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REPUBLIC OF SOUTH AFRICA

TAXATION LAWS AMENDMENT BILL

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

(MINISTER OF FINANCE)

10 June 2019

GENERAL EXPLANATORY NOTE:

[ ]	Words in bold type in square brackets indicate omissions from existing enactments.
______	Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Income Tax Act, 1962, so as to amend certain provisions.

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

Amendment of section 22B of Act 58 of 1962, as substituted by section 34 of Act 17 of 2017nand amended by section 38 of Act 23 of 2018

1. (1) Section 22B 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:

> "Subject to subsection (3), where a company <u>holds shares in another company and</u> disposes of <u>any of those</u> shares **[in another company]** in terms of a transaction that is not a deferral transaction <u>or is treated in terms of subsection (3A) as having disposed of any of those shares</u> and that company held a qualifying interest in that other company at any time during the period of 18 months prior to that disposal, the amount of any exempt dividend received by or that accrued to that company in respect of the shares disposed of must—";

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

"Where a company holds shares in another company and disposes of any of those shares in terms of a transaction that is not a deferral transaction within a period of 18 months after having acquired those shares in terms of a deferral transaction, other than an unbundling transaction and—"; and

(c) by the addition after subsection (3) of the following subsection:

"(3A) Where a company holds shares in another company (hereinafter referred to as the 'target company') and—

(a) the target company issues shares (hereinafter referred to as the 'new shares') to a person other than that company; and

(b) the market value of the shares held by that company in the target company is reduced by reason of the new shares issued by the target company,

that company must for purposes of this section be treated as having disposed of a percentage of those shares immediately after the new shares were issued that is equal to the percentage by which the market value of those shares has been reduced by reason of the new shares issued by the target company.".

(2) Subsection (1) is deemed to have come into operation on 20 February 2019 and applies in respect of shares held by a company in a target company if the market value of those shares is reduced by reason of shares issued by that target company, on or after 20 February 2019, to a person other than that company.

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, section 92 of Act 24 of 2011, section 99 of Act 22 of 2012, section 113 of Act 31 of 2013, section 87 of Act 25 of 2015, section 64 of Act 17 of 2017 and section 65 of Act 23 of 2018

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

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

"*(a)* in the case of—

(i) a lump sum benefit contemplated in paragraph 2 (1) (b) (iA), so much of the benefit as is paid or transferred for the benefit of the person from a—

(aa) pension fund into any pension fund, pension preservation fund or retirement annuity fund;

(bb) pension preservation fund into any pension fund, pension preservation fund or retirement annuity fund;

(cc) provident fund into any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;

(dd) provident preservation fund into any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; and

(ee) retirement annuity fund into any retirement annuity fund; and

(ii) a lump sum benefit contemplated in paragraph 2 (1) (b) (iB), so much of the benefit as is paid or transferred for the benefit of the person from a—

(aa) pension fund into any pension fund, pension preservation fund or retirement annuity fund;

(bb) pension preservation fund into any pension fund, pension preservation fund or retirement annuity fund;

(cc) provident fund into any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund;

(dd) provident preservation fund into any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; and

(ee) retirement annuity fund into any retirement annuity fund; and".

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

"*(a)* in the case of a lump sum benefit contemplated in paragraph 2 (1) (b) (iA) and (iB), so much of the benefit as is paid or transferred for the benefit of the person from a—

(i) pension fund, pension preservation fund, provident fund or provident preservation fund into any pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund; or

(ii) retirement annuity fund into any retirement annuity fund; and".

(2) Paragraph *(a)* of subsection (1) is deemed to have come into operation on 1 March 2019.

(3) Paragraph *(b)* of subsection (1) comes into operation on 1 March 2021 and applies in respect of contributions made on or after that date.

Amendment of paragraph 43A of Eighth Schedule to Act 58 of 1962, as substituted by section 72 of Act 17 of 2017 and amended by section 80 of Act 23 of 2018

3. (1) Paragraph 43A of the Eighth Schedule to the Income Tax Act, 1962, is hereby amended—

(a) by the substitution in subparagraph (2) for the words preceding item *(a)* of the following words:

"Subject to subparagraph (3), where a company holds shares in another company and disposes of any of those shares **[in another company]** in terms of a transaction that is not a deferral transaction or is treated in terms of subparagraph (3A) as having disposed of any of those shares and that company held a qualifying interest in that other company at any time during the period of 18 months prior to that disposal, the amount of any exempt dividend received by or that accrued to that company in respect of the shares disposed of must—";

(b) by the substitution in subparagraph (3) for the words preceding item *(a)* of the following words:

(3) Where a company holds shares in another company and disposes of any of those shares in terms of a transaction that is not a deferral transaction within a period of 18 months after having acquired those shares in terms of a deferral transaction, other than an unbundling transaction and—"; and

(c) by the addition after subparagraph (3) of the following subparagraph:

"(3A) Where a company holds shares in another company (hereinafter referred to as the 'target company') and—

(a) the target company issues shares (hereinafter referred to as the 'new shares') to a person other than that company; and

(b) the market value of the shares held by that company in the target company is reduced by reason of the new shares issued by the target company,

that company must for purposes of this paragraph be treated as having disposed of a percentage of those shares immediately after the new shares were issued that is equal to the percentage by which the market value of those shares has been reduced by reason of the new shares issued by the target company.".

(2) Subsection (1) is deemed to have come into operation on 20 February 2019 and applies in respect of shares held by a company in a target company if the market value of those shares is reduced by reason of shares issued by that target company, on or after 20 February 2019, to a person other than that company.

Short title

4. This Act is called the Taxation Laws Amendment Act, 2019.