van Wet 3 van 2008 en artikel 61 van Wet 60 van 2008

90. Die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in die Engelse teks paragraaf 2C deur die volgende paragraaf te vervang:

"2C. Any lump sum benefit, or part thereof, received by or accrued to a person subsequent to the person's retirement or death, or withdrawal or resignation from any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund or the winding up of any such fund, and in consequence of or following upon an event that is prescribed by the Minister by notice in the *Gazette* and contemplated by the rules of any such fund or the approval of a scheme in terms of section 15B of the **[Pensions]** Pension Funds Act, 1956 (Act No. 24 of 1956), or paragraph 5.3(1)*(b)* of the Schedule which amends regulation 30 of the Regulations under the Long-Term Insurance Act, 1998 (Act No. 52 van 1998), shall not constitute gross income of that person.".

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, section 60 of Act 17 of 2009 and section 83 of Act 7 of 2010

91. (1) Paragraph 4 of the Second Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1) for the words preceding paragraph *(a)* of the following words:

"Notwithstanding the rules of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, and subject to paragraphs 3 and 3A, any lump sum benefit shall be deemed to have accrued to **[such]** a member of such fund on the earliest of the date—".

Amendment of paragraph 6 of Second Schedule to Act 58 of 1962, as substituted by section 62 of Act 17 of 2009 and amended by section 84 of Act 7 of 2010

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

(a) by the substitution in subparagraph (1)*(a)*(i) for subsubitem *(bb)* of the following subsubitem:

"*(bb)* pension preservation fund into any pension fund **[or]**, pension preservation fund or retirement annuity fund;";

(b) by the substitution in subparagraph (1)*(a)*(i) for subsubitem *(cc)* of the following subsubitem:

"*(cc)* provident fund into any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;";

(c) by the substitution in subparagraph (1)*(a)*(i) for subsubitem *(dd)* of the following subsubitem:

"*(dd)* provident preservation fund into any pension preservation fund, provident fund **[or]**, provident preservation fund or retirement annuity fund; and";

(d) by the substitution in subparagraph (1)*(a)*(ii) for subsubitem *(bb)* of the following subsubitem:

"*(bb)* pension preservation fund into any pension fund **[or]**, pension preservation fund or retirement annuity fund;";

(e) by the substitution in subparagraph (1)*(a)*(ii) for subsubitem *(cc)* of the following subsubitem:

"*(cc)* provident fund into any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;"; and

(f) by the substitution in subparagraph (1)*(a)*(ii) for subsubitem *(dd)* of the following subsubitem:

"*(dd)* provident preservation fund into any pension preservation fund, provident fund **[or]**, provident preservation fund or retirement annuity fund; and".

(2) Subsection (1) comes into effect on 1 March 2012.

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, artikel 60 van Wet 17 van 2009 en artikel 83 van Wet 7 van 2010

91. (1) Paragraaf 4 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Ondanks die reëls van 'n pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds, en behoudens paragrawe 3 en 3A, word enige enkelbedragvoordeel geag **[sodanige]** 'n lid van sodanige fonds toe te geval het op die vroegste van die datum—".

Wysiging van paragraaf 6 van Tweede Bylae by Wet 58 van 1962, soos vervang deur artikel 62 van Wet 17 van 2009 en gewysig deur artikel 84 van Wet 7 van 2010

92. (1) Paragraaf 6 van die Tweede Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (1)*(a)*(i) subsubitem *(bb)* deur die volgende subsubitem te vervang:

"*(bb)* pensioenbewaringsfonds in enige pensioenfonds **[of]**, pensioenbewaringsfonds of uittredingannuïteitsfonds;";

(b) deur in subparagraaf (1)*(a)*(i) subsubitem *(cc)* deur die volgende subsubitem te vervang:

"*(cc)* voorsorgsfonds in enige pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds;";

(c) deur in subparagraaf (1)*(a)*(i) subsubitem *(dd)* deur die volgende subsubitem te vervang:

"*(dd)* voorsorgbewaringsfonds in enige pensioenbewaringsfonds, voorsorgsfonds **[of]**, voorsorgbewaringsfonds of uittredingannuïteitsfonds; en";

(d) deur in subparagraaf (1)*(a)*(ii) subsubitem *(bb)* deur die volgende susbsubitem te vervang:

"*(bb)* pensioenbewaringsfonds in enige pensioenfonds **[of]**, pensioenbewaringsfonds of uittredingannuïteitsfonds;";

(e) deur in subparagraaf (1)*(a)*(ii) subsubitem *(cc)* deur die volgende subsubitem te vervang:

"*(cc)* voorsorgsfonds in enige pensioenfonds, pensioenbewaringsfonds, voorsorgsfonds, voorsorgbewaringsfonds of uittredingannuïteitsfonds;"; en

(f) deur in subparagraaf (1)*(a)*(ii) subsubitem *(dd)* deur die volgende subsubitem te vervang:

"*(dd)* voorsorgbewaringsfonds in enige pensioenbewaringsfonds, voorsorgsfonds **[of]**, voorsorgbewaringsfonds of uittredingannuïteitsfonds; en".

(2) Subartikel (1) tree op 1 Maart 2012 in werking.

Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of Act 113 of 1993, section 16 of Act 140 of 1993, section 37 of Act 21 of 1995, section 34 of Act 36 of 1996, section 44 of Act 28 of 1997, section 52 of Act 30 of 1998, section 52 of Act 30 of 2000, section 53 of Act 59 of 2000, section 19 of Act 19 of 2001, section 32 of Act 30 of 2002, section 46 of Act 32 of 2004, section 49 of Act 31 of 2005, section 28 of Act 9 of 2006, section 39 of Act 20 of 2006, section 54 of Act 8 of 2007, section 64 of Act 35 of 2007, section 43 of Act 3 of 2008, section 17 of Act 18 of 2009 and section 18 of Act 8 of 2010

93. Paragraph 1 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in paragraph 1 for paragraph *(cc)* of the exclusion in the definition of "provisional taxpayer" of the following paragraph:

"*(cc)* any body corporate, share block company or association of persons contemplated in section 10(1)*(e)*;"; and

(b) by the substitution in the definition of "remuneration" for the words preceding the proviso in paragraph *(c*B*)* of the following words:

"80 per cent of the amount of the **[fringe]** taxable benefit as determined in terms of paragraph 7 of the Seventh Schedule".

Amendment of paragraph 2 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974, section 30 of Act 103 of 1976, section 28 of Act 113 of 1977, section 29 of Act 104 of 1980, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989, section 45 of Act 101 of 1990, section 45 of Act 129 of 1991, section 38 of Act 21 of 1995, section 45 of Act 28 of 1997, section 53 of Act 30 of 2000, section 54 of Act 59 of 2000, section 20 of Act 19 of 2001, section 21 of Act 16 of 2004, section 50 of Act 31 of 2005, section 40 of Act 20 of 2006, section 55 of Act 8 of 2007, section 65 of Act 35 of 2007 and section 18 of Act 18 of 2009

94. (1) Paragraph 2 of the Fourth Schedule to the Income Tax Act, 1962 is hereby amended—

(a) by the insertion in subparagraph (4) after item *(c)* of the following item:

"*(c*A*)* any premium deemed to have been paid by the employee in terms of paragraph 12C(2) of the Seventh Schedule;";

(b) by the deletion in subparagraph (4) of item *(e)*; and

(c) by the substitution in subparagraph (4)*(f)* for subitem (i) of the following subitem:

"(i) as does not exceed 5 per cent of that remuneration after deducting therefrom the amounts contemplated in items *(a)* to **[*(e)*]** *(d)*; and".

(2) Paragraph *(a)* of subsection (1) comes into operation on 1 March 2012 and applies in respect of premiums incurred on or after that date.

(3) Paragraphs *(b)* and *(c)* of subsection (1) come into operation on 1 March 2012 and apply in respect of years of assessment commencing on or after that date.

Amendment of paragraph 9 of Fourth Schedule to Act 58 of 1962, as amended by section 39 of Act 88 of 1971, section 32 of Act 103 of 1976, section 29 of Act 104 of 1980, section 46 of Act 101 of 1990, section 46 of Act 28 of 1997, section 55 of Act 59 of 2000, section 21 of Act 19 of 2001, section 41 of Act 20 of 2006, section 56 Act 8 of 2007, sections 66 and 116 of Act 35 of 2007, section 66 of Act 3 of 2008, section 68 of Act 60 of 2008 and section 20 of Act 18 of 2009

95. (1) Paragraph 9 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended by the addition after subparagraph (5) of the following subparagraph:

Wysiging van paragraaf 1 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 22 van Wet 72 van 1963, artikel 44 van Wet 89 van 1969, artikel 24 van Wet 52 van 1970, artikel 37 van Wet 88 van 1971, artikel 47 van Wet 85 van 1974, artikel 6 van Wet 30 van 1984, artikel 38 van Wet 121 van 1984, artikel 20 van Wet 70 van 1989, artikel 44 van Wet 101 van 1990, artikel 44 van Wet 129 van 1991, artikel 33 van Wet 141 van 1992, artikel 48 van Wet 113 van 1993, artikel 16 van Wet 140 van 1993, artikel 37 van Wet 21 van 1995, artikel 34 van Wet 36 van 1996, artikel 44 van Wet 28 van 1997, artikel 52 van Wet 30 van 1998, artikel 52 van Wet 30 van 2000, artikel 53 van Wet 59 van 2000, artikel 19 van Wet 19 van 2001, artikel 32 van Wet 30 van 2002, artikel 46 van Wet 32 van 2004, artikel 49 van Wet 31 van 2005, artikel 28 van Wet 9 van 2006, artikel 39 van Wet 20 van 2006, artikel 54 van Wet 8 van 2007, artikel 64 van Wet 35 van 2007, artikel 43 van Wet 3 van 2008, artikel 17 van Wet 18 van 2009 en artikel 18 van Wet 8 van 2010

93. Paragraaf 1 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in paragraaf 1 paragraaf *(cc)* van die uitsluiting in die omskrywing van "voorlopige belastingpligtige" deur die volgende paragraaf te vervang:

"*(cc)* enige **[liggaam]** regspersoon, aandeleblokmaatskappy of vereniging van persone in artikel 10(1)*(e)* beoog;"; en

(b) deur in die omskrywing van "besoldiging" die woorde wat die voorbehoudsbepaling in paragraaf *(c*B*)* voorafgaan deur die volgende woorde te vervang:

"80 persent van die bedrag van die **[byvoordeel]** belasbare voordeel soos bepaal ingevolge paragraaf 7 van die Sewende Bylae".

Wysiging van paragraaf 2 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 23 van Wet 72 van 1963, artikel 29 van Wet 55 van 1966, artikel 38 van Wet 88 van 1971, artikel 48 van Wet 85 van 1974, artikel 30 van Wet 103 van 1976, artikel 28 van Wet 113 van 1977, artikel 29 van Wet 104 van 1980, artikel 40 van Wet 90 van 1988, artikel 21 van Wet 70 van 1989, artikel 45 van Wet 101 van 1990, artikel 45 van Wet 129 van 1991, artikel 38 van Wet 21 van 1995, artikel 45 van Wet 28 van 1997, artikel 53 van Wet 30 van 2000, artikel 54 van Wet 59 van 2000, artikel 20 van Wet 19 van 2001, artikel 21 van Wet 16 van 2004, artikel 50 van Wet 31 van 2005, artikel 40 van Wet 20 van 2006, artikel 55 van Wet 8 van 2007, artikel 65 van Wet 35 van 2007 en artikel 18 van Wet 18 van 2009

94. (1) Paragraaf 2 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (4) na item *(c)* die volgende item in te voeg:

"*(c*A*)* enige premie ingevolge paragraaf 12C(2) van die Sewende Bylae geag deur die werknemer betaal te wees;";

(b) deur in subparagraaf (4) item *(e)* te skrap; en

(c) deur in subparagraaf (4)*(f)* subitem (i) deur die volgende subitem te vervang:

"(i) wat nie, nadat die bedrae beoog in items *(a)* tot **[*(e)*]** *(d)* daarvan afgetrek is, 5 persent van daardie besoldiging oorskry nie; en".

(2) Paragraaf *(a)* van subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van premies op of na daardie datum aangegaan.

(3) Paragrawe *(b)* en *(c)* van subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van paragraaf 9 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 39 van Wet 88 van 1971, artikel 32 van Wet 103 van 1976, artikel 29 van Wet 104 van 1980, artikel 46 van Wet 101 van 1990, artikel 46 van Wet 28 van 1997, artikel 55 van Wet 59 van 2000, artikel 21 van Wet 19 van 2001, artikel 41 van Wet 20 van 2006, artikel 56 van Wet 8 van 2007, artikels 66 en 116 van Wet 35 van 2007, artikel 66 van Wet 3 van 2008, artikel 68 van Wet 60 van 2008 en artikel 20 van Wet 18 van 2009

95. (1) Paragraaf 9 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur na subparagraaf (5) die volgende subparagraaf by te voeg:

"(6) There must be deducted from the amount to be withheld or deducted by way of employees' tax as contemplated in paragraph 2 the amount of the medical scheme fees tax credit that applies in respect of that employee in terms of section 6A if—

(a) the employer effects payment of the medical scheme fees as contemplated in section 6A(2)*(a)*; or

(b) the employer does not effect payment of the medical scheme fees as contemplated in section 6A(2)*(a)*, at the option of the employer, if proof of payment of those fees has been furnished to the employer.".

(2) Subsection (1) comes into operation on 1 March 2012 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 18 of Fourth Schedule to Act 58 of 1962, as amended by section 28 of Act 90 of 1964, section 42 of Act 88 of 1971, section 49 of Act 58 of 1974, section 19 of Act 104 of 1979, section 26 of Act 65 of 1986, section 9 of Act 108 of 1986, section 24 of Act 19 of 2001, section 58 of Act 74 of 2002, section 34 of Act 30 of 2002, section 24 of Act 16 of 2004, section 47 of Act 32 of 2004, section 53 of Act 31 of 2005, section 1 of Act 3 of 2008 and section 22 of Act 18 of 2009

96. (1) Paragraph 18 of the Fourth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (1)*(c)* for subsubitem (ii) of the following subsubitem:

"(ii) the taxable income of that person for the relevant year of assessment which is derived from interest, foreign dividends and rental from the letting of fixed property will not exceed R20 000;"; and

(b) by the substitution in subparagraph (1)*(d)* for subsubitem (iii) of the following subsubitem:

"(iii) will not be derived otherwise than from remuneration, interest, foreign dividends, or rental from the letting of fixed property.".

(2) Subsection (1) comes into operation on 1 April 2012.

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 and section 86 of Act 7 of 2010

97. (1) Paragraph 3 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the addition in paragraph *(g)* of the word "or" at the end of item (ii);

(b) by the substitution in paragraph *(g)* for the expression "; or" of a full stop at the end of subparagraph (iii);

(c) by the deletion in subparagraph *(g)* of item (iv); and

(d) by the deletion of subparagraph *(h)*.

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 March 2012.

Amendment of paragraph 6 of Sixth Schedule to Act 58 of 1962, as inserted by section 71 of Act 60 of 2008 and amended by section 88 of Act 7 of 2010

98. (1) Paragraph 6 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph *(b)* of the following subparagraph:

"*(b)* in the case of a company, investment income (other than dividends and foreign dividends).".

(2) Subsection (1) comes into operation on 1 April 2012.

Amendment of paragraph 8 of Sixth Schedule to Act 58 of 1962, as inserted by section 71 of Act 60 of 2008

99. (1) Paragraph 8 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (3) of the following subparagraph:

" (3) A person that is deregistered in terms of**[**—

"(6) Daar word afgetrek van die bedrag teruggehou of afgetrek te word by wyse van werknemersbelasting soos in paragraaf 2 beoog die bedrag van die belastingkrediet vir mediese skemafooie wat van toepassing is ten opsigte van daardie werknemer ingevolge artikel 6A indien—

(a) die werkgewer betaling bewerkstellig van die mediese skemafooie soos in artikel 6A(2)*(a)* beoog; of

(b) die werkgewer nie betaling bewerkstellig van die mediese skemafooie soos in artikel 6A(2)*(a)* beoog nie, by keuse van die werkgewer, indien bewys van betaling van daardie fooie aan die werkgewer verskaf is.".

(2) Subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

Wysiging van paragraaf 18 van Vierde Bylae by Wet 58 van 1962, soos gewysig deur artikel 28 van Wet 90 van 1964, artikel 42 van Wet 88 van 1971, artikel 49 van Wet 58 van 1974, artikel 19 van Wet 104 van 1979, artikel 26 van Wet 65 van 1986, artikel 9 van Wet 108 van 1986, artikel 24 van Wet 19 van 2001, artikel 58 van Wet 74 van 2002, artikel 34 van Wet 30 van 2002, artikel 24 van Wet 16 van 2004, artikel 47 van Wet 32 van 2004, artikel 53 van Wet 31 van 2005, artikel 1 van Wet 3 van 2008 en artikel 22 van Wet 18 van 2009

96. (1) Paragraaf 18 van die Vierde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (1)*(c)* subsubitem (ii) deur die volgende subsubitem te vervang:

"(ii) die belasbare inkomste van daardie persoon vir die betrokke jaar van aanslag wat uit rente, buitelandse dividende en huurgeld uit die verhuring van onroerende eiendom verkry is, nie R20 000 sal oorskry nie;"; en

(b) deur in subparagraaf (1)*(d)* subsubitem (iii) deur die volgende subsubitem te vervang:

"(iii) nie anders verkry sal word nie as uit besoldiging, rente, buitelandse dividende, of huurgeld uit die verhuring van vaste eiendom.".

(2) Subartikel (1) tree op 1 April 2012 in werking.

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 en artikel 86 van Wet 7 van 2010

97. (1) Paragraaf 3 van die Sesde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in paragraaf *(g)* die woord "of" aan die einde van item (ii) by te voeg;

(b) deur in paragraaf *(g)* die uitdrukking "; of" deur 'n punt aan die einde van subparagraaf (iii) te vervang;

(c) deur in subparagraaf *(g)* item (iv) te skrap; en

(d) deur subparagraaf *(h)* te skrap.

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Maart 2012 begin.

Wysiging van paragraaf 6 van Sesde Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 71 van Wet 60 van 2008 en gewysig deur artikel 88 van Wet 7 van 2010

98. (1) Paragraaf 6 van die Sesde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf *(b)* deur die volgende subparagraaf te vervang:

"*(b)* in die geval van 'n maatskappy, beleggingsinkomste (buiten dividende en buitelandse dividende).".

(2) Subartikel (1) tree op 1 April 2012 in werking.

Wysiging van paragraaf 8 van Sesde Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 71 van Wet 60 van 2008

99. (1) Paragraaf 8 van die Sesde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (3) deur die volgende subparagraaf te vervang:

"(3) 'n Persoon wat gederegistreer word ingevolge**[—**

***(a)*]** paragraph 9 or 10 may not again be registered as a micro business **[for a period of three years commencing from the beginning of the year of assessment during which it is deregistered; or**

(b) **paragraph 10, may not again be registered as a micro business for a period of three years commencing from the beginning of the year of assessment following upon the year of assessment during which it is deregistered]**.''.

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 March 2012.

Amendment of paragraph 10 of Sixth Schedule to Act 58 of 1962, as inserted by section 71 of Act 60 of 2008

100. (1) Paragraph 10 of the Sixth Schedule to the Income Tax Act, 1962, is hereby amended by the deletion of subparagraph (4).

(2) Subsection (1) comes into operation as from the commencement of years of assessment commencing on or after 1 March 2012.

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, section 47 of Act 3 of 2008 and section 90 of Act 7 of 2010

101. (1) Paragraph 1 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the deletion in the definition of ''taxable benefit'' of the word ''or'' after paragraphs *(a)* and *(b)*;

(b) by the substitution in the definition of ''taxable benefit'' for paragraph *(d)* of the following paragraph:

''*(d)* any benefit or privilege received by or accrued to a person contemplated in section **[9(1)*(e)*]** 9(2)*(g)* or *(h)* stationed outside the Republic which is attributable to that person's services rendered outside the Republic**[.]**; or''; and

(c) by the addition in the definition of ''taxable benefit'' after paragraph *(d)* of the following paragraph:

''*(e)* any severance benefit.''.

(2) Paragraph *(b)* of subsection (1) comes into operation on 1 January 2012 and applies in respect of amounts received or accrued during years of assessment commencing on or after that date.

(3) Paragraph *(c)* of subsection (1) is deemed to have come into effect on 1 March 2011.

Amendment of paragraph 2 of Seventh Schedule to Act 58 of 1962, as inserted by section 46 of Act 121 of 1984 and amended by section 27 of Act 96 of 1985, section 56 of Act 101 of 1990, section 49 of Act 28 of 1997, section 54 of Act 30 of 1998, section 50 of Act 32 of 2004, section 55 of Act 31 of 2007 and section 64 of Act 17 of 2009

102. (1) Paragraph 2 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution for item *(b)* of the following item:

''*(b)* the employee has been granted the right to use any asset (other than any residential accommodation or household goods supplied with such accommodation) for his or her private or domestic purposes either free of charge or for a consideration payable by the employee which is less than the value of such use, as determined under paragraph **[6(2)]** 6 in the case of an asset other than a motor vehicle or under paragraph **[7(4) or (7)]** 7 in the case of a motor vehicle; or'';

(b) by the substitution for subparagraph *(e)* of the following subparagraph:

***(a)*]** paragraaf 9 of 10 kan nie weer as 'n mikrobesigheid geregistreer word nie **[vir 'n tydperk van drie jaar met ingang van die begin van die jaar van aanslag waartydens die persoon gederegistreer word; of**

(b) **paragraaf 10, kan nie weer as 'n mikrobesigheid geregistreer word nie vir 'n tydperk van drie jaar vanaf die begin van die jaar van aanslag wat volg op die jaar van aanslag waartydens die persoon gederegistreer word]**.".

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Maart 2012 begin.

Wysiging van paragraaf 10 van Sesde Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 71 van Wet 60 van 2008

100. (1) Paragraaf 10 van die Sesde Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (4) te skrap.

(2) Subartikel (1) tree in werking vanaf die begin van jare van aanslag wat op of na 1 Maart 2012 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, artikel 47 van Wet 3 van 2008 en artikel 90 van Wet 7 van 2010

101. (1) Paragraaf 1 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in die omskrywing van "belasbare voordeel" die woord "of" na paragrawe *(a)* en *(b)* te skrap;

(b) deur in die omskrywing van "belasbare voordeel" paragraaf *(d)* deur die volgende paragraaf te vervang:

"*(d)* enige voordeel of voorreg ontvang deur of toegeval aan 'n persoon in artikel **[9(1)*(e)*]** 9(2)*(g)* of *(h)* bedoel wat buite die Republiek gestasioneer is, wat aan daardie persoon se dienste buite die Republike gelewer, toeskryfbaar is **[.]**; of"; en

(c) deur in die omskrywing van "belasbare voordeel" na paragraaf *(d)* die volgende paragraaf by te voeg:

"*(e)* enige skeidingsvoordeel.".

(2) Paragraaf *(b)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van bedrae ontvang of toegeval gedurende jare van aanslag wat op of na daardie datum begin.

(3) Paragraaf *(c)* van subartikel (1) word geag op 1 Maart 2011 in werking te getree het.

Wysiging van paragraaf 2 van Sewende Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 27 van Wet 96 van 1985, artikel 56 van Wet 101 van 1990, artikel 49 van Wet 28 van 1997, artikel 54 van Wet 30 van 1998, artikel 50 van Wet 32 van 2004, artikel 55 van Wet 31 van 2007 en artikel 64 van Wet 17 van 2009

102. (1) Paragraaf 2 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur item *(b)* deur die volgende item te vervang:

"*(b)* daar aan die werknemer die reg verleen is om 'n bate (behalwe enige huisvesting of huishoudelike goed saam met bedoelde huisvesting voorsien) vir sy of haar private of huishoudelike doeleindes te gebruik òf gratis òf vir 'n vergoeding deur die werknemer betaalbaar wat minder is as die waarde van bedoelde gebruik soos vasgestel ingevolge paragraaf **[6(2)]** 6 in die geval van 'n bate behalwe 'n motorvoertuig of ingevolge paragraaf **[7(4) of (7)]** 7 in die geval van 'n motorvoertuig; of";

(b) deur subparagraaf *(e)* deur die volgende subparagraaf te vervang:

"*(e)* any service (other than a service to which the provisions of **[item]** subparagraph *(j)* or *(k)* or paragraph 9(4)*(a)* apply) has at the expense of the employer been rendered to the employee (whether by the employer or by some other person), where that service has been utilized by the employee for his or her private or domestic purposes and no consideration has been given by the employee to the employer in respect of that service or, if any consideration has been given, the amount thereof is less than the amount of the lowest fare referred to in item *(a)* of subparagraph (1) of paragraph 10, or the cost referred to in item *(b)* of that subparagraph, as the case may be; or"; and

(c) by the addition after subparagraph *(j)* of the following subparagraph:

"*(k)* the employer has during any period made any payment to any insurer under an insurance policy directly or indirectly for the benefit of the employee or his or her spouse, child, dependant or nominee.".

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 March 2011 and applies in respect of years of assessment commencing on or after that date.

(3) Paragraphs *(b)* and *(c)* of subsection (1) come into operation on 1 March 2012 and apply in respect of premiums incurred on or after that date.

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 956 of 11 May 1988, section 44 of Act 90 of 1988, Government Notice R.715 of 14 April 1989, section 25 of Act 70 of 1989, Government Notice 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 and section 91 of Act 7 of 2010

103. (1) Paragraph 7 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after subparagraph (8) of the following subparagraph:

"(8A) For the purposes of subparagraphs (7) and (8), if the employee contemplated in those subparagraphs is a 'judge' or a 'Constitutional Court judge' as defined in section 1 of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001), the kilometres travelled between the judge's place of residence and the court over which the judge presides must be deemed to be kilometres travelled for business purposes and not for private purposes.".

(2) Subsection (1) is deemed to have come into operation on 1 March 2011 and applies in respect of years of assessment ending on or after that date.

Amendment of paragraph 9 of Seventh Schedule to Act 58 of 1962, as amended by section 31 of Act 96 of 1985, section 34 of Act 65 of 1986, section 29 of Act 85 of 1987, section 59 of Act 101 of 1990, section 53 of Act 113 of 1993, section 33 of Act 21 of 1994, section 51 of Act 28 of 1997, section 55 of Act 30 of 1998, section 55 of Act 30 of 2000, section 57 of Act 31 of 2005, section 29 of Act 9 of 2006, section 2 of Act 8 of 2007, section 68 of Act 35 of 2007, sections 1 and 48 of Act 3 of 2008 and section 65 of Act 17 of 2009

104. (1) Paragraph 9 of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (3)*(a)*(ii) for the words preceding the proviso of the following words:

" 'B' represents an abatement equal to an amount of **[R54 200]** R59 750".

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

"*(e)* enige diens (behalwe 'n diens waarop die bepalings van **[item]** subparagraaf *(j)* of *(k)* of paragraaf 9(4)*(a)* van toepassing is) ten koste van die werkgewer aan die werknemer (hetsy deur die werkgewer of deur enige ander persoon) gelewer is, waar daardie diens deur die werknemer vir sy of haar private of huishoudelike doeleindes gebruik is en geen vergoeding deur die werknemer aan die werkgewer ten opsigte van daardie diens gegee is nie of, indien enige vergoeding gegee is, die bedrag daarvan minder is as die bedrag van die laagste reisgeld bedoel in item *(a)* van subparagraaf (1) van paragraaf 10, of die koste bedoel in item *(b)* van daardie subparagraaf, na gelang van die geval; of".

(c) deur na subparagraaf *(j)* die volgende subparagraaf by te voeg:

"*(k)* die werkgewer gedurende enige tydperk direk of indirek enige betaling gemaak het aan enige versekeraar ingevolge 'n versekeringspolis direk of indirek ten behoewe van die werknemer of sy of haar gade, kind, afhanklike of benoemde.".

(2) Paragraaf *(a)* van subartikel (1) word geag op 1 Maart 2011 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragrawe *(b)* en *(c)* van subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van premies op of na daardie datum aangegaan.

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 956 van 11 Mei 1988, artikel 44 van Wet 90 van 1988, Goewermentskennisgewing R.715 van 14 April 1989, artikel 25 van Wet 70 van 1989, Goewermentskennisgewing 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, artikel 56 van Wet 31 van 2005 en artikel 91 van Wet 7 van 2010

103. (1) Paragraaf 7 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur na subparagraaf (8) die volgende subparagraaf in te voeg:

"(8A) By die toepassing van subparagrawe (7) en (8), indien die werknemer beoog in daardie subparagrawe 'n 'regter' of 'n 'Konstitusionele Hof regter' soos omskryf in artikel 1 van die Wet op Besoldiging en Diensvoorwaardes van Regters, 2001 (Wet No. 47 van 2001), is, word die kilometers afgelê tudden die regter se plek van inwoning en die hof waar die regter voorsit, geag kilometers te wees wat vir besigheidsdoeleindes en nie vir private doeleindes nie afgelê is.".

(2) Subartikel (1) word geag op 1 Maart 2011 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum eindig.

Wysiging van paragraaf 9 van Sewende Bylae by Wet 58 van 1962, soos gewysig deur artikel 31 van Wet 96 van 1985, artikel 34 van Wet 65 van 1986, artikel 29 van Wet 85 van 1987, artikel 59 van Wet 101 van 1990, artikel 53 van Wet 113 van 1993, artikel 33 van Wet 21 van 1994, artikel 51 van Wet 28 van 1997, artikel 55 van Wet 30 van 1998, artikel 55 van Wet 30 van 2000, artikel 57 van Wet 31 van 2005, artikel 29 van Wet 9 van 2006, artikel 2 van Wet 8 van 2007, artikel 68 van Wet 35 van 2007, artikels 1 and 48 van Wet 3 van 2008 en artikel 65 van Wet 17 van 2009

104. (1) Paragraaf 9 van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (3)*(a)*(ii) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

" 'B' 'n korting gelyk aan 'n bedrag van **[R54 200]** R59 750 voorstel".

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

Amendment of paragraph 12A of Seventh Schedule to Act 58 of 1962, as inserted by section 56 of Act 30 of 1998 and amended by section 59 of Act 31 of 2005, section 2 of Act 80 of 2007, section 1 of Act 3 of 2008 and section 66 of Act 17 of 2009

105. (1) Paragraph 12A of the Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the deletion in subparagraph (5) of item *(d)*.

(2) Subsection (1) comes into operation on 1 March 2012 and applies in respect of taxable benefits derived on or after that date.

Insertion of paragraph 12C in Seventh Schedule to Act 58 of 1962

106. (1) The Seventh Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after paragraph 12B of the following paragraph:

"**BENEFITS IN RESPECT OF INSURANCE POLICIES**

12C. (1) The cash equivalent of the value of a taxable benefit deemed to have been granted as contemplated in paragraph 2*(k)* is the amount of any expenditure incurred by an employer during a year of assessment in respect of any premiums payable under a policy of insurance directly or indirectly for the benefit of an employee or his or her spouse, child, dependant or nominee.

(2) Where any premium is paid in terms of a policy of insurance contemplated in section 23*(m)*(iii), the amount of any premium paid by the employer of that employee must, to the extent that the amount has been deemed to be a taxable benefit in terms of paragraph 2*(k)*, be deemed to have been paid by that employee.

(3) Where an appropriate portion of any expenditure contemplated in subparagraph (1) cannot be attributed to the employee for whose benefit the premium is paid, the amount of that expenditure in relation to that employee is deemed, for the purposes of subparagraph (1), to be an amount equal to the total expenditure incurred by the employer during that year of assessment for the benefit of all employees divided by the number of employees in respect of whom the expenditure is incurred.".

(2) Subsection (1) comes into operation on 1 March 2012 and applies in respect of premiums incurred on or after that date.

Amendment of paragraph 5 of Eighth Schedule to Act 58 of 1962, as amended by section 32 of Act 9 of 2006, section 2 of Act 8 of 2007, section 1 of Act 3 of 2008 and section 67 of Act 17 of 2009

107. (1) The Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph 5 of the following paragraph:

"**Annual exclusion**

5. (1) Subject to subparagraph (2), the annual exclusion of a natural person and a special trust in respect of a year of assessment is **[R17 500]** R20 000.

(2) Where a person dies during a year of assessment, that person's annual exclusion for that year is **[R120 000]** R200 000.".

(2) Subsection (1) is deemed to have come into operation on 1 March 2011 and applies in respect of years of assessment commencing on or after that date.

Wysiging van paragraaf 12A van Sewende Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 56 van Wet 30 van 1998 en gewysig deur artikel 59 van Wet 31 van 2005, artikel 2 van Wet 80 van 2007, artikel 1 van Wet 3 van 2008 en artikel 66 van Wet 17 van 2009

105. (1) Paragraaf 12A van die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (5) item *(d)* te skrap.

(2) Subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van belasbare voordele op of na daardie datum verkry.

Invoeging van paragraaf 12C in Sewende Bylae by Wet 58 van 1962

106. (1) Die Sewende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur na paragraaf 12B die volgende paragraaf in te voeg:

"**VOORDELE TEN OPSIGTE VAN VERSEKERINGSPOLISSE**

12C. (1) Die kontantekwivalent van die waarde van 'n belasbare voordeel geag verleen te wees soos in paragraaf 2*(k)* beoog, is die bedrag van enige uitgawes aangegaan deur 'n werkgewer gedurende 'n jaar van aanslag ten opsigte van enige premies betaalbaar kragtens 'n versekeringspolis direk of indirek ten behoewe van 'n werknemer of sy of haar gade, kind, afhanklike of benoemde.

(2) Waar 'n premie betaal word ingevolge 'n versekeringspolis in artikel 23*(m)*(iii) beoog, word die bedrag van enige premie deur die werkgewer van daardie werknemer betaal, namate die bedrag geag is 'n belasbare voordeel ingevolge paragraaf 2*(k)* te wees, geag deur daardie werknemer betaal te wees.

(3) Waar 'n paslike gedeelte van enige uitgawes in subparagraaf (1) beoog nie aan die werknemer ten behoewe van wie die premie betaal word, toegeken kan word nie, word die bedrag van daardie uitgawes met betrekking tot daardie werknemer, by die toepassing van subparagraaf (1), geag 'n bedrag gelyk aan die totale uitgawes aangegaan deur die werkgewer gedurende daardie jaar van aanslag ten behoewe van alle werknemers verdeel deur die getal werknemers ten opsigte van wie die uitgawes aangegaan is.".

(2) Subartikel (1) tree op 1 Maart 2012 in werking en is van toepassing ten opsigte van premies op of na daardie datum aangegaan.

Wysiging van paragraaf 5 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 32 van Wet 9 van 2006, artikel 2 van Wet 8 van 2007, artikel 1 van Wet 3 van 2008 en artikel 67 van Wet 17 van 2009

107. (1) Die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf 5 deur die volgende paragraaf te vervang:

"**Jaarlikse uitsluiting**

5. (1) Behoudens subparagraaf (2) is 'n natuurlike persoon en 'n spesiale trust se jaarlikse uitsluiting ten opsigte van 'n jaar van aanslag **[R17 500]** R20 000.

(2) Waar 'n persoon te sterwe kom gedurende 'n jaar van aanslag is daardie persoon se jaarlikse uitsluiting vir daardie jaar **[R120 000]** R200 000.".

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

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

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

(a) by the substitution in subparagraph (2)*(a)* for the words preceding subitem (i) of the following words:

"a person that commences **[or ceases]** to be a resident or a controlled foreign company that commences or ceases to be a resident, in respect of all assets of that person other than—"; and

(b) by the deletion in subparagraph (2)*(a)* of subitems (ii) and (iii).

(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 paragraph 19 of Eighth Schedule to Act 58 of 1962, as amended by section 94 of Act 45 of 2003, section 72 of Act 35 of 2007 and section 69 of Act 17 of 2009

109. (1) Paragraph 19 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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

"(1) Where a person disposes of a share in a company—

(a) as a result of the acquisition by the company from that person of that share or as part of the liquidation, winding-up or deregistration of that company, that person must disregard so much of any capital loss resulting from the disposal as does not exceed any exempt dividends; or

(b) in circumstances other than those contemplated in item *(a)*, that person must disregard so much of any capital loss resulting from the disposal as does not exceed any extraordinary exempt dividends,

received by or accrued to that person in respect of that share within a period of 18 months prior to or as part of the disposal."; and

(b) by the substitution in subparagraph (3) for items *(b)* and *(c)* of the following items:

"*(b)* **'exempt dividend'** means any dividend or foreign dividend to the extent that the dividend or foreign dividend is—

(i) not subject to any tax under Part VIII of Chapter II; and

(ii) exempt from normal tax in terms of section 10(1)*(k)*(i) or section 10B(2)*(a)* or *(b)*;

(c) **'extraordinary exempt dividends'** means so much of the amount of the aggregate of any exempt dividends received or accrued within the period of 18 months contemplated in subparagraph (1) as **[exceed]** exceeds 15 per cent of the proceeds received or accrued from the disposal **[of the share]** contemplated in that subparagraph.".

(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 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, section 77 of Act 60 of 2008 and section 95 of Act 7 of 2010

110. (1) Paragraph 20 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (1)*(h)*(iii) for subsubitems *(aa)* and *(bb)* of the following subsubitems:

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, artikel 75 van Wet 60 van 2008 en artikel 94 van Wet 7 van 2010

108. (1) Paragraaf 12 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (2)*(a)* die woorde wat subitem (i) voorafgaan deur die volgende woorde te vervang:

“ ’n persoon wat begin **[of ophou]** om ’n inwoner te wees of ’n beheerde buitelandse maatskappy wat begin of ophou om ’n inwoner te wees, ten opsigte van alle bates van daardie persoon behalwe—”; en

(b) deur in subparagraaf (2)*(a)* subitems (ii) en (iii) te skrap.

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van paragraaf 19 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 94 van Wet 45 van 2003, artikel 72 van Wet 35 van 2007 en artikel 69 van Wet 17 van 2009

109. (1) Paragraaf 19 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

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

“(1) Waar ’n persoon oor ’n aandeel in ’n maatskappy beskik—

(a) as gevolg van die verkryging deur die maatskappy van daardie persoon van daardie aandeel of as deel van die likwidasie of deregistrasie van daardie maatskappy, moet daardie persoon soveel van enige kapitaalverlies wat uit die beskikking voortvloei as wat nie enige vrygestelde dividende; of

(b) in ander omstandighede as beoog in item *(a)*, moet daardie persoon soveel van enige kapitaalverlies wat uit die beskikking voortvloei as wat nie enige buitengewone vrygestelde dividende,

ontvang deur of toegeval aan daardie persoon ten opsigte van daardie aandeel, binne ’n tydperk van 18 maande voor of as deel van die beskikking oorskry nie, verontagsaam.”; en

(b) deur in subparagraaf (3) items *(b)* en *(c)* deur die volgende items te vervang:

“*(b)* beteken **‘vrygestelde dividend’** enige dividend of buitelandse dividend namate die dividend of buitelandse dividend—

(i) nie aan enige belasting kragtens Deel VIII van Hoofstuk II onderhewig is nie; en

(ii) ingevolge artikel 10(1)*(k)*(i) of artikel 10B(2)*(a)* of *(b)* van normale belasting vrygestel is;

(c) beteken **‘buitengewone vrygestelde dividende’** soveel van die bedrag van die totaal van enige vrygestelde dividende ontvang of toegeval binne die tydperk van 18 maande in subparagraaf (1) beoog, as wat 15 persent van die opbrengs ontvang of toegeval weens die beskikking **[oor die aandeel]** beoog in daardie subparagraaf, te bowe gaan.”.

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

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, artikel 77 van Wet 60 van 2008 en artikel 95 van Wet 7 van 2010

110. (1) Paragraaf 20 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (1)*(h)*(iii) subsubitems *(aa)* en *(bb)* deur die volgende subsubitems te vervang:

"*(aa)* a right in a controlled foreign company held directly by a resident, an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph 10) of that company and of any other controlled foreign company in which that controlled foreign company and that resident directly or indirectly have an interest, which was included in the income of that resident in terms of section 9D during any year of assessment, less the amount of any foreign dividend distributed by that company to that resident during any year of assessment which was exempt from tax in terms of section **[10(1)*(k)*(ii)*(cc)*]** 10B(2)*(a)* or *(b)*; or

(bb) a right in a controlled foreign company held directly by another controlled foreign company, an amount equal to the proportional amount of the net income (without having regard to the percentage adjustments contemplated in paragraph 10) of that first-mentioned controlled foreign company and of any other controlled foreign company in which both the first- and second-mentioned controlled foreign companies directly or indirectly have an interest, which during any year of assessment would have been included in the income of that second-mentioned controlled foreign company in terms of section 9D had it been a resident, less the amount of any foreign dividend distributed by that first-mentioned controlled foreign company to the second-mentioned controlled foreign company if that dividend would have been exempt from tax in terms of section **[10(1)*(k)*(ii)*(cc)*]** 10B(2)*(a)* or *(b)* had that second-mentioned controlled foreign company been a resident;".

(2) Subsection (1) comes into operation on 1 April 2012 and applies in respect of disposals made on or after that date.

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, section 76 of Act 35 of 2007 and section 100 of Act 7 of 2010

111. (1) Paragraph 43 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (4) for item *(b)* of the following item:

"*(b)* asset (other than an amount in foreign currency owing to that person in respect of any loan, advance or debt payable to that person) the capital gain or capital loss from the disposal of which is derived or deemed to have been derived from a source in the Republic, as contemplated in section 9(2) **[(other than an asset contemplated in paragraph *(b)* of the definition of 'foreign currency asset' in paragraph 84)]**,"; and

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

"*(b)* asset (other than an amount in foreign currency owing to that person in respect of any loan, advance or debt payable to that person) the capital gain or capital loss from the disposal of which is **[derived or deemed to have been derived]** from a source in the Republic, **[as contemplated in section 9(2),]**".

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 March 2011 and applies in respect of years of assessment commencing on or after that date.

(3) Paragraph *(b)* of subsection (1) comes into operation on 1 January 2012.

"*(aa)* 'n reg in 'n beheerde buitelandse maatskappy direk deur 'n inwoner gehou, 'n bedrag gelyk aan die proporsionele bedrag van die netto inkomste (sonder inagneming van die persentasie aanpassings in paragraaf 10 bedoel) van daardie maatskappy en van enige ander beheerde buitelandse maatskappy waarin daardie beheerde buitelandse maatskappy en daardie inwoner direk of indirek 'n belang het, wat kragtens artikel 9D gedurende enige jaar van aanslag in die inkomste van daardie inwoner ingesluit was<u>,</u> verminder met die bedrag van enige buitelandse dividend deur daardie maatskappy aan daardie inwoner gedurende enige jaar van aanslag uitgekeer wat kragtens artikel **[10(1)*(k)*(ii)*(cc)*]** <u>10B(2)*(a)* of *(b)*</u> van belasting vrygestel was; of

(bb) 'n reg in 'n beheerde buitelandse maatskappy direk deur 'n ander beheerde buitelandse maatskappy gehou, 'n bedrag gelykstaande aan die proporsionele bedrag van die netto inkomste (sonder inagneming van die persentasie aanpassings in paragraaf 10 bedoel) van daardie eersgemelde beheerde buitelandse maatskappy en van enige ander beheerde buitelandse maatskappy waarin beide die eers- en tweedegemelde beheerde buitelandse maatskappye direk of indirek 'n belang het, wat gedurende enige jaar van aanslag by die inkomste van daardie tweedegemelde beheerde buitelandse maatskappy ingevolge artikel 9D ingesluit sou gewees het indien die maatskappy 'n inwoner was, verminder deur die bedrag van enige buitelandse dividend deur daardie eersgemelde beheerde buitelandse maatskappy uitgekeer aan die tweedegemelde beheerde buitelandse maatskappy indien daardie dividend ingevolge artikel **[10(1)*(k)*(ii)*(cc)*]** <u>10B(2)*(a)* of *(b)*</u> van belasting vrygestel sou gewees het indien daardie tweedegemelde beheerde buitelandse maatskappy 'n inwoner was;".

(2) Subartikel (1) tree op 1 April 2012 in werking en is van toepassing ten opsigte van beskikkings op of na daardie datum gemaak.

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, artikel 76 van Wet 35 van 2007 en artikel 100 van Wet 7 van 2010

111. (1) Paragraaf 43 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (4) item *(b)* deur die volgende item te vervang:

"*(b)* bate <u>(behalwe 'n bedrag in buitelandse valuta verskuldig aan daardie persoon ten opsigte van 'n lening, voorskot of skuld betaalbaar aan daardie persoon)</u> waarvan die kapitaalwins of kapitaalverlies uit die beskikking verkry is of geag word verkry te gewees het van 'n bron in die Republiek, soos in artikel 9(2) bedoel **[(behalwe 'n bate in paragraaf *(b)* van die omskrywing van 'buitelandse valutabate' in paragraaf 84 bedoel)]**,"; en

(b) deur in subparagraaf (4) item *(b)* deur die volgende item te vervang:

"*(b)* bate (behalwe 'n bedrag in buitelandse valuta verskuldig aan daardie persoon ten opsigte van 'n lening, voorskot of skuld betaalbaar aan daardie persoon) waarvan die kapitaalwins of kapitaalverlies uit die beskikking **[verkry is of geag word verkry te gewees het]** van 'n bron in die Republiek <u>is</u>, **[soos in artikel 9(2) bedoel,]**".

(2) Paragraaf *(a)* van subartikel (1) word geag op 1 Maart 2011 in werking te getree het en is van toepassing ten opsigte van jare van aanslag wat op of na daardie datum begin.

(3) Paragraaf *(b)* van subartikel (1) tree op 1 Januarie 2012 in werking.

Substitution of paragraph 43A of Eighth Schedule to Act 58 of 1962

112. (1) The Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for paragraph 43A of the following paragraph:

"**Dividends treated as proceeds on disposal of certain shares**

43A. (1) For the purposes of this section, **'exempt dividend'** means any dividend or foreign dividend to the extent that the dividend or foreign dividend is—
(a) not subject to any tax under Part VIII of Chapter II; and
(b) exempt from normal tax in terms of section 10(1)*(k)*(i) or section 10B(2)*(a)* or *(b)*.

(2) The proceeds from the disposal by a taxpayer that is a company of shares in another company must be increased by an amount equal to the amount of any dividend or foreign dividend that is exempt in terms of section 10B(2)*(a)* received by or accrued to that taxpayer in respect of any share held by the taxpayer in that other company—
(a) (i) to the extent that that dividend is received by or accrues to the taxpayer within a period of 18 months prior to or as part of the disposal;
(ii) if the taxpayer immediately before the disposal—
(aa) held the shares disposed of as a capital asset (as defined in section 41); and
(bb) held more than 50 per cent of the equity shares in the other company; and
(iii) if the other company (or any company in which that other company directly or indirectly holds more than 50 per cent of the equity shares) has, within a period of 18 months prior to that disposal, by reason of or in consequence of the disposal obtained any loan or advance or incurred any debt—
(aa) owing to the person acquiring the shares or any connected person in relation to that person; or
(bb) that is guaranteed or otherwise secured by the person acquiring the shares or any connected person in relation to that person;
(b) if the share in which the dividend or foreign dividend is so received or accrues is disposed of by that company within a period of 45 days after the date of accrual in respect of that dividend or foreign dividend.

(3) For the purposes of subparagraph (2)*(a)*, the amount by which the proceeds must be increased is limited to the amount of the loan, advance or debt contemplated in subitem (iii) of that subparagraph.".

(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 paragraph 51A of Eighth Schedule to Act 58 of 1962, as inserted by section 105 of Act 7 of 2010

113. (1) Paragraph 51A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—
(a) by the substitution for the heading of the following heading:
"**Disposal of residence by company or trust and liquidation, winding up, deregistration or [revocation] termination of company or trust**";
(b) by the substitution in subparagraph (1) for item *(b)* of the following item:
"*(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)*

Vervanging van paragraaf 43A van Agtste Bylae by Wet 58 van 1962

112. (1) Die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur paragraaf 43A deur die volgende paragraaf te vervang:

"**Dividende behandel soos opbrengs van beskikking oor sekere aandele**

43A. (1) By die toepassing van hierdie artikel beteken **'vrygestelde dividend'** enige dividend of buitelandse dividend namate die dividend of buitelandse dividend—

(a) nie aan enige belasting kragtens Deel VIII van Hoofstuk II onderhewig is nie; en
(b) vrygestel is van normale belasting ingevolge artikel 10(1)*(k)*(i) of artikel 10B(2)*(a)* of *(b)*.

(2) Die opbrengs uit die beskikking deur 'n belastingpligtige wat 'n maatskappy is oor aandele in 'n ander maatskappy moet verhoog word deur 'n bedrag gelyk aan die bedrag van enige dividend of buitelandse dividend wat vrygestel word ingevolge artikel 10B(2)*(a)* ontvang deur of toegeval aan daardie belastingpligtige ten opsigte van enige aandeel gehou deur die belastingpligtige in daardie ander maatskappy—

(a) (i) namate daardie dividend ontvang word deur of toeval aan die belastingpligtige binne 'n tydperk van 18 maande voor of as deel van die beskikking;
(ii) indien die belastingpligtige onmiddellik voor die beskikking—
(aa) die aandele waaroor beskik is gehou het as 'n kapitaalbate (soos in artikel 41 omskryf); en
(bb) meer as 50 persent van die ekwiteitsaandele in die ander maatskappy gehou het; en
(iii) indien die ander maatskappy (of enige maatskappy waarin daardie ander maatskappy direk of indirek meer as 50 persent van die ekwiteitsaandele hou), binne 'n tydperk van 18 maande voor daardie beskikking, omrede of ten gevolge van die beskikking enige lening of voorskot verkry het of enige skuld aangegaan het—
(aa) verskuldig aan die persoon wat die aandele verkry of enige verbonde persoon met betrekking tot daardie persoon; of
(bb) wat gewaarborg word of andersins gesekuritiseer word deur die persoon wat die aandele verkry of enige verbonde persoon met betrekking tot daardie persoon;

(b) indien die aandeel waarin die dividend of buitelandse dividend aldus ontvang word of toeval, oor beskik word deur daardie maatskappy binne 'n tydperk van 45 dae na die datum van toevalling ten opsigte van daardie dividend of buitelandse dividend.

(3) By die toepassing van subparagraaf (2)*(a)* word die bedrag waarmee die opbrengs verhoog moet word, beperk tot die bedrag van die lening, voorskot of skuld in subitem (iii) van daardie subparagraaf beoog.".

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van paragraaf 51A van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 105 van Wet 7 van 2010

113. (1) Paragraaf 51A van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:
"**Beskikking oor woning deur maatskappy of trust en likwidering, deregistrasie of [herroeping] beëindiging van maatskappy of trust**";
(b) deur in subparagraaf (1) item *(b)* deur die volgende item te vervang:
"*(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

by one or more natural persons who **[ordinarily resided in that residence during that period]** are connected persons in relation to the company or trust at the time of that disposal; and";

(c) by the deletion in subparagraph (1) of item *(c)*;

(d) by the substitution in subparagraph (1)*(d)* for subitem (ii) of the following subitem:

"(ii) in the case of a trust making the disposal, steps have been taken to terminate the trust.";

(e) by the substitution in subparagraph (3)*(c)* for subitem (ii) of the following subitem:

"(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.";

(f) by the substitution in subparagraph (4)*(b)* for subitem (iii) of the following subitem:

"(iii) any valuation of that interest effected by that **[trust]** company as contemplated in paragraph 29(4).";

(g) by the substitution in subparagraph (6) for the words preceding item *(a)* of the following words:

"This paragraph does not apply to any disposal made to a person **[that is a company or trust]** unless—";

(h) by the substitution in subparagraph (6)*(a)* for subitem (ii) of the following subitem:

"(ii) where that person is a trust, steps have been taken to terminate the trust."; and

(i) by the deletion of subsection (7).

(2) Paragraphs *(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(f)*, *(g)* and *(h)* of subsection (1) are deemed to have come into operation on 1 October 2010 and apply in respect of disposals made on or after that date and before 1 January 2013.

(3) Paragraph *(i)* of subsection (1) comes into operation on 1April 2012 and applies in respect of disposals made on or after that date and before 1 January 2013.

Amendment of paragraph 55 of Eighth Schedule to Act 58 of 1962, as amended by section 31 of Act 19 of 2001, section 98 of Act 60 of 2001, section 87 of Act 74 of 2002, section 102 of Act 45 of 2003, section 76 of Act 31 of 2005 and section 57 of Act 3 of 2008

114. (1) Paragraph 55 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the deletion in subparagraph (1) of the word "or" after paragraph *(c)*;

(b) by the substitution in subparagraph (1) for the full stop at the end of paragraph *(d)* of a semicolon; and

(c) by the addition in subparagraph (1) after paragraph *(d)* of the following paragraphs:

"*(e)* in respect of a risk policy with no cash value or surrender value; or

(f) if the amount received or accrued constitutes an amount contemplated in section 10(1)*(g*G*)* or *(g*H*)*.".

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

Amendment of paragraph 57 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 89 of Act 74 of 2002 and section 34 of Act 9 of 2006

115. (1) Paragraph 57 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (3) of the following subparagraph:

"(3) The sum of the amounts to be disregarded by a natural person as contemplated in subparagraph (2) may not exceed **[R750 000]** R900 000 during that natural person's lifetime.".

(2) Subsection (1) is deemed to have come into operation on 1 March 2011 and applies in respect of years of assessment commencing on or after that date.

huishoudelike doeleindes deur een of meer natuurlike persone wat **[gewoonlik gedurende daardie tydperk in daardie woning gewoon het]** verbonde persone is met betrekking tot die maatskappy of trust ten tye van daardie beskikking; en";

(c) deur in subparagraaf (1) item *(c)* te skrap;

(d) deur in subparagraaf (1)*(d)* subitem (ii) deur die volgende subitem te vervang:

"(ii) in die geval van 'n trust wat die beskikking maak, stappe gedoen is om die trust te beëindig.";

(e) deur in subparagraaf (3)*(c)* subitem (ii) in die Engelse teks deur die volgende subitem te vervang:

"(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.";

(f) deur in subparagraaf (4)*(b)* subitem (iii) deur die volgende subitem te vervang:

"(iii) enige waardering van daardie blang deur daardie **[trust]** maatskappy te weeg gebring soos in paragraaf 29(4) beoog."; en

(g) deur in subparagraaf (6) die woorde wat item *(a)* voorafgaan deur die volgende woorde te vervang:

"Hierdie paragraaf is nie van toepassing nie op enige beskikking gedoen aan 'n persoon **[wat 'n maatskappy of 'n trust is]** tensy—";

(h) deur in subparagraaf (6)*(a)* subitem (ii) deur die volgende subitem te vervang:

"(ii) waar daardie persoon 'n trust is, stappe gedoen is om die trust te beëindig."; en

(i) deur subartikel (7) te skrap.

(2) Paragrawe *(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(f)*, *(g)* en *(h)* van subartikel (1) word geag op 1 Oktober 2010 in werking te getree het en is van toepassing ten opsigte van beskikkings op of na daardie datum en voor 1 Januarie 2013 gemaak.

(3) Paragraaf *(i)* van subartikel (1) tree op 1April 2012 in werking en is van toepassing ten opsigte van beskikkings op of na daardie datum en voor 1 Januarie 2013 gemaak.

Wysiging van paragraaf 55 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 31 van Wet 19 van 2001, artikel 98 van Wet 60 van 2001, artikel 87 van Wet 74 van 2002, artikel 102 van Wet 45 van 2003, artikel 76 van Wet 31 van 2005 en artikel 57 van Wet 3 van 2008

114. (1) Paragraaf 55 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (1) die woord "of" na paragraaf *(c)* te skrap;

(b) deur in subparagraaf (1) die punt aan die einde van paragraaf *(d)* deur 'n kommapunt te vervang; en

(c) deur in subaparagraaf (1) na paragraaf *(d)* die volgende paragrawe in te voeg:

"*(e)* ten opsigte van 'n risikopolis met geen kontantwaarde of afloswaarde nie; of

(f) indien die bedrag ontvang of toegeval 'n bedrag beoog in artikel 10(1)*(g*G*)* of *(g*H*)* uitmaak.".

(2) Subartikel tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van beskikkings op of na daardie datum gemaak.

Wysiging van paragraaf 57 van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001 en gewysig deur artikel 89 van Wet 74 van 2002 en artikel 34 van Wet 9 van 2006

115. (1) Paragraaf 57 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (3) deur die volgende subparagraaf te vervang:

"(3) Die som van die bedrae wat deur 'n natuurlike persoon verontagsaam mag word soos in subparagraaf (2) beoog, mag nie **[R750 000]** R900 000 gedurende daardie natuurlike persoon se lewe oorskry nie.".

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

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, section 81 of Act 60 of 2008 and section 108 of Act 7 of 2010

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

(a) by the deletion in subparagraph (1) of the definition of ''foreign company'';

(b) by the substitution in subparagraph (2)*(a)* for subitem (i) of the following subitem:

''(i) held at least **[20]** 10 per cent of the equity shares and voting rights in that controlled foreign company; and'';

(c) by the deletion in subparagraph (2)*(b)* of the word ''or'' at the end of subitem (ii);

(d) by the substitution in subparagraph (2)*(b)* for the full stop at the end of subitem (ii) of the expression ''; or'';

(e) by the insertion in subparagraph (2)*(b)* of the following subitem:

''(iv) by a person that is a headquarter company.'';

(f) by the substitution in subparagraph (3)*(c)*(ii) for subsubitem *(bb)* of the following subsubitem:

''*(bb)* was included in the income of a shareholder of that company or would but for the provisions of section **[10(1)*(k)*(ii)*(dd)*]** 10B(2)*(a)* or *(b)* have been so included; or'';

(g) by the substitution in subparagraph (3)*(c)*(iii)*(bb)* for subsubitem (B) of the following subsubitem:

''(B) was included in the income of a shareholder of that company or would but for the provisions of section **[10(1)*(k)*(ii)*(dd)*]** 10B(2)*(a)* or *(b)* have been so included; and'';

(h) by the substitution in subparagraph (3) for item *(d)* of the following item:

''*(d)* that foreign company ceased in terms of any transaction, operation or scheme of which the disposal of the equity share capital forms part, to be a controlled foreign company in relation to that person or other company in the same group of companies as that person (having regard solely to any rights contemplated in paragraph *(a)* of the definition of 'participation rights' in section 9D **[and without having regard to any election exercised in terms of section 9D (13)]**).'';

(i) by the substitution in subparagraph (4) for item *(b)* of the following item:

''*(b)* would have been included in the income of the company to which that distribution was made but for section **[10(1)*(k)*(ii)*(dd)*]** 10B(2)*(a)* or *(b)*,''; and

(j) 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]** foreign return of capital 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]** 10 per cent of the total equity share capital and voting rights in that company''.

(2) Paragraphs *(a)*, *(c)*, *(d)* and *(e)* of subsection (1) come into operation on 1 January 2012 and apply in respect of disposals made on or after that date.

(3) Paragraphs *(b)*, *(f)*, *(g)*, *(h)*, *(i)* and *(j)* of subsection (1) come into operation on 1 April 2012 and apply in respect of disposals made on or after that date.

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, artikel 81 van Wet 60 van 2008 en artikel 108 van Wet 7 van 2010

116. (1) Paragraaf 64B van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur in subparagraaf (1) die omskrywing van "buitelandse maatskappy" te skrap;

(b) deur in subparagraaf (2)*(a)* subitem (i) deur die volgende subitem te vervang:

"(i) minstens **[20]** 10 persent van die ekwiteitsaandele en stemregte in daardie beheerde buitelandse maatskappy gehou het; en";

(c) deur in subparagraaf (2)*(b)* die woord "of" aan die einde van subitem (ii) te skrap;

(d) deur in subparagraaf (2)*(b)* die punt aan die einde van subitem (ii) deur die uitdrukking "; of" te vervang;

(e) deur in subparagraaf (2)*(b)* die volgende subitem in te voeg:

"(iv) deur 'n persoon wat 'n hoofkwartiermaatskappy is.";

(f) deur in subparagraaf (3)*(c)*(ii) subsubitem *(bb)* deur die volgende subsubitem te vervang:

"*(bb)* by die inkomste van 'n aandeelhouer van daardie maatskappy ingesluit was of by ontstentenis van die bepalings van artikel **[10(1)*(k)*(ii)*(dd)*]** 10B(2)*(a)* of *(b)* aldus ingesluit sou gewees het; of";

(g) deur in subparagraaf (3)*(c)*(iii)*(bb)* subsubitem (B) deur die volgende subsubitem te vervang:

"(B) by die inkomste van 'n aandeelhouer van daardie maatskappy ingesluit was of by **[die]** ontstentenis van die bepalings van artikel **[10(1)*(k)*(ii)*(d)*]** 10B(2)*(a)* of *(b)* aldus ingesluit sou wees; en";

(h) deur in subparagraaf (3) item *(d)* deur die volgende item te vervang:

"*(d)* daardie buitelandse maatskappy ingevolge enige transaksie, handeling of skema waarvan die beskikking oor die ekwiteitsaandelekapitaal deel gevorm het, ophou om 'n beheerde buitelandse maatskappy met betrekking tot daardie persoon of ander maatskappy in dieselfde groep van maatskappye as daardie persoon te wees (met inagneming slegs van die regte in paragraaf *(a)* van die omskrywing van 'deelnemende **[belange]** regte' in artikel 9D beoog **[en sonder inagneming van enige keuse uitgeoefen ingevolge artikel 9D(13)]**).";

(i) deur in subparagraaf (4) item *(b)* deur die volgende item te vervang:

"*(b)* by die inkomste van die maatskappy aan wie die uitkering gemaak is, ingesluit sou word by ontstentenis van artikel **[10(1)*(k)*(ii)*(dd)*]** 10B(2)*(a)* of *(b)*,"; en

(j) deur in subparagraaf (5) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

" 'n Persoon moet enige kapitaalwins **[of kapitaalverlies]**, vasgestel ten opsigte van enige **[kapitaal-uitkering in paragraaf 67A, 76, 76A of 77 beoog,]** buitelandse teruggawe van kapitaal ontvang deur of toegeval aan daardie persoon van 'n 'buitelandse maatskappy' (buiten 'n buitelandse finansiële instrumenthouermaatskappy 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]** 10 persent van die totale ekwiteitsaandele en stemregte in daardie maatskappy hou".

(2) Paragrawe *(a)*, *(c)*, *(d)* en *(e)* van subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van beskikkings op of na daardie datum gemaak.

(3) Paragrawe *(b)*, *(f)*, *(g)*, *(h)*, *(i)* en *(j)* van subartikel (1) tree op 1 April 2012 in werking en is van toepassing ten opsigte van beskikkings op of na daardie datum gemaak.

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, section 59 of Act 3 of 2008, section 78 of Act 17 of 2009 and section 110 of Act 7 of 2010

117. (1) Paragraph 74 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the deletion of the definition of "capital distribution";

(b) by the substitution in the definition of "date of distribution" for the words preceding subparagraph *(a)* of the following words:

" **'date of distribution'**, in relation to any distribution, means the date of **[approval]** payment of the distribution **[by the directors or by some other person or body of persons with comparable authority under a law, regulation or rule to which that company is subject, except where the distribution is made]**—";

(c) by the deletion of the definition of "distribution"; and

(d) by the deletion of the definition of "share".

(2) Subsection (1) comes into operation on 1 April 2012.

Amendment of paragraph 75 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001 and amended by section 114 of Act 45 of 2003, section 29 of Act 16 of 2004 and section 79 of Act 17 of 2009

118. (1) Paragraph 75 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (1) of the following subparagraph:

"(1) Where a company makes a distribution of an asset *in specie* to a person holding a share in that company, that company must be treated as having disposed of that asset to that shareholder on the date of distribution for an amount received or accrued equal to the market value of that asset on that date.".

(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 paragraph 76 of Eighth Schedule to Act 58 of 1962, as amended by section 107 of Act 60 of 2001, section 96 of Act 74 of 2002, section 115 of Act 45 of 2003, section 30 of Act 16 of 2004, section 81 of Act 31 of 2005, section 84 of Act 35 of 2007, section 60 of Act 3 of 2008 and section 84 of Act 60 of 2008

119. (1) Paragraph 76 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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

"**Returns of capital by way of distributions of cash or assets *in specie***";

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

"(1) Subject to subparagraph (2), where a **[capital distribution]** return of capital by way of a distribution of cash or an asset *in specie* (other than a distribution of a share **[distributed]** in terms of an unbundling transaction contemplated in section 46(1)) is received by or accrues to a shareholder in respect of a share, that shareholder must where the date of distribution of that **[capital distribution]** cash or asset occurs—

(a) before valuation date, reduce the expenditure contemplated in paragraph 20 actually incurred before valuation date in respect of that share by the amount of that cash or the market value of that asset **[*in specie*]**;

(b) on or after valuation date but before 1 October 2007 and that share is disposed of by the shareholder on or before 31 December 2011, treat the amount of that cash or the market value of that asset **[*in specie*]** as proceeds when that share is disposed of; **[and]**

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, artikel 59 van Wet 3 van 2008, artikel 78 van Wet 17 van 2009 en artikel 110 van Wet 7 van 2010

117. (1) Paragraaf 74 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur die omskrywing van "kapitaaluitkering" te skrap;

(b) deur in die omskrywing van "datum van uitkering" die woorde wat subparagraaf *(a)* voorafgaan deur die volgende woorde te vervang:

" **'datum van uitkering'**, met betrekking tot enige uitkering, die datum van **[goedkeuring]** betaling van die uitkering **[deur die direkteure of deur 'n ander persoon of liggaam van persone met vergelykbare gesag kragtens 'n wet, regulasie of reël waaraan daardie maatskappy onderhewig is, behalwe waar die uitkering gemaak word]**—";

(c) deur die omskrywing van "uitkering" te skrap; en

(d) deur die omskrywing van "aandeel" te skrap.

(2) Subartikel (1) tree op 1 April 2012 in werking.

Wysiging van paragraaf 75 van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001 en gewysig deur artikel 114 van Wet 45 van 2003, artikel 29 van Wet 16 van 2004 en artikel 79 van Wet 17 van 2009

118. (1) Paragraaf 75 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (1) deur die volgende subparagraaf te vervang:

"(1) Waar 'n maatskappy 'n uitkering van 'n bate *in specie* maak aan 'n persoon wat 'n aandeel in daardie maatskappy hou, moet daardie maatskappy geag word oor daardie bate te beskik het aan daardie aandeelhouer op die datum van uitkering vir 'n bedrag ontvang of toegeval gelyk aan die markwaarde van daardie bate op daardie datum.".

(2) Subartikel (1) tree in werking op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree.

Wysiging van paragraaf 76 van Agtste Bylae by Wet 58 van 1962, soos gewysig deur artikel 107 van Wet 60 van 2001, artikel 96 van Wet 74 van 2002, artikel 115 van Wet 45 van 2003, artikel 30 van Wet 16 van 2004, artikel 81 van Wet 31 van 2005, artikel 84 van Wet 35 van 2007, artikel 60 van Wet 3 van 2008 en artikel 84 van Wet 60 van 2008

119. (1) Paragraaf 76 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

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

"**Teruggawe van kapitaal by wyse van uitkerings van kontant of bates *in specie***";

(b) deur subparagraaf (1) deur die volgende subparagraaf te vervang:

"(1) Behoudens subparagraaf (2), waar 'n **[kapitaaluitkering]** teruggawe van kapitaal by wyse van 'n uitkering van kontant of 'n bate *in specie* (behalwe 'n uitkering van 'n aandeel **[uitgekeer]** ingevolge 'n ontbondelingstransaksie in artikel 46(1) beoog) ontvang word deur of toeval aan 'n aandeelhouer ten opsigte van 'n aandeel, moet daardie aandeelhouer waar die datum van uitkering van daardie **[kapitaaluitkering]** kontant of bate plaasvind—

(a) voor waardasiedatum, die onkoste in paragraaf 20 bedoel wat werklik voor waardasiedatum ten opsigte van daardie aandeel aangegaan is, deur die bedrag van daardie kontant of markwaarde van daardie bate **[*in specie*,]** verminder;

(b) op of na waardasiedatum, maar voor 1 Oktober 2007, en daar word op of voor 31 Desember 2011 deur die aandeelhouer oor daardie aandeel beskik, die bedrag van daardie kontant of die markwaarde van daardie bate **[*in specie*]** as opbrengs hanteer wanneer oor daardie aandeel beskik word; **[en]**

(c) on or after 1 October 2007 but before 1 April 2012, treat the amount of that cash or the market value of that asset **[*in specie*]** as proceeds when that share is partly disposed of in terms of paragraph 76A."; and

(c) by the substitution for subparagraphs (2), (3) and (4) of the following subparagraphs:

"(2) Where a shareholder uses the weighted average method in respect of shares that are identical assets as contemplated in paragraph 32(3A)*(a)* and a **[capital distribution]** return of capital by way of a distribution of cash or an asset *in specie* (other than a distribution of a share **[distributed]** in terms of an unbundling transaction contemplated in section 46(1)) is received by or accrues to that shareholder in respect of those shares on or after valuation date but before 1 October 2007, the weighted average base cost of those shares must be determined by—

(a) deducting the amount of that cash or the market value of that asset **[*in specie*]** from the base cost of those shares held when that **[capital distribution]** return of capital was received or accrued; and

(b) dividing the result by the number of those shares held when that **[capital distribution]** return of capital was received or accrued.

(3) **[Any]** Where a return of capital is effected by way of a distribution of an asset *in specie* **[received by or accrued to a shareholder]**, that asset must be treated as having been acquired by the person to whom the distribution is made on the date of distribution and for expenditure equal to the market value of that asset on that date, which expenditure must be treated as an amount of expenditure actually incurred **[and paid]** for the purposes of paragraph 20(1)*(a)*.

(4) Every company that makes a distribution to any other person and every person that pays a distribution to any other person on behalf of a company must by the time of the distribution or payment notify that other person in writing of the extent to which the distribution or payment constitutes a return of capital.".

(2) Subsection (1) comes into operation on 1 April 2012.

Amendment of paragraph 76A of Eighth Schedule to Act 58 of 1962, as inserted by section 85 of Act 35 of 2007 and amended by section 61 of Act 3 of 2008

120. (1) Paragraph 76A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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

"(1) Where—

(a) a return of capital by way of a distribution of cash or an asset *in specie* (other than a share distributed in terms of an unbundling transaction contemplated in section 46(1)) is received by or accrues to a shareholder in respect of a share; and

(b) that return of capital is received by or accrues to that shareholder on or after 1 October 2007 and before 1 April 2012,

that shareholder must be deemed to have disposed of part of that share on the date that the return of capital is received by or accrues to the shareholder.";

(b) by the insertion of the following subparagraph:

"(1A) Subject to paragraph 76(2), where—

(a) a return of capital by way of a distribution of cash or an asset *in specie* (other than a share distributed in terms of an unbundling transaction contemplated in section 46(1)) is received by or accrues to a shareholder in respect of a share;

(b) that return of capital is received by or accrues to that shareholder on or after valuation date but before 1 October 2007; and

(c) that share is not disposed of before 1 April 2012,

(c) op of na 1 Oktober 2007 maar voor 1 April 2012, die bedrag van daardie kontant of die markwaarde van daardie bate **[*in specie*]** as opbrengs hanteer wanneer ingevolge paragraaf 76A gedeeltelik oor daardie aandeel beskik word.''; en

(c) deur subparagrawe (2), (3) en (4) deur die volgende subparagrawe te vervang:

''(2) Waar 'n aandeelhouer die geweegde gemiddelde metode ten opsigte van aandele wat identiese bates is soos in paragraaf 32(3A)*(a)* bedoel gebruik, en 'n **[kapitaaluitkering]** teruggawe van kapitaal by wyse van 'n uitkering van kontant of 'n bate *in specie* (behalwe 'n uitkering van 'n aandeel kragtens 'n ontbondelingstransaksie in artikel 46(1) beoog uitgekeer) op of na waardasiedatum, maar voor 1 Oktober 2007, ontvang word deur of toeval aan daardie aandeelhouer ten opsigte van daardie aandele, moet die geweegde gemiddelde basiskoste van daardie aandele bereken word deur—

(a) die bedrag van daardie kontant of die markwaarde van daardie bate **[*in specie*]** van die basiskoste van daardie aandele wat gehou is toe daardie **[kapitaaluitkering]** teruggawe van kapitaal ontvang is of toegeval het; en

(b) die resultaat te deel deur die aantal aandele wat gehou is toe daardie **[kapitaaluitkering]** teruggawe van kapitaal ontvang was of toegeval het.

(3) **[Enige]** Waar 'n teruggawe van kapitaal bewerkstellig word by wyse van 'n uitkering van 'n bate *in specie* **[wat ontvang is deur of toegeval het aan 'n aandeelhouer]**, moet daardie bate geag word verkry te gewees het deur die persoon aan wie die uitkering gemaak word op die datum van uitkering en vir 'n onkoste gelykstaande aan die markwaarde van daardie bate op daardie datum, welke onkoste by die toepassing van paragraaf 20(1)*(a)* geag moet word 'n bedrag van onkoste werklik aangegaan **[en betaal]** te wees.

(4) Elke maatskappy wat 'n uitkering maak aan enige ander persoon en elke persoon wat 'n uitkering namens 'n maatskappy aan enige ander persoon betaal, moet teen die tyd van die uitkering of betaling daardie ander persoon skriftelik in kennis stel van die mate waartoe die uitkering of betaling 'n teruggawe van kapitaal uitmaak.''.

(2) Subartikel (1) tree op 1 April 2012 in werking.

Wysiging van paragraaf 76A van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 85 van Wet 35 van 2007 en gewysig deur artikel 61 van Wet 3 van 2008

120. (1) Paragraaf 76A van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

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

''(1) Waar—

(a) 'n teruggawe van kapitaal by wyse van 'n uitkering van kontant of 'n bate *in specie* (behalwe 'n aandeel ingevolge 'n ontbondelingstransaksie beoog in artikel 41 uitgekeer) ontvang word deur of toeval aan 'n aandeelhouer ten opsigte van 'n aandeel; en

(b) daardie teruggawe van kapitaal ontvang word deur of toeval aan daardie aandeelhouer op of na 1 Oktober 2007 en voor 1 April 2012,

word daardie aandeelhouer geag oor 'n gedeelte van daardie aandeel te beskik het op die datum waarop die teruggawe van kapitaal ontvang word deur of toeval aan die aandeelhouer.'';

(b) deur die volgende subparagraaf in te voeg:

''(1A) Behoudens paragraaf 76(2) waar—

(a) 'n teruggawe van kapitaal by wyse van 'n uitkering van kontant of 'n bate *in specie* (behalwe 'n aandeel ingevolge 'n ontbondelingstransaksie beoog in artikel 46(1) uitgekeer) ontvang word deur of toeval aan 'n aandeelhouer ten opsigte van 'n aandeel;

(b) daardie teruggawe van kapitaal ontvang word deur of toeval aan daardie aandeelhouer op of na die waardasiedatum maar voor 1 Oktober 2007; en

(c) daar nie oor daardie aandeel beskik word voor 1 April 2012 nie,

that return of capital must be treated as having been distributed on 1 April 2012.";

(c) by the substitution for subparagraph (2) of the following paragraph:

"(2) If paragraph 76(2) applies and the base cost of those shares is a negative amount at the end of **[30 June 2011]** 31 March 2012—

(a) that shareholder must be treated as having a capital gain on **[30 June 2011]** 31 March 2012 equal to that negative amount; and

(b) the base cost of those shares at the end of **[30 June 2011]** 31 March 2012 must be treated as nil."; and

(d) by the substitution for subparagraph (3) of the following subparagraph:

"(3) For purposes of paragraph 33(1) the market value of the part disposed of under this paragraph must be treated as being equal to the amount of the cash or the market value of the asset **[*in specie*]** received or accrued by way of a **[capital distribution]** return of capital.".

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

Insertion of paragraph 76B in Eighth Schedule to Act 58 of 1962

121. (1) The Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the insertion after paragraph 76A of the following paragraph:

"**Reduction in base cost of shares as result of distributions**

76B. (1) Where—

(a) a return of capital or foreign return of capital by way of a distribution of cash or an asset *in specie* is received by or accrues to a shareholder in respect of a share;

(b) that return of capital or foreign return of capital is received by or accrues to that shareholder on or after 1 April 2012 and prior to the disposal of that share; and

(c) that share constitutes a pre-valuation date asset in relation to that shareholder,

for purposes of determining the date of acquisition of that share and the expenditure in respect of the cost of acquisition of that share, that shareholder must be treated as—

(i) having disposed of that share at a time immediately before the return of capital or foreign return of capital is received or accrues for an amount equal to the market value of the share at that time; and

(ii) having immediately reacquired that share at that time at an expenditure equal to that market value—

(aa) less any capital gain that would have been determined had the share been disposed of at market value at that time; and

(bb) increased by any capital loss that would have been determined had the share been disposed of at market value at that time,

which expenditure must be treated as an amount of expenditure actually incurred for the purposes of paragraph 20(1)*(a)*.

(2) Where—

(a) a return of capital or foreign return of capital by way of a distribution of cash or an asset *in specie* is received by or accrues to a shareholder in respect of a share; and

(b) that return of capital or foreign return of capital is received by or accrues to that shareholder on or after 1 April 2012 and prior to the disposal of that share,

the shareholder must reduce the expenditure in respect of the share by the amount of that cash or the market value of that asset on the date that the asset is received by or accrues to that shareholder.

word daardie teruggawe van kapitaal behandel asof dit op 1 April 2012 uitgekeer is.";

(c) deur subparagraaf (2) deur die volgende subparagraaf te vervang:

"(2) Indien paragraaf 76(2) toepassing vind en die basiskoste van daardie aandele aan die einde van **[30 Junie 2011]** 31 Maart 2012 'n negatiewe bedrag is—

(a) word daardie aandeelhouer geag op **[30 Junie 2011]** 31 Maart 2012 'n kapitaalwins te hê gelykstaande aan daardie negatiewe bedrag; en

(b) word die basiskoste van daardie aandele aan die einde van **[30 Junie 2011]** 31 Maart 2012 geag nul te wees."; en

(d) deur subparagraaf (3) deur die volgende subparagraaf te vervang:

"(3) By die toepassing van paragraaf 33(1) word die markwaarde van die gedeelte waaroor beskik is ingevolge hierdie paragraaf, gelykstaande te wees aan die bedrag van die kontant of die markwaarde van die bate **[*in specie*]** ontvang of toegeval by wyse van 'n **[kapitaal-uitkering]** teruggawe van kapitaal.".

(2) Subartikel (1) word geag op 1 Januarie 2011 in werking te getree het.

Invoeging van paragraaf 76B in Agtste Bylae by Wet 58 van 1962

121. (1) Die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur na paragraaf 76A die volgende paragraaf in te voeg:

"**Vermindering in basiskoste van aandele as gevolg van uitkerings**

76B. (1) Waar—

(a) 'n teruggawe van kapitaal of buitelandse teruggawe van kapitaal by wyse van 'n uitkering van kontant of 'n bate *in specie* ontvang word deur of toeval aan 'n aandeelhouer ten opsigte van 'n aandeel;

(b) daardie teruggawe van kapitaal of buitelandse teruggawe van kapitaal ontvang word deur of toeval aan daardie aandeelhouer op of na 1 April 2012 en voor die beskikking oor daardie aandeel; en

(c) daardie aandeel 'n voor-waardasiedatumbate met betrekking tot daardie aandeelhouer uitmaak,

moet daardie aandeelhouer by die bepaling van die verkrygingsdatum van daardie aandeel en die uitgawes ten opsigte van die koste van verkryging van daardie aandeel behandel word asof die aandeelhouer—

(i) oor daardie aandeel beskik het op 'n tydstip onmiddellik voor die teruggawe van kapitaal of buitelandse teruggawe van kapitaal ontvang word of toeval vir 'n bedrag gelyk aan die die markwaarde van die aandeel op daardie tydstip; en

(ii) onmiddellik daardie aandeel herverkry het op daardie tydstip teen 'n uitgawe gelyk aan daardie markwaarde—

(aa) minus enige kapitaalwins wat bepaal sou gewees het indien oor die aandeel beskik is teen markwaarde op daardie tydstip; en

(bb) vermeerder deur enige kapitaalverlies wat bepaal sou gewees het indien oor daardie aandeel beskik is teen markwaarde op daardie tydstip,

welke uitgawe behandel moet word soos 'n bedrag van uitgawes werklik aangegaan by die toepassing van paragraaf 20(1)*(a)*.

(2) Waar—

(a) 'n teruggawe van kapitaal of buitelandse teruggawe van kapitaal by wyse van 'n uitkering van kontant of 'n bate *in specie* ontvang word of toeval aan 'n aandeelhouer ten opsigte van 'n aandeel; en

(b) daardie teruggawe van kapitaal of buitelandse teruggawe van kapitaal word ontvang deur of val toe aan daardie aandeelhouer op of na 1 April 2012 en voor die beskikking oor daardie aandeel,

moet die aandeelhouer die uitgawes ten opsigte van die aandeel verminder deur die bedrag van daardie kontant of die markwaarde van daardie bate op die datum waarop die bate deur of aan die aandeelhouer ontvang word of toeval.

(3) Where the amount of a return of capital or foreign return of capital contemplated in subparagraph (2) exceeds the expenditure in respect of the share in respect of which that return of capital or foreign return of capital is received or accrues, the amount of the excess must be treated as a capital gain in determining that shareholder's aggregate capital gain or aggregate capital loss for the year of assessment in which that return of capital or foreign return of capital is received by or accrues to the shareholder.".

(2) Subsection (1) comes into operation on 1 January 2012 and applies in respect of returns of capital received or accrued on or after that date.

Amendment of paragraph 77 of Eighth Schedule to Act 58 of 1962, as inserted by section 38 of Act 5 of 2001

122. (1) Paragraph 77 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution for subparagraph (2) of the following subparagraph:

"(2) **[Any capital distribution]** Where—

(a) a return of capital by way of a distribution of cash or assets *in specie* is received by or **[accrued]** accrues to **[that]** a shareholder contemplated in subparagraph (1) in respect of **[those shares]** a share that is treated as having been disposed of in terms of that subparagraph; and

(b) that return of capital is received by or accrues to that shareholder after the **[disposal of those shares]** date contemplated in subparagraph (1)*(a)* or *(b)*,

the return of capital must be treated as a capital gain in determining that shareholder's aggregate capital gain or aggregate capital loss for that year of assessment.".

(2) Subsection (1) comes into operation on 1 April 2012.

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, section 85 of Act 60 of 2008 and section 111 of Act 7 of 2010

123. (1) Paragraph 78 of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

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

"(1) Where a company makes a distribution of shares for no consideration, those 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 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."; and

(b) by the substitution for subparagraph (3) of the following subparagraph:

"(3) Where a company issues shares in substitution of previously held shares as contemplated in subparagraph (2) and also **[makes a capital distribution]** effects a return of capital by way of a distribution of cash or assets *in specie* with respect to those previously held shares—

(a) the shareholder must disregard any capital gain or capital loss determined in respect of that substitution but not in respect of the transfer of those previously held shares exchanged for that **[capital distribution]** return of capital; and

(b) both the substitution and that **[capital distribution]** return of capital must be treated as separate transactions with the expenditure allowable in terms of paragraph 20 and any market value adopted or determined in terms of paragraph 29(4) in respect of those previously held shares allocated between both transactions based on the relative market values of the newly issued shares on the date of distribution and that **[capital distribution]** return of capital received in exchange therefor.".

(3) Waar die bedrag van 'n teruggawe van kapitaal of buitelandse teruggawe van kapitaal beoog in subparagraaf (2) die uitgawes ten opsigte van die aandeel ten opsigte waarvan daardie teruggawe van kapitaal of buitelandse teruggawe van kapitaal ontvang word of toeval, oorskry, word die bedrag van die oorskryding behandel asof dit 'n kapitaalwins is by die bepaling van daardie aandeelhouer se totale kapitaalwins of totale kapitaalverlies vir die jaar van aanslag waarin daardie teruggawe van kapitaal of buitelandse teruggawe van kapitaal deur of aan die aandeelhouer ontvang word of toeval.".

(2) Subartikel (1) tree op 1 Januarie 2012 in werking en is van toepassing ten opsigte van teruggawes van kapitaal op of na daardie datum ontvang of toegeval.

Wysiging van paragraaf 77 van Agtste Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 38 van Wet 5 van 2001

122. (1) Paragraaf 77 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur subparagraaf (2) deur die volgende subparagraaf te vervang:

"(2) **[Enige kapitaaluitkering]** Waar—

(a) 'n teruggawe van kapitaal by wyse van 'n uitkering van kontant of bates *in specie* ontvang word deur of **[toegevall]** toeval aan **[daardie]** 'n aandeelhouer beoog in subparagraaf (1) ten opsigte van **[daardie aandele]** 'n aandeel wat ingevolge daardie subparagraaf behandel word asof daaroor beskik is; en

(b) daardie teruggawe van kapitaal ontvang word deur of toeval aan daardie aandeelhouer na die **[beskikking oor daardie aandele]** datum beoog in subparagraaf (1)*(a)* of *(b)*,

[moet] word die teruggawe van kapitaal geag **[word]** 'n kapitaalwins te wees by die vasstelling van daardie aandeelhouer se totale kapitaalwins of totale kapitaalverlies vir daardie jaar van aanslag.".

(2) Subartikel (1) tree op 1 April 2012 in werking.

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, artikel 85 van Wet 60 van 2008 en artikel 111 van Wet 7 van 2010

123. (1) Paragraaf 78 van die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig—

(a) deur subparagraaf (2) deur die volgende subparagraaf te vervang:

"(1) Waar 'n maatskappy 'n uitkering maak van aandele teen geen vergoeding, word daardie aandele behandel asof hulle verkry is op die datum van uitkering vir uitgawes aangegaan en betaal van nul, behalwe namate die uitkering van daardie aandele 'n dividend uitmaak, in welke geval hulle behandel word asof hulle verkry is op die datum van uitkering vir uitgawes aangegaan en betaal gelyk aan die bedrag van daardie dividend."; en

(b) deur subparagraaf (3) deur die volgende subparagraaf te vervang:

"(3) Waar 'n maatskappy aandele uitreik ter vervanging van aandele voorheen gehou soos in subparagraaf (2) beoog en daarbenewens **['n kapitaaluitkering]** 'n teruggawe van kapitaal by wyse van 'n uitkering van kontant of bates *in specie* **[maak]** bewerkstellig ten opsigte van daardie aandele voorheen gehou—

(a) moet die aandeelhouer enige kapitaalwins of kapitaalverlies vasgestel ten opsigte van daardie vervanging verontagsaam, maar nie ten opsigte van die oordrag van daardie aandele voorheen gehou nie wat vir daardie **[kapitaaluitkering]** teruggawe van kapitaal verruil is; en

(b) moet beide die vervanging en daardie **[kapitaaluitkering]** teruggawe van kapitaal geag word aparte transaksies te wees met die onkoste ingevolge paragraaf 20 toelaatbaar en enige markwaarde aangeneem of vasgestel ingevolge paragraaf 29(4) ten opsigte van daardie aandele voorheen gehou toegedeel tussen beide transaksies gebaseer op die relatiewe markwaardes van die nuut-uitgereikte aandele op die datum van uitkering en daardie **[kapitaaluitkering]** teruggawe van kapitaal in ruil daarvoor ontvang.".

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 January 2011.

(3) Paragraph *(b)* of subsection (1) comes into operation on 1 April 2012.

Repeal of Part XIII of Eighth Schedule to Act 58 of 1962

124. (1) The Eighth Schedule to the Income Tax Act, 1962, is hereby amended by the repeal of Part XIII.

(2) Subsection (1) is deemed to have come into operation on 1 March 2011 and applies in respect of years of assessment commencing on or after that date.

Amendment of paragraph 8 of Tenth Schedule to Act 58 of 1962, as substituted by section 89 of Act 35 of 2007

125. (1) Paragraph 8 of the Tenth Schedule to the Income Tax Act, 1962, is hereby amended by the substitution in subparagraph (7) for item *(a)* of the following item:

"*(a)* an **'oil and gas right'** means **[an]** any—

(i) 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;

(ii) 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

(iii) 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; and".

(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.

Amendment of section 47B of Act 91 of 1964, as inserted by section 59 of Act 30 of 2000 and amended by section 40 of Act 12 of 2003, section 13 of Act 9 of 2005, section 92 of Act 35 of 2007 and section 87 of Act 17 of 2009

126. (1) Section 47B of the Customs and Excise Act, 1964 (Act No. 91 of 1964), is hereby amended by the substitution in subsection (2)*(b)*(i) for the words preceding the proviso of the following words:

"The tax shall be charged at the rate of **[R150]** R190 on the carriage of each chargeable passenger departing on a flight".

(2) Subsection (1) is deemed to have come into operation on 1 October 2011 and applies in respect of the carriage of a chargeable passenger on any flight which commences on or after that date.

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

127. (1) Schedule 1 to the Customs and Excise Act, 1964, is hereby amended as set out in Appendix II to this Act.

(2) Schedule 1 to the Customs and Excise Act, 1964, is hereby amended as set out in Appendix III to this Act.

(2) Paragraaf *(a)* van subartikel (1) word geag op 1 Januarie 2011 in werking te getree het.

(3) Paragraaf *(b)* van subartikel (1) tree op 1 April 2012 in werking.

Herroeping van Deel XIII van Agtste Bylae by Wet 58 van 1962

124. (1) Die Agtste Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur Deel XIII te herroep.

(2) Subartikel (1) word geag op 1 Maart 2011 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 8 van Tiende Bylae by Wet 58 van 1962, soos vervang deur artikel 89 van Wet 35 van 2007

125. (1) Paragraaf 8 van die Tiende Bylae by die Inkomstebelastingwet, 1962, word hierby gewysig deur in subparagraaf (7) item *(a)* deur die volgende item te vervang:

"*(a)* beteken 'n **'olie- en gasreg' ['n]** enige—

(i) '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;

(ii) 'exploration right' verkry uit hoofde van 'n omskakeling beoog in item 4 van Bylae II by die 'Mineral and Petroleum Resources Development Act, 2002' (Wet No. 28 van 2002), of enige belang daarin; of

(iii) 'production right' verkry uit hoofde van 'n omskakeling beoog in item 5 van Bylae II by die 'Mineral and Petroleum Resources Development Act, 2002' (Wet No. 28 van 2002), of enige belang daarin; en".

(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.

Wysiging van artikel 47B van Wet 91 van 1964, soos ingevoeg deur artikel 59 van Wet 30 van 2000 en gewysig deur artikel 40 van Wet 12 van 2003, artikel 13 van Wet 9 van 2005 en artikel 87 van Wet 17 van 2009

126. (1) Artikel 47B van die Doeane- en Aksynswet, 1964, word hierby gewysig deur in subartikel (2)*(b)*(i) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

"Die belasting word teen die koers van **[R150]** R190 gevorder op die vervoer van elke belasbare passasier wat op 'n vlug vertrek".

(2) Subartikel (1) word geag op 1 Oktober 2011 in werking te getree het en is van toepassing ten opsigte van die vervoer van 'n belasbare passasier op 'n vlug wat op of na daardie datum 'n aanvang neem.

Wysiging van Bylae 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, artikel 88 van Wet 17 van 2009 en artikel 117 van Wet 7 van 2010

127. (1) Bylae 1 by die Doeane- en Aksynswet, 1964, word hierby gewysig soos in Aanhangsel II tot hierdie Wet uiteengesit.

(2) Bylae 1 by die Doeane- en Aksynswet, 1964, word hierby gewysig soos in Aanhangsel III tot hierdie Wet uiteengesit.

(3) For the purposes of Appendix II and Appendix III 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 otherwise indicates.

(4) Subject to section 58(1) of the Customs and Excise Act, 1964, subsection (1) is deemed to have come into operation on 23 February 2011.

(5) Subject to section 58(1) of the Customs and Excise Act, 1964, subsection (2) is deemed to have come into operation on 1 March 2011.

Continuation of certain amendments of Schedules to Act 91 of 1964

128. 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 2010 up to and including 31 July 2011, shall not lapse by virtue of section 48(6), 49, 56(3), 56A(3), 57(3), 60(4) or 75(16) of that Act.

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, section 104 of Act 60 of 2008 and section 119 of Act 7 of 2010

129. (1) Section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), is hereby amended—

(a) by the addition in the proviso to the definition of ''enterprise'' after paragraph (x) of the following paragraph:

''(xi) the supply of services by a mutual association licensed in terms of section 30 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), to carry on the business of insurance of employers against their liabilities to employees in terms of that Act in respect of which that mutual association pays compensation that is no greater than compensation that would have been paid in similar circumstances in terms of that Act shall be deemed not to be the carrying on of an enterprise;'';

(b) by the addition in the proviso to the definition of ''enterprise'' after paragraph (xi) of the following paragraph:

''(xii) any activity carried on by a trust contemplated in the definition of 'sukuk' in section 24JA(1) of the Income Tax Act shall be deemed not to be the carrying on of an enterprise;''; and

(c) by the deletion in the definition of ''input tax'' of the proviso to paragraph *(b)*.

(2) Paragraph *(a)* of subsection (1) comes into operation on the date of promulgation of this Act and applies in respect of services supplied on or after that date.

(3) Paragraph *(b)* of subsection (1) comes into operation on a date determined by the Minister of Finance by notice in the *Gazette*.

(4) Paragraph *(c)* of subsection (1) comes into operation on the date of promulgation of this Act and applies in respect of goods consisting of fixed property supplied on or after that date.

(3) By die toepassing van Aanhangsel II en Aanhangsel III 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.

(4) Behoudens artikel 58(1) van die Doeane- en Aksynswet, 1964, word subartikel (1) geag op 23 Februarie 2011 in werking te getree het.

(5) Behoudens artikel 58(1) van die Doeane- en Aksynswet, 1964, word subartikel (2) geag op 1 Maart 2011 in werking te getree het.

Voortduring van sekere wysigings van Bylaes by Wet 91 van 1964

128. 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 2010 tot en met 31 Julie 2011, verval uit hoofde van artikel 48(6), 49, 56(3), 56A(3), 57(3), 60(4) of 75(16) van daardie Wet nie.

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, artikel 104 van Wet 60 van 2008 en artikel 119 van Wet 7 van 2010

129. (1) Artikel 1 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur in die voorbehoudsbepaling tot die omskrywing van “onderneming” na paragraaf (x) die volgende paragraaf by te voeg:

“(xi) die lewering van dienste deur ’n onderlinge vereniging gelisensieer ingevolge artikel 30 van die Wet op Vergoeding vir Beroepsbeserings en -siektes, 1993 (Wet No. 130 van 1993), om die besigheid te dryf van versekering van werkgewers teen hul aanspreeklikheid ingevolge daardie Wet ten opsigte waarvan daardie onderlinge vereniging vergoeding betaal wat nie meer is nie as vergoeding wat in soortgelyke omstandighede ingevolge daardie Wet betaalbaar sou wees, geag word nie die dryf van ’n onderneming te wees nie;”;

(b) deur in die voorbehoudsbepaling tot die omskrywing van “onderneming” na paragraaf (xi) die volgende paragraaf by te voeg:

“(xii) enige bedrywigheid uitgevoer deur ’n trust beoog in die omskrywing van ‘sukuk’ in artikel 24JA(1) van die Inkomstebelastingwet geag word nie die dryf van ’n onderneming te wees nie.”; en

(c) deur in die omskrywing van “insetbelasting” die voorbehoudsbepaling tot paragraaf *(b)* te skrap.

(2) Paragraaf *(a)* van subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van dienste op of na daardie datum gelewer.

(3) Paragraaf *(b)* van subartikel (1) tree in werking op ’n datum deur die Minister van Finansies by kennisgewing in die *Staatskoerant* afgekondig.

(4) Paragraaf *(c)* van subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van goed wat uit vaste eiendom bestaan op of na daardie datum gelewer.

Amendment of section 2 of Act 89 of 1991, as amended by section 22 of Act 136 of 1991, paragraph 2 of Government Notice 2695 of 8 November 1991, section 13 of Act 136 of 1992, section 10 of Act 20 of 1994, section 19 of Act 37 of 1996, section 24 of Act 27 of 1997, section 87 of Act 30 of 1998, section 82 of Act 53 of 1999, section 149 of Act 60 of 2001, section 115 of Act 74 of 2002, section 44 of Act 16 of 2004, section 93 of Act 32 of 2004 and section 41 of Act 9 of 2006

130. (1) Section 2 of the Value-Added Tax Act, 1991, is hereby amended—

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

"(iiiA) **'derivative'** means a derivative as defined **[for purposes of Statement AC 133 of generally accepted accounting practice]** in International Accounting Standard 39 of the International Accounting Standards issued by the International Accounting Standards Board;"; and

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

"(vii) **'superannuation scheme'** means a scheme whereby provision is made for the payment or granting of benefits by a benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund as defined in section 1 of the Income Tax Act.".

(2) Subsection (1) comes into operation on the date of 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, section 91 of Act 17 of 2009 and section 120 of Act 7 of 2010

131. (1) Section 8 of the Value-Added Tax Act, 1991, is hereby amended by the deletion of subsection (2C).

(2) Subsection (1) comes into operation on 1 March 2012.

Amendment of section 8A of Act 89 of 1991, as inserted by section 121 of Act 7 of 2010

132. (1) Section 8A of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (1) for paragraphs *(a)*, *(b)* and *(c)* of the following paragraphs:

"*(a)* the **[bank]** financier 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—

(i) from the seller for consideration equal to the amount paid by the **[bank]** financier 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]** financier; and

(c) any premium paid or payable to the **[bank]** financier by the client shall be deemed to be consideration in respect of **[an exempt]** a financial service supplied by the **[bank]** financier 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.".

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

Wysiging van artikel 2 van Wet 89 van 1991, soos gewysig deur artikel 22 van Wet 136 van 1991, paragraaf 2 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 13 van Wet 136 van 1992, artikel 10 van Wet 20 van 1994, artikel 19 van Wet 37 van 1996, artikel 24 van Wet 27 van 1997, artikel 87 van Wet 30 van 1998, artikel 82 van Wet 53 van 1999, artikel 149 van Wet 60 van 2001, artikel 115 van Wet 74 van 2002, artikel 44 van Wet 16 van 2004, artikel 93 van Wet 32 van 2004 en artikel 41 van Wet 9 van 2006

130. (1) Artikel 2 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur in subartikel (2) paragraaf (iiiA) deur die volgende paragraaf te vervang:

“(iiiA) **‘afgeleide instrument’** ’n afgeleide instrument soos omskryf **[vir doeleindes van Standpunt AC 133 van die algemeen aanvaarde rekeningkundige praktyk]** in ‘International Accounting Standard 39’ van die ‘International Accounting Standards’ uitgereik deur die ‘International Accounting Standards Board’;”; en

(b) deur in subartikel (2) paragraaf (vii) deur die volgende paragraaf te vervang:

“(vii) **‘aftreeskema’** ’n skema waarby voorsiening gemaak word vir die betaling of verlening van voordele deur ’n bystandsfonds, pensioenfonds, pensioenbewaringsfonds, uittredingannuïteitsfonds **[of]**, voorsorgsfonds of voorsorgbewaringsfonds soos in artikel 1 van die Inkomstebelastingwet omskryf.”.

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

Wysiging van artikel 8 van Wet 89 van 1991, soos gewysig deur artikel 24 van Wet 136 van 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, artikel 91 van Wet 17 van 2009 en artikel 120 van Wet 7 van 2010

131. (1) Artikel 8 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur subartikel (2C) te skrap.

(2) Subartikel (1) tree op 1 Maart 2012 in werking.

Wysiging van artikel 8A van Wet 89 van 1991, soos ingevoeg deur artikel 121 van Wet 7 van 2010

132. (1) Artikel 8A van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (1) paragrawe *(a)*, *(b)* en *(c)* deur die volgende paragrawe te vervang:

“*(a)* word die **[bank]** finansier 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]** finansier aan die verkoper betaal; en

(ii) op die tydstip waarop die lewering deur die verkoper uit hoofde van die transaksie tussen die verkoper en die **[bank]** finansier gedoen is; en

(c) word ’n premie deur die kliënt aan die **[bank]** finansier betaal of betaalbaar geag vergoeding te wees ten opsigte van ’n **[vrygestelde]** finansiële diens deur die **[bank]** finansier gelewer soos in artikel 2(1)*(f)* beoog: Met dien verstande dat hierdie paragraaf nie van toepassing is namate die vergoeding enige fooi, kommissie of soortgelyke gelde uitmaak nie.”.

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

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

133. (1) Section 10 of the Value-Added Tax Act, 1991, is hereby amended—

(a) by the deletion of subsection (5A); and

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

"(7) Where goods or services are deemed by section 18(1) or 18B(3) to be supplied by a vendor, the supply shall, subject to the provisions of subsection (8), be deemed to be made for a consideration in money equal to the open market value of such supply.".

(2) Paragraph *(a)* of subsection (1) comes into operation on 1 March 2012.

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

Amendment of section 11 of Act 89 of 1991, as amended by section 27 of Act 136 of 1991, Government Notice 2695 of 8 November 1991, section 17 of Act 136 of 1992, section 27 of Act 97 of 1993, section 13 of Act 20 of 1994, section 28 of Act 27 of 1997, section 89 of Act 30 of 1998, section 85 of Act 53 of 1999, section 77 of Act 30 of 2000, section 43 of Act 5 of 2001, section 153 of Act 60 of 2001, section 169 of Act 45 of 2003, section 46 of Act 16 of 2004, section 98 of Act 32 of 2004, section 21 of Act 9 of 2005, section 105 of Act 31 of 2005, section 44 of Act 9 of 2006, section 81 of Act 20 of 2006, section 105 of Act 35 of 2007, section 29 of Act 36 of 2007 and Government Notice R.1024 in *Government Gazette* 32664 of 30 October 2009

134. (1) Section 11 of the Value-Added Tax Act, 1991, is hereby amended—

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

"(i) any old order right or OP26 right as defined in Schedule II of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), **[wholly or partially continuing in force or wholly or partially]** converted into a new right pursuant to **[the same]** item 7(3) of that Schedule if that supply is made pursuant to that conversion; or"; and

(b) by the deletion in subsection (1)*(n)* of subparagraph (ii).

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

Amendment of section 13 of Act 29 of 1991, as amended by section 29 of Act 136 of 1991, section 19 of Act 136 of 1992, section 15 of Act 20 of 1994, section 30 of Act 27 of 1997, section 34 of Act 34 of 1997, section 86 of Act 53 of 1999, section 70 of Act 19 of 2001, section 155 of Act 60 of 2001, section 170 of Act 45 of 2003, section 100 of Act 32 of 2004, section 106 of Act 31 of 2005 and section 110 of Act 60 of 2008

135. (1) Section 13 of the Value-Added Tax Act, 1991, is hereby amended by the insertion after subsection (2) of the following subsections:

"(2A) The value to be placed on the importation of goods into the Republic which have been imported and entered for storage in a licensed Customs and Excise storage warehouse but have not been entered for home consumption shall be deemed to be the greater of the value determined in terms of subsection (2)*(a)* or the value of acquisition determined under section 10(3) if those goods while stored in that storage warehouse are supplied to any person before being entered for home consumption.

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, artikel 107 van Wet 60 van 2008 en artikel 122 van Wet 7 van 2010

133. (1) Artikel 10 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur subartikel (5A) te skrap; en

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

"(7) Waar goed of dienste deur artikel 18(1) of 18B(3) geag word deur 'n ondernemer gelewer te wees, word die lewering, behoudens die bepalings van subartikel (8), geag gemaak te wees vir 'n vergoeding in geld gelyk aan die ope markwaarde van daardie lewering.".

(2) Paragraaf *(a)* van subartikel (1) tree op 1 Maart 2012 in werking.

(3) Paragraaf *(b)* van subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet.

Wysiging van artikel 11 van Wet 89 van 1991, soos gewysig deur artikel 27 van Wet 136 van 1991, Goewermentskennisgewing 2695 van 8 November 1991, artikel 17 van Wet 136 van 1992, artikel 27 van Wet 97 van 1993, artikel 13 van Wet 20 van 1994, artikel 28 van Wet 27 van 1997, artikel 89 van Wet 30 van 1998, artikel 85 van Wet 53 van 1999, artikel 77 van Wet 30 van 2000, artikel 43 van Wet 5 van 2001, artikel 153 van Wet 60 van 2001, artikel 169 van Wet 45 van 2003, artikel 46 van Wet 16 van 2004, artikel 98 van Wet 32 van 2004, artikel 21 van Wet 9 van 2005, artikel 105 van Wet 31 van 2005, artikel 44 van Wet 9 van 2006, artikel 81 van Wet 20 van 2006, artikel 105 van Wet 35 van 2007, artikel 29 van Wet 36 van 2007 and Goewermentskennisgewing No. R.1024 in *Staatskoerant* 32664 van 30 Oktober 2009

134. (1) Artikel 11 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur in paragraaf *(n)* subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) enige 'old order right' of 'OP26 right' soos omskryf in Bylae II by die 'Mineral and Petroleum Resources Development Act, 2002' (Wet No. 28 van 2002), wat **[geheel of gedeeltelik nog van krag is of geheel of gedeeltelik]** omgeskakel is in 'n nuwe reg ingevolge **[dieselfde]** item 7(3) van daardie Bylae, indien die lewering gemaak word ten gevolge van daardie omskakeling; of"; en

(b) deur in subartikel (1)*(n)* subparagraaf (ii) te skrap.

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

Wysiging van artikel 13 van Wet van 1991, soos gewysig deur artikel 29 van Wet 136 van 1991, artikel 19 van Wet 136 van 1992, artikel 15 van Wet 20 van 1994, artikel 30 van Wet 27 van 1997, artikel 34 van Wet 34 van 1997, artikel 86 van Wet 53 van 1999, artikel 70 van Wet 19 van 2001, artikel 155 van Wet 60 van 2001, artikel 170 van Wet 45 van 2003, artikel 100 van Wet 32 van 2004, artikel 106 van Wet 31 van 2005 en artikel 110 van Wet 60 van 2008

135. (1) Artikel 13 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur na subartikel (2) die volgende subartikels in te voeg:

"(2A) Die waarde geplaas te word op die invoer van goed in die Republiek wat ingevoer en geklaar is vir stoor in 'n gelisensieerde doeane- en aksynsopslagpakhuis maar nie vir binnelandse verbruik geklaar is nie, word geag die grootste van die waarde ingevolge subartikel (2)*(a)* bepaal of die waarde van verkryging kragtens artikel 10(3) bepaal te wees indien daardie goed, terwyl hulle in daardie opslagpakhuis gestoor word, verskaf word aan enige persoon voordat hulle vir binnelandse verbruik geklaar word.

(2B) Notwithstanding subsection (2), the value to be placed on the importation of goods into the Republic where Note 5*(a)*(ii)*(aa)* of Item No. 470.03/00.00/02.00 of Schedule 1 to this Act is applicable shall be the value determined under section 10(3).".

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

Amendment of section 14 of Act 89 of 1991, as amended by section 171 of Act 45 of 2003, section 101 of Act 32 of 2004 and section 28 of Act 8 of 2010

136. (1) Section 14 of the Value-Added Tax Act, 1991, is hereby amended by the addition in subsection (5) after paragraph *(d)* of the following paragraph:

"*(e)* a supply of services of which the value in respect of that supply does not exceed R100 per invoice.".

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

Amendment of section 16 of Act 89 of 1991, as amended by section 30 of Act 136 of 1991, section 21 of Act 136 of 1992, section 30 of Act 97 of 1993, section 16 of Act 20 of 1994, section 23 of Act 37 of 1996, section 32 of Act 27 of 1997, section 91 of Act 30 of 1998, section 87 of Act 53 of 1999, section 71 of Act 19 of 2001, section 156 of Act 60 of 2001, section 172 of Act 45 of 2003, section 107 of Act 31 of 2005, section 47 of Act 9 of 2006, section 83 of Act 20 of 2006, section 83 of Act 8 of 2007, section 106 of Act 35 of 2007, section 30 of Act 36 of 2007 and section 29 of Act 8 of 2010

137. (1) Section 16 of the Value-Added Tax Act, 1991, is hereby amended—

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

"No deduction of input tax in respect of a supply **[or]** of goods or services, the importation of any goods into the Republic**[,]** or any other deduction**[,]** shall be made in terms of this Act, unless—";

(b) by the substitution in subsection (3)*(a)*(ii) for item *(aa)* of the following item:

"*(aa)* subject to the provisions of item *(bb)*, in respect of supplies of second-hand goods to which paragraph *(b)* of the definition of 'input tax' in section 1 applies **[(other than supplies in respect of which the provisions of subparagraph *(bb)* apply),]** to the extent that payment of any consideration which has the effect of reducing or discharging any obligation (whether an existing obligation or an obligation which will arise in the future) relating to the purchase price for those supplies has been made during that tax period;";

(c) by the substitution in subsection (3)*(a)*(ii)*(bb)* for subitems (A) and (B) of the following subitems respectively:

"(A) fixed property in respect of **[the acquisition of which transfer duty is, in terms of the Transfer Duty Act, payable]** which the provisions of section 9(3)*(d)* apply if transfer of that fixed property was effected by registration in a deeds registry and the fixed property was registered in the name of the vendor that makes the deduction during that tax period;

(B) a share in a share block company **[in respect of the original issue or registration of transfer of which stamp duty is, in terms of the Stamp Duties Act, payable,]** which confers a right to or an interest in the use of immovable property if a signed use agreement has been entered into between the company that operates the share block scheme and a member of that company;";

(2B) Ondanks subartikel (2) is die waarde geplaas te word op die invoer van goed in die Republiek waar Nota 5*(a)*(ii)*(aa)* van Item No. 470.03/00.00/02.00 van Bylae 1 by hierdie Wet toepaslik is die waarde kragtens artikel 10(3) bepaal te word.".

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van goed op of na daardie datum ingevoer.

Wysiging van artikel 14 van Wet 89 van 1991, soos gewysig deur artikel 171 van Wet 45 of 2003, artikel 101 van Wet 32 van 2004 en artikel 28 van Wet 8 van 2010

136. (1) Artikel 14 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (5) die volgende paragraaf by te voeg:

"*(e)* 'n lewering van dienste waarvan die waarde ten opsigte van daardie lewering nie R100 per faktuur oorskry nie.".

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van dienste op of na daardie datum ingevoer.

Wysiging van artikel 16 van Wet 89 van 1991, soos gewysig deur artikel 30 van Wet 136 van 1991, artikel 21 van Wet 136 van 1992, artikel 30 van Wet 97 van 1993, artikel 16 van Wet 20 van 1994, artikel 23 van Wet 37 van 1996, artikel 32 van Wet 27 van 1997, artikel 91 van Wet 30 van 1998, artikel 87 van Wet 53 van 1999, artikel 71 van Wet 19 van 2001, artikel 156 van Wet 60 van 2001, artikel 172 van Wet 45 van 2003, artikel 107 van Wet 31 van 2005, artikel 47 van Wet 9 van 2006, artikel 83 van Wet 20 van 2006, artikel 83 van Wet 8 van 2007, artikel 106 van Wet 35 van 2007, artikel 30 van Wet 36 van 2007 en artikel 29 van Wet 8 van 2010

137. (1) Artikel 16 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

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

"Geen aftrekking van insetbelasting ten opsigte van 'n lewering **[of]** van goedere of dienste, die invoer van enige goedere in die Republiek gedoen**[,]** of enige ander aftrekking**[,]** mag ingevolge hierdie Wet gemaak word nie, tensy—";

(b) deur in subartikel (3)*(a)*(ii) item *(aa)* deur die volgende item te vervang:

"*(aa)* behoudens die bepalings van item *(bb)* ten opsigte van lewerings van tweedehandse goed waarop paragraaf *(b)* van die omskrywing van 'insetbelasting' in artikel 1 van toepassing is **[(behalwe lewerings ten opsigte waarvan die bepalings van subparagraaf *(bb)* van toepassing is),]** in die mate wat betaling van enige vergoeding wat die uitwerking het om 'n verpligting (hetsy 'n bestaande verpligting of 'n verpligting wat in die toekoms sal ontstaan) wat op die koopprys vir daardie lewerings betrekking het, te verminder of te vervul gedurende daardie belastingtydperk gedoen is;

(c) deur in subartikel (3)*(a)*(ii)*(bb)* subitems (A) en (B) onderskeidelik deur die volgende subitems te vervang:

"(A) vasgoed ten opsigte **[van die verkryging waarvan hereregte ingevolge die Wet op Hereregte betaalbaar is]** waarvan die bepalings van artikel 9(3)*(d)* van toepassing is indien oordrag van daardie vasgoed plaasgevind het deur registrasie in 'n akteregistrasiekantoor en die vasgoed geregistreer is in die naam van die ondernemer wat die aftrekking gedurende daardie belastingtydperk eis; of

(B) 'n aandeel in 'n aandeleblokmaatskappy **[ten opsigte van die oorspronklike uitreiking of registrasie van oordrag waarvan seëlreg ingevolge die Wet op Seëlregte betaalbaar is,]** wat 'n reg op of 'n belang in die gebruik van vasgoed verleen indien 'n getekende gebruiksooreenkoms tussen die maatskappy wat die aandeleblokmaatskappy bedryf en 'n lid van daardie maatskappy gesluit is;";

(d) by the deletion in subsection (3)*(a)*(ii)*(bb)* of the words following subitem (B); and

(e) by the substitution in subsection (3) for paragraph *(i)* of the following paragraph:

"*(i)* an amount equal to the tax fraction of any payment made by the vendor during the tax period in respect of the redemption with him, or his agent, of the monetary value of any token, voucher or stamp contemplated in section 10(20), to a supplier of goods or services who has granted a discount on the surrender to him of such token, voucher or stamp by a recipient of a supply of goods or services if those goods or services are not charged with tax at the rate of zero per cent under section 11;".

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

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, section 112 of Act 60 of 2008 and section 123 of Act 7 of 2010

138. (1) Section 18 of the Value-Added Tax Act, 1991, is hereby amended by the substitution in subsection (4) for paragraph "D" of the following paragraph:

" 'D' where paragraph *(c)* applies**, [other than in respect of second-hand goods to which the proviso to paragraph *(b)* of the definition of 'input tax' in section 1 applies,]** represents the ratio that the amount paid, which payment reduces or discharges any obligation (whether an existing obligation or an obligation which will arise in the future) in respect of or consequent upon, whether directly or indirectly, the consideration in money for the supply of second-hand goods, bears to the total consideration in money, expressed as a percentage:".

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

Insertion of section 18B in Act 89 of 1991

139. (1) The Value-Added Tax Act, 1991, is hereby amended by the insertion after section 18A of the following section:

"**Temporary letting of residential fixed property**

18B. (1) For the purposes of this section **'developer'** means a vendor who continuously or regularly constructs, extends or substantially improves fixed property consisting of any dwelling or continuously or regularly constructs, extends or substantially improves parts of that fixed property for the purpose of disposing of that fixed property after the construction, extension or improvement.

(2) Notwithstanding the provisions of section 18(1), where goods being fixed property consisting of any dwelling—

(a) is developed by a vendor who is a developer wholly for the purpose of making taxable supplies or is held or applied for that purpose; and

(b) is subsequently temporarily applied by that vendor for supplying accommodation in a dwelling under an agreement for the letting and hiring thereof,

the supply of such fixed property shall, subject to subsection (3), be deemed not to be a taxable supply in the course or furtherance of that vendor's enterprise.

(3) The fixed property contemplated in subsection (2) shall be deemed to have been supplied by that vendor by way of a taxable supply for a

(d) deur in subartikel (3)*(a)*(ii)*(bb)* die woorde wat volg op subitem (B) te skrap; en

(e) deur in subartikel (3) paragraaf *(i)* deur die volgende paragraaf te vervang:

"*(i)* 'n bedrag gelyk aan die belastingbreukdeel van enige betaling gedoen deur die ondernemer gedurende die belastingtydperk ten opsigte van die aflossing by hom, of sy agent, van die geldwaarde van 'n teken, bewys of seël beoog in artikel 10(20), aan 'n leweraar van goed of dienste wat 'n afslag toegestaan het by die afgee aan hom van daardie teken, bewys of seël deur 'n ontvanger van 'n lewering van goed of dienste indien daardie goed of dienste nie kragtens artikel 11 teen 'n koers van nul persent belas word nie;".

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van lewerings op of na daardie datum gemaak.

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, artikel 112 van Wet 60 van 2008 en artikel 123 van Wet 7 van 2010

138. (1) Artikel 18 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur in subartikel (4) paragraaf "D" van die formule deur die volgende paragraaf te vervang:

" 'D' waar paragraaf *(c)* van toepassing is**, [behalwe ten opsigte van tweedehandse goed waarop die voorbehoudsbepaling by paragraaf *(b)* van die omskrywing van 'insetbelasting' in artikel 1 van toepassing is,]** die verhouding voorstel waarin die bedrag betaal, welke betaling 'n verpligting (hetsy 'n bestaande verpligting of 'n verpligting wat in die toekoms sal ontstaan) ten opsigte van of as gevolg van, hetsy regstreeks of onregstreeks, die vergoeding in geld vir die lewering van tweedehandse goed verminder of nakom, tot die totale vergoeding in geld staan, uitgedruk as 'n persentasie:".

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing ten opsigte van voorsienings op of na daardie datum gemaak.

Invoeging van artikel 18B in Wet 89 van 1991

139. (1) Die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur na artikel 18A die volgende artikel in te voeg:

"**Tydelike verhuring van residensiële vaste eiendom**

18B. (1) By die toepassing van hierdie artikel beteken **'ontwikkelaar'** 'n ondernemer wat voortdurend of gereeld vaste eiendom wat bestaan uit enige woning oprig, uitbrei of wesenlik verbeter of wat voortdurend of gereeld gedeeltes van daardie vaste eiendom oprig, uitbrei of wesenlik verbeter met die doel om na die oprigting, uitbreiding of verbetering oor daardie vaste eiendom te beskik.

(2) Ondanks die bepalings van artikel 18(1) waar goed wat vaste eiendom is bestaande uit enige woning—

(a) deur 'n ondernemer wat 'n ontwikkelaar is, ontwikkel word uitsluitlik met die oog op die maak van belasbare lewerings of vir daardie doel gehou of toegepas word; en

(b) daarna tydelik deur daardie ondernemer toegepas word ten einde huisvesting te verskaf in 'n woning kragtens 'n ooreenkoms vir die huur en verhuur daarvan,

word die lewering van sodanige vaste eiendom, behoudens subartikel (3), geag nie 'n belasbare lewering in die loop of bevordering van daardie ondernemer se onderneming te wees nie.

(3) Die vaste eiendom beoog in subartikel (2) word geag deur daardie ondernemer gelewer te wees by wyse van 'n belasbare lewering vir

consideration as contemplated in section 10(7) in the course or furtherance of that vendor's enterprise at the earlier of—

(a) a period of 36 months after the conclusion of the agreement contemplated in subsection (2)*(b)*; or

(b) the date that the vendor applies that fixed property permanently for a purpose other than that of making taxable supplies.

(4) Where a vendor makes a supply of fixed property as contemplated in subsection (2) the vendor shall within 30 days of making that supply furnish the Commissioner with a declaration (in such form or manner as the Commissioner may prescribe) containing such information as may be required.".

(2) Subsection (1) comes into operation on the date of promulgation of this Act and ceases to apply on 1 January 2015.

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

140. (1) Section 22 of the Value-Added Tax Act, 1991, is hereby amended—

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

"**[Where]** Subject to subsection (6), where a vendor—";

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

"**[Where]** Subject to subsection (3A), where a vendor who is required to account for tax payable on an invoice basis in terms of section 15—";

(c) by the substitution in subsection (3) for paragraph (iii) of the proviso of the following paragraph:

"(iii) **[subparagraph]** paragraph (ii) shall not be applicable where a vendor has already accounted for tax payable in accordance with this subsection.";

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

"(3A) Subject to subsection (6)*(a)*, subsection (3) shall not be applicable in respect of a taxable supply made by a vendor which is a member of a group of companies, to another vendor which is a member of the same group of companies for as long as both vendors are members of the same group of companies."; and

(e) by the addition of the following subsection:

"(6) *(a)* Where a vendor which is a member of a group of companies makes a taxable supply to another vendor which is a member of the same group of companies, the vendor who made the taxable supply may not make a deduction in terms of subsection (1) read with section 16(3) of any amount of tax that has become irrecoverable for as long as both vendors are members of the same group of companies.

(b) For the purposes of paragraph *(a)* and subsection (3A), a 'group of companies' means a group of companies as defined in section 1 of the Income Tax Act if any other company would be part of the same group of companies as that company if the expression 'at least 70 per cent of the equity shares of' in paragraphs *(a)* and *(b)* of that definition were replaced by the expression '100 per cent of the equity shares of'.".

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

vergoeding soos beoog in artikel 10(7) in die loop of bevordering van daardie ondernemer se onderneming op die vroegste van—

(a) 'n tydperk van 36 maande na die sluiting van die ooreenkoms in subartikel (2)*(b)* beoog; of

(b) die datum waarop die ondernemer daardie vaste eiendom permanent toepas vir 'n ander doel as om belasbare lewerings te maak.

(4) Waar 'n ondernemer 'n lewering van vaste eiendom maak soos in subartikel (2) beoog, moet die ondernemer binne 30 dae nadat daardie lewering gemaak is, aan die Kommissaris voorlê 'n verklaring (in die vorm of wyse wat die Kommissaris voorskryf) wat die inligting bevat wat vereis word.".

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en hou op 1 Januarie 2015 op om van toepassing te wees.

Wysiging van artikel 22 van Wet 89 van 1991, soos gewysig deur artikel 33 van Wet 136 van 1991, paragraaf 13 van Goewermentskennisgewing 2695 van 8 November 1991, artikel 27 van Wet 136 van 1992, artikel 25 van Wet 37 van 1996, artikel 36 van Wet 27 van 1997, artikel 95 van Wet 30 van 1998, artikel 177 van Wet 45 van 2003, artikel 110 van Wet 31 van 2005 en artikel 86 van Wet 20 van 2006

140. (1) Artikel 22 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"**[Waar]** Behoudens subartikel (6), waar 'n ondernemer—";

(b) deur in subartikel (3) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"**[Waar]** Behoudens subartikel (3A), waar 'n ondernemer wat ingevolge artikel 15 op 'n faktuurbasis rekenskap moet gee van belasting wat betaalbaar is—";

(c) deur in subartikel (3) paragraaf (iii) van die voorbehoudsbepaling deur die volgende paragraaf te vervang:

"(iii) **[voorbehoudsbepaling]** paragraaf (ii) sal nie van toepassing wees nie waar 'n ondernemer alreeds vir die belasting betaalbaar verantwoord het soos beoog ooreenkomstig hierdie subartikel.";

(d) deur die volgende subartikel na subartikel (3) in te voeg:

"(3A) Behoudens subartikel (6)*(a)* is subartikel (3) nie van toepassing nie ten opsigte van 'n belasbare lewering gemaak deur 'n ondernemer wat 'n lid is van 'n groep van maatskappye aan 'n ander ondernemer wat 'n lid is van dieselfde groep van maatskappye solank beide ondernemers lede van dieselfde groep van maatskappye is."; en

(e) deur die volgende subartikel by te voeg:

"(6) *(a)* Waar 'n ondernemer wat 'n lid is van 'n groep van maatskappye 'n belasbare lewering maak aan 'n ander ondernemer wat 'n lid van dieselfde groep van maatskappye is, kan die ondernemer wat die belasbare lewering gemaak het nie 'n aftrekking ingevolge subartikel (1), gelees met artikel 16(3), maak nie van 'n bedrag van belasting wat onverhaalbaar geword het solank beide ondernemers lede van dieselfde groep van matskappy is.

(b) By die toepassing van paragraaf *(a)* en subartikel (3A) beteken 'n 'groep van maatskappye' 'n groep van maatskappye soos in artikel 1 van die Inkomstebelastingwet omskryf indien enige ander maatskappy deel van dieselfde groep van maatskappye as daardie maatskappy sou wees indien die uitdrukking 'minstens 70 persent van die ekwiteitsaandele van' in paragrawe *(a)* en *(b)* van daardie omskrywing deur die uitdrukking '100 persent van die ekwiteitsaandele van' vervang sou word.".

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

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, section 93 of Act 17 of 2009 and section 23 of Act 7 of 2010

141. (1) Section 23 of the Value-Added Tax Act, 1991, is hereby amended by the deletion of subsection (9).

(2) Subsection (1) comes into operation on 1 March 2012.

Amendment of section 58 of Act 89 of 1991, as amended by section 41 of Act 136 of 1991, section 39 of Act 97 of 1993, section 25 of Act 46 of 1996, section 102 of Act 53 of 1999, section 72 of Act 19 of 2001, section 173 of Act 60 of 2001, section 119 of Act 74 of 2002, section 43 of Act 34 of 2004, section 42 of Act 32 of 2005 and section 41 of Act 18 of 2009

142. (1) Section 58 of the Value-Added Tax Act, 1991, is hereby amended by the substitution for paragraph *(i)* of the following paragraph:

"*(i)* fails to notify the Commissioner of anything of which he is required by section 18B(4), 24(3), 25 or 48(7) to notify the Commissioner; or".

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

Amendment of Schedule 1 to Act 89 of 1991 as amended by section 48 of Act 136 of 1991, section 43 of Act 136 of 1992, Government Notice 2244 of 31 July, 1992, section 44 of Act 97 of 1993, Government Notice 1955 of 7 October 1993, section 32 of Act 20 of 1994, section 32 of Act 37 of 1996, section 53 of Act 27 of 1997, substituted by section 177 of Act 60 of 2001, amended by section 58 of Act 30 of 2002, section 121 of Act 74 of 2002, Government Notice R.111 in *Government Gazette* 24274 of 17 January 2003, section 189 of Act 45 of 2003, section 52 of Act 16 of 2004, section 53 of Act 16 of 2004, section 54 of Act 16 of 2004, section 55 of Act 16 of 2004, section 108 of Act 32 of 2004, section 111 of Act 31 of 2005, section 112 of Act 31 of 2005, section 113 of Act 31 of 2005, section 114 of Act 31 of 2005, section 115 of Act 31 of 2005, section 116 of Act 31 of 2005, section 117 of Act 31 of 2005, section 118 of Act 31 of 2005, section 119 of Act 31 of 2005, section 120 of Act 31 of 2005, section 121 of Act 31 of 2005, section 122 of Act 31 of 2005, section 123 of Act 31 of 2005, section 52 of Act 9 of 2006, section 53 of Act 9 of 2006, section 89 of Act No. 20 of 2006, section 85 of Act 8 of 2007, Government Notice R.958 in *Government Gazette* 30370 of 12 October 2007, section 107 of Act 35 of 2007 and Government Notice R.766 in *Government Gazette* 32416 of 24 July 2009

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

(a) by the addition to Item No. 470.00 of the following Note:

"**5.** For the purposes of Item No. 470.03/00.00/02.00:

(a) Where the importer is contractually entitled to keep a portion of the goods manufactured, processed, finished, equipped or packed in lieu of payment for the operations carried out, that importer must—

(i) also export those goods within the period of 12 months contemplated in Note 2*(a)*; or

(ii) *(aa)* process a bill of entry at the office of the Controller for payment of the value-added tax on the goods retained; and

(bb) adjust by voucher of correction the rebate bill of entry in respect of the quantity and value of the goods used to manufacture the goods retained.

(b) The importer is required to maintain the records prescribed in terms of section 75 of the Customs and Excise Act."; and

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, artikel 93 van Wet 17 van 2009 en artikel 23 van Wet 7 van 2010

141. (1) Artikel 23 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur subartikel (9) te skrap.

(2) Subartikel (1) tree op 1 Maart 2012 in werking.

Wysiging van artikel 58 van Wet 89 van 1991, as amended by artikel 41 van Wet 136 van 1991, artikel 39 van Wet 97 van 1993, artikel 25 van Wet 46 van 1996, artikel 102 van Wet 53 van 1999, artikel 72 van Wet 19 van 2001, artikel 173 van Wet 60 van 2001, artikel 119 van Wet 74 van 2002, artikel 43 van Wet 34 van 2004, artikel 42 van Wet 32 van 2005 en artikel 41 van Wet 18 van 2009

142. (1) Artikel 58 van die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig deur paragraaf *(i)* deur die volgende paragraaf te vervang:

"*(i)* versuim om die Kommissaris van enigiets in kennis te stel waarvan ingevolge artikel 18B(4), 24(3), 25 of 48(7) van hom vereis word om die Kommissaris in kennis te stel; of".

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

Wysiging van Bylae 1 by Wet 89 van 1991 soos gewysig deur artikel 48 van Wet 136 van 1991, artikel 43 van Wet 136 van 1992, Goewermentskennisgewing No. 2244 van 31 Julie, 1992, artikel 44 van Wet 97 van 1993, Goewermentskennisgewing No. 1955 van 7 Oktober 1993, artikel 32 van Wet 20 van 1994, artikel 32 van Wet 37 van 1996, artikel 53 van Wet 27 van 1997, substituted by artikel 177 van Wet 60 van 2001, amended by artikel 58 van Wet 30 van 2002, artikel 121 van Wet 74 van 2002, Goewermentskennisgewing No. R.111 in *Staatskoerant* 24274 van 17 Januarie 2003, artikel 189 van Wet 45 van 2003, artikel 52 van Wet 16 van 2004, artikel 53 van Wet 16 van 2004, artikel 54 van Wet 16 van 2004, artikel 55 van Wet 16 van 2004, artikel 108 van Wet 32 van 2004, artikel 111 van Wet 31 van 2005, artikel 112 van Wet 31 van 2005, artikel 113 van Wet 31 van 2005, artikel 114 van Wet 31 van 2005, artikel 115 van Wet 31 van 2005, artikel 116 van Wet 31 van 2005, artikel 117 van Wet 31 van 2005, artikel 118 van Wet 31 van 2005, artikel 119 van Wet 31 van 2005, artikel 120 van Wet 31 van 2005, artikel 121 van Wet 31 van 2005, artikel 122 van Wet 31 van 2005, artikel 123 van Wet 31 van 2005, artikel 52van Wet 9 van 2006, artikel 53 van Wet 9 van 2006, artikel 89 van Wet No. 20 van 2006, artikel 85 van Wet 8 van 2007, Goewermentskennisgewing No. R.958 in *Staatskoerant* 30370 van 12 Oktober 2007, artikel 107 van Wet 35 van 2007 en Goewermentskennisgewing No. R.766 in *Staatskoerant* 32416 van 24 Julie 2009

143. (1) Bylae 1 by die Wet op Belasting op Toegevoegde Waarde, 1991, word hierby gewysig—

(a) deur by Item No. 470.00 die volgende Nota te voeg:

"**5.** By die toepassing van item No. 470.03/00.00/02.00:

(a) Waar die invoerder kontraktueel geregtig is om 'n gedeelte van die goed wat vervaardig, geprosesseer, afgewerk, toegerus of verpak is te hou in plaas van betaling vir die handelinge uitgevoer, moet daardie invoerder—

(i) ook daardie goed uitvoer binne die tydperk van 12 maande in Nota 2*(a)* beoog; of

(ii) *(aa)* 'n invoerbrief prosesseer by die kantoor van die Kontroleur vir betaling van die belasting op toegevoegde waarde op die goed wat behou word; en

(bb) by regstellingsbewysstuk die verminderde invoerbrief aanpas ten opsigte van die hoeveelheid en waarde van die goed gebruik om die goed wat behou word, te vervaardig;

(b) Die invoerder moet die rekords wat ingevolge artikel 75 van die Doeane- en Aksynswet voorgeskryf word, hou."; en

(b) by the insertion after Item No. 470.03/00.00/01.00 of the following item:
"470.03/00.00/02.00 Goods free of duty, for use in the manufacture, processing, finishing, equipping or packing of goods exclusively for export.".

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

Amendment of section 4 of Act 4 of 2002

144. (1) Section 4 of the Unemployment Insurance Contributions Act, 2002 (Act No. 4 of 2002), is hereby amended—

(a) by the deletion in subsection (4) of the word "and" at the end of paragraph *(c)*;
(b) by the deletion in subsection (4) of the full stop at the end of paragraph *(d)* and the insertion of a semi-colon at the end of that paragraph; and
(c) by the addition in subsection (4) after paragraph *(d)* of the following paragraphs:
"*(e)* the President, Deputy President, a Minister, Deputy Minister, a member of the National Assembly, a permanent delegate to the National Council of Provinces, a Premier, a member of an Executive Council or a member of a provincial legislature;
(f) any member of a municipal council, a traditional leader, a member of a provincial House of Traditional Leaders and a member of the Council of Traditional Leaders.".

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

Amendment of section 1 of Act 25 of 2007

145. (1) Section 1 of the Securities Transfer Tax Act, 2007 (Act No. 25 of 2007), is hereby amended—

(a) by the addition in subsection (1) of the word "or" at the end of paragraph *(a)* of the definition of "security";
(b) by the substitution in subsection (1) for the expression "; or" at the end of paragraph *(b)* of the definition of "security" of a comma; and
(c) by the deletion in subsection (1) of paragraph *(c)* of the definition of "security".

(2) Subsection (1) comes into operation on 1 April 2012.

Amendment of section 4 of Act 25 of 2007

146. (1) Section 4 of the Securities Transfer Tax Act, 2007, is hereby amended—

(a) by the substitution in subsection (1) for the expression "; or" at the end of paragraph *(a)* of a full stop; and
(b) by the deletion in subsection (1) of paragraph *(b)*.

(2) Subsection (1) comes into operation on 1 April 2012.

Amendment of section 5 of Act 25 of 2007, as amended by section 126 of Act 60 of 2008

147. (1) Section 5 of the Securities Transfer Tax Act, 2007, is hereby amended—

(a) by the substitution in subsection (1) for the expression "; or" at the end of paragraph *(a)* of a full stop; and
(b) by the deletion in subsection (1) of paragraph *(b)*.

(2) Subsection (1) comes into operation on 1 April 2012.

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

148. (1) Section 8 of the Securities Transfer Tax Act, 2007, is hereby amended—

(a) by the deletion in subsection (1) of paragraph *(m)*; and

(*b*) deur na item nommer 470.03/00.00/01.00 die volgende item in te voeg:
"470.03/00.00/02.00 Goed vry van reg, vir gebruik in die vervaardiging, prosessering, afwerking, toerusting of verpakking van goed uitsluitlik vir uitvoer.".

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

Khwinifhadzo ya sekisheni 4 ya Mulayo 4 wa 2002

144. (1) Sekisheni 4 ya Mulayo wa Mbadelo dza Inshorentsi ya Vhuyashamushumo, 2002, i khou khwinifhadzwa—

(*a*) nga u thuthiwa ha ipfi ''na" mafhedziseloni a pharagirafu (*c*);
(*b*) nga u thuthiwa ha tshithoma mafhedziseloni a pharagirafu (*d*) na u dzhenisiwa ha semikhoḽoni mafhedziseloni a pharagirafu; na
(*c*) nga u engedziwa nga murahu ha pharagirafu (*d*) ha sekisheni ṱhukhu ya 4 ya pharagirafu zwi tevhelaho:
"(*e*) Phuresidennde, Mufarisa Phuresidennde, Minisiṱa, Mufarisa Minisiṱa, murado wa Guvhangano ḽa Lushaka, murumelwa wa tshoṱhe wa Khantseḽe ya Lushaka ya Mavunḓu, Muphirimia, muraḓo wa Khantseḽe ya Vhulanguli kana muraḓo wa phalamennde ya vunḓu;
(*f*) khantsenḽe iṅwe na iṅwe ya masipala, murangaphanḓa wa sialala, muraḓo wa Nnḓu ya Vhurangaphanḓa ha Sialala na muraḓo wa Khantseḽe ya Vharangaphanḓa vha Sialala.".

(2) Sekisheni ṱhukhu ya (1) i dzhiiwa sa yo thomaho u shuma nga dzi 1 Lambamai 2002.

Wysiging van artikel 1 van Wet 25 van 2007

145. (1) Artikel 1 van die Wet op Belasting op Oordrag van Sekuriteite, 2007 (Wet No. 25 van 2007), word hierby gewysig—

(*a*) deur in subartikel (1) die woord "of" aan die einde van paragraaf (*a*) van die omskrywing van "sekuriteit" by te voeg;
(*b*) deur in subartikel (1) die uitdrukking "; of" aan die einde van paragraaf (*b*) van die omskrywing van "sekuriteit" deur 'n komma te vervang; en
(*c*) deur in subartikel (1) paragraaf (*c*) van die omskrywing van "sekuriteit" te skrap.

(2) Subartikel (1) tree op 1 April 2012 in werking.

Wysiging van artikel 4 van Wet 25 van 2007

146. (1) Artikel 4 van die Wet op Belasting op Oordrag van Sekuriteite, 2007, word hierby gewysig—

(*a*) deur in subartikel (1) die uitdrukking "; of" aan die einde van paragraaf (*a*) deur 'n punt te vervang; en
(*b*) deur in subartikel (1) paragraaf (*b*) te skrap.

(2) Subartikel (1) tree op 1 April 2012 in werking.

Wysiging van artikel 5 van Wet 25 van 2007, soos gewysig deur artikel 126 van Wet 60 van 2008

147. (1) Artikel 5 van die Wet op Belasting op Oordrag van Sekuriteite, 2007, word hierby gewysig—

(*a*) deur in subartikel (1) die uitdrukking "; of" aan die einde van paragraaf (*a*) deur 'n punt te vervang; en
(*b*) deur in subartikel (1) paragraaf (*b*) te skrap.

(2) Subartikel (1) tree op 1 April 2012 in werking.

Wysiging van artikel 8 van Wet 25 van 2007, soos gewysig deur artikel 127 van Wet 60 van 2008, artikel 97 van Wet 17 van 2009 en artikel 127 van Wet 7 van 2010

148. (1) Artikel 8 van die Wet op Belasting op Oordrag van Sekuriteite, 2007, word hierby gewysig—

(*a*) deur in subartikel (1) paragraaf (*m*) te skrap; en

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

"*(q)* if the person to whom that security is transferred is a member who has purchased the security **[for the account and benefit of that person]** in that member's capacity as principal; or".

(2) Paragraph *(b)* of subsection (1) is deemed to have come into operation on 1 January 2011 and applies in respect of transactions entered into—

(a) on or after that date; and

(b) on or before 31 December 2012.

Substitution of section 8A of Act 25 of 2007, as inserted by section 128 of Act 7 of 2010

149. (1) The Securities Transfer Tax Act, 2007, is hereby amended by the substitution for section 8A of the following section:

"**8A.** (1) In the case of any murabaha as defined in section 24JA(1) of the Income Tax Act, 1962 (Act No. 58 of 1962)—

(a) the financier shall be deemed not to have acquired any beneficial ownership of the security under the sharia arrangement; and

(b) the client shall be deemed to have acquired beneficial ownership of the security from the seller—

(i) for an amount equal to the consideration paid by the financier to the seller; and

(ii) at such time as the financier acquired the beneficial ownership of the security from the seller by virtue of the transaction between the seller and the financier.".

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

Amendment of section 8A of Act 28 of 2008, as inserted by section 135 of Act 7 of 2010

150. (1) Section 8A of the Mineral and Petroleum Resources Royalty Act, 2008 (Act No. 28 of 2008), is hereby amended by the substitution for the heading of the following heading:

"**Rollover relief for transfers between extractors**".

(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 10 of Act 28 of 2008, as amended by section 101 of Act 17 of 2009

151. (1) Section 10 of the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* is deemed to be **[an extractor]** a person while that **[registration]** election remains in effect; and".

(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 15 of Act 28 of 2008

152. (1) The Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended by the substitution for section 15 of the following section:

"**Foreign currency**

15. Any amount received by or accrued to, or expenditure or loss incurred by**[,]**—

(a) an oil and gas company as defined in paragraph 1 of the Tenth Schedule to the Income Tax Act in any currency other than the

(b) deur in subartikel (1) paragraaf *(q)* deur die volgende paragraaf te vervang:

"*(q)* indien die persoon aan wie daardie sekuriteit oorgedra word 'n lid is wat die sekuriteit **[vir daardie persoon se eie rekening en voordeel]** in daardie lid se hoedanigheid as prinsipaal gekoop het; of".

(2) Paragraaf *(b)* van subartikel (1) word geag op 1 Januarie 2011 in werking te getree het en is van toepassing ten opsigte van transaksies aangegaan—

(a) op of na daardie datum; en

(b) op of voor 31 Desember 2012.

Vervanging van artikel 8A van Wet 25 van 2007, soos ingevoeg deur artikel 128 van Wet 7 van 2010

149. (1) Die Wet op Belasting op Oordrag van Sekuriteite, 2007, word hierby gewysig deur artikel 8A deur die volgende artikel te vervang:

"**8A.** (1) In die geval van 'n murabaha soos omskryf in artikel 24JA(1) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962)—

(a) word die finansier geag nie enige uiteindelike geregtigheid van die sekuriteit kragtens die sharia-reëling te verkry het nie; en

(b) word die kliënt geag uiteindelike geregtigheid van die sekuriteit te verkry het van die verkoper—

(i) vir 'n bedrag gelyk aan die vergoeding betaal deur die finansier aan die verkoper; en

(ii) op die tydstip waarop die finansier die uiteindelike geregtigheid van die sekuriteit verkry het van die verkoper uit hoofde van die transaksie tussen die verkoper en die finansier.".

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

Phetošo ya karolo ya 8A ya Molao wa 28 wa 2008, bjalo ka ge e tsentšwe ke karolo ya 135 ya Molao wa 7 wa 2010

150. (1) Karolo ya 8A ya Molao wa Royalithi ya Methopo ya Diminerale le Petroliamo, 2008, o a fetolwa ka peobakeng ya hlogo ya hlogo ye e latelago:

"**Kimollo ya phetišetšo ya diphetišetšo gare ga barafi**".

(2) Karolowana ya (1) e akanywa e thomile go šoma ka 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminirale yeo e fetišitšwego ka goba morago ga letšatšikgwedi leo.

Phetošo ya karolo ya 10 ya Molao wa 28 wa 2008, bjalo ka ge e fetotšwe ke karolo ya 101 ya Molao wa 17 wa 2009

151. (1) Karolo ya 10 ya Molao wa Royalithi ya Methopo ya Diminerale le Petroliamo, 2008, o a fetolwa ka peobakeng ka go karolwana ya (1) bakeng sa temana ya *(a)* ya temana ye e latelago:

"*(a)* o akanywa go ba **[morafi]** motho mola **[boingwadišo]** kgetho yeo e thomago go šoma; gomme".

(2) Karolowana ya (1) e akanywa e thomile go šoma ka 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminirale yeo e fetišitšwego ka goba morago ga letšatšikgwedi leo.

Phetošo ya karolo ya 15 ya Molao wa 28 wa 2008

152. (1) Molao wa Royalithi ya Methopo ya Diminerale le Petroliamo, 2008, o a fetolwa ka peobakeng ya karolo ya 15 ya karolo ye e latelago:

"**Ditšhelete tša dinagantle**

15. Tšhelete yeo e amogetšwego ke goba ya go oketšega go, goba ditshenyagalelo goba tahlegelo ka **[,]**—

(a) khamphani ya oli goba ya gase bjalo ka ge go hlalošitšwe ka go temana ya 1 ya Šetulo ya Bolesome go Molao wa Legetho la Letseno ka

currency of the Republic must be translated to the currency of the Republic by applying the average exchange rate for the year in which that amount was so received or accrued or expenditure or loss was so incurred;

(b) an extractor in any currency other than the currency of the Republic must be translated to the currency of the Republic by applying the spot rate, as defined in section 1 of the Income Tax Act, on the date on which that amount was so received or accrued or expenditure or loss was so incurred.''.

(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 and section 137 of Act 7 of 2010

153. (1) Schedule 2 to the Mineral and Petroleum Resources Royalty Act, 2008, is hereby amended by the substitution for the words in the ''Unrefined condition'' column corresponding to ''Vanadium'' of the following words:

''Concentrate < 10% V_2O_5 equivalent and less than 2% calcium and silica bearing gangue minerals (SiO_2 + CaO)''.

(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, as amended by section 138 of Act 7 of 2010

154. (1) Section 4 of the Revenue Laws Amendment Act, 2008 (Act No. 60 of 2008), is hereby amended by the substitution for subsection (2) of the following subsection:

''(2) **[Paragraphs]** Paragraph *(b)* **[and *(c)*]** of subsection (1) **[come]** comes into operation on 1 January 2011.''.

(2) Subsection (1) is deemed to have come into operation on 21 October 2008.

Amendment of section 14 of Act 60 of 2008

155. (1) Section 14 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 April 2013.''.

(2) Subsection (1) is deemed to have come into operation on 21 October 2008.

Repeal of section 55 of Act 17 of 2009

156. The Taxation Laws Amendment Act, 2009 (Act No. 17 of 2009), is hereby amended by the repeal of section 55.

Amendment of section 69 of Act 17 of 2009, as amended by section 152 of Act 7 of 2010

157. (1) Section 69 of the Taxation Laws Amendment Act, 2009, is hereby amended—

(a) by the insertion in subsection (1) of the word ''and'' at the end of paragraph *(b*C*)*;

(b) by the deletion in subsection (1) of paragraph *(c)*; and

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

''(2) Paragraphs *(a)*, *(b)***[, *(c)*]** and *(d)* of subsection (1), except insofar as they insert the words 'or as part of', come into operation on the date on which Part VIII of Chapter II of the Income Tax Act, 1962, comes into operation.''.

(2) Subsection (1) is deemed to have come into operation on 30 September 2009.

tšhelete ye nngwe le ye nngwe ntle le ya Repabliki e swanetše go fetolelwa go tšhelete ya Repabliki ka go šomiša kelophetolelotšhelete ya palogare ya ngwaga woo tšhelete e amogetšwego goba e oketšegilego goba ditshenyagalelo goba ditlahlegelo di bilego gona;

(b) tšhelete ye nngwe le ye nngwe ntle le ya Repabliki e swanetše go fetolelwa go tšhelete ya Repabliki ka go šomiša kelo ya bonako, bjloa ka ge go hlalošitšwe ka go karolo ya 1 ya Molao wa Motshelo wa Letseno, ka tšatšikgwedi leo tšhelete e amogetšwego goba e oketšegilego goba ditshenyagalelo goba ditlahlegelo di bilego gona.".

(2) Karolowana ya (1) e akanywa e thomile go soma ka 1 Matshe 2010 gomme e šoma mabapi le methopo ya diminirale yeo e fetišitšwego ka goba ka morago ga letšatšikgwedi leo.

Phetošo ya Šetulo ya 2 ya Molao wa 28 wa 2008, bjalo ka ge e fetotšwe ke karolo ya 103 ya Molao wa 17 wa 2009 le karolo ya 137 ya Molao wa 7 wa 2010

153. (1) Šetulo ya 2 ya Molao wa Royalithi ya Methopo ya Diminerale le Petroliamo, 2008, o a fetolwa ka peobakeng ya mantšu ka go kholomo ya "Maemo ao a sego a hlwekišwa" ao a swanago le "Bantiamo" ya mantšu a a latelago:

"Motswakothwii < wo o lekanago le 10% ya V_2O_5 eupša o le ka fase ga 2% ya khalesiamo le dimimirale tša go hloka mohola tšeo go hloka mohola tšeo ayone e humanwago go tšona tša go ba le silikhone (SiO_2 + CaO)".

(2) Karolowana ya (1) e akanywa e thomile go šoma ka 1 Matšhe 2010 gomme e šoma mabapi le methopo ya diminirale yeo e fetišitšwego ka goba ka morago ga letšatšikgwedi leo.

Wysiging van artikel 4 van Wet 60 van 2008

154. (1) Artikel 4 van die Wysigingswet op Inkomstewette, 2008 (Wet No. 60 van 2008), word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

"(4) **[Paragrawe *(e)*, *(g)* en]** Paragraaf *(s)* van subartikel (1) tree op 1 Januarie 2011 in werking **[op die datum waarop Deel VIII van Hoofstuk II van die Inkomstebelastingwet, 1962, in werking tree]**.".

(2) Subartikel (1) word geag op 21 Oktober 2008 in werking te getree het.

Wysiging van artikel 14 van Wet 60 van 2008

155. (1) Artikel 14 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,]** 1 April 2013 in werking **[tree]**.".

(2) Subartikel (1) word geag op 21 Oktober 2008 in werking te getree het.

Herroeping van artikel 55 van Wet 17 van 2009

156. Die Wysigingswet op Belastingwette, 2009 (Wet No. 17 van 2009), word hierby gewysig deur artikel 55 te herroep.

Wysiging van artikel 69 van Wet 17 van 2009, soos gewysig deur artikel 152 van Wet 7 van 2010

157. (1) Artikel 69 van die Wysigingswet op Belastingwette, 2009, word hierby gewysig—

(a) deur in subartikel (1) die woord "en" aan die einde van paragraaf *(b*C*)* in te voeg;

(b) deur in subartikel (1) paragraaf *(c)* te skrap; en

(c) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Paragrawe *(a)*, *(b)***[**, ***(c)*****]** en *(d)* van subartikel (1), behalwe insoverre 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.".

(2) Subartikel (1) word geag op 30 September 2009 in werking te getree het.

Repeal of section 79 of Act 17 of 2009

158. (1) The Taxation Laws Amendment Act, 2009, is hereby amended by the repeal of section 79.

(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 6 of Act 7 of 2010

159. (1) Section 6 of the Taxation Laws Amendment Act, 2010 (Act No. 7 of 2010), is hereby amended—

(a) by the deletion in subsection (1) of paragraphs *(m)* and *(n)*;

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

"*(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]** 2011; and"; and

(c) by the deletion of subsection (7).

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 January 2011 and applies in respect of receipts and accruals on or after that date.

(3) Paragraph *(b)* of subsection (1) is deemed to have come into operation on 24 August 2010.

(4) 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 2011 and applies in respect of receipts and accruals on or after that date.

Amendment of section 18 of Act 7 of 2010

160. (1) Section 18 of the Taxation Laws Amendment Act, 2010, is hereby amended—

(a) by the deletion in subsection (1) of paragraph *(g)*;

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

"(2) Paragraphs *(b)*, *(f)*, *(l),* *(n), (o)*, *(p)*, *(q)* and *(v)* of subsection (1) come into operation on 1 January 2011."; and

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

(2) Paragraphs *(a)* and *(c)* of subsection (1) are deemed to have come into operation on 1 January 2011.

(3) Paragraph *(b)* of subsection (1) is deemed to have come into operation on 24 August 2010.

Amendment of section 19 of Act 7 of 2010

161. (1) Section 19 of the Taxation Laws Amendment Act, 2010, is hereby amended—

(a) by the deletion in subsection (1) of paragraph *(i)*; and

(b) by the deletion of subsection (3).

(2) Subsection (1) is deemed to have come 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.

Repeal of section 41 of Act 7 of 2010

162. (1) The Taxation Laws Amendment Act, 2010, is hereby amended by the repeal of section 41.

(2) Subsection (1) is deemed to have come into operation on 1 January 2011 and applies in respect of expenditure incurred on or after that date.

Repeal of section 42 of Act 7 of 2010

163. (1) The Taxation Laws Amendment Act, 2010, is hereby amended by the repeal of section 42.

Herroeping van artikel 79 van Wet 17 van 2009

158.(1) Die Wysigingswet op Belastingwette, 2009, word hierby gewysig deur artikel 79 te herroep.

(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 6 van Wet 7 van 2010

159. (1) Artikel 6 van die Wysigingswet op Belastingwette, 2010 (Wet No. 7 van 2010), word hierby gewysig—

(a) deur in subartikel (1) paragrawe *(d)* en *(e)* te skrap;

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

"*(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]** 2011 begin; en"; en

(c) deur subartikel (7) te skrap.

(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 Januarie 2011 begin en is van toepassing ten opsigte van ontvangste en toevallings op of na daardie datum.

(3) Paragraaf *(b)* van subartikel (1) word geag op 24 Augustus 2010 in werking te getree het.

(4) 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 2011 begin en is van toepassing ten opsigte van ontvangste en toevallings op of na daardie datum.

Wysiging van artikel 18 van Wet 7 van 2010

160. (1) Artikel 18 van die Wysigingswet op Belastingwette, 2010, word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(g)* te skrap;

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Paragrawe *(b)*, *(f)*, *(l)*, *(n)*, *(o)*, *(p)*, *(q)* en *(v)* van subartikel (1) tree op 1 Januarie 2011 in werking."; en

(c) deur subartikel (4) te skrap.

(2) Paragrawe *(a)* en *(c)* van subartikel (1) word geag op 1 Januarie 2011 in werking te getree het.

(3) Paragraaf *(b)* van subartikel (1) word geag op 24 Augustus 2010 in werking te getree het.

Wysiging van artikel 19 van Wet 7 van 2010

161. (1) Artikel 19 of the Wysigingswet op Belastingwette, 2010, word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(i)* te skrap; en

(b) deur subartikel (3) te skrap.

(2) Subartikel (1) word geag in werking te getree het 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.

Herroeping van artikel 41 van Wet 7 van 2010

162. (1) Die Wysigingswet op Belastingwette, 2010, word hierby gewysig deur artikel 41 te herroep.

(2) Subartikel (1) word geag op 1 Januarie 2011 in werking te getree het en is van toepassing ten opsigte van uitgawes op of na daardie datum aangegaan.

Herroeping van artikel 42 van Wet 7 of 2010

163. (1) Die Wysigingswet op Belastingwette, 2010, word hierby gewysig deur artikel 42 te herroep.

(2) Subsection (1) is deemed to have come 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 46 of Act 7 of 2010

164. (1) Section 46 of the Taxation Laws Amendment Act, 2010, is hereby amended by the substitution in subsection (2) for paragraph *(a)* of the following paragraph:

"*(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]** 2011; and".

(2) Subsection (1) is deemed to have come into operation on 24 August 2010.

Repeal of section 56 of Act 7 of 2010

165. (1) Section 56 of the Taxation Laws Amendment Act, 2010, is hereby repealed.

(2) Subsection (1) is deemed to have come into operation on 1 October 2011 and applies in respect of years of assessment commencing on or after that date.

Amendment of section 137 of Act 7 of 2010

166. (1) Section 137 of the Taxation Laws Amendment Act, 2010, is hereby amended by the deletion of paragraph *(g)*.

(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 138 of Act 7 of 2010

167. (1) Section 138 of the Taxation Laws Amendment Act, 2010, is hereby amended by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* by the deletion in subsection (1) of **[paragraph]** paragraphs *(c)* and *(d)*; and".

(2) Subsection (1) is deemed to have come into operation on 24 August 2010.

Amendment of section 145 of Act 7 of 2010

168. (1) Section 145 of the Taxation Laws Amendment Act, 2010, is hereby amended by the substitution for subsections (2) and (3) of the following subsections:

"(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]** the date of promulgation of this Act.

(3) Paragraph *(b)* of subsection (1) is deemed to have come into operation on **[1 October 2009]** 1 January 2011.".

(2) Subsection (1) is deemed to have come into operation on 24 August 2010.

Special zero-rating in respect of goods and services supplied by Cricket South Africa

169. (1) The supply of goods and services by Cricket South Africa in respect of the hosting of—

(a) the International Cricket Council Championship Trophy South Africa 2009 event shall be subject to value-added tax imposed in terms of section 7(1) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), at the rate of zero per cent to the extent that the consideration for that supply is received from the International Cricket Council; and

(b) the Champions League Twenty20 (2010) event shall be subject to value-added tax imposed in terms of section 7(1) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), at the rate of zero per cent to the extent that the consideration for that supply is received from the Governing Council of the Champions League Twenty20.

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 April 2009.

(2) Subartikel (1) word geag in werking te getree het 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 46 van Wet 7 van 2010

164. (1) Artikel 46 van die Wysigingswet op Belastingwette, 2010, word hierby gewysig deur in subartikel (2) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(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]** 2011 begin; en".

(2) Subartikel (1) word geag op 24 Augustus 2010 in werking te getree het.

Herroeping van artikel 56 van Wet 7 van 2010

165. (1) Artikel 56 van die Wysigingswet op Belastingwette, 2010, word hierby herroep.

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

Wysiging van artikel 137 van Wet 7 van 2010

166. (1) Artikel 137 van die Wysigingswet op Belastingwette, 2010, word hierby gewysig deur paragraaf *(g)* te skrap.

(2) Subartikel (1) word geag op 1 Maart 2010 in werking te getree het en is van toepassing ten opsigte van 'n minerale hulpbron op of na daardie datum oorgedra.

Wysiging van artikel 138 van Wet 7 van 2010

167. (1) Artikel 138 van die Wysigingswet op Belastingwette, 2010, word hierby gewysig deur in subartikel (1) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* deur in subartikel (1) **[paragraaf]** paragrawe *(c)* en *(d)* te skrap; en".

(2) Subartikel (1) word geag op 24 Augustus 2010 in werking te getree het.

Wysiging van artikel 145 van Wet 7 van 2010

168. (1) Artikel 145 van die Wysigingswet op Belastingwette, 2010, word hierby gewysig deur subartikels (2) en (3) deur die volgende subartikels te vervang—

"(2) Paragraaf *(a)* van subartikel (1) tree op **[1 Januarie 2011]** die datum van afkondiging van hierdie Wet 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]** 1 Januarie 2011 in werking te getree het.".

(2) Subartikel (1) word geag op 24 Augustus 2010 in werking te getree het.

Spesiale nulskaling ten opsigte van goed en dienste gelewer deur Krieket Suid-Afrika

169. (1) Die lewering van goed en dienste deur Krieket Suid-Afrika ten opsigte van die plaasneming van—

(a) die Internasionale Krieketraad se Kampioenskapbeker Suid-Afrika 2009-gebeurtenis is onderhewig aan belasting op toegevoegde waarde gehef ingevolge artikel 7(1) van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), teen die koers van nul persent, namate die vergoeding vir daardie lewering van die Internasionale Krieketraad ontvang word; en

(b) die Kampioenskapliga Twintig20 (2010)-gebeurtenis is onderhewig aan belasting op toegevoegde waarde gehef ingevolge artikel 7(1) van die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991), teen die koers van nul persent, namate die vergoeding vir daardie lewering van die Beheerraad van die Kampioenskapliga Twintig20 ontvang word.

(2) Paragraaf *(a)* van subartikel (1) word geag op 1 April 2009 in werking te getree het.

(3) Paragraph *(b)* of subsection (1) is deemed to have come into operation on 1 April 2010.

Short title and commencement

170. (1) This Act is called the Taxation Laws Amendment Act, 2011.

(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 2012.

(3) Paragraaf *(b)* van subartikel (1) word geag op 1 April 2010 in werking te getree het.

Kort titel en inwerkingtreding

170. (1) Hierdie Wet heet die Wysigingswet op Belastingwette, 2011.

(2) Tensy in 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 2012 eindig.

Appendix I

(Section 6)

RATES OF NORMAL TAX AND REBATES

1. The rate of tax referred to in section 6(1) of this Act to be levied in respect of the taxable income (excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit or severance 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 2011 is set out in the table below:

Taxable income	Rate of tax
Not exceeding R150 000	18 per cent of taxable income
Exceeding R150 000 but not exceeding R235 000	R27 000 plus 25 per cent of amount by which taxable income exceeds R150 000
Exceeding R235 000 but not exceeding R325 000	R48 250 plus 30 per cent of amount by which taxable income exceeds R235 000
Exceeding R325 000 but not exceeding R455 000	R75 250 plus 35 per cent of amount by which taxable income exceeds R325 000
Exceeding R455 000 but not exceeding R580 000	R120 750 plus 38 per cent of amount by which taxable income exceeds R455 000
Exceeds R580 000	R168 250 plus 40 per cent of amount by which taxable income exceeds R580 000

2.

Description	Reference to Income Tax Act, 1962	Amount
Primary rebate	Section 6(2)*(a)*	R10 755
Secondary rebate	Section 6(2)*(b)*	R6 012
Tertiary rebate	Section 6(2)*(c)*	R2 000

3. The rate of tax referred to in section 6(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 29 February 2012 is 40 per cent.

4. The rate of tax referred to in section 6(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 2012 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 6)

SKALE VAN NORMALE BELASTING EN KORTINGS

1. Die skaal van belasting bedoel in artikel 6(1) van hierdie Wet wat gehef word ten opsigte van die belasbare inkomste (met uitsondering van enige uittreefonds enkelbedragvoordeel, uittreefonds enkelbedragonttrekkingsvoordeel of skeidingsvoordeel) 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 2011 begin, word in die table hieronder uiteengesit:

Belasbare inkomste	**Skaal van belasting**
Nie R150 000 te bowe gaan nie	18 persent van belasbare inkomste
R150 000 te bowe gaan maar nie R235 000 nie	R27 000 plus 25 persent van bedrag waarmee belasbare inkomste R150 000 te bowe gaan
R235 000 te bowe gaan maar nie R325 000 nie	R48 250 plus 30 persent van bedrag waarmee belasbare inkomste R235 000 te bowe gaan
R325 000 te bowe gaan maar nie R455 000 nie	R75 250 plus 35 persent van bedrag waarmee belasbare inkomste R325 000 te bowe gaan
R455 000 te bowe gaan maar nie R580 000 nie	R120 750 plus 38 persent van bedrag waarmee belasbare inkomste R455 000 te bowe gaan
R580 000 te bowe gaan	R168 250 plus 40 persent van bedrag waarmee belasbare inkomste R580 000 te bowe gaan

2.

Beskrywing	**Verwysing na Inkomstebelastingwet, 1962**	**Bedrag**
Primêre korting	Artikel 6(2)*(a)*	R10 755
Sekondêre korting	Artikel 6(2)*(b)*	R6 012
Tersiêre korting	Artikel 6(2)*(c)*	R2 000

3. Die skaal van belasting bedoel in artikel 6(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 29 Februarie 2012 eindig, is 40 persent.

4. Die skaal van belasting bedoel in artikel 6(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 kleinsakekorporasie bedoel in paragraaf 6) ten opsigte van enige jaar van aanslag wat eindig gedurende die tydperk van 12 maande wat op 31 Maart 2012 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 subparagrawe *(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 6(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 2012; or

(b) in the case of an organisation that is a trust, in respect of any year of assessment ending on 29 February 2012.

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 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 2012 is, subject to the provisions of paragraph 11, set out in the table below:

Taxable income	**Rate of tax**
Not exceeding R59 750	0 per cent of taxable income
Exceeding R59 750 but not exceeding R300 000	10 per cent of amount by which taxable income exceeds R59 750
Exceeding R300 000	R24 025 plus 28 per cent of amount by which taxable income exceeds R300 000

$$y = 43 - \frac{215}{x}$$

in welke formules *y* bedoelde persentasie voorstel en *x* die verhouding is, as 'n persentasie uitgedruk, waarin die aldus verkreë belasbare 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 belasbare 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 belasbare inkomste vir die tydperk van aanslag nie op 'n vasgestelde verlies uitloop nie, wat volgens die 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 belasbare 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 belasbare inkomste te deel;

(d) ten opsigte van die belasbare 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 belasbare 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 belasbare inkomste (behalwe belasbare inkomste bedoel in subparagrawe *(b)*, *(c)*, *(d)*, *(e)* en *(g)*) verkry deur 'n maatskappy wat nie 'n inwoner is nie, 33 persent; en

(g) ten opsigte van die belasbare inkomste verkry deur 'n kwalifiserende maatskappy beoog in artikel 37H van die Inkomstebelastingwet, 1962, behoudens die bepalings van gemelde artikel, nul persent.

5. Die skaal van belasting bedoel in artikel 6(1) van hierdie Wet wat gehef word ten opsigte van die belasbare 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 2012 eindig; of

(b) in die geval van 'n organisasie wat 'n trust is, ten opsigte van 'n jaar van aanslag wat op 29 Februarie 2012 eindig.

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 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 2012 eindig, word, behoudens die bepalings van paragraaf 11, in die tabel hieronder uiteengesit:

Belasbare inkomste	**Skaal van belasting**
Nie R59 750 te bowe gaan nie	0 persent van belasbare inkomste
R59 750 te bowe gaan maar nie R300 000 nie	10 persent van bedrag waarmee belasbare inkomste R59 750 te bowe gaan
R300 000 te bowe gaan	R24 025 plus 28 persent van bedrag waarmee belasbare inkomste R300 000 te bowe gaan

7. The rate of tax referred to in section 6(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 2012 is set out in the table below:

Taxable turnover	**Rate of tax**
Not exceeding R150 000	0 per cent of taxable turnover
Exceeding R150 000 but not exceeding R300 000	1 per cent of amount by which taxable turnover exceeds R150 000
Exceeding R300 000 but not exceeding R500 000	R1 500 plus 2 per cent of amount by which taxable turnover exceeds R300 000
Exceeding R500 000 but not exceeding R750 000	R5 500 plus 4 per cent of amount by which taxable turnover exceeds R500 000
Exceeding R750 000	R15 500 plus 6 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 2011, the rate of tax referred to in section 6(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)*;

(dd) severance benefits received by or accrued to that person on or after 1 March 2011 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)*;

(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)*; and

(cc) severance benefits received by or accrued to that person on or after 1 March 2011 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 2011, the rate of tax referred to in section 6(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;

(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)*;

7. Die skaal van belasting bedoel in artikel 6(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 2012 eindig, word in die tabel hieronder uiteengesit:

Belasbare omset	**Skaal van belasting**
Nie R150 000 te bowe gaan nie	0 persent van belasbare omset
R150 000 te bowe gaan maar nie R300 000 nie	1 persent van bedrag waarmee belasbare omset R150 000 te bowe gaan
R300 000 te bowe gaan maar nie R500 000 nie	R1 500 plus 2 persent van bedrag waarmee belasbare omset R300 000 te bowe gaan
R500 000 te bowe gaan maar nie R750 000 nie	R5 500 plus 4 persent van bedrag waarmee belasbare omset R500 000 te bowe gaan
R750 000 te bowe gaan	R15 500 plus 6 persent van bedrag waarmee belasbare omset R750 000 te bowe gaan

8. *(a)* (i) Indien 'n uittreefonds enkelbedragonttrekkingsvoordeel toeval aan 'n persoon in enige jaar van aanslag wat op of na 1 Maart 2011 begin, word die skaal van belasting bedoel in artikel 6(1) van hierdie Wet wat gehef word op daardie persoon ten opsigte van belasbare inkomste wat bestaan uit die totaal van—

(aa) daardie uittreefonds enkelbedragonttrekkingsvoordeel;

(bb) uittreefonds enkelbedragonttrekkingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2009 en voor die toevalling van die uittreefonds enkelbedragonttrekkingsvoordeel 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 enkelbedragonttrekkingsvoordeel beoog in subitem *(aa)*;

(dd) skeidingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2011 en voor die toevalling van die uittreefonds 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) uittreefonds enkelbedragonttrekkingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2009 en voor die toevalling van die uittreefonds enkelbedragonttrekkingsvoordeel beoog in item (i)*(aa)*;

(bb) uittreefonds enkelbedragvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Oktober 2007 en voor die toevalling van die uittreefonds enkelbedragonttrekkingsvoordeel beoog in item (i)*(aa)*; en

(cc) skeidingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2011 en voor die toevalling van die uittreefonds enkelbedragonttrekkingsvoordeel beoog in item (i)*(aa)*.

(b) (i) Indien 'n uittreefonds enkelbedragvoordeel toeval aan 'n persoon in enige jaar van aanslag wat op of na 1 Maart 2011 begin, word die skaal van belasting bedoel in artikel 6(1) van hierdie Wet wat gehef word op daardie persoon ten opsigte van belasbare inkomste wat bestaan uit die totaal van—

(aa) daardie uittreefonds enkelbedragvoordeel;

(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)*;

(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)*; and

(dd) severance benefits received by or accrued to that person on or after 1 March 2011 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 R315 000	0 per cent of taxable income
Exceeding R315 000 but not exceeding R630 000	R0 plus 18 per cent of taxable income exceeding R315 000
Exceeding R630 000 but not exceeding R945 000	R56 700 plus 27 per cent of taxable income exceeding R630 000
Exceeding R945 000	R141 750 plus 36 per cent of taxable income exceeding R945 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)*;

(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)*; and

(cc) severance benefits received by or accrued to that person on or after 1 March 2011 and prior to the accrual of the retirement fund lump sum benefit contemplated in item (i)*(aa)*.

(c) (i) If a severance benefit accrues to a person in any year of assessment commencing on or after 1 March 2011, the rate of tax referred to in section 6(1) of this Act to be levied on that person in respect of taxable income comprising the aggregate of—

(aa) that severance benefit;

(bb) severance benefits received by or accrued to that person on or after 1 March 2011 and prior to the accrual of the severance benefit contemplated in subitem *(aa)*;

(cc) 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 severance benefit contemplated in subitem *(aa)*; and

(dd) 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 severance benefit contemplated in subitem *(aa)*,

is set out in the table below:

Taxable income from severance benefits	**Rate of tax**
Not exceeding R315 000	0 per cent of taxable income
Exceeding R315 000 but not exceeding R630 000	R0 plus 18 per cent of taxable income exceeding R315 000
Exceeding R630 000 but not exceeding R945 000	R56 700 plus 27 per cent of taxable income exceeding R630 000
Exceeding R945 000	R141 750 plus 36 per cent of taxable income exceeding R945 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) severance benefits received by or accrued to that person prior to the accrual of the severance benefit contemplated in item (i)*(aa)*;

(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)*; en

(dd) skeidingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2011 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 R315 000 te bowe gaan nie	0 persent van belasbare inkomste
R315 000 te bowe gaan maar nie R630 000 nie	R0 plus 18 persent van belasbare inkomste wat R315 000 te bowe gaan
R630 000 te bowe gaan maar nie R945 000 nie	R56 700 plus 27 persent van belasbare inkomste wat R630 000 te bowe gaan
R945 000 te bowe gaan	R141 750 plus 36 persent van belasbare inkomste wat R945 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) 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)*;

(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)*; en

(cc) skeidingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2011 en voor die toevalling van die uittreefonds enkelbedragonttrekkingsvoordeel beoog in item (i)*(aa)*.

(c) (i) Indien 'n skeidingsvoordeel toeval aan 'n persoon in enige jaar van aanslag wat op of na 1 Maart 2011 begin, word die skaal van belasting bedoel in artikel 6(1) van hierdie Wet wat gehef word op daardie persoon ten opsigte van belasbare inkomste wat bestaan uit die totaal van—

(aa) daardie skeidingsvoordeel;

(bb) skeidingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2011 en voor die toevalling van die skeidingsvoordeel beoog in subitem *(aa)*;

(cc) uittreefonds enkelbedragonttrekkingsvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Maart 2009 en voor die toevalling van die skeidingsvoordeel beoog in subitem *(aa)*; en

(dd) uittreefonds enkelbedragvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Oktober 2007 en voor die toevalling van die skeidingsvoordeel beoog in subitem *(aa)*,

in die tabel hieronder uiteengesit:

Belasbare inkomste uit skeidingsvoordele	**Skaal van belasting**
Nie R315 000 te bowe gaan nie	0 persent van belasbare inkomste
R315 000 te bowe gaan maar nie R630 000 nie	R0 plus 18 persent van belasbare inkomste wat R315 000 te bowe gaan
R630 000 te bowe gaan maar nie R945 000 nie	R56 700 plus 27 persent van belasbare inkomste wat R630 000 te bowe gaan
R945 000 te bowe gaan	R141 750 plus 36 persent van belasbare inkomste wat R945 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) skeidingsvoordele ontvang deur of toegeval aan daardie persoon voor die toevalling van die skeidingsvoordeel beoog in item (i)*(aa)*;

(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 severance benefit contemplated in item (i)*(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 severance 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 skeidingsvoordeel beoog in item (i)*(aa)*; en

(cc) uittreefonds enkelbedragvoordele ontvang deur of toegeval aan daardie persoon op of na 1 Oktober 2007 en voor die toevalling van die skeidingsvoordeel 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 in enige inkomste verkry uit silwer, osmiridium, uraan, piriet of ander mineralewat in die loop van myn van goud gewin word en enige ander inkomste wat regstreeks uit die myn van goud voortvloei.

Appendix II

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

(Section 127)

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	R53,97/li aa	R53,97/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	R6,97/li	R6,97/li
.03		Unfortified wine of heading 22.04, with an alcoholic strength by volume exceeding 6,5 per cent vol. but not exceeding 16,5 per cent vol.	R2,32/li	R2,32/li
.04		Unfortified wine of heading 22.05, with an alcoholic strength by volume exceeding 6,5 per cent vol. but not exceeding 15 per cent vol.	R2,32/li	R2,32/li
.05		Fortified wine of heading 22.04 and 22.05 with an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 22 per cent vol.	R4,33/li	R4,33/li
.06		Other	R93,03/li aa	R93,03/li aa
104.17	22.06	**Other fermented beverages (for example cider, perry and mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included:**		
.03		Sparkling beverages	R6,97/li	R6,97/li
.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, with an alcoholic strength by volume not exceeding 9 per cent vol.	R2,71/li	R2,71/li

Aanhangsel II

WYSIGING VAN BYLAE NO. 1 BY DOEANE- EN AKSYNSWET, 1964

(Artikel 127)

Tarief-item	Tariefpos	Beskrywing	Skaal van reg	
			Aksyns	Doeane
104.00		**Bereide voedsels; dranke, 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 Afrikaan bierpoeier 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 Afrikaan bier soos omskryf in Addisionele Opmerking 1 by Hoofstuk 22	7,82 c/li	7,82 c/li
.20		Ander	R53,97/li aa	R53,97/li aa
104.15	22.04	**Wyn van vars druiwe, met inbegrip van gefortifiseerde wyne; druiwemos (uitgesonderd dié van pos 20.09):**		
	22.05	**Vermoet en ander wyn van vars druiwe met plante of ander aromatiese stowwe gegeur:**		
.02		Vonkelwyn	R6,97/li	R6,97/li
.03		Ongefortifiseerde wyn van pos 22.04, met 'n alkoholiese sterkte by volume wat 6,5 persent vol. te bowe gaan maar nie 16,5 persent vol. nie	R2,32/li	R2,32/li
.04		Ongefortifiseerde wyn van pos 22.05, met 'n alkoholiese sterkte by volume wat 6,5 persent vol. te bowe gaan maar nie 15 persent vol. nie	R2,32/li	R2,32/li
.05		Gefortifiseerde wyn van pos 22.04 en 22.05 met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 22 persent vol. nie	R4,33/li	R4,33/li
.06		Ander	R93,03/li aa	R93,03/li aa
104.17	22.06	**Ander gegiste dranke (byvoorbeeld appelsider, peersider en mee); mengsels van gegiste dranke en mengsels van gegiste dranke en nie-alkoholiese dranke, nie elders vermeld of ingesluit nie:**		
.03		Vonkeldranke	R6,97/li	R6,97/li
.05		Tradisionele Afrikaan bier soos omskryf in Addisionele Opmerking 1 by Hoofstuk 22	7,82 c/li	7,82 c/li
.15		Ander gegiste dranke, ongefortifiseer, met 'n alkoholiese sterkte by volume wat nie 9 persent vol. te bowe gaan nie	R2,71/li	R2,71/li

Tariff Item	Tariff heading	Description	Rate of duty	
			Excise	**Customs**
.16		Other fermented beverages, unfortified, with an alcoholic strength by volume exceeding 9 per cent vol. but not exceeding 15 per cent vol.	R2,71/li	R2,71/li
.17		Other fermented beverages, fortified, with an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R38,00/ li aa	R38,00/ li aa
.22		Other, mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	R2,71/ li	R2,71/ li
.25		Other, mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, with an alcoholic strength by volume exceeding 9 per cent vol. but not exceeding 15 per cent vol.	R2,71/ li	R2,71/ li
.90		Other	R93.03/li aa	R93.03/li aa
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	R93,03/ li aa	R93,03/ li aa
.15		Spirits, manufactured by the distillation of any sugar cane product	R93,03 /li aa	R93,03/ li aa
.25		Spirits, manufactured by the distillation of any grain product	R93,03/ li aa	R93,03/ li aa
.29		Other spirits	R93,03/ li aa	R93,03/ li aa
		Liqueurs and other spirituous beverages:		
.41		With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R38,00/li aa	R38,00/ li aa
.42		Other	R93,03/ li aa	R93,03/ li aa
104.30	24.02	**Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:**		
	2402.10	Cigars, cheroots and cigarillos containing tobacco:		
.01	2402.10.10	Imported from Switzerland	N/A	R2 196,65/ kg net
.03	2402.10.90	Other	R2 196,65/ kg net	R2 196,65/ kg net
	2402.20	Cigarettes containing tobacco		
.05	2402.20.10	Imported from Switzerland	N/A	R4,87/10 cigarettes
.07	2402.20.90	Other	R4,87/10 cigarettes	R4,87/10 cigarettes
	2402.90.1	Cigars, cheroots and cigarillos of tobacco substitutes:		
.09	2402.90.12	Imported from Switzerland	N/A	R2 196,65/ kg net
.11	2402.90.14	Other	R2 196,65/ kg net	R2 196,65/ kg net
	2402.90.2	Cigarettes of tobacco substitutes:		

Tarief-item	Tariefpos	Beskrywing	Skaal van reg	
			Aksyns	**Doeane**
.16		Ander gegiste dranke, ongefortifiseer, met 'n alkoholiese sterkte by volume wat 9 persent vol. te bowe gaan maar nie 15 persent vol. nie	R2,71/li	R2,71/li
.17		Ander gegiste dranke, gefortifiseer, met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 23 persent vol. nie	R38,00/ li aa	R38,00/ li aa
.22		An der, mengsels van gegiste dranke en mengsels van gegiste dranke en nie-alkoholiese dranke	R2,71/ li	R2,71/ li
.25		Ander, mengsels van gegiste dranke en mengsels van gegiste dranke en nie-alkoholiese dranke, met 'n alkoholiese sterkte by volume wat 9 persent vol. te bowe gaan maar nie 15 persent vol. nie	R2,71/ li	R2,71/ li
.90		Ander	R93.03/li aa	R93.03/li aa
104.20	22.07	**Ongedenatureerde etielalkohol met 'n alkoholiese sterkte by volume van 80 persent volume of meer; etielalkohol en ander spiritusse, gedenatureer, van enige sterkte:**		
	22.08	**Ongedenatureerde etielalkohol met 'n alkoholiese sterkte by volume van minder as 80 persent volume; spiritus, likeure en ander spiritus dranke:**		
.10		Wynspiritus, vervaardig deur die distillering van wyn	R93,03/ li aa	R93,03/ li aa
.15		Spiritus, vervaardig deur die distillering van enige suikerrietproduk	R93,03 /li aa	R93,03/ li aa
.25		Spiritus, vervaardig deur die distillering van enige graanproduk	R93,03/ li aa	R93,03/ li aa
.29		Ander spiritus	R93,03/ li aa	R93,03/ li aa
		Likeure en ander spiritus dranke:		
.41		Met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 23 persent vol. nie	R38,00/li aa	R38,00/ li aa
.42		Ander	R93,03/ li aa	R93,03/ li aa
104.30	24.02	**Sigare, seroete, sigarillos en sigarette, van tabak of van tabaksurrogate:**		
	2402.10	Sigare, seroete en sigarillos wat tabak bevat:		
.01		Ingevoer uit Switserland	N/A	R2 196,65/ kg net
.03		Ander	R2 196,65/ kg net	R2 196,65/ kg net
	2402.20	Sigarette wat tabak bevat		
.05	2402.20.10	Ingevoer uit Switserland	N/A	R4,87/10 sigarette
.07	2402.20.90	Ander	R4,87/10 sigarette	R4,87/10 sigarette
	2402.90.1	Sigare, seroete en sigarillos van tabaksurrogate:		
.09	2402.90.12	Ingevoer uit Switserland	N/A	R2 196,65/ kg net
.11	2402.90.14	Ander	R2 196,65/ kg net	R2 196,65/ kg net
	2402.90.20	Sigarette van tabaksurrogate:		

Tariff Item	Tariff heading	Description	Rate of duty	
			Excise	**Customs**
.13	2402.90.22	Imported from Switzerland	N/A	R4,87/10 cigarettes
.15	2402.90.24	Other	R4,9/10 cigarettes	R4,9/10 cigarettes
104.35	24.03	**Other manufactured tobacco and manufactured tobacco substitutes; “homogenised” or “reconstituted” tobacco; tobacco extracts and es-sences:**		
	2403.10	Smoking tobacco, whether or not containing tobacco substitutes in any proportions:		
.01	2403.10.10	Pipe tobacco, in immediate packings of a content of less than 5 kg	R119,16/ kg net	R119,16/ kg net
.03	2403.10.20	Other pipe tobacco	R119,16/ kg net	R119,16/ kg net
.05	2403.10.30	Cigarette tobacco	R210,51/ kg	R210,51 / kg
	2403.99	Other:		
.07	2403.99.30	Other cigarette tobacco substitutes	R210,51/ kg	R210,51/ kg
.09	2403.99.40	Other pipe tobacco substitutes	R119,16/ kg net	R119,16/ kg net

Tarief-item	Tariefpos	Beskrywing	Skaal van reg	
			Aksyns	**Doeane**
.13	2402.90.22	Ingevoer uit Switserland	N/A	R4,87/10 sigarette
.15	2402.90.24	Ander	R4,9/10 sigarette	R4,9/10 sigarette
104.35	24.03	**Ander vervaardigde tabak en vervaardigde tabaksurrogate; "gehomogeniseerde" of "hersaamgestelde" tabak; tabak ekstrakte en essense:**		
	2403.10	Rooktabak, ongeag of dit tabaksurrogate in enige verhoudings bevat:		
.01	2403.10.10	Pyptabak, in onmiddellike verpakkings van 'n inhoud van minder as 5 kg	R119,16/ kg net	R119,16/ kg net
.03	2403.10.20	Ander pyptabak	R119,16/ kg net	R119,16/ kg net
.05	2403.10.30	Sigarettabak	R210,51/ kg	R210,51/ kg
	2403.99	Ander:		
.07	2403.99.30	Ander sigarettabak surrogate	R210,51/ kg	R210,51 / kg
.09	2403.99.40	Ander pyptabak surrogate	R119,16/ kg net	R119,16/ kg net

Appendix III

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

(Section 127)

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 5per cent by mass of cocoa calculated on a totally defatted basis not elsewhere specified or included:**		
104.01.10	1901.90.20	Traditional African beer powder as defined in Additional Note 1 to Chapter 19	34,7c/kg	34,7c/kg
104.10	22.03	**Beer made from malt:**		
104.10.10	2203.00.05	Traditional African beer as defined in Additional Note 1 to Chapter 22	7,82c/li	7,82c/li
104.10.20	2203.00.90	Other	R53,97/li aa	R53,97/li aa
104.15	22.04	**Wine of fresh grapes, including fortified wines; grape must (excluding that of heading 20.09):**		
104.15.01	2204.10	Sparkling wine:	R6,97/li	R6,97/li
	2204.21	In containers holding 2li or less:		
	2204.21.4	Unfortified wine:		
104.15.03	2204.21.41	With an alcoholic strength by volume exceeding 6,5 per cent vol. but not exceeding 16,5 per cent vol.	R2,32/li	R2,32/li
104.15.04	2204.21.42	Other	R93,03/li aa	R93,03/li aa
	2204.21.5	Fortified wine:		
104.15.05	2204.21.51	With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 22 per cent vol.	R4,33/li	R4,33/li
104.15.06	2204.21.52	Other	R93,03/li aa	R93,03/li aa
	2204.29	Other:		
	2204.29.4	Unfortified wine:		
104.15.07	2204.29.41	With an alcoholic strength by volume exceeding 6,5 per cent vol. but not exceeding 16,5 per cent vol.	R2,32/li	R2,32/li
104.15.08	2204.29.42	Other	R93,03/li aa	R93,03/li aa
	2204.29.5	Fortified wine:		
104.15.09	2204.29.51	With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 22 per cent vol.	R4,33/li	R4,33/li
104.15.10	2204.29.52	Other	R93,03/li aa	R93,03/li aa
104.16	22.05	**Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:**		
	2205.10	In containers holding 2li or less:		
104.16.01	2205.10.10	Sparkling	R6,97/li	R6,97/li
	2205.10.2	Unfortified:		

Aanhangsel III

WYSIGING VAN BYLAE NO. 1 BY DOEANE- EN AKSYNSWET, 1964

(Artikel 127)

Tarief-item	Tariefpos	Beskrywing	Skaal van reg	
			Aksyns	Doeane
104.00		**Bereide voedsels; dranke, 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 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 minder as 5 persent volgens massa van kakao bevat, bereken op 'n totaal ontvette basis, nie elders vermeld of ingesluit nie:**		
104.01.10	1901.90.20	Tradisionele Afrikaan bierpoeier soos omskryf in Addisionele Opmerking 1 by Hoofstuk 19	34,7c/kg	34,7c/kg
104.10	22.03	**Bier van mout gemaak:**		
104.10.10	2203.00.05	Tradisionele Afrikaan bier soos omskryf in Addisionele Opmerking 1 by Hoofstuk 22	7,82c/li	7,82c/li
104.10.20	2203.00.90	Ander	R53,97/li aa	R53,97/li aa
104.15	22.04	**Wyn van vars druiwe, met inbegrip van gefortifiseerde wyne; druiwemos (uitgesonderd dié van pos 20.09):**		
104.15.01	2204.10	Vonkelwyn:	R6,97/li	R6,97/li
	2204.21	In houers wat 2li of minder bevat:		
	2204.21.4	Ongefortifiseerde wyn:		
104.15.03	2204.21.41	Met 'n alkoholiese sterkte by volume wat 6,5 persent vol. te bowe gaan maar nie 16,5 persent vol. nie	R2,32/li	R2,32/li
104.15.04	2204.21.42	Ander	R93,03/li aa	R93,03/li aa
	2204.21.5	Gefortifiseerde wyn:		
104.15.05	2204.21.51	Met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 22 persent vol. nie	R4,33/li	R4,33/li
104.15.06	2204.21.52	Ander	R93,03/li aa	R93,03/li aa
	2204.29	Ander:		
	2204.29.4	Ongefortifiseerde wyn:		
104.15.07	2204.29.41	Met 'n alkoholiese sterkte by volume wat 6,5 persent vol. te bowe gaan maar nie 16,5 persent vol. nie	R2,32/li	R2,32/li
104.15.08	2204.29.42	Ander	R93,03/li aa	R93,03/li aa
	2204.29.5	Gefortifiseerde wyn:		
104.15.09	2204.29.51	Met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 22 persent vol. nie	R4,33/li	R4,33/li
104.15.10	220 4.29.52	Ander	R93,03/li aa	R93,03/li aa
104.16	22.05	**Vermoet en ander wyn van vars druiwe met plante of ander aromatiese stowwe gegeur:**		
	2205.10	In houers wat 2li of minder bevat:		
104.16.01	2205.10.10	Vonkel	R6,97/li	R6,97/li
	2205.10.2	Ongefortifiseer:		

Tariff Item	Tariff heading	Description	Rate of duty	
			Excise	**Customs**
104.16.03	2205.10.21	With an alcoholic strength by volume exceeding 6,5 per cent vol. but not exceeding 15 per cent vol.	R2,32/li	R2,32/li
104.16.04	2205.10.22	Other	R93,03/li aa	R93,03/li aa
	2205.10.3	Fortified:		
104.16.05	2205.10.31	With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 22 per cent vol.	R4,33/li	R4,33/li
104.16.06	2205.10.32	Other	R93,03/li aa	R93,03/li aa
	2205.90	Other:		
	2205.90.2	Unfortified:		
104.16.09	2205.90.21	With an alcoholic strength by volume exceeding 6,5 per cent vol. but not exceeding 15 per cent vol.	R2,32/li	R2,32/li
104.16.10	2205.90.22	Other	R93,03/li aa	R93,03/li aa
	2205.90.3	Fortified:		
104.16.11	2205.90.31	With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 22 per cent vol.	R4,33/li	R4,33/li
104.16.12	2205.90.32	Other	R93,03/li aa	R93,03/li aa
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:**		
104.17.03	2206.00.05	Sparkling beverages	R6,97/li	R6,97/li
104.17.05	2206.00.15	Traditional African beer as defined in Additional Note 1 to Chapter 22	7,82c/li	7,82c/li
104.17.15	2206.00.81	Other fermented beverages, unfortified, with an alcoholic strength by volume not exceeding 9 per cent vol.	R2,71/li	R2,71/li
104.17.16	2206.00.82	Other fermented beverages, unfortified, with an alcoholic strength by volume exceeding 9 per cent vol. but not exceeding 15 per cent vol.	R2,71/li	R2,71/li
104.17.17	2206.00.83	Other fermented beverages, fortified, with an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R38,00/li aa	R38,00/li aa
104.17.22	2206.00.85	Other, mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, with an alcoholic strength by volume not exceeding 9 per cent vol.	R2,71/li	R2,71/li
104.17 .25	2206.00.87	Other, mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, with an alcoholic strength by volume exceeding 9 per cent vol. but not exceeding 15 per cent vol.	R2,71/li	R2,71/li
104.17.90	2206.00.90	Other	R93,03/li aa	R93,03/li aa
104.21	22.07	**Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent vol. or higher; ethyl alcohol and other spirits, denatured, of any strength:**		
104.21.01	2207.10	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent vol. or higher	R93,03/li aa	R93,03/li aa
104.21.03	2207.20	Ethyl alcohol and other spirits, denatured, of any strength	R93,03/li aa	R93,03/li aa

Tarief-item	Tariefpos	Beskrywing	Skaal van reg	
			Aksyns	Doeane
104.16.03	2205.10.21	Met 'n alkoholiese sterkte by volume wat 6,5 persent vol. te bowe gaan maar nie 15 persent vol. nie	R2,32/li	R2,32/li
104.16.04	2205.10.22	Ander	R93,03/li aa	R93,03/li aa
	2205.10.3	Gefortifiseer:		
104.16.05	2205.10.31	Met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 22 persent vol. nie	R4,33/li	R4,33/li
104.16.06	2205.10.32	Ander	R93,03/li aa	R93,03/li aa
	2205.90	Ander:		
	2205.90.2	Ongefortifiseer:		
104.16.09	2205.90.21	Met 'n alkoholiese sterkte by volume wat 6,5 persent vol. te bowe gaan maar nie 15 persent vol. nie	R2,32/li	R2,32/li
104.16.10	2205.99.22	Ander	R93,03/li aa	R93,03/li aa
	2205.90.3	Gefortifiseer:		
104.16 .11	2205.90.31	Met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 22 persent vol. nie	R4,33/li	R4,33/li
104.16.12	2205.90.32	Ander	R93,03/li aa	R93,03/li aa
104.17	22.06	**Ander gegiste dranke (byvoorbeeld appelsider, peersider, mee); mengsels van gegiste dranke and mengsels van gegiste dranke en nie-alkoholiese dranke, nie elders vermeld of ingesluit nie:**		
104.17.03	2206.00.05	Vonkeldranke	R6,97/li	R6,97/li
104.17.05	2206.00.15	Tradisionele Afrikaan bier soos omskryf in Addisionele Opmerking 1 by Hoofstuk 22	7,82c/li	7,82c/li
104.17.15	2206.00.81	Ander gegiste dranke, ongefortifiseer, met 'n alkoholiese sterkte by volume wat nie 9 persent vol. te bowe gaan nie	R2,71/li	R2,71/li
104.17.16	2206.00.82	Ander gegiste dranke, ongefortifiseer, met 'n alkoholiese sterkte by volume wat 9 persent vol. te bowe gaan maar nie 15 persent vol. nie	R2,71/li	R2,71/li
104.17.17	2206.00.83	Ander gegiste dranke, gefortifiseer, met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 23 persent vol. nie	R38,00/li aa	R38,00/li aa
104.17.22	2206.00.85	Ander, mengsels van gegiste dranke en mengsels van gegiste dranke en nie-alkoholiese dranke, met 'n alkoholiese sterkte by volume wat nie 9 persent vol. te bowe gaan nie	R2,71/li	R2,71/li
104.17.25	2206.00.87	Ander, mengsels van gegiste dranke en mengsels van gegiste dranke en nie-alkoholiese dranke, met 'n alkoholiese sterkte by volume wat 9 persent vol. te bowe gaan maar nie 15 persent vol. nie	R2,71/li	R2,71/li
104.17.90	2206.00.90	Ander	R93,03/li aa	R93,03/li aa
104.21	22.07	**Ongedenatureerde etielalkohol met 'n alkoholiese sterkte by volume van 80 persent vol. of meer; etielalkohol en ander spiritus, gedenatureer, van enige sterkte:**		
104.21.01	2207.10	Ongedenatureerde etielalkohol met 'n alkoholiese sterkte by volume van 80 persent vol. of meer	R93,03/li aa	R93,03/li aa
104.21.03	2207.20	Etielalkohol en ander spiritus, gedenatureer, van enige sterkte	R93,03/li aa	R93,03/li aa

Tariff Item	Tariff heading	Description	Rate of duty	
			Excise	Customs
104.23	22.08	**Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent vol.; spirits, liqueurs and other spirituous beverages:**		
	2208.20	Spirits obtained by distilling grape wine or grape marc:		
104.23.01	2208.20.10	In containers holding 2li or less	R93,03/li aa	R93,03/li aa
104.23.03	2208.20.90	Other	R93,03/li aa	R93,03/li aa
	2208.30	Whiskies:		
104.23.05	2208.30.10	In containers holding 2li or less	R93,03/li aa	R93,03/li aa
104.23.07	2208.30.90	Other	R93,03/li aa	R93,03/li aa
	2208.40	Rum and other spirits obtained by distilling fermented sugarcane products:		
104.23.09	2208.40.10	In containers holding 2li or less	R93,03/li aa	R93,03/li aa
104.23.11	2208.40.90	Other	R93,03/li aa	R93,03/li aa
	2208.50	Gin and Geneva:		
104.23.13	2208.50.10	In containers holding 2li or less	R93,03/li aa	R93,03/li aa
104.23.15	2208.50.90	Other	R93,03/li aa	R93,03/li aa
	2208.60	Vodka:		
104.23.17	2208.60.10	In containers holding 2li or less	R93,03/li aa	R93,03/li aa
104.23.19	2208.60.90	Other	R93,03/li aa	R93,03/li aa
	2208.70	Liqueurs and cordials:		
	2208.70.2	In containers holding 2li or less:		
104.23.21	2208.70.21	With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R38,00/li aa	R38,00/li aa
104.23.22	2208.70.22	Other	R93,03/li aa	R93,03/li aa
	2208.70.9	Other:		
104.23.23	2208.70.91	With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R38,00/li aa	R38,00/li aa
104.23.24	2208.70.92	Other	R93,03/li aa	R93,03/li aa
	2208.90	Other:		
	2208.90.2	In containers holding 2li or less:		
104.23.25	2208.90.21	With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R38,00/li aa	R38,00/li aa
104.23.26	2208.90.22	Other	R93,03/li aa	R93,03/li aa
	2208.90.9	Other:		
104.23.27	2208.90.91	With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R38,00/li aa	R38,00/li aa
104.23.28	2208.90.92	Other	R93,03/li aa	R93,03/li aa
104.30	24.02	**Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:**		
	2402.10	Cigars, cheroots and cigarillos, containing tobacco:		
104.30.01	2402.10.10	Imported from Switzerland	N/A	R2 196,65/ kg net
104.30.03	2402.10.90	Other	R2 196,65/ kg net	R2 196,65/ kg net
	2402.20	Cigarettes containing tobacco:		
104.30.05	2402.20.10	Imported from Switzerland	N/A	R4,87/10 cigarettes
104.30.07	2402.20.90	Other	R4,87/10 cigarettes	R4,87/10 cigarettes
	2402.90.1	Cigars, cheroots and cigarillos of tobacco substitutes:		

Tarief-item	**Tariefpos**	**Beskrywing**	**Skaal van reg**	
			Aksyns	**Doeane**
104.23	22.08	**Ongedenatureerde etielalkohol met 'n alkoholiese sterkte by volume van minder as 80 persent vol.; spiritus, likeure en ander spiritus dranke:**		
	2208.20	Spiritus verkry deur druiwewyn of druiwe marc te distilleer:		
104.23.01	2208.20.10	In houers wat 2li of minder bevat	R93,03/li aa	R93,03/li aa
104.23.03	2208.20.90	Ander	R93,03/li aa	R93,03/li aa
	2208.30	Whiskies:		
104.23.05	2208.30.10	In houers wat 2li of minder bevat	R93,03/li aa	R93,03/li aa
104.23.07	2208.30.90	Ander	R93,03/li aa	R93,03/li aa
	2208.40	Rum en ander spiritus verkry deur gefermenteerde suikerrietprodukte te distilleer:		
104.23.09	2208.40.10	In houers wat 2li of minder bevat	R93,03/li aa	R93,03/li aa
104.23.09	2208.40.90	Ander	R93,03/li aa	R93,03/li aa
	2208.50	Gin en Geneva:		
104.23.13	2208.50.10	In houers wat 2li of minder bevat	R93,03/li aa	R93,03/li aa
104.23.15	2208.50.90	Ander	R93,03/li aa	R93,03/li aa
	2208.60	Vodka:		
104.23.17	2208.60.10	In houers wat 2li of minder bevat	R93,03/li aa	R93,03/li aa
104.23.19	2208.60.90	Ander	R93,03/li aa	R93,03/li aa
	2208.70	Likeure en strope:		
	2208.70.2	In houers wat 2li of minder bevat:		
104.23.21	2208.70.21	Met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 23 persent vol. nie	R38,00/li aa	R38,00/li aa
104.23.22	2208.70.22	Ander	R93,03/li aa	R93,03/li aa
	2208.70.9	Ander:		
104.23.23	2208.70.91	Met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 23 persent vol. nie	R38,00/li aa	R38,00/li aa
104.23.24	2208.70.92	Ander	R93,03/li aa	R93,03/li aa
	2208.90	Ander:		
	2208.90.2	In houers wat 2li of minder bevat:		
104.23.25	220 8.90.21	Met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 23 persent vol. nie	R38,00/li aa	R38,00/li aa
104.23.26	2208.90.22	Ander	R93,03/li aa	R93,03/li aa
	2208.90.9	Ander:		
104.23.27	2208.90.91	Met 'n alkoholiese sterkte by volume wat 15 persent vol. te bowe gaan maar nie 23 persent vol. nie	R38,00/li aa	R38,00/li aa
104.23.28	2208.90.92	Ander	R93,03/li aa	R93,03/li aa
104.30	24.02	**Sigare, seroete, sigarillos en sigarette, van tabak of van tabaksurrogate:**		
	2402.10	Sigare, seroete en sigarillos, wat tabak bevat:		
104.30.01	2402.10.10	Ingevoer uit Switserland	N/A	R2 196,65/ kg net
104.30.03	2402.10.90	Ander	R2 196,65/ kg net	R2 196,65/ kg net
	2402.20	Sigarette wat tabak bevat:		
104.30.05	2402.20.10	Ingevoer uit Switserland	N/A	R4,87/10 sigarette
104.30.07	2402.20.90	Ander	R4,87/10 sigarette	R4,87/10 sigarette
	2402.90.1	Sigare, seroete en sigarillos van tabaksurrogate:		

Tariff Item	**Tariff heading**	**Description**	**Rate of duty**	
			Excise	**Customs**
104.30.09	2402.90.12	Imported from Switzerland	N/A	R2 196,65/ kg net
104.30.11	2402.90.14	Other	R2 196,65/ kg net	R2 196,65/ kg net
	2402.90.2	Cigarettes of tobacco substitutes:		
104.30.13	2402.90.22	Imported from Switzerland	N/A	R4,87/10 cigarettes
104.30.15	2402.90.24	Other	R4,87/10 cigarettes	R4,87/10 cigarettes
104.35	24.03	**Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:**		
	2403.10	Smoking tobacco, whether or not containing tobacco substitutes in any proportions:		
104.35.01	2403.10.10	Pipe tobacco, in immediate packings of a content of less than 5 kg	R119,16/ kg net	R119,16/ kg net
104.35.03	2403.10.20	Other pipe tobacco	R119,16/ kg net	R119,16/ kg net
104.35.05	2403.10.30	Cigarette tobacco	R210,51/ kg	R210,51/ kg
	2403.99	Other:		
104.35.07	2403.99.30	Other cigarette tobacco substitutes	R210,51/ kg	R210,51/ kg
104.35.09	2403.99.40	Other pipe tobacco substitutes	R119,16/ kg net	R119,16/ kg net

Tarief-item	**Tariefpos**	**Beskrywing**	**Skaal van reg**	
			Aksyns	**Doeane**
104.30.09	2402.90.12	Ingevoer uit Switserland	N/A	R2 196,65/ kg net
104.30.11	2402.90.14	Ander	R2 196,65/ kg net	R2 196,65/ kg net
	2402.90.2	Sigarette van tabaksurrogate:		
104.30.13	2402.90.22	Ingevoer uit Switserland	N/A	R4,87/10 sigarette
104.30.15	2402.90.24	Ander	R4,87/10 sigarette	R4,87/10 sigarette
104.35	24.03	**Ander vervaardigde tabak en vervaardigde tabaksurrogate; “gehomogeniseerde” of “hersaamgestelde” tabak; tabak ekstrakte en essense:**		
	2403.10	Rooktabak, ongeag of dit tabaksurrogate in enige verhoudings bevat:		
104.35.01	2403.10.10	Pyptabak, in onmiddellike verpakkings van minder as 5 kg	R119,16/ kg net	R119,16/ kg net
104.35.03	2403.10.20	Ander pyptabak	R119,16/ kg net	R119,16/ kg net
104.35.05	2403.10.30	Sigarettabak	R210,51/ kg	R210,51/ kg
	2403.99	Ander:		
104.35.07	2403.99.30	Ander sigarettabak surrogate	R210,51/ kg	R210,51/ kg
104.35.09	2403.99.40	Ander pyptabak surrogate	R119,16/ kg net	R119,16/ kg net