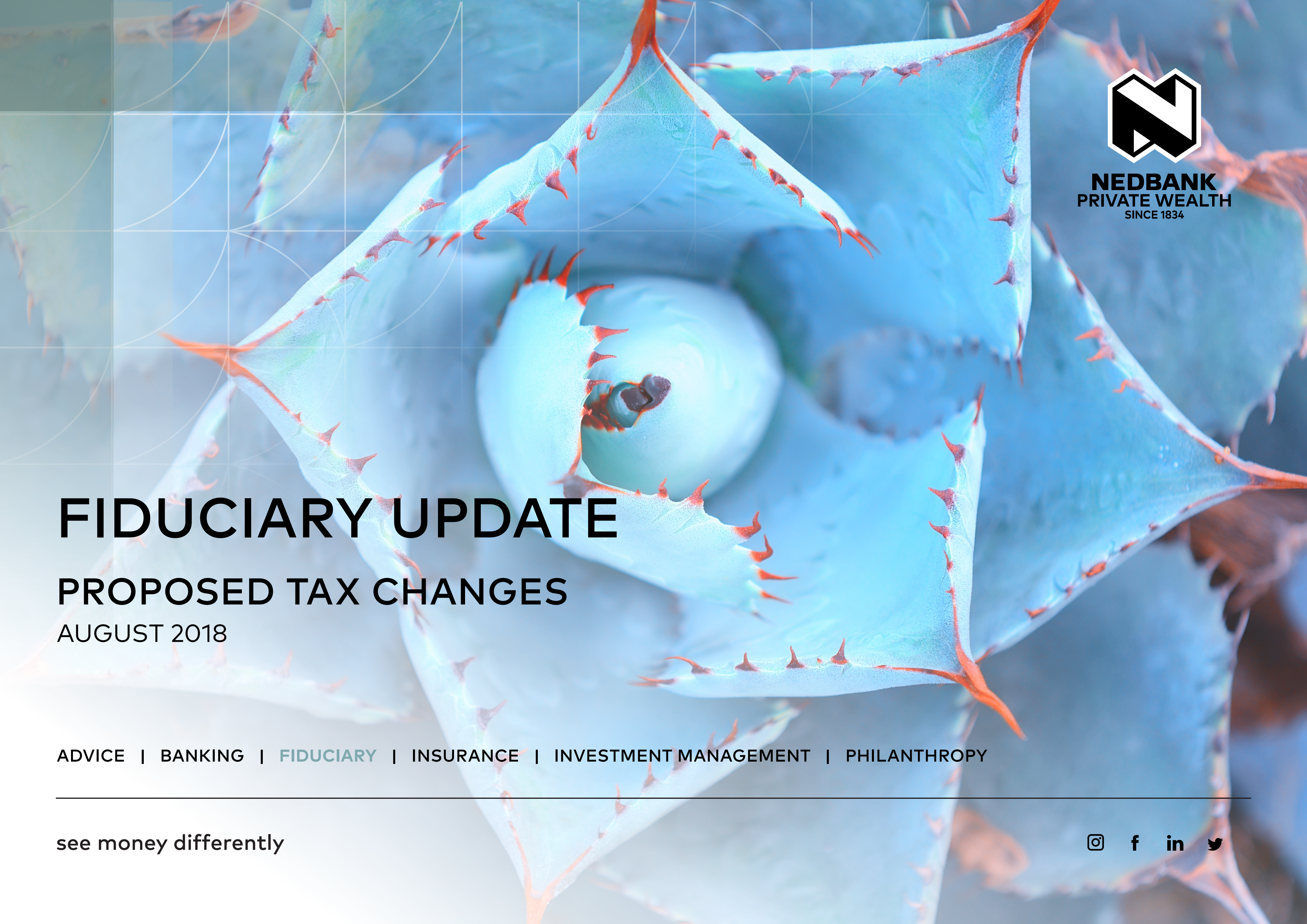

NEDBANK
PRIVATE WEALTH
SINCE 1834

FIDUCIARY UPDATE

PROPOSED TAX CHANGES

AUGUST 2018

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PROPOSED TAX CHANGES THAT MAY AFFECT YOU

NEDBANK PRIVATE WEALTH SINCE 1834

OVERVIEW OF PROPOSED CHANGES

For more details on the proposed changes, click on the icons below.

	Proposed change	What it's about and who's affected?
Investments	Adding 'crypto currency' to the definition of 'financial instrument'	Brings crypto currency into the tax net and affects anyone who owns and sells crypto currency
Medical scheme contributions	Reducing medical tax credits	Reduced medical tax credits for anyone who contributes to a medical scheme for another person
Retirement fund benefits	Aligning the tax treatment of withdrawals from preservation funds if you: • emigrate, or • are an expat living here and leave South Africa when your work visa expires	Allows emigrants or expats leaving South Africa to withdraw lump sums from preservation funds in addition to retirement annuities
	Changing the tax treatment of transfers to pension preservation or provident preservation funds after you reach normal retirement age but before you retire from the fund	Provides retiring members with more options about when to start withdrawing benefits and where to place the available benefits
Trusts	Clarifying the rules about the use of trusts to defer tax or re-characterise the nature of income	Clarifies previous proposals about the tax treatment of foreign dividends and the disposal of foreign equity shares held by a foreign trust It will affect anyone who is a donor or vested trust beneficiary of a foreign trust that holds more than 50% of the participation rights in a foreign company
	Changing the definition of 'official interest rate' as used to calculate interest on section 7C loans	Clarifies the effective date when a new interest rate must be applied following a change in the repo rate

SUMMARY OF PROPOSED CHANGES

INVESTMENTS

Adding 'crypto currency' to the definition of 'financial instrument'

Current situation	Proposed change	What this may mean for you
'Crypto currency' is currently not defined in the Income Tax Act (ITA), so the tax treatment is uncertain.	The definition of a 'financial instrument' in section 1 of the ITA will be amended to include 'crypto currency'.	1. You will need to disclose 'crypto currency' investments in your tax return in future. 2. You will need to make provision for the tax liability (income or capital gains tax) that is likely to arise.

MEDICAL SCHEME CONTRIBUTIONS

Reducing medical tax credits

Current situation	Proposed change	What this may mean for you
Tax credits are only allocated to the taxpayer contributing for the main member and/or dependant of a medical aid scheme.	Where multiple taxpayers contribute to the medical scheme expenses of another person, it is proposed that the medical tax credit be apportioned between the various contributors.	If you contribute towards the medical scheme expenses of another person, you should plan to receive a reduced medical tax credit.

RETIREMENT FUND BENEFITS

1. Providing more choices if you formally emigrate, or are an expat living here and leave South Africa when your work visa expires.

Current situation	Proposed change	What this may mean for you
• South African residents who formally emigrate (as recognised by the South African Reserve Bank for exchange control purposes) are entitled to the lump sum benefits from their retirement annuity fund (RA). • Expatriates working in South Africa who depart from South Africa on expiry of their visa, are entitled to the lump sum benefits from their RA, irrespective of whether they have been tax residents or not.	It is proposed that the choices relating to retirement benefits be extended to include transferring benefits to a pension preservation fund or provident preservation fund.	If you: • formally emigrate; or • are an expat and leave South Africa; you will be able to: • receive the lump sum benefits from your RA; or • if your benefits are in a preservation fund, you will also be able to receive the lump sum benefits from the preservation fund. This provides you with more flexibility and choice about where to place your benefits.

2. Changing the tax treatment of transfers to pension preservation or provident preservation funds after reaching normal retirement age but before retiring from the fund

Current situation	Proposed change	What this may mean for you
On reaching the 'retirement age' as specified in the fund rules, a retirement fund member has a choice of either: • accessing the lump sum benefits; • leaving the benefits in the fund; or • transferring the benefits to a retirement annuity fund (RA). In other words, members have an option to delay their 'retirement date' (when they retire from the fund) and the associated tax consequences.	It is proposed that the choices relating to access to retirement benefits on reaching retirement age be extended to include transferring benefits to a pension preservation fund or provident preservation fund until the member decides to retire from the fund by choosing their retirement date. The tax consequences will only apply at the chosen date.	When you reach the retirement age of your retirement fund, you will be able to choose to: • access the lump sum benefits; • leave the benefits in the fund; • transfer the benefits to a RA; or • transfer the benefits to a preservation fund (previously not an option). This provides you with more flexibility and choice.

TRUSTS

1. Clarifying the rules about the use of trusts to defer tax or re-characterise the nature of income

Current situation	Proposed change	What this may mean for you
The structure that is targeted is a foreign trust that holds more than 50% of the participation rights or voting rights in a foreign company, which declares a foreign dividend to the foreign trust, or where the foreign trust sells shares in the foreign company. The participation exemption ordinarily exempts foreign dividends and capital gains on the disposal of foreign equity shares received by or accrued to foreign trusts where a South African resident, either directly or indirectly holds at least 10% of the equity shares or voting rights in a foreign company via a foreign trust.	The application of the participation exemption to foreign dividends should be excluded. Also, the capital gains/losses received by or accrued to a foreign trust on disposal of foreign equity shares should be disregarded when determining the aggregate capital gain or aggregate capital loss. This proposal, if promulgated, will be effective from 1 March 2019. This proposal will result in a foreign dividend and the capital gain/loss on disposal of foreign equity shares held by foreign trust being taxable in the hands of the donor or vested trust beneficiary.	If you are a donor or vested trust beneficiary of a foreign trust that holds more than 50% of the participation rights in a foreign company, you may need to make provision for additional capital gains tax or additional income tax if the trust received foreign dividends from such company.

2. Changing the definition of 'official interest rate' as used to calculate interest on section 7C loans

What is this about and who does this affect?

When there is a change in the repo rate, this clarifies the effective date of when the new interest rate should be used for the calculation of interest on section 7C loans.

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