

## Publisher's Note:

### SAICA Student Handbook 2022/2023 Volume 3

The SAICA Student Handbook is published early in December each year in order to make the updated tax legislation available to you as soon as possible. We rely on the tax Bills available at the time of print to incorporate the annual tax amendments.

Two changes from the provisions of the Rates and Monetary Amounts and Amendment of Revenue Laws Bill [B25—2022] were made in the Rates and Monetary Amounts and Amendment of Revenue Laws Act, No. 19 of 2022, promulgated on 5 January 2023.

In addition, numerous small textual changes from the provisions of the Taxation Laws Amendment Bill [B26—2022] were made in the Taxation Laws Amendment Act, No. 20 of 2022, also promulgated on 5 January 2023.

These changes are listed below for your reference. We apologise for any inconvenience caused.

Should you have any queries or suggestions, please contact us at the following email address: [editorialfeedback@lexisnexis.co.za](mailto:editorialfeedback@lexisnexis.co.za).

#### ***Changes in the Rates and Monetary Amounts and Amendment of Revenue Laws Act (No. 19 of 2022)***

These changes relate to the correction of a cross-reference from section 2 (1) to section 1 (1) in paragraph 12 (a) (i) and 12 (c) (i) of the Tax Rates on page 283 and page 284 respectively. The updated wording is as follows:

**12.** (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 2022, the rate of tax referred to in section 1 (1) to be levied on that person in respect of taxable income comprising the aggregate of—

(c) (i) If a severance benefit accrues to a person in any year of assessment commencing on or after 1 March 2022, the rate of tax referred to in section 1 (1) to be levied on that person in respect of taxable income comprising the aggregate of—

#### ***Changes in the Taxation Laws Amendment Act (No. 20 of 2022)***

##### ***Income Tax Act***

**Page 8:** deletion of the word “not” from the further proviso to the definition of “contributed tax capital”

Provided that the amount transferred by a company as contemplated in paragraph (a) or (b) 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 person bears to the total number of shares of that class: Provided further that an amount transferred by a company as contemplated in paragraph (a) or (b) must ~~not~~ comprise a transfer of contributed tax capital only where—

**Page 9:** change of order of wording to the definition of “foreign dividend” for paragraph (i):

- (i) constitutes a redemption or other disposal of a participatory interest in an arrangement or scheme contemplated in paragraph (e) (ii) of the definition of “company” to that arrangement or scheme or to the management company of that arrangement or scheme; or

**Page 13:** insertion of the word “an” to the definition of “identical security” for paragraph (b):

- (b) any other security that is substituted for that listed security in terms of an arrangement that is announced and released as a corporate action as contemplated in the JSE Limited Listings Requirements in the SENS (Stock Exchange News Service) as defined in the JSE Limited Listings Requirements;

**Page 13:** change of wording to the definition of “living annuity” for the words preceding paragraph (a):

“**living annuity**” means a right of a member or former member of a pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund, or his or her dependant or nominee, or any subsequent nominee, to an annuity purchased from a person or provided by any fund on or after the retirement date of that member or former member in respect of which—

**Page 15:** insertion of the word “or” to the definition of “pension fund” in paragraph (i)(bb) of the further proviso:

- (bb) with the addition of any other amount credited to the member’s individual account or minimum individual reserve of the provident fund or provident preservation fund prior to, on or after 1 March 2021; and

**Page 19:** insertion of the word “or” to the definition of “provident fund” in paragraph (i)(aa) of the further proviso:

- (aa) any amount contributed to a provident fund or transferred to a provident preservation fund prior to, on or after 1 March 2021 of which that person was a member on 1 March 2021;

**Page 19:** insertion of the word “or” to the definition of “provident fund” for the wording following paragraph (ii) of the further proviso:

where applicable, reduced proportionally by any amount permitted to be deducted in terms of the Pension Funds Act from the member’s individual account or minimum individual reserve of the provident fund or provident preservation fund prior to, on or after 1 March 2021;

**Page 69:** change of wording to paragraph (vii) of the proviso to s. 11 (e):

- (vii) where the value of any such machinery, implements, utensils or articles acquired by the taxpayer on or after 15 March 1984 is for the purposes of this paragraph to be determined having regard to the cost of such machinery, implements, utensils or articles, such cost shall be deemed to be the cost which the taxpayer would, if such taxpayer had acquired such machinery, implements, utensils or articles under a cash transaction concluded at arm’s length on the date on which the transaction for the acquisition of such machinery, implements, utensils or articles was in fact concluded, have incurred in respect of the direct cost of the acquisition of such machinery, implements, utensils or articles, including the direct cost of the installation or erection thereof;

**Page 146:** change of wording to s. 28 (2) (a) (ii):

- (ii) premium income earned in relation to an investment contract entered into by a “cell captive insurer” as defined in section 1 of the Insurance Act in respect of “first party risks” as defined in that section of that Act, which does not form part of amounts contemplated in subparagraph (i);

**Page 146:** insertion of the word “and” to s. 28 (2) (c) (ii):

- (ii) to the extent that the amount has been paid by the short-term insurer, sections 23 (c) and 23H shall not apply to that expenditure; and

**Page 146:** deletion of the word “and” from s. 28 (2) (d) (ii):

- (ii) a policy of reinsurance if that short-term insurer is the holder of that policy; ~~and~~

**Page 146:** change of wording to s. 28 (3A) (f):

- (f) “DR” represents ~~for a policyholder fund~~ the amount of deferred revenue determined in accordance with IFRS as annually reported by the insurer to shareholders in the audited financial statements in respect of branch policies.

**Pages 146-147:** change of wording to s. 28 (3C) (a)-(c):

- (a) include in its income an amount equal to the difference between amounts recoverable by that short-term insurer in respect of claims incurred under a short-term policy issued by that short-term insurer at the end of the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, that has not been received by that short-term insurer by the end of that year of assessment;
- (b) deduct the liabilities for remaining coverage calculated for the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, had IFRS 17 been applied at the end of that year of assessment; and
- (c) deduct the net amounts of insurance premium or reinsurance premium debtors, and amounts of reinsurance premium payable, taken into account in determining the liabilities for remaining coverage at the end of the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, had IFRS 17 been applied at the end of that year of assessment.

**Page 147:** change of wording and layout to s. 28 (3D) (c)-(d):

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

- (i) the amount of insurance premium debtors and reinsurance premium debtors; and
- (ii) the amount of reinsurance premiums payable,

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

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

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

- (ii) the amount of reinsurance premiums payable, at the end of the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, had IFRS 17 been applied, other than amounts forming part of the liability for incurred claims,

and reduced by the amount determined under subsection (3C) (a).

**Page 147:** change of wording to s. 28 (4) (b):

(b) ~~The total of the~~ amount included in the income of a short-term insurer in respect of a year of assessment in terms of subsection (3D) (b) shall be deducted from the income of that short-term insurer in the immediately following year of assessment.

**Page 151:** change of punctuation to s. 29A (15):

(15) For the purposes of subsection (14) ‘phasing-in amount’ in relation to a policyholder fund or a risk policy fund means—

- (a) the amount by which the “value of liabilities” amount determined at the end of the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, less the amounts for premium debtors and policy loans determined in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements at the end

of that year of assessment, exceeds the “value of liabilities” amount had IFRS 17 and the definitions of “adjusted IFRS value” and “value of liabilities” as amended by the Taxation Laws Amendment Act, 2022, been applied at the end of that year of assessment; or

- (b) the amount by which the “value of liabilities” amount had IFRS 17 and the definitions of “adjusted IFRS value” and “value of liabilities” as amended by the Taxation Laws Amendment Act, 2022, been applied at the end of the latest year of assessment commencing on or after 1 January 2022, but before 1 January 2023, plus the amounts for premium debtors and policy loans determined in accordance with IFRS as reported by the insurer to shareholders in the audited annual financial statements at the end of that year of assessment, exceeds the “value of liabilities” amount determined at the end of that year of assessment:

Provided that for the purposes of determining the phasing-in amount in terms of this subsection, symbols “PF” and “PT” in the definition of “adjusted IFRS value” must be disregarded.

[Sub-s. (15) substituted by s. 15 (1) (d) of Act No. 20 of 2022 with effect from 1 January, 2023 and applicable in respect of years of assessment commencing on or after that date.]

**Page 178:** change of punctuation to s. 45 (3B) (a) (i):

- (i) the transferee company, within a period of six years after the acquisition, ceases in relation to the transferor company or a controlling group company in relation to the transferor company, as contemplated in subsection (4), or the transferee company and the transferor company are deemed to have ceased in terms of subsection (4B), to form part of any group of companies as contemplated in subsection (4);

**Pages 178-179:** change of wording to s. 45 (3B) (b) for the words preceding subparagraph (i):

(b) Where the holder of a debt or the holder of a share acquired that debt or share as a result of the issue or use of a debt or share as contemplated in paragraph (a), the holder of that debt or the holder of that share must, on the day on which the circumstances contemplated in paragraph (a) occur, be deemed to have incurred expenditure—

#### ***Value-Added Tax Act***

**Page 410:** change of punctuation to s. 20 (8A) (a) for the words preceding subparagraph (i):

- (a) The date upon which the goods were repossessed or surrendered, as the case may be;