INCOME TAX ACT 58 OF 1962

[ASSENTED TO 25 MAY 1962] [DATE OF COMMENCEMENT: 1 JULY 1962]

(English text signed by the State President)

as amended by

Income Tax Amendment Act 90 of 1962
Income Tax Amendment Act 6 of 1963
  Income Tax Act 72 of 1963
  Income Tax Act 90 of 1964
  Income Tax Act 88 of 1965
  Income Tax Act 55 of 1966
  Income Tax Act 95 of 1967
  Income Tax Act 76 of 1968
  Income Tax Act 89 of 1969
  Income Tax Act 52 of 1970
  Income Tax Act 88 of 1971
Insolvency Amendment Act 6 of 1972
  Income Tax Act 90 of 1972
  Income Tax Act 65 of 1973
  Income Tax Act 85 of 1974
  Income Tax Act 69 of 1975
  Income Tax Act 103 of 1976
  Income Tax Act 113 of 1977
Revenue Laws Amendment Act 114 of 1977
  Income Tax Act 101 of 1978
  Income Tax Act 104 of 1979
  Income Tax Act 104 of 1980
  Income Tax Act 96 of 1981
  Income Tax Act 91 of 1982
  Income Tax Act 94 of 1983
Income Tax Amendment Act 30 of 1984
  Income Tax Act 121 of 1984
  Income Tax Act 96 of 1985
  Income Tax Act 65 of 1986
Transfer of Powers and Duties of the State President Act 97 of 1986
  Income Tax Act 85 of 1987
  Income Tax Act 90 of 1988
Income Tax Amendment Act 99 of 1988
  Income Tax Act 70 of 1989
Taxation Laws Amendment Act 108 of 1986
  Income Tax Act 85 of 1987
  Income Tax Act 90 of 1988
Income Tax Amendment Act 99 of 1988
  Income Tax Act 70 of 1989
Legal Succession to the South African Transport Services Act 9 of 1989
  Income Tax Act 101 of 1990
  Income Tax Act 129 of 1991
ACT

To consolidate the law relating to the taxation of incomes and donations, to provide for the recovery of taxes on persons and the incomes of persons levied by the provinces on income tax payers, to provide for interest to be paid on late payments of such provincial taxes, to provide for certain provisions to be applied for the purposes of any ordinance of a provincial council imposing a tax on persons or on the incomes of persons, to provide for the deduction by employers of amounts from the remuneration of employees in respect of certain tax liabilities of employees, and to provide for the making of provisional tax payments and for the payment into the Consolidated Revenue Fund and the various provincial revenue funds of portions of the normal tax and the said provincial taxes (excluding the normal tax imposed on companies) and interest and other charges in respect of such taxes.

[Long title amended by s. 20 of Act 6 of 1963.]

ARRANGEMENT OF SECTIONS

PRELIMINARY

Section

1. Interpretation.

CHAPTER I
ADMINISTRATION

2. Act to be administered by Commissioner.
4. Preservation of secrecy.
CHAPTER II
THE TAXES

Part I
Normal Tax

5. Levy of normal tax and rates thereof.
5A. ...... 
[S. 5A inserted by s. 6 of Act 88 of 1971 and repealed by s. 4 of Act 104 of 1980.]

[S. 6 repealed by s. 7 of Act 88 of 1971 and inserted by s. 5 of Act 104 of 1980.]

6bis. Rebate in respect of foreign income taxes on royalties and similar income.
[S. 6bis inserted by s. 7 of Act 88 of 1965.]

6ter. ...... 
[S. 6ter inserted by s. 8 (1) of Act 95 of 1967 and repealed by s. 6 of Act 129 of 1991.]

6quat. Rebate in respect of foreign taxes on income.
[S. 6quat inserted by s. 9 of Act 89 of 1969, repealed by s. 5 of Act 94 of 1983 and inserted by s. 5 of Act 85 of 1987.]

6quin. ...... 
[S. 6quin inserted by s. 6 (1) of Act 104 of 1979 and repealed by s. 6 of Act 94 of 1983.]

7. When income is deemed to have accrued or to have been received.
7A. Date of receipt or accrual of antedated salaries or pensions and of certain retirement gratuities.
[S. 7A inserted by s. 6 of Act 69 of 1975.]

8. Certain amounts to be included in income or taxable income.
8A. Gains made by directors of companies or by employees in respect of rights to acquire marketable securities.
[S. 8A inserted by s. 11 of Act 89 of 1969.] 

8B. ...... 
[S. 8B inserted by s. 6 (1) of Act 104 of 1980 and repealed by s. 6 (1) of Act 101 of.
8C. ...... [S. 8C inserted by s. 7 (1) of Act 96 of 1981 and repealed by s. 7 of Act 101 of 1990.]

8D. ...... [S. 8D inserted by s. 7 (1) of Act 96 of 1981 and repealed by s. 8 (1) of Act 101 of 1990.]

8E. Dividends on certain shares deemed to be interest in relation to the recipient thereof.

[S. 8E inserted by s. 6 of Act 70 of 1989.]

9. Circumstances in which amounts are deemed to have accrued from sources within the Republic.
9A. Investment income of foreign investment companies.

[S. 9A inserted by s. 8 of Act 85 of 1987.]

9B. Circumstances in which certain amounts received or accrued in relation to disposal of listed shares are deemed to be of capital nature.

[S. 9B inserted by s. 9 of Act 101 of 1990.]

10. Exemptions.
10A. Exemption of capital element of purchased annuities.

[S. 10A inserted by s. 8 (1) of Act 65 of 1973.]

11. General deductions allowed in determination of taxable income.
11bis. Exporters' allowance.

[S. 11bis inserted by s. 10 (1) of Act 90 of 1962.]

11ter. Allowance to manufacturers in economic development areas in respect of the cost of power, water and transport.

[S. 11ter inserted by s. 10 of Act 90 of 1964 and substituted by s. 12 of Act 88 of 1965.]

11quat. Allowance to manufacturers in economic development areas in respect of increased administrative and manufacturing costs.

[S. 11quat inserted by s. 10 of Act 90 of 1964 and substituted by s. 12 of Act 88 of 1965.]

11quin. Allowance in respect of expenditure on housing for employees of manufacturers in economic development areas.
11sex. Deductions of compensation for railway operating losses.

[S. 11sex inserted by s. 10 of Act 90 of 1972.]

11sept. ...... 

[S. 11sept inserted by s. 14 (1) of Act 85 of 1974, substituted by s. 9 (1) of Act 104 of 1979 and repealed by s. 15 of Act 129 of 1991.]

11oct. Allowance in respect of expenditure on submissions relating to undertakings in economic development areas.

[S. 11oct inserted by s. 10 (1) of Act 91 of 1982.]

12. ...... 

[S. 12 repealed by s. 16 of Act 129 of 1991.]

12A. ...... 

[S. 12A inserted by s. 16 of Act 55 of 1966 and repealed by s. 17 of Act 129 of 1991.]

12B. Deduction in respect of certain machinery, plant, implements, utensils and articles.

[S. 12B inserted by s. 11 of Act 90 of 1988.]

12C. Deduction in respect of certain machinery, plant, implements, utensils and articles.

[S. 12C inserted by s. 14 (1) of Act 101 of 1990.]

13. Deductions in respect of buildings used in a process of manufacture or by hotel keepers.
13bis. Deductions in respect of buildings used by hotel keepers.

[S. 13bis inserted by s. 15 of Act 88 of 1965.]

13ter. Deductions in respect of residential buildings.

[S. 13ter inserted by s. 13 (1) of Act 91 of 1982.]

14bis. Deductions in respect of aircraft.

[S. 14bis inserted by s. 16 of Act 88 of 1965.]
15. Deductions from income derived from mining operations.
15A. ...... 

[S. 15A inserted by s. 15 (1) of Act 69 of 1975 and repealed by s. 15 of Act 101 of 1990.]

16. ...... 

[S. 16 substituted by s. 16 of Act 89 of 1969 and repealed by s. 13 of Act 21 of 1994.]

16A. Deductions of expenses incurred by medical practitioners and dentists on courses or congresses outside the Republic.

[S. 16A inserted by s. 10 of Act 70 of 1989.]

17. Deduction of expenses incurred in appointing agents outside the Republic.

[S. 17 substituted by s. 14 of Act 90 of 1962 and by s. 14 (1) of Act 113 of 1977.]

17A. Expenditure incurred by a lessor of land let for farming purposes, in respect of soil erosion works.

[S. 17A inserted by s. 11 of Act 76 of 1968.]

18. Deduction in respect of medical and dental expenses.

[S. 18 repealed by s. 15 of Act 88 of 1971 and inserted by s. 12 of Act 104 of 1980.]

18A. Deductions of donations to universities, colleges and certain educational funds.

[S. 18A inserted by s. 15 of Act 52 of 1970 and substituted by s. 16 (1) of Act 96 of 1981.]

18B. ...... 

[S. 18B inserted by s. 11 (1) of Act 65 of 1986 and repealed by s. 14 of Act 21 of 1994.]

19. Deductions and set-off from income derived from dividends.
20. Set-off of assessed losses.
20A. ...... 

[S. 20A inserted by s. 19 of Act 89 of 1969 and repealed by s. 20 of Act 101 of 1990.]

21. Deduction of alimony, allowance or maintenance.

[S. 21 substituted by s. 16 of Act 90 of 1962.]

21bis. ......
21 ter. Special deduction in respect of industrial undertakings in economic development areas.

[21 ter inserted by s. 20 (1) of Act 89 of 1969.]

21 quat. ......

[21 quat inserted by s. 17 of Act 65 of 1973 and repealed by s. 17 of Act 90 of 1988.]

22. Amounts to be taken into account in respect of values of trading stocks.

22A Schemes of arrangement involving trading stock.

[22A inserted by s. 19 (1) of Act 88 of 1971.]

23. Deductions not allowed in determination of taxable income.

23A Limitation of allowances granted to lessors of certain assets.

[23A inserted by s. 21 (1) of Act 121 of 1984 and substituted by s. 12 of Act 70 of 1989.]

23B Prohibition of double deductions.

[23B inserted by s. 25 (1) of Act 129 of 1991.]

23C Reduction of cost of certain assets.

[23C inserted by s. 25 (1) of Act 129 of 1991.]

23D Limitation of allowances granted in respect of certain assets.

[23D inserted by s. 19 (1) of Act 113 of 1993.]

23E Provisions relating to leave pay.

[23E inserted by s. 19 (1) of Act 113 of 1993.]

23F Acquisition of trading stock.

[23F inserted by s. 17 of Act 21 of 1994.]

24. Credit agreements and debtors allowance.

[24 substituted by s. 16 (1) of Act 65 of 1986.]
24A. Transactions whereby fixed property is or company shares are exchanged for shares.

[S. 24A inserted by s. 23 of Act 89 of 1969 and substituted by s. 20 (1) of Act 88 of 1971.]

24B. Gains or losses on foreign exchange transactions.

[S. 24B inserted by s. 9 (1) of Act 101 of 1978 and substituted by s. 13 (1) of Act 104 of 1979.]

24C. Allowance in respect of future expenditure on contracts.

[S. 24C inserted by s. 18 (1) of Act 104 of 1980.]

24D. Deduction of certain expenditure incurred in respect of any National Key Point or specified important place or area.

[S. 24D inserted by s. 20 (1) of Act 96 of 1981.]

24E. ......

[S. 24E inserted by s. 18 of Act 91 of 1982 and repealed by s. 18 of Act 90 of 1988.]

24F. Taxable income of film owners.

[S. 24F inserted by s. 17 (1) of Act 85 of 1987.]

24G. Taxable income of toll road operators.

[S. 24G inserted by s. 20 (1) of Act 90 of 1988.]

24H. Persons carrying on trade or business in partnership.

[S. 24H inserted by s. 21 of Act 90 of 1988.]

24I. Gains or losses on foreign exchange transactions.

[S. 24I inserted by s. 21 of Act 113 of 1993.]

24J. Incurral and accrual of interest.

[S. 24J inserted by s. 21 (1) of Act 21 of 1995.]

25. Income of beneficiaries and estates of deceased persons.

25A. Determination of taxable incomes of permanently separated spouses.

[S. 25A inserted by s. 21 (1) of Act 55 of 1966.]
25B. Income of trusts and beneficiaries of trusts.

[S. 25B inserted by s. 27 (1) of Act 129 of 1991 and amended by s. 22 of Act 141 of 1992.]

26. Determination of taxable income derived from farming.

27. Determination of taxable income of co-operative societies and companies.


28bis. Assessments on transfer of business undertaking by foreign company to South African subsidiary.

[S. 28bis inserted by s. 19 of Act 88 of 1965.]

29. Taxable income of companies carrying on long-term insurance business.

[S. 29 amended by s. 18 of Act 90 of 1962, repealed by s. 23 of Act 121 of 1984 and inserted by s. 25 (1) of Act 113 of 1993.]

30. ......

[S. 30 repealed by s. 20 (1) of Act 21 of 1994.]

31. Determination of taxable income of certain persons in respect of international transactions

[S. 31 substituted by s. 23 (1) of Act 21 of 1995.]

32. Assessment in the case of submarine cable or wireless business.

33. Assessment of owners or charterers of ships or aircraft not ordinarily resident or registered, managed or controlled in the Republic.

34. ......

[S. 34 repealed by s. 19 of Act 90 of 1962.]

35. Assessment of persons not ordinarily resident or registered, managed or controlled in the Republic who derive income from royalties or similar payments.

36. Calculation of redemption allowance and unredeemed balance of capital expenditure in connection with mining operations.

37. Calculation of capital expenditure on change of ownership of mining property.

37A. ......

[S. 37A inserted by s. 27 of Act 89 of 1969 and repealed by s. 26 of Act 94 of 1983.]

37B. ......
37C. Determination of taxable income of persons previously assessable under certain other laws.

[S. 37C inserted by s. 3 of Act 30 of 1984.]

37D. Determination of taxable income of married women.

[S. 37D inserted by s. 27 of Act 101 of 1990.]

37E. Application of certain provisions where taxpayer carries on value-added process.

[S. 37E inserted by s. 3 (1) of Act 136 of 1991 and substituted by s. 30 (1) of Act 113 of 1993.]

37F. Determination of taxable income derived by persons previously assessable under certain other laws.

[S. 37F inserted by s. 24 (1) of Act 21 of 1995.]

37G. Determination of taxable income derived from small business undertakings.

[S. 37G inserted by s. 24 (1) of Act 21 of 1995.]

37H Tax holiday scheme for certain companies.

[S. 37H inserted by s. 12 (1) of Act 46 of 1996.]

Part II
Special Provisions relating to Companies

38. Classification of companies.
39. Redetermination of company’s status.
40. Objection and appeal.
40A. Close corporations.

[S. 40A inserted by s. 25 of Act 121 of 1984.]

40B. Conversion of co-operative to company.

[S. 40B inserted by s. 17 of Act 96 of 1985, repealed by s. 29 (1) of Act 101 of 1990 and inserted by s. 31 of Act 113 of 1993.]

Part III
[Part III repealed by s. 25 (1) of Act 21 of 1995.]
41 to 43 inclusive ...... [Ss. 41 to 43 inclusive repealed by s. 25 (1) of Act 21 of 1995.]

43A. ...... [S. 43A inserted by s. 29 of Act 94 of 1983 and repealed by s. 25 (1) of Act 21 of 1995.]

44 to 47 inclusive. ...... [Ss. 44 to 47 inclusive repealed by s. 25 (1) of Act 21 of 1995.]

Part IV
Undistributed Profits Tax

48. ...... [S. 48 repealed by s. 30 (1) of Act 101 of 1990.]

49. ...... [S. 49 repealed by s. 31 (1) of Act 101 of 1990.]

50. ...... [S. 50 repealed by s. 32 (1) of Act 101 of 1990.]

51. ...... [S. 51 repealed by s. 33 (1) of Act 101 of 1990.]

52. ...... [S. 52 repealed by s. 34 (1) of Act 101 of 1990.]

53. ...... [S. 53 repealed by s. 35 (1) of Act 101 of 1990.]

Part V
Donations Tax

54. Levy of donations tax. [S. 54 substituted by s. 24 of Act 90 of 1988.]

55. Definitions for purposes of this Part.

56. Exemptions.
57. Donations by a body corporate at the instance of any person.

[S. 57 substituted by s. 26 of Act 21 of 1995.]

57A. Donations by spouses married in community of property.

[S. 57A inserted by s. 27 of Act 21 of 1995.]

58. Property disposed of under certain transactions deemed to have been disposed of under donations.

59. Persons liable for tax.

60. Payment and assessment of tax.

61. Extension of scope of certain provisions of Act for purposes of donations tax.

62. Value of property disposed of under donations.

63. Objection and appeal.

64. Rate of donations tax.

Part VI
Levy on Financial Services

[Part VI substituted by s. 4 of Act 136 of 1991.]

64A.

[S. 64A inserted by s. 4 of Act 136 of 1991 and substituted by s. 29 (1) of Act 141 of 1992.]

Part VII
Secondary Tax on Companies

[Part VII inserted by s. 34 (1) of Act 113 of 1993.]

64B Levy and recovery of secondary tax on companies

[S. 64B inserted by s. 34 (1) of Act 113 of 1993.]

64C Certain amounts distributed deemed to be dividends

[S. 64C inserted by s. 34 (1) of Act 113 of 1993.]

CHAPTER III
GENERAL PROVISIONS

Part I
Returns

65. Returns to be in form prescribed by Commissioner.

66. Notice by Commissioner requiring returns for assessment of taxes
under this Act and manner of furnishing returns and interim returns.
67. Half yearly returns by persons engaged in gold mining.
68. Income of married women and minor children.
69. Duty to furnish returns as to employees, their earnings and other matters.
70. Duty of companies to furnish returns.
71. Return of payments in respect of bearer warrants.
72. Return as to shareholdings.
73. Duty of persons submitting accounts in support of returns, or preparing accounts for other persons.
74. General provisions with regard to information, documents or things.

[S. 74 substituted by s. 14 of Act 46 of 1996.]

74A. Furnishing of information, documents or things by any person.

[S. 74A inserted by s. 14 of Act 46 of 1996.]

74B. Obtaining of information, documents or things at certain premises.

[S. 74B inserted by s. 14 of Act 46 of 1996.]

74C. Inquiry.

[S. 74C inserted by s. 14 of Act 46 of 1996.]

74D. Search and seizure.

[S. 74D inserted by s. 14 of Act 46 of 1996.]

75. Penalty on default.
76. Additional tax in event of default or omission.

Part II
Assessments

77. Assessments and recording thereof.
78. Estimated assessments.
79. Additional assessments
80. Inspection of record of assessments.

Part III
Objections and Appeals

81. Time and manner of lodging objections.
82. Burden of proof as to exemptions, deductions or abatements.
83. Appeal to specially constituted court against Commissioner's decision.
83A. Appeals to specially constituted board.
84. Summoning of witnesses and penalty for non-attendance.
85. Contempt of Special Court.
86. ...... [S. 86 repealed by s. 38 of Act 113 of 1993.]

86A. Appeals against decisions of a special court. [S. 86A inserted by s. 24 (1) of Act 103 of 1976.]

87. Members of courts not disqualified from adjudicating.
88. Payment of tax pending appeal. [S. 88 substituted by s. 30 (1) of Act 121 of 1984.]

Part IV
Payment and Recovery of Tax

89. Appointment of day for payment of tax and interest in overdue payments. [S. 89 substituted by s. 13 of Act 6 of 1963.]

89bis. Payments of employees' tax and provisional tax and interest on overdue payments of such taxes. [S. 89bis inserted by s. 14 of Act 6 of 1963.]

89ter. Accounts and recovery proceedings in respect of taxes. [S. 89ter inserted by s. 14 of Act 6 of 1963 and substituted by s. 37 of Act 89 of 1969.]

89quat. Interest on underpayments and overpayments of provisional tax. [S. 89quat inserted by s. 46 of Act 85 of 1974, repealed by s. 37 of Act 94 of 1983, inserted by s. 34 (1) of Act 121 of 1984 and substituted by s. 22 (1) of Act 65 of 1986.]

89quin. Calculation of interest payable under this Act. [S. 89quin inserted by s. 34 (1) of Act 121 of 1984.]

90. Persons by whom normal tax payable.
91. Recovery of tax.
92. Correctness of assessment cannot be questioned.
93. Collection of taxes under arrangements made under section 108.
93bis. ......
[S. 93bis inserted by s. 17 of Act 6 of 1963 and repealed by s. 8 of Act 6 of 1972.]

94. Evidence as to assessments.
94A. ...... [S. 94A inserted by s. 39 of Act 89 of 1969 and repealed by s. 38 of Act 94 of 1983.]

Part V
Representative Taxpayers

95. Liability of representative taxpayer.
96. Right of representative taxpayer to indemnity.
97. Personal liability of representative taxpayer.
98. Company regarded as agent for absent shareholder.
99. Power to appoint agent.
100. Remedies of Commissioner against agent or trustee.
101. Public officers of companies.

Part VI
Miscellaneous

102. Refunds.
102A. Treatment of certain small tax claims and refunds. [S. 102A inserted by s. 40 of Act 94 of 1983.]

103. Transactions, operations or schemes for purposes of avoiding or postponing liability for or reducing amounts of taxes on income.
104. Offences and penalties.
105. Jurisdiction of courts.
105A. Reporting of unprofessional conduct. [S. 105A inserted by s. 23 of Act 65 of 1986.]

106. Authentication and service of documents.
107. Regulations.
108. Prevention of or relief from double taxation.
109. Prevention of or relief from double taxation in the Republic and South-West Africa.
110. Determination of increase in scale of taxation for purposes of certain leases of the right to mine for gold.
110bis. Application of certain provisions for purposes of provincial ordinances imposing personal and income taxes. [S. 110bis inserted by s. 18 of Act 6 of 1963.]

111. Repeal of laws.
111A. ...... [S. 111A inserted by s. 40 of Act 89 of 1969 and repealed by s. 41 of Act 94 of 1983.]
112. Short title and commencement.

First Schedule
COMPUTATION OF TAXABLE INCOME DERIVED FROM PASTORAL, AGRICULTURAL OR OTHER FARMING OPERATIONS

Second Schedule
COMPUTATION OF GROSS INCOME DERIVED BY WAY OF LUMP SUM BENEFITS FROM PENSION, PROVIDENT AND RETIREMENT ANNUITY FUNDS

Third Schedule
LAWS REPEALED

Fourth Schedule
AMOUNTS TO BE DEDUCTED OR WITHHELD BY EMPLOYERS AND PROVISIONAL PAYMENTS IN RESPECT OF NORMAL TAX AND PROVINCIAL TAXES

[Fourth Schedule added by s. 19 of Act 6 of 1963.]

Fifth Schedule
LOAN PORTION OF THE NORMAL TAX

[Fifth Schedule added by s. 26 (1) of Act 52 of 1970.]

Sixth Schedule

[Sixth Schedule added by s. 28 (1) of Act 90 of 1972 and repealed by s. 51 (1) of Act 113 of 1993.]

Seventh Schedule
BENEFITS OR ADVANTAGES DERIVED BY REASON OF EMPLOYMENT OR THE HOLDING OF ANY OFFICE

[Seventh Schedule added by s. 46 of Act 121 of 1984.]

PRELIMINARY (s 1)

1 Interpretation

In this Act, unless the context otherwise indicates-

‘agent’ includes any partnership or company or any other body of persons corporate or unincorporate acting as an agent;
'assessment' means the determination by the Commissioner, by way of a notice of assessment served in a manner contemplated in section 106 (2)-

(a) of an amount upon which any tax leviable under this Act is chargeable; or

(b) of the amount of any such tax; or

(c) of any loss ranking for set-off,

and for the purposes of Part III of Chapter III includes any determination by the Commissioner in respect of any of the rebates referred to in section 6 and any decision of the Commissioner which is in terms of this Act subject to objection and appeal;

[Definition of 'assessment' amended by s. 3 (a) of Act 90 of 1962, substituted by s. 4 (1) (a) of Act 88 of 1971 and by s. 4 (1) (a) of Act 69 of 1975 and amended by s. 2 (1) (a) of Act 104 of 1980.]

'assisted gold mine' ......

[Definition of 'assisted gold mine' inserted by s. 5 (a) of Act 76 of 1986 and deleted by s. 2 (a) of Act 141 of 1992.]

'benefit fund' means-

(a) any friendly society registered under the Friendly Societies Act, 1956 (Act 25 of 1956), or any fund established before 13 June 1986 which is not so registered solely because of the provisions of section 2 (2) (a) of that Act; or

(b) any medical scheme registered under the provisions of the Medical Schemes Act, 1967 (Act 72 of 1967); or

(c) any fund (other than a pension fund, provident fund or retirement annuity fund), where the Commissioner-

(i) was prior to 11 March 1998 satisfied that such fund constituted; and

(ii) is in respect of the year of assessment in question satisfied,
that such fund constitutes,

a permanent fund *bona fide* established for the purpose of providing sickness, accident or unemployment benefits for its members, or mainly for such a purpose and also for the purpose of providing benefits for the dependants or nominees of deceased members;

[Para. (c) substituted by s. 2 (a) of Act 21 of 1995 and by s. 19 (1) (a) of Act 30 of 1998.]

[**NB:** Para. (c) has been deleted by s. 19 (1) (b) of the Taxation Laws Amendment Act 30 of 1998, a provision which will come into operation on 1 January 2000.]

*bonus debentures or securities* means debentures or securities issued by a company, whether by way of a bonus award or otherwise, in such a manner that the company's reserves or unappropriated profits are in whole or in part applied in paying up such debentures or securities;

[Definition of 'bonus debentures or securities' inserted by s. 4 (1) (a) of Act 85 of 1974.]

*building society* means a building society registered under the Building Societies Act, 1986 (Act 82 of 1986);

[Definition of 'building society' inserted by s. 1 (1) (a) of Act 108 of 1986.]

*business day* means any day which is not a Saturday, Sunday or public holiday;

[Definition of 'business day' inserted by s. 2 (1) (a) of Act 113 of 1993.]

*capitalization shares* means shares are issued by a company, whether by way of a bonus award or otherwise, in such manner that the Company’s reserves (including any share premium account) or unappropriated profits are in whole or in part applied in paying up such shares;

[Definition of 'capitalization shares' inserted by s. 4 (1) (b) of Act 85 of 1974.]

*Chief Executive Officer* ......

[Definition of 'Chief Executive Officer' inserted by s. 2 (a) of Act 36 of 1996 and deleted by s. 34 (1) of Act 34 of 1997.]

*child*, in relation to any person, includes any person adopted by him-
under the provisions of the Adoption of Children Act, 1923 (Act 25 of 1923), or Children's Act, 1937 (Act 31 of 1937), or the Children's Act, 1960 (Act 33 of 1960); or

under the law of any country other than the Republic, provided the adopted person is under such law accorded the status of a legitimate child of the adoptive parent and the adoption was made at a time when the adoptive parent was ordinarily resident in such country;

[Definition of 'child' inserted by s. 4 (a) of Act 90 of 1964.]

'close corporation' means a close corporation within the meaning of the Close Corporations Act, 1984 (Act 69 of 1984);

[Definition of 'close corporation' inserted by s. 2 (1) (a) of Act 121 of 1984.]

'Commissioner' means the Commissioner for the South African Revenue Service;

[Definition of 'Commissioner' deleted by s. 4 (b) of Act 90 of 1964, inserted by s. 2 (1) (b) of Act 104 of 1980 and substituted by s. 34 (1) of Act 34 of 1997.]

'company' includes-

(a) any association, corporation or company (other than a close corporation) incorporated or deemed to be incorporated by or under any law in force or previously in force in the Republic or in any part thereof, or any body corporate formed or established or deemed to be formed or established by or under any such law; or

[Para. (a) substituted by s. 4 (1) (c) of Act 85 of 1974 and by s. 2 (1) (b) of Act 121 of 1984.]

(b) any association, corporation or company incorporated under the law of any country other than the Republic or any body corporate formed or established under such law, if such association, corporation, company or body, as the case may be, carries on business or has an office or place of business in the Republic or derives income from any source within or deemed to be within the Republic or in which any person ordinarily resident or carrying on business in the Republic is interested as a shareholder or a member; or

[Para. (b) substituted by s. 4 (1) (c) of Act 85 of 1974.]
any association, corporation or company incorporated under the law of any country other than the Republic or any body corporate formed or established under such law, if such association, corporation, company or body, as the case may be, is a shareholder in or member of any company as defined in paragraph (a) or (b), either directly, or indirectly by reason of the fact that it is a shareholder in or member of any other company; or

[Para. (c) substituted by s. 4 (1) (c) of Act 85 of 1974.]

any association (not being an association referred to in paragraph (a) or (f) or an association to which the provisions of section 10 (1) (e) apply) formed in the Republic to serve a specified purpose, beneficial to the public or a section of the public; or

[Para. (d) substituted by s. 2 (1) (c) of Act 121 of 1984.]

any unit portfolio comprised in any unit trust scheme in securities other than property shares managed or carried on by any company registered as a management company under section 4 of the Unit Trusts Control Act, 1981 (Act 54 of 1981), if-

(i) such portfolio was created on or after the date of commencement of the Unit Trusts Control Amendment Act, 1962 (Act 11 of 1962);

(ii) such portfolio was created before that date and the relevant trust deed has after that date been amended in order to create further units in that portfolio; or

[Para. (e) added by s. 3 (b) of Act 90 of 1962 and amended by s. 2 (1) (a) of Act 28 of 1997.]

a close corporation;

[Para. (f) added by s. 2 (1) (d) of Act 121 of 1984.]

'connected person' means-

in relation to a natural person-

(i) any relative; and

(ii) any trust of which such natural person or such relative is a beneficiary;
(b) in relation to a trust-

(i) any beneficiary of such trust; and

(ii) any connected person in relation to such beneficiary;

(bA) in relation to a connected person in relation to a trust (other than a unit trust scheme in property shares as authorised under the Unit Trust Control Act, 1981 (Act 54 of 1981)), includes any other person who is a connected person in relation to such trust;

[Para. (bA) inserted by s. 19 (1) (c) of Act 30 of 1998.]

(c) in relation to a member of any partnership-

(i) any other member; and

(ii) any connected person in relation to any member of such partnership;

(d) in relation to a company-

(i) its holding company as defined in section 1 of the Companies Act, 1973 (Act 61 of 1973);

(ii) its subsidiary as so defined;

(iii) any other company where both such companies are subsidiaries (as so defined) of the same holding company;

(iv) any person, other than a company as defined in section 1 of the Companies Act, 1973 (Act 61 of 1973), who individually or jointly with any connected person in relation to himself, holds, directly or indirectly, at least 20 per cent of the company’s equity share capital or voting rights;

[Sub-para. (iv) substituted by s. 2 (1) (a) of Act 21 of 1994 and by s. 2 (1) (b) of Act 28 of 1997.]

(v) any other company if at least 20 per cent of the equity share capital of such company is held by such other company, and no shareholder holds the majority voting rights of such company;

[Sub-para. (v) substituted by s. 2 (1) (a) of Act 21 of 1994.]
(vA) any other company if such other company is managed or controlled by-

(aa) any person who or which is a connected person in relation to such company; or

(bb) any person who or which is a connected person in relation to a person contemplated in item (aa); and

[Sub-para. (vA) inserted by s. 2 (1) (d) of Act 28 of 1997 and substituted by s. 19 (1) (d) of Act 30 of 1998.]

(vi) where such company is a close corporation-

(aa) any member;

(bb) any relative of such member or any trust which is a connected person in relation to such member; and

(cc) any other close corporation or company which is a connected person in relation to-

(i) any member contemplated in item (aa); or

(ii) the relative or trust contemplated in item (bb); and

[Item (cc) substituted by s. 2 (1) (e) of Act 28 of 1997.]

(e) in relation to any person who is a connected person in relation to any other person in terms of the foregoing provisions of this definition, such other person,

and in this definition the expression 'beneficiary' means any person who has been named in the will or deed of trust concerned-

(i) as a beneficiary; or

(ii) as a person upon whom the trustee of the trust has the power to confer a benefit from such trust;

[Definition of 'connected person' inserted by s. 2 (1) (b) of Act 113 of 1993.]

'date of deep level production' in relation to any deep level gold mine, means the date which the Government Mining Engineer certifies as the date on
which stoping below a vertical depth of seven thousand five hundred feet from the surface commenced;

'date of assessment', in relation to any assessment, means the date specified in the notice of such assessment as the due date or, where a due date is not so specified, the date of such notice;

[Definition of 'date of assessment' inserted by s. 4 (1) (b) of Act 69 of 1975.]

'dependant' ......

[Definition of 'dependant' substituted by s. 4 (1) (b) of Act 88 of 1971 and by s. 4 (1) (d) of Act 85 of 1974, amended by s. 3 (1) (a) of Act 104 of 1979 and by s. 2 (1) (c) of Act 104 of 1980 and deleted by s. 2 (b) of Act 90 of 1988.]

'director', in relation to a close corporation, means any person who in respect of such close corporation holds any office or performs any functions similar to the office or functions of a director of a company other than a close corporation;

[Definition of 'director' inserted by s. 2 (1) (a) of Act 96 of 1985.]

'dividend', means any amount distributed by a company (not being a mutual building society or an institution to which section 10 (1) (d) applies) to its shareholders or any amount distributed out of the assets pertaining to any unit portfolio referred to in paragraph (e) of the definition of 'company' in this section to shareholders in relation to such unit portfolio (including, in the case of any co-operative society or company referred to in section 27, any amount distributed on or after 1 April 1977 to its members, whether divided among the members in accordance with their rights as shareholders or according to the value of business transactions between individual members and such society or company or on some other basis), and in this definition the expression 'amount distributed' includes-

1. in relation to a company that is being wound up or liquidated, any profits distributed, whether in cash or otherwise, other than those of a capital nature, earned before or during the winding-up or liquidation (any such profits distributed by the liquidator of the company being deemed for the purposes of this definition to have been distributed by the company);

[Para. (a) substituted by s. 4 (1) (c) of Act 69 of 1975.]

2. in relation to a company that is not being wound up or liquidated, any profits distributed, whether in cash or otherwise, and whether of a capital nature or not, including an amount equal to the nominal
value, at the time of issue thereof, of any capitalization shares awarded to shareholders and the nominal value of any bonus debentures or securities awarded to shareholders;

(c) in the event of the partial reduction or redemption of the capital of a company, so much of the sum of any cash and the value of any asset given to a shareholder as exceeds the cash equivalent of the amount by which the nominal value of the shares of that shareholder is reduced; and

[Para. (c) substituted by s. 4 (1) (d) of Act 69 of 1975.]

(d) in the event of the reconstruction of a company, so much of the sum of any cash and the value of any asset given to a shareholder as exceeds the nominal value of the shares held by him before the reconstruction,

[Para. (d) substituted by s. 4 (1) (d) of Act 69 of 1975.]

but does not include-

(e) the nominal value of any capitalization shares awarded to a shareholder to the extent to which such shares have been paid up by means of the application of the whole or any portion of the share premium account of a company; or

(f) subject to the provisions of the second proviso to this definition, any cash and the value of any asset given to a shareholder to the extent to which the cash and the value of the asset represents a reduction of the share premium account of a company; or

[Para. (f) substituted by s. 4 (1) (e) of Act 69 of 1975.]

(g) so much of the nominal value of any capitalization shares awarded to shareholders on or before 30 June 1975 as part of the equity share capital of a company by a company which during the period of 10 years ending the day before the date of such award has made any partial reduction of its paid-up share capital involving a distribution to shareholders of cash or other assets, as exceeds the sum of the amounts which were available for distribution to shareholders on each and every date on which the company made a partial reduction of its paid-up share capital during the said period, less the sum of so much of the nominal values of all capitalization shares awarded by such company during that period (excluding any portion of that period occurring prior to 1 July 1957) as constituted dividends for the purposes of this definition or the
definition of 'dividend' in section 1 of the Income Tax Act, 1941:
Provided that for the purposes of this paragraph the amount
available for distribution on any date on which the company made a
partial reduction of its paid-up share capital shall, if that amount
exceeds the nominal amount of such reduction, be deemed to be
an amount equal to such nominal amount; or

[Para. (g) substituted by s. 4 (1) (e) of Act 69 of 1975 and amended by s. 2 (1) (c)
of Act 113 of 1993.]

(h) the nominal value of any capitalization shares awarded to
shareholders as part of the equity share capital of a company, if-

(i) such shares are or were awarded on or before 30 June 1975
and during the period of ten years ending the day before the
date of such award the company has not made any partial
reduction of its paid-up share capital involving a distribution to
shareholders of cash or other assets; or

(ii) such shares are awarded on or after 1 July 1975:
[Para. (h) substituted by s. 4 (1) (e) of Act 69 of 1975.]

(i) any amount distributed by any co-operative society or
company referred to in section 27 by way of a bonus out of its
profits for any year of assessment of such society or company
commencing before 1 April 1977, if such amount is divided
among the members according to the value of the business
transactions between the society or company and the
members and is distributed not later than twelve months after
the end of such year of assessment;

(ii) any amount distributed by such society or company by way of
a bonus, to the extent that such amount is allowable as a
deduction from the income of such society or company under
the provisions of section 27; and

(iii) any amount distributed out of the stabilization fund referred to
in section 27 (2) (h):
[Para. (i) inserted by s. 4 (1) (b) of Act 113 of 1977.]

Provided that the provisions of paragraphs (g) and (h) shall not apply in respect
of the nominal value (or any portion thereof) of any capitalization shares awarded
before 1 January 1974 by any company which is recognized as a private
company in terms of section 38: Provided further that, for the purposes of this
where a company has on or after 1 January 1974 transferred any amount from reserves (excluding any share premium account) or undistributed profits to the share capital or the share premium account of the company without applying the amount in paying up capitalization shares or has applied the amount in paying up capitalization shares the nominal value of which did not in whole or in part constitute an amount distributed as contemplated in the foregoing provisions of this definition, the amount so transferred (reduced by so much thereof as constitutes such an amount distributed) shall be deemed-

(aa) to the extent that such amount (as so reduced) is shown to consist of profits of a capital nature, to be a profit of a capital nature available for distribution by the company to shareholders who, in the event of a distribution by the company at any time (whether before or during the winding-up or liquidation of the company) of profits of a capital nature would be entitled to participate in such a distribution; and

(bb) to the extent that subparagraph (aa) does not apply, to be a profit which is not of a capital nature and is available for distribution by the company to shareholders who, in the event of a distribution by the company at any time (whether before or during the winding-up or liquidation of the company) of profits which are not of a capital nature would be entitled to participate in such a distribution,

regardless of whether in either case the company in fact has or has not any profits available for distribution;

(ii) where the share capital of the company consists of different classes of share capital, any amount deemed by paragraph (i) of this proviso to be available for distribution to shareholders shall, in applying that paragraph, be apportioned between such classes of share capital in accordance with the rights of the holders of the corresponding classes of shares to participate in distributions of profits of a capital nature or profits which are not of a capital nature, as the case may be, and the amount deemed by the said paragraph to be available for distribution to the shareholders in respect of any such class of shares shall be the amount allocated to the share capital of that class under such apportionment;

(iiA) where any amount is under the provisions of paragraph (i) of this proviso or that paragraph as applied by paragraph (ii) of this
proviso, deemed to be a profit available for distribution to shareholders and any of the shares of any class (hereinafter referred to as the original shares) held by any such shareholders are converted into shares of any other class or the original shares are cancelled and shares of any other class are issued in place of the original shares, the said amount shall, to the extent that it relates to or may have been apportioned to the original shares, be deemed to relate to and to be a profit available for distribution to the shareholders in respect of the shares of such other class and the provisions of this proviso shall, to the extent that the said amount is deemed to consist of a profit as aforesaid, apply in respect of such amount as though it were an amount referred to in paragraph (i) of this proviso, and the shareholders in respect of the shares of such other class shall, regardless of the rights attaching to such shares, be deemed as respects the said amount to be entitled to participate in profits of the same nature as the profit deemed by this paragraph to be available for distribution to the shareholders, whether such profit is of a capital nature or is not of a capital nature;

[Para. (iiiA) inserted by s. 4 (1) (f) of Act 69 of 1975.]

(iiB) subject to the provisions of paragraphs (iiA) and (iv) of this proviso, where any amount is under the provisions of paragraph (i) of this proviso or that paragraph as applied by paragraph (ii) of this proviso, deemed to be a profit available for distribution to shareholders and any shares issued by the company are cancelled without a return of the share capital or any share premium relating to such shares, such share capital or share premium or any reserve created by reason of the cancellation of such shares shall, to the extent that the said profit may be apportioned to the said shares, be deemed to consist of a profit (of the same nature as the aforesaid profit) available for distribution to shareholders who are or may become interested in such share capital, share premium or reserve, and where any cash is or any assets are given to shareholders by way of a return of or a distribution out of such share capital, share premium or reserve the sum of the amount of such cash and the value of such assets shall, to the extent that such sum does not exceed the amount deemed by this paragraph to consist of a profit available for distribution to shareholders, be deemed to be a profit (of the same nature as the first-mentioned profit) distributed to the shareholders;

[Para. (iiB) inserted by s. 4 (i) (f) of Act 69 of 1975.]

(iii) if, in the event of the subsequent partial reduction or redemption of the share capital (including any share premium) of the company or
the reconstruction of the company, any cash or any asset is given
to shareholders and such cash or asset (or, a portion thereof)
represents a return of share capital or share premium, the amount
of share capital or share premium so returned-

(aa) to shareholders entitled to participate in distributions of profits
which are not of a capital nature and in respect of whom any
amount is deemed under paragraph (i) (bb) of this proviso to
be such a profit available for distribution to such shareholders,
shall (to the extent that the amount returned to such
shareholders does not exceed the aggregate of the amounts
of the profits so deemed to be available for distribution to such
shareholders) be deemed to be a profit, not of a capital
nature, distributed to such shareholders, and the amounts so
demeaned to be available for distribution shall be deemed to
have been reduced accordingly; or

(bb) to shareholders entitled to participate in distributions of profits
of a capital nature and in respect of whom any amount is
deemed under paragraph (i) (aa) of this proviso to be such a
profit available for distribution to such shareholders, shall (to
the extent that the amount returned to such shareholders (less
so much thereof as is deemed under subparagraph (aa)
of this paragraph to be a profit, not of a capital nature, distributed
to such shareholders) does not exceed the aggregate of the
amounts of the profits deemed under the said paragraph (i)
(aa) to be available for distribution to such shareholders) be
demeaned to be a profit of a capital nature distributed to such
shareholders and the amounts so available for distribution
shall be deemed to have been reduced accordingly;

[Para. (iii) amended by s. 4 (1) (g) of Act 69 of 1975.]

(iv) where the company has lost some of its paid-up share capital
(including any share premium) as a result of losses actually
incurred by it and such share capital is in consequence partially
reduced to take account of such losses, any amounts which in
terms of this proviso are at the date of such partial reduction of
such share capital deemed to be profits available for distribution to
shareholders shall be deemed to have been reduced to the extent
that such losses are so accounted for and in such manner that, as
far as possible and on the basis, where necessary, of an
apportionment between different classes of share capital in
accordance with the rights of shareholders-

(aa) any such profits which are of a capital nature and relate to
shareholders entitled to participate in profits of that nature, are reduced by so much of the amount by which the said share capital is reduced as is attributable to losses of a capital nature; and

(bb) any such profits which are not of a capital nature and relate to shareholders entitled to participate in profits which are not of a capital nature, are reduced by so much of the amount by which the said share capital is reduced as is attributable to losses which are not of a capital nature;

(v) in the event of the winding-up or liquidation of the company-

(aa) any profits which in terms of the preceding provisions of this proviso are, at the commencement of the winding-up or liquidation, deemed to be available for distribution to shareholders shall, if the company has lost some of its paid-up share capital (including any share premium) as a result of losses actually incurred by it, be deemed to have been reduced in such manner that, as far as possible and on the basis, where necessary, of an apportionment between different classes of share capital in accordance with the rights of shareholders-

(A) any such profits which are of a capital nature and relate to shareholders entitled to participate in profits of that nature, are reduced by so much of the loss of the said share capital as is attributable to losses of a capital nature; and

(B) any such profits which are not of a capital nature and relate to shareholders entitled to participate in profits which are not of a capital nature, are reduced by so much of the loss of the said share capital as is attributable to losses which are not of a capital nature; and

(bb) the aggregate of any cash and the value of any assets given to shareholders entitled to participate in profits not of a capital nature shall, to the extent that such aggregate exceeds so much of the sum of the share capital and any share premium contributed by such shareholders (less so much of such share capital and share premium as has been lost) as remains after deducting therefrom an amount equal to so much of any profits, not of a capital nature, which are deemed by this proviso (after applying subparagraph (aa) of this paragraph) to
be available for distribution to such shareholders at the commencement of the winding-up or liquidation, as relates to the said share capital, be deemed to be a profit, not of a capital nature, distributed to such shareholders, but the amount of that profit shall not be determined at an amount which exceeds the aforesaid amount:

Provided further that for the purposes of this definition an asset shall be deemed to have been given to a shareholder of a company if any asset or any interest, benefit or advantage measurable in terms of money is given or transferred to such shareholder or if the shareholder is relieved of any obligation measurable in terms of money: Provided further that a reserve of any company which consists of or includes any amount transferred from the share premium account of the company shall, except to the extent to which such reserve consists of any other amount, be deemed for the purposes of this definition to be a share premium account of, or share premium received by, such company;

[Definition of 'dividend' amended by s. 3 (c) of Act 90 of 1962, substituted by s. 4 (1) (e) of Act 85 of 1974 and amended by s. 4 (1) (a) of Act 113 of 1977, by s. 3 (1) (b) of Act 101 of 1978, by s. 1 (1) (b) of Act 108 of 1986 and by s. 2 (1) (d) of Act 113 of 1993.]

'domestic company' means a South African company or a company which is managed and controlled in the Republic;

[Definition of 'domestic company' inserted by s. 4 (1) (f) of Act 85 of 1974.]

'entertainment expenditure' means expenditure incurred in providing hospitality of any kind, including, without limiting the scope of the definition, expenditure incurred in providing or supplying-

(a) food, drink or accommodation; or

(b) any ticket or voucher entitling any person to admission to any theatre, exhibition or club or to attend any show, display or performance or to use or enjoy any sporting, recreational or other facility; or

(c) any gift of goods intended for the personal use or enjoyment of any person; or

(d) any travel facility; or

(e) any voucher entitling the recipient or any holder thereof to exchange it for food, drink or accommodation or any such ticket, voucher, gift or travel facility,
and expenditure which is incidental to or is incurred in connection with the provision or supply of any such hospitality, food, drink, accommodation, ticket, voucher, gift or travel facility, but excluding such expenditure in respect of hospitality as is referred to in section 8 (1) (d);

[Definition of 'entertainment expenditure' inserted by s. 2 (1) (e) of Act 121 of 1984.]

'equity share capital' means, in relation to any company, its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution, and the expression 'equity shares' shall be construed accordingly;

[Definition of 'equity share capital' inserted by s. 2 (1) (e) of Act 121 of 1984.]

'executor' means any person to whom letters of administration have been granted by a Master or an Assistant Master of the High Court appointed under the Administration of Estates Act, 1965 (Act 66 of 1965), in respect of the estate of a deceased person under any law relating to the administration of estates, and includes a person acting or authorized to act under letters of administration granted outside the Republic but signed and sealed by such a Master or Assistant Master for use within the Republic and, in any case where the estate is not required to be administered under the supervision of such a Master or Assistant Master, the person administering the estate;

[Definition of 'executor' substituted by s. 2 (1) (f) of Act 28 of 1997.]

'external company' means any Company other than a domestic company;

[Definition of 'external company' inserted by s. 4 (1) (i) of Act 85 of 1974.]

'financial year', in relation to any company, means-

(a) the period, whether of 12 months or not, commencing upon the date of incorporation or creation of such company and ending upon the last day of February immediately succeeding such date or upon such other date as the Commissioner having regard to the circumstances of the case may approve; or

(b) any period subsequent to the period referred to in paragraph (a), whether of 12 months or not, commencing immediately after the last day of the immediately preceding financial year of such company and ending upon the first anniversary of such last day or upon such other date as the Commissioner having regard to the circumstances of the case may approve;
'gross income', in relation to any year or period of assessment, means, in the case of any person, the total amount, in cash or otherwise, received by or accrued to or in favour of such person during such year or period of assessment from a source within or deemed to be within the Republic, excluding receipts or accruals of a capital nature, but including, without in any way limiting the scope of this definition, such amounts (whether of a capital nature or not) so received or accrued as are described hereunder, namely-

(a) any amount received or accrued by way of annuity, including any amount contemplated in the definition of 'annuity amount' in section 10A (1);

(b) any amount payable to the taxpayer by his spouse or former spouse, under any judicial order or written agreement of separation or under any order of divorce, by way of alimony or allowance or maintenance of the taxpayer or any children;

(c) 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: Provided that-

(i) the provisions of this paragraph shall not apply in respect of any benefit or advantage in respect of which the provisions of paragraph (i) apply;

(ii) any amount received by or accrued to or for the benefit of any person in respect of services rendered or to be rendered by any other person shall for the purposes of this definition be deemed to have been received by or to have accrued to the said other person;

(iii) subject to the provisions of paragraphs (iv) and (vi) of this proviso, any amount received by or accrued to any employee or the holder of any office by way of an allowance or advance granted by his principal (being his employer or the authority, company, body or other organization in relation to which such office is held) in order that such allowance or advance may in
whole or in part be utilized for the purpose of defraying entertainment expenditure incurred or to be incurred, shall for the purposes of this paragraph be deemed to have been received by or to have accrued to such employee or office holder, as the case may be, in respect of services rendered or to be rendered by him;

(iv) paragraph (iii) of this proviso shall not apply in respect of any portion of any allowance or advance referred to in that paragraph as the Commissioner is satisfied does not relate to entertainment expenditure;

(v) any decision of the Commissioner under paragraph (iv) shall be subject to objection and appeal;

(vi) the provisions of paragraph (iii) of this proviso shall not apply in respect of any amount received by or accrued to any employee or office holder to the extent to which such amount is an advance for, or a reimbursement of, entertainment expenditure actually incurred or to be incurred during the year of assessment by the employee or office holder on the instruction of his aforesaid principal in entertaining persons on behalf of such principal, provided the employee or office holder has produced proof to the said principal that such expenditure was incurred as aforesaid and has accounted to him for such expenditure;

[Para. (c) amended by s. 3 (d) of Act 90 of 1962, by s. 5 (a) of Act 55 of 1966 and by s. 4 (1) (h) of Act 69 of 1975 and substituted by s. 2 (1) (f) of Act 121 of 1984.]

(d) any amount, including any voluntary award, received or accrued 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: Provided that-

(i) the provisions of this paragraph shall not apply to any lump sum award from any pension fund, provident fund or retirement annuity fund;

(ii) 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 death;

[Para. (d) amended by s. 2 (1) (b) of Act 65 of 1986.]
(e) any amount determined in accordance with the provisions of the Second Schedule in respect of lump sum benefits received by or accrued to such person from or in consequence of his membership or past membership of-

(i) any fund which has in respect of the current or any previous year of assessment been approved by the Commissioner, whether under this Act or any previous Income Tax Act, as a pension fund, provident fund or retirement annuity fund; or

(ii) a fund referred to in paragraph (a) or (b) of the definition of ‘pension fund’,

if such person was a member or past member of such fund during any such year: Provided that the provisions of paragraph (g) of subsection (1) of section nine shall mutatis mutandis apply in the case of any amount determined as aforesaid;

[Para. (e) amended by s. 3 (e) of Act 90 of 1962, by s. 4 (a) of Act 72 of 1963, by s. 2 (1) (b) of Act 94 of 1983, by s. 2 (1) (g) of Act 28 of 1997 and by ss. 19 (1) (e) and (f) of Act 30 of 1998.]

(eA) where, in relation to a member who effectively remains in the employment of the same employer, or the dependants or nominees of a deceased member-

(i) any amount in a fund contemplated in paragraph (a) or (b) of the definition of ‘pension fund’, the rules of which provide that on retirement of such member a portion of his benefit has to be taken in the form of an annuity, has been transferred to a fund, the rules of which entitle such member, or the dependants or nominees of a deceased member, to a benefit on retirement in the form of a lump sum exceeding one-third of the capitalised value of all benefits (including lump sum payments and annuities); or

(ii) a fund contemplated in paragraph (a) or (b) of the definition of ‘pension fund’, the rules of which provide that on retirement of such member a portion of his benefit has to be taken in the form of an annuity, is wholly or partially converted by way of an amendment to its rules or otherwise, to entitle such member, or the dependants or nominees of a deceased member, to a benefit on retirement in the form of a lump sum exceeding one-third of the capitalised value of all benefits (including lump sum payments and annuities); or
any amount in a fund contemplated in paragraph (a) or (b) of the definition of 'pension fund' has become payable to the member or is being utilised to redeem a debt,

[Sub-para. (iii) added by s. 19 (1) (i) of Act 30 of 1998.]

an amount equal to two-thirds-

(aa) of the amount so transferred; or

(bb) in the case of a conversion, of the amount representing the amount converted for the benefit or ultimate benefit of the member or the dependants or nominees of the deceased member; or

(cc) in the case of an amount becoming payable to a member or being utilised to redeem a debt, of the amount so payable or so utilised:

[Item (cc) added by s. 19 (1) (k) of Act 30 of 1998.]

Provided that the Commissioner may, on application by a fund, in particular circumstances, increase the proportion of one-third contemplated in subparagraph (i) up to a maximum of one-half on the following conditions:

(a) that on 12 March 1997 the proportion of the benefit on retirement in such fund that could be taken in the form of a lump sum was greater than one-third, but not greater than one-half, of the total capitalized value of all benefits;

(b) that the rules of such fund are amended so that the maximum proportion of such member's benefit on retirement that can be taken in the form of a lump sum is one-third of the total capitalized value of all benefits; and

(c) such further conditions as the Commissioner may determine from time to time;

[Para. (eA) inserted by s. 4 (1) (a) of Act 90 of 1972, substituted by s. 4 (1) (a) of Act 65 of 1973, deleted by s. 2 (1) (f) of Act 113 of 1993, inserted by s. 2 (1) (h) of Act 28 of 1997 and amended by s. 19 (1) (g) of Act 30 of 1998.]

(f) any amount received or accrued in commutation of amounts due under any contract of employment or service;
any amount received or accrued from another person, as premium or like consideration-

(i) for the use or occupation or the right of use or occupation of land or buildings; or

(ii) for the use or the right of use of plant or machinery; or

(ii)bis for the use or the right of use of any motion picture film or any film or video tape or disc for use in connection with television or any sound recording or advertising matter connected with such motion picture film, film or video tape or disc; or

(iii) for the use or right of use of any patent as defined in the Patents Act, 1978 (Act 57 of 1978), or any design as defined in the Designs Act, 1967 (Act 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act 62 of 1963), or any copyright as defined in the Copyright Act, 1978 (Act 98 of 1978), or any model, pattern, plan, formula or process or any other property or right of a similar nature;

[Sub-para. (iii) substituted by s. 2 (1) (a) of Act 129 of 1991.]

Para. (g) amended by s. 3 (f) and (g) of Act 90 of 1962 and by s. 6 (1) (b) of Act 89 of 1969 and substituted by s. 4 (1) (b) of Act 65 of 1973.

(gA) any amount received or accrued from another person as consideration (or payment of a like nature) for the imparting of or the undertaking to impart any scientific, technical, industrial or commercial knowledge or information for use in the Republic, 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;

[Para. (gA) inserted by s. 4 (1) (c) of Act 65 of 1973.]

(h) in the case of any person to whom, in terms of any agreement relating to the grant to any other person of the right of use or occupation of land or buildings, or by virtue of the cession of any rights under any such agreement, there has accrued in any such year or period the right to have improvements effected on the land or to the buildings by any other person-

(i) the amount stipulated in the agreement as the value of the improvements or as the amount to be expended on the improvements; or
(ii) if no amount is so stipulated, an amount representing the fair and reasonable value of the improvements;

[Sub-para. (ii) substituted by s. 2 (1) (g) of Act 113 of 1993.]

(i) the cash equivalent, as determined under the provisions of the Seventh Schedule, of the value during the year of assessment of any benefit or advantage granted in respect of employment or to the holder of any office, being a taxable benefit as defined in the said Schedule, and any amount required to be included in the taxpayer's income under section 8A;

[Para. (i) substituted by s. 6 (1) (c) of Act 89 of 1969, by s. 6 (a) of Act 52 of 1970 and by s. 2 (1) (g) of Act 121 of 1984.]

(j) so much of the sum of any amounts received or accrued during any year of assessment in respect of disposals of assets the cost of which has in whole or in part been included in capital expenditure taken into account (whether under this Act or any previous Income Tax Act) for the purposes of any deduction in respect of any mine under section 15 (a) of this Act or the corresponding provisions of any previous Income Tax Act, as exceeds the sum of so much of any capital expenditure as in the case of such mine is unredeemed at the commencement of the said year of assessment and the capital expenditure that is incurred during that year in respect of such mine, as determined before applying the definition of 'capital expenditure incurred' in section 36 (11);

[Para. (j) substituted by s. 6 (1) (d) of Act 89 of 1969, by s. 4 (1) (d) of Act 65 of 1973, by s. 4 (1) (j) of Act 85 of 1974, by s. 2 (1) (c) of Act 94 of 1983 and by s. 2 (b) of Act 141 of 1992.]

(k) any amount received or accrued by way of dividends, including any dividends distributed by a private company out of or by way of capitalization of any profits of such company, which in terms of section 37 of the Income Tax Act, 1941 (Act 31 of 1941), had previously been apportioned among its shareholders as the taxable income or the income subject to super tax of such company, and for the purposes of this paragraph all dividends from sources outside the Republic received by or accrued to any person (other than a company) who is ordinarily resident in the Republic or received by or accrued to any company which is registered, managed and controlled in the Republic, shall be deemed to have been received by or to have accrued to such person or company from a source within the Republic;
(k) any amount received or accrued by way of grant or subsidy in respect of any soil erosion works referred to in section 17A (1) or any of the matters mentioned in items (a) to (l), inclusive, of paragraph 12 (1) of the First Schedule;

(l) any amount received or accrued by way of grant or subsidy in respect of any soil erosion works referred to in section 17A (1) or any of the matters mentioned in items (a) to (l), inclusive, of paragraph 12 (1) of the First Schedule;

(lA) ......

(m) any amount received or accrued under or upon the surrender or disposal of, or by way of any loan or advance granted on or after 1 July 1982 by the insurer concerned under or upon the security of, any policy of insurance upon the life of any person who, at any time while the policy was in force, was an employee of the taxpayer or, where the taxpayer is a company, was a director or employee of that company, if any premium paid in respect of such policy is or was deductible from the taxpayer's income, whether in the current or any previous year of assessment, under the provisions of section 11: Provided that where any amount received or accrued under or upon the surrender or disposal of any such policy falls to be included in the taxpayer's gross income, the amount so to be included in his gross income shall be reduced by the amount of any loan or advance under or upon the security of that policy which has been included in his gross income, whether in the current or any previous year of assessment: Provided further that where any such policy has been terminated by the insurer and a paid-up policy has been issued the terminated policy and the paid-up policy shall for the purposes of this paragraph be deemed to be one and the same policy;

[Para. (k) substituted by s. 4 (1) (c) of Act 88 of 1971.]

[Para. (l) substituted by s. 5 (b) of Act 76 of 1968, by s. 4 (1) (c) of Act 113 of 1977 and by s. 2 (1) (h) of Act 113 of 1993.]

[Para. (lA) inserted by s. 5 of Act 95 of 1967 and deleted by s. 2 (c) of Act 141 of 1992.]

[Para. (lB) inserted by s. 3 (1) (a) of Act 91 of 1982.]

[Para. (m) substituted by s. 4 (1) (d) of Act 88 of 1971 and by s. 3 (1) (b) of Act]
any amount which in terms of any other provision of this Act is specifically required to be included in the taxpayer's income, and for the purposes of this paragraph all amounts which in terms of subsection (4) of section eight are required to be included in the taxpayer's income shall be deemed to have been received by or to have been accrued to the taxpayer from a source within the Republic notwithstanding that such amounts may have been recovered or recouped outside the Republic:

Provided that where during any year of assessment the taxpayer has become entitled to any amount which is payable on a date or dates falling after the last day of such year, there shall be deemed to have accrued to him during such year-

(a) if the taxpayer has on or before 23 May 1990 submitted a return of income drawn on the basis that the present value of such amount has accrued to him during such year, the present value of such amount; or

(b) in any other case, such amount:

Provided further that where the provisions of paragraph (a) of the first proviso are applicable, there shall be deemed to have accrued to the taxpayer during any subsequent year of assessment in which he receives such amount or any portion thereof, a sum equal to the difference between such amount or portion thereof and the present value of such amount or portion thereof so deemed to have accrued to him during the first-mentioned year of assessment;

[Definition of 'gross income' amended by s. 2 (1) (a) of Act 101 of 1990.]

'hotel keeper' means any person carrying on the business of hotel keeper or boarding or lodging house keeper where meals and sleeping accommodation are supplied to others for money or its equivalent;

[Definition of 'hotel keeper' substituted by s. 6 (1) (e) of Act 89 of 1969 and by s. 2 (b) of Act 36 of 1996.]

'income' means the amount remaining of the gross income of any person for any year or period of assessment after deducting therefrom any amounts exempt from normal tax under Part I of Chapter II;

'insolvent estate' means an insolvent estate as defined in section 2 of the Insolvency Act, 1936 (Act 24 of 1936);
'local authority' means-

(a) any rural council, municipal council, town council, village council, town board, local board, village management board, health committee or school board or any district council;

(b) the Rand Water Board, the Far West Rand Dolomitic Water Association formed on 6 July 1964, any water board constituted in terms of section 108 (2) of the Water Act, 1956 (Act 54 of 1956), or regional water services corporation, or any other institution which has powers similar to those of any such water board or water services corporation; and

(c) any regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act 109 of 1985), or any joint services board established under section 4 of the KwaZulu and Natal Joint Services Act, 1990 (Act 84 of 1990);

'married' includes joined together in a union recognized as a marriage in accordance with any law or custom, and 'husband', 'wife' or 'spouse' shall be construed accordingly;

'married person' ......

'married woman' does not include a married woman who is living apart from her husband in circumstances which indicate that the separation is likely to be permanent nor, where any husband is at any time married to two or more wives, any wife other than the wife of his longest subsisting marriage;

'mining for gold' or 'to mine for gold' includes mining for uranium or to mine for uranium;

'mining operations' and 'mining' include every method or process by
which any mineral (including natural oil) is won from the soil or from any substance or constituent thereof;

[Definition of 'mining operations' and 'mining' amended by s. 4 (c) of Act 72 of 1963.]

"mutual building society" means a mutual building society registered under the Mutual Building Societies Act, 1965 (Act 24 of 1965);

[Definition of 'mutual building society' inserted by s. 1 (1) (c) of Act 108 of 1986.]

"natural oil" means any liquid or solid hydrocarbon or combustible gas existing in a natural condition in the earth's crust, but does not include coal or bituminous shales or other stratified deposits from which oil can be obtained by destructive distillation, or gas arising from marsh or other surface deposits;

[Definition of 'natural oil' inserted by s. 4 (d) of Act 72 of 1963.]

"neighbouring country" means Botswana, Lesotho, Namibia and Swaziland;

[Definition of 'neighbouring country' inserted by s. 2 (1) (a) of Act 85 of 1987 and substituted by s. 2 (e) of Act 141 of 1992 and by s. 2 (c) of Act 36 of 1996.]

"new deep level gold mine" ......  

[Definition of 'new deep level gold mine' deleted by s. 2 (c) of Act 70 of 1989.]

"new gold mine" ......  

[Definition of 'new gold mine' amended by s. 4 (e) of Act 72 of 1963 and deleted by s. 2 (c) of Act 70 of 1989.]

"nominal value" means-

(a) in relation to shares issued by a company-

(i) if the shares have a par value, such par value; or

(ii) if the shares do not have a par value, an amount equal to the amount at which the par value of those shares would be determined if the company were to convert the shares into shares having a par value:

Provided that in the case of capitalization shares the nominal value thereof at the time of the issue thereof shall be deemed to be the
amount of the company's reserves (including any share premium account) and unappropriated profits applied in paying up such shares as contemplated in the definition of 'capitalization shares' in this section and the amount of such reserves applied in paying up any share premium in respect of the said shares; or

(b) in relation to bonus debentures or securities issued by a company, the amount of the company's reserves or unappropriated profits applied in paying up such debentures or securities as contemplated in the definition of 'bonus debentures or securities' in this section;

[Definition of 'nominal value' inserted by s. 4 (1) (k) of Act 85 of 1974.]

'other deep level gold mine' means any producing gold mine in respect of which the Government Mining Engineer has upon application made to him recognized on or before 22 May 1989 that its principal object is the mining of gold bearing ores at vertical depths exceeding 2286 metres from the surface and in respect of which he is satisfied, at the time the application is lodged with him, that mining at such depths has commenced or will be commenced within a period of five years;

[Definition of 'other deep level gold mine' substituted by s. 2 (d) of Act 70 of 1989.]

'pension fund' means-

(a) a superannuation, pension, provident or dependants' fund or pension scheme established by law or any such fund established for the benefit of the employees of any local authority;

[Para. (a) substituted by s. 2 (c) of Act 21 of 1995.]

(b) with effect from a date determined by the Commissioner in relation to any fund hereinafter referred to (not being a date earlier than 4 December 1981), any pension fund established for the benefit of employees of a control board as defined in section 1 of the Marketing of Agricultural Products Act, 1996 (Act 47 of 1996), or for the benefit of employees of the Development Bank of Southern Africa, if the Commissioner is satisfied that the rules of such fund are in all material respects identical to those of the Government Employees' Pension Fund; or

[Para. (b) substituted by s. 2 (1) (c) of Act 96 of 1985 and by s. 2 (1) (j) of Act 28 of 1997.]

(c) the Municipal Councillors Pension Fund provisionally registered
under the Pension Funds Act, 1956 (Act 24 of 1956), on 23 May 1988, or any fund (other than a retirement annuity fund or a fund contemplated in paragraph (a) or (b) which is approved by the Commissioner in respect of the year of assessment in question and, in the case of any such fund established on or after 1 July 1986, is registered under the provisions of the said Act: Provided that the Commissioner may approve a fund subject to such limitations or conditions as he may determine, and shall not approve a fund in respect of any year of assessment unless he is in respect of that year of assessment satisfied-

(i) that the fund is a permanent fund *bona fide* established for the purpose of providing annuities for employees on retirement from employment or for the dependants or nominees of deceased employees, or mainly for the said purpose and also for the purpose of providing benefits other than annuities for the persons aforesaid; and

[Para. (i) substituted by s. 2 (d) of Act 21 of 1995.]

(ii) that the rules of the fund provide-

   (aa) that all annual contributions of a recurrent nature to the fund shall be in accordance with specified scales;

   (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 the fund comes into operation;

   (cc) that persons who immediately prior to the said date were employed by the employer and who on the said date fall within the said class or classes may, on application made within a period of not more than 12 months as from the said date, be permitted to become members of the fund on such conditions as may be specified in the rules;

   (dd) that not more than one-third of the total value of the annuity or annuities to which any employee becomes entitled, may be commuted for a single payment, except where the annual amount of such annuity or annuities does not exceed R1 800 or such other amount as the Minister of Finance may from time to time fix by notice in the *Gazette*;
(dd) substituted by s. 2 (1) (b) of Act 101 of 1990 and amended by s. 2 (1) (i) of Act 113 of 1993.

(ee) for the administration of the fund in such a manner as to preclude the employer from controlling the management or assets of the fund and from deriving any monetary advantage from moneys paid into or out of the fund, except that where the employer is a partnership, a member of the partnership may be permitted to derive such monetary advantage if he was previously an employee and, on becoming a partner, was permitted to retain his membership of the fund as though he had not ceased to be an employee, his contributions being based upon his pensionable emoluments during the 12 months which ended on the day on which he ceased to be an employee and his benefits from the fund being calculated accordingly;

(ff) that the Commissioner shall be notified of all amendments of the rules; and

(gg) that no portion of any annuity payable to the dependant or nominee of a deceased member shall be commuted later than six months from the date of the death of such member; and

(iii) that the rules of the fund have been complied with;

[Sub-para. (gg) substituted by s. 2 (e) of Act 21 of 1995.]

[Para. (c) amended by s. 2 (1) (c) of Act 65 of 1986 and by s. 1 (1) of Act 99 of 1988.]

[Definition of 'pension fund' amended by s. 3 (i) of Act 90 of 1962, by s. 4 (1) (c) of Act 90 of 1972, by s. 3 (1) (c) of Act 101 of 1978, by s. 3 (1) (c) of Act 104 of 1979 and by s. 3 (1) (c) of Act 91 of 1982 and substituted by s. 2 (1) (e) of Act 94 of 1983.]

'person' includes an insolvent estate, the estate of a deceased person and any trust;

[Definition of 'person' substituted by s. 2 (1) (b) of Act 129 of 1991, by s. 2 (f) of Act 141 of 1992 and by s. 2 (1) (k) of Act 28 of 1997.]

'post-1966 gold mine' ......
'post-1966 gold mine' means an independent workable proposition in respect of which the State President or the Minister of Mines has, after 1 January, 1974, on the recommendation of the Mining Leases Board signified in writing his decision to grant a lease of the right to mine for gold, and includes any other gold mine which, in the opinion of the Government Mining Engineer, is an independent workable proposition which was established as such after the said date;

'post-1973 gold mine' means an independent workable proposition in respect of which the State President or the Minister of Mines has, after 1 January, 1974, on the recommendation of the Mining Leases Board signified in writing his decision to grant a lease of the right to mine for gold, and includes any other gold mine which, in the opinion of the Government Mining Engineer, is an independent workable proposition which was established as such after the said date;

'post-1990 gold mine' means a gold mine which, in the opinion of the Director-General: Mineral and Energy Affairs, is an independent workable proposition and in respect of which a mining authorization for gold mining was issued for the first time after 14 March 1990;

'prescribed' means prescribed or deemed to be prescribed by or under this Act;

'prescribed rate', in relation to any interest payable in terms of this Act, means-

(a) in the case of interest payable to any taxpayer under the provisions of section 89quat (4), a rate of 12 per cent per annum; or

(b) in any other case, a rate of 16 per cent per annum,

'provident fund' means any fund (other than a pension fund, benefit fund
or retirement annuity fund) which is approved by the Commissioner in respect of
the year of assessment in question and, in the case of any such fund established
on or after 1 July 1986, is registered under the provisions of the Pension Funds
Act, 1956 (Act 24 of 1956): Provided that the Commissioner may approve a fund
subject to such limitations or conditions as he may determine, and shall not
approve a fund in respect of any year of assessment unless he is in respect of
that year of assessment satisfied-

(a) that the fund is a permanent fund *bona fide* established solely for
the purpose of providing benefits for employees on retirement from
employment or solely for the purpose of providing benefits for
employees on retirement from employment or solely for the
purpose of providing benefits for the dependants or nominees of
deceased employees or deceased former employees or solely for a
combination of such purposes; and

[Para. (a) substituted by s. 2 (f) of Act 21 of 1995.]

(b) that the rules of the fund contain provisions similar in all respects to
those required to be contained in the rules of a pension fund in
terms of subparagraphs (aa), (bb), (cc), (ee) and (ff) of paragraph
(ii) of the proviso to paragraph (c) of the definition of 'pension fund'; and

[Para. (b) substituted by s. 2 (1) (f) of Act 94 of 1983.]

(c) that the rules of the fund have been complied with;

[Definition of 'provident fund' amended by s. 2 (1) (d) of Act 65 of 1986.]

'regulation' means a regulation in force under this Act;

'relative' in relation to any person, means the spouse of such person or
anybody related to him or his spouse within the third degree of consanguinity, or
any spouse of anybody so related, and for the purpose of determining the
relationship between any child referred to in the definition of 'child' in this section
and any other person, such child shall be deemed to be related to its adoptive
parent within the first degree of consanguinity;

[Definition of 'relative' inserted by s. 4 (c) of Act 90 of 1964.]

'representative taxpayer' means-

(a) in respect of the income of a company, the public officer thereof;

(b) in respect of the income under his management, disposition or
control, the agent of any person, including an agent appointed as such under the provisions of section ninety-nine, and for the purposes of this paragraph the term ‘agent’ includes every person in the Republic having the receipt, management or control of income on behalf of any person permanently or temporarily absent from the Republic or remitting or paying income to or receiving moneys for such person;

(c) in respect of income the subject of any trust or in respect of the income of any minor or mentally disordered or defective person or any other person under legal disability, the trustee, guardian, curator or other person entitled to the receipt, management, disposal or control of such income or remitting or paying to or receiving moneys on behalf of such person under disability;

(d) in respect of income paid under the decree or order of any court or judge to any receiver or other person, such receiver or person, whoever may be entitled to the benefit of such income, and whether or not it accrues to any person on a contingency or an uncertain event;

(e) in respect of the income received by or accrued to any deceased person during his lifetime and the income received by or accrued to the estate of any deceased person, the executor or administrator of the estate of such deceased person,

(f) in respect of the income received by or accrued to an insolvent estate, the trustee or administrator of such insolvent estate,

[Para. (f) added by s. 2 (1) (l) of Act 28 of 1997.]

but nothing in this definition shall be construed as relieving any person from any liability, responsibility or duty imposed upon him by this Act;

'Republic' means the Republic of South Africa;

[Definition of 'Republic' inserted by s. 6 (1) (f) of Act 89 of 1969, substituted by s. 6 (b) of Act 52 of 1970 and by s. 4 (1) (d) of Act 90 of 1972 and amended by s. 4 (1) (m) of Act 85 of 1974 and by s. 2 (1) (g) of Act 94 of 1983.]

'retirement annuity fund' means any fund (other than a pension fund, provident fund or benefit fund) which is approved by the Commissioner in respect of the year of assessment in question and, in the case of any such fund established on or after 1 July 1986, is registered under the provisions of the Pension Funds Act, 1956 (Act 24 of 1956): Provided that the Commissioner may approve a fund subject to such limitations or conditions as he may determine,
and shall not approve any fund in respect of any year of assessment unless he is in respect of that year of assessment satisfied-

(a) that the fund is a permanent fund *bona fide* established for the sole purpose of providing life annuities for the members of the fund or annuities for the dependants or nominees of deceased members; and

[Para. (a) substituted by s. 2 (g) of Act 21 of 1995.]

(b) that the rules of the fund provide-

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

[Sub-para. (i) amended by s. 4 (d) of Act 90 of 1964 and substituted by s. 2 of Act 96 of 1981.]

(ii) that not more than one-third of the total value of any annuities to which any person becomes entitled, may be commuted for a single payment, except where the annual amount of such annuities does not exceed R1 800 or such other amount as the Minister of Finance may from time to time fix by notice in the *Gazette*;

[Sub-para. (ii) substituted by s. 4 (1) (e) of Act 90 of 1972, amended by s. 3 (1) (d) of Act 91 of 1982, substituted by s. 2 (1) (d) of Act 101 of 1990 and amended by s. 2 (1) (k) of Act 113 of 1993.]

(iii) that no portion of any annuity payable to the dependant or nominee of a deceased member may be commuted later than six months from the date of the death of such member;

[Sub-para. (iii) substituted by s. 2 (h) of Act 21 of 1995.]

(iv) adequate security to safeguard the interests of persons who may become entitled to annuities;

(v) that no member shall become entitled to the payment of any annuity after he reaches the age of seventy years or, except in the case of a member who becomes permanently incapable through infirmity of mind or body of carrying on his occupation, before he reaches the age of fifty-five years;
(vi) that where a member dies before he becomes entitled to the payment of an annuity, the benefits shall not exceed a refund to his estate or to his dependants or nominees of the sum of the amounts (with or without reasonable interest thereon) contributed by him and an annuity or annuities to his dependants or nominees;

[Sub-para. (vi) substituted by s. 2 (i) of Act 21 of 1995.]

(vii) that where a member dies after he has become entitled to an annuity no further benefit shall be payable other than an annuity or annuities to his dependants or nominees;

[Sub-para. (vii) substituted by s. 2 (i) of Act 21 of 1995.]

(viii) ......

[Sub-para. (viii) substituted by s. 6 (1) (g) of Act 89 of 1969 and deleted by s. 4 (a) of Act 103 of 1976.]

(ix) ......

[Sub-para. (ix) substituted by s. 6 (1) (g) of Act 89 of 1969 and deleted by s. 4 (a) of Act 103 of 1976.]

(x) that a member who discontinues his contributions prematurely shall be entitled either to an annuity (payable from the date on which he would have become entitled to the payment of an annuity if he had continued his contributions) determined in relation to his actual contributions or to be reinstated as a full member under conditions prescribed in the rules of the fund;

(xi) that upon the winding up of the fund a member's interest therein must either be used to purchase a policy of insurance which the Commissioner is satisfied provides benefits similar to those provided by such fund or be paid for the member's benefit into another approved retirement annuity fund;

(xii) that save-

(a) as is contemplated in subparagraph (ii); or

(bb) for the transfer of any member's total interest in any approved retirement annuity fund into another approved retirement annuity fund prior to the member becoming entitled to the payment of an annuity,
no member's rights to benefits shall be capable of surrender, commutation or assignment or of being pledged as security for any loan;

[Sub-para. (xii) substituted by s. 19 (1) (l) of Act 30 of 1998.]

(xiii) that the Commissioner shall be notified of all amendments of the rules; and

(c) that the rules of the fund have been complied with;

[Definition of 'retirement annuity fund' amended by s. 2 (1) (e) of Act 65 of 1986.]

'retirement-funding employment' means-

(a) in relation to any employee or the holder of an office (including a member of a body of persons whether or not established by or in terms of any law), who-

(i) in the case of such employee, derives in respect of his employment any income constituting remuneration as defined in paragraph 1 of the Fourth Schedule (but leaving out of account the provisions of paragraph (c) and paragraph (vii) of that definition and including the amount of any allowance or advance in respect of transport expenses contemplated in section 8 (1) (b), but not an allowance or advance contemplated in section 8 (1) (b) (iii) which is based on the actual distance travelled by the recipient, and which is calculated at a rate per kilometre which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under the said section 8 (1) (b) (iii)) and is a member of or, as an employee, contributes to a pension fund or provident fund established for the benefit of employees of the employer from whom such income is derived; or

[Sub-para. (i) substituted by s. 2 (1) (l) of Act 113 of 1993 and by s. 2 (1) (b) of Act 21 of 1994.]

(ii) in the case of such holder of an office, derives in respect of his office any income by way of salary, emoluments, fees or other remuneration and is, as respects such office, a member of or contributes to a pension fund or provident fund established-

(aa) by law or for the benefit of holders of office; or
(bb) for the benefit of employees of the person from whom such income is derived,

the employment of such employee or the holding of such office, as the case may be, as respects that part of his said income as is taken into account in the determination of the contributions made by him or on his behalf to such pension fund or provident fund; or

[Para. (a) substituted by s. 2 (1) (i) of Act 121 of 1984.]

(b) in relation to any member of a partnership who has retained his membership of a pension fund as contemplated in paragraph (ii) (ee) of the proviso to paragraph (c) of the definition of ‘pension fund’ in section 1, his membership of the partnership, as respects that part of his income from the partnership in the form of his share of profits as does not exceed the amount of his pensionable emoluments contemplated in the said paragraph (ii) (ee);

[Para. (b) substituted by s. 2 (1) (h) of Act 94 of 1983.]

[Definition of ‘retirement-funding employment’ inserted by s. 3 (1) (d) of Act 104 of 1979.]

'scientific research' means any activity in the field of natural or applied science for the extension of knowledge;

'Secretary' ......

[Definition of 'Secretary' inserted by s. 4 (e) of Act 90 of 1964 and deleted by s. 2 (1) (e) of Act 104 of 1980.]

'shareholder'-

(a) in relation to any company referred to in paragraph (a), (b), (c) or (d) of the definition of 'company' in this section, means the registered shareholder in respect of any share, except that where some person other than the registered shareholder is entitled, whether by virtue of any provision in the memorandum of articles of association of the company or under the terms of any agreement or contract, or otherwise, to all or part of the benefit of the rights of participation in the profits or income attaching to the share so registered, such other person shall, to the extent that he is entitled to such benefit, also be deemed to be a shareholder; or

(b) in relation to any company referred to in paragraph (e) of the said
definition, the registered holder of any unit certificate issued in respect of a unit included in the relevant unit portfolio, except that where some person other than the registered holder of any unit is entitled, whether by virtue of any provision in the trust deed entered into for the purposes of the relevant unit trust scheme or under the terms of any agreement or contract, or otherwise, to all or part of the benefit of the rights of participation in the profits or income attaching to the unit certificate, such other person shall, to the extent that he is entitled to such benefit, also be deemed to be a shareholder; or

(c) in relation to any close corporation, means a member of such corporation;

[Para. (c) added by s. 2 (1) (j) of Act 121 of 1984.]

[Definition of 'shareholder' substituted by s. 3 (j) of Act 90 of 1962.]

'South African company' means any association, corporation, company or body corporate referred to in paragraph (a) or (f) of the definition of 'company' in this section or any association referred to in paragraph (d) of that definition or any unit portfolio referred to in paragraph (e) of that definition;

[Definition of 'South African Company' inserted by s. 4 (1) (w) of Act 85 of 1974 and substituted by s. 4 (b) of Act 103 of 1976, by s. 2 (1) (d) of Act 96 of 1985 and by s. 2 (d) of Act 36 of 1996.]

'South African Revenue Service' means the South African Revenue Service established by section 2 of the South African Revenue Service Act, 1997;

[Definition of 'South African Revenue Service' inserted by s. 34 (1) of Act 34 of 1997.]

'specified date', in relation to any company, means-

(a) in respect of the year of assessment ending the thirtieth day of June, 1962, that date or, if such company's return is under the proviso to subsection (13) of section sixty-six accepted in respect of a period ending upon some other date, such other date; or

(b) in respect of any other year of assessment, the last day of such other year of assessment;

[Definition of 'specified date' substituted by s. 1 (b) of Act 6 of 1963.]
'specified period', in relation to a year of assessment of any company commencing on or after 1 April 1977, means-

(a) where such year of assessment is the first financial year of such company, the period commencing on the first day of such year and ending six months after the specified date in respect of such year; and

(b) where such year of assessment is a subsequent financial year of such company, the period commencing the day after the end of the specified period in respect of the immediately preceding year of assessment and ending six months after the specified date in respect of the year of assessment in question:

Provided that where by reason of the amalgamation under section 94 of the Cooperative Societies Act, 1939 (Act 29 of 1939), of two or more agricultural co-operative (as defined in section 27 (9) of this Act), the assets and liabilities of such co-operative have vested in a new agricultural co-operative (as so defined), the Commissioner may, having regard to the circumstances of the case, direct that the specified period of each of the co-operatives which have so amalgamated, as applicable in relation to the final year of assessment of the co-operative in question be extended so as to end on such day as the Commissioner may determine;

[Definition of 'specified period' inserted by s. 4 (1) (d) of Act 113 of 1977 and substituted by s. 3 (1) (e) of Act 104 of 1979.]

'tax' or 'the tax' or 'taxation' means any levy or tax leviable under this Act; and for the purposes of Part IV of Chapter III includes any levy or tax leviable under any previous Income Tax Act;

[Definition of 'tax' or 'the tax' or 'taxation' amended by s. 1 (c) of Act 6 of 1963 and substituted by s. 19 (1) (m) of Act 30 of 1998.]

'taxable amount' ......

[Definition of 'taxable amount' inserted by s. 4 (1) (f) of Act 88 of 1971 and deleted by s. 2 (1) (f) of Act 104 of 1980.]

'taxable income' means the amount remaining after deducting from the income of any person all the amounts allowed under Part I of Chapter II to be deducted from or set off against such income;

[Definition of 'taxable income' substituted by s. 4 (1) (g) of Act 88 of 1971 and by s. 2 (1) (g) of Act 104 of 1980.]
'taxpayer' means any person chargeable with any tax leviable under this Act and, for the purposes of any provision relating to any return, includes every person required by this Act to furnish such return; and for the purposes of Part IV of Chapter III includes any person chargeable with any tax leviable under any previous Income Tax Act;

[Definition of 'taxpayer' amended by s. 1 (d) of Act 6 of 1963 and substituted by s. 19 (1) (n) of Act 30 of 1998.]

'territory' means the territory Namibia;

[Definition of 'territory' inserted by s. 6 (1) (h) of Act 89 of 1969 and substituted by s. 2 (h) of Act 141 of 1992.]

'this Act' includes the regulations;

'trade' includes every profession, trade, business, employment, calling, occupation or venture, including the letting of any property and the use of or the grant of permission to use any patent as defined in the Patents Act, 1978 (Act 57 of 1978), or any design as defined in the Designs Act, 1967 (Act 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act 62 of 1963), or any copyright as defined in the Copyright Act, 1978 (Act 98 of 1978), or any other property which is of a similar nature;

[Definition of 'trade' substituted by s. 6 (1) (i) of Act 89 of 1969 and by s. 2 (1) (d) of Act 129 of 1991.]

'trading stock' includes anything produced, manufactured, purchased or in any other manner acquired by a taxpayer for purposes of manufacture, sale or exchange by him or on his behalf, or the proceeds from the disposal of which forms or will form part of his gross income, or any consumable stores and spare parts acquired by him to be used or consumed in the course of his trade, but does not include a foreign currency option contract and a forward exchange contract as defined in section 24I (1);

[Definition of 'trading stock' substituted by s. 2 (1) (e) of Act 101 of 1990 and by s. 2 (1) (m) of Act 113 of 1993.]

'trust' means any trust fund consisting of cash or other assets which are administered and controlled by a person acting in a fiduciary capacity, where such person is appointed under a deed of trust or by agreement or under the will of a deceased person;

[Definition of 'trust' inserted by s. 2 (i) of Act 141 of 1992.]

'trustee', in addition to every person appointed or constituted as such by
act of parties, by will, by order of declaration of court or by operation of law, includes an executor or administrator, tutor or curator, and any person having the administration or control of any property subject to a trust, usufruct, fideicommissum or other limited interests or acting in any fiduciary capacity or having, either in a private or in an official capacity, the possession, direction, control or management of any property of any person under legal disability;

'year of assessment' means any year or other period in respect of which any tax or duty leviable under this Act is chargeable, and any reference in this Act or any other Income Tax Act to any year of assessment ending the last or the twenty-eighth or the twenty-ninth day of February shall, unless the context otherwise indicates, be construed-

(a) in the case of a company, as a reference to any financial year of that company ending during the calendar year in question; and

(b) in the case of any person (other than a company) whose year of assessment ends on the thirtieth day of June of the calendar year in question, as a reference to such year of assessment.

[Definition of 'year of assessment' substituted by s. 1 (e) of Act 6 of 1963, amended by s. 4 (f) of Act 72 of 1963 and substituted by s. 4 (f) of Act 90 of 1964.]

CHAPTER I
ADMINISTRATION (ss 2-4)

2 Act to be administered by Commissioner

(1) The Commissioner shall be responsible for carrying out the provisions of this Act.

(2) ......

[Sub-s. (2) deleted by s. 34 (1) of Act 34 of 1997.]

3 Exercise of powers and performance of duties

(1) The powers conferred and the duties imposed upon the Commissioner by or under the provisions of this Act or any amendment thereof may be exercised or performed by the Commissioner personally, or by any officer engaged in carrying out the said provisions under the control, direction or supervision of the Commissioner.
(2) Any decision made and any notice or communication issued or signed by any such officer may be withdrawn or amended by the Commissioner or by the officer concerned, and shall for the purposes of the said provisions, until it has been so withdrawn, be deemed to have been made, issued or signed by the Commissioner: Provided that a decision made by any such officer in the exercise of any discretionary power under the provisions of this Act or of any previous Income Tax Act shall not be withdrawn or amended after the expiration of three years from the date of the written notification of such decision or of the notice of assessment giving effect thereto, if all the material facts were known to the said officer when he made his decision.

[Sub-s. (2) amended by s. 3 (1) of Act 141 of 1992.]

(3) Any written decision made by the Commissioner personally in the exercise of any discretionary power under the provisions of this Act or of any previous Income Tax Act shall not be withdrawn or amended by the Commissioner if all the material facts were known to him when he made his decision.

(4) Any decision of the Commissioner under the definitions of 'benefit fund', 'pension fund', 'provident fund' and 'retirement annuity fund' in section 1, section 6, section 8 (4) (b), (c), (d) and (e), section 9C, section 9D, section 10 (1) (cB), (cH), (cJ), (cK), (cL), (cM), (j) and (nB), section 11 (e), (f), (g), (gA), (j), (l), (t), (u) and (w), section 12C, section 13, section 14, section 15, section 22 (1), (3) and (5), section 24 (2), section 24A (6), section 24C, section 24D, section 24I, section 27, section 31, section 35 (2), section 38 (4), section 57, paragraphs 6, 7, 9, 13, 13A, 14, 19 and 20 of the First Schedule, paragraph (b) of the definition of 'formula A' in paragraph 1 and paragraph 4 of the Second Schedule, paragraphs 18, 19 (1), 20, 21, 22, 24 and 27 of the Fourth Schedule and paragraphs 2, 3, 6, 9 and 11 of the Seventh Schedule, shall be subject to objection and appeal.

[Sub-s. (4) added by s. 3 (1) of Act 21 of 1994 and substituted by s. 3 (1) of Act 21 of 1995 and by s. 20 (1) of Act 30 of 1998.]

4  Preservation of secrecy

(1) Every person employed in carrying out the provisions of this Act shall preserve and aid in preserving secrecy with regard to all matters that may come to his knowledge in the performance of his duties in connection with those provisions, and shall not communicate any such matter to any person whatsoever other than the taxpayer concerned or his lawful representative nor suffer or permit any such person to have access to any records in the possession or custody of the Commissioner except in the performance of his duties under this Act or by order of a competent court: Provided that-
(a) any information obtained by the Commissioner in the performance of his duties under the provisions of this Act or any previous Income Tax Act may be used by him for the purposes of the provisions of any other fiscal law administered by him;

[Para. (a) substituted by s. 3 (a) of Act 85 of 1987 and substituted by s. 34 (1) of Act 34 of 1997.]

(b) the Auditor-General shall in the performance of his duties in terms of section 3 of the Auditor-General Act, 1995 (Act 12 of 1995), have access to documents in the possession or custody of the Commissioner;

[Para. (b) substituted by s. 4 of Act 21 of 1994 and by s. 21 (a) of Act 30 of 1998.]

(c) the provisions of this subsection not be construed as preventing the Commissioner from disclosing to the Chief of the Central Statistical Services such information in relation to any person as may be required by such Chief in connection with the collection of statistics in complying with the provisions of the Statistics Act, 1976 (Act 66 of 1976), or any regulation thereunder.

[Para. (c) added by s. 3 (a) of Act 36 of 1996, deleted by s. 34 (1) of Act 34 of 1997 and added by s. 21 (b) of Act 30 of 1998.]
[Sub-s. (1) amended by s. 4 of Act 104 of 1979.]

(1A) The Chief of the Central Statistical Services or any person acting under the direction and control of such Chief, shall not disclose any information supplied under subsection (1) (c) to any person or permit any person to have access thereto, except in the exercise of his powers or the carrying out of his duties to publish statistics in any anonymous form.

[Sub-s. (1A) inserted by s. 3 (b) of Act 85 of 1987, deleted by s. 34 (1) of Act 34 of 1997 and inserted by s. 21 (c) of Act 30 of 1998.]

(1B) ......

[Sub-s. (1B) inserted by s. 3 (b) of Act 36 of 1996 and deleted by s. 34 (1) of Act 34 of 1997.]

(a) Every person so employed shall, before acting under this Act, take and subscribe before a magistrate or justice of the peace or a commissioner of oaths, such oath or solemn declaration, as the case may be, of fidelity or secrecy as may be prescribed.

[Para. (a) substituted by s. 6 of Act 55 of 1966, amended by s. 3 of Act 96 of]
(b) Any oath of secrecy taken and subscribed under the provisions of any previous Income Tax Act by any person who is employed in carrying out the provisions of this Act shall be deemed to be an oath taken and subscribed in terms of this subsection.

(2A) No person shall in any manner publish or make known to any other person (not being an officer carrying out his duties under the control, direction or supervision of the Commissioner) the contents or tenor of any instruction or communication given or made by the Commissioner or any such officer in the performance of his or their duties under this Act for or concerning the examination or investigation of the affairs of any taxpayer or class of taxpayers or the fact that such instruction or communication has been given or made, or any information concerning the tax matters of a taxpayer or class of taxpayers:
Provided that the provisions of this subsection shall not be construed-

(i) as preventing any taxpayer or his representative who is or may be affected by any such examination, investigation or furnishing of information from publishing or making known information concerning his own tax matters; or

(ii) subject to the provisions of subsection (1), as in any way limiting the duties or powers of the Commissioner or any such officer; or

(iii) as preventing any person from publishing or making known anything which has been published or made known by the taxpayer or his representative as contemplated in paragraph (i) or by the Commissioner or any such officer in the exercise of his duties or powers.

(3) Any person who contravenes the provisions of subsection (1) or (2A) shall be guilty of an offence and liable on conviction to a fine not exceeding R5 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(4) Any person who acts in the execution of his office before he has taken the prescribed oath or solemn declaration shall be guilty of an offence and liable on conviction to a fine not exceeding R50.
CHAPTER II
THE TAXES (ss 5-64C)

Part I
Normal Tax (ss 5-37H)

5 Levy of normal tax and rates thereof

(1) Subject to the provisions of the Fourth Schedule there shall be paid annually for the benefit of the National Revenue Fund, an income tax (in this Act referred to as the normal tax) in respect of the taxable income received by or accrued to or in favour of-

(a) any person during the year of assessment ended the thirtieth day of June, 1962;

(b) any person who on the twenty-eighth day of February, 1963, carried on farming, fishing or diamond digging operations and who under the provisions of subparagraph (2) of paragraph 18 of the Fourth Schedule made an election not to be a provisional taxpayer-

(i) during the year of assessment ended the thirtieth day of June, 1963, and each succeeding year of assessment during which such election remains in force; and

(ii) during the period of eight months ending the last day of February immediately succeeding the last year of assessment referred to in subparagraph (i) during which any such election which has lapsed was in force; and

(iii) during the year of assessment commencing immediately after the said last day of February, and each succeeding year of assessment;

(c) any person (other than a person referred to in paragraph (b) or a company) in respect of-

(i) the period of eight months ended the twenty-eighth day of February, 1963;

(ii) the year of assessment ended the last day of February, 1964, and each succeeding year of assessment; and

(d) any company during every financial year of such company.
(1A) Notwithstanding the provisions of subsection (1) (c)-

(a) where the income of any person for any year of assessment includes any net remuneration as defined in paragraph 11B of the Fourth Schedule, the normal tax payable by such person in respect of such year shall not be less than the sum of the amounts of Standard Income Tax on Employees required to be determined in relation to such net remuneration under the provisions of the said paragraph; and

(b) where the taxable income of any person for any year of assessment was derived solely from such net remuneration and the employees tax required to be deducted or withheld from such net remuneration under the said Schedule consisted solely of such Standard Income Tax on Employees, the normal tax payable by him in respect of such year shall be an amount equal to the sum of the amounts of such Standard Income Tax on Employees required to be so determined.

(2) Subject to the provisions of subsections (2A) and (3) to (7), inclusive, and the provisions of the Fourth Schedule, the rates of tax chargeable in respect of taxable income shall be fixed annually by Parliament, but the rates fixed by Parliament in respect of any year of assessment or financial year or, if the rates so fixed have been varied by the Minister of Finance by way of an amendment made under subsection (3), which is still in force, the rates as so varied, shall be deemed to continue in force until the next such determination or variation of rates and shall be applied for the purposes of calculating the tax payable in respect of any such taxable income received by or accrued to or in favour of any person during the next succeeding year of assessment or financial year, as the case may be, if in the opinion of the Commissioner the calculation and collection of the tax chargeable in respect of such taxable income cannot without risk of loss of revenue be postponed until after the rates for that year have been determined.

(2A) (a) In the case of any company which derives taxable income from mining for natural oil, the normal tax payable in respect of such taxable income shall be determined in accordance with the rates referred to in subsection (2)
which are in force in respect of the year of assessment in question, and in
addition thereto there shall, in respect of such taxable income, be paid by such
company, by way of additional normal tax, an amount equal to 40 per cent of the
amount remaining after deducting the said amount of normal tax from such
taxable income.

(b) The normal tax and the additional normal tax chargeable in respect of
taxable income referred to in paragraph (a), shall be reduced to or by such an
amount, and on such conditions, as the Minister of Mineral and Energy Affairs
may with the concurrence of the Minister of Finance determine.

(c) For the purposes of this subsection where sulphur, salt or any other
mineral is won by any company in the course of mining for natural oil, the income
derived from the mining of such sulphur, salt or other mineral shall be deemed to
be derived from the mining for natural oil.

[Sub-s. (2A) inserted by s. 6 (1) (b) of Act 95 of 1967 and substituted by s. 7 (a)
of Act 89 of 1969, by s. 5 (b) of Act 113 of 1977 and by s. 3 (a) of Act 129 of
1991.]

(2B) (a) Notwithstanding the provisions of subsection (1), any portion of
the normal tax which in terms of paragraph (b) of this subsection, the Income Tax
Act, 1970, or any subsequent Income Tax Act is a loan portion of such tax and
has been paid by the person concerned, shall be repayable to such person in the
manner and at the time provided in the Fifth Schedule.

(b) The portions of the normal tax determined in accordance with the
provisions of paragraph 1 (g) or (h) of the Schedule to the Income Tax Act, 1965
(Act 88 of 1965), paragraph 1 (g) or (h) of the Schedule to the Income Tax Act,
1966 (Act 55 of 1966), paragraph 1 (h) or (i) of the Schedule to the Income Tax
Act, 1967 (Act 95 of 1967), paragraph 1 (h) or (i) of the Schedule to the Income
Tax Act, 1968 (Act 76 of 1968), and paragraph 2 (h) or (i) of the Schedule to the

[Sub-s. (2B) inserted by s. 7 of Act 52 of 1970.]

(3) After the promulgation of any Act of Parliament fixing rates of normal
tax for years of assessment specified therein, before the date mentioned in
subsection (6) and when Parliament is not in session the Minister of Finance may
from time to time by notice in the Gazette amend the provisions of such Act so as
to effect a variation or further variation of the said rates-

(a) by increasing or reducing the rate at which any loan portion of the
normal tax is payable in terms of the said Act; or

(b) where no loan portion of the normal tax is in terms of the said Act
payable by taxpayers of any category, by imposing a charge in respect of the normal tax payable by such taxpayers which shall be a loan portion of such tax and be payable in addition to the tax chargeable under the said Act:

Provided that the rates fixed under the said Act shall not be varied under this subsection so as to impose upon any taxpayer, in addition to the tax payable by him under the said Act, any charge or charges to tax in excess of ten per cent of the basic tax payable by him under that Act.

[Sub-s. (3) added by s. 6 of Act 88 of 1965, substituted by s. 6 (1) (c) of Act 95 of 1967 and by s. 7 (b) of Act 89 of 1969, deleted by s. 5 (1) (a) of Act 65 of 1973 and inserted by s. 5 (c) of Act 103 of 1976.]

(4) For the purposes of subsection (3) the basic tax payable by any taxpayer in respect of any year of assessment referred to in that subsection shall be deemed to be the normal tax payable by him for such year in terms of the Act referred to in the said subsection before the addition of any loan portion contemplated in the said subsection and before the deduction of any discount provided for in the said Act but after the deduction of any rebate provided for in section 6 of this Act.

[Sub-s. (4) added by s. 6 of Act 88 of 1965, substituted by s. 6 of Act 76 of 1968, deleted by s. 5 (1) (a) of Act 65 of 1973, inserted by s. 5 (c) of Act 103 of 1976 and substituted by s. 3 (b) of Act 104 of 1980.]

(5) Any amendment made in terms of subsection (3)-

(a) may be made so as to apply only to persons other than companies or only to companies or both to such persons and to companies, and may differentiate between such persons and companies; or

(b) may, subject to the provisions of the proviso to subsection (3), be made so as to provide that the loan portion of the normal tax payable by companies shall be calculated at rates which differ according to the various categories of taxable income in respect of which rates of normal tax have been enacted in the Act referred to in subsection (3).

[Sub-s. (5) added by s. 6 of Act 88 of 1965, amended by s. 7 (1) (a) of Act 55 of 1966, deleted by s. 5 (1) (a) of Act 65 of 1973 and inserted by s. 5 (c) of Act 103 of 1976.]

(6) Any amendment made under subsection (3) which is in force immediately before the date of promulgation of the Act of Parliament fixing rates of normal tax for the years of assessment succeeding the years of assessment
(3) Subject to the provisions of sections 79 and 102 and the provisions of the Fourth Schedule, where a taxpayer has been assessed for normal tax in respect of any year of assessment and the rate of the tax payable by him has been subsequently fixed or varied, his assessment for such year shall be adjusted, any amounts paid in excess being refundable to him and amounts shortpaid being recoverable from him.

(7) For the purposes of subsection (10) 'special remuneration' means any amount received by or accrued to any mineworker over and above his normal remuneration and any regular allowance, in respect of special services rendered by him (otherwise than in the course of his normal duties) in combating any fire, flood, subsidence or other disaster in a mine or in rescuing persons trapped in a mine or in performing any hazardous task during any emergency in a mine, if such services are rendered by him as a member of a team recognized by the management of the mine and the members of such team have been appointed for the purpose of rendering such services.

(10) Where any taxpayer's income includes any special remuneration, or where the provisions of section 7A (4A) or paragraph 15 (3) or 17 or 19 (1) of the First Schedule or paragraph 7 of the Second Schedule are applicable in the case of the taxpayer in respect of any year of assessment, the normal tax payable by the taxpayer in respect of such year (as determined before the deduction of any rebate or the addition of any transition levy) shall be determined in accordance with the formula:

$$Y = (\frac{A}{B - L}) \times (B - L) + (L + R)$$
\[ B + D - (C + L) \]

in which formula-

(a) \('Y'\) represents the amount of normal tax to be determined;

(b) \('A'\) represents the amount of normal tax (as determined before the deduction of any rebate or the addition of any transition levy) calculated at the full rate of tax chargeable for the said year in respect of a taxable income equal to the amount represented by the expression \('B+D - (C +L)'\) in the formula;

[Para. (b) substituted by s. 4 (b) of Act 91 of 1982, by s. 3 of Act 65 of 1986 and by s. 5 (b) of Act 21 of 1994 and amended by s. 4 (b) of Act 21 of 1995.]

(c) \('B'\) represents the taxpayer's taxable income for the said year;

(d) \('C'\) represents an amount equal to the sum of-

(i) the amount of any special remuneration (as defined in subsection (9)) which is included in the taxpayer's income for the said year.

(iA) in relation to any amount which accrued to the taxpayer before 1 September 1995 to which the provisions of section 7A (4A) are applicable in respect of the said year, the lesser of-

(aa) that amount; or

(bb) an amount equal to three times the annual average of the amounts derived by such taxpayer during the three years of assessment which immediately preceded the year of assessment under charge by way of remuneration as defined in paragraph 1 of the Fourth Schedule, including an amount referred to in paragraph (vii) of that definition but excluding so much of the sum of any other amounts contemplated in the said section 7A (4A) as were included in the amount represented by the symbol \('C'\) in respect of any previous year of assessment;

[Sub-para. (iA) inserted by s. 4 (b) of Act 96 of 1981 and substituted by s. 4 (c) of Act 91 of 1982, amended by s. 3 (c) of Act 94 of 1983 and substituted by s. 4 (c) of Act 21 of 1995.]
(ii) where the provisions of paragraph 15 (3) of the First Schedule are in the case of the taxpayer applicable in respect of the said year, an amount determined in accordance with those provisions as being the amount, if any, by which the taxable income derived by the taxpayer during the said year from the disposal of plantations and forest produce exceeds the annual average taxable income derived by him from that source over the three years of assessment immediately preceding the said year;

(iii) where the provisions of paragraph 17 of the First Schedule are in the case of the taxpayer applicable in respect of the said year, an amount equal to so much of the taxable income of the taxpayer for such year as has been derived from the disposal of sugar cane as a result of fire in his cane fields and but for such fire would not have been derived by him in that year;

[Sub-para. (iii) substituted by s. 3 (b) of Act 129 of 1991.]

(iiiA) where the provisions of subparagraph (1) of paragraph 19 of the First Schedule are in the case of the taxpayer applicable in respect of the said year, the amount by which his taxable income derived from farming for that year exceeds his average taxable income from farming as determined in relation to that year in accordance with subparagraph (2) of the said paragraph; and

[Sub-para. (iiiA) inserted by s. 3 (d) of Act 94 of 1983.]

(iv) in relation to any amount which accrued to the taxpayer before 1 September 1995 to which the provisions of paragraph 7 of the Second Schedule are applicable, any amount determined in accordance with the provisions of that Schedule and included in his income for the said year;

[Sub-para. (iv) substituted by s. 4 (e) of Act 21 of 1995.]

(v) ......

[Sub-para. (v) deleted by s. 5 (c) of Act 21 of 1994.]

(e) 'D' represents an amount equal to so much of any current contribution to a retirement annuity fund as is allowable as a deduction in terms of section 11 (n) (aa) (A) solely by reason of the inclusion in the taxpayer's income of any amount contemplated in
paragraph (d) (i), (ii), (iii) and (iiiA) and paragraph (f);

[Para. (e) inserted by s. 4 (d) of Act 91 of 1982, deleted by s. 3 (b) of Act 121 of 1984 and added by s. 4 (f) of Act 21 of 1995.]

(f) 'L' represents an amount equal to the sum of-

(i) in relation to any amount which accrued to the taxpayer on or after 1 September 1995 to which the provisions of section 7A (4A) are applicable in respect of the said year, the lesser of-

(aa) that amount; or

(bb) an amount equal to three times the annual average of the amounts derived by such taxpayer during the three years of assessment which immediately preceded the year of assessment under charge by way of remuneration as defined in paragraph 1 of the Fourth Schedule, including any amount referred to in paragraph (vii) of that definition but excluding so much of the sum of any other amounts contemplated in the said section 7A (4A) as were included in the amounts represented by the symbols 'C' and 'L' in respect of the said year and any previous year of assessment; and

(ii) in relation to any amount which accrued to the taxpayer on or after 1 September 1995 to which the provisions of paragraph 7 of the Second Schedule are applicable, any amount determined in accordance with the provisions of that Schedule and included in his income for the said year; and

[Para. (f) added by s. 4 (f) of Act 21 of 1995.]

(g) 'R' represents the greater of the amounts determined by applying the formula-

\[
R = \frac{A}{B + D - (C + L)}
\]

in respect of the said year and the preceding year of assessment, in which formula the amounts represented by the symbols 'A', 'B', 'C', 'D' and 'L' shall be determined in accordance with the foregoing provisions of this subsection as applicable in the said year or in the said preceding year, as the case may be: Provided that-
(a) where, as a result of the death or insolvency of the taxpayer, the period assessed is less than 12 months, the symbol 'R' shall be determined with reference to the said year only; and

(b) where the said preceding year ended on 28 February 1995, the symbols 'D' and 'L' in the formula shall be disregarded:

[Para. (g) added by s. 4 (f) of Act 21 of 1995.]

Provided that in no case shall the amount of normal tax so payable be less than the amount of normal tax which would be chargeable at the relevant rate fixed in terms of subsection (2) in respect of the first rand of taxable income, and nothing in this section contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of his taxable income: Provided further that where the sum of the amounts included in symbol 'L' exceed the taxpayer's taxable income for the said year, the amount of normal tax so payable shall be calculated on the taxpayer's total taxable income for the said year, at the greater of the relevant rate contemplated in the preceding proviso and the amount determined as symbol 'R' in relation to the preceding year only.

[Sub-s. (10) added by s. 5 (c) of Act 88 of 1971, amended by s. 5 (b) of Act 90 of 1972, by s. 5 (1) (b) and (c) of Act 65 of 1973 and by s. 5 (d) of Act 103 of 1976, substituted by s. 3 (c) of Act 104 of 1980 and amended by s. 4 (a) of Act 96 of 1981, by s. 4 (a) and (e) of Act 91 of 1982, by s. 3 (b) of Act 94 of 1983, by s. 3 (a) and (c) of Act 121 of 1984, by s. 5 (a) of Act 21 of 1994 and by ss. 4 (a) and (g) of Act 21 of 1995.]

[S. 5 substituted by s. 2 of Act 6 of 1963.]

5A ......

[S. 5A inserted by s. 6 of Act 88 of 1971, amended by s. 5 (1) of Act 85 of 1974, by s. 5 of Act 69 of 1975, by s. 6 of Act 103 of 1976, by s. 6 of Act 113 of 1977 and by s. 5 of Act 104 of 1979 and repealed by s. 4 of Act 104 of 1980.]

6 Normal tax rebates

(1) There shall be deducted from the normal tax payable by any natural person an amount equal to the sum of the amounts allowed to the taxpayer by way of rebates under subsection (2).

[Sub-s. (1) substituted by s. 4 (a) of Act 90 of 1988, by s. 4 (1) (a) of Act 70 of 1989, by s. 4 (a) of Act 129 of 1991 and by s. 5 (a) of Act 21 of 1995.]

(2) In the case of a natural person there shall, subject to the provisions of
subsection (4), be allowed by way of-

(a) a primary rebate, an amount of R3 710; and

[Para. (a) amended by s. 4 of Act 36 of 1996, by s. 3 of Act 28 of 1997, by s. 22 (a) of Act 30 of 1998 and by s. 5 (a) of Act 32 of 1999.]

(b) a secondary rebate, if the taxpayer was or, had he lived, would have been over the age of 65 years on the last day of the year of assessment, an amount of R2 775.

[Para. (b) amended by s. 22 (b) of Act 30 of 1998 and by s. 5 (b) of Act 32 of 1999.]

[Sub-s. (2) amended by s. 5 (a) and (b) of Act 91 of 1982, by s. 4 of Act 121 of 1984, by s. 3 (a) and (b) of Act 96 of 1985, by s. 4 of Act 85 of 1987 and by s. 4 (b) and (c) of Act 90 of 1988, substituted by s. 4 (1) (a) of Act 70 of 1989, amended by s. 3 of Act 101 of 1990, by s. 4 of Act 129 of 1991 and by s. 4 of Act 141 of 1992, substituted by s. 5 (a) of Act 21 of 1995.]

(3) ......

[Sub-s. (3) amended by s. 5 of Act 96 of 1981, by s. 5 of Act 91 of 1982, by s. 4 of Act 94 of 1983, by s. 3 of Act 96 of 1985, by s. 4 of Act 90 of 1988, by s. 4 of Act 70 of 1989, by s. 3 of Act 101 of 1990, by s. 4 of Act 129 of 1991 and by s. 4 of Act 141 of 1992 and deleted by s. 5 (b) of Act 21 of 1995.]

(4) Where the period assessed is less than 12 months, the amount to be allowed by way of a rebate under subsection (2) shall be such amount as bears to the full amount of such rebate, the same ratio as the period assessed bears to 12 months unless, where such period terminates at the death of the taxpayer or commences at the death of the spouse of the taxpayer, the Commissioner in the special circumstances of the case otherwise directs.

[Sub-s. (4) substituted by s. 4 (e) of Act 90 of 1988 and by s. 5 (c) of Act 21 of 1995.]

[S. 6 amended by s. 4 of Act 90 of 1962, by s. 3 of Act 6 of 1963, by s. 5 of Act 72 of 1963, by s. 8 of Act 55 of 1966, by s. 7 of Act 95 of 1967, by s. 7 of Act 76 of 1968 and by s. 8 (1) of Act 89 of 1969, repealed by s. 7 of Act 88 of 1971 and inserted by s. 5 of Act 104 of 1980.]

6bis ......

[S. 6bis inserted by s. 7 of Act 88 of 1965, substituted by s. 6 of Act 85 of 1974 and by s. 5 of Act 129 of 1991 and repealed by s. 4 of Act 28 of 1997.]
[S. 6ter inserted by s. 8 (1) of Act 95 of 1967, amended by s. 7 of Act 85 of 1974 and repealed by s. 6 of Act 129 of 1991.]

6quat Rebate in respect of foreign taxes on income

(1) Subject to the provisions of subsection (2), there shall be deducted from the normal tax payable by any resident of the Republic or any person contemplated in section 9C (2) (b) in whose taxable income there is included-

(a) any income received by or accrued to such resident or person from any country other than the Republic; or

(b) any proportional amount of investment income contemplated in section 9D,

a rebate equal to the sum of any taxes on income proved to be payable, without any right of recovery, other than a right of recovery in terms of any entitlement to carry back losses arising during any year of assessment to any year of assessment prior to such year of assessment, by-

(i) (aa) such resident of the Republic; and

(bb) any controlled foreign entity, as contemplated in section 9D, in respect of such proportional amount; or

(ii) such person contemplated in section 9C (2) (b),

to the government of such other country in respect of the amount of income so included in that resident's or person's taxable income: Provided that-

(a) the rebate under this subsection shall not exceed an amount which bears to the total normal tax payable the same ratio as the taxable income attributable to the income so included bears to the total taxable income; and

(b) where such sum of any taxes payable to the government of any such other country exceeds the rebate as determined in paragraph (a) of this proviso (hereinafter referred to as the excess amount), such excess amount (excluding so much of such excess amount relating to foreign tax paid or payable by any controlled foreign entity which distributes its profits in the form of dividends) may be deducted from any Secondary Tax on Companies which becomes payable after the determination of such excess amount, limited to an amount determined by applying the rate of the Secondary Tax
on Companies to the profits attributable to the inclusion of the income contemplated in paragraph (a) of this subsection, after the deduction of-

(i) any normal tax paid or payable; or

(ii) such sum of taxes payable to the government of any such other country,

whichever amount is the greater.

[Sub-s. (1) substituted by s. 5 (a) of Act 28 of 1997.]

(2) The rebate under subsection (1) shall not be granted in addition to any relief to which the resident of the Republic is entitled under any agreement between the governments of the Republic and the said other country for the prevention of or relief from double taxation, but may be granted in substitution for the relief to which the resident of the Republic would be so entitled.

(3) For the purposes of this section 'resident of the Republic' means any natural person who is ordinarily resident in the Republic and any person, other than a natural person, which has its place of effective management in the Republic.

[Sub-s. (3) substituted by s. 5 (b) of Act 28 of 1997.]

[S. 6quat inserted by s. 9 of Act 89 of 1969, repealed by s. 5 of Act 94 of 1983 and inserted by s. 5 of Act 85 of 1987.]

6quin ...... 

[S. 6quin inserted by s. 6 (1) of Act 104 of 1979 and repealed by s. 6 of Act 94 of 1983.]

7 When income is deemed to have been accrued or to have been received

(1) Income shall be deemed to have accrued to a person notwithstanding that such income has been invested, accumulated or otherwise capitalized by him or that such income has not been actually paid over to him but remains due and payable to him or has been credited in account or reinvested or accumulated or capitalized or otherwise dealt with in his name or on his behalf, and a complete statement of all such income shall be included by any person in the returns rendered by him under this Act.

(2) Any income received by or accrued to any person married with or
without 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-

(a) such income was derived by the recipient in consequence of a donation, settlement or other disposition made by the donor on or after 20 March 1991 or of a transaction, operation or scheme entered into or carried out by the donor on or after that date, and the sole or main purpose of such donation, settlement or other disposition or of such transaction, operation or scheme was the reduction, postponement or avoidance of the donor's liability for any tax, levy or duty which, but for such donation, settlement, other disposition, transaction, operation or scheme, would have become payable by the donor under this Act or any other Act administered by the Commissioner; or

(b) income was received by or accrued to the recipient-

(i) from any trade carried on by the recipient in partnership or association with the donor or which is in any way connected with any trade carried on by the donor; or

(ii) from the donor or any partnership of which the donor was at the time of such receipt or accrual a member or any private company of which the donor was at such time the sole or main shareholder or one of the principal shareholders,

and such income represents the whole or any portion of the total income so received by or accrued to the recipient which exceeds the amount of income to which the recipient would reasonably be entitled having regard to the nature of the relevant trade, the extent of the recipient's participation therein, the services rendered by the recipient or any other relevant factor; or

(c) ......

[Para. (c) deleted by s. 6 of Act 21 of 1995.]

[Sub-s. (2) amended by s. 5 of Act 90 of 1962, substituted by s. 8 of Act 88 of 1965, amended by s. 2 of Act 30 of 1984 and by s. 5 of Act 90 of 1988 and substituted by s. 5 of Act 70 of 1989, by s. 4 of Act 101 of 1990 and by s. 7 of Act 129 of 1991.]

(2A) In the case of spouses who are married in community of property-

(a) any income (other than income derived from the letting of fixed
property) which has been derived from the carrying on of any trade shall, if such trade is carried on-

(i) by only one of the spouses, be deemed to have accrued to that spouse; or

(ii) jointly by both spouses, be deemed, subject to the provisions of subsection (2) (b), to have accrued to both spouses in the proportions determined by them in terms of the agreement that regulates their joint trade or, if there is no such agreement, in the proportion to which each spouse would reasonably be entitled having regard to the nature of the relevant trade, the extent of each spouse’s participation therein, the services rendered by each spouse or any other relevant factor; and

(b) any income derived from the letting of fixed property and any income derived otherwise than from the carrying on of any trade shall be deemed to have accrued in equal shares to both spouses:

Provided that any such income which does not fall into the joint estate of the spouses shall be deemed to be income accrued to the spouse who is entitled thereto.

[Sub-s. (2A) inserted by s. 5 (1) of Act 141 of 1992.]

(2B) So much of any deduction or allowance which may be made under the provisions of this Act in the determination of the taxable income derived from any income derived to in subsections (2) and (2A) as relates to any portion of such income which is under the provisions of that subsection deemed to be income accrued to a spouse shall be deemed to be a deduction or allowance which may be made in the determination of the taxable income of such spouse.

[Sub-s. (2B) inserted by s. 5 (1) of Act 141 of 1992.]

(2C) For the purposes of subsection (2A)-

(a) any benefit paid or payable to a spouse in his capacity as a member or past member of a pension fund, provident fund, benefit fund, retirement annuity fund or any other fund of a similar nature shall be deemed to be income derived by such spouse from a trade carried on by him;

[Para. (a) substituted by s. 23 (1) of Act 30 of 1998.]

(b) any annuity amount (as defined in section 10A) paid or payable to a spouse shall be deemed to be income derived by such spouse from
a trade carried on by him; and

\[(c)\quad \text{where any spouse is the-}\]

\[(i)\quad \text{registered holder of a patent as defined in the Patents Act, 1978 (Act 57 of 1978), or any design as defined in the Designs Act, 1967 (Act 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act 62 of 1963);}\]

\[(ii)\quad \text{author of a work on which copyright has been conferred in terms of the Copyright Act, 1978 (Act 98 of 1978), or the owner of such a copyright by reason of assignment, testamentary disposition or operation of law; or}\]

\[(iii)\quad \text{holder of any other property or right of a similar nature,}\]

any income derived from the grant of the right of use of such patent, design, trade mark, copyright or other property or right shall be deemed to be income derived by such spouse from a trade carried on by him.

[Sub-s. (2C) inserted by s. 5 (1) of Act 141 of 1992.]

\[(3)\quad \text{Income shall be deemed to have been received by the parent of any minor child, if by reason of any donation, settlement or other disposition made by that parent of that child-}\]

\[(a)\quad \text{it has been received by or has accrued to or in favour of that child or has been expended for the maintenance, education or benefit of that child; or}\]

\[(b)\quad \text{it has been accumulated for the benefit of that child.}\]

\[(4)\quad \text{Any income received by or accrued to or in favour of any minor child of any person, by reason of any donation, settlement or other disposition made by any other person, shall be deemed to be the income of the parent of such minor child, if such parent or his spouse has made a donation, settlement or other disposition or given some other consideration in favour directly or indirectly of the said other person or his family.}\]

\[(5)\quad \text{If any person has made any donation, settlement or other disposition which is subject to a stipulation or condition, whether made or imposed by such person or anybody else, to the effect that the beneficiaries thereof or some of them shall not receive the income or some portion of the income thereunder until the happening of some event, whether fixed or contingent, so much of any income as would, but for such stipulation or condition, in consequence of the} \]
donation, settlement or other disposition be received by or accrue to or in favour of the beneficiaries, shall, until the happening of that event or the death of that person, whichever first takes place, be deemed to be the income of that person.

[Sub-s. (5) substituted by s. 9 of Act 55 of 1966.]

(6) If any deed of donation, settlement or other disposition contains any stipulation that the right to receive any income thereby conferred may, under powers retained by the person by whom that right is conferred, be revoked or conferred upon another, so much of any income as in consequence of the donation, settlement or other disposition is received by or accrues to or in favour of the person on whom that right is conferred, shall be deemed to be the income of the person by whom it is conferred, so long as he retains those powers.

(7) If by reason of any donation, settlement or other disposition made, whether before or after the commencement of this Act, by any person (hereinafter referred to as the donor)-

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

(b) the donor's right to receive or have paid to him or for his benefit any income that is or may become due to him by any other person acting in a fiduciary capacity 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 is or will at a determinable time be entitled to regain the said right,

any such rent, 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.

[Sub-s. (7) added by s. 7 (1) of Act 94 of 1983.]

7A Date of receipt or accrual of antedated salaries or pensions and of certain retirement gratuities

(1) For the purposes of this section-

'antedated salary or pension' means an amount of salary or pension which has become payable to any person under a permanent grant, made with retrospective effect, of a salary or pension or of an increase in a salary or pension, and which in terms of such grant is payable in respect of a period ending on or before the date on which the grant has become effective;

'pension' means an annuity payable under any law or under the rules of a pension fund or provident fund or by an employer to a former employee of that employer or to the dependant or nominee of a deceased person who was employed by such employer;

[Definition of 'pension' substituted by s. 7 (1) (a) of Act 21 of 1995.]

'salary' means salary, wages or similar remuneration payable by an employer to an employee, but does not include any bonus or any amount referred to in subsection (4).

(2) Where any antedated salary or pension has been received by or has accrued to any person during any year or period of assessment and the period in respect of which such antedated salary or pension has become payable (hereinafter referred to as the accrual period) commenced before the commencement of the said year or period of assessment, such antedated salary or pension shall at the opinion of the taxpayer be deemed-

(a) if the accrual period commenced not more than two years before the commencement of the said year or period of assessment, to have been received by or to have accrued to the said person in part during each of the years or periods of assessment in which any portion of the accrual period falls (the part of the said amount relating to any such year or period of assessment being determined on the basis of a reasonable apportionment of the whole of the said amount between all the said years or periods of assessment); or

(b) if the accrual period commenced more than two years before the commencement of the first-mentioned year or period of assessment, to have been received by or to have accrued to the said person in three equal annual instalments (the first and second
instalments two years and one year respectively before the date on which the said amount accrued to the said person and the third instalment on the said date).

(3) Where any member of the citizen force or of the commandos has bound himself to serve in such force or the commandos for a continuous period of service of at least eighteen months as contemplated in section 22 (6A) or 44 (5A) of the Defence Act, 1957 (Act 44 of 1957), the provisions of subsection (2) shall mutatis mutandis apply in respect of any gratuity which has become payable to him by the State upon and by reason of the completion of such period of service, as though such gratuity were antedated salary or pension granted permanently and with retrospective effect, in respect of the said period of service.

[Sub-s. (3) substituted by s. 7 (1) of Act 103 of 1976.]

(4) ......

[Sub-s. (4) amended by s. 4 (1) (a) of Act 65 of 1986 and deleted by s. 8 (1) (a) of Act 129 of 1991.]

(4A) Where the taxable income of any taxpayer for any year of assessment includes any amount (other than an amount contemplated in paragraph (e) of the definition of ‘gross income’ in section 1) received by or accrued to him as an employee or the holder of any office by way of bonus, gratuity or compensation upon or because of the termination of his services or because of the impending termination of his services within five years (or such longer period as the Commissioner may approve) from the date of actual receipt or accrual of such amount, and-

(a) the taxpayer has attained the age of fifty-five years in the case of a male or fifty years in the case of a female; or

[NB: Para. (a) has been substituted by s. 7 (1) (c) of the Income Tax Act 21 of 1995, a provision which will come into operation on 1 March 2000. See PENDLEX.]

(b) the termination or impending termination of the taxpayer's services is due to superannuation, ill-health or other infirmity; or

[Para. (b) substituted by s. 8 (1) (b) of Act 129 of 1991.]

(c) ......

[Para. (c) substituted by s. 8 (1) (b) of Act 129 of 1991 and deleted by s. 7 (1) (d) of Act 21 of 1995.]
(d) the Commissioner is satisfied that-

(i) the termination or impending termination of the taxpayer’s services is due to his employer having ceased to carry on or intending to cease carrying on the trade in respect of which the taxpayer was employed or to the taxpayer having become redundant in consequence of his employer having effected a general reduction in personnel or a reduction in personnel of a particular class; and

[Sub-para. (i) substituted by s. 3 of Act 113 of 1993.]

(ii) the circumstances of the case warrant this concession,

[Para. (d) inserted by s. 4 (1) (c) of Act 65 of 1986.]

the normal tax payable by the taxpayer in respect of such year shall, subject to the provisions of section 5, be determined in accordance with the provisions of section 5 (10), but nothing herein contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of his taxable income.

[Sub-s. (4A) inserted by s. 6 of Act 96 of 1981 and amended by s. 7 (1) (b) of Act 21 of 1995.]

(5) ......

[Sub-s. (5) deleted by s. 5 of Act 36 of 1996.]

[S. 7A inserted by s. 6 of Act 69 of 1975.]

8 Certain amounts to be included in income or taxable income

(1) (a) So much of any amount which has been paid by any person as an allowance or advance to a director, holder of any office, manager, employee or other person in respect of the expenses of any travelling on business or of any other service or any expenses incurred by reason of the holding of any office (excluding any allowance or advance included in the gross income of the recipient under the provisions of paragraph (iii) of the proviso to paragraph (c) of the definition of ‘gross income’ in section 1) as was not actually expended by the recipient on such travelling or in the performance of such service, or by reason of the duties attendant upon his office, shall be deemed to be part of the taxable income of the recipient.

[Para. (a) substituted by s. 6 (a) of Act 141 of 1992.]
(b) For the purposes of paragraph (a):

(i) any allowance or advance in respect of transport expenses shall, to the extent to which such allowance or advance has been expended by the recipient on private travelling (including travelling between his place of residence and his place of employment or business or any other travelling done for his private or domestic purposes), be deemed not to have been actually expended on travelling on business;

[Sub-para. (i) amended by s. 4 (a) of Act 96 of 1985 and by s. 9 (a) of Act 129 of 1991.]

(ii) subject to the provisions of subparagraph (iii), where such allowance or advance has been paid to the recipient in order that it may be utilized for defraying expenditure in respect of any motor vehicle used by the recipient, the portion of the allowance expended by the recipient during the year of assessment for business purposes shall, unless an acceptable calculation based on accurate data is furnished by the recipient, be deemed to be an amount calculated by applying the rate per kilometre determined in the manner prescribed by the Minister of Finance by notice in the Gazette for the category of vehicle used, on a distance travelled during the said year for business purposes (other than private travelling as contemplated in subparagraph (i): Provided that where an allowance or advance has been paid to a recipient in relation to a motor vehicle in respect of which he has been granted the right of use as contemplated in paragraph 7 of the Seventh Schedule, no regard shall be had to such rate per kilometre in order to determine the portion of such allowance or advance expended by the recipient for business purposes: Provided further that-

(aa) the recipient shall, unless the contrary appears, be deemed to have used the vehicle during such year for such business purposes over a distance equal to the difference between the total number of kilometres travelled by him in such vehicle during such year (but not exceeding 32 000 kilometres) and a distance of 14 000 kilometres;

[Para. (aa) substituted by s. 9 (b) of Act 129 of 1991 and amended by s. 6 (1) (a) of Act 28 of 1997.]

(bb) where the vehicle has been used for business purposes during a period in such year which is less than the full period of such year, the reference in paragraph (aa) of this proviso to
the distances of 32 000 kilometres and 14 000 kilometres shall be construed as a reference to the distances which bear to 32 000 kilometres and 14 000 kilometres, respectively, the same ratio as the period of use for business purposes bears to 12 months;

[Para. (bb) substituted by s. 9 (b) of Act 129 of 1991 and amended by s. 6 (1) (a) of Act 28 of 1997.]

(cc) where the recipient has during the whole or any portion of the year of assessment interchangeably used more than one vehicle for business purposes, the provisions of paragraphs (aa) and (bb) of this proviso shall be applied separately to each such vehicle;

[Para. (cc) substituted by s. 24 (1) of the Act 30 of 1998.]

[Sub-para. (ii) substituted by s. 6 (a) of Act 85 of 1987 and amended by s. 8 (1) (a) of Act 21 of 1995.]

(iii) where such allowance or advance is based on the actual distance travelled by the recipient in using a motor vehicle on business (excluding the said private travelling), or such actual distance is proved to the satisfaction of the Commissioner to have been travelled by the recipient, the amount expended by the recipient on such business travelling shall, unless the contrary appears, be deemed to be an amount determined on such actual distance at the rate per kilometre fixed by the Minister of Finance by notice in the Gazette for the category of vehicle used;

(iv) where any motor vehicle which is owned or leased by an employee, his spouse or his child, whether directly or indirectly by virtue of an interest in a company or trust or otherwise, has been let to the employer or any associated institution in relation to the employer, the sum of the rental paid by the employer or associated institution and any expenditure defrayed by the employer or associated institution in respect of the vehicle, shall be deemed to be an allowance paid to the employee in respect of transport expenses, and in such case the said rental shall for the purposes of this Act (excluding this paragraph) be deemed not to have been received by or to have accrued to the lessor of such motor vehicle, and for the purposes of paragraph 2 (b) of the Seventh Schedule such employee shall be deemed not to have been granted the right to use such motor vehicle.

[Sub-para. (iv) added by s. 5 (1) (a) of Act 101 of 1990.]
(c) Where any allowance is given to the holder of any office or to any employee for expenses incurred or to be incurred in respect of personal subsistence and incidental costs while such office holder or employee is by reason of the duties of his office or employment obliged to spend at least one night away from his usual place of residence in the Republic, so much of such allowance as, together with any amounts expended by the employer in respect of any of the said costs, does not exceed an amount calculated for each day or part of a day in the period during which he is so absent at the rate of-

(i) R150 per day if the allowance is given to him to defray the cost of accommodation (other than accommodation supplied by the employer) in the Republic as well as meals and other incidental costs; or

[Sub-para. (i) amended by s. 6 (b) of Act 85 of 1987 and by s. 5 (1) (b) of Act 101 of 1990.]

(ii) such amount as the Commissioner may allow if the allowance is given to him to defray the cost of such accommodation outside the Republic as well as meals and other incidental costs; or

(iii) R65 per day in any other case,

[Sub-para. (iii) amended by s. 6 (c) of Act 85 of 1987.]

shall be deemed for the purposes of paragraph (a) to have been actually expended by him in respect of the said expenses: Provided that the provisions of this paragraph shall not apply if such office holder or employee proves that the expenses so incurred by him exceed the amount so calculated.

[Para. (c) amended by s. 4 (c) of Act 96 of 1985 and by s. 5 of Act 65 of 1986.]

(d) Any allowance granted to the holder of any public office contemplated in paragraph (e) to enable him to defray expenditure incurred by him in connection with such office shall for the purposes of paragraph (a) be deemed to have been so expended by him to the extent that expenditure relevant to such allowance and not otherwise recoverable by him has actually been incurred by him for the purposes of his office in respect of-

(i) secretarial services, duplicating services, stationery, postage, telephone calls, the hire of office accommodation and the maintenance of such accommodation;

(ii) travelling;
(iii) hospitality extended at any official or civic function which the holder of such office is by reason of the nature of such office normally expected to arrange;

(iv) hospitality of a casual nature: Provided that the expenditure qualifying under this subparagraph in any year of assessment shall not exceed the lesser of an amount equal to 5 per cent of the sum of the amounts derived by the said holder during the said year by way of such allowance and any remuneration in respect of such office or R2 500;

(v) subsistence and incidental costs incurred in the circumstances contemplated in paragraph (c).

[Para. (d) amended by s. 6 (d) of Act 85 of 1987.]

(e) For the purposes of paragraph (d) the holder of a public office includes-

(i) a Minister, Deputy Minister, a member of Parliament or a member of a provincial legislature;

[Sub-para. (i) substituted by s. 4 (d) of Act 96 of 1985, by s. 6 (e) of Act 85 of 1987 and by s. 6 (1) (a) of Act 21 of 1994.]

(ii) any member of any institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act 32 of 1961); and

(iii) a person occupying the office of president, chairman or chief executive officer of any non-profitmaking organization which is organized on a national or regional basis to represent persons with common interests and the funds of which are derived wholly or mainly from subscriptions of members or donations from the general public.

[Sub-para. (iii) substituted by s. 6 (b) of Act 141 of 1992.]

(f) Where it is expected of any person contemplated in paragraph (e) (i) to defray any expenditure referred to in paragraph (d) out of his salary received as the holder of any public office, an amount [R36 000 - GN R1398 in GG 16661 of 15 September 1995] equal to a portion (which shall be determined from time to time by the Minister by notice in the Gazette) of such salary shall for the purposes of paragraph (d) be deemed to be an allowance granted to such person.
(g) Where, during any year of assessment, any person contemplated in paragraph (e) has held a public office for less than 12 months, the amount of R2 500 referred to in the proviso to paragraph (d) (iv) and the amount determined by the Minister in terms of paragraph (f), shall be reduced to an amount which bears to the relevant amount, the same ratio as the number of months (in the determination of which a part of a month shall be reckoned as a full month), for which the office was held bears to 12 months.

[Para. (g) added by s. 6 (1) (b) of Act 21 of 1994.]

(2) ......

[Sub-s. (2) amended by s. 6 (1) (a), (b) and (c) of Act 90 of 1962, substituted by s. 8 (a) of Act 85 of 1974, amended by s. 7 (1) (a) of Act 69 of 1975 and deleted by s. 6 (c) of Act 141 of 1992.]

(3) ......

[Sub-s. (3) amended by s. 6 (1) (d) of Act 90 of 1962 and by s. 8 (b) and (c) of Act 85 of 1974 and deleted by s. 6 (c) of Act 141 of 1992.]

(4) (a) 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 and section 27 (2) (b) and (d) of this Act, except section 11 (k), (p) and (q), section 11 quin, 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.

[Para. (a) amended by s. 6 (1) (a) of Act 90 of 1964 and substituted by s. 9 (1) (a) of Act 88 of 1965, by s. 10 (1) (a) of Act 55 of 1966, by s. 10 (a) of Act 89 of 1969, by s. 8 (d) of Act 85 of 1974, by s. 7 (1) (b) of Act 69 of 1975, by s. 7 (1) (a) of Act 113 of 1977, by s. 8 (a) of Act 94 of 1983, by s. 5 (1) (b) of Act 121 of 1984 and by s. 6 (f) of Act 85 of 1987 and amended by s. 6 (a) of Act 90 of 1988.]

(b) If any amount referred to in paragraph (a) of this subsection is an amount which has been recovered or recouped during any year of assessment by a person referred to in section 9 (1) (c) as a result of the loss, sale or disposal in any other manner by that person of a ship, and if that person satisfies the Commissioner that-
(i) he will within a period of one year (or such longer period as the Commissioner in the circumstances of the case may allow) after the end of that year of assessment conclude a contract for the acquisition by him of a further ship to replace the aforesaid ship;

(ii) such further ship will be used by him for the purposes of his trade for a period of not less than ten years or, if the said amount was recovered or recouped by him on or after the seventeenth day of August, 1966, for a period of not less than seven years; and

(iii) such further ship will be a ship in relation to which the provisions of section 14 (1) (b) will apply and will continue to apply for the said period of not less than ten years or, if the said amount was recovered or recouped by him on or after the seventeenth day of August, 1966, the further ship will be a ship in relation to which the provisions of section 14 (1) (a) or (b) will apply and will continue to apply for the said period of not less than seven years,

the said amount shall, notwithstanding anything to the contrary contained in paragraph (a) of this subsection, but subject to the provisions of paragraphs (c), (d) and (dA) of this subsection-

(aa) if it was recovered or recouped before the seventeenth day of August, 1966, not be included in the income of that person for the aforesaid year of assessment, but shall be included in his income for the period of assessment ending on the date of his death, insolvency or liquidation (in the case of a company), as the case may be; or

(bb) if it was recovered or recouped on or after 17 August, 1966, not be included in the income of that person for the aforesaid year of assessment except to the extent that such amount is not, in terms of the definition of 'adjustable cost' or 'adjustable cost price' in section 14 (2), deductible from the cost or estimated cost price of such further ship:

[Sub-para. (bb) substituted by s. 8 (e) of Act 85 of 1974.]

Provided that the provisions of this paragraph shall not apply to any amount which has been recovered or recouped as a result of any such loss, sale or disposal which has taken or takes place on or after 1 April 1995.

[Para. (b) amended by s. 6 (1) (e) of Act 90 of 1962, substituted by s. 10 (1) (b) of Act 55 of 1966 and amended by s. 8 (1) (b) of Act 21 of 1995.]
(c) Within three months after the end of the year of assessment during which any amount referred to in paragraph (b) has been recovered or recouped by the person concerned in respect of any ship of more than two hundred gross register tons, there shall be deposited by the said person with the Public Debt Commissioners for such period and on such conditions as may be approved by the Commissioner an amount equal to the amount to be excluded from such person's income in terms of that paragraph, less such amount, if any, as has in the meantime been paid by the said person in respect of the cost price of the further ship referred to in that paragraph.

[Para. (c) substituted by s. 10 (1) (b) of Act 55 of 1966 and by s. 6 of Act 90 of 1972.]

(d) If owing to any occurrence (other than the loss by the said person of the further ship referred to in paragraph (b) or because of any circumstance arising during any year of assessment the Commissioner is no longer satisfied in regard to the matters in regard to which he is in terms of that paragraph or the corresponding provisions of any previous Income Tax Act required to be satisfied, the amount not included in the taxpayer's income in terms of that paragraph or the corresponding provisions of any previous Income Tax Act shall be included in the income of the taxpayer for the year of assessment during which such occurrence takes place or such circumstance arises.

[Para. (d) substituted by s. 10 (1) (b) of Act 55 of 1966.]

(dA) If as a result of the loss, sale or disposal in any other manner by the person concerned of the further ship referred to in paragraph (b) there has accrued to or has been received by the taxpayer an amount in excess of the cost thereof less the amount not included in the taxpayer's income in terms of subparagraph (bb) of the said paragraph, so much of the excess as does not exceed such lastmentioned amount shall (unless such lastmentioned amount has been included in income in terms of paragraph (d) be deemed to have been recovered or recouped and shall, in addition to any amount referred to in paragraph (a) which has been recovered or recouped, be included in the taxpayer's income for the year of assessment during which such further ship was so lost, sold or disposed of.

[Para. (dA) inserted by s. 10 (1) (c) of Act 55 of 1966.]

(dB) For the purposes of paragraph (a), where any company which is or was a parent company contemplated in paragraph (b) of the definition of 'South African ship' in section 14 (2) has-

(i) exercised the election in terms of section 14 (1D) in relation to any other company which is or was a subsidiary company contemplated in the last-mentioned paragraph; and
(ii) sold or disposed of in any other manner any shares held in such other company during any year of assessment,

such company shall be deemed to have recovered or recouped during such year of assessment an amount equal to the lesser of-

\[(aa)\] the total of all amounts allowed to be deducted or set off under the provisions of sections 11 \((o)\), 12C and 14, whether in such or any previous year of assessment, in the determination of such company's taxable income in respect of any ship owned by such other company, at the date of sale or disposal of such shares; and

\[(bb)\] the market value of such ship as at the date of sale or disposal of such shares.

[Para. \((dB)\) inserted by s. 6 \((1)\) \((a)\) of Act 36 of 1996.]

\[(e)\] If any amount which was deducted under the provisions of section 11 \((e)\) or section 12 \((1)\) or section 12 \((1)\) as applied by section 12 \((3)\) or the corresponding provisions of any previous Income Tax Act or section 12B or section 12C or section 14 or section 14\(bis\) or section 27 \((2)\) \((d)\), in respect of machinery or plant which was used by the taxpayer directly in a process of manufacture, or directly in any other process carried on by him on or after 15 March 1961, which in the opinion of the Commissioner was of a similar nature, or in respect of machinery or plant which was used by an agricultural co-operative (as defined in section 27 \((9)\)) directly for storing or packing pastoral, agricultural or other farm products or for subjecting such products to a primary process as defined in the said section 27 \((9)\) or in respect of a ship or aircraft used by him for purposes of his trade, has as a result of damage or destruction (hereinafter referred to as 'the event') been recovered or recouped during any year of assessment, and if the taxpayer satisfies the Commissioner-

(i) that he has concluded or will within a period of one year (or such longer period as the Commissioner in the circumstances of the case may allow) from the date of the event conclude a contract for the acquisition by him of further new or unused machinery or plant or a ship or aircraft (hereinafter referred to as the 'further asset') to replace the aforesaid machinery or plant or ship or aircraft; and

(ii) that the further asset has been or will be brought into use within a period of three years from the date of the event and will be used by him-

\[(aa)\] directly in a process of manufacture or any other process which in the opinion of the Commissioner is of a similar
nature;

(bb) in the case of such co-operative, directly for storing or packing pastoral, agricultural or other farm products or for subjecting such products to a primary process, as defined in section 27 (9); or

(cc) in the case of a ship or aircraft, directly for the purposes of the taxpayer's trade,

for a period of not less than five years or until the further asset is scrapped or disposed of in the ordinary course of the taxpayer's trade prior to the expiry of such period of five years,

the said amount shall, notwithstanding the provisions of paragraph (a) of this subsection, not be included in the income of the taxpayer for the aforesaid year of assessment: Provided that if, owing to any occurrence or because of any circumstance arising during any year of assessment the Commissioner is no longer satisfied in regard to the matters in regard to which in terms of the preceding provisions of this paragraph he is required to be satisfied, the said amount shall be included in the income of the taxpayer for the year of assessment during which such occurrence takes place or such circumstance arises.

[Para. (e) amended by s. 6 (1) (b) of Act 90 of 1964, substituted by s. 10 (b) of Act 89 of 1969 and by s. 7 (1) (b) of Act 113 of 1977 and amended by s. 8 (b) of Act 94 of 1983, by s. 6 (b) of Act 90 of 1988, by s. 5 (1) (c) of Act 101 of 1990 and by s. 8 (1) (c) of Act 21 of 1995.]

(f) If as a result of the loss, sale or disposal in any other manner by the taxpayer of the further asset referred to in paragraph (e) there has accrued to or has been received by the taxpayer an amount in excess of the cost thereof less the amount referred to in the said paragraph, so much of the excess as does not exceed such last-mentioned amount shall (unless such last-mentioned amount has been included in income in terms of the proviso to the said paragraph) be deemed to have been recovered or recouped and shall be included in the taxpayer's income for the year of assessment during which such further asset was so lost, sold or disposed of in addition to any recovery or recoupment referred to in paragraph (a).

[Para. (f) substituted by s. 8 (1) (d) of Act 21 of 1995.]

(g) If any amount referred to in paragraph (a) of this subsection is an amount which has been recovered or recouped by any person during any year of assessment as a result of the loss, sale or disposal in any other manner by such person of an aircraft, and if that person satisfies the Commissioner that-
(i) he will within a period of one year (or such longer period as the Commissioner in the circumstances of the case may allow) after the end of that year of assessment conclude a contract for the acquisition by him of a further aircraft to replace the aforesaid aircraft; and

(ii) such further aircraft will be used by him for the purposes of his trade for a period of not less than three years,

the said amount shall, notwithstanding anything to the contrary contained in paragraph (a), but subject to the provisions of paragraphs (h), (i) and (j), not be included in the income of that person for the aforesaid year of assessment, except to the extent that such amount is not in terms of paragraph (a) of subsection (2) of section fourteen bis deductible from the cost or estimated cost price of such further aircraft: Provided that the provisions of this paragraph shall not apply to any amount which has been recovered or recouped as a result of any such loss, sale or disposal which takes place on or after 1 August 1992.

[Para. (g) added by s. 9 (1) (b) of Act 88 of 1965 and amended by s. 6 (d) of Act 141 of 1992.]

(h) Within three months after the end of the year of assessment during which any amount referred to in paragraph (g) has been recovered or recouped by the person concerned, there shall be deposited by the said person with the Public Debt Commissioners for such period and on such conditions as may be approved by the Commissioner an amount equal to the amount to be excluded from such person's income in terms of that paragraph, less such amount, if any, as has in the meantime been paid by the said person in respect of the cost price of the further aircraft referred to in that paragraph.

[Para. (h) added by s. 9 (1) (b) of Act 88 of 1965.]

(i) If owing to any occurrence (other than the loss by the person concerned of the further aircraft referred to in paragraph (g)) or because of any circumstance arising during any year of assessment, the Commissioner is no longer satisfied in regard to the matters to which he is in terms of that paragraph required to be satisfied, the amount not included in the taxpayer's income in terms of that paragraph shall be included in the income of the taxpayer for the year of assessment during which such occurrence takes place or such circumstance arises.

[Para. (i) added by s. 9 (1) (b) of Act 88 of 1965.]

(j) If as a result of the loss, sale or disposal in any other manner by the person concerned of the further aircraft referred to in paragraph (g) there has
accrued to or has been received by the taxpayer an amount in excess of the cost thereof less the amount not included in the taxpayer’s income in terms of the said paragraph, so much of the excess as does not exceed such last-mentioned amount shall (unless such last-mentioned amount has been included in income in terms of paragraph (ii) be deemed to have been recovered or recouped and shall, in addition to any amount referred to in paragraph (a) which has been recovered or recouped, be included in the taxpayer’s income for the year of assessment during which such further aircraft was so lost, sold or disposed of.

[Para. (j) added by s. 9 (1) (b) of Act 88 of 1965.]

(k) For the purposes of paragraph (a), where during any year of assessment any person has donated or distributed by way of a dividend, any asset in respect of which a deduction or an allowance has been granted to such person in terms of any of the provisions referred to in that paragraph, such person shall be deemed to have recovered or recouped an amount equal to the market value of such asset as at the date of such donation or distribution.

[Para. (k) added by s. 4 (1) of Act 113 of 1993.]

(l) For the purposes of paragraph (a), where-

(i) any person was entitled to a deduction in respect of any interest or related finance charges (including a discount or premium), which was incurred or deemed to have been incurred by such person in relation to any financial arrangement during any year of assessment and such interest or related finance charges were allowed as a deduction in terms of the provisions of this Act during such year of assessment in the hands of such person;

(ii) such person has transferred such financial arrangement during any year of assessment to any other person; and

(iii) any obligation or part thereof in respect of such interest or related finance charges which such person is legally liable to pay has, as a result of such transfer, been transferred to such other person,

such person shall be deemed to have recovered or recouped an amount equal to the amount of such obligation or part thereof so transferred during the year of assessment in which such obligation or part thereof has been so transferred.

[Para. (l) added by s. 6 (1) (b) of Act 36 of 1996.]

(m) Subject to the provisions of section 20, where-

(i) as a result of the cancellation, termination or variation of an
agreement or due to the prescription, waiver or release of a claim for payment, any person was during any year of assessment relieved or partially relieved from the obligation to make payment of any expenditure actually incurred;

(ii) such expenditure was at the date on which such person was so relieved or partially relieved not paid; and

(iii) such expenditure or any allowance in relation to such expenditure was in the current or any previous year of assessment allowed as a deduction from such person's income,

such person shall for the purposes of paragraph (a) be deemed to have recovered or recouped an amount equal to the amount of the obligation from which the person was so relieved or partially relieved during the year of assessment in which the person was so relieved or partially relieved.

[Para. (m) added by s. 6 (1) (b) of Act 28 of 1997.]

(5) (a) Any amount which has been paid, whether in the form of rent or otherwise, by any person for the right of use or occupation of any movable or immovable property and has been allowed as a deduction in the determination of such person's taxable income, and which or the equivalent of which is upon the subsequent acquisition of such property by that or any other person applied in reduction or towards settlement of the purchase price of such property, shall be included in the income of the person by whom the property is acquired as aforesaid for the year of assessment in which such person exercises the option or concludes the agreement, as the case may be, in consequence of which the property is acquired by him: Provided that the provisions of this subsection shall not apply in any case where, in consequence of the acquisition of such property, the person who has acquired the property or any other person has derived a taxable benefit the cash equivalent of which has been included in his gross income in terms of the provisions of paragraph (i) of the definition of 'gross income' in section 1.

[Para. (a) amended by s. 4 (e) of Act 96 of 1985.]

(b) Where any amount has been paid by any person for the right of use or occupation of any property which is thereafter acquired by that or any other person for a consideration which in the opinion of the Commissioner is not an adequate consideration or for no consideration, it shall for the purposes of paragraph (a) be deemed, unless the Commissioner having regard to the circumstances of the case otherwise decides, that the said amount, or so much thereof as does not exceed the fair market value of such property as determined
by the Commissioner less the amount of the consideration, if any, for which it has been acquired as aforesaid, has been applied in reduction or towards settlement of the purchase price of such property.

[Para. (b) substituted by s. 8 (c) of Act 94 of 1983.]

(bA) If after the termination on or after 1 September 1983 by the effluxion of time or otherwise of a lease of property consisting of corporeal movable goods or of any machinery or plant in respect of which the lessor under such lease was entitled to any allowance under the provisions of this Act, the person who was the lessee under such lease (hereinafter referred to as the former lessee) is, with the express or implied consent or acquiescence of the person who was the lessor under such lease (hereinafter referred to as the former lessor) or of the owner of the property, allowed to use, enjoy or deal with the property as the former lessee may deem fit-

(i) without the payment of any consideration; or

(ii) in the case of a lease entered into on or after 1 September 1983, without the payment of any rental or other consideration or subject to the payment of any consideration which is nominal in relation to the fair market value of the property,

[Sub-para. (ii) substituted by s. 5 (1) (c) of Act 121 of 1984.]
the former lessee shall be deemed for the purposes of paragraph (b) to have acquired the property for no consideration and, if the property was owned by the former lessor, the fair market value thereof shall, unless and until that value is otherwise determined to the satisfaction of the Commissioner, be deemed for the said purposes to be the cost to the former lessor of the property (or, where the said lease was a financial lease as defined in section 1 of the Sales Tax Act, 1978 (Act 103 of 1978), the cash value of the property contemplated in paragraph 2 of Schedule 4 to the said Act), less a depreciation allowance calculated in accordance with paragraph (bB) (i) for the period from the commencement to the termination of the lease.

[Para. (bA) inserted by s. 8 (d) of Act 94 of 1983.]

(bB) For the purposes of paragraph (bA)-

(i) the depreciation allowance shall be calculated as an aggregate of annual allowances for the years in the period for which the depreciation allowance may be made, the allowance for the first year in the said period being calculated at the rate of 20 per cent of the said cost or cash value, as the case may be, of the property in question and the allowance for each succeeding year in that period
being calculated at the said rate on the balance of the said cost or cash value, as the case may be, remaining after the deduction therefrom of the allowance or allowances calculated for the year or years preceding such succeeding year;

(ii) the former lessor of the property in question, or the owner thereof, as the case may be, shall, unless and until the contrary is proved, be deemed to have consented to the former lessee using, enjoying or dealing with the property as contemplated in the said paragraph if, at the end of a period of three months reckoned after the date on which the lease in question terminated, the former lessor has not instituted proceedings to compel the former lessee to return the property to the former lessor or to relinquish possession thereof or to dispose thereof in accordance with the terms of the lease:

Provided that if such lease terminated on or before 31 December 1983 the said period of three months shall be reckoned from that date;

[Sub-para. (ii) substituted by s. 5 (1) (d) of Act 121 of 1984.]

(iii) where any consideration is payable in respect of the property in question for the period after the termination of the lease in question, such consideration shall be deemed to be nominal in relation to the fair market value of the property if that consideration, in relation to the period for which it is payable, amounts to less than 10 per cent per annum of the said fair market value;

(iv) if after the termination of a lease referred to in the said paragraph (bA) the former lessee is required to pay a consideration in respect of his right to use, enjoy or deal with the property in question but ceases to pay such consideration or, in the case of a lease referred to in subparagraph (ii) of the said paragraph (bA), pays a consideration in respect of such right which is nominal in relation to the fair market value of the property, the said lease shall be deemed to have been terminated on the date from which the former lessee is no longer required to pay such consideration or in the case of a lease referred to in the said subparagraph (ii), whereafter the consideration payable by him becomes nominal as aforesaid;

[Sub-para. (iv) added by s. 5 (1) (e) of Act 121 of 1984.]

(v) where in the circumstances contemplated in paragraph 3B of Schedule 4 to the Sales Tax Act, 1978, a lease is deemed to be part of a lease which has ceased to exist, the leases shall be deemed to be one lease.
(bC) Any person who, as a former lessor of property referred to in paragraph (bA) or as the owner thereof, has after the termination of the lease of such property consented to the former lessee thereof using, enjoying or dealing with such property as contemplated in the said paragraph, or is deemed to have so consented under the provisions of paragraph (bB) (ii) shall not later than 14 days after the end of three months after the termination of the relevant lease advise the former lessee of the fair market value of such property as determined in accordance with paragraph (bA), and shall furnish the Commissioner with a copy of such advice.

(c) Any decision of the Commissioner under paragraph (b) or (bA) shall be subject to objection and appeal.

8A Gains made by directors of companies or by employees in respect of rights to acquire marketable securities

(1) (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 whole or part), if such right was obtained by the taxpayer as a director or former director of any company or in respect of services rendered or to be rendered by him as an employee to an employer.

(b) Where the taxpayer has exercised such right but, by reason of a condition imposed by the said company or employer or the grantor of the right, the taxpayer is not entitled to dispose of the marketable security until after the end of the said year of assessment, the gain made by the exercise of the right shall, if the taxpayer makes an election as provided in paragraph (c), not be included in his income for such year of assessment but shall be included in his income for the year of assessment during which he becomes entitled to dispose of the marketable security: Provided that in the event of the taxpayer's death or insolvency before he becomes entitled to dispose of the marketable security the said gain shall be deemed to have been made by him on the day before the date of his death or insolvency, as the case may be, and shall be assessed accordingly.
(c) The taxpayer may, in the circumstances contemplated in paragraph (b), elect that the provisions of that paragraph shall apply in respect of the gain referred to in that paragraph, and such election shall be in writing and shall be furnished to the Commissioner not later than the date on which the taxpayer's return of income is furnished for the year of assessment referred to in paragraph (a), or within such further time as the Commissioner may allow.

(2) For the purposes of this section-

(a) a gain shall be deemed to have been made by the taxpayer by the exercise of a right to acquire any marketable security if the amount by which the market value of such marketable security at the time such right was exercised exceeds the consideration given by the taxpayer for such marketable security and any consideration given by him for such right or the grant of such right: Provided that such market value shall for the purpose of this paragraph be deemed to be the sum which a person having the right freely to dispose of such marketable security might reasonably expect to obtain from a sale of such marketable security in the open market;

(b) where the taxpayer for a consideration accepts a restriction upon his right to acquire any marketable security such right shall be deemed to be released in part;

(c) where any gain is made by the exercise, cession or release of a right to acquire any marketable security, such gain shall be deemed to be made at the time when such right is exercised, ceded or released, as the case may be.

(3) The amount to be included in the taxpayer's income in respect of any gain referred to in subsection (1) shall be-

(a) where such gain is made by the exercise of a right to obtain any marketable security, the amount referred to in subsection (2) (a); or

(b) where such gain is made by the cession or release of a right to obtain any marketable security, the amount by which the amount or value of the consideration received by or accrued to the taxpayer for the cession or release, exceeds the amount or value of any consideration given by the taxpayer for such right or the grant of such right.

(4) In determining under subsections (2) (a) and (3) whether any gain has been made by the exercise, cession or release of a right to obtain any
marketable security, and in determining the amount of such gain-

(a) where any consideration was given by the taxpayer for such right or the grant of such right and the right is exercised, ceded or released in part only or the consideration was given for something in addition to the right, only the portion of such consideration which relates to so much of the right as is exercised, ceded or released, as the case may be, shall be deductible and for that purpose a fair apportionment of such consideration shall be made; and

(b) no deduction shall be made in respect of any consideration in the form of services rendered or to be rendered or anything done or to be done.

(5) Where any right (hereinafter referred to as the first right) to acquire any marketable security is ceded or released by the taxpayer in whole or in part for a consideration which consists of or includes another right (hereinafter referred to as the second right) to acquire such marketable security or any other marketable security-

(a) the second right shall for the purposes of this section not be deemed to be consideration for the cession or release of the first right; and

(b) any gain made by the taxpayer by the exercise, cession or release of the second right, shall be determined and included in the taxpayer's income as though such gain had been made by the exercise, cession or release of the first right, and for the purpose of determining such gain, the amount to be deducted under subsection (2) (a) or (3) in respect of the amount or value of the consideration given by the taxpayer for the second right shall be deemed to be the consideration given by the taxpayer for the first right or the grant of such right, less so much of the amount or value of that consideration as has been offset by any consideration other than the consideration consisting of the second right.

[Para. (b) substituted by s. 8 (b) of Act 88 of 1971.]

(6) For the purposes of this section, a gain made by any person other than the taxpayer by the exercise, cession or release of a right to acquire any marketable security shall be deemed to be made by the taxpayer and shall be included in the taxpayer's income as though it were a gain referred to in subsection (1)-

(a) if that right was originally obtained by any person other than the taxpayer by reason of the taxpayer's office or former office as a
director of any company or any services rendered or to be rendered by the taxpayer as an employee of any employer; or

(b) if that right was originally obtained by the taxpayer as a director or former director of any company or in respect of services rendered or to be rendered by him as an employee to an employer, and-

(i) the right was ceded by the taxpayer to any person otherwise than by or under a cession made by way of a bargain at arm’s length; or

(ii) the gain was made by a relative of the taxpayer.

[Sub-s. (6) substituted by s. 8 (c) of Act 88 of 1971.]

(7) The provisions of subsections (2), (3), (4) and (5) shall mutatis mutandis apply in relation to the determination of any gain referred to in subsection (6).

(8) Where any gain is made after the first day of June, 1969, by the exercise, cession or release of a right to acquire any marketable security granted to any person on or before that date, the amount required to be included in income under this section in respect of such gain shall be reduced by an amount which bears to the amount of the gain, as determined under the preceding provisions of this section, the same ratio as the exemption period, as determined under subsection (9) in relation to the said gain, bears to the accrual period, as so determined.

[Sub-s. (8) substituted by s. 8 (1) of Act 52 of 1970.]

(9) For the purposes of determining any reduction to be made under subsection (8) in respect of any gain made by the exercise, cession or release or any right to acquire any marketable security-

(a) the exemption period shall be deemed to be the period commencing on the date on which the person referred to in subsection (8) was granted such right and ending on the first day of June, 1969; and

(b) the accrual period shall be deemed to be the period commencing on the first day of the exemption period and ending on the date on which such right is exercised, ceded or released, as the case may be.

(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.

[S. 8A inserted by s. 11 of Act 89 of 1969.]

8B ......

[S. 8B inserted by s. 6 (1) of Act 104 of 1980, amended by s. 6 of Act 121 of 1984 and repealed by s. 6 (1) of Act 101 of 1990.]

8C ......

[S. 8C inserted by s. 7 (1) of Act 96 of 1981, amended by s. 7 of Act 121 of 1984 and repealed by s. 7 of Act 101 of 1990.]

8D ......

[S. 8D inserted by s. 7 (1) of Act 96 of 1981, amended by s. 8 of Act 121 of 1984 and repealed by s. 8 (1) of Act 101 of 1990.]

8E Dividends on certain shares deemed to be interest in relation to the recipient thereof

(1) For the purposes of this section-

'affected instrument' means-

(a) any redeemable preference share which the relevant company is obliged to redeem in whole or in part within a period of three years from the date of issue thereof, or which may at the option of the holder be redeemed in whole or in part within the said period, or in respect of which the holder has a right of acquisition which may be exercised within the said period; or

(b) any other share, if-

(i) the holder has a right of acquisition in respect of such share which may be exercised within a period of three years from the date of issue thereof; and

(ii) such share does not rank \textit{pari passu} as regards its participation in 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
payable on such share is to be calculated with reference to any specified rate of interest or is otherwise to be calculated having regard to the amount of capital subscribed for such share;

'effective date' means 23 March 1989;

'right of acquisition' means a right which the holder of an affected instrument has to require any party-

(a) to acquire such affected instrument from such holder; or

(b) to procure, facilitate or assist with the redemption in whole or in part of such affected instrument or the repayment in whole or in part of the capital subscribed for such affected instrument or the conversion of such affected instrument into any other share which is redeemable in whole or in part within a period of three years from the date of issue thereof.

(2) Subject to the provisions of subsections (3) and (4), any dividend declared by a company on an affected instrument shall for the purposes of this Act be deemed in relation to the recipient thereof only to be an amount of interest received by him from a source within the Republic.

(3) The provisions of subsection (2) shall apply-

(a) to any dividend declared on an affected instrument issued on or after the effective date; and

(b) in the case of any affected instrument issued before the effective date, to any dividend declared after the earliest date (being a date falling on or after the effective date) upon which, having regard to the terms attaching to such instrument as at the effective date or to the terms as at the effective date of any agreement relating to the holding of such instrument (including an agreement which confers a right of acquisition), such instrument-

(i) became or would have become redeemable or repayable;

(ii) could at the instance of the holder have been redeemed or repaid;

(iii) could at the instance of the holder have been acquired by any party by reason of the exercise of a right of acquisition; or

(iv) being an instrument which may by the exercise of a right of
acquisition be converted into any other share, could at the
instance of the holder have been so converted and such other
share could at the instance of the holder have been
redeemed,

other than any such dividend which the relevant company was in
accordance with the said terms required to declare before the said
earliest date.

(4) The provisions of subsection (2) shall not apply-

(a) where the holder of any affected instrument is for the purposes of
any agreement concluded under section 108 or 109 between the
Government of the Republic and the government of any other state
a resident of such other state, if the rate or amount of tax which
may be levied under this Act on any dividend accruing to such
holder is subject to a limitation imposed under such agreement; and

(b) to any dividend which, if such provisions were to be applied, would
not be included in the taxable income of the recipient.

[S. 8E inserted by s. 6 of Act 70 of 1989.]

9 Circumstances in which amounts deemed to have accrued from
sources within the Republic

(1) An amount shall be deemed to have accrued to any person from a
source within the Republic if it has been received by or has accrued to or in
favour of such person by virtue of-

(a) any contract made by him within the Republic for the sale of goods,
whether such goods have been delivered or are to be delivered in
or out of the Republic;

(b) the use or right of use in the Republic of, or the grant of permission
to use in the Republic-

(i) any patent as defined in the Patents Act, 1978 (Act 57 of
1978), or any design as defined in the Designs Act, 1967 (Act
57 of 1967), or any trade mark as defined in the Trade Marks
Act, 1963 (Act 62 of 1963), or any copyright as defined in the
Copyright Act, 1978 (Act 98 of 1978), or any model, pattern,
plan, formula or process or any other property or right of a
similar nature; or
[Sub-para. (i) substituted by s. 10 (a) of Act 129 of 1991.]

(ii) any motion picture film, or any film or video tape or disc for use in connection with television, or any sound recording or advertising matter used or intended to be used in connection with such motion picture film, film or video tape or disc, wheresoever such patent, design, trade mark, copyright, model, pattern, plan, formula, process, property, right, motion picture film, film, video tape or disc, sound recording or advertising matter has been produced or made or such right of use or permission has been granted or payment for such use, right of use or grant of permission has been made or is to be made, and whether such payment has been made or is to be made by a person resident in or outside the Republic: Provided that the provisions of this paragraph shall not apply in respect of any amount which on or after 1 October 1987 is received by or accrues to any person (other than a company) who is not ordinarily resident in the Republic or a neighbouring country, or to any external company (not being a company which is registered, managed or controlled in a neighbouring country), in respect of the use (otherwise than for advertising purposes in connection with any motion picture film or otherwise than in connection with television) in any printed publication of any copyright as aforesaid;

[Para. (b) substituted by s. 7 (a) of Act 90 of 1962, amended by s. 12 (a) of Act 89 of 1969, substituted by s. 6 (1) (a) of Act 65 of 1973 and by s. 9 (a) of Act 85 of 1974 and amended by s. 7 (1) (a) of Act 85 of 1987.]

(bA) 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, wheresoever such knowledge or information has been obtained or such knowledge or information has been imparted or such assistance or service has been rendered or is to be rendered or any such undertaking has been given, and whether payment for such knowledge, information, assistance, service or undertaking has been made or is to be made by a person resident in or out of the Republic;

[Para. (bA) inserted by s. 6 (1) (b) of Act 65 of 1973.]

(c) any business carried on by any such person who is ordinarily resident in the Republic or in the case of a company is a domestic company, as owner or charterer of any ship or aircraft, or the
disposal by such person of any commodity acquired in connection
with the operation of such ship or aircraft, wheresoever such ship or
aircraft may be operated or such disposal of the commodity may be
effected;

[Para. (c) substituted by s. 9 (b) of Act 85 of 1974.]

(cA) any contract made by such person for the disposal of any mineral
(including natural oil) won by him in the course of mining operations
carried on by him under any mining authorization granted under the
Minerals Act, 1991 (Act 50 of 1991), wheresoever such contract
was made or such mining operations were carried on;

[Para. (cA) inserted by s. 9 (1) (a) of Act 95 of 1967 and substituted by s. 7 (a) of
Act 141 of 1992.]

(cB) any business carried on by any such person who is ordinarily
resident in the Republic or in the case of a company is a domestic
company, as lessor of any container contemplated in section 1 (2)
of the Customs and Excise Act, 1964 (Act 91 of 1964),
wheresoever the agreement for the lease of the said container was
concluded or the said container was used by the lessee thereof;

[Para. (cB) inserted by s. 5 (b) of Act 96 of 1985.]

(d) any service rendered or work or labour done by such person in the
carrying on in the Republic of any trade, whether the payment for
such service or work or labour is or is to be made by a person
resident in or out of the Republic and wheresoever payment for
such service or work or labour is or is to be made;

(d)bis any service rendered or work or labour done by such person
outside the Republic, during any temporary absence of such person
from the Republic, if such person is ordinarily resident in the
Republic and such service is rendered or such work or labour is
done for or on behalf of any employer by whom such person is
employed in the Republic, whether the payment for such service or
work or labour is or is to be made by a person resident in or out of
the Republic and wheresoever payment for such service or work or
labour is or is to be made;

[Para. (d)bis inserted by s. 7 (b) of Act 90 of 1962.]

(e) (i) any services rendered by such person to or work or labour
done by such person for or on behalf of the Government,
including any provincial administration, or any local authority
in the Republic or the South African Tourist Corporation or the Council for Scientific and Industrial Research, notwithstanding that such services are rendered or that such work or labour is done outside the Republic, provided such services are rendered or such work or labour is done in accordance with a contract of employment entered into with the Government or such administration or local authority or that Corporation or that Council; or

[Sub-para. (i) substituted by s. 25 (1) (a) of Act 30 of 1998.]

(ii) the holding of a public office to which such person has been appointed or is deemed to have been appointed in terms of an Act of Parliament, notwithstanding that such public office is held outside the Republic:

Provided that nothing in this paragraph shall be construed as imposing liability for taxation under this Act upon any payment made to any such person who is stationed outside the Republic, by way of an allowance for the purpose of meeting expenditure incurred by such person in connection with his official duties outside the Republic;

[Para. (e) amended by s. 6 of Act 72 of 1963, substituted by s. 7 of Act 90 of 1964, amended by s. 12 (b) of Act 89 of 1969 and by s. 9 of Act 121 of 1984 and substituted by s. 9 (a) of Act 21 of 1995.]

[NB: In terms of s. 36 (2) of the Legal Succession to the South African Transport Services Act 9 of 1989, the reference to 'the Railway Administration' in the above provision shall be construed as including the Company (Transnet Limited) and the Corporation (the South African Rail Commuter Corporation Limited).]

(f) any services rendered or work or labour done by any such person who is ordinarily resident in the Republic, as an officer or a member of the crew of any ship or aircraft referred to in paragraph (c), notwithstanding that such services are rendered or such work or labour is done outside the Republic and wheresoever payment for such services or work or labour is or is to be made;

[Para. (f) amended by s. 5 of Act 113 of 1993 and by s. 3 (1) of Act 140 of 1993.]

(fA) any services rendered by such person to, or work or labour done by such person for, any other person upon, beneath or above the continental shelf referred to in section 7 of the Territorial Waters Act, 1963 (Act 87 of 1963), in the course of any operations connected with operations carried on by any person under any
prospecting permit or mining authorization issued or which may be
issued under the Minerals Act, 1991 (Act 50 of 1991), or any
prospecting or mining lease granted under the Mining Rights Act,
1967 (Act 20 of 1967), or under any sublease granted or which may
be granted under any such lease, wheresoever payment for such
services or work or labour is or is to be made;

[Para. (fA) inserted by s. 9 (1) (b) of Act 95 of 1967 and substituted by s. 10 (b) of
Act 129 of 1991 and by s. 7 (b) of Act 141 of 1992.]

(g) any pension or annuity granted to such person, wheresoever
payment of that pension or annuity is made and wheresoever the
funds from which payment is made are situate-

(i) by the Government, any provincial administration, or by any
local authority in the Republic; or

(ii) by any person, whether residing or carrying on business in the
Republic or not, if the services in respect of which that
pension or annuity was granted were performed within the
Republic for at least two years during the ten years
immediately preceding the date from which the pension or
annuity first became due: Provided that if the pension or
annuity was granted in respect of services which were
rendered partly within and partly outside the Republic, only so
much of such pension or annuity as bears to the amount of
such pension or annuity 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, shall be
deemed to be derived from a source within the Republic:
Provided further that any services rendered in the territory of
the former Republic of Transkei, Bophuthatswana, Venda or
Ciskei shall be deemed to have been rendered within the
Republic;

[Sub-para. (ii) amended by s. 9 (b) of Act 21 of 1995.]
[Para. (g) amended by s. 36 (6) of Act 9 of 1989.]

(h) a judicial order or written agreement of separation or an order of
divorce, if the taxable income of such person's spouse or former
spouse has been reduced by such amount in terms of section
twenty-one, wheresoever such judicial order or order of divorce was
granted or such agreement was made or such amount is paid or
payable and whether such person's spouse or former spouse is
resident in or out of the Republic.
(1A) For the purposes of paragraph (g) (ii) the services referred to in paragraphs (d), (d)bis, (f) and (fA) shall be deemed to have been performed within the Republic.

(2) ......

(3) ......

(4) ......

(5) Any gain made by any person (other than a company) who is ordinarily resident in the Republic or by any domestic company in respect of any banker’s acceptance or similar instrument upon maturity or disposal thereof, shall be deemed to be derived from a source within the Republic if such banker’s acceptance or similar instrument was issued in the Republic or in any neighbouring country.

(6) Any interest as defined in section 24J shall for the purposes of this Act be deemed to have been received or accrued from a source within the Republic, where such interest was derived from 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.

(7) For the purposes of subsection (6) the place of utilisation or application shall, until the contrary is proved, be deemed to be, in the case where such funds are or credit is utilised or applied by-
(a) a natural person, the place where such person is ordinarily resident; or

(b) a person other than a natural person, its place of effective management.

[Sub-s. (7) added by s. 25 (1) (b) of Act 30 of 1998.]

9A Investment income of foreign investment companies

(1) In this section-

‘foreign investment company’ means a company which is incorporated, registered, managed or controlled in a neighbouring country and is at any time during the relevant financial year of such company directly or indirectly controlled by a resident or residents of the Republic as contemplated in subsection (8) (b), if the profits of such company (as contemplated in subsection (8) (c)) are normally derived or will normally be derived wholly or mainly by way of investment income;

‘investment income’ means any amount derived from any source outside or within the Republic in the form of interest, dividends, rents (other than rents in respect of immovable property situated outside the Republic), any gains made on the redemption or disposal of any banker's acceptance or similar instrument or any amount which is of a similar nature, or any gain made on the disposal of any marketable security or any right to acquire marketable securities;

[Definition of ‘investment income’ substituted by s. 8 of Act 21 of 1994.]

‘resident of the Republic’ means a person (other than a company) who is ordinarily resident in the Republic or a domestic company and includes a person, wherever he is resident, who acts in a fiduciary capacity in respect of any direct or indirect interest of any beneficiary in any foreign investment company if such beneficiary is a resident of the Republic;

‘untaxed profit’ means so much of the profit (as determined in terms of subsection (8) (c)) derived by a foreign investment company during any financial year as is attributable to any investment income which-

(a) would have been subject to normal tax had it been received by or had it accrued to such company from a source within the Republic; and

(b) was received by or accrued to such company from a source within a neighbouring country and was not subject to a tax which is materially similar to normal tax: Provided that a tax shall not be deemed to be materially similar to normal tax unless it is levied
upon an amount determined in a manner which is materially similar to the manner in which taxable income is determined and it is calculated at a rate which is not less than 40 per cent of such amount.

(2) Where any resident of the Republic is or was a shareholder in a foreign investment company which has during any financial year of the company derived any untaxed profit, such untaxed profit shall, to the extent determined under subsection (3), be deemed to have accrued to the resident from a source within the Republic on the last day of that financial year.

(3) The amount of untaxed profit which shall be deemed for the purposes of subsection (2) to have accrued to a resident shall be-

(a) where such resident was a shareholder in the company during the whole of the relevant financial year and his right to a participation in any distribution of profit by such company, whether such right arises from his shareholding in the company or is conferred upon him by virtue of any rights attaching to his shares or under any agreement or arrangement, has remained unchanged throughout the financial year, that portion of the untaxed profit which could, disregarding any prohibition in the memorandum or articles of association of the company against a distribution of any amount to shareholders of the company, have been distributed to the resident by way of a dividend; or

(b) where the resident was a shareholder during any portion of the financial year or where his right to a participation as contemplated in paragraph (a) has been varied during the financial year, such portion of the untaxed profit as the Commissioner, having regard to the period during which the resident was a shareholder or to the variation of his right of participation or to any other relevant factor, considers reasonable.

(4) Any decision of the Commissioner in the exercise of his discretion under subsection (3) (b) shall be subject to objection and appeal.

(5) (a) Every resident of the Republic who at any time during any year of assessment was a shareholder in a foreign investment company which has derived any untaxed profit shall disclose such fact to the Commissioner in writing when submitting his return of income for such year and at the same time furnish such information as may be required by the Commissioner for the purposes of this section.

(b) In the absence of such full, adequate and accurate information as may be required by the Commissioner for the purposes of this section, the
Commissioner may estimate the amount which is deemed to have accrued to a resident of the Republic in terms of subsection (2).

(c) Any estimate made in terms of paragraph (b) shall be subject to objection and appeal.

(d) Failure by a resident of the Republic to disclose to the Commissioner the fact that he was a shareholder in a foreign investment company, as required by paragraph (a), shall for the purposes of this Act be deemed to constitute the omission by him from his return of income of an amount of income equal to the amount deemed by subsection (2) to have accrued to him during the relevant year of assessment.

(6) Where any amount of untaxed profit has been included in the income of any taxpayer in terms of the provisions of subsection (2) of this section, there shall be deducted from the normal tax payable by him a rebate equal to so much of any taxation levied on such amount by any neighbouring country: Provided that the rebate in terms of this subsection shall not exceed so much of the normal tax as is attributable to the inclusion of the said amount in the taxpayer's taxable income.

[Sub-s. (6) amended by s. 8 (1) (a) of Act 141 of 1992.]

(7) Where by reason or in consequence of any donation, settlement or other disposition made by a resident of the Republic, investment income is received by or accrues to or in favour of any resident of the Republic or any person acting in a fiduciary capacity for the benefit of one or more beneficiaries who are residents of the Republic, wherever the said person is resident, such income shall be deemed to be derived from a source within the Republic if under or in connection with such donation, settlement or other disposition any cash or asset is sent or transferred, whether directly or indirectly, to any person in a neighbouring country or to any person acting as an agent or in a fiduciary capacity in respect of any investment made or held in such neighbouring country.

(8) (a) A resident of the Republic shall be deemed to be a shareholder in a foreign investment company if he is a shareholder in relation to that company as contemplated in the definition of 'shareholder' in section 1, or if he is indirectly interested in that company by virtue of his shareholding in any external company in such manner that he has a direct or indirect interest in any profit that may be distributed by the foreign investment company, whether through the instrumentality of any trustee or under any transaction, operation or scheme, whether entered into or carried out before or after the commencement of this section.

[Para. (a) substituted by s. 8 (1) (b) of Act 141 of 1992.]
(b) A company shall be deemed to be controlled by a resident or residents of the Republic if such resident or residents are directly or indirectly interested in more than 50 per cent of the issued share capital or members' contributions of such company or, by virtue of any rights attaching to any shares or under any agreement or arrangement, such resident or residents would, on a distribution of any profit of such company, be entitled to more than 50 per cent of such profit.

(c) The profit of a foreign investment company shall mutatis mutandis be determined in the manner prescribed by this Act for the determination of taxable income: Provided that such profit shall include amounts derived from sources outside the Republic.

(9) Any amount of director's fee or managerial or secretarial remuneration derived from a foreign investment company by a resident of the Republic who is a director or shareholder in such company as contemplated in subsection (8) (a) shall, to the extent that it does not exceed the untaxed profit derived by the company during the relevant financial year, as determined before the deduction of the said amount, be deemed to be derived by him from a source within the Republic.

(10) The provisions of this section shall not apply to any amount of investment income included in the income of any resident in terms of section 9D.

[Sub-s. (10) added by s. 8 of Act 28 of 1997.]

[S. 9A inserted by s. 8 (1) of Act 85 of 1987.]

9B Circumstances in which certain amounts received or accrued in relation to disposal of listed shares are deemed to be of capital nature

(1) For the purposes of this section 'affected share', in relation to any taxpayer, means a share listed on a licensed stock exchange as defined in the Stock Exchanges Control Act, 1985 (Act 1 of 1985), which has been disposed of by the taxpayer and of which he immediately prior to such disposal had been the owner for a continuous period of at least five years: Provided that-

(a) where the taxpayer is a company which acquired such share from any other company in the same 'group of companies' as defined in section 48 of the Taxation Laws Amendment Act, 1988 (Act 87 of 1988), and such company qualified for an exemption from stamp duty in respect of the registration of transfer of such share in terms of the said section, both such companies shall be deemed to be one and the same company;

(b) where any other share or shares are issued to such taxpayer by the company in which he holds such share in substitution for any such
share by reason of a subdivision of any such share or any similar arrangement, or any capitalization share in relation to such share is issued by such company to such taxpayer, such share and such other share or shares or such capitalization share shall be deemed to be one and the same share if-

(i) such taxpayer's participation rights and interests, whatsoever, in such company remain unaltered; and 

(ii) no consideration whatsoever passes directly or indirectly from such taxpayer to such company in relation to the issue of such other share or shares or such capitalization share;

(c) the taxpayer shall be deemed to have disposed of a share if the share has been cancelled or redeemed or if the relevant company has been liquidated or deregistered;

(d) where the taxpayer is a registered insurer in terms of the Insurance Act, 1943 (Act 27 of 1943), and has acquired a share in accordance with a transfer of insurance business as contemplated in section 25A of that Act from another insurer who carried on long-term and short-term insurance business, both such insurers shall be deemed to be one and the same insurer; and

[Para. (d) added by s. 9 (1) (b) of Act 141 of 1992.]

(e) where-

(i) any share has been lent by a lender to a borrower as contemplated in the definition of 'lending arrangement' in section 23 (1) of the Stamp Duties Act, 1968 (Act 77 of 1968), such share shall for the purposes of the lender be deemed not to have been disposed of by the lender; and 

(ii) any other share of the same kind and of the same or equivalent quantity and quality has been returned by the borrower to the lender, such share and such other share shall be deemed to be one and the same share in the hands of the lender.

[Para. (e) added by s. 7 (1) (c) of Act 36 of 1996.]
[Sub-s. (1) amended by s. 9 (1) (a) of Act 141 of 1992.]

(2) Any taxpayer may elect that any amount received by or accrued to or in favour of him as a result of the disposal on or after 14 March 1990 of an affected share, be deemed to be of a capital nature for the purposes of the
definition of ‘gross income’ in section 1: Provided that where the taxpayer is a
natural person who dies or is declared insolvent during his ownership in an
affected share or is a company which is liquidated during its ownership in such
share, the executor of such person's deceased estate or the curator of such
person's insolvent estate or the liquidator of such company may exercise the
election in terms of this subsection.

(3) The election referred to in subsection (2) shall be exercised in respect
of the first affected share disposed of by any taxpayer on or after 14 March 1990,
and such election shall be made by such taxpayer in his return of income in
respect of the relevant year of assessment in which he disposed of such affected
share.

(3A) (a) Any election made under subsection (2) in respect of an affected
share disposed of prior to 18 March 1992, may be withdrawn by the taxpayer or
the executor, curator or liquidator referred to in the proviso to the said subsection
and be replaced by a new election which shall be exercised in respect of the first
affected share disposed of by the taxpayer on or after that date.

(b) The provisions of subsections (2), (3) and (4) shall mutatis mutandis
apply to a new election made under paragraph (a).

[Sub-s. (3A) inserted by s. 9 (1) (c) of Act 141 of 1992.]

(4) An election made under subsection (2) shall be binding upon the
taxpayer in respect of each succeeding disposal of an affected share during the
year of assessment in which he exercised his election and every succeeding
year of assessment.

(5) ......

[Sub-s. (5) deleted by s. 11 of Act 129 of 1991.]

(6) If any taxpayer has elected that the provisions of this section shall
apply to him, there shall in the year of assessment in which any affected share is
disposed of by him, be included in his income any expenditure or losses
(excluding so much of any such expenditure or losses as may be allowable as a
deduction in the determination of the taxable income derived by the taxpayer
from dividends) incurred in respect of such affected share and allowed as a
deduction from the income of such taxpayer during such or any previous year of
assessment, and any amount allowed to be deducted from the cost price of such
affected share under the provisions of section 22 (1) in any such year.

(7) Where the taxpayer holds affected shares in any company which were
acquired by him on different dates and he has disposed of any of those shares,
he shall for the purposes of this section be deemed to have disposed of the
affected shares held by him for the longest period of time.

(8) For the purposes of this section any amount included in the income of any company in terms of the provisions of section 22 (8) (b) as a result of the application, disposal or distribution of any affected share as contemplated in that section, shall be deemed to be an amount which has accrued to such company as a result of the disposal of such affected share.

[Sub-s. (8) added by s. 6 of Act 113 of 1993 and substituted by s. 26 of Act 30 of 1998.]

[S. 9B inserted by s. 9 of Act 101 of 1990.]

9C Taxation of investment income from foreign sources

(1) For the purposes of this section-

'annuity' means any annuity other than-

(a) pensions in consideration of past employment; or
(b) payments made under the social security system of any other country;

'interest' means-

(a) interest as contemplated in section 24J;
(b) an amount as contemplated in section 24K; or
(c) any other income which, by the laws of the Republic administered by the Commissioner, is subjected to the same treatment as income from money lent;

'investment income' means any income in the form of any annuity, interest, rental income or royalty or any income of a similar nature;

'permanent establishment' means a permanent establishment as defined from time to time in Article 5 of the Model Tax Convention on Income and on Capital of the Organisation for Economic Co-operation and Development;

'rental income' means any amount received by or accrued to any person as consideration for the use of, or the right to use, any movable or immovable property;

'resident' means any natural person who is ordinarily resident in the Republic and any person other than a natural person which has its place of
effective management in the Republic;

'royalty' means any amount received by or accrued to any person as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films, tapes or discs for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or any other property or right of a similar nature, or for information concerning industrial, commercial or scientific experience.

(2) Subject to the provisions of section 9D (4), any investment income received by or accrued to any-

(a) resident; and

(b) person (other than a resident) arising from the activities carried on by him through a permanent establishment situated in the Republic, from any country other than the Republic during any year of assessment, shall, for the purposes of the definition of 'gross income' in section 1, be deemed to have been received by or accrued to such resident or person from a source within the Republic during such year of assessment.

(2A) Notwithstanding the provisions of subsection (2), where it is established to the satisfaction of the Commissioner that the investment income, or any portion thereof, received or accrued during any year of assessment may not be remitted to the Republic during such year of assessment as a result of currency or other restrictions or limitations imposed in terms of the laws of the country where the investment income was received or accrued, such investment income or any portion thereof shall be deemed to have been received or accrued from a source within the Republic during the year of assessment during which such investment income or portion thereof may be so remitted to the Republic.

[Sub-s. (2A) inserted by s. 27 (1) (a) of Act 30 of 1998.]

(3) The provisions of this section shall not apply to investment income of a resident-

(a) arising from and effectively connected to the business activities of a substantive business enterprise conducted by such resident through a permanent establishment of such resident in any country other than the Republic, where such permanent establishment is suitably equipped for conducting the principal business of such substantive business enterprise; or

[Para. (a) substituted by s. 27 (1) (b) of Act 30 of 1998.]
(b) arising from any assets acquired by any natural person before he became ordinarily resident in the Republic for the first time in respect of the first three consecutive years of assessment ending on or after 28 February 1998.

(4) Where any investment income is received or accrued in accordance with this section in the course of the carrying on of any trade outside the Republic, such trade shall for the purposes of sections 11, 20 and 28 be deemed to have been carried on in the Republic.

[S. 9C inserted by s. 9 (1) of Act 28 of 1997.]

9D Investment income of controlled foreign entities and investment income arising from donations, settlements or other dispositions

(1) For the purposes of this section-

'controlled foreign entity' means any foreign entity in which any resident or residents of the Republic, whether individually or jointly, and whether directly or indirectly, hold more than 50 per cent of the participation rights, or are entitled to exercise more than 50 per cent of the votes or control of such entity;

'foreign entity' means any person, other than a natural person, which has its place of effective management in a country other than the Republic;

'investment income' means investment income as defined in section 9C(1);

'participation rights' means the right to participate directly or indirectly in the capital or profits of, dividends declared by, or any other distribution or allocation made by, any entity; 'resident' means a resident as defined in section 9C(1).

(2) There shall be included in the income of any resident contemplated in the definition of 'controlled foreign entity' in subsection (1), a proportional amount of any investment income received by or accrued to such entity, which bears to the total investment income received by or accrued to such entity, the same ratio as the percentage of the participation rights of such resident in relation to such entity bears to the total participation rights in relation to such entity: Provided that the provisions of this subsection shall not apply to any amount of investment income to which the provisions of subsection (4) are applicable.

(3) Where any resident acquires during any year of assessment any vested right to participate in any amount representing capital of any controlled foreign entity and-
such capital arose from investment income received by or accrued to such controlled foreign entity in any previous year of assessment during which such resident had a contingent right to participate in such investment income; and

(b) such investment income has not been subject to tax in terms of the provisions of this Act,

such amount shall be included in the income of such resident in such year of assessment.

(4) Where by reason of or in consequence of any donation, settlement or other disposition (other than a donation, settlement or other disposition to a foreign entity of a public character) made by any resident, investment income is received by or accrued to any person-

(a) who is not a resident; or

(b) who is a resident and to which investment income the provisions of section 7 (3), (4), (5), (6) or (7) would have applied by reason or in consequence of such donation, settlement or other disposition, had such income been received or accrued from a source within the Republic,

[Para. (b) substituted by s. 28 (1) (a) of Act 30 of 1998.]

there shall be included in the income of such resident so much of the amount of any investment income as is attributable to such donation, settlement or other disposition.

(4A) Notwithstanding the provisions of subsections (2), (3) and (4), where it is established to the satisfaction of the Commissioner that the investment income or any portion thereof received or accrued during any year of assessment, which is to be included in the income of any resident in terms of such subsections, may not be remitted to the Republic during such year of assessment as a result of currency or other restrictions or limitations imposed in terms of the laws of the country where the investment income was received or accrued, such investment income or any portion thereof shall be included in the income of such resident in the year of assessment during which such investment income or portion thereof may be so remitted to the Republic.

[Sub-s. (4A) inserted by s. 28 (1) (b) of Act 30 of 1998.]

(5) Where any asset has been disposed of for a consideration which is
less than the market value of such asset, the amount by which such market value exceeds such consideration shall for the purposes of this section be deemed to be a donation.

(6) The amount apportioned to any resident under the provisions of this section, shall be converted at a date not later than the end of the financial year of the resident to the currency of the Republic and the ruling exchange rate at that date shall be applied to determine the value of the amount to be included in the income of such resident.

(7) Any resident who, at any time during any year of assessment, has a participating right contemplated in subsection (2) or a vested right contemplated in subsection (3) or makes any donation, settlement or other disposition as contemplated in subsection (4), shall disclose such fact to the Commissioner in writing when submitting his return of income for such year and at the same time furnish such information as may be required by the Commissioner for the purposes of this section.

(8) The provisions of section 11 shall mutatis mutandis apply in respect of investment income contemplated in subsection (2) or (4), which is received by or accrued to a controlled foreign entity in the course of the carrying on of any trade by such entity outside the Republic: Provided that any deductions or allowances contemplated in such section, shall be apportioned by applying the same ratio as determined in subsection (2) or (4), as the case may be, and such portion shall be deemed to be a deduction or allowance which may be made in the determination of the taxable income of such resident: Provided further that-

(a) any such deductions or allowances shall be limited to the amount of such investment income; and

(b) any amount whereby such deductions or allowances exceed the amount of such investment income, shall be carried forward and be deemed to be a deduction or allowance which may be made in the determination of the taxable income of such resident during the immediately succeeding year of assessment if such controlled foreign entity carries on such trade during such succeeding year of assessment.

[Para. (b) substituted by s. 28 (1) (c) of Act 30 of 1998.]

(9) The provisions of this section shall not apply-

(a) where the foreign tax actually paid or payable in any country other than the Republic, relating to the proportional amount contemplated in subsection (2) or (4), after taking into consideration any deductions or allowances under the taxation provisions of such
other country determined at the ratio as contemplated in subsection (2) or (4), as the case may be, is more than 85 per cent of the normal tax payable in the Republic: Provided that for the purposes of the determination of the tax payable in the Republic on such proportional amount, such tax shall be an amount which bears to the total normal tax payable the same ratio as the taxable income attributable to the inclusion of such proportional amount bears to the total taxable income in relation to such resident;

[Para. (a) amended by s. 28 (1) (d) of Act 30 of 1998.]

(b) where the investment income arises from and is effectively connected to the business activities of a substantive business enterprise of any controlled foreign entity conducted through a permanent establishment as defined in section 9C (1) of such controlled foreign entity, in any country other than the Republic, where such permanent establishment is suitably equipped for conducting the principal business of such substantive business enterprise;

[Para. (b) substituted by s. 28 (1) (e) of Act 30 of 1998.]

(c) in relation to the proportional amount of any investment income attributable to any natural person, arising from any asset acquired by a controlled foreign entity in relation to such natural person, before such natural person became ordinarily resident in the Republic for the first time, in respect of the first three consecutive years of assessment ending on or after 28 February 1998;

(d) to investment income which is taxable in a country which the Minister of Finance has identified by notice in the Gazette as a country whose tax on income is determined on a basis which is substantially the same as that of the Republic; or

(e) to investment income of any controlled foreign entity which is-

(i) deemed to have accrued to the entity from a source in the Republic in terms of section 9 (1) (b) or (bA); or

(ii) included in the taxable income of the entity.

[Para. (e) added by s. 28 (1) (h) of Act 30 of 1998.]

[S. 9D inserted by s. 9 (1) of Act 28 of 1997.]
10 Exemptions

(1) There shall be exempt from the tax-

(a) the revenues of the Government, any provincial administration or of any other state;

[Para. (a) substituted by s. 13 (1) (a) of Act 89 of 1969, amended by s. 10 (1) (a) of Act 121 of 1984 and by s. 36 (6) of Act 9 of 1989 and substituted by s. 10 (1) (a) of Act 141 of 1992.]

(b) the revenues of local authorities;

(c) (i) ......

[Sub-para. (i) substituted by s. 8 (1) (a) of Act 96 of 1975, by s. 8 (1) (b) of Act 96 of 1981 and by s. 6 (1) (a) of Act 96 of 1985 and deleted by s. 9 (1) (a) of Act 21 of 1994.]

(ii) any pension payable to any person or his surviving spouse by reason of such person having occupied the office of State President or Vice State President: Provided that the provisions of this subparagraph shall not apply to any amount payable to any person or his surviving spouse by reason of such person having occupied the office of President as elected in terms of section 77 of the Constitution;

[Sub-para. (ii) substituted by s. 8 (1) (a) of Act 96 of 1975, by s. 8 (1) (b) of Act 96 of 1981 and by s. 6 (1) (a) of Act 96 of 1985 and amended by s. 9 (1) (b) of Act 21 of 1994.]

(iii) the salary and emoluments payable to any person who holds office in the Republic as an official of any government, other than the Government of the Republic, provided such person is stationed in the Republic for that purpose and is not ordinarily resident in the Republic;

[Sub-para. (iii) substituted by s. 10 (1) (b) of Act 141 of 1992.]

(iv) any salary and emoluments payable to any domestic or private servant of any person referred to in subparagraph (iii) in respect of domestic or private services rendered or to be rendered by such servant to such person if such servant is not a South African citizen and is not ordinarily resident in the Republic;
(v) any salary and emoluments payable to any subject of a foreign state who is temporarily employed in the Republic, provided the exemption of such salary and emoluments is authorized by an agreement entered into by the governments of such foreign state and the Republic;

[Para. (c) amended by s. 8 (a) of Act 90 of 1962 and by s. 10 (a) of Act 88 of 1965 and substituted by s. 10 (1) (a) of Act 85 of 1974.]

(cA) the receipts and accruals of-

(i) any institution, board or body (other than a company registered or deemed to be registered under the Companies Act, 1973 (Act 61 of 1973), or under any law repealed by that Act and any co-operative formed and incorporated or deemed to be formed and incorporated under the Co-operatives Act, 1981 (Act 91 of 1981), and any close corporation and any trust) established by or under any law and which, in the furtherance of its sole or principal object-

(aa) conducts scientific, technical or industrial research;

(bb) provides necessary or useful commodities, amenities or services to the State (including any provincial administration) or members of the general public; or

(cc) carries on activities (including the rendering of financial assistance by way of loans or otherwise) designed to promote commerce, industry or agriculture or any branch thereof;

(ii) any South African company all the shares of which are held by any such institution, board or body, if the operations of such company are ancillary or complementary to the object of such institution, board or body:

Provided that such institution, board, body or company-

(a) has been approved by the Commissioner subject to such conditions as he may deem necessary to ensure that the activities of such institution, board, body or company are wholly or mainly directed to the furtherance of its sole or principal object;

(b) is by law or under its constitution-

(i) not permitted to distribute any of its profits or gains to any
person, other than, in the case of such company, to its shareholders;

(ii) required to utilise its funds solely for investment or the object for which it has been established; and

(iii) required on dissolution-

(aa) where the institution, board, body or company is established under any law, to transfer its assets to some other institution, board or body which has been granted exemption from tax in terms of this paragraph and which has objects similar to those of such institution, board, body or company; or

(bb) where the institution, board or body is established by law, to transfer its assets to-

(A) some other institution, board or body which has been granted exemption from tax in terms of this paragraph and which has objects similar to those of such institution, board, body or company; or

(B) to the State:

Provided further that-

(a) where the Commissioner is satisfied that any such institution, board, body or company has during any year of assessment failed to comply with the provisions of this paragraph, he may withdraw his approval of the institution, board, body or company with effect from the commencement of that year of assessment;

(b) where the institution, board, body or company fails to transfer, or take reasonable steps to transfer, its assets as contemplated in paragraph (b) (iii) of the first proviso, the accumulated net revenue which has not been distributed shall be deemed for the purposes of this Act to be an amount of taxable income which accrued to such institution, board, body or company during the year of assessment contemplated in paragraph (a); and

(c) any decision of the Commissioner in the exercise of his discretion under this paragraph shall be subject to objection and appeal;

[Para. (cA) inserted by s. 11 (a) of Act 55 of 1966, substituted by s. 13 (1) (b) of Act 89 of 1969 and by s. 10 (1) (b) of Act 85 of 1974, amended s. 9 (1) (a) of Act]
the receipts or accruals of any company, society or other association of persons (including a trust), whether or not registered under any law (other than a co-operative formed and incorporated or deemed to be formed and incorporated under the Co-operatives Act, 1981 (Act 91 of 1981), if-

(i) the sole or principal object of such company, society or association is as follows, namely-

(aa) to conduct or promote scientific, technical or industrial research; or

(bb) to provide medical, dental, blood transfusion, hospital or nursing services; or

(cc) to engage in or promote nature conservation or animal protection activities; or

(dd) to engage in or promote activities which the Commissioner is satisfied are of a cultural nature; or

(ee) to provide social or recreational amenities or facilities for the members of such company, society or association; or

(ff) to promote the common interests of persons (being members of such company, society or association) carrying on any particular kind of business, profession or occupation by means other than-

(A) the carrying on by such company, society or association of any trading or other profit-making activities;

(B) the participation by such company, society or association in any business, profession or occupation carried on by any of its members; or

(C) the provision to any of its members of financial assistance or of any premises or continuous services or facilities required by its members for the purpose of carrying on any business, profession or occupation:
(ii) the activities of such company, society or association are wholly or mainly directed to the furtherance of its sole or principal object;

(iii) such company, society or association is under its constitution not permitted to distribute any of its profits or gains to any person and is required to utilize its funds solely for investment or the objects for which it has been established; and

(iv) under the constitution of such company, society or association it will upon its winding-up or liquidation be obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some other company, society or association with objects similar to those of the aforesaid company, society or association;

[Para. (cB) inserted by s. 10 (1) (c) of Act 85 of 1974 and amended by s. 9 (1) (b) of Act 94 of 1983 and by s. 10 (1) (d) of Act 141 of 1992.]

(cC) the receipts and accruals of any association formed and incorporated under section 21 of the Companies Act, 1973, or deemed by that section to be so formed and incorporated, if-

(i) the sole or principal object of the association is to build dwelling houses or other residential accommodation or to purchase newly built dwelling houses or other newly built residential accommodation for occupation by persons who are-

(aa) employees of any employer who is a member of the association or of an employer who is associated with the aforesaid employer; or

(bb) members of the general public,

or to assist such persons to build dwelling houses for occupation by the persons building such houses or to purchase newly built dwelling houses or other newly built residential accommodation for occupation by the persons purchasing such houses or accommodation;

[Sub-para. (i) substituted by s. 8 (1) (b) of Act 69 of 1975.]
(ii) such sole or principal object is actively pursued;

(iii) the profits of the association derived from transactions with the said persons are, having regard to the future needs of the association, kept to a minimum;

[Sub-para. (iii) substituted by s. 10 (1) (e) of Act 141 of 1992.]

(iv) the association does not carry on any business other than business which is directly connected with the said sole or principal object; and

[Sub-para. (iv) substituted by s. 10 (1) (e) of Act 141 of 1992.]

(v) in the case of an association to which the provisions of item (bb) of subparagraph (i) apply, the directors of the association are independent persons who do not derive any remuneration for their services to the association (or, if such remuneration is in fact derived by any such director, it does not in any one year exceed an amount which is reasonable in the circumstances) and at least one of those directors is a person nominated by a Minister or the member of an Executive Council of a province responsible for housing matters;

[Sub-para. (v) substituted by s. 7 (a) of Act 65 of 1986, by s. 9 (1) (a) of Act 85 of 1987, by s. 7 (1) (a) of Act 113 of 1993 and by s. 9 (1) (c) of Act 21 of 1994.]

[Para. (cC) inserted by s. 10 (1) (c) of Act 85 of 1974.]

(cD) the receipts and accruals of any amateur sporting association;

[Para. (cD) inserted by s. 10 (1) (c) of Act 85 of 1974 and substituted by s. 7 (1) (b) of Act 113 of 1993.]

(cE) the receipts and accruals of any political party registered under the provisions of section 36 of the Electoral Act, 1979 (Act 45 of 1979);

[Para. (cE) inserted by s. 8 (1) (c) of Act 96 of 1981.]

(cF) the receipts and accruals of any company, society or other association of persons (including a trust), whether or not registered under any law (other than a co-operative formed and incorporated or deemed to be formed and incorporated under the Co-operatives Act, 1981 (Act 91 of 1981)), if-

(i) the sole or principal object of such company, society or
association is the provision of residential accommodation under a sale or a lease or otherwise to aged or retired persons (being persons who have attained the age of at least 60 years or have retired by reason of ill-health or infirmity) in a building, housing complex or village the residential units in which, apart from residential accommodation occupied by essential staff, are or are to be occupied exclusively by such aged or retired persons or their spouses or minor children or dependants;

(ii) at least one meal per day and nursing services are provided in addition to the accommodation;

(iii) the activities of such company, society or association are wholly or mainly directed to the furtherance of its sole or principal object;

(iv) the profits of the company, society or association derived from transactions with the said persons are, having regard to the future needs of the company, society or association, kept to a minimum;

[Sub-para. (iv) substituted by s. 10 (1) (g) of Act 141 of 1992.]

(v) the company, society or association does not carry on any business other than business which is directly connected with the said sole or principal object;

[Sub-para. (v) substituted by s. 10 (1) (g) of Act 141 of 1992.]

(vi) the company, society or association is under its memorandum, articles of association or constitution not permitted to distribute any of its profits or gains to any person and is required to utilize its funds solely for investment or the objects for which it has been established;

(vii) the remuneration of employees of the company, society or association is not excessive having regard to services performed by such employees and their working conditions; and

[Sub-para. (vii) substituted by s. 10 (1) (h) of Act 141 of 1992.]

(viii) under the memorandum, articles of association or constitution of the company, society or association it will upon its winding-up or liquidation be obliged to give or transfer its assets
remaining after the satisfaction of its liabilities to some other company, society or association with objects similar to those of the aforesaid company, society or association and which is also exempt from tax;

[Par. (cF) inserted by s. 9 (1) (b) of Act 85 of 1987 and amended by s. 10 (1) (f) of Act 141 of 1992.]

(cG) the receipts and accruals of any person (other than a company) who is ordinarily resident in any country other than the Republic or of an external company which is managed and controlled in any such country, which are derived by such person or company from carrying on business as the owner or charterer of any ship or aircraft, if a similar exemption or equivalent relief is granted by the said country to any person (other than a company) ordinarily resident in the Republic or to any domestic company in respect of any tax imposed in that country on income which may be derived by such person or company from carrying on in such country any business as owner or charterer of any ship or aircraft;

[Para. (cG) inserted by s. 9 (1) (c) of Act 85 of 1987 and substituted by s. 10 (1) (i) of Act 141 of 1992.]

(cH) the receipts and accruals of any company, society or other association of persons or any trust, whether or not registered under any law (other than a co-operative formed and incorporated or deemed to be formed and incorporated under the Co-operatives Act, 1981 (Act 91 of 1981)), if-

(i) the sole object of such company, society, association or trust is to receive, hold and apply moneys contributed to such company, society, association or trust in accordance with section 11 (hA) in order to discharge any of the following or like obligations imposed upon any person in terms of any law which regulates mining operations, namely-

(aa) the rehabilitation of disturbances of the surface of land and the prevention and combating of pollution of the air, land, sea or other water where such disturbances and pollution are due to mining, prospecting, quarrying or similar operations;

[Item (aa) substituted by s. 10 (1) (b) of Act 28 of 1997.]

(bb) the protection of the surface of land and water sources and the making safe of undermined ground and of
dangerous excavations, tailings, waste dumps and structures, of whatsoever nature, made in the course of mining, prospecting, quarrying or similar operations; and

(cc) the demolition or removal of any building, structure or other thing erected or constructed in connection with mining, prospecting, quarrying or similar operations, the removal of any debris or other objects and the restoration, as far as is practicable, of the surface to its natural state;

[Sub-para. (i) amended by s. 10 (1) (b) of Act 28 of 1997.]

(ii) such company, society or association is under its constitution, or such trust is under the instrument establishing such trust, not permitted to distribute any of its profits or gains to any person and is required to utilize its funds solely for the object for which it has been established: Provided that such company, society, association or trust shall be permitted to invest its funds in institutions approved by the Commissioner, until such time as such funds are required;

[Sub-para. (ii) substituted by s. 10 (1) (c) of Act 28 of 1997.]

(iii) in terms of the constitution of such company, society or association or the instrument establishing such trust it will upon its winding-up or liquidation be obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some other company, society, association or trust with a similar object to that of the said company, society, association or trust; and

[Sub-para. (iii) substituted by s. 10 (1) (c) of Act 28 of 1997.]

(iv) the Commissioner has approved such company, society, association or trust on such conditions as he may deem necessary to ensure that the activities of such company, society, association or trust are wholly directed to the furtherance of its sole object;

[Sub-para. (iv) substituted by s. 10 (1) (c) of Act 28 of 1997.]

[Para. (cH) inserted by s. 12 (1) (a) of Act 129 of 1991 and amended by s. 10 (1) (j) of Act 141 of 1992.]

(cl) the receipts and accruals of any company formed and incorporated
under section 21 of the Companies Act, 1973 (Act 61 of 1973), or deemed by the said section to be so formed and incorporated, or other association of persons or any trust, which has been approved by the Commissioner, if-

(i) the sole object of the company, association or trust is-

(aa) to acquire, hold, develop or improve land or any right to
land in the Republic with a view to enabling any
community in the Republic, of which at least 75 per cent
of the adult members are persons who earn less than R1
800 per month, to acquire such land, or right thereto, so
as to occupy that land wholly or mainly for residential
purposes;

Item (aa) substituted by s. 7 (1) (c) of Act 113 of 1993 and by s. 8 (1) (b) of Act 36 of 1996 and amended by s. 10 (1) (d) of Act 28 of 1997.

(bb) in the furtherance of the achievement of the object
referred to in item (aa), to assist members of
communities referred to in the said item by means of the
making of grants or furnishing of material, labour or
advice;

(cc) in the furtherance of, or after the achievement of, the
object referred to in item (aa), to carry on such other
activities as are directly connected with the activities
contemplated in items (aa) and (bb), including the
provision of community facilities and the establishment
and carrying on of community programmes aimed at the
furtherance of community life, job creation and the health
and welfare of members of the community; or

(dd) in the case of a company which is for the purposes of
the Companies Act, 1973 (Act 61 of 1973), the holding
company or a subsidiary company or a fellow subsidiary
company of any other company having an object
referred to in item (aa), to render financial,
administrative, managerial, landholding or other
assistance or services to such other company;

(ii) such sole object is actively pursued;

(iii) the company, association or trust is or was not knowingly a
party to, or does not knowingly permit, or has not knowingly
permitted, itself to be used as part of any transaction,
operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under this Act or any other Act administered by the Commissioner;

(iv) the company, association or trust does not carry on any business other than business which is directly connected with the said sole object;

(v) at least-

(aa) 25 per cent of the directors of the company, members of the governing body of the association or the trustees of the trust, as the case may be, are persons who do not directly or indirectly derive any benefit, other than reasonable remuneration for services rendered, from the company, association or trust, whether by virtue of their being members of a community contemplated in subparagraph (i) (aa) or otherwise; and

(bb) one of those directors, members or trustees is a person nominated by a Minister or the member of an Executive Council of a province responsible for housing matters, or, in any case where a former Administrator of a province was, to the exclusion of such a Minister, charged with the administration of any applicable law relating to housing, by such Administrator;

[Item (bb) substituted by s. 9 (1) (d) of Act 21 of 1994.]

(vi) in terms of the memorandum, articles of association, constitution or deed of trust of the company, association or trust it is upon its deregistration, winding-up or liquidation obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some other company, association or trust which is exempt from tax under this paragraph; and

(vii) such company, association or trust is under its memorandum, articles of association, constitution or deed of trust not permitted to distribute any of its profits or gains to any person and is in terms of such memorandum, articles of association, constitution or deed of trust required to utilize its funds solely for the object for which it has been formed or to invest such
profits or gains—

(aa) with a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984);

(bb) in securities listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985);

(cc) in financial instruments as defined in section 1 of the Financial Markets Control Act, 1989 (Act 55 of 1989);

(dd) in other commercial paper, issued or secured by issuers classified from time to time by the Treasury as defined in the Exchequer Act, 1975 (Act 66 of 1975), where the Commissioner has approved of the category in which the issuer falls pursuant to such classification and such category is stated in such memorandum, articles of association, constitution or deed of trust;

[Para. (cl) inserted by s. 10 (1) (k) of Act 141 of 1992.]

(cJ) the receipts and accruals of any company, other association of persons or trust, whether or not registered in terms of any law, which has been approved by the Commissioner, if—

(i) the sole or principal object of such company, association or trust is—

(aa) to raise or receive money for any of the purposes contemplated in item (bb), (cc), (dd) or (ee) by means of—

(A) donations;

(B) any loan entered into with any person who is exempt from tax, any government, any external company or any public company;

(C) commercial paper or debentures issued to a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984); or

(D) a deposit made by any person contemplated in item (cc) as a pre-condition for, or for the
purposes of, securing or enabling the grant of any loan to such person;

(bb) to lend or donate money to any company, association or trust contemplated in paragraph (cC), (cl) or this paragraph;

[Item (bb) substituted by s. 7 (1) (d) of Act 113 of 1993.]

(cc) to lend money or to provide other financial assistance to persons who are members of any community referred to in paragraph (cl) (i) (aa) in the furtherance of the object mentioned in paragraph (cl) (i); or

(dd) to provide funds or guarantees to a bank registered in terms of the Banks Act, 1990 (Act 94 of 1990), a mutual building society registered under the Mutual Building Societies Act, 1965 (Act 24 of 1965), an insurer registered in terms of the Insurance Act, 1943 (Act 27 of 1943), a pension fund organization registered in terms of the Pension Funds Act, 1956 (Act 24 of 1956), or the Development Bank of Southern Africa, if such funds or guarantees are provided on condition that such bank, mutual building society, insurer or pension fund organization or the said Development Bank of Southern Africa shall utilize the funds or guarantees solely to lend money or provide other financial assistance to persons, and for the achievement of the object, referred to in item (cc);

[Item (dd) substituted by s. 7 (1) (e) of Act 113 of 1993.]

(ee) to provide funds or guarantees to an insurer registered or approved in terms of the Insurance Act, 1943 (Act 27 of 1943), carrying on a short-term insurance business, including an underwriter at Lloyds authorized in terms of the said Act to carry on insurance business in the Republic, if such funds or guarantees are provided on condition that-

(A) such insurer shall utilize the funds or guarantees to provide a loan guarantee policy, as defined in paragraph 1 of the Schedule to the Usury Act, 1968 (Act 73 of 1968), to a money lender as defined in that Act; and
(B) such policy is provided in respect of loans or other financial assistance provided by such money lender to persons, and for the achievement of the object, referred to in item (cc);

(ii) such sole or principal object is actively pursued;

(iii) the company, association or trust does not carry on any business other than business which is directly connected with the said sole or principal object;

(iv) the company, association or trust is under its memorandum, articles of association, constitution or deed of trust required to utilize its funds solely for the object for which it has been established or for investment-

(aa) with the South African Reserve Bank, to the extent to which it is required to do so in terms of any law, or with a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984);

(bb) in securities listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985);

(cc) in financial instruments as defined in section 1 of the Financial Markets Control Act, 1989 (Act 55 of 1989);

(dd) in other commercial paper, issued or secured by issuers classified from time to time by the Treasury as defined in the Exchequer Act, 1975 (Act 66 of 1975), if the Commissioner has approved of the category in which the issuer falls pursuant to such classification, and such category is stated in such memorandum, articles of association, constitution or deed of trust;

(v) the company, association or trust is under its memorandum, articles of association, constitution or deed of trust not permitted to distribute any of its profits or gains to any person, unless such person is exempt from tax under this paragraph or paragraph (cC), (cl) or (f);

(vi) in terms of the memorandum, articles of association, constitution or deed of trust of the company, association or trust it is upon its deregistration, winding-up or liquidation
obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some other company, association or trust which is exempt from tax under this paragraph or paragraph (cC), (cl) or (f);

(vii) at least-

(aa) 25 per cent of the directors of the company, members of the governing body of the association or the trustees of the trust, as the case may be, are persons who do not directly or indirectly derive any benefit, other than reasonable remuneration for services rendered, from the company, association or trust, whether by virtue of their being members of a community contemplated in subparagraph (i) (cc) or otherwise; and

(bb) one of those directors, members or trustees is a person nominated by the Minister of Finance;

[Para. (cJ) inserted by s. 10 (1) (k) of Act 141 of 1992.]

(cK) the receipts and accruals of any company, if-

(i) the sole object of such company is to supply electricity, whether as principal or as agent, to the electricity consumers of any province referred to in section 124 of the Constitution, or of any local authority as defined in section 1 of the Electricity Act, 1987 (Act 41 of 1987);

[Sub-para. (i) substituted by s. 8 (1) (c) of Act 36 of 1996.]

(ii) such sole object is actively pursued;

(iii) such company is under its memorandum or articles of association not permitted to distribute any of its profits or gains to any member and is required to utilize its funds solely for investment or the object for which it has been formed;

(iv) the Commissioner has approved such company subject to such conditions as he may deem necessary to ensure that the activities of such company are wholly directed to the furtherance of its sole object;

(v) in terms of the memorandum or articles of association of such company it will upon its deregistration, winding-up or liquidation be obliged to transfer its assets remaining after the
satisfaction of its liabilities to-

(aa) some other company which is exempt from tax in terms of this paragraph; or

(bb) an undertaker or class of undertaker as contemplated in section 6 of the Electricity Act, 1987; and

(vi) the members of such company consist of Eskom and-

(aa) the provincial government of such province;

[Item (aa) substituted by s. 8 (1) (d) of Act 36 of 1996.]

(bb) a local authority referred to in subparagraph (i);

(cc) a regional services council or a joint services board referred to in paragraph (c) of the definition of 'local authority' in section 1; or

(dd) a trust acting as nominee for such province, local authority, regional services council or joint services board;

[Item (dd) substituted by s. 8 (1) (d) of Act 36 of 1996.]
[Para. (cK) inserted by s. 7 (1) (g) of Act 113 of 1993.]

(cL) ......  
[Para. (cL) inserted by s. 7 (1) (g) of Act 113 of 1993 and deleted by s. 8 (1) (e) of Act 36 of 1996.]

(cM) the receipts and accruals of any company formed and incorporated under section 21 of the Companies Act, 1973 (Act 61 of 1973), or deemed by the said section to be so formed and incorporated, which has been approved by the Commissioner, if-

(i) the sole or principal object of the company is to promote and facilitate the distribution of agricultural and related commodities;

(ii) such sole or principal object is actively pursued;

(iii) the company is or was not knowingly a party to, or does not knowingly permit, or has not knowingly permitted, itself to be used as part of any transaction, operation or scheme of which
the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under this Act or any other Act administered by the Commissioner;

(iv) the company does not carry on any business other than business which is directly connected with the said sole or principal object;

(v) at least one of the members is a local authority;

(vi) in terms of the memorandum or articles of association of the company, it is upon its deregistration, winding-up or liquidation obliged to give or transfer its assets remaining after the satisfaction of its liabilities to-

(aa) some other company which is exempt from tax under this paragraph; or

(bb) a local authority to utilize such assets for the same objects as the aforesaid company:

Provided that-

(a) where the Commissioner is satisfied that any such company has during any year of assessment failed to comply with the provisions of this paragraph, he may withdraw his approval of the company with effect from the commencement of that year of assessment;

(b) where the Commissioner has withdrawn his approval of such company, it shall, within two months from the date of such withdrawal, transfer, or take reasonable steps to transfer, its remaining assets to any company which is exempt from tax under this paragraph or to a local authority to utilize such assets for the same objects as the aforesaid company;

(c) where a company fails to transfer, or take reasonable steps to transfer, its remaining assets as contemplated in paragraph (b) of this proviso, the accumulated net revenue which has not been distributed shall be deemed for the purposes of this Act to be an amount of taxable income which accrued to such company during the year of assessment referred to in paragraph (a) of this proviso; and
(d) any decision of the Commissioner in the exercise of his discretion under this paragraph shall be subject to objection and appeal;

[Para. (cM) inserted by s. 9 (1) (e) of Act 21 of 1994.]

(d) the receipts and accruals of any terminating building society, pension fund, provident fund, retirement annuity fund, benefit fund, mutual savings bank, mutual loan association, fidelity or indemnity fund, trade union, chamber of commerce or industries (or an association of such chambers), local publicity association or non-proprietary stock exchange;

[Para. (d) substituted by s. 10 (1) (d) of Act 85 of 1974 and by s. 10 (1) (l) of Act 141 of 1992.]

(dA) the receipts and accruals of any fund managed and controlled in the territory or in any country the territory of which formerly formed part of the Republic, if-

(i) having regard to the rules of the fund and the manner in which it is administered, such fund is substantially similar to a pension fund, provident fund or retirement annuity fund; and

[Sub-para. (i) substituted by s. 10 (1) (m) of Act 141 of 1992.]

(ii) the receipts and accruals of pension funds, provident funds and retirement annuity funds managed and controlled in the Republic are exempt from any tax on income imposed by the country concerned;

[Para. (dA) inserted by s. 6 (1) (a) of Act 91 of 1982, amended by s. 7 (b) of Act 65 of 1986 and substituted by s. 10 (1) (a) of Act 101 of 1990.]

(e) the receipts and accruals of any company, society or other association of persons, whether or not registered under any law (other than a co-operative formed and incorporated or deemed to be formed and incorporated under the Co-operatives Act, 1981 (Act 91 of 1981), the profits or gains of which, other than profits or gains from investments (including the letting of property), are derived solely from transactions with or on behalf of its individual members, and the constitution of which does not admit of the distribution of its profits or gains to any persons other than the members with whom or on whose behalf the transactions took place, and does not confer upon any person any benefit other than benefits accruing to
that person from transactions with or on behalf of that person, except as regards any receipt or accruals from investments (including the letting of property to non-members) by any such company, society or association: Provided that the provisions of this paragraph shall not be construed as requiring the taxable income of such company, society or association from investments (including the letting of property to non-members) to be determined at an amount greater than an amount determined to the satisfaction of the Commissioner as representing the taxable income on which such company, society or association would have been taxable under this Act if the exemption conferred by this paragraph had not been applicable;

[Para. (e) substituted by s. 13 (1) (c) of Act 89 of 1969 and by s. 10 (1) (e) of Act 85 of 1974 and amended by s. 8 (1) (c) of Act 69 of 1975 and by s. 9 (1) (c) of Act 94 of 1983.]

(f) the receipts and accruals of all religious, charitable and educational institutions of a public character, which carry on religious, charitable or educational activities, as the case may be, in the Republic, whether or not supported wholly or partly by grants from public revenue;

[Para. (f) substituted by s. 6 (1) (b) of Act 96 of 1985, by s. 7 (1) (h) of Act 113 of 1993 and by s. 29 (1) (a) of Act 30 of 1998.]

(fA) the receipts and accruals of any fund the sole object of which is to provide funds for any body, such body being a company, society, association of persons or trust contemplated in paragraph (cF) or any religious, charitable or educational institution contemplated in paragraph (f), if such fund-

(i) has been approved by the Commissioner subject to such conditions as he may deem necessary to ensure that no benefits are allocated by the fund for purposes other than the provision of funds for such a body;

[Sub-para. (i) substituted by s. 8 (1) (f) of Act 36 of 1996.]

(ii) has submitted to the Commissioner a copy of the written constitution, will or any other written instrument under which it has been established and in terms of which it is-

(aa) not permitted to distribute any of its funds to any person other than such a body;
(bb) required to utilize its funds solely for the object for which it has been established or to invest such funds-

(A) with a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act 39 of 1984);

(B) in securities listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985); or

(C) in such other financial instruments as the Commissioner may approve;

(cc) required to distribute, unless the Commissioner otherwise directs, at least 75 per cent of its net revenue (being the gross income of such fund less the costs of its administration) to any such body within a period of 12 months from the end of the financial year during which such net revenue was derived;

(dd) required on dissolution to transfer its assets to any such body;

(ee) not permitted, except to the extent that the Commissioner directs, to carry on any business;

(ff) required to submit to the Commissioner a copy of any amendment to the constitution, will or other written instrument under which it was established;

(gg) not permitted to accept any donation which is not irrevocable and unconditional; and

(hh) required to apply its net revenue, unless the Minister of Finance otherwise directs, for the furtherance of its sole object in the Republic:
Provided that-

(a) where such constitution, will or other written instrument does not comply with the provisions of this subparagraph, it shall be deemed so to comply if-

(i) in the case of a fund established under the terms of a will; or

(ii) in the case of a fund established prior to 21 June 1993 under a constitution or other written instrument which cannot be amended to comply with the said provisions,

the trustee of the fund furnishes the Commissioner with a written undertaking that the fund will be administered in compliance with the said provisions; and

(b) notwithstanding the provisions of items (bb) and (ee), any asset or business undertaking acquired by such fund by way of donation, inheritance or bequest, may be retained or continued, as the case may be, in the form so acquired:

Provided that-

(a) where the Commissioner is satisfied that any such fund has during any year of assessment failed to comply with the provisions of this paragraph, he may withdraw his approval of the fund with effect from the commencement of that year of assessment;

(b) where the Commissioner has withdrawn his approval of such fund, it shall, within two months from the date of such withdrawal, transfer, or take reasonable steps to transfer, its remaining assets to any such body which is exempt from tax under paragraph (cF) or (f);

[Para. (b) substituted by s. 8 (1) (i) of Act 36 of 1996.]

(c) where a fund fails to transfer, or take reasonable steps to transfer, its remaining assets as contemplated in paragraph (b) of this proviso, the accumulated net revenue which has not been distributed shall be deemed for the purposes of this Act to be an amount of taxable income which accrued to such fund during the year of assessment referred to in paragraph
(a) of this proviso; and

(d) any decision of the Commissioner in the exercise of his discretion under this paragraph shall be subject to objection and appeal;

[Para. (fA) inserted by s. 7 (1) (i) of Act 113 of 1993 and amended by s. 8 (1) (f) of Act 36 of 1996.]

(g) any amount received as a war pension, or as an award or a benefit under any law relating to the payment of compensation in respect of diseases contracted by persons employed in mining operations;

(gA) any disability pension paid under section 2 of the Social Assistance Act, 1992 (Act 59 of 1992);

[Para. (gA) inserted by s. 7 (1) (a) of Act 104 of 1980 and substituted by s. 29 (1) (b) of Act 30 of 1998.]

(gB) any compensation paid in terms of the Workmen's Compensation Act, 1941 (Act 30 of 1941), or the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993);

[Para. (gB) inserted by s. 8 (1) (d) of Act 96 of 1981 and substituted by s. 8 (1) (j) of Act 36 of 1996.]

(h) interest received by or accrued to-

(i) any person (other than a company) not ordinarily resident nor carrying on business in the Republic; or

(ii) an external company not carrying on business in the Republic, from stock or securities (including Treasury Bills) issued by the Government including the South African Transport Services, or any local authority within the Republic or the Electricity Supply Commission or the South African Broadcasting Corporation:

Provided that, if in the case of any such stock or securities issued in respect of a loan raised in a country outside the Republic, the Treasury has, with the approval of the Minister of Finance, given an undertaking that the interest derived therefrom by any person not ordinarily resident in the Republic or by any external company shall be exempt from taxes in the Republic, the interest received by or accrued to such a person or company from such of the said stock or securities as were acquired by such person or company outside the Republic and paid for by such person or company in the
currency of any country other than the Republic shall be exempt from normal tax even if that person or company carries on business in the Republic: Provided further that the exemption under this paragraph shall not apply in respect of interest which on or after 1 November 1987 is received by or accrues to-

(a) a person (other than a company) who is ordinarily resident in a neighbouring country, if such stock or security was acquired by him on or after that date; or

(b) a company which is incorporated, registered, managed or controlled in any neighbouring country unless the Commissioner is satisfied that such stock or security was acquired by it before that date and that on both that date and the date of receipt or accrual of such interest one or more natural persons, not ordinarily resident in the Republic, held for their own benefit all the issued shares of such company:

[Para. (b) substituted by s. 7 (1) of Act 70 of 1989.]

Provided further that the exemption under this paragraph shall not apply to any natural person unless such person was physically absent from the Republic for a period or periods of at least 183 days in aggregate during the year of assessment in which such interest was received or accrued;

[Para. (h) substituted by s. 9 (a) of Act 103 of 1976 and amended by s. 10 (1) (c) of Act 121 of 1984, by s. 9 (1) (d) of Act 85 of 1987, by s. 7 (1) (a) of Act 90 of 1988 and by s. 10 (1) (a) of Act 21 of 1995.]

[NB: (1) A further proviso has been added to para. (h) by s. 10 (1) (b) of the Income Tax Act 101 of 1990, a provision which will come into operation on a date to be fixed by the Minister of Finance. See PENDLEX.]

(2) In terms of s. 36 (2) of the Legal Succession to the South African Transport Services Act 9 of 1989, the reference in para. (h) to 'the South African Transport Services' is to be construed as including the Company (Transnet Limited) and the Corporation (the South African Rail Commuter Corporation Limited).

(hA) interest received by or accrued to a person (other than a company) who is ordinarily resident outside the Republic or a company which is managed and controlled outside the Republic: Provided that-

(i) the exemption under this section shall not apply to any natural person who was at any time ordinarily resident in the Republic
if such person has during the year of assessment carried on business in the Republic;

(ii) for the purposes of this paragraph the expression 'Republic' shall include any country which has for the purposes of applying any regulation made under section 9 of the Currency and Exchanges Act, 1933 (Act 9 of 1933), been included in the common monetary area;

(iii) for the purposes of this paragraph, so much of any dividend as has been distributed by any unit portfolio constituting a company in terms of paragraph (e) of the definition of 'company' in section 1 out of interest derived by such unit portfolio which is exempt from tax in the hands of such unit portfolio under the provisions of paragraph (iA), shall be deemed to be interest;

[Sub-para. (iii) added by s. 7 (1) (l) of Act 113 of 1993.]

(iv) the exemption under this paragraph shall not apply to any natural person unless such person was physically absent from the Republic for a period or periods of at least 183 days in aggregate during the year of assessment in which such interest was received or accrued; and

[Sub-para. (iv) added by s. 10 (1) (d) of Act 21 of 1995.]

(v) the exemption under this paragraph shall not apply to any interest received by or accrued to a company which is managed and controlled outside the Republic, if such interest is effectively connected with the business carried on by that company in the Republic;

[Sub-para. (v) added by s. 8 (1) (m) of Act 36 of 1996.]

[Para. (hA) inserted by s. 10 (1) (n) of Act 141 of 1992.]

(i) ......

(ii) ......

[Sub-para. (i) substituted by s. 8 (1) (e) of Act 96 of 1981, amended by s. 6 (1) (b) of Act 91 of 1982 and deleted by s. 8 (1) (n) of Act 36 of 1996.]
[Sub-para. (ii) substituted by s. 10 (1) (f) of Act 85 of 1974, by s. 9 (b) of Act 103 of 1976, by s. 7 (1) (a) of Act 104 of 1979, by s. 8 (1) (f) of Act 96 of 1981, by s. 6 (1) (c) of Act 91 of 1982, by s. 9 (1) (d) of Act 94 of 1983 and by s. 6 (1) (c) of Act 96 of 1985 and deleted by s. 8 (1) (n) of Act 36 of 1996.]

(iii) so much of the interest on Tax Redemption Certificates held by any one person as does not exceed the sum of fifty rand;

(iv) ......

[Sub-para. (iv) substituted by s. 6 (1) (d) of Act 91 of 1982 and deleted by s. 10 (1) (d) of Act 101 of 1990.]

(v) interest on any loan portion of the normal or super tax imposed under the Income Tax Act, 1953, or any subsequent Act of Parliament;

(vi) ......

[Sub-para. (vi) deleted by s. 7 (1) (b) of Act 104 of 1979, inserted by s. 10 (1) (e) of Act 101 of 1990 and deleted by s. 8 (1) (n) of Act 36 of 1996.]

(vii) to (x) inclusive ......

[Sub-paras. (vii) to (x) inclusive deleted by s. 7 (1) (a) of Act 65 of 1973.]

(xi) ......

[Sub-para. (xi) substituted by s. 13 (1) (d) of Act 89 of 1969 and by s. 9 (1) (a) of Act 52 of 1970 and deleted by s. 7 (1) (c) of Act 104 of 1979.]

(xiA) ......

[Sub-para. (xiA) inserted by s. 9 (a) of Act 88 of 1971 and deleted by s. 10 (1) (f) of Act 101 of 1990.]

(xiB) ......

[Sub-para. (xiB) inserted by s. 7 (1) (b) of Act 65 of 1973 and deleted by s. 7 (1) (d) of Act 104 of 1979.]

(xiC) ......

[Sub-para. (xiC) inserted by s. 10 (1) (g) of Act 85 of 1974 and deleted by s. 10 (1) (f) of Act 101 of 1990.]
(xD) ......

[Sub-para. (xD) inserted by s. 4 (1) (a) of Act 101 of 1978 and deleted by s. 10 (1) (f) of Act 101 of 1990.]

(xDA) ......

[Sub-para. (xDA) inserted by s. 7 (1) (e) of Act 104 of 1979 and deleted by s. 10 (1) (f) of Act 101 of 1990.]

(xDB) ......

[Sub-para. (xDB) inserted by s. 8 (1) (g) of Act 96 of 1981 and deleted by s. 10 (1) (f) of Act 101 of 1990.]

(xDC) ......

[Sub-para. (xDC) inserted by s. 8 (1) (g) of Act 96 of 1981 and deleted by s. 10 (1) (f) of Act 101 of 1990.]

(xE) ......

[Sub-para. (xE) inserted by s. 4 (1) (a) of Act 101 of 1978 and deleted by s. 10 (1) (f) of Act 101 of 1990.]

(xii) ......

[Sub-para. (xii) substituted by s. 7 (1) (b) of Act 104 of 1980, amended by s. 8 (1) (h) of Act 96 of 1981 and by s. 6 (1) (e) of Act 91 of 1982, substituted by s. 3 (1) (a) of Act 108 of 1986 and deleted by s. 8 (1) (n) of Act 36 of 1996.]

(xiiA) ......

[Sub-para. (xiiA) inserted by s. 7 (1) (a) of Act 90 of 1972, substituted by s. 3 (1) (b) of Act 108 of 1986 and by s. 10 (1) (g) of Act 101 of 1990 and deleted by s. 8 (1) (n) of Act 36 of 1996.]

(xiii) ......

[Sub-para. (xiii) substituted by s. 13 (1) (e) of Act 89 of 1969, by s. 9 (1) (b) of Act 52 of 1970 and by s. 10 (1) (h) of Act 85 of 1974, amended by s. 8 (1) of Act 113 of 1977, substituted by s. 7 (1) (f) of Act 104 of 1979, amended by s. 7 (1) (c) of Act 104 of 1980, substituted by s. 8 (1) (i) of Act 96 of 1981, amended by s. 6 (1) (f) of Act 91 of 1982, substituted by s. 3 (1) (c) of Act 108 of 1986 and deleted by s. 8 (1) (n) of Act 36 of 1996.]
(xiv) ...... 

[Sub-para. (xiv) added by s. 13 (1) (f) of Act 89 of 1969, amended by s. 4 (1) (b) of Act 101 of 1978 and deleted by s. 8 (1) (n) of Act 36 of 1996.]

(xv) 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 which is not otherwise exempt from tax, as does not during the year of assessment exceed the amount of R2000;

[Sub-para. (xv) added by s. 6 (1) (g) of Act 91 of 1982 and amended by s. 6 (1) (d) of Act 96 of 1985, by s. 7 (c) of Act 65 of 1986, by s. 9 (1) (e) of Act 85 of 1987 and by s. 10 (1) (h) of Act 101 of 1990.]

(xvi) in the case of any taxpayer who is a natural person, so much of the aggregate of any amounts received by or accrued to him by way of dividends referred to in section 11 (s) and any amounts received by or accrued to him which have been distributed to him out of unit portfolios which in terms of subsection (5B) of section 19 are for the purposes of that section deemed to be income derived otherwise than in the form of dividends, as does not during the year of assessment exceed the amount of R2000 less the amount of any interest which is exempt from tax under subparagraph (xv);

[Sub-para. (xvi) added by s. 6 (1) (g) of Act 91 of 1982 and amended by s. 6 (1) (e) of Act 96 of 1985, by s. 7 (d) of Act 65 of 1986, by s. 9 (1) (f) of Act 85 of 1987 and by s. 10 (1) (i) of Act 101 of 1990.]

[Para. (i) amended by s. 7 (a) of Act 72 of 1963, substituted by s. 8 (a) of Act 90 of 1964, by s. 10 (b) of Act 88 of 1965, by s. 11 (b) of Act 55 of 1966 and by s. 8 (1) (a) of Act 76 of 1968 and amended by s. 10 (1) (c) of Act 101 of 1990 and by s. 8 (1) (n) of Act 36 of 1996.]

(iA) in the case of any unit portfolio referred to in paragraph (e) of the definition of 'company' in section 1, so much of the interest received by or accrued to such unit portfolio as has been distributed, or as the Commissioner is satisfied will be distributed, by way of a dividend or a portion of a dividend, to persons who have become entitled to such dividend by virtue of their being registered as holders of units in such unit portfolio on a date falling on or after the first day of April, 1971;

[Para. (iA) inserted by s. 7 (1) (b) of Act 90 of 1972.]

(j) the receipts and accruals of any bank, if the Commissioner is
satisfied that such bank is not resident in the Republic and is entrusted by the Government of a territory outside the Republic with the custody of the principal foreign exchange reserves of that territory, and the Minister of Finance decides to apply the provisions of this paragraph to that bank in respect of the year of assessment under charge;

(k) (i) dividends received by or accrued to or in favour of any person: Provided that this exemption shall not apply-

(aa) to dividends (other than those distributed out of profits of a capital nature and those received by or accrued to or in favour of any person not ordinarily resident nor carrying on business in the Republic) distributed by a fixed property company as defined in section 1 of the Unit Trusts Control Act, 1981 (Act 54 of 1981), on shares included in a unit portfolio comprised in any unit trust scheme in property shares authorized under the said Act; or

[Para. (aa) substituted by s. 12 (1) (b) of Act 129 of 1991.]

(bb) to so much of any dividend as has been distributed by any unit portfolio constituting a company in terms of paragraph (e) of the definition of ‘company’ in section 1-

(A) out of interest derived by such unit portfolio which is exempt from tax in the hands of such unit portfolio under the provisions of paragraph (iA); and

(B) out of amounts received by or accrued to such unit portfolio by way of dividends referred to in section 11 (s);

[Para. (bb) substituted by s. 7 (1) (m) of Act 113 of 1993.]

[Sub-para. (i) substituted by s. 13 (1) (g) of Act 89 of 1969, by s. 9 (b) of Act 88 of 1971 and by s. 7 (1) (c) of Act 90 of 1972, amended by s. 8 (1) (j) of Act 96 of 1981, by s. 9 (1) (e) of Act 94 of 1983 and by s. 10 (1) (d) of Act 121 of 1984 and substituted by s. 10 (1) (j) of Act 101 of 1990.]

(iA) dividends received by or accrued to or in favour of any unit portfolio constituting a company in terms of paragraph (e) of the definition of ‘company’ in section 1;
(ii) and (iii) ......

[Sub-paras. (ii) and (iii) deleted by s. 10 (1) (k) of Act 101 of 1990.]

(iv) ......

[Sub-para. (iv) deleted by s. 13 (1) (h) of Act 89 of 1969.]

(v) ......

[Sub-para. (v) amended by s. 10 (1) (i) and (j) of Act 85 of 1974 and by s. 9 (c) and (d) of Act 103 of 1976 and deleted by s. 10 (1) (k) of Act 101 of 1990.]

(vi) ......

[Sub-para. (vi) deleted by s. 13 (1) (i) of Act 89 of 1969.]

(kA) ......

[Para. (kA) inserted by s. 10 (1) (e) of Act 121 of 1984 and deleted by s. 10 (1) (l) of Act 101 of 1990.]

(l) ......

[Para. (l) deleted by s. 10 (1) (m) of Act 101 of 1990.]

(m) any amount received by or accrued to an author of a work in respect of the assignment of or grant of an interest in a copyright in such work, if such amount is chargeable with income tax in a country other than the Republic: Provided that this exemption shall not apply to any person who is not the first owner of a copyright under the Copyright Act, 1978 (Act 98 of 1978), or to a company;

[Para. (m) substituted by s. 13 (1) (j) of Act 89 of 1969 and amended by s. 12 (1) (c) of Act 129 of 1991.]

(mA) ......

[Para. (mA) inserted by s. 9 (e) of Act 103 of 1976 and deleted by s. 10 (1) (e) of Act 28 of 1997.]

(mB) any benefit or allowance payable in terms of the Unemployment Insurance Act, 1966 (Act 30 of 1966);
(n) ......

[Para. (mB) inserted by s. 7 (1) (b) of Act 90 of 1988.]

(nA) where an employee is as a condition of his employment required while on duty to wear a special uniform which is clearly distinguishable from ordinary clothing, the value of any such uniform given to the employee by his employer, or so much of any allowance made by the employer to the employee in lieu of any such uniform as is reasonable;

[Para. (nA) inserted by s. 13 (1) (k) of Act 89 of 1969 and substituted by s. 10 (1) (o) of Act 141 of 1992.]

(nB) any benefit or advantage accruing to any employee (as defined in paragraph 1 of the Seventh Schedule) by reason of the fact that his employer (as defined in the said paragraph), has, in consequence of the transfer of the employee from one place of employment to another place of employment or the appointment of the employee as an employee of the employer or the termination of the employee's employment, borne the expense-

(i) of transporting such employee, members of his household and the personal goods and possessions of himself and the members of his household from his previous place of residence to his new place of residence; or

(ii) of such costs as the Commissioner may allow which have been incurred by the employee in respect of the sale of his previous residence and in settling in permanent residential accommodation at his new place of residence; or

[Sub-para. (ii) substituted by s. 7 (e) of Act 65 of 1986.]

(iii) of hiring residential accommodation in an hotel or elsewhere for the employee or members of his household during the period ending 183 days after his transfer took effect or after he took up his appointment, as the case may be, if such residential accommodation was occupied temporarily pending the obtaining of permanent residential accommodation;

[Para. (nB) inserted by s. 10 (1) (f) of Act 121 of 1984.]
Para. (nC) inserted by s. 10 (1) (f) of Act 121 of 1984 and deleted by s. 12 (1) (e) of Act 129 of 1991.

Para. (nD) inserted by s. 10 (1) (f) of Act 121 of 1984, amended by s. 6 (1) (f) of Act 96 of 1985 and deleted by s. 12 (1) (f) of Act 129 of 1991.

Para. (nE) inserted by s. 10 (1) (f) of Act 121 of 1984.

Para. (nF) inserted by s. 6 (1) (g) of Act 96 of 1985 and deleted by s. 12 (1) (g) of Act 129 of 1991.

Para. (nG) the value of any benefit or advantage contemplated in paragraph 2 of the Seventh Schedule derived by an employee who, after having retired from full-time service with the employer by whom such benefit or advantage was granted, has been re-employed by such employer on a part-time basis, if-

(i) the cash remuneration received by or accrued to the employee in respect of such part-time employment was payable at a rate not exceeding R5 000 per annum;

(ii) the employee retired from such full-time service on or after
attaining the age of 60 years or as a result of ill-health or other infirmity; and

(iii) such benefit or advantage was granted before the employee so retired:

Provided that the provisions of this paragraph shall not apply to any benefit or advantage granted to an employee who is re-employed on or after 1 March 1992;

[Para. (nG) inserted by s. 7 (f) of Act 65 of 1986 and amended by s. 12 (1) (h) of Act 129 of 1991.]

(nH) 50 per cent of so much of any taxable benefit derived by the taxpayer during any year of assessment ending not later than 28 February 1995 in consequence of the granting of any loan in the circumstances contemplated in paragraph 2 (f) of the Seventh Schedule as-

(i) was determined in relation to any portion of such loan which was before 15 March 1990 utilized by the taxpayer for the purpose of acquiring shares under a share incentive scheme operated by his employer and which relates to so many of such shares as the taxpayer was or is, under the conditions of such scheme as they applied immediately before the said date, prohibited from disposing of; and

(ii) relates to a period in the year of assessment during which the taxpayer was so prohibited from disposing of the relevant shares;

[Para. (nH) inserted by s. 10 (1) (n) of Act 101 of 1990.]

(o) any remuneration derived by any person as an officer or crew member of a ship engaged in the international transportation for reward of passengers or goods if such person was outside the Republic for a period or periods exceeding 183 days in aggregate during the year of assessment;

[Para. (o) substituted by s. 13 (1) (l) of Act 89 of 1969, deleted by s. 7 (1) (c) of Act 65 of 1973 and inserted by s. 4 (1) of Act 140 of 1993.]

(p) any amount received by or accrued to any person who is not ordinarily resident in the Republic, for services rendered or work or labour done by him outside the Republic for or on behalf of the Government, including the Railway Administration and any
provincial administration, or any local authority in the Republic or the South African Tourist Corporation or the Council for Scientific and Industrial Research, if such amount is chargeable with income tax in the country in which he is ordinarily resident and the income tax so chargeable is borne by himself and is not paid on his behalf by the Government, the provincial administration or local authority concerned or the said Corporation or the said Council;

[Para. (p) amended by s. 7 (b) of Act 72 of 1963.]

[NB: In terms of s. 36 (2) of the Legal Succession to the South African Transport Services Act 9 of 1989, the reference in para. (p) to 'the Railway Administration' is to be construed as including the Company (Transnet Limited) and the Corporation (the South African Rail Commuter Corporation Limited).]

(q) any bona fide scholarship or bursary granted to enable or assist any person to study at a recognized educational or research institution: Provided that if any such scholarship or bursary has been so granted by an employer or an associated institution (as respectively defined in paragraph 1 of the Seventh Schedule) to an employee (as defined in the said paragraph) or to a relative of such employee in circumstances indicating that the scholarship or bursary concerned would not have been granted had that employee not been an employee of that employer, the exemption under this paragraph shall not apply-

(i) if any remuneration to which the employee was entitled or might in the future have become entitled was in any manner whatsoever reduced or forfeited as a result of the grant of such scholarship or bursary;

(ii) in the case of a scholarship or bursary granted to enable or assist any such relative of an employee so to study, if the remuneration derived by the employee during the year of assessment exceeded R50 000; and

[Sub-para. (ii) amended by s. 10 (1) (f) of Act 28 of 1997.]

(iii) to so much of any scholarship or bursary contemplated in paragraph (ii) as in the case of any such relative exceeds R1 600 during the year of assessment;

[Sub-para. (ii) amended by s. 10 (1) (f) of Act 28 of 1997.]

[Para. (q) deleted by s. 12 (1) (i) of Act 129 of 1991 and inserted by s. 10 (1) (p) of Act 141 of 1992.]
(qA) ......

[Para. (qA) inserted by s. 11 (c) Act 55 of 1966, substituted by s.10(1)(g) of Act 121 of 1984 and deleted by s. 12 (1) (j) of Act 129 of 1991.]

(r) any gratuity (other than a leave gratuity) received by or accrued to any person from public funds upon his retirement from any office or employment under the Government, including the Railway Administration and any provincial administration, or from the funds of the Land and Agricultural Bank of South Africa upon his retirement as a member of the board of the said Bank, which the Treasury declares to be free of tax;

[Para. (r) substituted by s. 8 (1) (b) of Act 76 of 1968.]

[**NB:** In terms of s. 36 (2) of the Legal Succession to the South African Transport Services Act 9 of 1989, the reference in para. (r) to 'the Railway Administration' is to be construed as including the Company (Transnet Limited) and the Corporation (the South African Rail Commuter Corporation Limited).]

(s) the receipts and accruals derived by any company from the realization of assets consisting of gold bullion or shares in companies, if such assets were acquired by such company with funds which were transferred to the Republic from any country outside the Republic by arrangement with the Treasury or with funds derived from the realization of similar assets acquired with the proceeds derived from any such assets or from dividends received in respect of such shares, and the Treasury has with the approval of the Minister of Finance given an undertaking that any such receipts and accruals shall be exempt from the tax, provided particulars of the terms and conditions of any arrangement with and any undertaking given by the Treasury and the period during which such undertaking is to endure are published in the *Gazette*;

(t) the receipts and accruals-

(i) of the Council for Scientific and Industrial Research;

(ii) of the South African Inventions Development Corporation;

(iii) ......

[Sub-para. (t) deleted by s. 29 (1) (c) of Act 30 of 1998.]

(iv) ......
(iv) of the Armaments Development and Production Corporation of South Africa Limited, established under section 2 of the Armaments Development and Production Act, 1968 (Act 57 of 1968);

(v) of any company during any period during which all the issued shares of such company are held by the Corporation referred to in subparagraph (v), if the operations of such company are conducted in pursuance of, or are ancillary or complementary to, the objects of the said Corporation;

(vi) of the Development Bank of Southern Africa established on 30 June 1983;

(vii) of the South Africa Housing Trust Limited, a company registered under the Companies Act, 1973, on 27 November 1986;
(xii) of KESCOR (Proprietary) Limited, a company registered under the Companies Act, 1973, on 11 May 1990;

[Sub-para. (xii) added by s. 12 (1) (k) of Act 129 of 1991.]

(xiii) ......

[Sub-para. (xiii) added by s. 10 (1) (r) of Act 141 of 1992 and deleted by s. 9 (1) (f) of Act 21 of 1994.]

(xiv) ......

[Sub-para. (xiv) added by s. 10 (1) (r) of Act 141 of 1992 and deleted by s. 8 (1) (o) of Act 36 of 1996.]

(xv) of a recognized company as contemplated in section 2 of the Provision of Special Funds for Tertiary Training and Education Act, 1993, which has been approved by the Commissioner;

[Sub-para. (xv) added by s. 7 (1) (n) of Act 113 of 1993.]

[Para. (t) amended by s. 8 (b) of Act 90 of 1964 and substituted by s. 8 (1) (c) of Act 76 of 1968.]

(tA) the receipts and accruals of any company which qualifies for exemption under section 2 of the Company Tax Amendment Decree, 1994 (Decree 2 of 1994 of Ciskei), which are derived from a source within the territory of the former Republic of Ciskei;

[Para. (tA) inserted by s. 29 (1) (d) of Act 30 of 1998.]

(u) any amount received by or accrued to any person from such person's spouse or former spouse by way of alimony or allowance or maintenance of such person or any children under an order of judicial separation or divorce granted in consequence of proceedings instituted after the twenty-first day of March, 1962, or under any agreement of separation entered into after that date;

[Para. (u) added by s. 8 (b) of Act 90 of 1962.]

(v) ......

[Para. (v) added by s. 8 (b) of Act 90 of 1962, substituted by s. 13 (1) (n) of Act 89 of 1969 and by s. 3 (1) (d) of Act 108 of 1986 and deleted by s. 10 (1) (s) of Act 141 of 1992.]
(vA) ......

[Para. (vA) inserted by s. 7 (1) (e) of Act 90 of 1972, substituted by s. 3 (1) (e) of Act 108 of 1986 and deleted by s. 10 (1) (s) of Act 141 of 1992.]

(w) ......

[Para. (w) added by s. 8 (b) of Act 90 of 1962, amended by s. 10 of Act 95 of 1967, by s. 13 (1) (o) of Act 89 of 1969 and by s. 10 (1) (m) of Act 85 of 1974, substituted by s. 10 (1) (t) of Act 141 of 1992, amended by s. 7 (1) (o) of Act 113 of 1993 and deleted by s. 29 (1) (e) of Act 30 of 1998.]

(x) so much of any amount (being a lump sum) referred to in paragraph (d) of the definition of 'gross income' in section 1 or in section 7A (4A) or (5) as does not exceed R30 000 less the sum of any other amounts which have been excluded from the taxpayer’s income by virtue of the exemption conferred by this paragraph, whether in the current or any previous year of assessment: Provided that the exemption under this paragraph shall not apply in respect of any amount received by or accrued to any person upon or because of the termination or because of the impending termination of the services required to be rendered by him as the holder of any office or employment or in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of his office or employment or in respect of his appointment (or right or claim to be appointed) to any office or employment, unless-

(i) such person has attained the age of fifty-five years in the case of a male or fifty years in the case of a female; or

[NB: Para. (i) has been substituted by s. 10 (1) (e) of the Income Tax Act 21 of 1995, a provision which will come into operation on 1 March 2000. See PENDLEX.]

(ii) the termination or impending termination of such person’s services or the relinquishment, termination, loss, repudiation, cancellation or variation of his office or employment or of his appointment (or right or claim to be appointed) to any office or employment is due to superannuation, ill-health or other infirmity; or

[Sub-para. (ii) substituted by s. 12 (1) (l) of Act 129 of 1991.]

(iii) ......
(iv) the termination or impending termination of such person's services is due to his employer having ceased to carry on or intending to cease carrying on the trade in respect of which such person was employed or to such person having become redundant in consequence of his employer having effected a general reduction in personnel or a reduction in personnel of a particular class and, where such person's employer is a company, such person was not at any time a director of such company and did not at any time hold more than five per cent of the issued share capital or members' interest in such company:

[Sub-para. (iv) added by s. 7 (1) (q) of Act 113 of 1993.]

Provided further that, notwithstanding the provisions of section 37D, any such amount which was received by or accrued to a married woman and which was in whole or in part excluded from her husband's taxable income under the provisions of this paragraph, shall for the purposes of determining the exemption under this paragraph in respect of any such amount subsequently received by or accrued to either spouse be deemed to be an amount which was received by or accrued to the husband;

[Para. (x) added by s. 8 (b) of Act 90 of 1962, substituted by s. 10 (c) of Act 88 of 1965, by s. 11 (d) of Act 55 of 1966 and by s. 8 (1) (d) of Act 76 of 1968, amended by s. 9 (d) of Act 88 of 1971, substituted by s. 8 (1) (d) of Act 69 of 1975 and amended by s. 7 (1) (h) of Act 104 of 1979, by s. 8 (1) (k) of Act 96 of 1981, by s. 9 (1) (l) of Act 94 of 1983, by s. 10 (1) (o) of Act 101 of 1990 and by s. 10 (1) (u) of Act 141 of 1992.]

(y) ......

[Para. (y) added by s. 8 (1) (e) of Act 76 of 1968 and deleted by s. 10 (1) (p) of Act 101 of 1990.]

(z) any amount received by or accrued to or in favour of any person from the State by way of a subsidy on interest payable by him on any amount owing by him on any loan or advance utilised by him for the purposes of pastoral, agricultural or other farming operations carried on by him;

[Para. (z) added by s. 9 (e) of Act 88 of 1971.]
(zA) any amount by way of rebate or other assistance received by or accrued to or in favour of any exporter (as defined in section 11bis(1)) under any scheme for the promotion or financing of exports which is for the purposes of this paragraph approved by the Minister of Trade and Industry with the concurrence of the Minister of Finance: Provided that where the person entitled to claim such amount from the State has, under an agreement directly connected with the export trade carried on by him, agreed to pay the whole or any portion of such amount to any other person, the exemption under this paragraph shall also apply to the whole or such portion of such amount received by or accrued to such other person under the said agreement;

[Para. (zA) added by s. 7 (1) (f) of Act 90 of 1972, substituted by s. 10 (1) (n) of Act 85 of 1974 and by s. 10 (1) (q) of Act 101 of 1990, amended by s. 12 (1) (m) of Act 129 of 1991 and substituted by s. 9 (1) (g) of Act 21 of 1994.]

(zB) any amount received by or accrued to any employer from a fund which has under an industrial council agreement been established as contemplated in section 48 (1) (d) of the Labour Relations Act, 1956 (Act 28 of 1956) or section 39 (4) of the Manpower Training Act, 1981 (Act 56 of 1981), for the training of employees for skilled work, if such employer has undertaken such training in respect of his employees;

[Para. (zB) added by s. 7 (1) (d) of Act 65 of 1973 and substituted by s. 10 (1) (o) of Act 85 of 1974 and by s. 6 (1) (h) of Act 91 of 1982.]

(zC) any amount received by or accrued to or in favour of any person from the State by way of a subsidy under any scheme designed to encourage the establishment, expansion or carrying on of industrial or commercial undertakings in an economic development area, if such subsidy was granted in respect of-

(i) wages paid by such person in carrying on any such undertaking; or

(ii) the expenses incurred by such person in training employees employed by him in such undertaking;

[Para. (zC) added by s. 6 (1) (i) of Act 91 of 1982.]

(zD) any amount received by or accrued to or in favour of any person by way of a reimbursement by the State of expenditure incurred by him in relocating in an economic development area any industrial or commercial undertaking, or part of such an undertaking, carried on
by him elsewhere than in such area, except to the extent that the said amount relates to any expenditure claimed by and allowed to such person as a deduction from his income under the provisions of this Act or has been taken into account in the determination under this Act of the value of any machinery or plant for the purposes of determining any allowance in respect of such machinery or plant;

[Para. (zD) added by s. 6 (1) (i) of Act 91 of 1982.]

(zE) any amount received by or accrued to the Small Business Development Corporation, Limited, by way of any subsidy or assistance payable by the State;

[Para. (zE) added by s. 9 (1) (g) of Act 94 of 1983.]

(zF) any amount (other than interest) received by or accrued to any person from the State in terms of any export incentive scheme, being a payment in lieu of any allowance or credit to which such person was or could have become entitled in terms of the provisions of section 11bis (6);

[Para. (zF) added by s. 6 (1) (h) of Act 96 of 1985.]

(zG) any amount which on or after 15 May 1989 was received by or accrued to a film owner (as defined in section 24F) by way of a subsidy payable by the State under any scheme designed to promote the production of films (as defined in the said section);

[Para. (zG) added by s. 10 (1) (r) of Act 101 of 1990.]

(zH) any amount received by or accrued to or in favour of any person from the State in terms of-

(i) the Regional Industrial Development Programme, which came into operation on 1 May 1991;

(ii) the Simplified Regional Industrial Development Programme, which came into operation on 1 October 1993 by way of a grant;

(iii) the Small/Medium Manufacturing Development Programme, which came into operation on 1 October 1996 by way of a grant; and

(iv) the Tax Holiday Scheme contemplated in section 37H, which came into operation on 1 October 1996 by way of a grant.
Para. (zH) added by s. 10 (1) (v) of Act 141 of 1992 and substituted by s. 10 (1) (h) of Act 28 of 1997.

(2) Notwithstanding the exemptions provided for in paragraphs (h) and (k) of subsection (1)-

(a) all amounts falling within the scope of the said paragraphs shall be set out by the taxpayer in the return rendered by him; and

(b) the said exemptions shall not apply in respect of any portion of an annuity.

(3) The exemptions provided by any paragraph of subsection (1) shall not extend to any payments out of the revenues, receipts, accruals or profits mentioned in such paragraph.

(4) ......

Sub-s. (4) substituted by s. 13 (1) (p) of Act 89 of 1969, amended by s. 9 (1) (c) and (d) of Act 52 of 1970, deleted by s. 9 (f) of Act 88 of 1971, added by s. 10 (1) (s) of Act 101 of 1990 and deleted by s. 8 (1) (p) of Act 36 of 1996.

10A Exemption of capital element of purchased annuities

(1) For the purposes of this section-

'annuity amount' means an amount payable by way of annuity under an annuity contract and any amount payable in consequence of the commutation or termination of any such annuity contract;

[Definition of 'annuity amount' substituted by s. 8 (a) of Act 113 of 1993.]

'annuity contract' means an agreement concluded between an insurer in the course of his insurance business and a natural person (hereinafter referred to as the purchaser), in terms of which-

(a) the insurer agrees to pay to the purchaser or the purchaser's spouse or surviving spouse an annuity or annuities (whether to one such person or to each of them) until the death of the annuitant or the expiry of a specified term;

(b) the purchaser agrees to pay to the insurer a lump sum cash consideration for such annuity or annuities; and

(c) no amounts are or will be payable by the insurer to the purchaser or
any other person other than amounts payable by way of such annuity or annuities or, where an annuity is payable for a minimum term and such annuity is in the event of the death of the annuitant before the end of such term to continue to be payable to some third person for the balance of that term, amounts which may be so payable to such third person by way of such annuity,

but does not include any agreement for the payment by any insurer of any annuity which is under the rules of a pension fund or of a provident fund or of a retirement annuity fund payable to a member of such fund or to any other person;

[Definition of 'annuity contract' substituted by s. 11 (1) (a) of Act 85 of 1974 and amended by s. 11 (1) (a) of Act 21 of 1995.]

'commencement', in relation to an annuity contract, means the date on which the annuity contract is concluded;

[Definition of 'commencement' substituted by s. 11 (1) (b) of any Act 85 of 1974.]

'expected return', in relation to an annuity under an annuity contract, means an amount determined in a manner contemplated in this section as representing the sum of all the annuity amounts which may, as at the commencement of the annuity contract, be expected to become payable by way of the annuity from the said commencement;

[Definition of 'expected return' substituted by s. 11 (1) (c) of Act 85 of 1974.]

'valuator', in relation to an insurer, means the valuator of the insurer contemplated in section 10 of the Insurance Act, 1943 (Act 27 of 1943), or any similar provision contained in the laws of the country where any annuity is payable.

[Definition of 'valuator' substituted by s. 11 (1) (a) of Act 28 of 1997.]

(2) There shall be exempt from normal tax so much of any annuity amount payable to a purchaser or his deceased or insolvent estate or his spouse or surviving spouse (as contemplated in paragraph (a) of the definition of 'annuity contract' in subsection (1)), or to the deceased or insolvent estate of such spouse or surviving spouse as is determined in accordance with subsection (3) to represent the capital element of such amount.

[Sub-s. (2) substituted by s. 11 (1) (b) of Act 21 of 1995 and by s. 11 (1) (b) of Act 28 of 1997.]

(3) The capital element of an annuity amount shall be-
(a) a sum determined in accordance with the formula

\[
Y = \frac{A}{N} \times C,
\]

in which formula-

(i) 'Y' represents the sum to be determined;

(ii) 'A' represents the amount of the total cash consideration given by the purchaser under the annuity contract in question as contemplated in paragraph (b) of the definition of 'annuity contract' in subsection (1);

(iii) 'B' represents the total expected returns of all the annuities provided for in the annuity contract in question; and

(iv) 'C' represents the aforesaid annuity amount; or

(b) where, by reason of any unpredictable contingency (other than the death or survival of any person), any amount payable by way of any annuity under the annuity contract in question is uncertain at the date on which the first payment by way of an annuity becomes due under that contract, such sum as may on the basis of a fair and reasonable calculation be taken to be the capital element of the aforesaid annuity amount: Provided that the said sum shall be determined in such manner that the capital element of all the annuity amounts becoming due during any year of assessment in respect of all the annuities under the said contract does not in total exceed an amount determined in accordance with the formula

\[
Z = \frac{1}{N} \times A,
\]

in which formula-

(i) 'Z' represents the amount to be determined;

(ii) 'N' represents the probable number of years during which annuity amounts will be payable under the said annuity contract from the date on which the first of such amounts becomes due, due regard being had to the manner in which and the frequency with which such amounts are payable; and
(iii) ‘A’ represents the amount of the total cash consideration given by the purchaser under the said annuity contract as contemplated in paragraph (b) of the definition of ‘annuity contract’ in subsection (1); or

(c) where such annuity amount is payable in consequence of the commutation or termination of the annuity contract concerned, an amount determined in accordance with the formula

\[ X = A - D \]

in which formula-

(i) ‘X’ represents the amount to be determined;

(ii) ‘A’ represents the amount of the total cash consideration given by the purchaser under the annuity contract concerned as contemplated in paragraph (b) of the definition of ‘annuity contract’ in subsection (1); and

(iii) ‘D’ represents the sum of the amounts determined in accordance with paragraphs (a) and (b) as representing the capital element of all annuity amounts payable under the annuity contract prior to the commutation or termination thereof.

[Para. (c) added by s. 8 (c) of Act 113 of 1993.]

(4) The valuator of an insurer who is a party to an annuity contract shall, before payment of the first annuity amount is made under such contract, or, where such payment was made before the date on which this section or section 9C comes into operation, within one month after the date, or in either case within such period as the Commissioner may allow, make a calculation (with due regard to the provisions of subsection (5)) in the manner prescribed in paragraph (a) of subsection (3) or, if the provisions of paragraph (b) of that subsection are applicable, in accordance with that paragraph, of the capital element of all the annuity amounts to be paid under the said contract: Provided that-

(i) where the capital element is calculated under the said paragraph (a), it shall be sufficient if the capital element is calculated as a percentage to be applied to each of the said annuity amounts; or

(ii) where the capital element is calculated under the said paragraph (b), it shall be sufficient if a calculation is made of the amount to be determined in accordance with the formula in the proviso to that paragraph.
(5) A valuator who makes any calculation as provided in subsection (4) or any recalculation as provided in subsection (6) (b), shall do so in accordance with generally accepted actuarial principles or practice, and where a determination has to be made of the life expectancy of any person for the purpose of a calculation of the expected return of any annuity or the probable number of years during which annuity amounts will be paid under any annuity contract, the mortality tables to be used for such determination shall be the select tables in the volume of tables published in 1953 at the University Press, Cambridge, for the Institute of Actuaries and the Faculty of Actuaries, entitled ‘The a (55) Tables for Annuitants’, and the age of the person concerned shall for the purposes of such determination be taken to be his age on his birthday immediately preceding the commencement of the annuity contract in question.

(6) (a) Where any annuity contract is varied so that it no longer conforms with the requirements prescribed in the definition of ‘annuity contract’ in subsection (1), the exemption conferred by subsection (2) in respect of the capital element of annuity amounts under that contract shall not apply in respect of such amounts under that contract which become due on or after the date of such variation.

(b) Subject to the provisions of paragraph (a), where any annuity contract is varied as to the payment of any annuity or consideration payable thereunder, the capital element of annuity amounts becoming due thereunder after such variation is effected shall, with due regard to the provisions of subsection (5), be re-calculated by the valuator of the insurer concerned.

(7) (a) Where the capital element of annuity amounts has been calculated as provided in subsection (4) or has been recalculated as provided in subsection (6) (b), the insurer concerned shall furnish each annuitant under the annuity contract in question, within one month after the date on which the calculation or recalculation is made, as the case may be, or within such further period as the Commissioner may allow, with two copies of such calculation or recalculation, as the case may be.

(b) An annuitant who has received the two copies referred to in paragraph (a) shall submit one of them to the Commissioner as and when required by the Commissioner.

(8) The Commissioner shall, when making an assessment upon the
taxpayer concerned for the year of assessment during which there has become payable the first annuity amount affected by a calculation referred to in subsection (4) or a re-calculation referred to in subsection (6) (b), determine the capital element of annuity amounts received or accrued during such year and affected by such calculation or re-calculation, as the case may be, in accordance with such calculation or re-calculation or, if the Commissioner is dissatisfied with such calculation or re-calculation or is in doubt as to the correctness thereof, or if no such calculation or re-calculation has been made, he may, having regard to any calculation or re-calculation of the capital element made by a practising actuary at his request or at the request of the taxpayer, calculate or re-calculate the capital element and determine the capital element of the said annuity amounts accordingly.

(9) Any decision of the Commissioner in the exercise of his discretion under the provisions of subsection (8) shall, in respect of a year of assessment referred to in that subsection, be subject to objection and appeal.

(10) Subject to the provisions of section 79, the final calculation or re-calculation of the capital element as made in relation to the year of assessment referred to in subsection (8) shall, subject to the provisions of subsection (6) (b), be final and conclusive and shall apply in respect of all relevant annuity amounts which become due to any person under the annuity contract in question in any succeeding years of assessment.

[S. 10A inserted by s. 8 (1) of Act 65 of 1973.]

11 General deductions allowed in determination of taxable income

For the purpose of determining the taxable income derived by any person from carrying on any trade within the Republic, there shall be allowed as deductions from the income of such person so derived-

(a) expenditure and losses actually incurred in the Republic in the production of the income, provided such expenditure and losses are not of a capital nature;

(b) expenditure and losses actually incurred outside the Republic in the production of the income, provided such expenditure and losses are not of a capital nature;

[Para. (b) substituted by s. 13 (a) of Act 129 of 1991.]

(bA) any interest (including related finance charges) which is not otherwise allowable as a deduction under this Act, which has been actually incurred by the taxpayer on any loan, advance or credit utilized by him for the acquisition, installation, erection or
construction of any machinery, plant or building, or any improvements to a building, to be used by him for the purposes of his trade, and which has been so incurred in respect of a period prior to such machinery, plant, building or improvements being brought into use for the purposes of the taxpayer's trade, such deduction to be allowed in the year of assessment during which such machinery, plant, building or improvements is or are brought into use for the said purposes;

[Para. (bA) inserted by s. 9 (1) (a) of Act 96 of 1981.]

(bB) any finance charge incurred by the taxpayer in respect of the purchase or contract price owing under an agreement for the acquisition, installation, erection or construction of any machinery, plant, aircraft, implement, utensil, article or livestock used by him for the purposes of his trade, including (but not limited to) mining, shipping or farming, which deduction shall be in lieu of any deduction or allowance in respect of such finance charge which may be allowable under any other provision of this Act: Provided that any such finance charge (other than a finance charge which falls to be dealt with in terms of the provisions of section 24J) which is calculated or payable in respect of a period of more than 12 months extending beyond the end of the year of assessment shall for the purposes of this paragraph be deemed to have been incurred from day to day during the said period;

[Para. (bB) inserted by s. 11 (1) (a) of Act 121 of 1984 and amended by s 8 (1) (a) of Act 90 of 1988, by s. 8 (1) (a) of Act 70 of 1989 and by s. 12 (1) (a) of Act 21 of 1995.]

(c) any legal expenses (being fees for the services of legal practitioners, expenses incurred in procuring evidence or expert advice, court fees, witness fees and expenses, taxing fees, the fees and expenses of sheriffs or messengers of court and other expenses of litigation which are of an essentially similar nature to any of the said fees or expenses) actually incurred by the taxpayer during the year of assessment in respect of any claim, dispute or action at law arising in the course of or by reason of the ordinary operations undertaken by him in the carrying on of his trade:

Provided that the amount to be allowed under this paragraph in respect of any such expenses shall be limited to so much thereof as-

(i) is not of a capital nature; and

(ii) is not incurred in respect of any claim made against the
taxpayer for the payment of damages or compensation if by reason of the nature of the claim or the circumstances any payment which is or might be made in satisfaction or settlement of the claim does not or would not rank for deduction from his income under paragraph (a) or (b); and

(iii) is not incurred in respect of any claim made by the taxpayer for the payment to him of any amount which does not or would not constitute income of the taxpayer; and

(iv) is not incurred in respect of any dispute or action at law relating to any such claim as is referred to in paragraph (ii) or (iii) of this proviso;

[Para. (c) substituted by s. 10 (1) (a) of Act 88 of 1971.]

(d) expenditure actually incurred during the year of assessment on repairs of property occupied for the purpose of trade or in respect of which income is receivable, including any expenditure so incurred on the treatment against attack by beetles of any timber forming part of such property and sums expended for the repair of machinery, implements, utensils and other articles employed by the taxpayer for the purposes of his trade;

(e) save as provided in paragraph 12 (2) of the First Schedule, such sum as the Commissioner may think just and reasonable as representing the amount by which the value of any machinery, plant, implements, utensils and articles (other than machinery, plant, implements, utensils and articles in respect of which a deduction may be granted under section 12B or 12C) used by the taxpayer for the purpose of his trade has been diminished by reason of wear and tear or depreciation during the year of assessment: Provided that-

(i) where a deduction has been allowed under paragraph (d), the Commissioner shall take into consideration the sum allowed under that paragraph in determining the sum to be allowed under this paragraph;

(ii) in no case shall any allowance be made for the depreciation of buildings or other structures or works of a permanent nature;

(iiA) where any machinery, implement, utensil or article qualifying for an allowance under this paragraph is mounted on or affixed to any concrete or other foundation or supporting
structure and the Commissioner is satisfied-

(aa) that the foundation or supporting structure is designed for such machinery, implement, utensil or article and constructed in such manner that it is or should be regarded as being integrated with the machinery, implement, utensil or article;

(bb) that the useful life of the foundation or supporting structure is or will be limited to the useful life of the machinery, implement, utensil or article mounted thereon or affixed thereto,

the said foundation or supporting structure shall for the purposes of this paragraph not be deemed to be a structure or work of a permanent nature but shall for the purposes of this Act be deemed to be a part of the machinery, implement, utensil or article mounted thereon or affixed thereto;

[Para. (iiA) inserted by s. 12 (1) (a) of Act 85 of 1974.]

(iii) no allowance shall be made under this paragraph in respect of any ship to which the provisions of section 14 (1) (a) or (b) apply or in respect of any aircraft to which the provisions of section 14bis (1) (a), (b) or (c) apply;

[Para. (iii) substituted by s. 12 (1) (a) of Act 55 of 1966 and by s. 10 (a) of Act 21 of 1994.]

(iiiA) no allowance shall be made under this paragraph in respect of any machinery, implement, utensil or article of which the cost has been allowed as a deduction from the taxpayer's income under the provisions of section 24D;

[Para. (iiiA) inserted by s. 9 (1) (b) of Act 96 of 1981.]

(iv) the value of new or unused machinery, implements, utensils or articles which-

(aa) were used by the taxpayer directly in a process of manufacture or, if brought into use on or after 15 March 1961, in any other process which in the opinion of the Commissioner is of a similar nature or, where the taxpayer is an agricultural co-operative (as defined in section 27 (9)), for storing or packing pastoral, agricultural or other farm products or for subjecting such
products to a primary process as defined in the said section 27 (9); and

(bb) were acquired to replace machinery, implements, utensils or articles which were damaged or destroyed,

shall be reduced by any amount which has been recovered or recouped as contemplated in paragraph (a) of subsection (4) of section 8 or the corresponding provisions of any previous Income Tax Act in respect of the damaged or destroyed machinery, implements, utensils or articles and has been excluded from the taxpayer's income in terms of paragraph (e) of the said subsection or the corresponding provisions of any previous Income Tax Act, and not included in the taxpayer's income in terms of the proviso to the said paragraph or the corresponding provisions of any previous Income Tax Act in the current or any previous year of assessment;

[Para. (iv) substituted by s. 9 (1) (a) of Act 113 of 1977.]

(v) the value of any machinery, implements, utensils or articles used by the taxpayer for the purposes of his trade shall be increased by the amount of any expenditure (other than expenditure referred to in paragraph (a)) which is proved to the satisfaction of the Commissioner to have been incurred by the taxpayer in moving such machinery, implements, utensils or articles from one location to another;

[vi] the value of any machinery, implements, utensils or articles used by the taxpayer for the purposes of his trade shall be reduced by the amount of any deduction which may be made under subsection (1) of section 12 or under that subsection as applied by subsection (3) of the said section, or under the corresponding provisions of any previous Income Tax Act or under section 12A (2) or under section 27 (2) (d);

[Para. (vi) substituted by s. 12 (1) (b) of Act 55 of 1966, by s. 9 (1) (b) of Act 113 of 1977 and by s. 11 (1) (b) of Act 121 of 1984.]

(vii) where the value of any such machinery, implements, utensils and 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 and articles, such cost shall be deemed to be the cost which, in the opinion of the Commissioner, a person would, if he had acquired such machinery, implements, utensils and
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 and articles was in fact
concluded, have incurred in respect of the direct cost of the
acquisition of such machinery, implements, utensils and
articles, including the direct cost of the installation or erection
thereof;

[Para. (vii) added by s. 11 (1) (c) of Act 121 of 1984.]

(viii) where in respect of any machinery, implement, utensil or
article acquired by the taxpayer on or after 21 June 1993, a
deduction or allowance was previously granted to a connected
person in relation to the taxpayer under this paragraph or
section 12B (1) or 12C (1), or under section 27 (2) (d) prior to
the deletion thereof by section 28 (b) of the Income Tax Act,
1991 (Act 129 of 1991), the allowance under this paragraph
shall be calculated on an amount not exceeding the lesser of
the cost of such machinery, implement, utensil or article to
such connected person or the market value thereof as
determined on the date upon which it was acquired by the
taxpayer;

[Para. (viii) added by s. 9 (1) (a) of Act 113 of 1993 and substituted by s. 5 (1) (a)
of Act 140 of 1993.]

[Para. (e) amended by s. 9 (a) of Act 90 of 1962 and by s. 9 (a) of Act 90 of 1964,
substituted by s. 11 (1) (a) of Act 88 of 1965 and amended by s. 8 (1) (b) of Act
90 of 1988 and by s. 11 (1) (a) of Act 101 of 1990.]

(f) an allowance in respect of any premium or consideration in the
nature of a premium paid by a taxpayer for-

(i) the right of use or occupation of land or buildings used or
occupied for the production of income or from which income is
derived; or

(ii) the right of use of any plant or machinery used for the
production of income or from which income is derived; or

(ii)bis the right of use of any motion picture film or any sound
recording or advertising matter connected with such film, if
such film, sound recording or advertising matter is used for
the production of income or income is derived therefrom; or

[Sub-para. (ii)bis inserted by s. 9 (b) of Act 90 of 1962.]
(iii) the right of use of any patent as defined in the Patents Act, 1978 (Act 57 of 1978), or any design as defined in the Designs Act, 1967 (Act 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act 62 of 1963), or any copyright as defined in the Copyright Act, 1978 (Act 98 of 1978), or of any other property which is of a similar nature, if such patent, design, trade mark, copyright or other property is used for the production of income or income is derived therefrom; or

[Sub-para. (iii) substituted by s. 14 (1) (a) of Act 89 of 1969 and by s. 13 (b) of Act 129 of 1991.]

(iv) the imparting of or the undertaking to impart any knowledge directly or indirectly connected with the use of such film, sound recording, advertising matter, patent, design, trade mark, copyright or other property as aforesaid:

[Sub-para. (iv) amended by s. 9 (c) of Act 90 of 1962.]

Provided that-

(aa) the allowance under subparagraph (i), (ii), (ii)bis or (iii) shall not exceed for any one year such portion of the amount of the premium or consideration so paid as is equal to the said amount divided by the number of years for which the taxpayer is entitled to the use or occupation, or one twenty-fifth of the said amount, whichever is the greater;

[Para. (aa) amended by s. 9 (d) of Act 90 of 1962.]

(bb) if the taxpayer is entitled to such use or occupation for an indefinite period, or if, in the case of any such right of use or occupation granted under an agreement concluded on or after 1 July 1983, the taxpayer or the person by whom such right of use or occupation was granted holds a right or option to extend or renew the original period of such use or occupation, he shall be deemed, for the purposes of this paragraph, to be entitled to such use or occupation for such period as in the opinion of the Commissioner represents the probable duration of such use or occupation; and

[Para. (bb) substituted by s. 10 (1) (a) of Act 94 of 1983.]

(cc) the allowance under subparagraph (iv) shall not exceed for
any one year such portion (not being less than one twenty-fifth) of the amount of the premium or consideration so paid as the Commissioner may allow having regard to the period during which the taxpayer will enjoy the right to use such film, sound recording, advertising matter, patent, design, trade mark, copyright or other property as aforesaid and any other circumstances which in the opinion of the Commissioner are relevant;

[Para. (cc) amended by s. 9 (e) of Act 90 of 1962.]

(dd) the provisions of this paragraph shall not apply in relation to any such premium or consideration paid by the taxpayer which does not for the purposes of this Act constitute income of the person to whom it is paid, unless such premium or consideration is paid under a written agreement formally and finally signed before 10 April 1984 by every party to the agreement;

[Para. (dd) added by s. 11 (1) (d) of Act 121 of 1984.]

(g) an allowance in respect of any expenditure actually incurred by the taxpayer, in pursuance of an obligation to effect improvements on land or to buildings, incurred under an agreement whereby the right of use or occupation of the land or buildings is granted by any other person, where the land or buildings are used or occupied for the production of income or income is derived therefrom: Provided that-

(i) the aggregate of the allowances under this paragraph shall not exceed the amount stipulated in the agreement as the value of the improvements or as the amount to be expended on the improvements or, if no amount is so stipulated, an amount representing in the opinion of the Commissioner the fair and reasonable value of the improvements;

(ii) any such allowance shall not exceed for any one year such portion of the aggregate of the allowances under this paragraph as is equal to the said aggregate divided by the number of years (calculated from the date on which the improvements are completed, but not more than 25 years) for which the taxpayer is entitled to the use or occupation;

[Para. (ii) substituted by s. 10 (1) (b) of Act 94 of 1983.]

(iii) if the taxpayer is entitled to such use or occupation for an indefinite period, he shall for the purposes of this paragraph
be deemed to be entitled to such use or occupation for such period as in the opinion of the Commissioner represents the probable duration of such use or occupation;

(iv) the aggregate of the allowances under this paragraph in respect of any building or improvements referred to in section 13 (1) or (4) or 27 (2) (b) shall not exceed the cost (after the deduction of any amount which has been set off against the cost of such building or improvements under section 13 (3) or section 27 (4)) to the taxpayer of such building or improvements less the aggregate of the allowances in respect of such building or improvements made to the taxpayer under the said section 13 (1) or (4) or 27 (2) (b) or the corresponding provisions of any previous Income Tax Act;

[Para. (iv) added by s. 9 (f) of Act 90 of 1962 and substituted by s. 9 (1) (c) of Act 113 of 1977.]

(v) where expenditure has been incurred by the taxpayer in respect of the cost of any improvements to land or buildings (other than improvements consisting of any building or improvements referred to in paragraph (iv) of this proviso or in section 13bis and other than any residential unit referred to in section 13ter) and such expenditure or a portion thereof has qualified or will qualify for deduction from the taxpayer's income by way of a deduction of expenditure or an allowance in respect of expenditure under any other provision of this Act, the aggregate of the allowances under this paragraph in respect of such improvements shall not exceed the amount or value referred to in paragraph (i) of this proviso less an amount equal to the aggregate of the amounts which have so qualified or will so qualify for deduction from the taxpayer's income under the said other provision, whether in the current or any preceding or subsequent year of assessment;

[Para. (v) added by s. 7 (1) (a) of Act 91 of 1982.]

(vi) the provisions of this paragraph shall not apply in relation to any such expenditure incurred under an agreement concluded on or after 1 July 1983, if the value of such improvements or the amount to be expended on such improvements, as contemplated in paragraph (h) of the definition of 'gross income' in section 1, does not for the purposes of this Act constitute income of the person to whom the right to have such improvements effected has accrued;
an allowance in respect of any expenditure (other than expenditure which has qualified in whole or part for deduction or allowance under any of the other provisions of this section or the corresponding provisions of any previous Income Tax Act) actually incurred by the taxpayer-

(i) in devising or developing any invention as defined in the Patents Act, 1978 (Act 57 of 1978), or in creating or producing any design as defined in the Designs Act, 1967 (Act 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act 62 of 1963), or any copyright as defined in the Copyright Act, 1978 (Act 98 of 1978), or any other property which is of a similar nature; or

(ii) in obtaining any patent or the restoration of any patent under the Patents Act, 1952, or the registration of any design under the Designs Act, 1967, or the registration of any trade mark under the Trade Marks Act, 1963; or

(iii) in acquiring by assignment from any other person any such patent, design, trade mark or copyright or in acquiring any other property of a similar nature or any knowledge connected with the use of such patent, design, trade mark, copyright or other property or the right to have such knowledge imparted,

if such invention, patent, design, trade mark, copyright, other property or knowledge, as the case may be, is used by the taxpayer in the production of his income or income is derived by him therefrom: Provided that-

(aa) where such expenditure exceeds R3 000 the allowance shall not exceed for any one year such portion of the amount of the expenditure as is equal to such amount divided by the number of years which, in the opinion of the Commissioner, represents the probable duration of use of the invention, patent, design, trade mark, copyright, other property or knowledge, or one twenty-fifth of the said amount, whichever is the greater;
(bb) where such expenditure was incurred before the commencement of the year of assessment in question the allowance shall be calculated on the amount of such expenditure, less an amount equivalent to the sum of the allowances to which the taxpayer was entitled under this paragraph and the allowances to which, in the opinion of the Commissioner, the taxpayer would have been entitled under this paragraph if this paragraph had been applicable, in respect of such expenditure in respect of previous years of assessment, including any year of assessment under any previous Income Tax Act;

[Para. (bb) substituted by s. 10 (1) (e) of Act 94 of 1983.]

(cc) no allowance shall be made in respect of any such invention, patent, design, trade mark, copyright or other property or knowledge so acquired or obtained by the taxpayer on or after 24 June 1988, but prior to 1 July 1993 from any other person who is a resident of the Republic or a neighbouring country (or, in the case of a company, a domestic company or a company incorporated, managed or controlled in a neighbouring country), if-

(A) the taxpayer or such other person is a company and such other person or the taxpayer, as the case may be, is interested in more than 50 per cent of any class of shares issued by such company, whether directly as a shareholder in that company or indirectly as a shareholder in any other company; or

(B) both the taxpayer and such other person are companies and any third person is interested in more than 50 per cent of any class of shares issued by one of those companies and in more than 50 per cent of any class of shares issued by the other company, whether directly as a shareholder in the company by which the shares in question were issued or indirectly as a shareholder in any other company;

[Para. (cc) added by s. 8 (1) (c) of Act 90 of 1988 and amended by s. 9 (1) (c) of Act 113 of 1993.]

(dd) where any such invention, patent, design, trade mark, copyright or other property or knowledge was so acquired or obtained by the taxpayer on or after 1 July 1993 from any
other person who is a resident of the Republic or a neighbouring country (or, in the case of a company, a domestic company or a company incorporated, managed or controlled in a neighbouring country), and who is a connected person in relation to the taxpayer, the allowance under this paragraph shall be calculated on an amount not exceeding the lesser of the cost of such invention, patent, design, trade mark, copyright or other property or knowledge to such connected person or the market value thereof as determined on the date upon which such invention, patent, design, trade mark, copyright or other property or knowledge was acquired or obtained by the taxpayer;

(Para. (dd) added by s. 9 (1) (d) of Act 113 of 1993 and substituted by s. 5 (1) (b) of Act 140 of 1993.)

(Para. (gA) inserted by s. 12 (1) (c) of Act 55 of 1966, substituted by s. 14 (1) (b) of Act 89 of 1969 and amended by s. 10 (1) (d) of Act 94 of 1983.)

(gB) expenditure (other than expenditure which has qualified in whole or part for deduction or allowance under any of the other provisions of this section) actually incurred by the taxpayer during the year of assessment in obtaining the extension of the term of any patent under the Patents Act, 1978 (Act 57 of 1978), or the extension of the registration period of any design under the Designs Act, 1967 (Act 57 of 1967), or the renewal of the registration of any trade mark under the Trade Marks Act, 1963 (Act 62 of 1963), if such patent, design or trade mark is used by the taxpayer in the production of his income or income is derived by him therefrom;

(Para. (gB) inserted by s. 12 (1) (c) of Act 55 of 1966, amended by s. 14 (1) (c) of Act 89 of 1969 and substituted by s. 13 (d) of Act 129 of 1991.)

(gC) in the case of any taxpayer who is an exporter as defined in section 11 bis (1), expenditure (including search and application fees) actually incurred by him in obtaining in any export country, as defined in the said section, the registration of any patent or the restoration of any patent or the registration of any design or trade mark or the extension of the term or registration period of, or the renewal of the registration of, any patent, design or trade mark;

(Para. (gC) inserted by s. 9 (1) (d) of Act 113 of 1977.)

(h) such allowance in respect of amounts included in the taxpayer's gross income under paragraph (g) or paragraph (h) of the definition of 'gross income' in section 1 as the Commissioner may deem
reasonable having regard to any special circumstances of the case and, in the case of an amount so included under the said paragraph (h), to the original period for which the right of use or occupation was granted or, in the case of any amount so included under the said paragraph (h) in consequence of an agreement concluded on or after 1 July 1983, to the number of years taken into account in the determination of the relevant allowance granted to any other person under the provisions of paragraph (g) of this section:
Provided that where there has on or after the twenty-ninth day of March, 1972, accrued to the taxpayer the right to have improvements effected on land or to buildings by any other person and an amount is required to be included in the taxpayer's gross income under the said paragraph (h) with respect to such improvements, no allowance shall be made to the taxpayer under this paragraph in respect of such amount, if-

(i) the taxpayer or such other person is a company and such other person or the taxpayer, as the case may be, is interested in more than fifty per cent of any class of shares issued by such company, whether directly as a shareholder in that company or indirectly as a shareholder in any other company; or

(ii) both the taxpayer and such other person are companies and any third person is interested in more than fifty per cent of any class of shares issued by one of those companies and in more than fifty per cent of any class of shares issued by the other company, whether directly as a shareholder in the company by which the shares in question were issued or indirectly as a shareholder in any other company;

[Para. (h) substituted by s. 8 (1) (a) of Act 90 of 1972 and amended by s. 10 (1) (f) of Act 94 of 1983.]

(hA) so much of any amount paid (other than an amount in respect of which any deduction or allowance has been or will be granted under any other provision of this Act) by a taxpayer engaged in mining, prospecting, quarrying or similar operations to a company, society, association of persons or trust referred to in section 10 (1) (cH) to be used by such company, society, association or trust for the purposes contemplated in such section: Provided that such amount shall be determined and such payment shall be made in accordance with-

(i) the constitution of such company, society or association of persons; or
(ii) the instrument establishing such trust,
as has been approved by the Commissioner in terms of section 10 (1) (cH);

[Para. (hA) inserted by s. 13 (e) of Act 129 of 1991 and substituted by s. 12 (a) of Act 28 of 1997.]

(i) the amount of any debts due to the taxpayer which have during the year of assessment become bad, provided such amount is included in the current year of assessment or was included in previous years of assessment in the taxpayer's income;

[Para. (i) substituted by s. 14 (1) (d) of Act 89 of 1969, by s. 10 (1) (g) of Act 94 of 1983 and by s. 9 (1) (e) of Act 113 of 1993.]

(j) such an allowance as may be made each year by the Commissioner in respect of such debts due to the taxpayer as he considers to be doubtful: Provided that such allowance shall be included in the income of the taxpayer in the following year of assessment;

[Para. (j) substituted by s. 14 (1) (e) of Act 89 of 1969 and amended by s. 10 (1) (h) of Act 94 of 1983.]

(k) (i) any sum contributed during the year of assessment to any pension fund by way of current contribution by any person who holds any office or employment, where such contribution is made by reason of the holding of such office or employment, or by any person who is a partner referred to in paragraph (ii) (ee) of the proviso to paragraph (c) of the definition of 'pension fund' in section 1: Provided that the total deduction to be allowed in respect of the total contributions by such person to any one or more pension fund or funds shall not in the year of assessment exceed the greater of R1 750 or 7,5 per cent of the remuneration (being the income or part thereof referred to in the definition of 'retirement-funding employment' in section 1) derived by such person during such year in respect of his retirement-funding employment;

[Sub-para. (i) substituted by s. 5 (a) of Act 101 of 1978, amended by s. 8 (1) (a) of Act 104 of 1979 and by s. 9 (1) (c) of Act 96 of 1981, substituted by s. 10 (1) (i) of Act 94 of 1983 and amended by s. 30 (1) of Act 30 of 1998.]

(ii) any sum paid during the year of assessment to any pension
fund by any person who, as a member of such fund, has in terms of the rules governing such fund undertaken to pay such sum in respect of any past period which is to be reckoned as pensionable service of that member:

Provided that-

(aa) the deduction to be allowed in respect of any sums so paid shall not in the year of assessment exceed the sum of R1 800;

[Para. (aa) amended by s. 11 (1) (e) of Act 121 of 1984.]

(bb) any amount, being a portion of a sum so paid, which has been disallowed solely by reason of the fact that it exceeds the amount of the deduction allowable in respect of the year of assessment shall be carried forward and be deemed for the purposes of this paragraph to be a sum so paid in the next succeeding year of assessment;

[Para. (bb) added by s. 9 (1) (e) of Act 96 of 1981.]

(cc) the provisions of this subparagraph shall apply for the purpose of determining the taxpayer's total taxable income for any year of assessment ended or ending on or after 28 February 1981 whether such taxable income is derived from the carrying on of any trade or otherwise;

[Para. (cc) added by s. 10 (1) (j) of Act 94 of 1983.]

(dd) no deduction shall be made under this paragraph in respect of so much of any amount carried forward in terms of paragraph (bb) of this proviso as has been accounted for under paragraph (d) of the definition of 'formula B' in paragraph 1 of the Second Schedule or the first proviso to paragraph 6 of that Schedule;

[Para. (dd) added by s. 10 (1) (j) of Act 94 of 1983.]

(l) any sum contributed by an employer during the year of assessment for the benefit of his employees to any pension fund, provident fund or benefit fund (other than a fund contemplated in paragraph (a) of
the definition of 'benefit fund'): Provided that-

(i) in respect of any lump sum contribution, the Commissioner may determine that the said sum shall be deducted in a series of annual instalments, so that only a portion thereof is deducted in the year of assessment in which it is contributed, and the residue in such subsequent years of assessment and in such proportions as the Commissioner may determine, until the contribution is extinguished;

(ii) if the contributions (including any lump sum payments) made by the employer in respect of any employee during any year of assessment to such funds exceed an amount equal to ten per cent of the approved remuneration of such employee for such year of assessment, and the Commissioner is satisfied that the aggregate of such contributions and the total remuneration accrued during such year of assessment to such employee in respect of his employment by the employer is excessive or unjustifiable in relation to the value of the services rendered by such employee to the employer, and having regard to other benefits, if any, derived by him from his employment by the employer, only so much of such contribution as appears to the Commissioner to be reasonable, but not less than an amount equal to ten per cent of the approved remuneration of such employee for such year of assessment, shall be allowed to be deducted under this paragraph;

(iii) for the purposes of paragraph (ii) of this proviso 'approved remuneration', in relation to any employee for any year of assessment, means so much of the total remuneration accrued to such employee during such year of assessment in respect of his employment by the employer concerned as the Commissioner considers to be fair and reasonable in relation to the value of the services rendered by such employee during such year of assessment to the employer and having regard to other benefits, if any, derived by him from his employment by the employer;

(iv) where any contributions are made to any such fund by the members of a partnership in their capacity as employers, the references in paragraph (ii) of this proviso to an employer shall be construed as applying to the partnership as though its members were one person;

(v) the references in this paragraph to employees or any
employee shall, where the employer is a partnership and contributions are made by the employer to a pension fund, be construed as including references to any member of such partnership who was previously an employee in the undertaking carried on by the partnership and who has been permitted to retain his membership of such pension fund as contemplated in paragraph (ii) (ee) of the proviso to paragraph (c) of the definition of 'pension fund' in section 1, and, for the purposes of paragraphs (ii) and (iii) of this proviso 'approved remuneration', in relation to such member, shall be construed as including the amount of his pensionable emoluments referred to in the said paragraph (ii) (ee);

[Para. (v) substituted by s. 10 (1) (k) of Act 94 of 1983.]

(vi) any decision of the Commissioner under this paragraph, not being a decision under paragraph (i) of this proviso, shall be subject to objection and appeal;

[Para. (l) substituted by s. 8 (1) (b) of Act 104 of 1979 and amended by s. 30 (1) (b) of Act 30 of 1998.]

(m) any amount paid by way of annuity during the year of assessment by any taxpayer-

(i) to a former employee who has retired from the taxpayer’s employ on grounds of old age, ill health or infirmity; or

(ii) to a person who was for a period of at least five years a partner in an undertaking carried on by the taxpayer and who retired from the partnership in respect of that undertaking on grounds of old age, ill health or infirmity, provided that the amount so paid to such person is reasonable, having regard to the services rendered by such person as a partner in such undertaking prior to his retirement and the profits made in such undertaking, and that the said amount does not represent consideration payable to such person in respect of his interest in the partnership; or

[Sub-para. (ii) substituted by s. 9 (1) (f) of Act 113 of 1993.]

(iii) to any person who is dependent for his maintenance upon a former employee or a former partner in an undertaking carried on by the taxpayer or (where such former employee or former partner is deceased) was so dependent immediately prior to his death:
Provided that the deduction under subparagraph (iii) shall not exceed in respect of the persons so dependent on any one retired or deceased employee or former partner, the sum of R2 500;

[Para. (m) substituted by s. 14 (1) (f) of Act 89 of 1969 and by s. 5 (b) of Act 101 of 1978 and amended by s. 9 (1) (f) of Act 96 of 1981 and by s. 11 (1) (f) of Act 121 of 1984.]

(n) (aa) so much of the total current contributions to any retirement annuity fund or funds made during the year of assessment by any person as a member of such fund or funds as does not in the case of the taxpayer exceed the greatest of-

(A) 15 per cent of an amount equal to the amount remaining after deducting from 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)) the deductions admissible against such income under this Act (excluding this paragraph, sections 17A, 18, 18A and 19 (3) of this Act and paragraph 12 (1) (c) to (i), inclusive, of the First Schedule);

[Item (A) substituted by s. 8 (1) (d) of Act 90 of 1988, by s. 11 (1) (b) of Act 101 of 1990 and by s. 9 (1) (g) of Act 113 of 1993.]

(B) the amount, if any, by which the amount of R3 500 exceeds the amount of any deduction to which the taxpayer is entitled under paragraph (k) (i) in respect of the said year; or

(C) the amount of R1 750;

[Sub-para. (aa) amended by s. 5 (c) of Act 101 of 1978, substituted by s. 8 (1) (c) of Act 104 of 1979 and amended by s. 10 (1) (l) and (m) of Act 94 of 1983.]

(bb) so much of the total of any contributions to any retirement annuity fund or funds made during the year of assessment by any person as a member of such fund or funds as does not exceed R1 800 in the case of the taxpayer, where such contributions are made under conditions prescribed in the rules of the fund whereby a member who has discontinued his contributions prematurely is entitled to be reinstated as a full member thereof and the current contributions to the fund have
been paid in full:

[Sub-para. (bb) substituted by s. 5 (d) of Act 101 of 1978 and amended by s. 7 (1) (b) and (c) of Act 91 of 1982, by s. 10 (1) (n) and (o) of Act 94 of 1983 and by s. 11 (1) (g) of Act 121 of 1984.]

Provided that-

(i) no deduction shall be made under subparagraph (aa) in respect of any amount paid into a retirement annuity fund for the benefit of a member of such fund where such amount is a lump sum benefit derived by the member from a pension fund, a provident fund or a retirement annuity fund and that amount has under the provisions of paragraph 6 (a), (b) or (c) of the Second Schedule qualified for deduction from any amount to be included in the member's gross income;

(ii) the deductions in terms of subparagraph (aa) shall not exceed an amount equal to the amount remaining after deducting from the income derived by the taxpayer during the year of assessment the deductions admissible against such income under this Act (excluding the said subparagraph, sections 17A and 19 (3) of this Act and paragraph 12 (1) (c) to (i), inclusive, of the First Schedule);

[Para. (ii) substituted by s. 9 (1) (h) of Act 113 of 1993.]

(iii) any current contributions (excluding any amount referred to in paragraph (i) of this proviso) to any retirement annuity fund or funds which are made by such person as a member of such fund or funds during a year of assessment and do not qualify for deduction from his income for that year under subparagraph (aa) shall be carried forward and, except to the extent that such contributions have been accounted for under paragraph (d) of the definition of 'formula B' in paragraph 1 of the Second Schedule or the first proviso to paragraph 6 of that Schedule, be deemed for the purposes of the said subparagraph to be current contributions made to the fund or funds in question during the next succeeding year of assessment;

(iv) no deduction shall be made under subparagraph (bb) in respect of any contribution relating to any year of assessment which, if such contribution had been made during that year, would not have qualified for deduction under this paragraph, as applicable in relation to the said year;
(v) any amount being a portion of a contribution made as contemplated in subparagraph (bb) and which has been disallowed solely by reason of the fact that it exceeds the amount of the deduction allowable in respect of the year of assessment, shall be carried forward and be deemed for the purposes of the said paragraph to be a contribution so made in the next succeeding year of assessment;

(vi) the provisions of this paragraph shall apply for the purpose of determining the taxpayer's total taxable income whether derived from the carrying on of any trade or otherwise;

(vii) ......

[Para. (vii) added by s. 8 (1) (e) of Act 90 of 1988, substituted by s. 8 (1) (b) of Act 70 of 1989 and deleted by s. 12 (1) (b) of Act 21 of 1995.]

(viii) where any such contribution was allowed as a deduction to a person, no deduction in respect of such contribution shall be allowed to such person's spouse;

[Para. (viii) added by s. 11 (1) (d) of Act 101 of 1990 and substituted by s. 12 (1) (c) of Act 21 of 1995.]

(ix) any such contribution which has been made by a married woman to any such fund of which she became a member before 1 March 1992 shall, at the option of such married woman, be deemed for the purposes of this paragraph as applicable in any year of assessment ending not later than 28 February 1997 to be a contribution made by such married woman's husband as a member of such fund;

[Para. (ix) added by s. 11 (1) of Act 141 of 1992.]

(o) save as provided in paragraph 12 (2) of the First Schedule, an allowance in respect of any building (or portion thereof) referred to in section 13 (1) or (4) or section 13bis (1) or section 27 (2) (b) or of any improvements (or portion thereof) to such building or of any shipbuilding structure referred to in section 13 (8) or of any
improvement to such shipbuilding structure or of any residential unit referred to in section 13ter or of any permanent work, road pavement or ancillary service referred to in section 24G or of any machinery, plant, implements, utensils or articles used by the taxpayer for the purposes of his trade which have been scrapped by such taxpayer during the year of assessment, such allowance to be the excess of the original cost to such taxpayer of such building (or portion thereof) or such improvements (or portion thereof) to such building or such shipbuilding structure or such improvements to such shipbuilding structure or such residential unit or such permanent work, road pavement or ancillary service or such machinery, plant, implements, utensils or articles over the total amount arrived at by adding all the allowances made in respect thereof under the provisions of paragraph (e) of this section, or section 12 (1), or section 12 (1) as applied by section 12 (3), or section 12A (2), or section 12B, or section 12C, or section 13 (1), or section 13 (1) as applied by section 13 (4) or (8), or section 13bis (1), (2) or (3), or section 13ter (2) or (3), or section 14 (1) (a) or (b), or the corresponding provisions of any previous Income Tax Act, or section 14bis (1) (a), (b) or (c), or section 24F, or section 24G, or section 27 (2) (b) or (d), to any amount or the value of any advantage accruing to the taxpayer in respect of the sale or other disposal of such building, shipbuilding structure, improvements, residential unit, permanent work, road pavement, ancillary service, machinery, plant, implements, utensils or articles: Provided that-

(i) no allowance shall be made in the case of any such building (or portion thereof) or of any such improvements (or portion thereof) to such building or of any such shipbuilding structure or of any such improvements to such shipbuilding structure or of any such residential unit which has or have been scrapped within a period of ten years from the date of erection or purchase, or in the case of any such residential unit in respect of which any amount has fallen for inclusion in the taxpayer's income under the provisions of section 13ter (7) (a), whether in the current or in any previous year of assessment;

[Para. (i) substituted by s. 7 (1) (d) of Act 91 of 1982.]

(ii) for the purposes of this paragraph the cost of any building (or portion thereof) or of any improvements (or portion thereof) to any building or of any shipbuilding structure or of any improvements to any shipbuilding structure or of any such residential unit shall be deemed to be that portion of the actual cost on which the allowance in question was made;
(iii) for the purposes of this paragraph the cost of any machinery, implements, utensils or articles shall be deemed to be the actual cost plus the amount by which the value of such machinery, implements, utensils or articles has been increased in terms of paragraph (v) of the proviso to paragraph (e) or the corresponding provisions of any previous Income Tax Act, and less the amount by which such value has been reduced in terms of paragraph (iv) of the said proviso or the corresponding provisions of any previous Income Tax Act;

(iiiA) for the purposes of paragraph (iii) of this proviso, the actual cost of any machinery, implements, utensils or articles acquired by the taxpayer on or after 15 March 1984 shall be deemed to be the cost of such machinery, implements, utensils or articles as determined under the provisions of paragraph (vii) of the proviso to paragraph (e);

(iv) for the purposes of this paragraph the cost of any aircraft in respect of which any allowance has been made to the taxpayer under the provisions of section 14bis shall be deemed to be the actual cost less any amount (not being an amount which has been included in the income of the taxpayer for any year of assessment in terms of section 8 (4) (i)) by which the cost or estimated cost price of such aircraft has in the calculation of such allowance been reduced in terms of section 14bis (2) (a);

(v) for the purposes of this paragraph the cost of any ship in respect of which any allowance has been made to the taxpayer under the provisions of section 14 shall be deemed to be the actual cost less any amount (not being an amount which has been included in the income of the taxpayer for any year of assessment in terms of section 8 (4) (d)) by which the cost or estimated cost price of such ship has in the calculation of such allowance been reduced in terms of the definition of 'adjustable cost' or 'adjustable cost price' in section 14 (2);

(vi) no allowance shall be made under this paragraph in respect of any machinery, implement, utensil or article of which the cost
has been allowed as a deduction from the taxpayer's income under the provisions of section 24D;

[Para. (vi) added by s. 9 (1) (g) of Act 96 of 1981.]

[Para. (o) substituted by s. 11 (1) (b) of Act 88 of 1965, by s. 12 (1) (f) of Act 55 of 1966 and by s. 14 (1) (g) of Act 89 of 1969 and amended by s. 9 (1) (g) of Act 113 of 1977, by s. 7 (1) (d) of Act 91 of 1982, by s. 10 (1) (q) of Act 94 of 1983, by s. 10 of Act 85 of 1987, by s. 8 (1) (f) of Act 90 of 1988, by s. 11 (1) (e) of Act 101 of 1990 and by s. 10 (b) of Act 21 of 1994.]

(p) expenditure (other than expenditure in respect of which any deduction or allowance has been or will be granted under any other provision of this Act) incurred during the year of assessment by any taxpayer-

(i) for the purpose of scientific research undertaken by him for the development of his business, if such expenditure is not of a capital nature; or

(ii) by way of contributions to any association, institute, college or university, to be used in scientific research relating to the taxpayer's own business, if the Council for Scientific and Industrial Research certifies to the Commissioner that it approves the proposals of such association, institute, college or university in regard to such research and that it is satisfied that such contributions will be used in such research;

[Para. (p) amended by s. 8 (1) (g) of Act 90 of 1988.]

(q) save as provided in paragraph 12 (2) of the First Schedule, if expenditure of a capital nature (other than expenditure in respect of which any deduction or allowance has been or will be granted under any other provision of this Act) has been incurred by a taxpayer for the purpose of scientific research undertaken by him for the development of his business, and the Council for Scientific and Industrial Research certifies to the Commissioner that during the year of assessment in question such research was carried on and was financed by such expenditure, an amount in respect of the year of assessment in which such research commenced and of any succeeding year of assessment calculated at the rate of 25 per cent of such expenditure: Provided that-

(i) the total deduction under this paragraph shall not exceed the amount of such expenditure; and
(ii) if in any year of assessment the taxpayer discontinues such research or if the Council for Scientific and Industrial Research is unable, in respect of any year of assessment, to certify as provided in the foregoing provisions of this paragraph, there shall be included in the taxpayer's income for that year of assessment the total of the deductions under this paragraph or the corresponding provisions of any previous Income Tax Act, whether in the current or any previous year of assessment, less one-tenth of the amount of such expenditure in respect of each completed period of one year, not exceeding ten, contained in the period during which such research was carried on;

[Para. (q) amended by s. 10 (1) (r) of Act 94 of 1983 and by s. 9 (1) (i) of Act 113 of 1993.]

(r) ......

[Para. (r) amended by s. 9 (g) of Act 90 of 1962 and by s. 8 (c) of Act 72 of 1963, substituted by s. 11 (a) of Act 95 of 1967 and deleted by s. 10 (a) of Act 52 of 1970.]

(r)bis ......

[Para. (r)bis inserted by s. 9 (b) of Act 90 of 1964 and deleted by s. 11 (b) of Act 95 of 1967.]

(s) in the case of a fixed property company as defined in section 1 of the Unit Trusts Control Act, 1981 (Act 54 of 1981), the dividends (other than those distributed out of profits of a capital nature) distributed by such company during the year of assessment on shares included in a unit portfolio comprised in any unit trust scheme in property shares authorised under the said Act;

[Para. (s) substituted by s. 14 (1) (h) of Act 89 of 1969 and by s. 12 (b) of Act 28 of 1997.]

(t) in the case of any taxpayer (excluding any taxpayer who derives income from the sale of immovable property to persons who are not employed by him) who during any year of assessment incurs expenditure in connection with the erection of any dwelling or who, for the purpose of financing in whole or in part the erection by any person during the said period of any dwelling, advances or donates to any person any amount during any such year of assessment, and who satisfies the Commissioner that that dwelling will be occupied exclusively by persons or the households of persons who
are his employees and are employed by him for the purposes of his
trade (other than mining or farming), an allowance in respect of the
said year of assessment equal to 50 per cent of the expenditure so
incurred or of the amount so advanced or donated: Provided that-

(i) where any company is mainly engaged in the provision of
housing facilities for the employees of its sole or principal
shareholder or for the employees of any other company the
shares in which are held wholly by the sole or principal
shareholder in such firstmentioned company, the employees
of such shareholder or such other company, as the case may
be, shall for the purposes of this paragraph be deemed to be
the employees also of such firstmentioned company;

[Para. (i) substituted by s. 10 (1) (s) of Act 94 of 1983.]

(ii) the aggregate of all the allowances made under this
paragraph or the corresponding provisions of any previous
Income Tax Act in respect of the erection of any one dwelling
shall not exceed the sum of R6 000;

[Para. (ii) substituted by s. 9 (c) of Act 69 of 1975 and by s. 9 (1) (h) of Act 113 of
1977 and amended by s. 8 of Act 104 of 1980 and by s. 7 (1) (e) of Act 91 of
1982.]

(iii) if in any year of assessment any dwelling in relation to the
erction of which an allowance has been made to any
taxpayer under this paragraph or the corresponding provisions
of any previous Income Tax Act, whether in the current or any
previous year of assessment, is occupied by any person or by
the household of any person who is not an employee of that
taxpayer, there shall be included in the income of the said
taxpayer for the current year of assessment the amount of
such allowance less an amount equal to one-tenth of the said
allowance in respect of each completed period of one year,
but not exceeding ten years, during which such dwelling was
occupied by an employee or the household of an employee of
that taxpayer,

and for the purposes of this paragraph 'employee' in relation to any
taxpayer does not include any person who is a relative of that
taxpayer or who, if the taxpayer is a company, is a shareholder (or
a relative of a shareholder) in that company or in any company
which is associated with that company by virtue of shareholding,
not being a shareholder who holds all his shares in that company
solely because he is employed by that company and who will, in
terms of the articles of association of that company, not be entitled
to continue to hold those shares after he ceases to be so
employed;

[Para. (t) amended by s. 8 (d) of Act 72 of 1963, substituted by s. 9 (b) of Act 76
of 1968 and amended by s. 8 (1) (b) of Act 90 of 1972, by s. 12 (1) (c) of Act 85
of 1974 and by s. 8 of Act 104 of 1980.]

(u) so much of the entertainment expenditure (including club subscriptions) incurred by any taxpayer who is a natural person
during the year of assessment as the Commissioner is satisfied
was so incurred directly in connection with the taxpayer's trade and
which is not such expenditure as is referred to in paragraph (a):
 Provided that-

(i) the deduction under this paragraph shall be limited to an
amount equal to the lesser of-

(aa) R2 500; or

(bb) R300 plus 5 per cent of so much of the taxable income
(as determined before any deduction is made under this paragraph) derived by the taxpayer from carrying on
during the year of assessment any trade in connection
with which such expenditure was incurred, as exceeds R6 000;

(ii) no deduction shall be made under this paragraph in respect of
any such expenditure as is incurred in connection with any
employment or office in respect of which the taxpayer derives
remuneration as defined in paragraph 1 of the Fourth
Schedule or any amount referred to in paragraph (vii) of that
definition, unless-

(aa) the Commissioner is satisfied that such employment or
office is of such a nature that the taxpayer's duties
regularly and necessarily involve incurring such
expenditure; and

(bb) the taxpayer receives in respect of such expenditure a
reimbursive allowance which is included in his gross
income under the provisions of paragraph (iii) of the
proviso to paragraph (c) of the definition of 'gross
income' in section 1;

[Para. (ii) amended by s. 9 (1) (j) of Act 113 of 1993.]
(iii) where the taxpayer receives a reimbursive allowance referred to in subparagraph (bb) of paragraph (ii) of this proviso in the circumstances contemplated in that paragraph, such deduction shall not exceed the amount of the reimbursive allowance received by the taxpayer in respect of such expenditure;

(iv) no deduction shall be made under this paragraph in respect of entertainment expenditure defrayed out of any reimbursive allowance relating to any employment or office referred to in paragraph (ii) of this proviso, if such expenditure is incurred during the year ending on 28 February 1986 and such expenditure has in whole or in part been allowed as a deduction from the taxpayer's income under paragraph (uA);

[Para. (u) substituted by s. 10 (1) (b) of Act 88 of 1971 and by s. 11 (1) (i) of Act 121 of 1984.]

(uA) ..... 

[Para. (uA) inserted by s. 11 (1) (j) of Act 121 of 1984 and deleted by s. 10 (c) of Act 21 of 1994.]

(v) ..... 

[Para. (v) substituted by s. 12 (1) (g) of Act 55 of 1966 and by s. 10 (1) (c) of Act 88 of 1971 and deleted by s. 9 (c) of Act 65 of 1973.]

(w) an allowance in respect of any premium which was actually paid by the taxpayer under any policy of insurance taken out upon the life of an employee of the taxpayer or, in the case of a company, upon the life of a director or an employee of that company, the amount of such allowance to be as follows, namely-

(i) where the life of the employee or director is insured for a period of not more than one year or where the only premiums payable under the said policy are premiums of equal amount payable at regular intervals of not more than one year until benefits (other than interim or temporary benefits) become payable or commence to become payable under that policy, an amount equal to the amount of the premium which became payable under such policy during the year of assessment; or

(ii) in any other case, an amount equal to such portion of the premium paid under the said policy as, in the opinion of the
Commissioner (having regard *inter alia* to the terms of the policy and, in the appropriate circumstances, to the expectation of life of the employee or director) should be regarded as relating to the year of assessment; or

(iii) if, during the year of assessment, any sum (being a lump sum included in the taxpayer's gross income under paragraph (m) of the definition of 'gross income' in section 1) has been received by or has accrued to the taxpayer under or upon the surrender or disposal of the said policy, an amount (not exceeding such lump sum) equal to so much of the premiums paid by the taxpayer under the said policy as has not qualified for deduction (whether by way of an allowance under this paragraph or otherwise) from the taxpayer's income in the said year of assessment and preceding years of assessment under this Act and any previous Income Tax Act:

Provided that-

(a) no allowance shall be made under this paragraph in respect of any premium under any policy which was at the time of the payment of such premium the property of any person other than the taxpayer;

(b) no allowance in respect of any premium under any policy of insurance shall be made under this paragraph (except, in the appropriate circumstances, an allowance under subparagraph (iii)) in respect of any year of assessment-

(A) if during such year any person other than the taxpayer was entitled, or would have been entitled, to any benefits that were or could have become payable under the said policy; or

(B) if any loan or advance (other than a loan or advance referred to in paragraph (m) of the definition of 'gross income' in section 1) was made to any person on the security or strength of such policy and any amount was during the said year owing in respect of such loan or advance or in respect of interest or other charges relating thereto, unless the Commissioner is satisfied that the loan or advance was obtained in order to obtain funds required by the taxpayer for the purposes of his trade in consequence of the employee's or director's ill-health, infirmity, incapacity, retirement or cessation of services occurring after the said policy was acquired by
the taxpayer; or

[Sub-para. (B) substituted by s. 10 (1) (d) of Act 88 of 1971 and by s. 7 (1) (f) of Act 91 of 1982.]

(C) if the said premium fell due before the commencement of the year of assessment ending the twenty-eighth day of February, 1971;

(cc) the sum of the allowances made under this paragraph in respect of any insurance premium shall not exceed the amount of such premium;

(dd) no allowance shall be made under this paragraph in respect of any premium paid under any insurance policy unless-

(A) such policy was effected in terms of a written proposal accepted by the insurer before 1 June 1982 or the proposal for such policy was made before 25 May 1982 and accepted by the insurer not later than 21 June 1982; or

[Sub-para. (A) substituted by s. 10 (1) (t) of Act 94 of 1983.]

(B) the only benefit payable under the policy is a benefit payable within a period fixed in such policy upon or by reason of the death or disablement of the employee or director whose life is insured under the policy or the policy is a personal accident policy as defined in section 1 of the Insurance Act, 1943 (Act 27 of 1943); or

[Sub-para. (B) substituted by s. 10 (1) (t) of Act 94 of 1983.]

(C) the Minister of Finance has by regulation prescribed requirements in regard to terms and conditions with which insurance policies shall conform for the purposes of this subparagraph and the policy conforms with such requirements;

[Para. (dd) added by s. 7 (1) (g) of Act 91 of 1982. Sub-para. (C) amended by s. 46 of Act 97 of 1986.]

(ee) the allowance under this paragraph in respect of premiums paid by the taxpayer during any year of assessment shall, except as provided in subparagraph (iii), be limited-
(A) in the case of premiums paid under a policy referred to in subparagraph (A) of paragraph (dd) of this proviso, to so much of such premiums as were payable in terms of the conditions contained in that policy on 31 May 1982; or

(B) in the case of premiums paid under one or more policies referred to in subparagraph (C) of the said paragraph (dd) upon the life of a particular employee or director, to an amount equal to 10 per cent of the remuneration (as defined in the definition of 'remuneration' in paragraph 1 of the Fourth Schedule, but including any amount referred to in paragraph (iv) or (vii) of that definition) derived by such employee or director from the taxpayer during the said year of assessment;

[Para. (ee) added by s. 7 (1) (g) of Act 91 of 1982.]

(ff) no deduction shall be made from the income of any taxpayer in respect of premiums paid by him under any policy of insurance of which he is the owner on the life of an employee of that taxpayer or, where the taxpayer is a company, of a director or employee of that company, except in so far as an allowance may be made under this paragraph or, in the case of a policy which is not a life policy or a personal accident policy as defined in section 1 of the Insurance Act, 1943, a deduction which may, in appropriate circumstances, be made under paragraph (a) or (b) of this section;

[Para. (ff) added by s. 7 (1) (g) of Act 91 of 1982 and substituted by s. 10 (1) (u) of Act 94 of 1983.]

[Para. (w) substituted by s. 14 (1) (i) of Act 89 of 1969 and by s. 10 (b) of Act 52 of 1970.]

(x) any amounts which in terms of any other provision in this Part, are allowed to be deducted from the income of the taxpayer.

11bis Marketing allowance

(1) For the purposes of this section-

'adjusted basic export turnover', in relation to any year of assessment, means an amount determined in accordance with the formula:

\[\text{Adjusted Basic Export Turnover} = \text{Basic Export Turnover} \times \left(1 - \frac{\text{Marketing Allowance}}{\text{Basic Export Turnover}}\right)\]
\[ x = \frac{a}{b} \]

in which formula 'x' represents the amount which has to be determined, 'a' represents the number of months contained in the export periods in respect of which the exporter's basic export turnover in relation to the said year of assessment has been determined and 'b' represents such basic export turnover;

[Definition of 'adjusted basic export turnover' inserted by s. 9 (a) of Act 90 of 1972 and amended by s. 10 (1) (a) of Act 65 of 1973.]

'associated companies' ......

[Definition of 'associated companies' deleted by s. 10 (1) (b) of Act 65 of 1973.]

'basic export turnover', in relation to any year of assessment, hereinafter referred to as the current year, means-

(a) if the basic period in relation to the current year commenced within thirty-six months before the commencement of the current year, the sum of the exporter's export turnovers during the export periods falling within the basic period; or

(b) if the basic period in relation to the current year commenced more than thirty-six months before the commencement of the current year, the sum of the exporter's lowest export turnovers during three export periods falling within the basic period and within the period of sixty months immediately before the commencement of the current year;

[Definition of 'basic export turnover' substituted by s. 11 (a) of Act 52 of 1970 and by s. 9 (b) of Act 90 of 1972 and amended by s. 10 (1) (c) of Act 65 of 1973.]

'basic period', in relation to any year of assessment, means the period immediately before the commencement of that year during which the exporter concerned has continuously carried on an export trade;

[Definition of 'basic period' inserted by s. 9 (c) of Act 90 of 1972 and amended by s. 10 (1) (d) of Act 65 of 1973.]

'current export turnover', in relation to any year of assessment, means the export turnover of the exporter for that year: Provided that if the export period falling within any year of assessment is longer or shorter than twelve months the current export turnover shall for the purposes of the allowance to be made under subsection (3) be deemed to be an amount determined in accordance with the formula:
\[ y = \frac{12}{d} \times \frac{x}{c} \]

in which formula 'y' represents the current export turnover which has to be determined, 'c' represents the number of months contained in the export period for that year and 'd' represents the actual current export turnover for that export period;

[Definition of 'current export turnover' substituted by s. 11 (a) of Act 52 of 1970 and amended by s. 10 (1) (e) of Act 65 of 1973.]

'Director-General' means the Director-General: Industries, Commerce and Tourism or any officer in his Department acting under his control, direction or supervision;

[Definition of 'Director-General' inserted by s. 10 (1) (a) of Act 96 of 1981.]

'exported' means sold and consigned or sold and delivered to any purchaser at any address in any export country, or sold and delivered to the owner or charterer of any ship or aircraft for use in such ship or aircraft outside the Republic, Botswana, Lesotho and Swaziland;

[Definition of 'exported' substituted by s. 15 (a) of Act 89 of 1969, by s. 10 (1) (g) of Act 65 of 1973 and by s. 10 (1) (b) of Act 96 of 1981 and amended by s. 1 of Act 49 of 1996.]

'exporter' means-

(a) any person who carries on an export trade of the nature referred to in paragraph (a) of the definition of 'export trade' and who is registered as an exporter by the Director-General; or

[Para. (a) amended by s. 10 (1) (h) of Act 96 of 1981.]

(b) any person who conducts an export service industry referred to in subsection (4B) and who is registered as an exporter by the Director-General; or

[Para. (b) amended by s. 10 (1) (h) of Act 96 of 1981.]

(c) any producer of pastoral, agricultural or other farming produce who carries on an export trade;

[Definition of 'exporter' inserted by s. 10 (1) (h) of Act 65 of 1973.]
'exporters' allowance' ........

[Definition of 'exporters' allowance' deleted by s. 10 (1) (c) of Act 96 of 1981.]

'export country' means any country other than the Republic, Botswana, Lesotho, Swaziland and any country which formerly formed part of the Republic;

[Definition of 'export country' inserted by s. 10 (1) (f) of Act 65 of 1973, substituted by s. 10 (1) (a) of Act 103 of 1976 and amended by s. 1 of Act 49 of 1996.]

'export incentive scheme' means any scheme, as in force at the relevant time, which, together with any changes therein, has been approved and has not been withdrawn by the Minister of Industries, Commerce and Tourism in consultation with the Minister of Finance;

[Definition of 'export incentive scheme' inserted by s. 10 (1) (d) of Act 96 of 1981.]

'export period' means any period falling within any year of assessment during which the exporter concerned carries on any export trade;

'export trade' means-

(a) any trade carried on by any person in the course of which goods are exported or are produced or manufactured for export or in the course of which orders for goods are actively solicited in any export country; or

(b) any trade recognized by the Minister of Finance under subsection (4B) as an export service industry;

[Definition of 'export trade' inserted by s. 9 (e) of Act 90 of 1972 and substituted by s. 10 (1) (j) of Act 65 of 1973.]

'export turnover' means-

(a) in the case of an exporter referred to in paragraph (a) or (c) of the definition of 'exporter', the sum of-

(i) the income derived by the exporter from the disposal of goods which have been exported by him in the course of any trade carried on by him in the Republic and from the disposal of pastoral, agricultural or other farming produce produced by him in the Republic which has been exported, less so much of
such income as the Commissioner is satisfied has under any agreement, scheme or arrangement been passed on in any form to any other person in such manner that the exporter has not derived or will not derive any substantial benefit from the amount so passed on; and

(ii) the amounts for which the exporter has on behalf of other persons in the course of any trade carried on by him in the Republic disposed of goods which have been exported by such persons or by the exporter on their behalf, less any portion of any such amount in respect of which no income has been received by or has accrued to the exporter in the form of commission or other remuneration at the prevailing rate for the goods in question, or, in respect of which such income has been so received by or has so accrued to the exporter but has been passed on in any form to any other person in such manner that the exporter has not derived or will not derive any substantial benefit from the amount so passed on; or

(b) in the case of an exporter referred to in paragraph (b) of the said definition, the amounts which are proved to the satisfaction of the Commissioner to have been derived by such exporter by way of income of the nature referred to in subsection (4B) (a);

[Definition of 'export turnover' substituted by s. 10 (1) (k) of Act 65 of 1973.]

'goods' means anything (excluding specie, gold or silver bullion, any other precious metals contemplated in the definition of 'precious metals' in section 1 of the Mining Rights Act, 1967 (Act 20 of 1967), and uncut diamonds, not being manufactured diamonds, but including pastoral, agricultural and other farming produce) which has been produced in the Republic or which has undergone in the Republic any process of manufacture or any other process which in the opinion of the Commissioner is of a similar nature.

[Definition of 'goods' substituted by s. 10 (1) (a) of Act 113 of 1977.]

(2) If any exporter has during any year of assessment incurred marketing expenditure, determined as provided in subsection (4), there shall be allowed to be deducted from his income for that year an allowance (to be known as the marketing allowance) the amount of which shall be determined as provided in subsection (3).

[Sub-s. (2) substituted by s. 9 (1) of Act 72 of 1963, by s. 10 (1) (l) of Act 65 of 1973 and by s. 10 (1) (e) of Act 96 of 1981.]

(3) The marketing allowance shall be-
(a) an amount equal to seventy-five per cent of the marketing expenditure (determined as provided in subsection (4)) incurred by the exporter during the year of assessment; or

(b) where in relation to the year of assessment an exporter referred to in paragraph (a) or (c) of the definition of 'exporter' in subsection (1) or an exporter conducting an export service industry falling within a category referred to in subsection (4B) (b), has a current export turnover and a basic export turnover and such current export turnover exceeds the exporter's adjusted basic export turnover in relation to the year of assessment by more than ten per cent of such adjusted basic export turnover, an amount equal to one hundred per cent of such marketing expenditure:

Provided that-

(i) where any loan or credit has been used by the exporter for the payment or financing of the whole or any portion of such marketing expenditure (other than marketing expenditure contemplated in section 24F) and any portion of such loan or credit is owed by him on the last day of the year of assessment, the amount of such marketing expenditure which may be taken into account under this subsection shall be reduced by any portion of such loan or credit so owed by him for which he is not under the provisions of subsection (3A) deemed to be at risk on the last day of the year of assessment; and

(ii) any amount by which the marketing expenditure is reduced under paragraph (i) shall be deemed for the purposes of this section to be an amount of marketing expenditure which was incurred in the succeeding year of assessment and which was allowed to be deducted from his income under section 11 or 17 during such year:

Provided that no allowance shall be made under this section in respect of any such training expenses incurred on or after 31 July 1990.

[Sub-s. (3) substituted by s. 9 (1) of Act 72 of 1963, by s. 12 of Act 95 of 1967, by s. 10 of Act 76 of 1968, by s. 11 (b) of Act 52 of 1970, by s. 9 (f) of Act 90 of 1972 and by s. 10 (1) (i) of Act 65 of 1973 and amended by s. 10 (1) (i) of Act 96 of 1981, by s. 9 (1) (a) of Act 90 of 1988 and by s. 12 of Act 101 of 1990.]

(3A) For the purposes of the proviso to subsection (3), an exporter shall be deemed to be at risk for the amount of any loan or credit owed by him and used by him for the payment or financing of any marketing expenditure to the extent that the payment of the amount so owed would, having regard to any
transaction, agreement, arrangement, understanding or scheme entered into by
him (other than a *bona fide* contract of insurance concluded at arm’s length with
an insurer in the ordinary course of the insurer’s business), result in an economic
loss to him were no income to be received by or to accrue to him in future years
from the carrying on of the export trade in respect of which such marketing
expenditure was incurred.

[Sub-s. (3A) inserted by s. 9 (1) (b) of Act 90 of 1988.]

(3B) (a) For the purposes of this subsection, ‘obligatory marketing
expenditure’ means marketing expenditure incurred by an exporter in pursuance
of an obligation imposed upon him under an agreement formally and finally
concluded by every party to the agreement not later than 9 March 1989, if any
other party to that agreement would be entitled to claim damages, compensation
or similar relief, whether in terms of the agreement or by way of action in a court
of law, were the exporter to take steps to prevent the incurral by him of such
marketing expenditure.

(b) Notwithstanding the provisions of subsection (3), the marketing
allowance determined in relation to marketing expenditure (other than obligatory
marketing expenditure) incurred on or after 9 March 1989 shall not exceed 20 per
cent of the export turnover which on or after that date, but not later than 31
March 1993, has accrued to the exporter during the year of assessment.

[Para. (b) substituted by s. 14 (a) of Act 129 of 1991.]

(c) Any amount of marketing allowance determined under subsection (3)
in relation to any exporter in any year of assessment which has been disallowed
under the provisions of paragraph (b) shall be carried forward and be deemed to
be an amount of marketing allowance determined under the said subsection in
relation to such exporter in the succeeding year of assessment.

[Sub-s. (3B) inserted by s. 9 of Act 70 of 1989.]

(4) For the purposes of subsection (3) the marketing expenditure on which
the marketing allowance is to be calculated shall be so much of the expenditure
incurred by the exporter during the year of assessment and allowed to be
deducted from his income under sections 11 and 17 as is proved to the
satisfaction of the Commissioner to have been incurred directly-

(a) in research into or obtaining information (including the remuneration
of consultants, agents or representatives) in regard to-

(i) the marketing of goods in any export country; or

(ii) in the case of an exporter carrying on any trade defined or
recognized under subsection (4B) as an export service industry, the rendering of services or the supply of goods in the course of such trade to persons based in an export country;

[Para. (a) substituted by s. 10 (1) (c) of Act 113 of 1977.]

(b) in advertising or otherwise securing publicity in an export country (excluding expenditure incurred on or after 1 January 1984 in sponsoring or promoting any sporting or any other event in a country other than an export country) or in soliciting orders in, or participating in trade fairs in, export countries;

[Para. (b) substituted by s. 11 (1) (a) of Act 94 of 1983.]

(c) in providing without charge samples or technical information to prospective customers in any export country;

(d) in bringing prospective customers from any export country to the Republic;

[Para. (d) substituted by s. 10 (1) (d) of Act 113 of 1977.]

(e) in connection with the preparation or submission of tenders or quotations in respect of-

(i) goods to be exported to any export country; or

(ii) in the case of an exporter carrying on any trade defined or recognized under subsection (4B) as an export service industry, the rendering of services or the supply of goods in the course of such trade to persons based in an export country;

[Para. (e) substituted by s. 10 (1) (e) of Act 113 of 1977.]

(f) in respect of commission or other remuneration for orders for goods exported to any export country or the clearing or forwarding of such goods in such country and, in the case of an exporter who carries on any trade defined or recognized under subsection (4B) as an export service industry, any commission or other remuneration for orders for services or goods obtained in the course of such trade from persons based in an export country;

[Para. (f) substituted by s. 10 (1) (f) of Act 113 of 1977 and by s. 8 (1) of Act 91 of 1982.]
(fA) in respect of the appointment of agents in any export country;

[Para. (fA) inserted by s. 10 (1) (g) of Act 113 of 1977.]

(g) by way of premiums under an insurance policy issued by the Credit Guarantee Insurance Corporation of Africa Limited, whereby insurance is effected against commercial risks which accompany the giving of credit to any importer in an export country in the course of an export trade, or against political risks attendant upon such trade;

[Para. (g) substituted by s. 10 (1) (b) of Act 103 of 1976.]

(h) ......

[Para. (h) deleted by s. 10 (1) (b) of Act 69 of 1975.]

(i) by way of certification fees charged by the South African Bureau of Standards in respect of goods which have been exported;

(j) ......

[Para. (j) deleted by s. 10 (1) (h) of Act 113 of 1977.]

(k) by way of expenditure (including search and application fees) incurred in obtaining in any export country the registration of any patent or the restoration of any patent or the registration of any design or trade mark or the extension of the term or registration period of, or the renewal of the registration of, any patent, design or trade mark;

(l) in connection with the design of any special label or packaging used for exported goods, if the Commissioner is satisfied that the requirements as to the labelling or packaging of such goods differ materially from, or are additional to, the requirements of the South African market;

(m) ......

[Para. (m) deleted by s. 10 (1) (i) of Act 113 of 1977.]

(n) by way of membership fees of any institution or body which-

(i) is actively engaged in export promotion;
(ii) does not receive financial support from the State; and

(iii) is approved by the Director-General;

[Sub-para. (iii) amended by s. 10 (1) (h) of Act 96 of 1981.]

(o) in maintaining any depot or warehouse in any export country which
is used for the purpose of storing exported goods or goods
intended to be exported:

[Para. (o) substituted by s. 10 (1) (j) of Act 113 of 1977.]

Provided that where any amount included in such marketing expenditure has
been recovered or recouped, whether in the current or a following year of
assessment, such amount shall not be included in the taxpayer's income under
the provisions of section 8 (4) (a) as an amount allowed as a deduction under
this section which has been recovered or recouped, but shall be deducted from
the said expenditure, and notwithstanding anything to the contrary contained in
this Act the Commissioner shall raise an assessment in respect of such amount.

[Sub-s. (4) amended by s. 15 (b) of Act 89 of 1969, substituted by s. 10 (1) (l) of
Act 65 of 1973 and amended by s. 10 (1) (a) of Act 69 of 1975, by s. 10 (1) (b)
and (k) of Act 113 of 1977 and by s. 10 (1) (f) of Act 96 of 1981.

(4A) Where it is proved to the satisfaction of the Commissioner that any
expenditure of the nature referred to in subsection (4) has been incurred in
connection with the export of pastoral, agricultural or other farming produce and
that such expenditure was incurred or controlled by-

(a) the South African Sugar Association; or

(b) a marketing committee appointed by the Wattle Bark Industry
Board under section 2 (2) (f) of the Wattle Bark Industry Act, 1960
(Act 23 of 1960); or

(c) any control board established under the Marketing Act, 1968 (Act
59 of 1968); or

(d) any agricultural co-operative or special farmers' co-operative within
the meaning of the Co-operatives Act, 1981 (Act 91 of 1981);

[Para. (d) substituted by s. 11 (1) (b) of Act 94 of 1983.]

(e) the South African Canned Fruit Export Board established by the
Canned Fruit Export Marketing Act, 1967 (Act 100 of 1967),
so much of such expenditure as the Commissioner is satisfied was in effect borne by any producer of any pastoral, agricultural or other farming produce exported by the said Association or by any such committee, board, society or company or by some other person under marketing arrangements controlled by the said Association or by such committee, board, society or company, shall for the purposes of this section be deemed to be marketing expenditure incurred by such producer, provided such expenditure, had it been incurred directly by such producer, would have ranked for deduction from his income under section 11 or 17, and, where such expenditure was incurred by any such co-operative agricultural society or company or farmers' special co-operative company, the expenditure shall be excluded from any marketing expenditure taken into account for the purposes of any allowance to such society or company under this section.

[Sub-s. (4A) inserted by s. 13 (b) of Act 55 of 1966, substituted by s. 10 (1) (l) of Act 65 of 1973, amended by s. 13 (a) of Act 85 of 1974 and substituted by s. 10 (1) (c) of Act 103 of 1976 and by s. 10 (1) (l) of Act 113 of 1977.]

(4B) The Minister of Finance may by notice in the Gazette-

(a) define or recognize as an export service industry any trade carried on in the Republic (other than the trade of a banker or financier) if he is satisfied that in the course of that trade income of a nature defined in such notice is derived (otherwise than from the sale or disposal of goods) in a manner calculated to result directly in an inflow into the Republic of foreign currency; and

(b) direct that persons conducting any export service industry which has been so recognized and which falls within a category of export service industries designated by the said Minister, may in the appropriate circumstances qualify for the enhanced marketing allowance provided for in subsection (3) (b).

[Para. (b) amended by s. 10 (1) (i) of Act 96 of 1981.]

[Sub-s. (4B) inserted by s. 10 (1) (m) of Act 65 of 1973.]

(4C) The Director-General may, for the purposes of this section-

(a) register any person as an exporter, if he is satisfied that such person is carrying on an export trade in the course of which goods are continuously being exported or in the course of which goods may be expected to be continuously exported; or

(b) register any person as an exporter, if he is satisfied that such person conducts an export service industry referred to in paragraph (a) of subsection (4B) in the course of which such person
continuously derives income of the nature referred to in that paragraph or in the course of which such person may be expected to derive such income continuously; or

(c) if he is no longer satisfied in regard to any matter in regard to which he is required to be satisfied under paragraph (a) or (b), notify the person concerned that he is no longer registered as an exporter, in which event such person shall for the purposes of this section be deemed to have ceased to be registered as an exporter with effect from the commencement of the first year of assessment of that person which commences after the date of the notification under this paragraph.

[Sub-s. (4C) inserted by s. 10 (1) (m) of Act 65 of 1973 and amended by s. 10 (1) (h) of Act 96 of 1981.]

(4D) .......

[Sub-s. (4D) inserted by s. 10 (1) (m) of Act 65 of 1973 and deleted by s. 10 (1) (g) of Act 96 of 1981.]

(4E) .......

[Sub-s. (4E) inserted by s. 10 (1) (c) of Act 69 of 1975, amended by s. 10 (1) (m) of Act 113 of 1977 and deleted by s. 10 (1) (g) of Act 96 of 1981.]

(5) Any decision of the Commissioner in the exercise of his discretion under the provisions of this section shall be subject to objection and appeal.

(6) Subject to the provisions of subsection (7), where under any export incentive scheme the Director-General has determined an amount to which any person is entitled in respect of any year of assessment ending on or after 1 September 1980 by way of compensation under such scheme in respect of inputs or value added, the Director-General shall notify such person and the Commissioner accordingly and there shall, in respect of the relevant year of assessment and on the application of the said person, be allowed-

(a) in the case of a person other than a person referred to in paragraph (b), the deduction from his income for such year of an allowance (to be known as the compensation allowance) the amount of which shall be such sum as is sufficient to provide him with a saving in normal tax of the amount so notified by the Director-General: Provided that where such amount exceeds the normal tax which would otherwise be payable by the said person, the compensation allowance shall be limited to an amount which is sufficient to result in no normal tax becoming payable by him in the relevant year of
assessment, and the amount by which such saving exceeds such normal tax which would otherwise be payable shall be carried forward and be deemed to be a saving in normal tax to which the taxpayer is entitled in the following year of assessment; or

(b) in the case of a person other than a company or in the case of a person carrying on a mining enterprise under a lease granted or deemed to be granted under section 25 of the Mining Rights Act, 1967 (Act 20 of 1967), a credit against the normal tax payable by that person (to be known as the compensation credit) the amount of which shall be equal to the amount so notified by the Director-General: Provided that-

(i) in the case of such person other than a company, the provisions of paragraph 28 of the Fourth Schedule shall mutatis mutandis apply to such amount as though it were an amount of employees tax deducted or withheld; or

(ii) in the case of such person carrying on a mining enterprise, where such amount exceeds the normal tax payable by the said person, the compensation credit shall be limited to an amount equal to such normal tax payable and the excess shall be carried forward and be deemed to be an amount so notified by the Director-General in respect of the following year of assessment.

[Para. (b) substituted by s. 11 (1) (c) of Act 94 of 1983.]

[Sub-s. (6) added by s. 10 (1) (j) of Act 96 of 1981.]

(7) (a) The duty imposed upon any person to render any return under the provisions of this Act shall not be suspended by reason of the fact that an amount contemplated in subsection (6) to which the taxpayer is or may become entitled has not been notified by the Director-General.

(b) Any decision of the Director-General in the determination of any such amount shall be final and conclusive and no taxpayer shall be entitled to make any claim for relief under the said subsection unless and until an amount upon which such a claim may be founded has been notified by the Director-General: Provided that the Director-General may-

(i) if he is satisfied that such decision was based on false or incorrect information or an arithmetical error; or

(ii) if he has by way of a promissory note or otherwise made a payment to the said person in lieu of an amount previously notified by him as
contemplated in subsection (6),
withdraw such decision and substitute a fresh decision therefor.

[Para. (b) amended by s. 7 of Act 96 of 1985.]

(c) Where any person becomes entitled to such relief after an assessment has been raised in respect of the relevant year of assessment, the Commissioner may notwithstanding the provisions of section 81 (5) revise such assessment in order to grant such relief.

(d) Where the Director-General has amended or withdrawn any determination of any amount previously notified by him as contemplated in subsection (6), the Commissioner may notwithstanding the provisions of section 81 (5) revise any assessment already raised by him in respect of the relevant year of assessment or, notwithstanding the provisions of section 79, raise an additional assessment in respect of that year in order to give effect to a further notification by the Director-General of the amount so amended or withdrawn.

[Sub-s. (7) added by s. 10 (1) (j) of Act 96 of 1981.]

(8) Where the Commissioner has reason to believe that any decision of the Director-General has been based on incorrect information he may, notwithstanding the provisions of section 4, disclose to the Director-General such information as may be relevant for the purposes of the proviso to subsection (7) (b) of this section.

[Sub-s. (8) added by s. 10 (1) (j) of Act 96 of 1981.]

(9) No deduction shall be allowed under the provisions of this section in respect of marketing expenditure incurred after 31 March 1992.

[Sub-s. (9) added by s. 14 (b) of Act 129 of 1991.]

[S. 11bis inserted by s. 10 (1) of Act 90 of 1962.]

11ter......

[S. 11ter inserted by s. 10 of Act 90 of 1964, substituted by s. 12 of Act 88 of 1965 and by s. 14 of Act 55 of 1966 and repealed by s. 12 of Act 141 of 1992.]

11quat ......

[S. 11quat inserted by s. 10 of Act 90 of 1964, substituted by s. 12 of Act 88 of 1965 and repealed by s. 13 of Act 141 of 1992.]
11\textit{quin} ...... \\
[S. 11\textit{quin} inserted by s. 10 of Act 90 of 1964, substituted by s. 12 of Act 88 of 1965, amended by s. 11 of Act 113 of 1977 and repealed by s. 14 of Act 141 of 1992.]

11\textit{sex} Deduction of compensation for railway operating losses

For the purpose of determining the taxable income derived by any taxpayer from carrying on any trade within the Republic, there shall be allowed as a deduction from the income of the taxpayer so derived the amount of any compensation due to Transnet Limited and paid by the taxpayer (whether directly or through any trade association of which the taxpayer is a member) in respect of any loss incurred by Transnet Limited in operating any railway line, if-

(a) such railway line was constructed under or in pursuance of a written agreement with Transnet Limited in terms of which Transnet Limited undertook to operate the railway line;

[Para. (a) substituted by s. 11 (1) of Act 65 of 1973 and by s. 31 of Act 30 of 1998.]

(b) the compensation so paid was paid in order to discharge an obligation under the said agreement to pay such compensation; and

(c) the taxpayer's liability to pay such compensation was incurred in connection with his trade.

[S. 11\textit{sex} inserted by s. 10 of Act 90 of 1972 and amended by s. 31 of Act 30 of 1998.]

11\textit{sept} ...... \\
[S. 11\textit{sept} inserted by s. 14 (1) of Act 85 of 1974, amended by s. 11 (1) of Act 103 of 1976 and by s. 12 (1) of Act 113 of 1977, substituted by s. 9 (1) of Act 104 of 1979, amended by s. 11 (1) of Act 96 of 1981, by s. 9 (1) of Act 91 of 1982, by s. 13 (1) of Act 121 of 1984, by s. 8 (1) of Act 96 of 1985 and by s. 12 of Act 101 of 1990 and repealed by s. 15 of Act 129 of 1991.]

11\textit{oct} Allowance in respect of expenditure on submissions relating to undertakings in economic development areas

There shall be allowed to be deducted from the income of any taxpayer expenditure (not being expenditure otherwise deductible from his income under the provisions of this Act) actually incurred by him on or after 1 April 1982 in
respects of the cost of preparing detailed submissions to be made to the Director-General: Industries, Commerce and Tourism, or any person in his Department authorized by him to receive such submissions, in regard to any financial aid or incentives required in respect of the establishment, expansion or carrying on in an economic development area of any industrial or commercial undertaking of the taxpayer.

[S. 11oct inserted by s. 10 (1) of Act 91 of 1982.]

12 ......

[S. 12 amended by s. 11 of Act 90 of 1962, by s. 4 of Act 6 of 1963 and by s. 10 (1) of Act 72 of 1963, substituted by s. 11 (1) of Act 90 of 1964, amended by s. 13 (1) of Act 88 of 1965, substituted by s. 15 (1) of Act 55 of 1966, amended by s. 12 (1) of Act 52 of 1970, by s. 11 (1) of Act 88 of 1971, by s. 11 of Act 90 of 1972, by s. 12 (1) of Act 65 of 1973, by s. 15 (1) of Act 85 of 1974, by s. 11 (1) of Act 69 of 1975, by s. 13 of Act 113 of 1977, by s. 6 (1) of Act 101 of 1978, by s. 10 of Act 104 of 1979, by s. 9 of Act 104 of 1980, by s. 12 (1) of Act 96 of 1981, by s. 11 (1) of Act 91 of 1982, by s. 14 (1) of Act 121 of 1984, by s. 9 (1) of Act 96 of 1985, by s. 8 (1) of Act 65 of 1986 and by s. 11 of Act 85 of 1987 and repealed by s. 16 of Act 129 of 1991.]

12A ......


12B Deduction in respect of certain machinery, plant, implements, utensils and articles

(1) In respect of any-

(a) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (b)) which is on or after 1 January 1989 brought into use for the first time by the taxpayer for the purposes of his trade (other than mining or farming) and is used by him directly in a process of manufacture carried on by him or any other process carried on by him which in the opinion of the Commissioner is of a similar nature; or

(b) machinery or plant (other than machinery or plant in respect of
which an allowance has been granted to the taxpayer under paragraph (a) which is let by any taxpayer and is on or after 1 January 1989 brought into use for the first time by the lessee for the purposes of the lessee’s trade (other than mining or farming) and is used by the lessee directly in a process of manufacture carried on by him or any other process carried on by him which in the opinion of the Commissioner is of a similar nature; or

(c) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (a)) which is on or after 1 January 1989 brought into use for the first time by any agricultural co-operative incorporated or deemed to be incorporated under the Co-operatives Act, 1981 (Act 91 of 1981), and is used by it directly for storing or packing pastoral, agricultural or other farm products of its members (including any person who is a member of another agricultural co-operative which is itself a member of such agricultural co-operative) or for subjecting such products to a primary process as defined in section 27 (9); or

(d) machinery, implement, utensil or article (other than any machinery, implement, utensil or article in respect of which an allowance has been granted to the taxpayer under item (e)) which was or is on or after 4 June 1988 brought into use for the first time by any taxpayer for the purposes of his trade as hotelkeeper and used by him in a hotel, except any vehicle or equipment for offices or managers’ or servants’ rooms; or

(e) machinery, implement, utensil or article (other than any machinery, implement, utensil or article in respect of which an allowance has been granted to the taxpayer under paragraph (d)) which was or is let by any taxpayer and was or is on or after 4 June 1988 brought into use for the first time by the lessee for the purposes of the lessee’s trade as hotelkeeper and used by him in a hotel, except any vehicle or equipment for offices or managers’ or servants’ rooms; or

(f) machinery, implement, utensil or article (other than livestock) which is on or after 1 July 1988 brought into use for the first time by any taxpayer and used by him in the carrying on of his farming operations, except any motor vehicle the sole or primary function of which is the conveyance of persons or any caravan or any aircraft (other than an aircraft used solely or mainly for the purpose of crop-spraying) or any office furniture or equipment,

[Para. (f) substituted by s. 13 of Act 28 of 1997.]
a deduction calculated in terms of subsection (2) shall be allowed in respect of the year of assessment during which such machinery, plant, implement, utensil or article (hereinafter referred to as an asset) is so brought into use and each of the two succeeding years of assessment, such succeeding years of assessment hereinafter in this section referred to as the second and third years, in chronological order.

(2) The deduction contemplated in subsection (1) shall be calculated on the cost to the taxpayer of the asset, as referred to in subsection (3), and the rate of the allowance shall be-

(a) in respect of the year of assessment during which the asset is so brought into use, 50 per cent of such cost;

(b) in respect of the second year, 30 per cent of such cost; and

(c) in respect of the third year, 20 per cent of such cost.

(3) For the purposes of this section the cost to a taxpayer of any asset shall be deemed to be the cost which a person would, if he had acquired the asset under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition of the asset was in fact concluded, have incurred in respect of the direct cost of acquisition of the asset, including the direct cost of the installation or erection thereof or, where the asset has been acquired to replace an asset which has been damaged or destroyed, such cost less any amount which has been recovered or recouped in respect of the damaged or destroyed asset and has been excluded from the taxpayer's income in terms of section 8 (4) (e), whether in the current or any previous year of assessment.

(4) No deduction shall be allowed under this section in respect of-

(a) any asset which has been let by the taxpayer under a lease other than an operating lease as defined in section 23A (1), unless-

(i) the lessee under such lease derives in the carrying on of his trade amounts constituting income for the purposes of this Act; and

(ii) the period for which the asset is let under such lease is at least 5 years or such shorter period as is shown by the taxpayer to be the useful life of the asset;

(b) any asset contained in or forming part of any ship, if the cost of such asset has been included in the adjustable cost of such ship as
defined in section 14 (2);

(c) any asset brought into use by any company during any year of assessment if such asset was previously brought into use by any other company during such year and both such companies are managed, controlled or owned by substantially the same persons, and a deduction under this section, section 12 (1) or section 27 (2) (d) was previously granted to such other company;

(d) any asset which has been disposed of by the taxpayer during any previous year of assessment; and

(e) any asset referred to in subsection (1) (a) to (e), inclusive, which is brought into use after 15 December 1989, except such an asset acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement on or before that date.

[Para. (e) added by s. 13 (1) (a) of Act 101 of 1990.]

(4A) Where-

(a) any asset was brought into use by any person as contemplated in subsection (1) during any year of assessment;

(b) such asset was previously brought into use by any connected person in relation to such person; and

[Para. (b) substituted by s. 10 (1) of Act 113 of 1993.]

(c) a deduction under this section, section 12 (1) or section 27 (2) (d) was previously granted to such connected person, whether in the current or any previous year of assessment,

the deduction in terms of this section shall be calculated on an amount not exceeding the lesser of the cost of such asset to such connected person or the market value thereof as determined on the date upon which the asset was brought into use by such person.

[Sub-s. (4A) inserted by s. 13 (1) (b) of Act 101 of 1990 and amended by s. 6 (1) of Act 140 of 1993.]

(5) The deductions which may be allowed in terms of this section in respect of any asset shall not in the aggregate exceed the cost to the taxpayer of such asset.

(6) Where a lessor of any asset under a lease contemplated in paragraph
(a) of subsection (4) has within the period contemplated in subparagraph (ii) of that paragraph, reckoned from the commencement of the period for which the asset is let under such lease, disposed of the whole or a portion of his interest in the lease or of his right to receive rent under the lease, there shall be included in his income for the year of assessment during which the disposal is made a sum equal to the aggregate of any deductions allowed to him under this section, section 12 (1) or section 27 (2) (d), less such amount as the Commissioner may allow in respect of the expired portion of the lease or any portion of such interest or right which has not been disposed of by the lessor.

[S. 12B inserted by s. 11 of Act 90 of 1988.]

12C Deduction in respect of certain machinery, plant, implements, utensils and articles

(1) In respect of any-

(a) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (b)) which was or is brought into use for the first time by the taxpayer for the purposes of his trade (other than mining or farming) and is used by him directly in a process of manufacture carried on by him or any other process carried on by him which in the opinion of the Commissioner is of a similar nature; or

(b) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (a)) which was or is let by any taxpayer and was or is brought into use for the first time by the lessee for the purposes of the lessee's trade (other than mining or farming) and is used by the lessee directly in a process of manufacture carried on by him or any other process carried on by him which in the opinion of the Commissioner is of a similar nature; or

(c) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (a)) which was or is brought into use for the first time by any agricultural co-operative incorporated or deemed to be incorporated under the Co-operatives Act, 1981 (Act 91 of 1981), and is used by it directly for storing or packing pastoral, agricultural or other farm products of its members (including any person who is a member of another agricultural co-operative which is itself a member of such agricultural co-operative) or for subjecting such products to a primary process as defined in section 27 (9); or
(d) machinery, implement, utensil or article (other than any machinery, implement, utensil or article in respect of which an allowance has been granted to the taxpayer under paragraph (e)) which was or is brought into use for the first time by any taxpayer for the purposes of his trade as hotelkeeper and is used by him in a hotel, except any vehicle or equipment for offices or managers' or servants' rooms; or

(e) machinery, implement, utensil or article (other than any machinery, implement, utensil or article in respect of which an allowance has been granted to the taxpayer under paragraph (d)) which was or is let by any taxpayer and was or is brought into use for the first time by the lessee for the purposes of the lessee's trade as hotelkeeper and used by him in a hotel, except any vehicle or equipment for offices or managers' or servants' rooms; or

(f) aircraft which was or is brought into use on or after 1 April 1995 for the first time by the taxpayer for the purposes of his trade (other than an aircraft in respect of which an allowance has been granted to the taxpayer under section 12B or 14bis); or

[Para. (f) added by s. 13 (1) (b) of Act 21 of 1995.]

(g) ship which was or is brought into use on or after 1 April 1995 for the first time by the taxpayer for the purposes of his trade (other than a ship in respect of which an allowance has been granted to the taxpayer in terms of section 14 (1) (a) or (b)),

[Para. (g) added by s. 13 (1) (b) of Act 21 of 1995.]

a deduction equal to 20 per cent of the cost of such machinery, plant, implement, utensil, article, ship or aircraft (hereinafter referred to as an asset) shall, subject to the provisions of subsection (4), be allowed in the year of assessment during which the asset is so brought into use and in each of the four succeeding years of assessment: Provided that where-

(a) such asset is a ship or aircraft, the deduction shall be calculated on the adjustable cost as determined in terms of section 14 or 14bis, as the case may be; and

(b) any new or unused machinery or plant referred to in paragraph (a) or (b), as the case may be, of this subsection was or is-

(i) (aa) acquired by the taxpayer under an agreement (whether conditional or not) concluded during the period commencing on 1 July 1996 and ending on 30
September 1999; and

(bb) brought into use by the taxpayer or the lessee, as the case may be, during such period; or

(ii) (aa) acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement during the period commencing on 1 July 1996 and ending on 30 September 1999; and

(bb) brought into use by the taxpayer or the lessee, as the case may be, during the period commencing on 1 October 1999 and ending on 31 March 2000,

the deduction under this subsection shall be increased to 331/3 per cent of the cost of such machinery or plant in respect of the year of assessment during which the plant or machinery was or is so brought into use and in each of the two immediately succeeding years of assessment.

[Sub-s. (1) amended by s. 13 (1) (c) of Act 21 of 1995 and by s. 10 (1) of Act 46 of 1996.]

(2) For the purposes of this section the cost to a taxpayer of any asset shall be deemed to be the lesser of the actual cost to the taxpayer or the cost which a person would, if he had acquired the said asset under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition of the said asset was in fact concluded, have incurred in respect of the direct cost of acquisition of the asset, including the direct cost of the installation or erection thereof or, where the asset has been acquired to replace an asset which has been damaged or destroyed, such cost less any amount which has been recovered or recouped in respect of the damaged or destroyed asset and has been excluded from the taxpayer's income in terms of section 8 (4) (e), whether in the current or any previous year of assessment.

(3) No deduction shall be allowed under this section in respect of-

(a) any asset which has been let by the taxpayer under a lease other than an operating lease as defined in section 23A (1), unless the lessee under such lease derives in the carrying on of his trade amounts constituting income for the purposes of this Act;

(b) any asset contained in, or forming part of, any ship, if the cost of such asset has been included in the adjustable cost of such ship as defined in section 14 (2);
(c) any asset which has been disposed of by the taxpayer during any previous year of assessment.

(4) Where-

(a) any asset was brought into use by any person as contemplated in subsection (1) during any year of assessment;

(b) such asset was previously brought into use by any connected person in relation to such person; and

(c) a deduction under this section, section 12 (1), section 12B, section 14 (1) (a) or (b), section 14bis or section 27 (2) (d) was previously granted to such connected person, whether in the current or any previous year of assessment,

[Para. (c) substituted by s. 13 (1) (d) of Act 21 of 1995.]

the deduction in terms of this section shall be calculated on an amount not exceeding the lesser of the cost of such asset to such connected person or the market value thereof as determined on the date upon which the asset was brought into use by such person.

[Sub-s. (4) amended by s. 7 (1) of Act 140 of 1993.]

(5) The deductions which may be allowed in terms of this section and section 11 (o) in respect of any asset shall not in the aggregate exceed the cost to the taxpayer of such asset.

(6) Any expenditure (other than expenditure referred to in section 11 (a)) incurred by a taxpayer during any year of assessment in moving an asset in respect of which a deduction was allowed or is allowable under this section or section 12B from one location to another shall-

(a) where the taxpayer is entitled to a deduction in respect of such asset under subsection (1) in that year and one or more succeeding years, be allowed to be deducted from his income in equal instalments in each year in which such a deduction is allowable; or

(b) in any other case, be allowed to be deducted from his income in that year.

[Sub-s. (6) deleted by s. 11 (1) of Act 113 of 1993 and added by s. 11 of Act 21 of 1994.]

[S. 12C inserted by s. 14 (1) of Act 101 of 1990.]
13 Deductions in respect of buildings used in a process of manufacture or by hotel keepers

(1) Notwithstanding anything to the contrary contained in paragraph (ii) of the proviso to section 11 (e), there shall be allowed to be deducted from the income of the taxpayer an allowance equal to two per cent of the cost (after the deduction of any amount referred to in subsection (3) or (7) or the corresponding provisions of any previous Income Tax Act) to the taxpayer of-

(a) any building the erection of which was commenced by the taxpayer on or after the twenty-fifth day of March, 1959, but not later than the fourteenth day of March, 1961, if such building was wholly or mainly used by him during the year of assessment for the purpose of carrying on therein any process of manufacture in the course of his trade (other than mining or farming); or

(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 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

(c) any building the erection of which was commenced on or after the twenty-fifth day of March, 1959, but not later than the fourteenth 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 (a) 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 any process of manufacture in the course of his trade (other than mining or farming); or

(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 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

(e) any improvements (other than repairs) to any building referred to in paragraph (a), (b), (c) or (d) which is during the year of assessment used as contemplated in that paragraph, if such improvements were commenced not later than the thirty-first day of March, 1971; or

(f) any improvements (other than repairs) to any building, if such improvements were commenced on or after the first day of April, 1971, and 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 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):

Provided that-

(a) no allowance shall be made under this subsection in respect of such portion of the cost of any building the erection of which was commenced on or after 1 July 1961, or any improvements effected thereto as has been taken into account in the calculation of any allowance to the taxpayer under section 11 (g) whether in the current or any previous year of assessment;

(b) in the case of any such building the erection of which has or is commenced on or after 1 January 1989 and any such improvements which have or are commenced on or after that date, other than any building or improvements contemplated in paragraph (c) of this proviso, the allowance under this subsection shall be increased to 5 per cent of the cost (after the deduction of any amount as provided in subsection (3)) to the taxpayer of such building or improvements; and

(c) in the case of any such-
building the erection of which has or is commenced during the period commencing on 1 July 1996 and ending on 30 September 1999; or

(i) improvements which have or are commenced during such period; and,

where such building has or is or such improvements have been or are brought into use on or before 31 March 2000, the allowance under this subsection shall be increased to 10 per cent of the cost (after the deduction of any amount as provided for in subsection (3)) to the taxpayer of such building or improvements.

[Sub-s. (1) amended by s. 12 (a) of Act 90 of 1962 and by s. 17 (1) (a) of Act 55 of 1966, substituted by s. 13 (1) (a) of Act 88 of 1971 and amended by s. 10 (1) (a) of Act 96 of 1985, by s. 12 of Act 90 of 1988 and by s. 11 (1) of Act 46 of 1996.]

(2) The aggregate of the allowances under subsection (1) or the corresponding provisions of any previous Income Tax Act in respect of any building or improvements shall not exceed the cost (after the deduction of any amount referred to in subsection (3) or the corresponding provisions of any previous Income Tax Act) of such building or improvements, as the case may be, less the aggregate of any allowances made to the taxpayer in respect of such building or improvements, as the case may be, under subsection (7) or section 11 (g) or the corresponding provisions of any previous Income Tax Act.

[Sub-s. (2) amended by s. 12 (b) of Act 90 of 1962 and substituted by s. 13 (1) (a) of Act 88 of 1971 and by s. 10 (1) (b) of Act 96 of 1985.]

(3) If in any year of assessment there falls to be included in a taxpayer’s income in terms of paragraph (a) of section 8 (4) an amount which has been recovered or recouped in respect of any allowance made under subsection (1) or the corresponding provisions of any previous Income Tax Act in respect of any building or improvements, such portion of the amount so recovered or recouped as is set off against the cost of a further building as hereinafter provided shall, notwithstanding the provisions of the said paragraph, at the option of the taxpayer to be notified by him in writing to the Commissioner when submitting his return of income for the year of assessment during which the recovery or recoupment occurred, and provided he purchases or erects within twelve months or such further period as the Commissioner may allow from the date on which the event giving rise to the recovery or recoupment occurred, any other building to which the provisions of subsection (1) apply, not be included in his income for such year of assessment, but shall be set off against so much of the cost to him of such further building purchased or erected by him as remains after the deduction of any portion of such cost in respect of which an allowance has been
granted to the taxpayer under section 11 (g), whether in the current or any previous year of assessment.

[Sub-s. (3) amended by s. 12 (c) and (d) of Act 90 of 1962 and substituted by s. 17 (1) (b) of Act 55 of 1966 and by s. 13 (1) (a) of Act 88 of 1971.]

(4) ......

[Sub-s. (4) deleted by s. 12 of Act 113 of 1993.]

(4)bis ..... 

[Sub-s. (4)bis inserted by s. 14 (1) (a) of Act 88 of 1965 and deleted by s. 12 of Act 113 of 1993.]

(5) ......


(6) ......


(6A) ......


(7) ......

[Sub-s. (7) added by s. 14 (1) of Act 88 of 1965, deleted by s. 17 (1) of Act 55 of 1966, inserted by s. 10 (1) of Act 96 of 1985, amended by s. 12 of Act 85 of 1987]
(7A) ......

[Sub-s. (7A) inserted by s. 10 (1) (d) of Act 96 of 1985 and deleted by s. 12 of Act 113 of 1993.]

(8) The provisions of this section shall mutatis mutandis apply with reference to any permanent shipbuilding structure the erection of which was commenced by the taxpayer on or after the first day of January, 1966, and the cost of improvements (other than repairs) effected thereto if such structure was wholly or mainly used during the year of assessment for the purposes of the shipbuilding trade, and for the purposes of this subsection any reference in the said provisions to a building shall be construed as a reference to a shipbuilding structure and any reference therein to improvements to a building shall be construed as a reference to improvements to a shipbuilding structure.

[Sub-s. (8) added by s. 17 (1) (f) of Act 55 of 1966.]

(9) For the purposes of this section-

'improvements', in relation to any improvements commenced on or after the first day of April, 1971, means any extension, addition or improvements (other than repairs) to a building which is or are effected for the purpose of increasing or improving the industrial capacity of the building;

'shipbuilding structure' means any launching way, fitting-out quay or craneway which is not part of a building.

[Sub-s. (9) added by s. 17 (1) (f) of Act 55 of 1966 and substituted by s. 13 (1) (c) of Act 88 of 1971.]

13bis Deductions in respect of buildings used by hotel keepers

(1) Notwithstanding anything to the contrary contained in paragraph (ii) of the proviso to paragraph (e) of section eleven, there shall be allowed to be deducted from the income of any taxpayer for any year of assessment ending on or after the first day of January, 1964, an allowance equal to two per cent, of the cost (after the set-off of any amount as provided in subsection (6)) to the taxpayer-

(a) of any building the erection of which was commenced by the taxpayer on or after the second day of March, 1960, but not later than the thirty-first day of December, 1963, and of any improvements (other than repairs) thereto commenced not later
than the thirty-first day of December, 1963, if such building was wholly or mainly used by him during the year of assessment for the purpose of carrying on therein his trade of hotel keeper; or

(b) of any building the erection of which was commenced by the taxpayer on or after the fifteenth day of March, 1961, but not later than the thirty-first day of December, 1963, and of any improvements (other than repairs) thereto commenced not later than the thirty-first day of December, 1963, if such building was during the year of assessment let by the taxpayer and wholly or mainly used for the purpose of carrying on therein the trade of hotel keeper; or

(c) of any building the erection of which was commenced by the taxpayer on or after the first day of January, 1964, and of any improvements (other than repairs) thereto commenced not later than the thirtieth day of June, 1965, if such building-

(i) was brought into use not later than the thirtieth day of June, 1965; and

(ii) was during the year of assessment wholly or mainly used by the taxpayer for the purpose of carrying on therein his trade of hotel keeper or was during such year let by the taxpayer and wholly or mainly used by the lessee for the purpose of carrying on therein the lessee's trade of hotel keeper; or

(d) of such portion-

(i) of any building (other than a building in respect of the cost of which an allowance under the preceding provisions of this subsection is or was deductible from the income of the taxpayer for the current or any previous year of assessment) the erection of which was commenced by the taxpayer on or after the first day of January, 1964; or

(ii) of any improvements (other than repairs) to any building referred to in this paragraph or paragraph (a) or (b), if such improvements were commenced on or after the first day of January, 1964; or

(iii) of any improvements (other than repairs) to any building referred to in paragraph (c), if such improvements were commenced on or after the first day of July, 1965,
(aa) was during the year of assessment used by the taxpayer for the purpose of carrying on therein his trade of hotel keeper; or

(bb) was during such year let by the taxpayer and used by the lessee for the purpose of carrying on therein the lessee's trade of hotel keeper; or

[Para. (d) amended by s. 13 (1) (a) of Act 113 of 1993.]

(e) of such portion of any building improvements (other than repairs and other than improvements in respect of the cost of which, or of any portion thereof, an allowance under the preceding provisions of this subsection is or was deductible from the income of the taxpayer for the current or any previous year of assessment) commenced on or after 1 January 1964, as was during the year of assessment in question used by the taxpayer for the purposes of his trade of hotelkeeper or was during the year of assessment in question let by the taxpayer and used by the lessee for the purposes of the lessee's trade of hotelkeeper:

[Para. (e) substituted by s. 13 (1) (b) of Act 113 of 1993 and by s. 12 (a) of Act 21 of 1994.]

Provided that no allowance shall be made under this subsection in respect of such portion of the cost of any building the erection of which was commenced on or after the first day of July, 1961, or any improvements effected thereto, as has been taken into account in the calculation of any allowance to the taxpayer under paragraph (g) of section eleven, whether in the current or any previous year of assessment: Provided further that in the case of any such building the erection of which has or is commenced on or after 4 June 1988 and any such improvements which have or are commenced on or after that date the allowance under this subsection shall be increased to 5% of the cost (after the set-off of any amount as provided in subsection (6)) to the taxpayer of such building or improvements: Provided further that to the extent to which any portion of any such improvements which have or are commenced on or after 17 March 1993 does not extend the existing exterior framework of the building, the allowance under this subsection shall be increased to 20 per cent of the cost of such portion.

[Sub-s. (1) amended by s. 13 (a) of Act 90 of 1988 and by s. 13 (1) (c) of Act 113 of 1993.]

(2) In addition to any allowance under subsection (1), there shall be allowed to be deducted from the income of the taxpayer an allowance in respect of the cost (after the set-off of any amount as provided in subsection (6)) of any building or improvements referred to in paragraph (c) of subsection (1) or of any
portion of any building or improvements referred to in paragraph (d) or (e) of subsection (1), provided such building (or a portion thereof), or the building (or a portion thereof) to which such improvements were effected, as the case may be, was during the year of assessment in question registered as an hotel under the Hotels Act, 1965, and such hotel was on the last day of such year graded by the board established under that Act: Provided that no allowance shall be made under this subsection in respect of such portion of the cost of any building or any improvements as has been taken into account in the calculation of any allowance to the taxpayer under paragraph (g) of section eleven, whether in the current or any previous year of assessment.

(3) The allowance under subsection (2) in respect of the cost (as reduced in terms of that subsection) of any building (or portion thereof) or of any improvements (or a portion thereof) shall be such percentage of such cost as may be fixed by the Minister of Finance by regulation under subsection (4) for the grade of hotel which is, in terms of a determination of the board referred to in subsection (2), applicable in respect of the hotel in question on the last day of the year of assessment: Provided that where such hotel is graded by the said board for the first time during any year of assessment (hereinafter referred to as the subsequent year) subsequent to any year of assessment (hereinafter referred to as the earlier year) during which such building (or the relevant portion thereof) or such improvements (or the relevant portion thereof) was or were used in carrying on the trade of hotelkeeper, and the taxpayer is entitled to the said allowance in respect of the subsequent year, the allowance for the subsequent year (as determined in accordance with the said regulation) shall, if-

(a) such building (or the relevant portion thereof) or such improvements (or the relevant portion thereof), as the case may be, is or are completed not later than the thirty-first day of December, 1969; and

(b) where such hotel was not during the earlier year registered under the Hotels Act, 1965, it became so registered during the period ending on the thirty-first day of December, 1969, or the period of twelve months reckoned from the date of completion of such building (or the relevant portion thereof) or of such improvements (or the relevant portion thereof), as the case may be, whatever period ends later,

be increased by an amount equal to the allowance to which the taxpayer would have been entitled under the said regulation in respect of the said cost if such regulation had at all relevant times been in force and the grading of such hotel by the said board which was applicable on the last day of the subsequent year had also applied on the last day of the earlier year.

[Sub-s. (3) amended by s. 18 (1) (a) of Act 55 of 1966, substituted by s. 14 (1) of...
(4) The Minister of Finance may make regulations prescribing the rates of the allowances under subsection (2) in respect of the various grades of hotels determined under the provisions of subsection (1) of section fifteen of the Hotels Act, 1965, and may in such regulations prescribe rates which vary according to the grade of hotel or the year of assessment for which any such allowance may be made: Provided that any rate so prescribed in respect of any year of assessment in respect of any grade of hotel shall not exceed eight per cent, of the cost or portion thereof on which the relevant allowance is to be calculated.

(5) The aggregate of the allowances under the preceding provisions of this section and subsection (1) of section thirteen, as applied by subsection (4) of that section, and the corresponding provisions of any previous Income Tax Act, in respect of the cost of any building or portion thereof or any improvements or portion thereof shall not exceed such cost or, if such allowances have been calculated on a portion of such cost, such portion.

(6) (a) If in any year of assessment there falls to be included in a taxpayer's income in terms of paragraph (a) of subsection (4) of subsection eight an amount which has been recovered or recouped in respect of any allowance made under the preceding provisions of this section or the provisions of subsection (1) of section thirteen, as applied by subsection (4) of that section, or the corresponding provisions of any previous Income Tax Act, in respect of any building or portion thereof or any improvements or portion thereof, so much of the amount so recovered or recouped as is set off against the cost of a further building as hereinafter provided shall, notwithstanding the provisions of the said paragraph, at the option of the taxpayer to be notified by him in writing to the Commissioner when submitting his return of income for the year of assessment during which the recovery or recoupment occurred, and provided he erects within twelve months or such further period as the Commissioner may allow from the date on which the event giving rise to the recovery or recoupment occurred, any other building in respect of the cost of which an allowance is made under the preceding provisions of this section, not be included in his income for such year of assessment, but shall be set off against so much of the cost to him of such further building erected by him as remains after the deduction of any portion of such cost in respect of which an allowance has been granted to the taxpayer under paragraph (g) of section eleven, whether in the current or any previous year of assessment.

(b) Where any allowance has been made under the provisions of subsection (1) of section thirteen, as applied by subsection (4) of that section, in respect of the cost of any building, any amount which has in terms of subsection (3) of that section been set off against such cost, shall be set off against such
cost in the calculation of any allowance made in respect thereof under the preceding provisions of this section.

(7) ......

[Sub-s. (7) substituted by s. 18 (1) (b) of Act 55 of 1966 and deleted by s. 12 (b) of Act 21 of 1994.]

(7A) and (7B) ......

[Sub-ss. (7A) and (7B) inserted by s. 18 (1) (c) of Act 55 of 1966 and deleted by s. 12 (b) of Act 21 of 1994.]

(8) ......

[Sub-s. (8) substituted by s. 18 (1) (d) of Act 55 of 1966 and deleted by s. 12 (b) of Act 21 of 1994.]

(9) The allowance under subsection (2) shall not be granted in respect of-

(a) any building the erection of which has or is commenced on or after 4 June 1988; and

(b) any improvements which have or are commenced on or after that date.

[Sub-s. (9) added by s. 14 (1) of Act 88 of 1971, amended by s. 14 (a) of Act 69 of 1975, deleted by s. 13 of Act 94 of 1983, added by s. 13 (b) of Act 90 of 1988 and amended by s. 12 (c) of Act 21 of 1994.]

(10) ......

[Sub-s (10) added by s. 14 (1) of Act 88 of 1971, amended by s. 14 (b) of Act 69 of 1975 and deleted by s. 13 of Act 94 of 1983.]

(11) ......

[Sub-s. (11) added by s. 14 (1) of Act 88 of 1971, amended by s. 14 (c) of Act 69 of 1975 and deleted by s. 13 of Act 94 of 1983.]

[S. 13bis inserted by s. 15 (1) of Act 88 of 1965.]

13ter Deductions in respect of residential buildings

(1) For the purposes of this section-
'housing project' means any project for the erection of a building or buildings in the Republic consisting of or including at least five residential units;

'residential unit' means any self-contained residential accommodation consisting of more than one room (but excluding any hostel, hotel or similar accommodation), the erection of which was commenced by the taxpayer on or after 1 April 1982 and which was erected under a housing project of the taxpayer-

(a) in order to be let to a tenant for the purpose of deriving a profit for the taxpayer; or

(b) in order to be occupied by a bona fide full-time employee of the taxpayer.

(2) Notwithstanding anything to the contrary contained in paragraph (ii) of the proviso to section 11 (c), there shall, subject to the provisions of this section, be allowed to be deducted from the income of the taxpayer for the year of assessment referred to in subsection (6) of this section and each succeeding year of assessment, an allowance, to be known as the residential building annual allowance, equal to two per cent of the cost to the taxpayer of any residential unit erected by the taxpayer under a housing project of the taxpayer.

(3) In addition to the deduction provided for in subsection (2), there shall, subject to the provisions of this section, be allowed to be deducted from the income of the taxpayer for the year of assessment referred to in subsection (5), an allowance, to be known as the residential building initial allowance, equal to ten per cent of the cost to the taxpayer of the residential unit referred to in subsection (2).

(4) The allowances under this section shall not be made in respect of any portion of the cost of any residential unit on any premises not owned by the taxpayer, unless the taxpayer, at the date on which the erection of such residential unit is commenced, is entitled to the occupation of such premises for a period ending not less than ten years after such date.

(5) The residential building initial allowance in relation to any residential unit shall be made for the year of assessment during which such residential unit is for the first time let or occupied as contemplated in the definition of 'residential unit' in subsection (1): Provided that if at the end of such year of assessment less than five of the residential units of the relevant housing project have for the first time been let or occupied as contemplated in the definition of 'residential unit' in subsection (1), the residential building initial allowance relating to such residential unit shall not be made for that year of assessment but shall be made for the first succeeding year of assessment in which at least five of the residential units in that housing project have been so let or occupied for the first time.
(6) The residential building annual allowance relating to any residential unit shall be made for the first time for the year of assessment in which the residential building initial allowance is made in respect of that residential unit.

(7) If in any year of assessment any residential unit in respect of the cost of which any allowance has been made to the taxpayer under the provisions of this section, whether in the current or any previous year of assessment, is so used or dealt with by the taxpayer that it ceases to be available either for letting to a tenant or for occupation by an employee as contemplated in the definition of 'residential unit' in subsection (1)-

(a) there shall be included in the income of the taxpayer for the year of assessment in which such residential unit is so used or dealt with, the amount of the residential building initial allowance made to him in respect of the cost of such residential unit, less one-tenth of such amount for each completed period of one year, but not exceeding ten years, from the date on which such residential unit was first let or occupied as contemplated in the definition of 'residential unit' in subsection (1) until the date on which such residential unit was used or dealt with as aforesaid; and

(b) the residential building annual allowance shall not be made in respect of the cost of the said residential unit for the year of assessment during which such residential unit was used or dealt with as aforesaid nor in respect of any succeeding year of assessment during which it continued to be unavailable for the letting or occupation contemplated in the definition of 'residential unit' in subsection (1).

(8) The provisions of sections 8 (4) (a) and 11 (o) shall not apply to so much of the amount of any residential building initial allowance as has been included in the taxpayer's income under the provisions of subsection (7) (a) of this section, whether in the current or any previous year of assessment.

(9) No allowance shall be made under this section in respect of so much of the cost of any residential unit as has qualified or will qualify for deduction from the taxpayer's income by way of a deduction of expenditure or an allowance in respect of expenditure under any other provision of this Act, whether for the current or any preceding or subsequent year of assessment.

(10) The aggregate of the allowances under the preceding provisions of this section in respect of the cost of any residential unit shall not exceed such cost or, if such allowances have been calculated on a portion of such cost, such portion.
(11) Where any company is mainly engaged in the provision of housing facilities for the employees of its sole or principal shareholder or for the employees of any other company the shares in which are held wholly by the sole or principal shareholder in such firstmentioned company, the employees of such shareholder or such other company, as the case may be, shall for the purposes of this section be deemed to be the employees also of such firstmentioned company.

[Sub-s. (11) added by s. 14 of Act 94 of 1983.]

[S. 13ter inserted by s. 13 (1) of Act 91 of 1982.]

14 Deductions in respect of ships

(1) There shall be allowed to be deducted from the income of any person referred to in section 9 (1) 

(a) in respect of any ship used by such person for the purposes of his trade during the year of assessment an allowance equal to ten per cent of the adjustable cost to him of such ship: Provided that-

(i) where an allowance under paragraph (b) or the corresponding provisions of any previous Income Tax Act has been made to any person in respect of any ship, no allowance shall be made under this paragraph to such person in respect of that ship for the year of assessment in which the ship is for the first time used by him for the purposes of his trade; and

(ii) the aggregate of all the allowances made to any person in respect of any ship under this paragraph, (b) of this subsection and section 11 (e) or the corresponding provisions of any previous Income Tax Act shall not exceed the cost to such person of such ship or, if such ship was acquired by such person to replace a ship and the cost of the ship so acquired has in terms of the definition of 'adjustable cost' or 'adjustable cost price' in subsection (2) been reduced by an amount which has not in terms of section 8 (4) 

[Para. (ii) amended by s. 12 (b) of Act 103 of 1976.]

(b) in the case of a person who during any year of assessment concludes a contract for the acquisition by him of a new ship (whether built or still to be built), or of a ship which is not new and is
proved to the satisfaction of the Secretary for Transport at all times since its construction to have been maintained in the highest class applicable to a ship of its type, and who satisfies the Commissioner that the ship in question is or will be a South African ship and is or will be used by him for the purposes of his trade for prospecting for minerals (including natural oil) or for mining operations or as a foreign-going ship, an allowance in respect of that year of assessment equal to forty per cent of the adjustable cost to the said person of that ship, or, if at the time at which the allowance under this paragraph has to be made, the cost price of the ship has not yet been determined, of the adjustable estimated cost price of that ship, provided the said person satisfies the Commissioner that not less than forty per cent of the cost price or of the estimated cost price, as the case may be, of the ship will be paid by him within a period of two years or, if the Commissioner agrees, three years after the end of that year of assessment, or, if the said person does not so satisfy the Commissioner, an allowance in respect of any year of assessment equal to forty per cent of the portion, if any, of the adjustable cost price or the adjustable estimated cost price of the ship paid by him during that year of assessment: Provided that-

(i) the provisions of this paragraph shall not apply in respect of any ship in respect of which an allowance has in any year of assessment under this Act or any previous Income Tax Act been granted to any other person under this subsection or the corresponding provisions of any previous Income Tax Act;

(ii) if any taxpayer to whom an allowance equal to forty per cent of the adjustable cost price or adjustable estimated cost price, as the case may be, of any ship has been made under this paragraph or the corresponding provisions of any previous Income Tax Act, fails to pay at least forty per cent of such cost price or estimated cost price, as the case may be, within the said period of two or (as the case may be) three years after the end of the year of assessment in respect of which the said allowance has been made, the said allowance shall be included in the income of the said taxpayer for the year of assessment ending on the same day as the said period, and there shall be deducted from the income of the said taxpayer for that year of assessment an allowance equal to forty per cent of the portion, if any, of the adjustable cost price of such ship paid by him during the said period, and from the income of the said taxpayer for any year of assessment thereafter an allowance equal to forty per cent of the portion, if any, of the adjustable cost price of such ship paid by him during that year of assessment; and
(iii) if in respect of any year of assessment the Commissioner is no longer satisfied that a ship in respect of which an allowance has been made under the preceding provisions of this paragraph or the corresponding provisions of any previous Income Tax Act (whether in the current or any previous year of assessment) will be a South African ship or will be used by the taxpayer as aforesaid, or if in any year of assessment any such ship which has become a South African ship or has been used by the taxpayer as aforesaid, ceases to be a South African ship or to be used by the taxpayer as aforesaid or if in any year of assessment the taxpayer ceases to be a person referred to in section 9 (1) (c), so much of the amount of the said allowance as is not in terms of section 8 (4) required to be included in the taxpayer's income for the current or any other year of assessment and is not in terms of 'adjustable cost' or 'adjustable cost price' in subsection (2) of this section required to be deducted from the cost or estimated cost price of a further ship acquired to replace such ship, less such amount as would, if this paragraph had not been enacted, have been allowed to the taxpayer by way of deductions (in addition to those actually allowed) under paragraph (a) of this subsection or section 11 (a) or the corresponding provisions of any previous Income Tax Act, either in the current or any previous year of assessment, shall in terms of this proviso be included in the income of the taxpayer for the current year of assessment;

[Para. (b) substituted by s. 17 (a) of Act 85 of 1974 and amended by s. 12 (a) of Act 103 of 1976. Para. (iii) amended by s. 12 (c) of Act 103 of 1976.]

(c) in respect of any expenditure which such person satisfies the Commissioner he is likely to incur within five years from the end of the year of assessment in question on repairs to any ship used by him for the purposes of his trade, such an allowance as, notwithstanding the provisions of section 23 (e), the Commissioner, having regard to the estimated cost of such repairs and the date on which they are likely to be incurred, may make each year: Provided that any such allowance in respect of any year of assessment shall be included in the income of the taxpayer for the following year of assessment.

[Para. (c) amended by s. 14 (a) of Act 21 of 1995.]

(1A) Where during any year of assessment a subsidiary company referred to in paragraph (b) of the definition of 'South African ship' in subsection (2) has
carried on business as the owner of one or more ships which are by virtue of the said paragraph South African ships and has not ceased to carry on such business, there shall be deducted from the income derived during that year of assessment by the parent company (being a parent company referred to in the said paragraph) of the subsidiary company an allowance equal to so much of any assessed loss which is in terms of section 20 available to be carried forward by the subsidiary company to the following year of assessment, as is attributable to any assessed loss (as determined under section 20) incurred by the subsidiary company in carrying on the aforesaid business:

Provided that the allowance granted under this subsection to the parent company in respect of any year of assessment shall be included in the income of that company for the following year of assessment.

[Sub-s. (1A) inserted by s. 17 (b) of Act 85 of 1974 and amended by s. 14 (b) of Act 21 of 1995.]

(1B) Where a subsidiary company referred to in paragraph (b) of the definition of 'South African ship' in subsection (2) has on or after 1 January 1974 purchased from its parent company (being a parent company referred to in the said paragraph), a ship (being a South African ship by virtue of the provisions of the said paragraph and not being a ship acquired to replace a ship) which is used by the subsidiary company for the purposes of its trade for prospecting for minerals (including natural oil) or for mining operations or as a foreign-going ship and in respect of which any allowance has in respect of any year of assessment been granted to the parent company under subsection (1) (a) or (b) or section 12C-

(a) any allowances in respect of such ship granted to the subsidiary company under the provisions of subsection (1) (a) or section 12C, as the case may be, shall be equal in amount to the allowances to which the parent company would have been entitled under those provisions if the parent company had continued to use the ship for the purposes of its trade;

(b) an allowance in respect of such ship shall not be granted to the subsidiary company under the provisions of subsection (1) (a) or section 12C in respect of the year of assessment during which the ship was purchased by the subsidiary company if any allowance in respect of the ship has been granted to the parent company under the provisions of subsection (1) (a) or (b) or section 12C in respect of the same year of assessment;

(c) the cost to the subsidiary company of such ship shall, for the purposes of this section, 8 (4), section 11 (o) and section 12C, be deemed to be the adjustable cost to the parent company of the ship;
(d) the allowances in respect of such ship granted to the parent company under subsection (1) (a) or (b) of this section or section 12C shall, for the purposes of this section, section 8 (4), section 11 (o) and section 12C, be deemed to be allowances granted to the subsidiary company in respect of such ship and the provisions of paragraph (iii) of the proviso to subsection (1) (b) of this section or the proviso to section 8 (4) (e), as the case may be, shall, as respects such ship apply to the subsidiary company as though it were the taxpayer referred to in those provisions;

(e) the parent company shall, for the purposes of section 8 (4), not be deemed to have recovered or recouped out of the purchase consideration payable by the subsidiary company any of the allowances granted in respect of such ship to the parent company under subsection (1) (a) or (b) of this section or section 12C and no allowance shall be made to the parent company under section 11 (o) in respect of such ship and, for the purposes of paragraph (iii) of the proviso to subsection (1) (b) of this section as applicable to the parent company, the parent company shall not by reason of the sale of the ship to the subsidiary company be deemed to have ceased to use the ship; and

(f) in the event of such ship ceasing to be a South African ship or to be used by the subsidiary company as aforesaid, the Commissioner may direct that any amount falling to be included in the income of the subsidiary company for any year of assessment under paragraph (iii) of the proviso to subsection (1) (b) or the proviso to section 8 (4) (e), as the case may be, be included in the income of the parent company for such year of assessment and not in the income of the subsidiary company.

[Sub-s. (1B) inserted by s. 17 (b) of Act 85 of 1974 and substituted by s. 14 (c) of Act 21 of 1995.]

(1C) Where on or after 1 January 1974 any South African company (being a person referred to in section 9 (1) (c) has concluded a contract for the acquisition by it of a ship and such company (hereinafter referred to as the taxpayer company) satisfies the Commissioner that-

(a) the ship will be sold by the taxpayer company to a subsidiary company of the taxpayer company for a consideration not exceeding the cost to the taxpayer company of such ship;

(b) the subsidiary company will qualify for an allowance in respect of the ship under the provisions of subsection (1) (b); and
(c) not less than forty per cent of the cost price or, if at the time the allowance under this subsection has to be made, the cost price has not yet been determined, of the estimated cost price which is payable by the taxpayer company in respect of its acquisition of the ship will be paid by the taxpayer company within a period of two years or, if the Commissioner agrees, three years after the end of the year of assessment during which the said contract was concluded,

there shall be deducted from the income of the taxpayer company for the said year of assessment an allowance equal to forty per cent of the said cost price or estimated cost price, as the case may be: Provided that the allowance granted to the taxpayer company under this subsection shall be included in the income of that company for the year of assessment during which the subsidiary company has qualified for an allowance in respect of the ship under the provisions of subsection (1) (b) or, if in respect of any earlier year of assessment the Commissioner is no longer satisfied as to any of the matters in respect of which he is required to be satisfied under this subsection, such earlier year of assessment.

[Sub-s. (1C) inserted by s. 17 (b) of Act 85 of 1974.]

(1D) (a) Where any subsidiary company (as contemplated in paragraph (b) of the definition of 'South African ship' in subsection (2) carries on business as the owner of any South African ship and does not carry on any other type of business, the parent company (as contemplated in the said paragraph) in relation to such subsidiary company may elect that such parent company and such subsidiary company shall for the purposes of this Act be deemed to be and to have been one and the same company.

(b) Any election made under paragraph (a) shall, unless the Commissioner otherwise directs, be binding upon the companies concerned in the year of assessment in respect of which it is made and in all subsequent years of assessment.

(c) The provisions of subsections (1A) and (1B) shall not apply in any year of assessment in which the provisions of this subsection are applicable.

[Sub-s. (1D) inserted by s. 10 of Act 65 of 1986.]

(2) For the purposes of this section-

'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;

‘foreign-going ship’ means-

(a) a ship plying between a port in one country and a port in another country; or

(b) a ship of not less than two hundred gross register tons plying between ports in the same country; or

(c) a ship of not less than two hundred gross register tons exclusively employed in sea fishing or seal catching; or

[Para. (c) substituted by s. 11 of Act 104 of 1979.]

(d) a whaling boat other than a shore-based whaling boat of less than two hundred gross register tons;

'South African ship' means-

(a) a ship which is owned by a person referred to in section 9 (1) (c), if such ship is a South African ship as defined in section 2 of the Merchant Shipping Act, 1951 (Act 57 of 1951); or

(b) if the Minister of Finance, having regard to the circumstances of the case, so directs, a ship which is owned by a company (in this section referred to as a subsidiary company) which is managed and controlled in the Republic if the sole beneficial shareholder in that company is a South African company (in this section referred to as a parent company) which is managed and controlled in the Republic.

[Sub-s. (2) substituted by s. 17 (c) of Act 85 of 1974.]

(3) Where any allowance under this section is determinable on a portion of the adjustable cost price paid in respect of any ship, such portion shall for the purposes of this section be deemed to be an amount which bears to the portion of the cost price paid the same ratio as the adjustable cost price bears to the full cost price, or, if at the time at which the allowance has to be made the cost price of the ship has not yet been determined, the estimated cost price payable in respect of such ship.
(4) Where any person is entitled to an allowance under this section in respect of any ship acquired by him on or after 21 June 1993 from a connected person, and a deduction under this section was previously granted to such connected person in respect of the ship concerned, whether in the current or any previous year of assessment, the deduction under this section shall be calculated on an amount not exceeding the lesser of the adjustable cost of the ship concerned to such connected person or the market value thereof as determined on the date upon which the ship was acquired by such person.

(5) The provisions of subsections (1) (a) and (b) and (1C) shall not apply to any ship acquired on or after 1 April 1995 unless such ship was acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement before that date.

(6) (a) The provisions of subsection (1A) shall only apply to any parent company as contemplated in that subsection in relation to any allowance arising from any assessed loss incurred by the subsidiary company as contemplated in that subsection in so far as such assessed loss arises from the business carried on by such subsidiary company as the owner of any ship acquired in terms of an agreement formally and finally signed by all parties to the agreement on or before 12 March 1997.

(b) Where a parent company as contemplated in subsection (1D) made an election as contemplated in that subsection, such parent company and a subsidiary company as contemplated in that subsection in relation to such parent company, shall, notwithstanding the provisions of that subsection, for the purposes of this Act only be deemed to be or to have been one and the same company in so far as it relates to any business carried on by such subsidiary company as the owner of any ship acquired in terms of an agreement formally and finally signed by all parties to the agreement on or before 12 March 1997.

14bis Deductions in respect of aircraft
There shall, subject to the provisions of subsection (2), be allowed to be deducted from the income of any person-

(a) in respect of any aircraft acquired by such person on or after the first day of April, 1965, and used by him for the purposes of his trade during the year of assessment, an allowance equal to twenty-five per cent of the adjustable cost to him of such aircraft: Provided that-

(i) where an allowance under paragraph (b) or (c) has been made to any person in respect of any aircraft, no allowance shall be made to such person under this paragraph in respect of that aircraft for the year of assessment in which the aircraft is for the first time used by him for the purposes of his trade;

[Sub-para. (i) amended by s. 15 (a) of Act 141 of 1992.]

(ii) the aggregate of all the allowances made to any person in respect of any aircraft under this paragraph and paragraph (b) or (c) shall not exceed the cost to such person of such aircraft or, if such aircraft was acquired by such person to replace an aircraft and the cost of the aircraft so acquired has in terms of paragraph (a) of subsection (2) been reduced by an amount which has not in terms of paragraph (i) of subsection (4) of section eight been included in the income of the taxpayer for the current or any previous year of assessment, the adjustable cost to such person of the aircraft so acquired;

[Sub-para. (ii) amended by s. 15 (a) of Act 141 of 1992.]

(b) if such person is a person referred to in paragraph (c) of subsection (1) of section nine and such person on or after the first day of April, 1965, concludes a contract for the acquisition by him of a new aircraft (whether built or still to be built), or of an aircraft which is not new and is proved to the satisfaction of the Secretary for Transport at all times since its construction to have been maintained in the highest class applicable to an aircraft of its type, and such person satisfies the Commissioner that the aircraft in question is or will be registered by him in the Republic and is or will be used by him in his business of transporting by air and for reward persons, livestock, goods or mail, an allowance in respect of the year of assessment during which such contract is concluded equal to forty per cent, of the adjustable cost to such person of that aircraft, or, if at the time at which the allowance under this paragraph has to be made, the cost price of the aircraft has not yet been determined, of the adjustable estimated cost price of that aircraft, provided the said
person satisfies the Commissioner that not less than forty per cent of the cost price or of the estimated cost price, as the case may be, of the aircraft will be paid by him within a period of two years, or, if the Commissioner agrees, three years after the end of that year of assessment or, if the said person does not satisfy the Commissioner, an allowance in respect of any year of assessment equal to forty per cent, of the portion, if any, of the adjustable cost price of the aircraft paid by him during that year of assessment:
Provided that-

(i) the provisions of this paragraph shall not apply in respect of any aircraft the registration of which in the Republic in the name of the taxpayer concerned does not or will not constitute its first registration in the Republic;

(ii) if any taxpayer to whom an allowance equal to forty per cent of the adjustable cost price or adjustable estimated cost price, as the case may be, of any aircraft has been made under this paragraph, fails to pay at least forty per cent of the cost price or estimated cost price, as the case may be, of such aircraft within the said period of two or (as the case may be) three years after the end of the year of assessment in respect of which the said allowance has been made, the said allowance shall be included in the income of the said taxpayer for the year of assessment ending on the same day as the said period, and there shall be deducted from the income of the said taxpayer for that year of assessment an allowance equal to forty per cent of the portion, if any, of the adjustable cost price of such aircraft paid by him during the said period, and from the income of the said taxpayer for any year of assessment thereafter an allowance equal to forty per cent of the portion, if any, of the adjustable cost price of such aircraft paid by him during that year of assessment;

(iii) if in respect of any year of assessment the Commissioner is no longer satisfied that an aircraft in respect of which an allowance has been made under the preceding provisions of this paragraph (whether in the current or any previous year of assessment) will be registered in the Republic or will be used by the taxpayer as aforesaid, or if in any year of assessment any such aircraft which has been registered in the Republic or has been used by the taxpayer as aforesaid, ceases to be so registered or used, or if in any year of assessment the taxpayer ceases to be a person referred to in paragraph (c) of subsection (1) of section nine, so much of the amount of the said allowance as is not in terms of subsection (4) of section
eight required to be included in the taxpayer's income for the current or any other year of assessment and is not in terms of paragraph (a) of subsection (2) of this section required to be deducted from the cost or estimated cost price of a further aircraft acquired to replace such aircraft, less such amount as would, if this paragraph had not been enacted, have been allowed to the taxpayer by way of deductions (in addition to those actually allowed) under paragraph (a) of this section or paragraph (o) of section eleven, either in the current or any previous year of assessment, shall in terms of this proviso be included in the income of the taxpayer for the current year of assessment;

(iv) the provisions of this paragraph shall not apply in any case where such contract for the acquisition of an aircraft is concluded by the taxpayer on or after 1 August 1992;

[Para. (iv) added by s. 15 (b) of Act 141 of 1992.]

(c) if-

(i) the person is a person mentioned in section 9 (1) (c) who has acquired a new or used aircraft under a contract concluded by him on or after 1 August 1992;

(ii) such aircraft was registered by him in the Republic and such registration constituted the first registration of the aircraft in the Republic; and

(iii) such aircraft was for the first time brought into use by him in his business of transporting by air and for reward persons, livestock, goods or mail,

an allowance, in respect of the year of assessment during which such aircraft was so brought into use by him, equal to 40 per cent of the adjustable cost to him of such aircraft.

[Para. (c) added by s. 15 (c) of Act 141 of 1992.]

(2) For the purposes of this section-

(a) 'adjustable cost' or 'adjustable cost price', in relation to any aircraft, means the cost to the taxpayer of such aircraft or, if such aircraft was acquired by the taxpayer to replace an aircraft and the aircraft so acquired is an aircraft 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 paragraph (g) of subsection (4) of section eight, the cost to the taxpayer of the aircraft so acquired, less so much of any amount referred to in paragraph (a) of that subsection which has been recovered or recouped in respect of the aircraft so replaced as does not exceed such cost, and 'adjustable estimated cost price' shall be construed accordingly;

(b) where any allowance under this section is determinable on a portion of the adjustable cost price paid in respect of any aircraft, such portion shall be deemed to be an amount which bears to the portion of the cost price paid the same ratio as the adjustable cost price bears to the full cost price or, if at the time at which the allowance has to be made the cost price of the aircraft has not yet been determined, the estimated cost price payable in respect of such aircraft.

(3) If during any year of assessment any aircraft in respect of which an allowance has been granted to the taxpayer under subsection (1) (c) (whether in the current or any previous year of assessment) ceases to be registered by him in the Republic or ceases to be used by him in his business of transporting by air and for reward persons, livestock, goods or mail, or if the taxpayer to whom such allowance was granted ceases to be a person mentioned in section 9 (1) (c), there shall be included in the taxpayer's income in such first-mentioned year of assessment the amount (if any) by which the said allowance exceeds the sum of-

(a) so much of such allowance as is required to be included in the taxpayer's income under section 8 (4) (a); and

(b) such amount as would, had subsection (1) (c) not been enacted, have been allowed to the taxpayer as deductions (in addition to the deductions actually allowed) under subsection (1) (a) or section 11 (o), either in the current or any previous year of assessment.

[Sub-s. (3) added by s. 15 (d) of Act 141 of 1992.]

(4) For the purposes of this section the cost to a person of any aircraft shall be deemed to be the lesser of the actual cost to such person or the cost which a person would have incurred in respect of the direct cost of acquisition of the aircraft if he had acquired the aircraft under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition of the aircraft concerned was in fact concluded.

[Sub-s. (4) added by s. 15 (d) of Act 141 of 1992.]

(5) Where any person is entitled to an allowance under this section in respect of any aircraft acquired by him from a connected person, and a deduction
under this section was previously granted to such connected person in respect of such aircraft, whether in the current or any previous year of assessment, the deduction under this section shall be calculated on an amount not exceeding the lesser of the cost of the aircraft concerned to such connected person or the market value thereof as determined on the date upon which the aircraft was brought into use by such person.

[Sub-s. (5) added by s. 15 (d) of Act 141 of 1992 and substituted by s. 15 (1) of Act 113 of 1993 and by s. 9 (1) of Act 140 of 1993.]

(6) The provisions of this section shall not apply to any aircraft acquired on or after 1 April 1995 unless such aircraft was acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement before that date.

[Sub-s. (6) added by s. 15 of Act 21 of 1995.]

[S. 14bis inserted by s. 16 (1) of Act 88 of 1965.]

15 Deductions from income derived from mining operations

There shall be allowed to be deducted from the income derived by the taxpayer from mining operations-

(a) an amount to be ascertained under the provisions of section 36, in lieu of the allowances in section 11 (e), (f), (gA) and (o);

[Para. (a) substituted by s. 20 of Act 55 of 1966 and by s. 18 of Act 129 of 1991.]

(b) any expenditure incurred by the taxpayer during the year of assessment on prospecting operations (including surveys, boreholes, trenches, pits and other exploratory work preliminary to the establishment of a mine) in respect of any area within the Republic together with any other expenditure which is incidental to such operations: Provided that-

(i) except in the case of any person who derives income from mining for diamonds in the Republic, the Commissioner may determine that any expenditure referred to in this paragraph shall be deducted in a series of annual instalments, so that only a portion of such expenditure is deducted in the year of assessment in which it is incurred, and the residue in such subsequent years of assessment and in such proportions as the Commissioner may determine, until the expenditure is extinguished;
(ii) in the case of any company which derives income from different classes of mining operations, the deduction under this paragraph shall be made from the income derived from such class or classes of mining operations and in such proportions as the Commissioner may determine;

(iii) any expenditure which has been allowed to be deducted from the income of any person in terms of this paragraph shall not be included in such person's capital expenditure as defined in subsection (11) of section thirty-six.

[Para. (b) amended by s. 16 of Act 141 of 1992.]

15A ......

[S. 15A inserted by s. 15 (1) of Act 69 of 1975, amended by s. 11 of Act 104 of 1980 and repealed by s. 15 of Act 101 of 1990.]

16 ......

[S. 16 substituted by s. 16 (1) of Act 89 of 1969, amended by s. 15 of Act 94 of 1983 and repealed by s. 13 of Act 21 of 1994.]

16A ......

[S. 16A inserted by s. 10 of Act 70 of 1989, amended by s. 10 of Act 37 of 1996 and repealed by s. 32 (1) of Act 30 of 1998.]

17 Deduction of expenses incurred in appointing agents outside the Republic

(1) There shall be allowed to be deducted from the income of any taxpayer who in the course of any trade (other than mining or farming) carried on by him in the Republic manufactures goods or who is authorized by any other person to sell or to obtain orders for the purchase of any goods so manufactured by such other person, any expenditure actually incurred by him during the year of assessment in connection with the appointment of any agent outside the Republic for the sale of such goods to persons outside the Republic or for the obtaining from such persons of orders for the purchase of such goods.

(2) There shall be allowed to be deducted from the income of any taxpayer derived in the course of any trade carried on by him in the Republic which is defined or recognized under section 11 bis (4B) as an export service industry, any expenditure actually incurred by him during the year of assessment in connection with the appointment of any agent in an export country (as defined in section
11bis (1)) for the obtaining from persons in such country or in any other export country of orders for the supply of services or goods supplied in the course of such trade.

[S. 17 substituted by s. 14 of Act 90 of 1962 and by s. 14 (1) of Act 113 of 1977.]

17A Expenditure incurred by a lessor of land let for farming purposes, in respect of soil erosion works

(1) Subject to the provisions of subsection (2), there shall be allowed to be deducted from the income derived by any taxpayer from letting any land on which bona fide pastoral, agricultural or other farming operations were carried on during the year of assessment, the expenditure incurred by him during such year in respect of the construction of soil erosion works, provided a certificate by the Executive Officer designated under section 4 of the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983), or his assignee is produced to the effect that such works have been approved under the provisions of the said Act.

(Sub-s. (1) amended by s. 13 of Act 103 of 1976 and substituted by s. 17 of Act 141 of 1992.]

(2) Where expenditure incurred by the taxpayer during any year of assessment and ranking for deduction from income under subsection (1) exceeds the taxable income (as calculated before allowing any deduction under that subsection) derived by the taxpayer from letting land on which bona fide pastoral, agricultural or other farming operations were carried on during such year, the amount allowed to be deducted under subsection (1) in respect of the said year shall be limited to an amount equal to such taxable income (calculated as aforesaid), and the excess shall be carried forward and be deemed for the purposes of this section to be expenditure incurred by the taxpayer during the next succeeding year of assessment in respect of the construction of soil erosion works.

[S. 17A inserted by s. 11 of Act 76 of 1968.]

18 Deduction in respect of medical and dental expenses

(1) Notwithstanding the provisions of section 23, there shall be allowed to be deducted from the income of any taxpayer who is a natural person an allowance in respect of-

(a) any contributions made by him during the year of assessment to any medical scheme registered under the provisions of the Medical Schemes Act, 1967 (Act 72 of 1967); and

(b) any amounts (other than amounts recoverable by the taxpayer or
his 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 orthoptist for professional services rendered or medicines supplied to; or

[Sub-para. (i) substituted by s. 15 (a) of Act 96 of 1981 and by s. 19 (a) of Act 129 of 1991.]

(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; or

(iii) pharmacist for medicines supplied on the prescription of any person mentioned in subparagraph (i) for,

[Sub-para. (iii) substituted by s. 19 (b) of Act 129 of 1991.]

the taxpayer or his spouse or his children or stepchildren; and

[Para. (b) amended by s. 19 (a) and (b) of Act 129 of 1991 and by s. 16 (a) of Act 21 of 1995.]

(c) any amounts (other than amounts recoverable by the taxpayer or his spouse) which were paid by the taxpayer during the year of assessment in respect of expenditure incurred outside the Republic on services rendered or medicines supplied to the taxpayer or his spouse or his children or stepchildren 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

[Para. (c) inserted by s. 15 (b) of Act 96 of 1981 and substituted by s. 19 (c) of Act 129 of 1991 and by s. 16 (b) of Act 21 of 1995.]

(d) any expenditure (other than expenditure recoverable by the taxpayer or his spouse) necessarily incurred and paid by the taxpayer in consequence of any physical disability suffered by the taxpayer, his spouse or child or stepchild:

[Para. (d) inserted by s. 14 (b) of Act 90 of 1988 and substituted by s. 19 (c) of Act 129 of 1991 and by s. 16 (b) of Act 21 of 1995.]
Provided that any amount paid by the estate of a deceased taxpayer which would, if it had been paid by the taxpayer, have been taken into account for a deduction under this section, shall for the purposes of this section be deemed to have been paid by the taxpayer on the day before his death.

[Sub-s. (1) amended by s. 14 (c) of Act 90 of 1988, by s. 11 of Act 70 of 1989, by s. 16 (a) of Act 101 of 1990 and by s. 19 (d) of Act 129 of 1991.]

(2) The allowance under subsection (1) shall be-

(a) where the taxpayer is entitled to a rebate under section 6 (2) (b), the sum of the amounts referred to in that subsection; or

(b) where the taxpayer or his spouse, child or stepchild referred to in subsection (1) (d) is a handicapped person and the taxpayer is not entitled to a rebate under section 6 (2) (b), so much of the sum of the amounts referred to in subsection (1) as exceeds R500; or

(c) in any other case, so much of the sum of such amounts as exceeds the greater of R1 000 or 5 per cent of the taxpayer's taxable income as determined before granting an allowance under this section;

[Sub-s. (2) amended by s. 15 of Act 121 of 1984, by s. 11 of Act 96 of 1985, by s. 14 of Act 90 of 1988, by s. 16 of Act 101 of 1990, by s. 18 (a) of Act 141 of 1992 and by s. 16 (c) of Act 21 of 1995.]

(3) For the purposes of this section 'handicapped person' means-

(a) a blind person as contemplated in the Blind Persons Act, 1968 (Act 26 of 1968);

(b) a deaf person, being a person whose hearing is impaired to such an extent that he cannot use it as a primary means of communication;

(c) a person who as a result of a permanent disability requires a wheelchair, calliper or crutch to assist him to move from one place to another;

(d) a person who requires an artificial limb; or

(e) a person who suffers from a mental illness as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973).

[Para. (e) added by s. 16 (f) of Act 21 of 1995.]
(4) For the purposes of this section the expression 'child or stepchild' means the taxpayer's child or stepchild who was alive during any portion of the year of assessment, and who on the last day of the year of assessment-

(a) was unmarried and was not or would not, had he lived, have been-

(i) over the age of 18 years;

(ii) over the age of 21 years and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year; or

(iii) over the age of 26 years and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year and was a full-time student at an educational institution of a public character; or

(b) in the case of any other child or stepchild, was incapacitated by physical or mental infirmity from maintaining himself and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of the year of assessment:

Provided that any child or stepchild of the taxpayer who has become liable for the payment of normal tax in respect of any year of assessment solely by reason of the provisions of section 5 (1A) shall be deemed for the purposes of this section not to have become liable for the payment of normal tax in respect of such year.

[Sub-s. (4) added by s. 16 (g) of Act 21 of 1995.]

[S. 18 substituted by s. 15 of Act 95 of 1967, by s. 12 of Act 76 of 1968, by s. 17 (1) of Act 89 of 1969 and by s. 14 (1) of Act 52 of 1970, repealed by s. 15 of Act 88 of 1971 and inserted by s. 12 of Act 104 of 1980.]

18A Deduction of donations to universities, colleges and certain educational funds

(1) For the purposes of this section-

'college' means-

(a) a technikon established or deemed to have been established or
declared to be such under the Technikons Act, 1993 (Act 125 of 1993), or any other Act of Parliament; or

[Para. (a) substituted by s. 11 (1) (a) of Act 36 of 1996.]

(b) any other educational institution established by or under any other law of the Republic, if the Commissioner, in consultation with the officer in the public service of the Republic, upon or to whom powers, duties or functions are or may be conferred, imposed or assigned in terms of the law in question, is satisfied that such institution is in all material respects similar to any technikon referred to in paragraph (a);

[Para. (b) substituted by s. 11 (1) (a) of Act 36 of 1996.]

'donation' does not include any voluntary contribution made in respect of school fees;

[Definition of 'donation' inserted by s. 16 (1) (a) of Act 94 of 1983.]

'educational fund' means-

(a) the National Study Loan and Bursary Fund established by section 2 of the National Study Loans and Bursaries Act, 1964 (Act 89 of 1964); or

(b) any special fund established in the Republic for the sole purpose of receiving donations to be used exclusively for educational or training purposes in the Republic, if such fund is administered and controlled by-

(i) any education authority which provides secondary education beyond the sixth standard in any school; or

[Sub-para. (i) substituted by s. 16 (1) (c) of Act 94 of 1983.]

(ii) the principal, a committee or governing body of any school which provides secondary school education beyond the sixth standard; or

[Sub-para. (ii) substituted by s. 16 (1) (c) of Act 94 of 1983.]

(iii) the principal or governing body of any teachers' training institution; or

(iv) the principal or governing body of any permanent institution
approved by the Minister of Finance which has been formed-

(aa) for the promotion of adult education, vocational training
or technical education; or

[Item (aa) substituted by s. 20 (a) of Act 129 of 1991.]

(bb) to promote the education and training of religious or
social workers; or

(cc) for the education or training of physically or mentally
handicapped persons,

or the benefit of the pupils, students or trainees of the school
or institution in question; or

[Sub-para. (iv) amended by s. 16 (1) (d) of Act 94 of 1983.]

[Para. (b) amended by s. 14 (1) (a) of Act 91 of 1982 and by s. 16 (1) (b) of Act
94 of 1983.]

(c) any special fund established in the Republic for the sole purpose of
receiving donations to be used exclusively-

(i) for educational or training purposes for the benefit of the
pupils, students or trainees of any school or institution referred
to in paragraph (b) which is situated in the Republic, where
such fund is administered and controlled by the trustee of any
educational trust approved by the Minister of Finance which
has been created under a written deed of trust with the object
of serving such purposes;

[Sub-para. (i) substituted by s. 14 (1) (b) of Act 91 of 1982, by s. 16 (1) (f) of Act
94 of 1983 and by s. 11 (1) (b) of Act 36 of 1996.]

(ii) for the benefit of any university or college for purposes other
than the defraying of students' fees or the granting of any
bursary to any person nominated by a donor to such fund; or

[Sub-para. (ii) substituted by s. 14 (1) (b) of Act 91 of 1982.]

(iii) for the benefit of any educational institution situated outside
the Republic for purposes other than the defraying of students'
fees or the granting of any bursary to any person nominated
by a donor to such fund, if-
(aa) the Minister of Finance is satisfied that such institution provides educational facilities similar to those provided by a university or college; and

(bb) the said Minister, having regard to the nature and objects of such institution and the persons benefiting from the educational facilities provided by such institution, has approved such institution for the purposes of this section,

[Sub-para. (iii) amended by s. 14 (1) (c) of Act 91 of 1982.]

but excluding any such fund established and controlled by any educational institution the profits of which accrue in whole or in part for the benefit of or are distributable to any proprietor, partner or shareholder of such institution;

[Para. (c) amended by s. 16 (1) (e) of Act 94 of 1983.]

(d) any trust fund established in the Republic for the sole purpose of receiving donations from companies to be used exclusively for educational or training purposes in respect of primary and secondary education in the Republic if-

(i) the Minister of Finance has approved such trust fund; and

(ii) the sum of the donations in respect of which prospective donors have irrevocably committed themselves to donate to such trust fund, is at the time of the approval of such trust fund not less than R1 000 000;

[Para. (d) added by s. 20 (b) of Act 129 of 1991 and amended by s. 11 (1) (c) of Act 36 of 1996.]

'educational or training purposes', in relation to any fund referred to in paragraph (b), (c) or (d) of the definition of 'educational fund' in this subsection, means-

(a) the defrayal of any expenditure directly incurred in the provision of educational or training facilities (including expenditure on board and lodging facilities but excluding any expenditure in respect of tuition or boarding fees for, or the granting of any bursary to, any person nominated by a donor to such fund); or

(b) the investment of any amount received by such fund in the form of cash donations, if such amount is not immediately required to be
used for the defrayal of any expenditure as contemplated in paragraph (a) of this definition but is, together with any income derived from such investment, so used from time to time; or

(c) the application of any property received by such fund by way of any donation in kind in order to provide any educational or training facility or, where such donated property has been realized, the disposal of the proceeds from such realization as contemplated in paragraph (a) or (b);

[Definition of 'educational or training purposes' inserted by s. 16 (1) (g) of Act 94 of 1983 and amended by s. 20 (c) of Act 129 of 1991.]

'specified educational project' ......

[Definition of 'specified educational project' deleted by s. 14 (1) (d) of Act 91 of 1982.]

'taxable income', in relation to any taxpayer, means the taxpayer's taxable income as calculated before allowing any deductions under this section and, in the case of any company carrying on mining operations, before allowing any deduction under section 15 (a) and before allowing any set-off of any part of the balance of assessed loss under section 20 (1) (a) which arose from any deduction made under the said section 15 (a);

[Definition of 'taxable income' substituted by s. 20 (d) of Act 129 of 1991.]


[Definition of 'university' substituted by s. 11 (1) (d) of Act 36 of 1996.]

(2) Notwithstanding anything to the contrary in this Act, there shall be allowed to be deducted from the taxable income of the taxpayer so much of the sum of any bona fide donations made by the taxpayer during the year of assessment-

(a) to any university or college for purposes other than the defrayal of students' fees for, or the granting of any bursary to, any person nominated by a donor to such fund; and

[Para. (a) substituted by s. 16 (1) (h) of Act 94 of 1983.]

(b) to any educational fund;
(c) ......

[Para. (c) inserted by s. 16 (1) (c) of Act 121 of 1984 and deleted by s. 11 (1) (g) of Act 36 of 1996.]

as does not exceed-

(aa) in the case of a person other than a company, R500 or 2 per cent of his taxable income (as calculated before allowing any deduction under this section and section 18), whichever is the greater; or

[Para. (aa) substituted by s. 15 of Act 90 of 1988 and by s. 17 of Act 101 of 1990.]

(bb) in the case of a company, five per cent of its taxable income as calculated before allowing any deduction under this section.

[Sub-s. (2) substituted by s. 14 (1) (e) of Act 91 of 1982.]

(3) Any claim for a deduction in respect of any donation under subsection (2) shall not be allowed unless supported by a receipt issued by the university, college or person in control of the educational fund concerned, on which the following details are given, namely-

(a) the date of the receipt of the donation;

(b) the name of the university, college or educational fund which received the donation, together with an address to which enquiries may be directed in connection therewith;

[Para. (b) substituted by s. 16 (1) (e) of Act 121 of 1984 and by s. 11 (1) (i) of Act 36 of 1996.]

(c) the name and address of the donor;

(d) the amount of the donation or the nature of the donation (if not made in cash);

[Para. (d) substituted by s. 16 (1) (i) of Act 94 of 1983.]

(e) a certification to the effect that the receipt is issued for the purposes of section 18A of the Income Tax Act, 1962, and that the donation has been or will be used exclusively for the purposes of the university, college or educational fund concerned.

[Para. (e) substituted by s. 16 (1) (f) of Act 121 of 1984 and by s. 11 (1) (j) of Act]
36 of 1996.]

[Sub-s. (3) amended by s. 16 (1) (d) of Act 121 of 1984 and by s. 11 (1) (h) of Act 36 of 1996.]

(4) If any deduction is claimed by any taxpayer under the provisions of subsection (2) in respect of any donation of property in kind, the amount of such deduction shall be deemed to be an amount equal to-

(a) where such property constitutes trading stock of the taxpayer (including any livestock or produce in respect of which the provisions of paragraph 11 of the First Schedule are applicable), the amount which has been taken into account for the purposes of section 22 (8) or, in the case of such livestock or produce, the said paragraph 11, in relation to the donation of such property; or

(b) where such property (other than trading stock) constitutes an asset used by the taxpayer for the purposes of his trade, the cost to the taxpayer of such property less any allowance (other than any investment allowance) allowed to be deducted from the income of the taxpayer under the provisions of this Act in respect of that asset; or

(c) where such property does not constitute trading stock of the taxpayer or an asset used by him for the purposes of his trade, the cost to the taxpayer of such asset, less, in the case of a movable asset which has deteriorated in condition by reason of use or other causes, a depreciation allowance calculated in the manner contemplated in section 8 (5) (bB) (i); or

(d) where such property is purchased, manufactured, erected, assembled, installed or constructed by or on behalf of the taxpayer in order to form the subject of the said donation, the cost to the taxpayer of such property.

[Sub-s. (4) substituted by s. 16 (1) (j) of Act 94 of 1983.]

(5) Any books of account, records or other documents relating to any fund referred to in subsection (6) shall-

(a) where kept in book form, be retained and carefully preserved by any person in control of such fund for a period of five years from the date of the last entry in any book; or

(b) where not kept in book form, be retained and carefully preserved by any person in control of such fund for a period of five years after
completion of the transactions, acts or operations to which they relate.

(6) In the application of the provisions of this section in so far as they relate to any fund referred to in paragraph (b), (c) or (d) of the definition of 'educational fund' in subsection (1), the Commissioner may by notice in writing require any person whom the Commissioner may deem able to furnish information in regard to such fund-

(a) to answer any questions relating to such fund; or

(b) to make available for inspection by the Commissioner or any person appointed by him, any book of account, records or other documents relating to such fund; or

(c) to attend at the time and place appointed by the Commissioner for the purposes of producing for examination by the Commissioner or any person appointed by him, any books of account, records or other documents relating to such fund.

[Para. (c) substituted by s. 14 (1) (g) of Act 91 of 1982.]

[Sub-s. (6) amended by s. 14 (1) (f) of Act 91 of 1982 and by s. 20 (e) of Act 129 of 1991.]

(7) If after acting as contemplated in subsection (6), the Commissioner has reasonable grounds for believing that the administrator of any fund referred to in that subsection has in any way failed to carry out the objects for which the fund was established or has expended moneys belonging to the fund for purposes not covered by such objects, the Commissioner may by notice in writing addressed to that administrator direct that donations to such fund shall not qualify for deduction under the provisions of subsection (2) in respect of any year of assessment specified in such notice, and any claim by any taxpayer for such deduction shall accordingly be disallowed.

[S. 18A inserted by s. 15 of Act 52 of 1970, amended by s. 16 (1) of Act 88 of 1971, by s. 13 of Act 90 of 1972, by s. 14 of Act 65 of 1973, by s. 16 of Act 69 of 1975 and by s. 13 (1) of Act 104 of 1980 and substituted by s. 16 (1) of Act 96 of 1981.]

18B ......

[S. 18B inserted by s. 11 (1) of Act 65 of 1986, amended by s. 19 of Act 141 of 1992 and repealed by s. 14 of Act 21 of 1994.]

19 Deductions and set-off from income derived from dividends
(1) The provisions of section 11 (a), (b), (i) and (j) and section 20 shall, subject to the provisions of subsection (2) of this section, *mutatis mutandis* apply in relation to any income derived by any person in the form of dividends.

[Sub-s. (1) substituted by s. 17 (1) (a) of Act 88 of 1971 and by s. 17 (a) of Act 96 of 1981.]

(1A) There shall for the purposes of determining the taxable income of any taxpayer who is a natural person be allowed as a deduction from his income in the form of dividends referred to in subsection (5A) an amount of R2 000 less the sum of the amounts which are in terms of section 10 (1) (i) (xv) and (xvi) exempt from tax in his hands in respect of the year of assessment under charge:

Provided that the amount so allowed as a deduction shall not exceed the amount by which the income in the form of the said dividends derived by such person during the year of assessment under charge and in respect of which a deduction is allowable under subsection (3) of this section, exceeds the amount allowed as a deduction from such income under section 11 (a), (b), (i) and (j) as applied by subsection (1) of this section.

[Sub-s. (1A) inserted by s. 15 (1) (a) of Act 91 of 1982, substituted by s. 12 (1) (a) of Act 96 of 1985 and amended by s. 13 of Act 85 of 1987 and by s. 18 (1) (a) of Act 101 of 1990.]

(2) In respect of expenditure and losses not of a capital nature incurred by any person in the production of his income from dividends, the amounts to be deducted under section 11 (a), (b), (i) and (j), as applied by subsection (1) of this section, and the amount to be deducted under subsection (1A) of this section, shall in total be an amount which bears to the sum of the expenditure, losses and amount which but for this subsection would have been allowed to be deducted under the said provisions the same ratio as the amount of such dividends as calculated after allowing the deduction under subsection (3) of this section, bears to the amount of such dividends as calculated before allowing such deduction.

[Sub-s. (2) amended by s. 17 (b) of Act 96 of 1981 and substituted by s. 15 (1) (b) of Act 91 of 1982 and by s. 17 of Act 121 of 1984.]

(3) In respect of income in the form of dividends (other than any dividends referred to in section 11 (s)) derived by any person, there shall be allowed as a deduction in the determination of the taxable income of-

(a) any person other than a company, an amount representing a percentage of such dividends calculated in accordance with the following scale:
Where, but for the provisions of this subsection, subsection (2) and section 20 of the taxable income of the taxpayer for the year of assessment in question-

<table>
<thead>
<tr>
<th>Percentage of aforesaid dividends to be deducted</th>
</tr>
</thead>
<tbody>
<tr>
<td>would not exceed R2,600</td>
</tr>
<tr>
<td>would exceed R2,600 but not R2,800</td>
</tr>
<tr>
<td>&quot; &quot; R2,800 &quot; &quot; R3,000</td>
</tr>
<tr>
<td>&quot; &quot; R3,000 &quot; &quot; R3,200</td>
</tr>
<tr>
<td>&quot; &quot; R3,200 &quot; &quot; R3,400</td>
</tr>
<tr>
<td>&quot; &quot; R3,400 &quot; &quot; R3,600</td>
</tr>
<tr>
<td>&quot; &quot; R3,600 &quot; &quot; R3,800</td>
</tr>
<tr>
<td>&quot; &quot; R3,800 &quot; &quot; R4,000</td>
</tr>
<tr>
<td>&quot; &quot; R4,000 &quot; &quot; R4,200</td>
</tr>
<tr>
<td>&quot; &quot; R4,200 &quot; &quot; R4,400</td>
</tr>
<tr>
<td>&quot; &quot; R4,400 &quot; &quot; R4,600</td>
</tr>
<tr>
<td>&quot; &quot; R4,600 ..............</td>
</tr>
</tbody>
</table>

(b) any company which during any portion of the year of assessment was a close corporation, an amount equal to one-third of such dividends:

[Para. (b) substituted by s. 12 (1) (b) of Act 96 of 1985.]

Provided that no deduction shall be allowed in the case of-

(aa) such income received by or accrued to any person in respect of investment made on or after 1 March 1990 in a paid-up fixed period share in a mutual building society or a deposit in a building society which, in the opinion of the Registrar of Building Societies, having regard to the terms and conditions on which such deposit is accepted, is equivalent to a paid-up fixed period share in a mutual building society;

(bb) income received by or accrued to any person on or after 1 March 1995 on any investment referred to in subsection (5A), whenever made; and

(cc) income received by or accrued to any person in respect of any investment referred to in section 10 (4).

[Sub-s. (3) amended by s. 15 of Act 90 of 1962 and by s. 6 of Act 6 of 1963, substituted by s. 17 of Act 88 of 1965, amended by s. 18 of Act 85 of 1974 and by s. 17 (c) of Act 96 of 1981, substituted by s. 17 of Act 121 of 1984 and amended by s. 18 (1) (b) of Act 101 of 1990 and by s. 21 (a) of Act 129 of 1991.]

(4) The deduction in terms of subsection (3) in respect of income in the form of dividends received by or accrued to any person on any investment as referred to in subsection (5A), shall be limited in respect of the year of assessment ending on-
(a) 28 February 1991, to 80 per cent;

(b) 29 February 1992, to 60 per cent;

(c) 28 February 1993, to 40 per cent;

(d) 28 February 1994, to 20 per cent; or

(e) 28 February 1995 and any subsequent year of assessment, to nil per cent,

of such deduction: Provided that-

(i) where any portion of such income received by or accrued to any person during any such year of assessment is calculated in respect of a period falling in the immediately preceding year of assessment, the exemption to be granted in respect of such portion shall be determined under this subsection as if such portion had been received by or accrued to that person during such preceding year of assessment;

(ii) the provisions of this subsection shall not apply in respect of any such income received by or accrued to any person in respect of any investment made before 1 March 1990 in a paid-up fixed period share in a mutual building society or a deposit in a building society which, in the opinion of the Registrar of Building Societies, having regard to the terms and conditions subject to which such deposit is accepted, is equivalent to a paid-up fixed period share in a mutual building society.

[Para. (ii) substituted by s. 21 (b) of Act 129 of 1991.]

[Sub-s. (4) added by s. 17 (1) (b) of Act 88 of 1971, substituted by s. 14 (1) (a) of Act 90 of 1972, deleted by s. 17 (1) (a) of Act 94 of 1983 and inserted by s. 18 (1) (c) of Act 101 of 1990.]

(5) ......

[Sub-s. (5) added by s. 17 (1) (b) of Act 88 of 1971 and deleted by s. 17 (1) (a) of Act 94 of 1983.]

(5A) Subject to the provisions of subsection (6), income received by or accrued to any person other than a company by way of-

(a) a dividend (including any bonus or distribution of profits) on shares in any mutual building society; and
(b) interest on any deposit made in a building society which in the opinion of the Registrar of Building Societies having regard to the terms and conditions subject to which such deposit is accepted, is equivalent to a share in a mutual building society, shall, notwithstanding the definition of 'dividend' in section 1, be deemed for the purposes of this section to be income derived by such person in the form of dividends: Provided that the provisions of this subsection shall not apply in respect of any such dividend or interest which is calculated at a rate exceeding the rate approved by the Minister of Finance from time to time in respect of dividends on shares of the relevant class or interest on deposits of the relevant class.

[Sub-s. (5A) inserted by s. 14 (1) (b) of Act 90 of 1972, substituted by s. 14 of Act 104 of 1980 and by s. 15 (1) (c) of Act 91 of 1982, amended by s. 17 (1) (b) of Act 94 of 1983 and substituted by s. 4 (1) of Act 108 of 1986.]

(5B) So much of any dividend received by or accrued to any shareholder in relation to a unit portfolio referred to in paragraph (e) of the definition of 'company' in section 1 as has been distributed out of-

(a) interest derived by such unit portfolio and which is exempt from tax in the hands of such unit portfolio under the provisions of section 10 (1) (iA); or

(b) any dividend derived by such unit portfolio which is a dividend referred to in section 11 (s), shall for the purposes of this section, be deemed to be income derived by such shareholder otherwise than in the form of dividends.

[Sub-s. (5B) inserted by s. 14 (1) (c) of Act 90 of 1972 and substituted by s. 33 of Act 30 of 1998.]

(6) Income received by or accrued to any person in the form of an annuity shall, notwithstanding the fact that such income may also be in the form of dividends or be income of the nature described in subsection (5A), be deemed for the purposes of this section to be income derived otherwise than in the form of dividends.

[Sub-s. (6) added by s. 17 (1) (c) of Act 88 of 1971 and substituted by s. 14 (1) (d) of Act 90 of 1972.]

20 Set-off of assessed losses
(1) For the purpose of determining the taxable income derived by any person from carrying on any trade within the Republic, there shall be set off against the income so derived by such person-

(a) any balance of assessed loss incurred by the taxpayer in any previous year which has been carried forward from the preceding year of assessment: Provided that-

(i) no person whose estate has been voluntarily or compulsorily sequestrated shall be entitled to carry forward any assessed loss incurred prior to the date of sequestration, unless the order of sequestration has been set aside, in which case the amount to be so carried forward shall be reduced by an amount which was allowed to be set off against the income of the insolvent estate of such person from the carrying on of any trade in the Republic;

[Sub-para. (i) substituted by s. 15 of Act 28 of 1997.]

(ii) the balance of assessed loss shall be reduced by the amount or value of any benefit received by or accruing to a person resulting from a concession granted by or a compromise made with his creditors whereby his liabilities to them have been reduced or extinguished, provided such liabilities arose in the ordinary course of trade;

(iii) ......

[Para. (iii) added by s. 19 (a) of Act 101 of 1990 and deleted by s. 17 of Act 21 of 1995.]

(b) any assessed loss incurred by the taxpayer during the same year of assessment in carrying on in the Republic any other trade either alone or in partnership with others, otherwise than as a member of a company the capital whereof is divided into shares.

(1)bis ......

[Sub-s. (1)bis inserted by s. 13 of Act 90 of 1964 and deleted by s. 18 of Act 88 of 1965.]

(2) For the purposes of this section 'assessed loss' means any amount by which the deductions admissible under sections 11 to 19, inclusive, exceeded the income in respect of which they are so admissible, or, if the context so requires, means an assessed loss as determined under the provisions of section 30.
(2A) In the case of any taxpayer other than a company-

(a) the provisions of subsections (1) and (2) shall *mutatis mutandis* apply for the purpose of determining the taxable income derived by such taxpayer otherwise than from carrying on any trade, the reference in subsection (1) to 'taxable income derived by any person from carrying on any trade in the Republic' and the reference in that subsection to 'the income so derived' being respectively construed as including a reference to taxable income derived by the taxpayer otherwise than from carrying on any trade and a reference to income so derived; and

(b) the said taxpayer shall, subject to the provisos to subsection (1), not be prevented from carrying forward a balance of assessed loss merely by reason of the fact that he has not derived any income during any year of assessment.

(3) ......

(4) ......

(5) ......

20A ......

21 Deduction of alimony, allowance or maintenance

The taxpayer shall have his taxable income reduced by so much of any amount payable by him to or on behalf of his spouse or former spouse under any order of divorce or judicial separation granted in consequence of proceedings instituted not later than the twenty-first day of March, 1962, or under any written agreement of separation entered into not later than that date, by way of alimony or allowance or maintenance of his spouse or former spouse and any children, as the Commissioner is satisfied has been or will in respect of the year or period of assessment in question be paid out of the taxable income of the taxpayer: Provided that for the purposes of this section any order of divorce or judicial separation (hereinafter referred to as the subsequent order) which in effect supersedes any such first-mentioned order of judicial separation or written agreement of separation and does not vary the amount of alimony, allowance or maintenance payable thereunder, shall not affect the rights which any person may have under this section, and in the case of any such person and the spouse or former spouse of such person the subsequent order shall, for the purposes of this section and the provisions of section 10 (1) (u), be deemed to have been granted in consequence of proceedings instituted on or before the said date.

[S. 21 substituted by s. 16 of Act 90 of 1962 and by s. 16 (1) of Act 90 of 1972 and amended by s. 16 of Act 104 of 1980 and by s. 18 of Act 21 of 1995.]

21bis ......

[S. 21bis inserted by s. 7 of Act 6 of 1963, substituted by s. 20(1) of Act 85 of 1974, amended by s. 18 of Act 69 of 1975 and repealed by s. 19 of Act 94 of 1983.]

21ter Special deduction in respect of industrial undertakings in economic development areas

(1) For the purposes of this section-

'Black development area' means an economic development area in a Black area as defined in section 1 of the Black Authorities Act, 1951 (Act 68 of 1951), or the territory described in section 2 of the Transkei Constitution Act, 1963 (Act 48 of 1963), or any self-governing territory as defined in section 38 of the National States Constitution Act, 1971 (Act 21 of 1971), or any urban area as defined in section 1 of the Blacks (Urban Areas) Consolidation Act, 1945 (Act 25 of 1945), which is surrounded by or adjoins any such Black area or territory and which the Minister is satisfied is intended for occupation or ownership by Black persons;

[Definition of 'Black development area' inserted by s. 18 (1) (a) of Act 88 of 1971]
and amended by s. 1 of Act 49 of 1996.]

‘extension’, in relation to an industrial undertaking, means any machinery or plant used in such undertaking directly in a process of manufacture or in any other process which in the opinion of the Commissioner is of a similar nature, or any building wholly or mainly used in such undertaking for the purpose of carrying on therein any such process, or any improvements (other than repairs) to any such building;

‘industrialist’ means a person who carries on an industrial undertaking;

[Definition of 'industrialist' inserted by s. 14 (1) (a) of Act 103 of 1976.]

‘industrial profit’ means the amount (as established to the satisfaction of the Commissioner) at which the industrialist's taxable income for the relevant year of assessment (before the deduction of the development allowance or the supplementary allowance) would have been determined if during such year and any preceding years of assessment in respect of which the Minister has authorized the development allowance, he had derived no income other than his income from the industrial undertaking in question;

[Definition of 'industrial profit' substituted by s. 14 (1) (b) of Act 103 of 1976.]

‘industrial undertaking’ means any undertaking (other than a farming undertaking) in the course of which there is carried on a process of manufacture or a process which in the opinion of the Commissioner is of a similar nature.

[Definition of 'industrial undertaking' substituted by s. 16 (1) (a) of Act 65 of 1973.]

(2) Where any industrialist-

(a) has on or after the first day of October, 1968-

(i) established or commenced to carry on in any economic development area a new industrial undertaking; or

(ii) brought into use in an economic development area for the purposes of an existing industrial undertaking carried on by him in such area, an extension to such undertaking; or

(b) has within the period of five years ending on the thirtieth day of September, 1968-

(i) established or commenced to carry on in an economic development area a new industrial undertaking; or
(ii) brought into use in an economic development area for the purposes of an existing industrial undertaking carried on by him in such area, any extension to such undertaking, and by the said date had not discontinued the said undertaking,

there shall, if the Minister of Finance (in this section referred to as the Minister), having regard to the circumstances of the case, so directs, but subject to such conditions as the Minister may see fit to impose, be deducted from the income derived by the industrialist during any relevant year of assessment referred to in subsection (3), an allowance (to be known as the development allowance) of an amount to be determined in such manner as the Minister may direct but not exceeding the greater of-

\begin{itemize}
\item [(aa)] an amount equal to the industrial profit of the industrialist for such year; or
\item [(bb)] if the Minister has directed that the development allowances which may be made to the industrialist in respect of the relevant years of assessment referred to in subsection (3) shall in total be limited so as to provide the industrialist with a total saving in normal tax of a sum specified by the Minister, an amount sufficient to provide the industrialist with a saving in normal tax for the year of assessment in question equal to the said sum divided by the number of years of assessment (but not exceeding seven years) in respect of which the Minister has directed that the allowance may be granted to the industrialist in respect of the industrial undertaking in question or, where the allowance for the year of assessment in question is granted by a direction of the Minister under the proviso to subsection (3), by such number of years as the Minister may direct.
\end{itemize}

[Sub-s. (2) substituted by s. 18 (1) (b) of Act 88 of 1971 and amended by s. 14 (1) (c) of Act 103 of 1976.]

(3) The development allowance may be made-

\begin{itemize}
\item [(a)] in the case of an industrial undertaking referred to in subsection (2) (a) (i), in respect of the year of assessment during which production was commenced in such undertaking or any of the nine succeeding years of assessment (in the case of an undertaking in a Black development area) or any of the six succeeding years of assessment (in any other case) in respect of which the Minister has directed that the development allowance may be granted to the industrialist concerned;
in the case of an industrial undertaking referred to in subparagraph (ii) of subsection (2) (a), in respect of the year of assessment during which the extension referred to in the said subparagraph was brought into use for the purposes of such undertaking or any of the nine succeeding years of assessment (in the case of an undertaking in a Black development area) or any of the six succeeding years of assessment (in any other case) in respect of which the Minister has directed that the development allowance may be granted to the industrialist concerned;

in the case of an industrial undertaking referred to in subsection (2) (b) (i), in respect of the year of assessment during which the thirtieth day of September, 1968, falls or any of the four succeeding years of assessment in which falls any portion of the period of five years reckoned from the date on which production was commenced in the said undertaking and in respect of which the Minister has directed that the development allowance may be granted to the industrialist concerned;

in the case of an industrial undertaking referred to in subparagraph (ii) of subsection (2) (b), in respect of the year of assessment during which the thirtieth day of September, 1968, falls or any of the four succeeding years of assessment in which falls any portion of the period of five years reckoned from the date on which the extension referred to in the said subparagraph was brought into use for the purposes of such undertaking and in respect of which the Minister has directed that the development allowance may be granted to the industrialist concerned.

Provided that where it is shown to the satisfaction of the Minister that the industrialist has not or will not derive the full anticipated benefit of the development allowance during the years of assessment in respect of which the Minister has directed that the allowance be granted as aforesaid, the Minister, having regard to the circumstances of the case, but subject to such conditions as he may see fit to impose, may, without increasing the sum referred to in subsection (2) (bb), as applicable to the industrial undertaking in question in respect of the relevant years of assessment referred to in paragraph (a), (b), (c) or (d), of this subsection, direct that the development allowance be granted in respect of such years of assessment succeeding the said years of assessment as the Minister may see fit.
(3A) Where it is shown to the satisfaction of the Minister that an industrialist on or after 1 March 1961-

(a) established or commenced to carry on in an economic development area a new industrial undertaking which has not been discontinued; or

(b) brought into use in an economic development area for the purposes of an existing industrial undertaking carried on by him in such area which has not been discontinued, any extension to such undertaking,

and that the industrialist has not enjoyed a saving in normal tax which, having regard to the nature of the industrial undertaking and the position of the industrialist vis-à-vis other persons who qualified for the development allowance after 1 January 1973, he should have enjoyed, there shall, if the Minister, having regard to the circumstances of the case, so directs, but subject to such conditions as the Minister may see fit to impose, be deducted from the income derived by the industrialist during a year of assessment indicated by the Minister, an allowance (to be known as the supplementary allowance) of an amount to be determined in such manner as the Minister may determine but not exceeding the greater of-

(i) an amount equal to the industrial profit of the industrialist for such year; or

(ii) if the Minister has directed that the supplementary allowances which may be made to the industrialist in respect of one or more years of assessment shall in total be limited so as to provide the industrialist with a total saving in normal tax of a sum specified by the Minister, an amount sufficient to provide the industrialist with a saving in normal tax for the year of assessment in question equal to the said sum divided by the number of years of assessment in respect of which the Minister has directed that the allowance may be granted to the industrialist in respect of the industrial undertaking in question, or, where the said number of years of assessment has been increased by direction of the Minister, by such number of years as the Minister may direct.

[Sub-s. (3A) inserted by s. 14 (1) (d) of Act 103 of 1976 and amended by s. 16 (1) of Act 113 of 1977.]

(3B) Where, by reason of the fact that the full anticipated tax benefit of a development allowance authorized under this section for any year of assessment has not been enjoyed by an industrialist or, where an industrialist is a company,
by the industrialist and the industrialist's parent company referred to in subsection (7), the Director-General: Industries, Commerce and Tourism has made a cash grant to the industrialist in lieu of such allowance or a portion thereof, such cash grant shall be exempt from normal tax in the hands of the industrialist, and any sum specified by the Minister as the saving in normal tax which the industrialist may enjoy in consequence of the granting of such allowance shall for the purposes of this section be deemed to have been enjoyed by the industrialist to the extent of the amount of such cash grant.

[Sub-s. (3B) inserted by s. 14 (1) (d) of Act 103 of 1976 and amended by s. 17 (1) (a) of Act 91 of 1982.]

(3C) Where an industrialist has been granted a subsidy in lieu of any development allowance or any supplementary allowance previously authorized under this section in respect of any industrial undertaking or extension to an industrial undertaking, and such subsidy has become payable in respect of any period commencing during any year of assessment which ends or ended on or after 1 April 1982, the authorization for the granting of the allowance in question shall, notwithstanding anything to the contrary in this section, be deemed not to apply in respect of the said year of assessment and succeeding years of assessment of the industrialist.

[Sub-s. (3C) inserted by s. 17 (1) (b) of Act 91 of 1982.]

(4) The Minister may at any time direct that where a condition imposed by him under subsection (2), (3) or (3A) has not been complied with by the industrialist, the development allowance or the supplementary allowance made in respect of any year of assessment shall be withdrawn or be reduced to such an extent as the Minister may direct, and the Commissioner shall, notwithstanding any provisions of this Act to the contrary, raise an assessment in respect of the allowance so withdrawn or the amount by which the allowance is required to be reduced as aforesaid.

[Sub-s. (4) amended by s. 18 (1) (e) of Act 88 of 1971 and by s. 14 (1) (e) of Act 103 of 1976.]

(5) (a) Applications for the development allowance or the supplementary allowance shall be made in writing to the Minister or any officer in the public service authorized by him to receive such applications.

[Para. (a) amended by s. 14 (1) (f) of Act 103 of 1976.]

(b) Unless the Minister or the said officer, having regard to the circumstances of the case, otherwise directs, no allowance shall be authorized under this section in respect of-
(i) any new industrial undertaking, if the application for the allowance is received after 31 March 1982; or

(ii) any extension to an existing industrial undertaking, if the application for the allowance is received after 31 March 1984.

[Para. (b) substituted by s. 17 of Act 52 of 1970 and by s. 17 of Act 90 of 1972, deleted by s. 19 of Act 69 of 1975 and inserted by s. 17 (1) (c) of Act 91 of 1982.]

(c) The Minister, having regard to the nature of the industrial development desired for economic development areas in general or for any particular economic development area, any programme or plan for such development, and such other factors as he may deem fit, may authorize the granting of the development allowance or the supplementary allowance in respect of any category of industrial undertakings determined by him to be eligible for such allowance, whether in all or only in some of the said areas, or refuse to authorize the granting of such allowance in respect of any category of industrial undertakings determined by him to be ineligible for such allowance, whether in all or only in some of the said areas.

[Para. (c) added by s. 16 (1) (b) of Act 65 of 1973 and amended by s. 14 (1) (g) of Act 103 of 1976.]

(6) Where the Commissioner has reason to believe that any condition imposed by the Minister under subsection (2), (3) or (3A) has not been complied with by the industrialist concerned he may, notwithstanding the provisions of section 4, disclose to the Minister such information as may be necessary to enable the Minister to take any action he may deem fit under this section.

[Sub-s. (6) amended by s. 18 (1) (e) of Act 88 of 1971 and by s. 14 (1) (h) of Act 103 of 1976.]

(7) Where the Minister has directed that the development allowance or the supplementary allowance be made to an industrialist in respect of an industrial undertaking and the industrialist is a company all the issued share capital of which was, during a year of assessment in respect of which the said allowance may be made, held by one other company (hereinafter referred to as the parent company), but, by reason of the circumstances of the case, the said allowance either may not be granted to the industrialist for such year or, if such allowance is granted for such year, the amount thereof is less than the amount referred to in subsection (2) (bb) or the amount referred to in subsection (3A) (ii), as the case may be, as determined in relation to the said undertaking, there shall be allowed as a deduction from the income of the parent company for the same year of assessment a development allowance or a supplementary allowance, as the case may be, in respect of the said industrial undertaking equal to such sum as the parent company may claim but not exceeding the difference between the
amount referred to in subsection (2) (bb) or the amount referred to in subsection (3A) (ii), as the case may be, as determined in relation to the said undertaking, and the actual amount allowed in respect of the said undertaking to the industrialist by way of the development allowance or the supplementary allowance, as the case may be, for that year: Provided that the sum of the development allowances or the supplementary allowances may be made to the industrialist and the parent company in respect of the relevant year or years of assessment for which the development allowance may be made in terms of subsection (3) or the relevant year or years of assessment for which the supplementary allowance may be made in terms of subsection (3A), as the case may be, shall be limited to an amount sufficient to provide the industrialist and the parent company with a total saving in normal tax of the relevant sum referred to in subsection (2) (bb) or subsection (3A) (ii), as applicable to the said undertaking.

[Sub-s. (7) added by s. 18 (1) (f) of Act 88 of 1971 and substituted by s. 21 (1) of Act 85 of 1974 and by s. 14 (1) (i) of Act 103 of 1976.]

(8) Where by a direction of the Minister the development allowance or the supplementary allowance has been authorized to be granted to a company (hereinafter referred to as the operating company) which carries on an industrial undertaking in a Black development area which has subsequently become part of the territory of a country which has been granted its independence by the Republic, and all the share capital of the operating company has at all relevant times been held by one other company (hereinafter referred to as the parent company) which is a domestic company, the provisions of subsection (7) shall, subject to any conditions the Minister may impose, continue to apply in relation to the parent company, notwithstanding the fact that the said allowance can no longer be granted to the operating company, but in such case any similar allowance in respect of the said undertaking granted to the operating company under an income tax law of the said country, shall be treated as a development allowance or supplementary allowance, as the case may be, granted under this section by the said direction.

[Sub-s. (8) added by s. 14 (1) (j) of Act 103 of 1976.]

[S. 21ter inserted by s. 20 (1) of Act 89 of 1969.]

21quat ...... 


22 Amounts to be taken into account in respect of values of trading stocks
(1) The amount which shall, in the determination of the taxable income derived by any person during any year of assessment from carrying on any trade (other than farming), be taken into account in respect of the value of any trading stock held and not disposed of by him at the end of such year of assessment, shall be-

(a) in the case of trading stock other than trading stock contemplated in paragraph (b), the cost price to such person of such trading stock, less such amount as the Commissioner may think just and reasonable as representing the amount by which the value of such trading stock, not being shares held by any company in any other company, has been diminished by reason of damage, deterioration, change in fashion, decrease in the market value or for any other reason satisfactory to the Commissioner; and

(b) in the case of any trading stock which consists of any instrument in respect of which a company has made an election which has taken effect as contemplated in section 24J (9), the market value of such trading stock as contemplated in such section.

[Sub-s. (1) substituted by s. 19 (1) (a) of Act 21 of 1995.]

(1A) Where in respect of any year of assessment ending after the commencement date defined in section 1 of the Value-Added Tax Act, 1991, any amount of sales tax referred to in section 23C (2) which was included in the cost price to the taxpayer of any trading stock is deemed by that section to have been recovered or recouped for the purposes of section 8 (4) (a), the cost of such trading stock held and not disposed of by the taxpayer at the end of such year shall be deemed to have been reduced by the said amount.

[Sub-s. (1A) inserted by s. 22 of Act 129 of 1991.]

(2) The amounts which shall in the determination of the taxable income derived by any person during any year of assessment from carrying on any trade (other than farming), be taken into account in respect of the value of any trading stock held and not disposed of by him at the beginning of any year of assessment, shall-

(a) if such trading stock formed part of the trading stock of such person at the end of the immediately preceding year of assessment be the amount which was, in the determination of the taxable income of such person for such preceding year of assessment, taken into account in respect of the value of such trading stock at the end of such preceding year of assessment; or
(b) if such trading stock did not form part of the trading stock of such person at the end of the immediately preceding year of assessment, be the cost price to such person of such trading stock.

(2A) (a) Where any person carries on any construction, building, engineering or other trade in the course of which improvements are effected by him to fixed property owned by any other person, any such improvements effected by him and any materials delivered by him to such fixed property which are no longer owned by him shall, until the contract under which such improvements are effected has been completed, be deemed for the purposes of this section to be trading stock held and not disposed of by him.

(b) For the purposes of paragraph (a), a contract shall be deemed to have been completed when the taxpayer has carried out all the obligations imposed upon him under the contract and has become entitled to claim payment of all amounts due to him under the contract.

[Sub-s. (2A) inserted by s. 21 (a) of Act 101 of 1990.]

(3) (a) For the purposes of this section the cost price at any date of any trading stock in relation to any person shall be the cost incurred by such person, whether in the current or any previous year of assessment, in acquiring such trading stock, plus, subject to the provisions of paragraph (b), any further costs incurred by him up to and including the said date in getting such trading stock into its then existing condition and location, but excluding any exchange difference as defined in section 24I (1) relating to the acquisition of such trading stock.

[Para. (a) substituted by s. 17 (1) (a) of Act 113 of 1993.]

(b) The further costs which in terms of paragraph (a) are required to be included in the cost price of any trading stock shall be such costs as in terms of any generally accepted accounting practice approved by the Commissioner should be included in the valuation of such trading stock.

(c) ......

[Para. (c) deleted by s. 17 (1) (b) of Act 113 of 1993.]

(d) ......

[Para. (d) amended by s. 14 (1) (a) of Act 65 of 1986 and deleted by s. 17 (1) (b) of Act 113 of 1993.]

[Sub-s. (3) substituted by s. 19 (1) (a) of Act 121 of 1984.]
(3A) For the purposes of this section the cost price of trading stock referred to in subsection (2A) shall be the sum of the cost to the taxpayer of material used by him in effecting the relevant improvements, and such further costs incurred by him as in accordance with generally accepted accounting practice are to be regarded as having been incurred directly in connection with the relevant contract, and such portion of any other costs incurred by him in connection with the relevant contract and other contracts as in accordance with generally accepted accounting practice are to be regarded as having been incurred in connection with the relevant contract, less a deduction of so much of-

(a) any income received by or accrued to the taxpayer in respect of the relevant contract;

(b) any portion of an amount payable to the taxpayer under the relevant contract (but not exceeding 15 per cent of the total amount payable to him under such contract) the payment of which has been withheld as a retention; and

(c) any of the said costs included under this subsection as exceed that portion of the contract price which relates to the improvements actually effected by him,

as does not exceed the said sum.

[Sub-s. (3A) inserted by s. 20 (a) of Act 94 of 1983, deleted by s. 19 (1) (b) of Act 121 of 1984 and inserted by s. 21 (b) of Act 101 of 1990.]

(3B) Where in consequence of the amendment effected to the definition of 'trading stock' in section 1 of this Act by section 2 (1) (a) of the Income Tax Act, 1990, or the insertion of subsection (2A) in this section by section 21 (a) of that Act, the value of trading stock held and not disposed of by any person at the end of his first year of assessment ending on or after 1 January 1991, includes the value of any trading stock (hereinafter referred to as new trading stock) of any class of trading stock which was not included by such person in the trading stock held and not disposed of by him at the end of the latest year of assessment in respect of which he had not later than the date of promulgation of the said Act submitted a return of income to the Commissioner, there shall, at the option of such person, be deducted from the value of the trading stock held and not disposed of by him at the end of the said first year and at the end of the eight succeeding years of assessment (hereinafter referred to as the second to ninth years, in chronological order), an amount (not exceeding the value of the trading stock held and not disposed of by such person at the end of the year of assessment in question) equal to-

(a) as respects trading stock held and not disposed of at the end of the
said first year, 97.5 per cent of the value of such new trading stock;

(b) as respects trading stock held and not disposed of at the end of the second year, 95 per cent of the value of such new trading stock;

(c) as respects trading stock held and not disposed of at the end of the third year, 90 per cent of the value of such new trading stock;

(d) as respects trading stock held and not disposed of at the end of the fourth year, 85 per cent of the value of such new trading stock;

(e) as respects trading stock held and not disposed of at the end of the fifth year, 75 per cent of the value of such new trading stock;

(f) as respects trading stock held and not disposed of at the end of the sixth year, 65 per cent of the value of such new trading stock;

(g) as respects trading stock held and not disposed of at the end of the seventh year, 50 per cent of the value of such new trading stock;

(h) as respects trading stock held and not disposed of at the end of the eighth year, 35 per cent of the value of such new trading stock; and

(i) as respects trading stock held and not disposed of at the end of the ninth year, 20 per cent of the value of such new trading stock:

Provided that no deduction shall be made under this subsection in respect of trading stock held on any date on which such person has ceased to carry on the trade in relation to which such trading stock was held.

[Sub-s. (3B) inserted by s. 21 (b) of Act 101 of 1990.]

(4) If any trading stock has been acquired by any person for no consideration or for a consideration which is not measurable in terms of money, such person shall for the purposes of subsection (3) be deemed to have acquired such trading stock at a cost equal to the current market price of such trading stock on the date on which it was acquired by such person: Provided that any capitalization shares awarded by any company to shareholders of that company on or after 1 July 1957 shall have no value as trading stock in the hands of such shareholders: Provided further that options or any other rights to acquire shares in any company which have been acquired as aforesaid shall have no value.

[Sub-s. (4) amended by s. 14 of Act 90 of 1964, by s. 23 of Act 85 of 1974 and by s. 17 (1) (c) of Act 113 of 1993.]

(4A) For the purposes of subsection (4), where-
(a) any marketable security has been lent by a lender to a borrower in terms of a 'lending arrangement' as defined in section 23 (1) of the Stamp Duties Act, 1968 (Act 77 of 1968), such marketable security shall be deemed not to have been acquired by such borrower; or

(b) another marketable security of the same kind and of the same or equivalent quantity and quality has been returned by such borrower to such lender, such other marketable security shall be deemed not to have been acquired by such lender.

[Sub-s. (4A) inserted by s. 12 (1) (a) of Act 36 of 1996.]

(5) (a) If, for the purpose of determining the cost price of any trading stock, any person wishes to adopt the basis of trading stock valuation whereunder the last item of any class of trading stock acquired by him on any date is deemed to be the first item of that class of trading stock disposed of by him on or after that date, and such person satisfies the Commissioner that the will maintain records in respect of his trading stock which will be adequate for the purposes of applying the said basis and that his trading stock which will be accounted for on the said basis in his records, any annual financial statements prepared for submission to shareholders or for proprietors and the financial statements furnished for income tax purposes, the said person may, with the written consent of the Commissioner, obtained before such person renders his return of income for the first year of assessment in respect of which the said basis of trading stock valuation is to be adopted, and subject to such conditions as the Commissioner, having regard to the circumstances of the case, may determine adopt the said basis of trading stock valuation: Provided that-

(i) no application for the adoption of the said basis of trading stock valuation which is made on or after 1 April 1984 shall be considered by the Commissioner except in respect of trading stock consisting of marketable securities;

(ii) no person shall apply the said basis of trading stock valuation in respect of trading stock (other than trading stock consisting of marketable securities) held and not disposed of by him at the end of the first year of assessment of that person ending on or after 1 April 1984 or at the beginning or end of any succeeding year of assessment, notwithstanding the adoption by that person of the said basis in respect of any earlier year of assessment.

[Para. (a) amended by s. 19 (1) (c) of Act 121 of 1984.]

(b) Where the aforesaid basis of trading stock valuation has been adopted by any person in respect of any year of assessment as contemplated in this
subsection, such basis and any conditions determined by the Commissioner under this subsection in relation to the adoption of the said basis shall save in so far as paragraph (ii) of the proviso to paragraph (a) is applicable, be binding upon such person in respect of the said year of assessment and all subsequent years of assessment, and may not be varied by him save with the consent of the Commissioner and subject to such conditions as the Commissioner, having regard to the circumstances of the case, may determine, which conditions shall be binding upon such person for the year of assessment in respect of which the variation is made and all subsequent years of assessment.

[Para. (b) substituted by s. 19 (1) (d) of Act 121 of 1984.]

(c) Any conditions determined by the Commissioner under this subsection may include any condition as to the manner in which the person concerned shall account for his trading stock, whether or not such condition may in some circumstances have the effect of deferring or accelerating liability for taxation.

(d) Where, at the beginning of the first year of assessment of any person ending on or after 1 April 1984, trading stock (other than trading stock consisting of marketable securities) was held by that person in respect of any trade carried on by him, and the cost price of such trading stock was determined on the basis of trading stock valuation adopted by him in accordance with paragraph (a), and the cost price of such trading stock, as determined on the said basis, was less than the cost price of that trading stock, as determined under subsection (3) (a), but without applying paragraph (a) of this subsection, the difference between the first-mentioned cost price and the last-mentioned cost price (such difference hereinafter being referred to as the LIFO reserve) shall be dealt with as provided in paragraph (e): Provided that where any person to whom the provisions of paragraph (c) of subsection (3) are applicable has in the determination of the first-mentioned cost price adopted a basis of valuation contemplated in that paragraph, such basis of valuation shall also be applied in the determination of the last-mentioned cost price.

[Para. (d) added by s. 19 (1) (e) of Act 121 of 1984 and substituted by s. 14 (1) (b) of Act 65 of 1986.]

(e) Where the person referred to in paragraph (d) continues to carry on the trade in respect of which the trading stock in question was held and trading stock is held and not disposed of by him in respect of that trade at the end of the first year referred to in the said paragraph or at the end of any succeeding year of assessment, there shall be deducted from the cost price of that trading stock, as determined in accordance with the provisions of subsection (3) (a), so much of the amount of the LIFO reserve as does not exceed the said cost price: Provided that the amount of the LIFO reserve which qualifies for deduction under this paragraph from the value of trading stock held and not disposed of by him at the end of any year of assessment shall not exceed the amount of the LIFO reserve
which qualified for deduction under this paragraph from the value of trading stock held by him and not disposed of by him at the end of the preceding year of assessment of that person: Provided further that the LIFO reserve shall for the purposes of this paragraph be reduced in any year of assessment ending during the period of 12 months commencing on-

(i) 1 January 1991, by 2.5 per cent;  
(ii) 1 January 1992, by 5 per cent;  
(iii) 1 January 1993, by 10 per cent;  
(iv) 1 January 1994, by 15 per cent;  
(v) 1 January 1995, by 25 per cent;  
(vi) 1 January 1996, by 35 per cent;  
(vii) 1 January 1997, by 50 per cent;  
(viii) 1 January 1998, by 65 per cent;  
(ix) 1 January 1999, by 80 per cent; and  
(x) 1 January 2000 and any subsequent date, by 100 per cent,

of the amount of the LIFO reserve allowed as a deduction under this paragraph in the year of assessment ended during the period of 12 months which commenced on 1 January 1990.

[Para. (e) added by s. 19 (1) (e) of Act 121 of 1984 and amended by s. 21 (c) of Act 101 of 1990.]

(f) The provisions of paragraphs (d) and (e) shall mutatis mutandis apply to any person who carries on any trade in the former Republic of Transkei or Bophuthatswana and who, in respect of the last year of assessment in which he was liable for tax under a law of such a former Republic, determined the value of the trading stock held and not disposed of by him at the end of such year under the provisions of such a law which are similar to the provisions of this section.

[Para. (f) added by s. 19 (1) (e) of Act 121 of 1984, amended by s. 14 (1) (c) of Act 65 of 1986 and by s. 5 (1) (b) and (c) of Act 108 of 1986, deleted by s. 1 (1) (a) of Act 168 of 1993 and added by s. 19 (1) (b) of Act 21 of 1995.]

(g) Where the provisions of paragraph (f) are applicable in the case of any taxpayer-

(i) the LIFO reserve shall be determined in accordance with the
provisions of paragraph (d) in relation to the trading stock held by him at the beginning of the year of assessment immediately following the last year of assessment referred to in paragraph (f); and

(ii) the reference in the second proviso to paragraph (e) to the amount of the LIFO reserve allowed as a deduction under that paragraph during the year of assessment ending during the period of 12 months which commenced on 1 January 1990 shall be construed as a reference to the amount of the LIFO reserve determined in accordance with the provisions of subparagraph (i).

[Para. (g) added by s. 19 (1) (b) of Act 21 of 1995.]

(5A) Where-

(a) any commercial or industrial undertaking has been acquired by one company from another company;

(b) both such companies are managed, controlled or owned by substantially the same persons; and

(c) the last-mentioned company contemplated in paragraph (a) is entitled to a deduction as contemplated in subsection (3B), or a LIFO reserve as contemplated in subsection (5) (d) has been determined in relation to such last-mentioned company,

the Commissioner may direct that, subject to such conditions as he may impose, the said two companies shall for the purposes of subsection (3B) or paragraphs (d) and (e) of subsection (5), as the case may be, be regarded as being one company.

[Sub-s. (5A) inserted by s. 1 (1) (b) of Act 168 of 1993.]

(6) Any reference in this section to the beginning or end of a year of assessment includes-

(i) where the period assessed is less than twelve months, a reference to the beginning or end, as the case may be, of the period assessed;

(ii) where a return is accepted under the proviso to subsection (13) of section sixty-six to a date other than the thirtieth day of June, a reference to the beginning or end, as the case may be, of the period covered by the return;
(iii) where accounts are accepted under subsection (13)ter of the said section to a date agreed to by the Commissioner, a reference to the beginning or end, as the case may be, of the period covered by the accounts.

[Para. (iii) added by s. 8 of Act 6 of 1963.]

(7) ......

[Sub-s. (7) substituted by s. 21 of Act 89 of 1969 and deleted by s. 20 (b) of Act 94 of 1983.]

(8) If during any year of assessment-

(a) any taxpayer has applied trading stock to his private or domestic use or consumption; or

(b) any-

(i) taxpayer has applied trading stock for the purpose of making any donation thereof;

(ii) taxpayer has disposed of trading stock, other than in the ordinary course of his trade, for a consideration less than the market value thereof;

(iii) trading stock of any company has on or after 21 June 1993 been distributed in specie (whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital (including any share premium) or a redemption of redeemable preference shares) to any shareholder of that company; or

(iv) taxpayer has applied any trading stock for any other purpose other than the disposal thereof in the ordinary course of his trade and under circumstances other than those contemplated in paragraph (a) or subparagraph (i), (ii) or (iii) of this paragraph,

and the cost price of such trading stock has been taken into account in the determination of the taxable income of the taxpayer for any year of assessment, the taxpayer shall be deemed to have recovered or recouped-

(A) where such trading stock has been applied in a manner contemplated in paragraph (a), an amount equal to the cost
price to him of such trading stock (less any sum which has been deducted therefrom under the provisions of subsection (1)) or where the cost price cannot be readily determined, the market value of such trading stock; or

(B) where such trading stock has been applied, disposed of or distributed in a manner contemplated in paragraph (b), an amount equal to the market value of such trading stock,

and such amount shall be included in the income of the taxpayer for the year of assessment during which such trading stock was so applied, disposed of or distributed: Provided that where-

(a) an asset consisting of trading stock so applied is used or consumed by the taxpayer in carrying on his trade, the amount included in his income under this subsection shall for the purposes of this Act be deemed to be expenditure incurred in respect of the acquisition by him of such asset;

(b) the provisions of paragraph (b) (ii) apply and any consideration contemplated in that paragraph has been received by or accrued to the taxpayer, the amount included in his income in terms of this subsection shall be reduced by such consideration; or

(c) such trading stock consists of livestock or produce in respect of which the provisions of paragraph 11 of the First Schedule are applicable, the provisions of this subsection shall not apply.

[Sub-s. (8) added by s. 20 (c) of Act 94 of 1983, amended by s. 21 (d) of Act 101 of 1990, by s. 17 (1) (d) of Act 113 of 1993 and by s. 19 (1) (c) of Act 21 of 1995 and substituted by s. 12 (1) (b) of Act 36 of 1996.]

(9) Where-

(a) (i) the trading stock of any person during any year of assessment includes any marketable security;

(ii) such person has, during such year of assessment, lent such marketable security to a borrower in terms of a 'lending arrangement' as defined in section 23 (1) of the Stamp Duties Act, 1968 (Act 77 of 1968); and

(iii) a marketable security of the same kind and of the same or equivalent quantity and quality has not been returned by the
borrower to such person at the end of such year of assessment,

such marketable security shall, for the purposes of this section, be deemed to be trading stock held and not disposed of by such person at the end of such year of assessment; or

(b) (i) the trading stock of any other person during any year of assessment includes any marketable security;

(ii) such other person has, during such year of assessment, borrowed such marketable security from a lender in terms of a 'lending arrangement' as defined in section 23 (1) of the Stamp Duties Act, 1968 (Act 77 of 1968); and

(iii) a marketable security of the same kind and of the same or equivalent quantity and quality has not been returned by such other person to such lender at the end of such year of assessment,

such marketable security shall, for the purposes of this section, be deemed not to be trading stock held and not disposed of, by such other person at the end of such year of assessment.

[Sub-s. (9) added by s. 12 (1) (c) of Act 36 of 1996.]

22A Schemes of arrangement involving trading stock

(1) If, under any scheme of arrangement or reconstruction of any company or its affairs (including any scheme for the amalgamation of two or more companies and any other scheme) which is sanctioned by any order of court on or after the first day of April, 1971, any company (hereinafter referred to as the transferee company) has acquired from any other company (hereinafter referred to as the transferor company) any asset which was trading stock of the transferor company, and in respect of such acquisition-

(a) no consideration measurable in terms of money accrued from the transferee company to the transferor company; or

(b) a consideration accrued from the transferee company to the transferor company the money value of which was less than the market value of such asset on the date on which the transferee company acquired such asset,

such asset shall for the purposes of this Act be deemed to be trading stock of the
transferee company, and, where paragraph (a) is applicable-

(i) the transferee company shall be deemed to have acquired such asset at a price equal to the cost price thereof to the transferor company; and

(ii) notwithstanding the provisions of section 22 (2), no deduction shall, in the determination of the taxable income of the transferor company for the year of assessment of that company during which the transferee company acquired such asset, be made in respect of the value of such asset as trading stock.

(2) Any amount which is received by or accrues to the transferee company from the disposal of the said asset (or of any interest therein) shall be included in that company's income, whether such amount is derived in carrying on any trade or otherwise or is derived from a source within or outside the Republic.

[S. 22A inserted by s. 19 (1) of Act 88 of 1971.]

23 Deductions not allowed in determination of taxable income

No deductions shall in any case be made in respect of the following matters, namely-

(a) the cost incurred in the maintenance of any taxpayer, his family or establishment;

(b) domestic or private expenses, including the rent of or cost of repairs of or expenses in connection with any premises not occupied for the purposes of trade or of any dwelling-house or domestic premises except in respect of such part as may be occupied for the purposes of trade: Provided that-

(a) such part shall not be deemed to have been occupied for the purposes of trade, unless such part is specifically equipped for purposes of the taxpayer's trade and regularly and exclusively used for such purposes; and

(b) no deduction shall in any event be granted where the taxpayer's trade constitutes any employment or office unless-

(i) his income from such employment or office is derived mainly from commission or other variable payments which are based on the taxpayer's work performance and his duties are mainly performed otherwise than in an office which is provided to him by his employer; or
(i) his duties are mainly performed in such part;

(ii) his duties are mainly performed in such part;

(c) any loss or expense, the deduction of which would otherwise be allowable, to the extent to which it is recoverable under any contract of insurance, guarantee, security or indemnity;

(d) any tax, duty, levy, interest or penalty imposed under this Act, any additional tax imposed under section 60 of the Value-Added Tax Act, 1991 (Act 89 of 1991), and any interest or penalty payable in consequence of the late payment of any tax, duty or levy payable under any Act administered by the Commissioner, the Regional Services Councils Act, 1985 (Act 109 of 1985), and the KwaZulu and Natal Joint Services Act, 1990 (Act 84 of 1990);

(e) income carried to any reserve fund or capitalized in any way;

(f) any expenses incurred in respect of any amounts received or accrued which do not constitute income as defined in section one;

(g) any moneys claimed as a deduction from income derived from trade, to the extent to which such moneys were not laid out or expended for the purposes of trade;

(h) interest which might have been made on any capital employed in trade;

(i) entertainment expenditure incurred by a taxpayer relating to any employment or office held by him in respect of which he derives remuneration as defined in paragraph 1 of the Fourth Schedule or any amount referred to in paragraph (vii) of that definition, except-

(i) such entertainment expenditure as may be deducted from the income of such taxpayer under the provisions of section 11
(u); or

[Sub-para. (i) substituted by s. 15 (b) of Act 21 of 1994.]

(ii) in the case of an agent or representative whose remuneration is normally derived wholly or mainly in the form of commissions based on sales or turnover, such entertainment expenditure incurred by him as may be deducted in terms of the provisions of section 11 (a) or (b).

[Para. (i) deleted by s. 18 of Act 65 of 1973, added by s. 20 (b) of Act 121 of 1984 and amended by s. 18 (1) (b) of Act 113 of 1993.]

(j) where the taxpayer is an employer or associated institution (as respectively defined in paragraph 1 of the Seventh Schedule), the cost to the taxpayer of any scholarship or bursary granted to any employee (as so defined) of the taxpayer or of any employer in relation to whom the taxpayer is an associated institution, or to any relative of any such employee, if in consequence of the grant of such scholarship or bursary any remuneration to which the employee was entitled or might in the future have become entitled was in any manner reduced or forfeited.

[Para. (j) added by s. 20 (c) of Act 141 of 1992.]

23A Limitation of allowances granted to lessors of certain assets

(1) For the purposes of this section-

(i) 'affected asset' means-

(a) any machinery, plant or aircraft which has been let and in respect of which the lessor is or was entitled to an allowance under section 12 or 14bis, whether in the current or a previous year of assessment, other than any such machinery, plant or aircraft let by him under an agreement of lease formally and finally signed by every party to the agreement before 15 March 1984; or

(b) any machinery, plant, implement, utensil, article, aircraft or ship which has been let and in respect of which the lessor is or was entitled to an allowance under section 12B or 12C, whether in the current or a previous year of assessment, other than any such machinery, plant, implement, utensil, article, aircraft or ship let by him under an agreement of lease formally and finally signed by every party to the agreement
but excluding any such asset let by the lessor under an operating lease or any such asset which was during the year of assessment mainly used by him in the course of any trade carried on by him, other than the letting of any such asset;

(ii) 'operating lease' means a lease of movable property concluded by a lessor in the ordinary course of a business (not being the business of a banker or financier) of letting such property, if-

(a) such property may be hired by members of the general public for a period of less than one month;

(b) the cost of maintaining such property and of carrying out repairs thereto required in consequence of normal wear and tear, is borne by the lessor; and

(c) 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;

(iii) 'rental income' means income derived by way of rent from the letting of movable property or any machinery or plant in respect of which an allowance has been granted to the lessor under section 12, 12B or 12C, whether in the current or any previous year of assessment.
determination of the taxable income derived by him from rental income.

(4) Any deduction which is disallowed under the provisions of subsection (2) shall be carried forward to the succeeding year of assessment and shall, subject to the provisions of this section as applicable in relation to that year, be deemed to be a deduction to which the taxpayer is entitled in that year.

[S. 23A inserted by s. 21 (1) of Act 121 of 1984, amended by s. 13 (1) of Act 96 of 1985 and by s. 15 (1) of Act 65 of 1986 and substituted by s. 12 of Act 70 of 1989.]

23B Prohibition of double deductions

(1) Where, but for the provisions of this subsection, an amount qualifies or has qualified for a deduction or an allowance under more than one provision of this Act, a deduction or allowance in respect of such amount or any portion thereof, shall not be allowed more than once in the determination of the taxable income of any person.

[Sub-s. (1) substituted by s. 16 (1) (a) of Act 21 of 1994.]

(2) The provisions of subsection (1) shall not apply to expenditure in respect of which a deduction or an allowance has been determined, if any section under which such deduction or allowance is allowed, expressly requires such expenditure to be deductible under any other section as a prerequisite for a deduction under such section.

(3) No deduction shall be allowed under section 11 (a) or (b) in respect of any expenditure or loss of a type for which a deduction or allowance may be granted under any other provision of this Act, notwithstanding that such other provision may impose any limitation on the amount of such deduction or allowance.

[Sub-s. (3) added by s. 16 (1) (b) of Act 21 of 1994.]

[S. 23B inserted by s. 25 (1) of Act 129 of 1991.]

23C Reduction of cost of certain assets

(1) Where for the purposes of applying any provision of this Act regard is to be had to the cost to the taxpayer of any asset acquired by him or to the amount of any expenditure incurred by him, and-

(a) the taxpayer is a vendor as defined in section 1 of the Value-Added Tax Act, 1991 (Act 89 of 1991); and
(b) the taxpayer is or was in any previous year of assessment entitled under section 16 (3) of the last-mentioned Act to a deduction of input tax as defined in section 1 of that Act,

the amount of such input tax shall be excluded from the cost of such asset or the amount of such expenditure: Provided that in the case of any lease as contemplated in paragraph (b) of the definition of 'instalment credit agreement' in section 1 of that Act, there shall be excluded by the lessee from each rental payment made by him in respect of such lease, an amount which bears to such input tax the same ratio as such rental payment bears to the sum of all rental payments in connection with such lease.

[Sub-s. (1) substituted by s. 21 of Act 141 of 1992.]

(2) Where a taxpayer (being a vendor as defined in section 1 of the Value-Added Tax Act, 1991) has in respect of any tax period applicable to him under that Act which has ended during his year of assessment, included in input tax deducted by him under section 16 (3) of that Act an amount of sales tax, as permitted by section 78 of that Act so to be included-

(a) that amount shall, if it was included in capital expenditure taken into account for the purposes of any deduction in respect of any mine under section 15 (a) of this Act, be deemed for the purposes of paragraph (j) of the definition of 'gross income' in section 1 of this Act to be an amount received by or accrued to the taxpayer during the said year of assessment in respect of a disposal of assets referred to in the said paragraph; or

(b) that amount (not being an amount accounted for under paragraph (a)), shall for the purposes of section 8 (4) (a) of this Act be deemed to be an amount which has been recovered or recouped by the taxpayer during the said year of assessment.

[S. 23C inserted by s. 25 (1) of Act 129 of 1991.]

23D Limitation of allowances granted in respect of certain assets

(1) For the purposes of this section, 'asset' means-

(a) any machinery, plant, implements, utensils or articles contemplated in section 11 (e);

(aA) any invention, patent, design, trade mark, copyright, or any other property which is of a similar nature, contemplated in section 11 (gA);
(a) any building or improvements contemplated in section 13;

(b) any ship contemplated in section 14; or

(d) any aircraft contemplated in section 14bis.

(2) Where any asset which has been let by a taxpayer to a lessee was acquired by the taxpayer, whether directly or indirectly from-

(a) such lessee;

(b) a person who is a connected person in relation to such lessee;

(c) a sublessee in relation to such asset (being a person to whom the right of use of such asset has been granted by a lessee or by any person to whom the right of use of such asset has previously been granted); or

(d) a person who is a connected person in relation to such sublessee,

and a deduction was previously granted to such lessee, such connected person or such sublessee under section 11 (e), 11 (gA), 12B, 12C, 13, 14 or 14bis or section 12 prior to the repeal thereof by section 16 of the Income Tax Act, 1991 (Act 129 of 1991), or section 27 (2) (d) prior to the deletion thereof by section 28 (b) of that Act, whether in the current or any previous year of assessment, any deduction or allowance claimed by such lessor in respect of such asset in terms of section 11 (e), (gA) or (o), 12C, 13, 14 or 14bis shall be calculated on an amount not exceeding the lesser of the cost or adjustable cost, as the case may be, of such asset to such lessee, such connected person or such sublessee or the market value thereof as determined on the date upon which the asset was acquired by the taxpayer.

(3) The provisions of subsection (2) shall apply to-

(a) any asset, excluding an asset contemplated in subsection (1) (aA), acquired from a lessee or a connected person in relation to such lessee on or after 21 June 1993;

(b) any asset contemplated in subsection (1) (aA), acquired from a lessee or a connected person in relation to such lessee on or after 1 July 1995; and
any asset acquired from a sublessee or a connected person in relation to such sublessee on or after 1 July 1995.

[Sub-s. (3) added by s. 20 (1) (c) of Act 21 of 1995.]

[S. 23D inserted by s. 19 (1) of Act 113 of 1993.]

23E Provisions relating to leave pay

(1) For the purposes of this section-

'employee' includes the holder of any office;

'leave pay' means any amount which a taxpayer has during any year of assessment become liable to pay to his employee in consequence of the employee having during such year become entitled to any period of leave which had not been taken by him during that year;

'leave pay provision' means an amount equal to the lesser of-

(a) the amount included in the taxpayer's income in terms of the provisions of subsection (5); and

(b) an amount determined in relation to all periods of leave to which the taxpayer's employees were entitled as at the end of the last year of assessment of the taxpayer ending before 1 January 1994, and calculated by applying, in the case of each such employee, the employee's rate of earnings as at the end of such year to the period of leave to which such employee was so entitled.

(2) For the purposes of this Act, where in consequence of any leave to which an employee of the taxpayer became entitled during any year of assessment of the taxpayer ending on or after 1 January 1994, the taxpayer has become liable to pay any amount of leave pay-

(a) the taxpayer shall be deemed not to have incurred expenditure in respect of such leave pay until it is actually paid by him or becomes due and payable by him; and

(b) such leave pay shall be deemed to accrue to the employee concerned on the date upon which such expenditure is deemed to have been incurred by the taxpayer.

(3) Where any taxpayer has in any return of income submitted by him to the Commissioner before 1 March 1993 claimed a deduction of an amount
determined in accordance with a practice consistently applied by him and in the *bonafide* belief that such amount constituted leave pay which was lawfully allowable as a deduction in the determination of his taxable income (whether such amount exceeds or is less than the amount which was lawfully deductible), there shall be allowed as a deduction in the determination of his taxable income for such year and for each subsequent year of assessment ending before 1 January 1994 an amount determined in accordance with the said practice: Provided that where in his return of income for any year of assessment ending before 1 January 1994 the taxpayer has amended such practice and the deduction determined in accordance with such amended practice is less than the deduction which would have been determined in accordance with his previous practice, the amount to be allowed as a deduction under this subsection in that year of assessment and in each subsequent year of assessment ending before 1 January 1994 shall be determined in accordance with such amended practice.

(4) Where in respect of any year of assessment of a taxpayer ending before 1 January 1994, the Commissioner has not prior to the date of commencement of the Income Tax Act, 1993, issued an assessment, a deduction in respect of leave pay shall not be granted for such year otherwise than as may be permitted under the provisions of subsection (3).

(5) There shall be included in the income of any taxpayer in his first year of assessment ending on or after 1 January 1994 the sum of all amounts allowed to be deducted in the determination of his taxable income in all years of assessment ending before that date in respect of leave pay relating to all periods of leave to which his employees were entitled at the end of the last year of assessment ending before the said date.

(6) Where an amount has under the provisions of subsection (5) been included in the income of any taxpayer, any amount of leave pay which becomes due and payable by him to an employee in respect of any period of leave taken into account in the determination of such amount shall, notwithstanding the provisions of subsection (3), be allowed to be deducted from his income in the year of assessment during which such leave pay becomes due and payable.

(7) There shall in the case of any taxpayer to whom the provisions of subsection (5) are applicable, be allowed to be deducted in the determination of his taxable income for his first year of assessment ending on or after 1 January 1994 and for each of the four succeeding years of assessment (such succeeding years of assessment hereinafter being referred to as the second to fifth years, in chronological order) a deduction equal to-

(a) in the said first year, 100 per cent;

(b) in the second year, 85 per cent;
(c) in the third year, 70 per cent;
(d) in the fourth year, 50 per cent; and
(e) in the fifth year, 25 per cent,
of the amount of the leave pay provision determined in relation to the taxpayer:
Provided that-

(i) the deduction so allowed in any year of assessment shall be included in the taxpayer’s taxable income in the following year of assessment; and

(ii) no deduction shall be allowed under this subsection if the taxpayer has during the current or any previous year of assessment commencing on or after 1 January 1994 ceased to carry on trade.

(8) Where-

(a) any commercial or industrial undertaking has been acquired by one company from another company;
(b) both such companies are managed, controlled or owned by substantially the same persons; and
(c) the last-mentioned company contemplated in paragraph (a) is entitled to a deduction as contemplated in subsection (7),

the Commissioner may direct that, subject to such conditions as he may impose, the said two companies shall for the purposes of subsections (1), (3), (4), (5), (6) and (7) be regarded as being one company.

[Sub-s. (8) added by s. 2 (1) of Act 168 of 1993.]
[S. 23E inserted by s. 19 (1) of Act 113 of 1993.]
[Date of commencement of s. 23E: 20 July 1993.]

23F Acquisition of trading stock

Where any taxpayer has during any year of assessment incurred expenditure for the acquisition of trading stock which was neither disposed of by him during such year nor held by him at the end of such year, any deduction which may be allowed to him under the provisions of section 11 (a) or (b) in respect of such expenditure shall not be allowed in such year, but such expenditure shall for the purposes of such provisions be deemed to have been
incurred by him in the first subsequent year of assessment in which-

(a) such trading stock is disposed of by him;

(b) the value of such trading stock falls to be included in his income under the provisions of section 22 (1); or

(c) it is shown by him that by reason of the loss or destruction of such trading stock or the termination of the agreement in terms of which such trading stock was acquired by him or for any other reason, such trading stock will neither be disposed of nor held by him.

[S. 23F inserted by s. 17 of Act 21 of 1994.]

23G Sale and leaseback arrangements

(1) For the purposes of this section-

'asset' means any asset, whether movable or immovable, or corporeal or incorporeal;

'sale and leaseback arrangement' means any arrangement whereby-

(a) any person disposes of any asset (whether directly or indirectly) to any other person; and

(b) such person or any connected person in relation to such person leases (whether directly or indirectly) such asset from such other person.

(2) Where the receipts or accruals of any person, who is a lessee or sublessee in relation to a sale and leaseback arrangement, do not for the purposes of this Act constitute income of such person-

(a) any amount which is received by or accrues to any lessor in relation to such sale and leaseback arrangement, shall be limited to an amount which constitutes interest as contemplated in section 24J; and

(b) such lessor shall, notwithstanding the provisions of this Act, not be entitled to any deduction in terms of section 11 (e), (f) or (gA), 12B, 12C or 13 in respect of an asset which is the subject matter of such sale and leaseback arrangement.

(3) Where the receipts or accruals of any person, who is a lessor in relation to a sale and leaseback arrangement, arising from such arrangement do
not for the purposes of this Act constitute income of such person, any deduction to which a lessee or sublessee in relation to such sale and leaseback arrangement is entitled under the provisions of this Act shall, subject to the provisions of section 11 (f), be limited to an amount which constitutes interest as contemplated in section 24J.

(4) The provisions of subsection (2) (a) shall not apply to any person who is both a lessor and a lessee in relation to the same sale and leaseback arrangement during any year of assessment.

[S. 23G inserted by s. 16 (1) of Act 28 of 1997.]

24 Credit agreements and debtors allowance

(1) Subject to the provisions of section 24J, if any taxpayer has entered into any agreement with any other person in respect of any property the effect of which is that, in the case of movable property, the ownership shall pass or, in the case of immovable property, transfer shall be passed from the taxpayer to that other person, upon or after the receipt by the taxpayer of the whole or a certain portion of the amount payable to the taxpayer under the agreement, the whole of that amount shall for the purposes of this Act be deemed to have accrued to the taxpayer on the day on which the agreement was entered into.

[Sub-s. (1) substituted by s. 17 (1) of Act 28 of 1997.]

(2) In the case of such an agreement in terms of which at least 25 per cent of the said amount payable only becomes due and payable on or after the expiry of a period of not less than 12 months after the date of the said agreement, the Commissioner, taking into consideration any allowance he has made under section 11 (j), may make such further allowance as under the special circumstances of the trade of the taxpayer seems to him reasonable, in respect of all amounts which are deemed to have accrued under such agreements but which have not been received at the close of the taxpayer's accounting period: Provided that any allowance so made shall be included as income in the taxpayer's returns for the following year of assessment and shall form part of his income.

(3) Where-

(a) any taxpayer has in respect of his latest year of assessment ended before 1 January 1986 in good faith claimed an allowance under this section as applicable in that year;

(b) such allowance was granted in accordance with the generally prevailing practice of the Commissioner as applicable in that year;
and

(c) in consequence of the amendment to this section effected by section 14 of the Income Tax Act, 1985 (Act 96 of 1985), or section 16 of the Income Tax Act, 1986, such allowance may not be granted in respect of the first year of assessment of the taxpayer ended or ending on or after 1 January 1986,

there shall be allowed to be deducted from the income of the taxpayer for his said first year of assessment and each of the three succeeding years of assessment (such succeeding years of assessment being referred to in this section as the second, third and fourth years, in chronological order) an allowance calculated in accordance with the provisions of subsection (4):

Provided that any deduction so allowed shall be included as income in the taxpayer's return for the following year of assessment and shall form part of his income.

[Sub-s. (3) amended by s. 6 (1) of Act 108 of 1986.]

(4) The allowance under subsection (3) shall be-

(a) in respect of the said first year, 80 per cent;

(b) in respect of the said second year, 60 per cent;

(c) in respect of the said third year, 40 per cent; and

(d) in respect of the said fourth year, 20 per cent,

of an amount equal to the lesser of the allowance contemplated in subsection (3) (b) and so much of any allowance which, but for the amendment referred to in subsection (3) (c), would have been granted under subsection (2) in respect of the relevant year but which may in consequence of such amendment not be granted.

(5) Where any taxpayer was in respect of his last year of assessment ended on or before 6 May 1989 entitled to an allowance under subsection (2) in respect of any class of property sold by him in the course of his trade but is in consequence of his compliance with any regulation promulgated in terms of section 3 of the Credit Agreements Act, 1980 (Act 75 of 1980), no longer entitled to such allowance in respect of that class of property, there shall be allowed to be deducted from the income of the taxpayer for his first year of assessment immediately following such last year and each of the three succeeding years of assessment (such succeeding years being referred to hereinafter as the second, third and fourth years, in chronological order) an allowance calculated in accordance with the provisions of subsection (6): Provided that-
(a) any deduction so allowed shall be included in the taxpayer's income in the following year of assessment; and

(b) no deduction shall be made under this subsection-

(i) if the taxpayer has during the current or any previous year of assessment ceased to trade with that class of property; or

(ii) in any year of assessment during which the taxpayer is, in consequence of the amendment or repeal of any such regulation, once again entitled to claim an allowance under subsection (2) in respect of that class of property.

[Sub-s. (5) added by s. 23 of Act 101 of 1990.]

(6) The allowance under subsection (5) shall be-

(a) in respect of the said first year, 80 per cent;

(b) in respect of the said second year, 60 per cent;

(c) in respect of the said third year, 40 per cent; and

(d) in respect of the said fourth year, 20 per cent,

of the allowance granted to the taxpayer under this section in respect of his last year of assessment referred to in subsection (5): Provided that the allowance which may be granted in the said first year, shall be reduced by any allowance to which the taxpayer is entitled in that year under the provisions of subsection (2) in respect of that class of property.

[Sub-s. (6) added by s. 23 of Act 101 of 1990.]

[S. 24 amended by s. 22 of Act 89 of 1969, by s. 21 of Act 94 of 1983 and by s. 14 of Act 96 of 1985 and substituted by s. 16 (1) of Act 65 of 1986.]

24A Transactions whereby fixed property is or company shares are exchanged for shares

(1) If, under any transaction for the disposal by any person (hereinafter referred to as the trader) of any trading stock consisting of fixed property or any shares in any company, the consideration received by or accrued to the trader for such trading stock in effect consists of or includes-

(a) shares in a public company; or
(b) company shares quoted by a recognized stock exchange at the time of such transaction or within six months thereafter; or

(c) shares in any other company, if such shares are, under a scheme for the consolidation or merger of the interests of two or more persons, issued or transferred to the trader,

the value of the shares which constitute or are included in such consideration shall, if the trader and the Commissioner agree thereto, be excluded from the trader's income for the year of assessment during which such consideration is received by or accrues to him.

(2) For the purposes of this Act-

(a) the shares which constitute or are included in the said consideration and any capitalization shares issued in respect of such shares (which shares and capitalization shares are hereinafter referred to as new trading stock) shall be deemed to be trading stock of the trader; and

[Para. (a) amended by s. 24 of Act 85 of 1974.]

(b) the cost price to the trader of the shares which constitute or are included in the said consideration shall be deemed to be the cost to him of the trading stock referred to in subsection (1) or, if such last-mentioned trading stock was held by him and had not been disposed of by him at the beginning of the year of assessment, the amount taken into account under section 22 (2) as the value thereof, less an amount which bears to the said cost or the amount so taken into account, as the case may be, the same ratio as the value of such portion (if any) of the said consideration as does not consist of the said shares bears to the total value of the said consideration (including the said shares).

(3) Any amount (including the value of any benefit or advantage) which is received by or accrues to the trader from the disposal of new trading stock (or a portion thereof) shall be included in the trader's income, whether such amount is derived in carrying on any trade or otherwise or is derived from a source within or outside the Republic: Provided that the provisions of this subsection shall not be construed so as to prevent the provisions of subsection (1) being applied in respect of such amount.

[Sub-s. (3) amended by s. 15 (1) of Act 85 of 1987.]

(4) If on or after the date of promulgation of the Income Tax Act, 1971, the
trader disposes of or ceases to be the owner of new trading stock for any reason other than his death or insolvency or, in the case of a company, the winding-up or liquidation thereof and no consideration accrues to him in respect of such new trading stock or a consideration accrues to him in respect of such new trading stock which in whole or part is not measurable in terms of money (the part of the consideration which is so measurable being less in value than the market value of such new trading stock at the date on which it was disposed of or on which the trader ceased to be the owner thereof), he shall for the purposes of this Act be deemed to have disposed of such new trading stock for a consideration equal to the market value thereof at the date on which it was disposed of or on which the trader ceased to be the owner thereof or the market value thereof on the date of the transaction referred to in subsection (1), whichever value is the lower, reduced by the amount (if any) included in the trader's income under subsection (3) in respect of the disposal, and such value, as so reduced, shall be included in his income: Provided that the foregoing provisions of this subsection shall not apply where the trader disposes of or ceases to be the owner of new trading stock by reason of the carrying out of any scheme referred to in section 22A and the trader is a transferor company as contemplated in that section.

(5) Where the trader has until his death or the prior sequestration of his estate or, in the case of a company, the commencement of the winding-up or liquidation thereof, continued to hold new trading stock, the trader shall for the purposes of this Act be deemed to have disposed of such new trading stock on the day preceding the date of his death or the sequestration of his estate (whichever first occurs) or, in the case of a company the date on which the winding-up or liquidation thereof commenced, for a consideration equal to the market value on the said day of such new trading stock or the market value thereof on the date of the transaction referred to in subsection (1), whichever value is the lower, and such value shall be included in his income for the period of assessment within which the said day falls.

(6) For the purposes of this section-

(a) 'fixed property' means property as defined in section 1 of the Transfer Duty Act, 1949 (Act 40 of 1949); and

(b) a company which has not yet been recognized under the provisions of this Act as a public company, may at the request of the taxpayer, be deemed to be a public company, if the Commissioner is satisfied that such company will be so recognized.

[S. 24A inserted by s. 23 of Act 89 of 1969 and substituted by s. 20 (1) of Act 88 of 1971.]

24B Gains or losses on foreign exchange transactions
(1) Where any taxpayer has on or after 29 March 1978 paid any amount owed by him in respect of any loan or advance in a foreign currency or of any debt incurred in a foreign currency and in paying such amount, has realized a gain or sustained a loss, such gain shall in the determination of the taxpayer's taxable income be included in the taxpayer's income or such loss shall in the said determination be deducted from the taxpayer's income, if such loan or advance was utilized or such debt was incurred by the taxpayer for the purpose of incurring or financing expenditure incurred by the taxpayer or, where the taxpayer is a company, by an associated company in relation to the taxpayer, in order to produce income derived by the taxpayer or associated company, as the case may be, from carrying on any business undertaking in the Republic.

(2) Such gain or loss shall be deemed to be the difference between the equivalent in the currency of the Republic of the amount referred to in subsection (1), when the loan or advance in question was utilized or the debt was incurred by the taxpayer as aforesaid, and the equivalent amount in the currency of the Republic actually required to pay the said amount, and such gain or loss shall be deemed to have been realized or sustained at the time when the said amount was paid: Provided that where, subsequent to the date on which the loan or advance was utilized or the debt was incurred, any change in foreign currency rates occurred in consequence of which the difference between the value of the said amount (or a portion thereof) on the said date and the value thereof when the change in foreign currency rates occurred was taken into account for normal tax purposes, the amount so taken into account shall be suitably accounted for for the purposes of determining the said gain or loss.

(3) Any gain realized or any loss sustained by reason of a change in foreign currency exchange rates shall, to the extent that such gain is required to be included in the taxpayer's income under any other provision of this Act or to the extent that such loss is allowable as a deduction from the taxpayer's income under any other provision of this Act, not be included in or be allowed as a deduction from the taxpayer's income under this section, as the case may be.

(4) There shall be included in the taxpayer's income for any year of assessment so much of any loss allowed to be deducted from his income under this section as has been recovered or recouped by him during such year, whether the loss was incurred in that year or in any previous year of assessment.

(5) Where any taxpayer has obtained and utilized any loan or advance in a foreign currency for the purpose of repaying any amount owed by him in respect of a loan or advance in foreign currency utilized for a purpose contemplated in subsection (1) or of any debt incurred by him for such a purpose, the loan or advance so obtained shall, to the extent that it does not exceed the said amount, be deemed for the purposes of this section to have been utilized by the taxpayer for the said purpose.
(6) (a) Any loss sustained upon the repayment of the amount referred to in subsection (5) shall not be allowed as a deduction from the taxpayer's income under the provisions of subsection (1) unless the Commissioner is satisfied that in obtaining the loan or advance which was obtained, as contemplated in subsection (5), the obtaining of the loan or advance was not arranged solely or mainly for the purpose of benefiting by a deduction from income: Provided that the Commissioner may authorize that such loss be carried forward to a subsequent year of assessment in order to be dealt with in such manner and in such circumstances as the Commissioner may direct.

(b) Any decision of the Commissioner in the exercise of his discretion under paragraph (a) shall be subject to objection and appeal.

(7) There shall be allowed as a deduction from the income of any taxpayer who has obtained foreign currency under a forward exchange contract and has utilized such currency for a purpose contemplated in subsection (1), any premium or other consideration paid by him under such contract for the purpose of obtaining such currency and which is not deductible from his income under any other provision of this Act.

(7A) The provisions of this section shall not apply in respect of any gain realised, loss sustained or premium or other consideration paid during any year of assessment ending on or after 1 January 1994.

[Sub-s. (7A) inserted by s. 20 of Act 113 of 1993.]

(8) For the purposes of this section-

'associated company', in relation to another company, means a company which, in the opinion of the Commissioner, is associated with such other company by reason of the fact that both companies are managed or controlled directly or indirectly by substantially the same persons;

'forward exchange contract' means any agreement with an authorized dealer in foreign currencies in the Republic, whereby currency of the Republic is exchanged for a foreign currency at some future date at a specified rate of exchange.

[S. 24B inserted by s. 9 (1) of Act 101 of 1978 and substituted by s. 13 (1) of Act 104 of 1979.]

24C Allowance in respect of future expenditure on contracts

(1) For the purposes of this section, ‘future expenditure’ in relation to any year of assessment means an amount of expenditure which the Commissioner is satisfied will be incurred after the end of such year-
(a) in such manner that such amount will be allowed as a deduction from income in a subsequent year of assessment; or

(b) in respect of the acquisition of any asset in respect of which any deduction will be admissible under the provisions of this Act.

(2) If the income of any taxpayer in any year of assessment includes or consists of an amount received by or accrued to him in terms of any contract and the Commissioner is satisfied that such amount will be utilized in whole or in part to finance future expenditure which will be incurred by the taxpayer in the performance of his obligations under such contract, there shall be deducted in the determination of the taxpayer’s taxable income for such year such allowance (not exceeding the said amount) as the Commissioner may determine, in respect of so much of such future expenditure as in his opinion relates to the said amount.

(3) The amount of any allowance deducted under subsection (2) in any year of assessment shall be deemed to be income received by or accrued to the taxpayer in the following year of assessment.

[S. 24C inserted by s. 18 (1) of Act No. 104 of 1980.]

24D Deduction of certain expenditure incurred in respect of any National Key Point or specified important place or area

(1) There shall be allowed to be deducted from the income of any taxpayer for any year of assessment so much of any expenditure actually incurred by the taxpayer as the Commissioner is satisfied was so incurred during such year-

(a) directly in the performance of any act ordered, performed or executed under the provisions of the National Key Points Act, 1980 (Act No. 102 of 1980), in respect of any National Key Point or Key Point as defined in section 1 of that Act; or

(b) directly in providing efficient security against loss, damage, disruption or immobilization of any place or area as defined in section 1 of the said Act which, although not declared a National Key Point under the provisions of the said Act, has been evaluated and approved by the Minister of Defence or any person or committee appointed by him as such a place or area in respect of which measures for the efficient security thereof ought to be taken by such taxpayer.

[Para. (b) substituted by s. 22 of Act No. 121 of 1984.]
(2) The amount of any expenditure allowed to be deducted under the provisions of subsection (1) shall be restricted to expenditure-

(a) actually incurred by the taxpayer on or after 1 September 1978; and

(b) which was or is not otherwise allowable as a deduction under the provisions of this Act,

and no claim by the taxpayer for the deduction of any expenditure under the provisions of this section shall be admitted by the Commissioner unless confirmation has been received by him from the Minister of Defence or any person or committee appointed by that Minister to the effect that it was deemed necessary or expedient that the expenditure in question be incurred by the taxpayer concerned.

(3) Where an amount has been paid by the State to a taxpayer in respect of expenditure incurred by him prior to 1 July 1983 which has qualified for deduction from his income under subsection (1) and the Minister, person or committee referred to in subsection (2) confirms that such amount was paid as a supplement to the benefit which the taxpayer has enjoyed or will enjoy by way of the said deduction, the provisions of section 8 (4) (a) shall not apply in respect of the said amount.

[Sub-s. (3) added by s. 16 (1) of Act No. 85 of 1987.]

[S. 24D inserted by s. 20 (1) of Act No. 96 of 1981.]

24E ......

[S. 24E inserted by s. 18 of Act 91 of 1982 and deleted by s. 18 of Act 90 of 1988.]

24F Taxable income of film owners

(1) In this section-

'completion date', in relation to a film, means the date on which the cut master negative and conforming sound track of the film are married in an answer print or, where such film is not a cinematographic film, the date on which the film is completed to an equivalent production stage;

'film' means a recording of moving visual images and sound by means of cinematographic film, video tape, video disc or otherwise, including any copy of the film and any right therein;

'film manufacturer' means any person who manufactures film and whose
income is derived wholly or mainly from the production, processing, distribution or exhibition of films in the Republic;

'film owner' means any person who owns, whether solely or jointly, a film;

'post-production cost', in relation to a film, means any expenditure of the nature referred to in the definition of 'production cost' which is incurred after the completion date, but excluding any print cost in relation to such film;

'print cost', in relation to a film, means any expenditure incurred by the film owner in the making of copies of the film;

'production cost', in relation to a film, means the total expenditure incurred by a film owner in respect of the acquisition or production of such film, excluding expenditure incurred in the erection, construction or acquisition of any buildings or other structures or works of a permanent nature, but including, without in any way limiting the scope of this definition-

(a) any remuneration, salary, legal, accounting or other fee, commission or other amount paid or payable to any person for the purposes of or in connection with the production of the film;

(b) the cost of acquiring the story rights, script, screenplay, copyright or other rights in relation to the film;

(c) insurance premiums in respect of insurance against injury to or death of persons, or loss or damage to property employed or used, as the case may be, in the production of the film;

(d) premiums or commission payable in order to secure a guarantee that the cost of the film will not exceed a specified amount;

(e) interest, finance charges and raising fees incurred for the purposes of or in connection with the production of the film;

(f) the cost of acquiring or creating music, sound and other effects which will form part of the film;

(g) any allowance which but for the provisions of this section would be allowed under section 11 (e) or (o) or 12C in respect of any machinery, implements, utensils or articles used in the production of a film: Provided that-

(i) any such allowance shall be deemed to be an amount of expenditure incurred;
(ii) an amount equal to the total amount of any such allowance which may be granted in respect of any year of assessment divided by the number of days in that year shall be deemed to have been incurred on each day of that year;

(iii) such expenditure shall be deemed to have been incurred in the country in which the asset in respect of which the allowance may be granted was acquired; and

(iv) no deduction or allowance shall be granted in respect of the cost of acquisition of any such machinery, implements, utensils or articles otherwise than as provided in this paragraph or paragraph (h); and

[Para. (g) amended by s. 26 of Act 129 of 1991.]

(h) expenditure incurred in respect of-

(i) the purchase, hire or construction of sets; and

(ii) the hire of any machinery, implements, utensils or articles used in the production of the film,

but excluding any such expenditure incurred after the completion date and any expenditure incurred in the marketing or promotion of, or soliciting of orders for, the film;

'South African export film' means a film in respect of which-

(a) at least 75 per cent of-

(i) the total amount of production cost and post-production cost (excluding amounts paid or payable to persons nominated under subparagraph (ii)) is incurred and is paid or payable in the Republic; and

(ii) the total amount paid or payable, whether by the film owner or any other person, in respect of services rendered by persons employed directly in connection with the production of the film (other than a maximum of four such persons nominated by the film owner for the purposes of this definition) is paid or payable to persons ordinarily resident in the Republic: Provided that where any person so nominated is replaced by another person who assumes responsibility for such firstmentioned person's duties, the amounts paid or payable to both such persons shall be deemed to have been paid or to
be payable to one person; and

(b) at least 50 per cent of-

(i) the production cost and post-production cost; and

(ii) any expenditure similar to production cost or post-production cost which is incurred in connection with the film by any person other than the film owner,

is incurred and is paid or payable in the Republic;

'write-off period' ......

[Definition of 'write-off period' deleted by s. 24 (1) (a) of Act 101 of 1990.]

(2) (a) There shall be allowed to be deducted from the income of any film owner an allowance, to be known as the film allowance, determined in terms of subsection (3) in respect of the production cost and post-production cost incurred by him in respect of any film used by him in the production of his income or from which any income is received by or accrues to him.

(b) The film allowance which may be granted in respect of any film shall not in the aggregate exceed the production cost and post-production cost thereof and shall be in lieu of any deduction or allowance in respect of such production cost or post-production cost which may otherwise be allowable in terms of the provisions of this Act.

(3) Subject to the provisions of subsection (4), the amount of the film allowance which may be granted in respect of any one film shall be the sum of-

(a) in the year of assessment in which the completion date of such film falls, the production cost of such film and any post-production cost of such film incurred during such year; and

(b) in any subsequent year of assessment, any post-production cost of such film incurred during such year and the amount of any film allowance disallowed in the preceding year of assessment under the provisions of subsection (4).

[Sub-s. (3) substituted by s. 24 (1) (b) of Act 101 of 1990.]

(4) The film allowance which may be granted in respect of any one film in any year of assessment shall, together with the total film allowances granted in respect of that film in any preceding years of assessment, not exceed the sum of-
the amounts of production cost and post-production cost in respect of the film which have been paid by the film owner: Provided that where any loan or credit has been used by him for the payment or financing of the whole or any portion of such production cost or post-production cost and any portion of such loan or credit is owed by him on the last day of the year of assessment, the amount which may be taken into account under this paragraph shall be reduced by any portion of such loan or credit so owed by him for which the film owner is not under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment; and

[Para. (a) amended by s. 19 (1) (a) of Act 90 of 1988.]

(b) the amounts of any production cost and post-production cost which have not been paid by the film owner and for which he is under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment.

(5) and (6) ......

[Sub-ss. (5) and (6) deleted by s. 24 (1) (c) of Act 101 of 1990.]

(7) The amount of any print cost or any marketing expenditure contemplated in section 11bis which may be allowed under the provisions of sections 11 and 17 shall not in the aggregate exceed the total of-

(a) the amount of such print cost or marketing expenditure which has been paid by the film owner: Provided that where any loan or credit has been used by him for the payment or financing of the whole or any portion of such print cost or marketing expenditure and any portion of such loan or credit is owed by him on the last day of the year of assessment, the amount to be allowed under this paragraph shall be reduced by any portion of such loan or credit so owed by him for which the film owner is not under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment; and

[Para. (a) amended by s. 19 (1) (b) of Act 90 of 1988.]

(b) the amount of any print cost or marketing expenditure which has not been paid by the film owner and for which he is under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment:

Provided that where-
(a) any such loan or credit for which the film owner is not deemed to be at risk has been used by him for the payment or financing of print cost and marketing expenditure; or

(b) he is in respect of the sum of any unpaid amount of print cost and marketing expenditure not deemed to be at risk,

he shall for the purposes of this subsection be deemed not to be at risk for so much of such loan or credit or so much of such sum, as the case may be, as does not exceed the amount of such marketing expenditure for which such loan or credit was used or which is unpaid: Provided further that any amount of print cost or marketing expenditure which has been disallowed in terms of this subsection shall be carried forward and be deemed for the purposes of sections 11 and 17 to be an amount of print cost or marketing expenditure, as the case may be, incurred in the succeeding year of assessment.

[Sub-s (7) amended by s. 19 (1) (c) of Act 90 of 1988.]

(8) For the purposes of subsections (4) and (7), a film owner shall be deemed to be at risk to the extent that the payment of the production cost, post-production cost, print cost or marketing expenditure (as contemplated in section 11 bis) incurred by him, or the repayment of any loan or credit used by him for the payment or financing of any such production cost, post-production cost, print cost or marketing expenditure, would (having regard to any transaction, agreement, arrangement, understanding or scheme entered into before or after such production cost, post-production cost, print cost or marketing expenditure is incurred) result in an economic loss to him were no income to be received by or accrue to him in future years from the exploitation by him of the film.

(9) Notwithstanding the provisions of section 11 bis-

(a) no allowance shall be granted under the provisions of that section in respect of marketing expenditure incurred in respect of a film-

(i) which is in relation to the year of assessment not a South African export film; and

(ii) in respect of which the taxpayer has qualified for any subsidy payable in terms of the A-scheme as set out in the Head: Film Industry’s Circular N101/3/1 dated 15 May 1989, or any variation of that scheme in terms of which a subsidy may be paid in respect of foreign revenue earned by a film owner from the exploitation of a film; and

[Para. (a) substituted by s. 24 (1) (d) of Act 101 of 1990.]
the amount of marketing expenditure contemplated in subsection (4) of the said section which may be taken into account in the calculation of the marketing allowance under the said section shall be limited to so much of such marketing expenditure incurred or deemed to be incurred during the year of assessment as, together with the total amount of such marketing expenditure taken into account in the calculation of the marketing allowance in respect of the relevant film in previous years of assessment, does not exceed an amount determined in accordance with the formula-

\[ Y = (2.5 \times A) - B \]

in which formula-

(i) 'Y' represents the amount to be determined;

(ii) 'A' represents so much of the sum of the amounts of production cost and post-production cost incurred in the current and any previous year of assessment in relation to the film and which may in terms of subsection (4) be taken into account in the determination of the film allowance as was incurred and was paid or is payable in the Republic; and

(iii) 'B' represents so much of the sum of the production cost and post-production cost contemplated in subparagraph (ii) as was incurred outside the Republic:

Provided that-

(a) where the production cost or post-production cost incurred in the Republic by a film owner consists of or includes any amount which directly or indirectly relates to expenditure similar to production cost or post-production cost in relation to such film which was or will be incurred or paid by any other person outside the Republic, the said amount shall for the purposes of this subsection and subsection (11) be deemed to have been incurred by the film owner outside the Republic; and

(b) any amount of such marketing expenditure which has been allowed as a deduction in terms of subsection (7) and which has not been taken into account in the calculation of the marketing allowance by reason of the provisions of paragraph (a) or (b) of this subsection shall be deemed for the purposes of section 11bis to be an amount of marketing expenditure incurred in the succeeding year of assessment and allowed as a deduction in that year under the provisions of section 11 or 17.
(10) Where-

(a) a film has in relation to any year of assessment qualified as a South African export film;

(b) an allowance has been granted in that year of assessment under section 11bis in respect of marketing expenditure incurred in relation to such film; and

(c) the film has in relation to any subsequent year of assessment no longer qualified as a South African export film,

the film shall be deemed not to have qualified as a South African export film in relation to such first-mentioned year of assessment, and the Commissioner shall, notwithstanding anything to the contrary contained in this Act, make a revised assessment-

(i) for such first-mentioned year of assessment on the basis that the relevant film is not a South African export film; and

(ii) for any subsequent year of assessment to the extent that the determination of the film owner's taxable income for such subsequent year is affected by the revised assessment made for the said first-mentioned year of assessment.

(11) Where for the purposes of determining the marketing allowance granted to a film owner in any year of assessment under section 11bis in respect of any film, an amount represented by the symbol 'Y' (hereinafter referred to as the previous determination) has been determined in accordance with the formula contemplated in subsection (9) (b) and, in consequence of any production cost or post-production cost incurred by the film owner in relation to such film in any succeeding year of assessment, the amount represented by the symbol 'Y' as so determinable in relation to such succeeding year (hereinafter referred to as the new determination) is less than the previous determination, the Commissioner shall, notwithstanding anything to the contrary contained in this Act, make a revised assessment-

(a) for such first-mentioned year of assessment on the basis that the new determination is applicable to such year; and

(b) for any subsequent year of assessment to the extent that the
determination of the film owner’s taxable income for such subsequent year is affected by the revised assessment made for the said first-mentioned year of assessment.

[Sub-s. (11) added by s. 19 (1) (e) of Act 90 of 1988.]

[S. 24F inserted by s. 17 (1) of Act 85 of 1987]

24G Taxable income of toll road operators

(1) For the purposes of this section-

‘agreement’ means an agreement concluded by the taxpayer in terms of which the taxpayer is entitled to operate a toll road;

‘ancillary service’ in relation to a toll road, means any-

(a) vehicle service station, breakdown or repair facility;

(b) shop or restaurant;

(c) park, recreation or rest area;

(d) emergency medical or first-aid facility;

(e) hotel or other accommodation; or

(f) entertainment facility,

or other service or facility to which persons or vehicles may gain access from the toll road;

‘permanent work’ means-

(a) any earthwork, tunnel, bridge or structure forming part of a toll road, including any building erected for the purpose of housing toll equipment, but excluding any such work constructed or erected solely for the purposes of the repair or maintenance of a toll road; and

(b) the reimbursement to the State of the cost of acquisition or expropriation of land required for the purposes of the toll road;

‘road pavement’ means the road surface, road shoulders, subbase, base course, wearing courses, road signage, road markings, lighting, guard rails, tolling equipment, emergency telephone systems, emergency telephone repeater
stations, access roads to emergency telephone repeater station sites and other parts and road furniture of a toll road, excluding any permanent work or ancillary service;

'single toll road' means-

(a) a single continuous toll road or portion thereof, or two or more toll roads or portions thereof which are not contiguous but which the Minister of Transport Affairs, after consultation with the Minister of Finance, considers should be regarded as a single toll road; or

(b) two or more toll roads or portions thereof in respect of which a single agreement has been concluded with the State;

'tolling period', in relation to a toll road, means the initial period during which the State has granted to the taxpayer or any other person the right to operate such toll road, including any period in respect of which such right was so granted in terms of an interim agreement concluded by the State, but excluding any extension of such first-mentioned period in respect of which a right of renewal may be exercised;

'toll road' means a road or section thereof, including any access road, crossroad or ramp constituting a necessary adjunct to such road or section, in respect of which the taxpayer derives or will derive income through the imposition of a toll or the exploitation of the right to impose a toll.

(2) Subject to the provisions of subsection (5), there shall be deducted in the determination of the taxable income derived by the taxpayer during any year of assessment-

(a) the sum of any annual allowances determined under subsection (3) in relation to expenditure incurred during the current or any previous year of assessment in respect of any permanent work, road pavement, major rehabilitation of the road pavement or erection or construction or ancillary services in relation to a toll road;

(b) any expenditure incurred during the year of assessment in respect of the repair or maintenance of a toll road or any ancillary service in relation to such toll road, other than expenditure incurred on major rehabilitation of the road pavement;

(c) any interest (other than interest which is deductible under section 11 (a) or (b)) incurred by the taxpayer during the year of assessment in respect of any loan utilized for the purpose of financing any expenditure contemplated in paragraph (a) or (b); and
any amount which has been disallowed in the preceding year of assessment under the provisions of subsection (5):

Provided that the aggregate of the allowances which may be granted under paragraph (a) shall not exceed the total expenditure incurred by the taxpayer on such permanent work, road pavement, major rehabilitation of road pavement or erection or construction of ancillary services.

(3) For the purposes of subsection (2), an annual allowance shall be calculated in respect of expenditure incurred by the taxpayer on permanent works, road pavements, major rehabilitation of road pavements or the erection, construction, installation or provision of ancillary services during any year of assessment, such allowance to be equal to the expenditure so incurred during the year divided by the lesser of the number of years reckoned from the commencement of that year until the end of the tolling period (for which purpose a portion of a year shall be regarded as a year) and-

(a) in the case of expenditure incurred on permanent works or the erection or construction of ancillary services, 25 years; and

(b) in the case of such expenditure incurred on road pavements or major rehabilitation of road pavements, 8 years.

(4) No deduction or allowance shall be granted under this Act in respect of expenditure contemplated in subsection (2) otherwise than as provided in that subsection or section 11(o).

(5) The allowances which may be granted under subsection (2) (a), (b) and (d) in any year of assessment in respect of any single toll road shall not in the aggregate exceed the taxable income (as determined before the deduction of the said allowances) derived by the taxpayer during such year from-

(a) the exploitation of such toll road or any ancillary service in relation to such toll road; and

(b) any interest derived in the ordinary course of such exploitation and the financing of any expenditure contemplated in subsection (3) which relates to such toll road.

[S. 24G inserted by s. 20 (1) of Act 90 of 1988.]

24H Persons carrying on trade or business in partnership

(1) For the purposes of this section, 'limited partner' means any member of a partnership en commandite, an anonymous partnership or any similar
partnership, if such member's liability towards a creditor of the partnership is limited to the amount which he has contributed or undertaken to contribute to the partnership or is in any other way limited.

(2) Where any trade or business is carried on in partnership, each member of such partnership shall, notwithstanding the fact that he may be a limited partner, be deemed for the purposes of this Act to be carrying on such trade or business.

(3) Notwithstanding anything to the contrary in this Act contained, the amount of any allowance or deduction which may be granted to any taxpayer under any provision of this Act other than section 11bis in respect of or in connection with any trade or business carried on by him in a partnership in relation to which he is a limited partner shall not in the aggregate exceed the sum of-

(a) the amount, whether it consists of the taxpayer's contribution to the partnership or of any other amount, for which the taxpayer is or may be held liable to any creditor of the partnership; and

(b) any income received by or accrued to the taxpayer from such trade or business.

(4) Any allowance or deduction which has been disallowed under the provisions of subsection (3) shall be carried forward and be deemed to be an allowance or deduction to which the taxpayer is entitled in the succeeding year of assessment.

(5) (a) Where any income has in common been received by or accrued to the members of any partnership, a portion (determined in accordance with any agreement between such members as to the ratio in which the profits or losses of the partnership are to be shared) of such income shall, notwithstanding anything to the contrary contained in any law or the relevant agreement of partnership, be deemed to have been received by or to have accrued to each such member individually on the date upon which such income was received by or accrued to them in common.

(b) Where a portion of any income is under the provisions of paragraph (a) deemed to have been received by or to have accrued to a taxpayer, a portion (determined as aforesaid) of any deduction or allowance which may be granted under the provisions of this Act in the determination of the taxable income derived from such income shall be granted in the determination of the taxpayer's taxable income so derived.

[S. 24H inserted by s. 21 of Act 90 of 1988.]
24I Gains or losses on foreign exchange transactions

(1) For the purposes of this section-

'acquisition rate' means the exchange rate in respect of an exchange item obtained by dividing the amount of the expenditure incurred for the acquisition of such exchange item by the foreign currency amount in respect of such exchange item;

'affected contract' means any foreign currency option contract or forward exchange contract, as the case may be, which has been entered into by any person during any year of assessment, to serve as a hedge in respect of a loan, advance or debt, where-

(a) such loan or advance has not yet been obtained or granted, as the case may be, by such person, or such debt has not yet been incurred by, or the amount payable in respect of such debt has not yet accrued to such person, as the case may be, during such year of assessment; and

(b) such loan, advance or debt-

(i) is to be utilised by such person to acquire any asset or to finance any expense; or

(ii) will arise from the sale of any asset or the supply of any services,

in the ordinary course of his trade in terms of an agreement entered into by such person prior to the end of such year of assessment;

[Definition of 'affected forward exchange contract' inserted by s. 18 (1) (a) of Act 21 of 1994 and substituted by s. 13 (1) (a) of Act 36 of 1996 and by 'affected contract' by s. 35 (1) (a) of Act 30 of 1998.]

'disposal rate' means the exchange rate in respect of an exchange item obtained by dividing the amount received or accrued in respect of the disposal of such exchange item by the foreign currency amount in respect of such exchange item;

'exchange difference' means the foreign exchange gain or foreign exchange loss in respect of an exchange item during any year of assessment determined by multiplying such exchange item by the difference between-

(a) the ruling exchange rate on transaction date in respect of such exchange item during that year of assessment, and-
(i) the ruling exchange rate at which such exchange item is realised during that year of assessment; or

(ii) the ruling exchange rate at which such exchange item is translated at the end of that year of assessment; or

(b) the ruling exchange rate at which such exchange item was translated at the end of the immediately preceding year of assessment or at which it would have been translated had this section been applicable at the end of that immediately preceding year of assessment, and-

(i) the ruling exchange rate at which such exchange item is realised during that year of assessment; or

(ii) the ruling exchange rate at which such exchange item is translated at the end of that year of assessment;

'exchange item' means an amount in a foreign currency-

(a) owing by a person in respect of a loan or advance or a debt incurred by such person;

(b) owing to a person in respect of a loan or advance or a debt payable by another person to such person, which loan, advance or debt shall include a unit of currency held by such person for its own benefit or by any other person on behalf of such person;

[Para. (b) substituted by s. 18 (1) (b) of Act 21 of 1994.]

(c) owed by or to a person in respect of a forward exchange contract; or

(d) in respect of which a person has the right or contingent obligation to buy or sell it in terms of a foreign currency option contract;

'foreign currency' means any currency which is not legal tender in the Republic;

'foreign currency option contract' means any agreement in terms of which any person acquires or grants the right to buy from or to sell to any other person a certain amount of a nominated foreign currency on or before a future expiry date at a specified exchange rate;

'forward exchange contract' means any agreement in terms of which any
person agrees with another person to exchange an amount of currency for another currency at some future date at a specified exchange rate;

'forward rate' means the specified exchange rate as referred to in the definition of 'forward exchange contract';

'intrinsic value', in relation to a foreign currency option contract, means the value for the holder or writer thereof, as the case may be, determined by applying the difference between-

(a) the spot rate on translation date or the date on which the foreign currency option contract is realised, as the case may be; and

(b) the option strike rate,

to the amount of foreign currency as specified in such foreign currency option contract: Provided that such foreign currency option contract shall have a nil value for the holder or writer thereof if such holder thereof would have sustained a loss had he exercised his right in terms of such foreign currency option contract on such translation date or date realised due to the unfavourable difference between the option strike rate and the spot rate on such translation date or date realised;

'market value', in relation to a foreign currency option contract, means-

(a) in the case of a person who for accounting purposes uses a market-related valuation method in terms of a practice consistently applied by him to determine the value of all his foreign currency option contracts, the market-related value so determined; or

(b) in the case of any other person, the intrinsic value of such foreign currency option contract;

'option strike rate' means the specified exchange rate as referred to in the definition of 'foreign currency option contract';

'premium or discount on a forward exchange contract' means the amount obtained by applying the difference between the forward rate in respect of a forward exchange contract and the spot rate on the date on which such forward exchange contract was entered into, to the foreign currency amount specified in such forward exchange contract;

'realised' means, in relation to an exchange item, where such exchange item is-

(a) a loan or advance or debt in any foreign currency, when and to the
extent to which payment is received or made in respect of such loan, advance or debt, or when and to the extent to which such loan, advance or debt is settled or disposed of in any other manner;

(b) a forward exchange contract, when payment is received or made in respect of such forward exchange contract; or

(c) a foreign currency option contract, when payment is received or made in respect of the right in terms of such foreign currency option contract having been exercised, or when such foreign currency option contract expires without such right having been exercised, or when such foreign currency option contract is disposed of;

[Par. (c) substituted by s. 11 (1) (a) of Act 140 of 1993.]

'ruling exchange rate' means, in relation to an exchange item, where such exchange item is-

(a) a loan or advance or debt in a foreign currency on-

(i) transaction date, the spot rate on such date, or in the case where a related or matching forward exchange contract has been entered into to hedge such loan, advance or debt and the forward rate has been used to record for accounting purposes such loan, advance or debt in accordance with generally accepted accounting practice, the forward rate in terms of such forward exchange contract;

(ii) the date it is translated, the spot rate on such date, or in the case where a related or matching forward exchange contract has been entered into to hedge such loan, advance or debt and the forward rate has been used to translate for accounting purposes such loan, advance or debt in accordance with generally accepted accounting practice, the forward rate in terms of such forward exchange contract; or

(iii) the date it is realised, the spot rate on such date:

Provided that where the rate prescribed in respect of a loan or advance or debt in terms of this definition is the spot rate on transaction date or the spot rate on the date on which such loan or advance or debt is realised, and any consideration paid or payable or received or receivable in respect of the acquisition or disposal of such loan or advance or debt was determined by applying a rate other than such spot rate on transaction date or date realised, such spot rate shall be deemed to be the acquisition rate or disposal
rate, as the case may be;

(b) a forward exchange contract on-

(i) transaction date, the forward rate in terms of such forward exchange contract;

(ii) the date it is translated, the market-related forward rate available for the remaining period of such forward exchange contract, or in the case where the forward rate in terms of such forward exchange contract has been used to translate a loan, advance or debt as contemplated in paragraph (a) (ii), the forward rate in terms of such contract, or in respect of a forward exchange contract which is an affected contract, the forward rate in terms of such forward exchange contract;

[Sub-para. (ii) substituted by s. 18 (1) (c) of Act 21 of 1994 and by s. 35 (1) (b) of Act 30 of 1998.]

(iii) the date it is realised, the spot rate on such date; or

(c) a foreign currency option contract on-

(i) transaction date, a nil rate;

(ii) the date it is translated-

(aa) in relation to a foreign currency option contract which is not an affected contract, the rate obtained by dividing the market value of such foreign currency option contract on that date by the foreign currency amount as specified in such foreign currency option contract; or

(bb) in relation to a foreign currency option contract which is an affected contract, the rate obtained by dividing any amount included or deducted, as the case may be, in terms of subsection (4) (a) by the foreign currency amount, as specified in such affected contract;

[Sub-para. (ii) substituted by s. 35 (1) (c) of Act 30 of 1998.]

(iii) the date it is realised, the rate obtained by dividing the market value of such foreign currency option contract on that date by the foreign currency amount as specified in such foreign currency option contract: Provided that where such foreign currency option contract is realised by the disposal thereof,
the rate shall be obtained by dividing the amount received or accrued as a result of the disposal of such foreign currency option contract, by the foreign currency amount as specified in such foreign currency option contract:

[Sub-para. (iii) amended by s. 11 (1) (b) of Act 140 of 1993.]

(iv) ...... 

[Sub-para. (iv) deleted by s. 11 (1) (c) of Act 140 of 1993.]

Provided that the Commissioner may, having regard to the particular circumstances of the case, prescribe an alternative rate to any of the aforementioned prescribed rates to be applied by a person in such particular circumstances, if such alternative rate is used for accounting purposes in terms of generally accepted accounting practice;

[Definition of 'ruling exchange rate' amended by s. 18 (1) (d) of Act 21 of 1994.]

'spot rate' means the appropriate quoted exchange rate for the delivery of currency within a period of two business days;

'transaction date' means, in relation to-

(a) a loan or advance owing by a person, the date on which the amount payable in respect of such loan or advance was received by such person;

(b) a debt owing by a person, the date on which such debt was actually incurred;

(c) a loan or advance owing to a person, the date on which the amount payable in respect of such loan or advance was paid to another person or the date on which such loan or advance was acquired by such person in any other manner;

(d) a debt owing to a person, the date on which the amount payable in respect of such debt accrued to such person or the date on which such debt was acquired by such person in any other manner;

(e) a forward exchange contract, the date on which such contract was entered into; and

(f) a foreign currency option contract, the date on which such contract was entered into or acquired;
'transitional exchange difference' means the foreign exchange gain or foreign exchange loss in respect of an exchange item (other than an exchange item contemplated in paragraph (b) of the definition of 'exchange item' which is of a capital nature) determined by multiplying such exchange item by the difference between-

(a) the ruling exchange rate on transaction date in respect of such exchange item during any year of assessment preceding the first year of assessment ending on or after 1 January 1994; and

(b) the ruling exchange rate at which such exchange item would have been translated at the end of the year of assessment immediately preceding the first year of assessment ending on or after 1 January 1994,

if the provisions of this section had been applicable to that year of assessment: Provided that any foreign exchange gain or foreign exchange loss determined in terms of this definition in respect of such exchange item, shall be adjusted in such a manner that any foreign exchange gain or foreign exchange loss taken into account in terms of any other section of this Act in respect of such exchange item in the determination of taxable income during any year of assessment preceding the first year of assessment ending on or after 1 January 1994, shall not be included in income or allowed as a deduction more than once;

'translate' means the restatement of an exchange item in the currency of the Republic at the end of any year of assessment by applying the ruling exchange rate to such exchange item.

(2) In determining the taxable income of any person derived from carrying on any trade by him within the Republic in respect of any year of assessment ending on or after 1 January 1994, there shall be included in or deducted from the income so derived, as the case may be, any transitional exchange difference (but subject to the provisions of subsection (3)) and any exchange difference-

(a) arising from a transaction entered into by such person in the course of such trade; or

(b) arising from a loan or advance owing by such person or a debt incurred by such person, where such loan or advance has been utilized or such debt has been incurred in order to finance expenditure incurred by a connected person in relation to such person in the course of the carrying on of any trade within the Republic by such connected person.

(3) For the purposes of subsection (2) any transitional exchange difference in respect of an exchange item-
(a) which is realised in the first year of assessment ending on or after 1 January 1994, shall be included in or deducted from, as the case may be, the income of such person in such first year of assessment; or

(b) which is not so realised in such first year of assessment, shall be included in or deducted from, as the case may be, the income of such person-

(i) to the extent of 50 per cent of such transitional exchange difference in such first year of assessment; and

(ii) to the extent of 50 per cent of such transitional exchange difference in the year of assessment succeeding such first year of assessment.

(4) In determining the taxable income of any person derived from carrying on any trade by him within the Republic, there shall in respect of any year of assessment ending on or after 1 January 1994 be included in or deducted from the income so derived, as the case may be-

(a) (i) any premium or like consideration received by, or paid by, such person in terms of a foreign currency option contract entered into by such person in the course of such trade; or

(ii) any consideration paid by such person in respect of a foreign currency option contract acquired by such person in the course of such trade; and

[Para. (a) substituted by s. 35 (1) (d) of Act 30 of 1998.]

(b) any discount which accrued to such person or any premium incurred by him in respect of any forward exchange contract, where-

(i) such forward exchange contract was entered into by such person in the course of such trade as a related or matching forward exchange contract to serve as a hedge in respect of any loan, advance or debt utilized or to be utilized by such person to acquire any asset or to finance any expense in the course of such trade, or to serve as a hedge in respect of any loan, advance or debt arising from the sale of any asset or the supply of any services in the course of such trade; and

(ii) such loan, advance or debt was recorded on transaction date
at the forward rate in terms of such forward exchange contract, but such asset so acquired or such expense so financed, or such asset so sold or services so supplied, was recorded at the spot rate or an alternative rate as the Commissioner may have prescribed in terms of the definition of 'ruling exchange rate':

Provided that such discount or premium shall be deemed to have accrued or been incurred, as the case may be, on a day to day basis during the period of such forward exchange contract for the purposes of this paragraph.

[Sub-s. (4) substituted by s. 18 (1) (e) of Act 21 of 1994.]

(5) Where during any year of assessment any premium or discount on a forward exchange contract is included in any exchange difference in respect of any loan, advance or debt, where such exchange difference arose by reason of such loan, advance or debt having been-

(a) translated at the forward rate as contemplated in paragraph (a) (ii) of the definition of 'ruling exchange rate' or an alternative rate as the Commissioner may have prescribed in terms of that definition; and

(b) (i) recorded during that year of assessment at the spot rate on transaction date as contemplated in paragraph (a) (i) of that definition; or

(ii) translated at the end of the immediately preceding year of assessment at the spot rate on translation date as contemplated in paragraph (a) (ii) of that definition; or

(iii) translated at the end of the immediately preceding year of assessment at the forward rate as contemplated in paragraph (a) (ii) of that definition, but such forward rate differs from the forward rate contemplated in paragraph (a) of this subsection; or

(iv) recorded or translated, as the case may be, on any of the dates contemplated in subparagraph (i), (ii) or (iii) at an alternative rate as the Commissioner may have prescribed in terms of the definition of 'ruling exchange rate', such premium or discount on such forward exchange contract which is so included in such exchange difference, shall be deemed to have been incurred or accrued, as the case may be, on a day to day basis during the period of such forward exchange
contract and such premium or discount shall, for the purposes of subsection (2), be included in or deducted from a person’s income on such basis; or

(v) recorded during that year of assessment at the forward rate on the transaction date as contemplated in paragraph (a) (i) of the definition of ‘ruling exchange rate’,

[Sub-para. (v) added by s. 18 (b) of Act 28 of 1997.]

[Sub-s. (5) substituted by s. 18 (1) (e) of Act 21 of 1994.]

(6) Any inclusion in or deduction from income in terms of this section in respect of an exchange difference, transitional exchange difference or a premium or other consideration in respect of or in terms of a foreign currency option contract, shall be in lieu of any deduction or inclusion which may otherwise be allowed or included under any other provision of this Act.

(7) Notwithstanding the provisions of subsections (2) and (4), but subject to the provisions of sections 36 and 37E-

(a) any exchange difference arising from a loan, advance or debt having been utilized by a person in respect of-

(i) the acquisition, installation, erection or construction of any machinery, plant, implement, utensil, building or improvements to any building, as the case may be; or

(ii) the devising, developing, creation, production, acquisition or restoration of any invention, patent, design, trade mark, copyright or other similar property or knowledge contemplated in section 11 (gA), as the case may be;

(b) any exchange difference arising from a forward exchange contract or a foreign currency option contract which has been entered into by a person contemplated in paragraph (a), to the extent to which such forward exchange contract or foreign currency option contract is entered into to serve as a hedge in respect of a loan or advance obtained or to be obtained or a debt incurred or to be incurred for the utilization thereof as contemplated in paragraph (a); and

[Para. (b) substituted by s. 11 (1) (e) of Act 140 of 1993.]

(c) any premium or other consideration paid or payable in respect of or in terms of a foreign currency option contract entered into or acquired by a person contemplated in paragraph (a), to the extent
to which such foreign currency option contract is entered into or obtained in order to serve as a hedge in respect of a loan or advance obtained or to be obtained or a debt incurred or to be incurred for the utilization thereof as contemplated in paragraph (a),

[Para. (c) substituted by s. 11 (1) (e) of Act 140 of 1993.]

shall, where such exchange difference arose or such premium or other consideration was paid or became payable in a year of assessment prior to the year of assessment during which such machinery, plant, implement, utensil, building, improvements to any building, invention, patent, design, trade mark, copyright or other similar property or knowledge was or is brought into use for the purposes of such person's trade, be carried forward and be taken into account in the determination of the taxable income of such person in the year of assessment during which such exchange difference arose or such premium or other consideration was paid or became payable in a year of assessment prior to the year of assessment during which such machinery, plant, implement, utensil, building, improvements to any building, invention, patent, design, trade mark, copyright or other similar property or knowledge was or is so brought into use for the purposes of such person's trade: Provided that where the Commissioner is satisfied that during any year of assessment subsequent to the year of assessment during which such exchange difference arose or such premium or other consideration was paid or became payable-

(a) the loan, advance or debt to be obtained or incurred, as the case may be, as contemplated in paragraph (b) or (c) of this subsection will no longer be so obtained or incurred;

(b) such loan, advance or debt has not been utilised as contemplated in paragraph (a); or

(c) any such asset, property or knowledge will no longer be brought into use for the purpose of such person's trade,

such exchange difference or premium or other consideration shall no longer be carried forward, but shall be taken into account in the determination of such person's taxable income in such subsequent year of assessment.

[Sub-s. (7) amended by s. 11 (1) (d) of Act 140 of 1993, by s. 18 (1) (f) of Act 21 of 1994 and by s. 13 (1) (b) of Act 36 of 1996.]

(7A) (a) Where any exchange difference is to be included in or deducted from the income of any company in terms of subsection (2), there shall, in lieu of such deduction or inclusion, be included in or deducted, as the case may be, from the income of such company during any year of assessment an amount equal to 10 per cent of the deferred amount of such exchange difference arising from a loan or advance owing by such company to any other company or a loan or advance owing by any other company to such company (such a loan or
advance referred to as a qualifying exchange item for the purposes of this subsection), if-

(i) such company is a connected person in relation to such other company; and

(ii) the qualifying exchange item is of a capital nature.

(b) The deferred amount of any exchange difference shall, subject to the provisions of paragraphs (c), (d) and (e), be the sum of-

(i) the foreign exchange gain or foreign exchange loss as determined in terms of this section during any year of assessment in respect of any qualifying exchange item if such foreign exchange gain or foreign exchange loss arose as a result of the translation of such qualifying exchange item at the end of such year of assessment; and

(ii) the balance of any foreign exchange gain or foreign exchange loss, in respect of any qualifying exchange item which had arisen as a result of the translation of such qualifying exchange item during any preceding year of assessment, not included in or deducted from the income of such company in terms of paragraph (a) during such preceding year of assessment.

(c) The foreign exchange gain and foreign exchange loss referred to in paragraph (b) (i) shall exclude-

(i) in respect of all years of assessment ending on or before 31 December 1995, any foreign exchange loss in respect of any loan or advance made by such company to any other company or by any other company to such company on or before 31 December 1994; and

(ii) any foreign exchange gain or foreign exchange loss arising in respect of any qualifying exchange item at the end of any year of assessment to the extent to which such qualifying exchange item is hedged by a related or matching forward exchange contract.

(d) The balance of any foreign exchange gain or foreign exchange loss in respect of any qualifying exchange item referred to in paragraph (b) (ii) shall-

(i) where the foreign currency amount of a qualifying exchange item, to the extent to which it is not hedged by a related or matching forward exchange contract, at the end of any year of assessment is less than the foreign currency amount of such qualifying exchange
item, to the extent to which it was not hedged by a matching or related forward exchange contract, as at the end of the immediately preceding year of assessment, be reduced by an amount which bears to such balance the same ratio as the reduction in the foreign currency amount of such qualifying exchange item which is not so hedged at the end of such year of assessment bears to the foreign currency amount of such qualifying exchange item which was not so hedged at the end of such immediately preceding year of assessment; or

(ii) be reduced by 100 per cent of such balance in the first year of assessment during which the provisions of paragraph (a) have not been complied with.

(e) Where any qualifying exchange item (hereinafter referred to as the old qualifying exchange item) is realized during the year of assessment by conversion thereof into a qualifying exchange item denominated in any other foreign currency (hereinafter referred to as the new qualifying exchange item)-

(i) any exchange difference arising as a result of such conversion shall, for the purposes of paragraph (b) (i), be deemed to be a deferred amount of any exchange difference in respect of such old qualifying exchange item;

(ii) the foreign currency amount of such old qualifying exchange item shall, for the purposes of paragraph (d), be deemed not to have been reduced on realization to the extent that it was converted into a new qualifying exchange item and, thereafter, the old qualifying exchange item and the new qualifying exchange item shall be deemed to be one and the same qualifying exchange item and a reduction of the foreign currency amount of the new qualifying exchange item shall be deemed to be a reduction of the old qualifying exchange item; and

(iii) the foreign currency amount of the old qualifying exchange item at the end of such immediately preceding year of assessment shall for the purposes of paragraph (d) be restated in the foreign currency in which the new qualifying exchange item is denominated by applying the appropriate exchange rate used to convert the old qualifying exchange item to the new qualifying exchange item.

(f) Any reduction in terms of paragraph (d) of the balance of any foreign exchange gain or foreign exchange loss in respect of a qualifying exchange item shall be included in or deducted from, as the case may be, the income of such company in the year of assessment of such reduction.
(8) Any foreign exchange loss sustained in respect of a transaction entered into by a person, or any premium or other consideration paid in respect of or in terms of a foreign currency option contract entered into or acquired by a person, shall not be allowed as a deduction from such person's income under subsection (2) or (4), as the case may be, if such transaction was entered into or such foreign currency option contract was entered into or acquired solely or mainly to enjoy a reduction in tax by way of a deduction from income.

[S. 24J inserted by s. 21 of Act 113 of 1993.]

24J Incurred and accrual of interest

(1) For the purposes of this section, unless the context otherwise indicates-

'accrual amount', in relation to an accrual period, means an amount determined in accordance with the following formula:

\[ A = B \times C \]

in which formula-

(a) 'A' represents the amount to be determined;

(b) 'B' represents the yield to maturity; and

(c) 'C' represents the adjusted initial amount:

Provided that-

(i) where the commencement or end of any year of assessment falls within an accrual period, the amount so determined shall be apportioned on a day to day basis over the term of such accrual period in order to determine the relevant portion of such amount relating to that part of such accrual period falling within the year of assessment so commencing or ending, as the case may be;

(ii) where an instrument is transferred on a date other than at the end of an accrual period, the amount so determined shall be apportioned on a day to day basis over the term of such accrual period in order to determine the relevant portion of such amount relating to the relevant transferor or transferee, as the case may be, in relation to such instrument; and
(iii) the amount so determined shall be appropriately adjusted by taking into account amounts received or payments made other than at the end of an accrual period;

'accretion period', in relation to an instrument, means-

(a) where in terms of such instrument regular payments at intervals of equal length and not exceeding 12 months per interval are to be made throughout the term of such instrument, the period between such regular payments; or

(b) any period not exceeding 12 months elected by the holder or issuer, as the case may be,

which period shall be applied consistently throughout the term of such instrument;

'adjusted gain on transfer or redemption of an instrument' means-

(a) in relation to the holder of any income instrument, where-

(i) an alternative method has not been applied, the amount by which the sum of the transfer price or redemption payment of such income instrument in relation to such holder and any payments received by such holder in terms of such income instrument during the accrual period in which such income instrument is transferred or redeemed, exceeds the sum of the adjusted initial amount in relation to such income instrument and the accrual amount in relation to such accrual period and any payments made by such holder in terms of such income instrument during such accrual period; or

(ii) an alternative method has been applied, the amount by which the sum of the transfer price or redemption payment of such income instrument in relation to such holder and any payments received by such holder in terms of such income instrument during the period from acquisition until transfer or redemption of such income instrument by such holder, exceeds the sum of the initial amount and all amounts determined in accordance with such alternative method and any other payments made by such holder in terms of such income instrument during the period from acquisition until transfer or redemption of such income instrument by such holder; or

(b) in relation to the issuer of any instrument, where-
(i) an alternative method has not been applied, the amount by which the sum of the adjusted initial amount in relation to such instrument and the accrual amount in relation to the accrual period during which such instrument is transferred or redeemed and any payments received by such issuer in terms of such instrument during the accrual period, exceeds the sum of the transfer price or redemption payment in relation to such instrument in relation to such issuer and any payments made by such issuer in terms of such instrument during such accrual period; or

(ii) an alternative method has been applied, the amount by which the sum of the initial amount and all amounts determined in accordance with such alternative method and any other payments received by such issuer in terms of such instrument during the period from issue or acquisition until transfer or redemption of such instrument by such issuer, exceeds the sum of the transfer price or redemption payment in relation to such instrument in relation to such issuer and any payments made by such issuer in terms of such instrument during the period from issue or acquisition until transfer or redemption of such instrument by such issuer;

[Definition of 'adjusted gain on transfer or redemption of an instrument' substituted by s. 14 (1) (a) of Act 36 of 1996.]

'adjusted initial amount' means-

(a) in relation to the holder of an income instrument with regard to a particular accrual period, the sum of the initial amount and the accrual amounts in relation to all previous accrual periods and any other payments made by such holder during all such previous accrual periods less any payments received by such holder during all such previous accrual periods, in terms of such income instrument; or

(b) in relation to the issuer of an instrument with regard to a particular accrual period, the sum of the initial amount and the accrual amounts in relation to all previous accrual periods and any other payments received by such issuer during all such previous accrual periods less any payments made by such issuer during all such previous accrual periods, in terms of such instrument;

'adjusted loss on transfer or redemption of an instrument' means-
(a) in relation to the holder of any income instrument, where-

(i) an alternative method has not been applied, the amount by which the sum of the adjusted initial amount in relation to such income instrument and the accrual amount in relation to the accrual period during which such income instrument is transferred or redeemed and any payments made by such holder in terms of such income instrument during such accrual period, exceeds the sum of the transfer price or redemption payment in relation to such income instrument in relation to such holder and any payments received by such holder in terms of such income instrument during such accrual period; or

(ii) an alternative method has been applied, the amount by which the sum of the initial amount and all amounts determined in accordance with such alternative method and any other payments made by such holder in terms of such income instrument during the period from acquisition until transfer or redemption of such income instrument by such holder, exceeds the sum of the transfer price or redemption payment in relation to such income instrument in relation to such holder and any payments received by such holder in terms of such income instrument during the period from acquisition until transfer or redemption of such income instrument by such holder; or

(b) in relation to the issuer of any instrument, where-

(i) an alternative method has not been applied, the amount by which the sum of the transfer price or redemption payment of such instrument in relation to such issuer and any payments made by such issuer in terms of such instrument during the accrual period during which such instrument is transferred or redeemed, exceeds the sum of the adjusted initial amount in relation to such instrument and the accrual amount in relation to such accrual period and any payments received by such issuer in terms of such instrument during such accrual period; or

(ii) an alternative method has been applied, the amount by which the sum of the transfer price or redemption payment of such instrument in relation to such issuer and any payments made by such issuer in terms of such instrument during the period from issue or acquisition until transfer or redemption of such instrument by such issuer, exceeds the sum of the initial
amount and all amounts determined in accordance with such alternative method and any other payments received by such issuer in terms of such instrument during the period from issue or acquisition until transfer or redemption of such instrument by such issuer;

[Definition of 'adjusted loss on transfer or redemption of an instrument' substituted by s. 14 (1) (b) of Act 36 of 1996.]

'alternative method' means a method of calculating interest in relation to any class of instruments which-

(a) conforms with generally accepted accounting practice;

(b) is consistently applied in respect of all such instruments (excluding any instrument as contemplated in subsection (9)) for all financial reporting purposes; and

(c) method achieves a result in so far as the timing of the accrual and incurral of interest is concerned which does not differ significantly from the result achieved by the application of the provisions of subsections (2) (a) and (3) (a);

'deferred interest' includes-

(a) any interest where such interest (or any portion thereof), calculated in respect of any accrual period falling within the term of any instrument by applying a constant interest rate throughout the term of such instrument, is not payable or receivable in terms of such instrument within one year from the date of the commencement of such accrual period; and

(b) any interest payable or receivable in terms of any instrument where such interest is not calculated by applying a constant interest rate throughout the term of such instrument;

'fixed rate instrument' means an instrument in terms of which the amount or amounts payable or receivable is or are or consists of or consist of-

(a) a specified amount or specified amounts;

(b) an amount or amounts the method of calculation of which does not involve the application of a variable rate; or

(c) any combination of amounts referred to in paragraph (a) or (b);
'holder', in relation to an income instrument-

(a) means any person who has become entitled to any interest in terms of such income instrument; or

(b) at any particular time, means any person who, if any interest payable in terms of such income instrument was due and payable at that time, would be entitled to receive payment of such interest;

'income instrument' means-

(a) in the case of any person other than a company, any instrument-

(i) the term of which will, or is reasonably likely to, exceed one year; and

(ii) which is issued or acquired at a discount or premium or bears deferred interest; and

(b) in the case of any company, any instrument;

[Definition of 'income instrument' substituted by s. 14 (1) (c) of Act 36 of 1996.]

'initial amount' means the issue price or transfer price, as the case may be, in relation to an instrument';

'instrument' means any form of interest-bearing arrangement, whether in writing or not, including-

(a) any stock, bond, debenture, bill, promissory note, certificate or similar arrangement;

(b) any deposit with a bank or other financial institution;

(c) any secured or unsecured loan, advance or debt;

(d) any acquisition or disposal of any right to receive interest or the obligation to pay any interest, as the case may be, in terms of any other interest bearing arrangement; or

(e) any repurchase agreement or resale agreement,

which was-

(i) issued or deemed to have been issued after 15 March 1995;
(ii) issued on or before 15 March 1995 and transferred on or after 19
July 1995; or

(iii) in so far as it relates to the holder thereof, issued on or before 15
March 1995 and was unredeemed on 14 March 1996 (excluding
any arrangement contemplated in subparagraphs (i) and (ii)),

but excluding-

(A) any lease agreement (other than a sale and leaseback
arrangement as contemplated in section 23G);

(B) ......

[Item (B) deleted by s. 19 (1) (c) of Act 28 of 1997.]

[Definition of 'instrument' amended by s. 14 (1) (d) of Act 36 of 1996 and by s. 19
(1) (c) of Act 28 of 1997.]

'interest' includes the-

(a) gross amount of any interest or related finance charges, discount or
premium payable or receivable in terms of or in respect of a
financial arrangement;

(b) gross amount of any amount payable by a borrower to the lender,
in respect of any interest-bearing arrangement, irrespective of the
term of such arrangement, which would have constituted a 'lending
arrangement' as defined in section 23 (1) of the Stamp Duties Act,
1968 (Act 77 of 1968), had the term of such arrangement been less
than six months to which the lender would, but for such lending
arrangement, have been entitled; and

(c) absolute value of the difference between all amounts receivable
and payable by a person in terms of a sale and leaseback
arrangement as contemplated in section 23G throughout the full
term of such arrangement, to which such person is a party,
irrespective of whether such amount is-

(i) calculated with reference to a fixed rate of interest or a variable rate
of interest; or

(ii) payable or receivable as a lump sum or in unequal instalments
during the term of the financial arrangement;
'interest rate agreement' means an interest rate agreement as defined in section 24K;

'issue', in relation to an instrument, means the creation of the liability to pay or the right to receive an amount or amounts in terms of such instrument;

'issue price', in relation to an instrument, means the consideration given or received for the issue of the instrument;

'issuer', in relation to any instrument-

(a) means any person who has incurred any interest in terms of such instrument; or

(b) at any particular time, means any person who, if any interest payable in terms of such instrument was due and payable at that time, would be liable to pay such interest;

'redemption', in relation to an instrument, means the discharging of all liability to pay all amounts in terms of such instrument;

'redemption payment', in relation to an instrument, means any payment made or received which has the effect of redeeming such instrument;

'repurchase agreement' means the obtaining of money (which money shall for the purposes of this section be deemed to have been so obtained by way of a loan) through the disposal of an asset by any person to any other person subject to an agreement in terms of which such person undertakes to acquire from such other person at a future date the asset so disposed of or any other asset issued by the issuer of, and which has been so issued subject to the same conditions regarding term, interest rate and price as, the asset so disposed of;

'resale agreement' means the provision of money (which money shall for the purposes of this section be deemed to have been so provided in the form of a loan) through the acquisition of an asset by any person from any other person subject to an agreement in terms of which such person undertakes to dispose of to such other person at a future date the asset so acquired or any other asset issued by the issuer of, and which has been so issued subject to the same conditions regarding term, interest rate and price as, the asset so acquired;

'short selling' means the sale of any instrument by a person who is not the owner of such instrument, and in respect of which such person has the obligation
to deliver such instrument at a future date;

'term', in relation to an instrument, means the period from the issue or transfer, as the case may be, until the date of redemption thereof;

'transfer', in relation to an instrument, includes-

(a) the transfer, sale, assignment or disposal in any other manner of such instrument by the holder or issuer thereof, as the case may be; or

(b) the acquisition of such instrument by the holder or issuer thereof, as the case may be, by way of a transfer, sale, assignment or disposal in any other manner,

but does not include the redemption of such instrument;

'transfer price', in relation to the transfer of an instrument, means the consideration payable or receivable, as the case may be, for the transfer of such instrument;

'variable rate' means a rate determined with reference to an interest or indexation rate or other similar factor, being a rate or factor that varies or may vary during the term of the instrument;

'variable rate instrument' means an instrument which is not a fixed rate instrument; and

'yield to maturity' means the rate of compound interest per accrual period at which the present value of all amounts payable or receivable in terms of any instrument in relation to a holder or an issuer, as the case may be, of such instrument during the term of such instrument equals the initial amount in relation to such holder or issuer of such instrument: Provided that where-

(a) such instrument is a variable rate instrument, such rate of compound interest shall be calculated with reference to the variable rate applicable on the date such rate of compound interest is to be calculated to determine all amounts payable or receivable after such date;

(b) in the case of a variable rate instrument the variable rate in relation to such instrument changes, the rate of compound interest shall be redetermined in relation to such variable rate instrument with reference to-

(i) the appropriate adjusted initial amount in relation to such
variable rate instrument determined before such change in the rate; and

(ii) such changed variable rate applicable on the date such rate of compound interest is to be redetermined to determine all amounts payable or receivable after such date;

(c) any variation in the terms or conditions of such instrument takes place which will result in a change in such rate of compound interest in relation to such instrument, the rate of compound interest shall be redetermined in relation to such instrument with reference to the appropriate adjusted initial amount in relation to such instrument determined before such variation; or

(d) there is a variation or alteration-

(i) of the rights or interests of a holder in relation to an income instrument to receive interest in terms of such income instrument, the rate of compound interest in relation to such income instrument shall be redetermined in respect of such holder with reference to the appropriate adjusted initial amount in relation to such income instrument determined before such variation or alteration; or

(ii) in the obligations of an issuer in relation to an instrument to pay any interest in terms of such instrument, the rate of compound interest in relation to such instrument shall be redetermined in respect of such issuer with reference to the appropriate adjusted initial amount in relation to such instrument determined before such variation or alteration.

(2) Where any person is the issuer in relation to an instrument during any year of assessment, such person shall for the purposes of this Act be deemed to have incurred an amount of interest during such year of assessment, which is equal to-

(a) the sum of all accrual amounts in relation to all accrual periods falling, whether in whole or in part, within such year of assessment in respect of such instrument; or

(b) an amount determined in accordance with an alternative method in relation to such year of assessment in respect of such instrument.

(3) Where any person is the holder in relation to an income instrument during any year of assessment, there shall for the purposes of this Act be deemed to have accrued to such person during such year of assessment, an
amount of interest which is equal to-

(a) the sum of all accrual amounts in relation to all accrual periods falling, whether in part or in whole, within such year of assessment in respect of such income instrument; or

(b) an amount determined in accordance with an alternative method in relation to such year of assessment in respect of such income instrument.

(3A) Where any person is the holder of an income instrument which is an instrument as contemplated in paragraph (iii) of the definition of 'instrument', the amount by which the sum of all accrual amounts in relation to all accrual periods falling within the period from the date of acquisition (whether by way of issue or transfer, as the case may be) of such income instrument by such person until 13 March 1996, exceeds the sum of all interest received by or accrued to such person during such period had the provisions of this section not been applicable during such period in respect of such income instrument, shall for the purposes of this Act be deemed to have accrued to such person in the year of assessment during which such income instrument is transferred by such holder or redeemed (whichever is the earlier): Provided that the provisions of this subsection shall not apply in so far as any interest in relation to such income instrument was assessed to tax in the hands of such person under an assessment raised with a date of assessment before the date of promulgation of this Act.

[Sub-s. (3A) inserted by s. 14 (1) (e) of Act 36 of 1996.]

(4) Any-

(a) adjusted gain on transfer or redemption of an instrument calculated in relation to the transfer or redemption, as the case may be, of such instrument by a person during any year of assessment shall for the purposes of this Act be deemed to have accrued to such person in such year of assessment; and

(b) adjusted loss on transfer or redemption of an instrument calculated in relation to the transfer or redemption, as the case may be, of such instrument by a person during any year of assessment, shall for the purposes of this Act be deemed to have been incurred by such person in such year of assessment.

(4A) Where in the case of any-

(a) holder of an income instrument any adjusted loss on transfer or redemption of such income instrument which has been deemed to have been incurred by such holder in terms of subsection (4) (b)
during any year of assessment, includes an amount in relation to such income instrument representing an-

(i) accrual amount; or

(ii) amount determined in accordance with an alternative method,

which amount has been included in the income of the holder during such year of assessment or any previous year of assessment, such amount shall be allowed as a deduction from the income of such holder during such year of assessment; or

(b) issuer of an instrument any adjusted gain on transfer or redemption which has been deemed to have been accrued to such issuer in terms of subsection (4) (a) during any year of assessment, includes an amount in relation to such instrument representing an-

(i) accrual amount; or

(ii) amount determined in accordance with an alternative method,

which amount has been allowed as a deduction from the income of such issuer during such year of assessment or any previous year of assessment, such amount shall be included in the income of such issuer during such year of assessment.

[Sub-s. (4A) inserted by s. 14 (1) (f) of Act 36 of 1996.]

(5) Where any interest actually-

(a) paid by any person in terms of an instrument is to be taken into account in the determination of any accrual amount in relation to such an instrument or any other amount determined in accordance with an alternative method in relation to such instrument which accrual amount or other amount is to be dealt with in terms of the provisions of subsection (2), no account shall for the purposes of section 11 be taken of any such interest so actually paid, save by way of the operation of such subsection; or

(b) received by any person in terms of an income instrument is to be taken into account in the determination of any accrual amount in relation to such income instrument or any other amount determined in accordance with an alternative method in relation to such income instrument which accrual amount or other amount is to be dealt with in terms of the provisions of subsection (3), no account shall for the purposes of the definition of 'gross income' in section 1 be taken of
any such interest so actually received, save by way of the operation of such subsection.

(5A) Any amount which has been deemed to have been incurred by or accrued to a person, as the case may be, in respect of an instrument in terms of the provisions of this section, shall for the purposes of this Act not be deducted from or included in, as the case may be, the income of such person more than once by reason of the application of this section.

[Sub-s. (5A) inserted by s. 14 (1) (g) of Act 36 of 1996.]

(6) Where the term of an instrument issued on or before 15 March 1995 is extended or the terms or conditions of such instrument are materially varied after the said date, such instrument shall be deemed to have been issued after the said date and the provisions of this section shall apply to both the issuer and the holder in relation to such instrument as from the date of such extension or material variation.

(7) Where there is more than one-

(a) holder in relation to an income instrument and any accrual amount in relation to an accrual period with regard to any one of the holders in relation to such income instrument is to be determined, such accrual amount shall be so determined without taking into account any consideration or any amount or amounts paid or payable or received or receivable by any other holder in terms of such income instrument; and

(b) issuer in relation to an instrument and any accrual amount in relation to an accrual period with regard to any one of the issuers in relation to such instrument is to be determined, such accrual amount shall be so determined without taking into account any consideration or any amount or amounts paid or payable or received or receivable by any other issuer in terms of such instrument.

(8) Where in relation to an instrument any person is entitled to any interest in terms of such instrument and also liable to pay any interest in terms of such instrument, such person shall for the purposes of this section-

(a) where the interest which he is entitled to receive in terms of such instrument exceeds the interest which he is liable to pay in terms of such instrument, be deemed not to be an issuer in relation to such instrument; and

(b) where the interest which he is liable to pay in terms of such
instrument exceeds the interest which he is entitled to receive in terms of such instrument, be deemed not to be a holder in relation to such instrument.

(9) (a) Any company whose business comprises the dealing in instruments (including the short selling of instruments) or interest rate agreements may elect that the provisions of subsections (2) to (8), inclusive, and section 24K shall not apply to all such instruments or interest rate agreements in respect of which it so deals in.

[Para. (a) substituted by s. 19 (1) (d) of Act 28 of 1997.]

(b) Any election referred to in paragraph (a) shall-

(i) be made in writing;

(ii) be accompanied by a statement setting forth full details of the methodology to be applied by the company to determine the market value as contemplated in paragraph (c) in relation to all instruments or interest rate agreements contemplated in paragraph (a);

[Sub-para. (ii) substituted by s. 19 (1) (e) of Act 28 of 1997.]

(iii) not take effect unless the Commissioner has, subject to such conditions as he may deem necessary, approved-

(A) the methodology to be applied by such company to determine the market value as contemplated in paragraph (c) in respect of such instruments or interest rate agreements; and

[Item (A) substituted by s. 19 (1) (f) of Act 28 of 1997.]

(B) the manner in which such market value in relation to such instruments or interest rate agreements is to be taken into account in the determination of the taxable income of such company during any year of assessment; and

[Item (B) substituted by s. 19 (1) (f) of Act 28 of 1997.]

(iv) subject to the provisions of paragraphs (e) and (f), be binding upon such company in respect of all such instruments and interest rate agreements during the year of assessment in which it took effect and every succeeding year of assessment.

[Sub-para. (iv) substituted by s. 19 (1) (g) of Act 28 of 1997.]
(c) The market value in relation to all instruments and interest rate agreements contemplated in paragraph (a) of a company which made an election as contemplated in such paragraph shall be determined in accordance with commercially accepted practice which is applied by such company consistently in respect of all such instruments and interest rate agreements for financial reporting purposes to its shareholders.

[Para. (c) substituted by s. 19 (1) (h) of Act 28 of 1997.]

(d) Any instrument or interest rate agreement contemplated in paragraph (a) which as a result of an election made in terms of such paragraph is to be dealt with on a market value basis as contemplated in the foregoing provisions of this subsection shall (subject to the provisions of paragraphs (e) and (f)) be so dealt with until the date of redemption or transfer of such instrument or interest rate agreement.

[Para. (d) substituted by s. 19 (1) (h) of Act 28 of 1997.]

(e) Where the Commissioner is satisfied that the approval granted by him in terms of paragraph (b) (iii) was obtained by fraud or in consequence of any misrepresentation or failure to disclose any material fact by the company which made the election in terms of paragraph (a), he shall, if he is satisfied that in the light of the full facts the approval should not have been granted, withdraw such approval as from the date such approval was granted by him.

(f) Where any company during any year of assessment no longer complies with the provisions of this subsection-

(i) the approval granted by the Commissioner in terms of paragraph (b) (iii) shall be deemed to have been withdrawn by the Commissioner as from such year of assessment; and

(ii) an appropriate adjustment shall be made to the taxable income of such company during such year of assessment in relation to all instruments or interest rate agreements contemplated in paragraph (a) of the company held and not disposed of or not redeemed by it, as the case may be, as at the end of such year of assessment, having regard to all interest which would have been deemed to have been incurred by or accrued to such company had the provisions of this subsection not been applicable during all years of assessment before such year of assessment and all amounts which have been included in or deducted from the income of such company during such years of assessment: Provided that the provisions of this paragraph shall not have the effect that an amount be included in or deducted from the income of such company more than once.
(10) Any reference in this section to any payment made or an amount paid or payable, consideration given or received or any payment received or an amount received or receivable, as the case may be, shall be construed as including a payment or an amount or consideration otherwise than in cash.

(11) Any decision of the Commissioner in the exercise of his discretion under this section shall be subject to objection and appeal.

24K Incurral and accrual of amounts in respect of interest rate agreements

(1) For the purposes of this section 'interest rate agreement' means any agreement in terms of which any person-

(a) acquires the right to receive-

(i) an amount calculated by applying any rate of interest to a notional principal amount specified or referred to in such agreement; or

(ii) an amount calculated with reference to the difference between any combination of rates of interest applied to a notional principal amount specified or referred to in such agreement; or

(iii) a fixed amount specified or referred to in such agreement as consideration in terms of such agreement whereunder the obligation is imposed to pay any other amount as contemplated in paragraph (b) (i) in terms of such agreement or an amount equal to the difference between such fixed amount and such other amount; or

(b) becomes liable to pay-

(i) an amount calculated by applying any rate of interest to a notional principal amount specified or referred to in such agreement; or

(ii) an amount calculated with reference to the difference between any combination of rates of interest applied to a notional principal amount specified or referred to in such agreement; or

(iii) a fixed amount specified or referred to in such agreement as
consideration in terms of such agreement whereunder the right is acquired to receive any other amount as contemplated in paragraph (a) (i) in terms of such agreement or an amount equal to the difference between such fixed amount and such other amount.

(2) Any amount contemplated in the definition of "interest rate agreement" in subsection (1) shall for the purposes of this Act be deemed to have been incurred by or accrued to, as the case may be, a person contemplated in such definition on a day to day basis (which conforms with generally accepted accounting practice and is consistently applied for all financial reporting purposes) during the period in respect of which it is calculated.

(3) Where any amount contemplated in subsection (2) is to be calculated with reference to a variable rate for the purposes of such subsection, such amount shall be calculated with reference to the variable rate applicable on the date such amount is to be calculated to determine all amounts payable or receivable after such date.

[S. 24K inserted by s. 20 (1) of Act 28 of 1997.]

25 Income of beneficiaries and estates of deceased persons

(1) Any income received by or accrued to or in favour of any person in his capacity as the executor of the estate of a deceased person, and any amount so received or accrued which would have been income in the hands of the deceased person had it been received by or accrued to or in favour of such deceased person during his lifetime, shall, to the extent to which such income or amount has been derived for the immediate or future benefit of any ascertained heir or legatee of such deceased person, be deemed to be income received by or accrued to such heir or legatee, and shall, to the extent to which such income or amount is not so derived, be deemed to be income of the estate of such deceased person.

(2) Any deduction or allowance which may be granted under the provisions of this Act in the determination of the taxable income derived by way of any income or amount referred to in subsection (1) shall, to the extent to which such income or amount is under the provisions of that subsection deemed to be income which has accrued to an heir or legatee or the estate of such deceased person, be deemed to be a deduction or allowance which may be made in the determination of the taxable income derived by such heir or legatee or such estate, as the case may be.

[S. 25 substituted by s. 22 of Act 113 of 1993.]
25A Determination of taxable incomes of permanently separated spouses

(1) Where during any period of assessment any taxpayer who is married in community of property has lived apart from his spouse in circumstances which, in the opinion of the Commissioner, indicate that the separation is likely to be permanent, his taxable income for such period shall be determined at such amount as the Commissioner, having regard to the circumstances of the case, determines to be the amount at which such taxpayer's taxable income would have been determined under the provisions of this Act if such taxpayer had not been married in community of property.

(2) Any decision of the Commissioner under subsection (1) as to the amount of the taxpayer's taxable income shall be subject to objection and appeal.

[S. 25A inserted by s. 21 (1) of Act 55 of 1966.]

25B Income of trusts and beneficiaries of trusts

(1) Any income received by or accrued to or in favour of any person in his capacity as the trustee of a trust referred to in the definition of 'person' in section 1, shall, subject to the provisions of section 7, to the extent to which such income has been derived for the immediate or future benefit of any ascertained beneficiary with a vested right to such income, be deemed to be income which has accrued to such beneficiary, and to the extent to which such income is not so derived, be deemed to be income which has accrued to such trust.

(2) Where a beneficiary has acquired a vested right to any income referred to in subsection (1) in consequence of the exercise by the trustee of a discretion vested in him in terms of the relevant deed of trust, agreement or will of a deceased person, such income shall for the purposes of that subsection be deemed to have been derived for the benefit of such beneficiary.

(3) Any deduction or allowance which may be made under the provisions of this Act in the determination of the taxable income derived by way of any income referred to in subsection (1) shall, to the extent to which such income is under the provisions of that subsection deemed to be income which has accrued to a beneficiary or to the trust, be deemed to be a deduction or allowance which may be made in the determination of the taxable income derived by such beneficiary or trust, as the case may be.

(4) Notwithstanding the provisions of subsection (3), any deduction or allowance contemplated in that subsection which is deemed to be made in the determination of the taxable income of a beneficiary of a trust during any year of assessment shall be limited to the income which is deemed to be income which has accrued to such beneficiary in terms of subsection (1) during such year of assessment.
(5) The amount by which the sum of the deductions and allowances contemplated in subsection (4) exceeds the income contemplated in that subsection, shall be deemed to be a deduction or allowance which may be made in the determination of the taxable income of the trust during such year of assessment: Provided that the sum of such deductions and allowances shall be limited to the taxable income of such trust during such year of assessment as calculated before allowing any deduction or allowance under this subsection.

(6) The amount by which the sum of the deductions and allowances contemplated in subsection (4) exceeds the sum of the income contemplated in subsection (4) of such beneficiary and the taxable income of such trust contemplated in subsection (5), shall for the purposes of subsection (3) be deemed to be a deduction or allowance which may be made in the determination of the taxable income derived by such beneficiary by way of income referred to in subsection (1) during the immediately succeeding year of assessment.

25C Income of insolvent estates

Where the whole or a part of any business undertaking of any person whose estate has been voluntarily or compulsorily sequestrated, is transferred to the trustee or administrator of such person's insolvent estate, the estate of such person prior to sequestration and such person's insolvent estate shall, for the purposes of this Act, and subject to any such adjustments as may be necessary, be deemed to be one and the same person.

26 Determination of taxable income derived from farming

(1) The taxable income of any person carrying on pastoral, agricultural or other farming operations shall, in so far as it is derived from such operations, be determined in accordance with the provisions of this Act but subject to the provisions of the First Schedule.
(2) In the case of any person who has discontinued carrying on pastoral, agricultural or other farming operations and is still in possession of any livestock or produce, or has entered into a 'sheep lease' or similar agreement relating to livestock or produce, which has been taken into account and in respect of which expenditure under the provisions of this Act or any previous Income Tax Act has been allowed in the determination of the taxable income derived by such person when such operations were carried on, the provisions of this Act, but subject to the provisions of paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, or 11 of the First Schedule, shall continue to be applicable to that person in respect of such livestock or produce, as the case may be, until the year of assessment during which he disposes of the last of such livestock or produce, notwithstanding the fact that such operations have been discontinued.

[S. 26 substituted by s. 10 of Act 101 of 1978.]

27 Determination of taxable income of co-operative societies and companies

(1) In the determination of the taxable income of any co-operative trading society, as defined in the Co-operative Societies Act, 1939 (Act 29 of 1939), derived by that society from its transactions, whether with persons who are members or with persons who are not members of the society, the amount of any bonus distributed in any year of assessment to its members by any such society which is a closed society as defined in section ninety-seven of that Act shall be allowed as a deduction from the income of the society in so far as such bonus does not exceed an amount equivalent to one-tenth of the aggregate value of the business of such society with its members during such year of assessment, but no such deduction shall be allowed in the case of any such co-operative trading society which is not such a closed society.

(2) In the determination of the taxable income of any agricultural co-operative, there shall be allowed as deductions from the income of such agricultural co-operative for the year of assessment in question-

(a) the amounts of any profits distributed by it during the specified period in relation to the year of assessment by way of bonuses (other than bonuses distributed out of the stabilization fund referred to in paragraph (h) to persons entitled to participate in such distribution: Provided that the amounts allowed as deductions under this paragraph shall not in the aggregate exceed an amount which bears to the taxable income of such agricultural co-operative for the year of assessment (as calculated before allowing any deductions under this paragraph and sections 11 bis and 21 ter and before setting off any balance of assessed loss brought forward from a previous year of assessment) the same ratio as the
aggregate value of the business conducted by such agricultural co-operative with its members during such year bears to the aggregate value of all business conducted by it during such year;

[Para. (a) amended by s. 28 (a) of Act 129 of 1991, by s. 23 of Act 141 of 1992, by s. 23 (a) of Act 113 of 1993 and by s.15 of Act 36 of 1996.]

(b) subject to the provisions of subsections (3), (4) and (5), an allowance equal to two per cent of the cost (after the deduction of any amount referred to in subsection (4)) to such agricultural co-operative of-

(i) any building which was during the year of assessment wholly or mainly used by such co-operative as a storage, building, if such building was erected by such co-operative or by any other co-operative agricultural society or company or farmers' special co-operative company as defined in the Co-operative Societies Act, 1939, and the erection of such building was commenced on or after 25 March 1959; or

(ii) any improvements (other than repairs) to any building referred to in subparagraph (i) which was during the year of assessment used as contemplated in that subparagraph; or

(iii) any improvements (other than repairs) to any other building which was during the year of assessment used as a storage building by such co-operative, if such improvements were commenced on or after 1 April 1971:

Provided that no allowance shall be granted under this paragraph in respect of the cost of any building or improvements if an allowance in respect of such cost has been granted in respect of the year of assessment under the provisions of section 13 (1): Provided further that no allowance shall be made under this paragraph in respect of such portion of the cost of any building or of any improvements as has been taken into account in the calculation of any storage building initial allowance or any allowance to such co-operative under section 11 (g), whether in the current or any previous year of assessment: Provided further that in the case of any such building the erection of which commences on or after 1 January 1989 and any such improvements which commence on or after that date the allowance under this paragraph shall be increased to 5 per cent of the cost (after the deduction of any amount as provided in subsection (4)) to the taxpayer of such building or improvements.

[Para. (b) amended by s. 15 (1) (a) of Act 96 of 1985 and by s. 22 of Act 90 of
1988.]

(c) ......

[Para. (c) amended by s. 11 (a) of Act 101 of 1978, by s. 19 (1) (a) of Act 104 of 1980 and by s. 21 (1) (a) of Act 96 of 1981 and deleted by s. 28 (b) of Act 129 of 1991.]

(d) ......

[Para. (d) amended by s. 21 (1) (b) of Act 96 of 1981, substituted by s. 15 (1) (b) of Act 96 of 1985, amended by s. 18 (a) of Act 85 of 1987 and deleted by s. 28 (b) of Act 129 of 1991.]

(e) ......

[Para. (e) amended by s. 11 (b) of Act 101 of 1978, by s. 19 (1) (b) of Act 104 of 1980 and by s. 21 (1) (c) of Act 96 of 1981 and deleted by s. 28 (b) of Act 129 of 1991.]

(f) ......

[Para. (f) amended by s. 18 (b) of Act 85 of 1987 and deleted by s. 28 (b) of Act 129 of 1991.]

(g) such allowance in respect of the year of assessment as the Commissioner may make in respect of losses suffered by such agricultural co-operative in consequence of physical damage to or deterioration of pastoral, agricultural and other farm products held by such agricultural co-operative on behalf of any control board established under the provisions of the Marketing Act, 1968 (Act 59 of 1968): Provided that such allowance shall be included in the income of such agricultural co-operative in the following year of assessment; and

(h) in the case of the vereniging defined in section 1 of the Wine and Spirit Control Act, 1970 (Act 47 of 1970), an allowance equal to so much of any amount which the said vereniging has, within the specified period in relation to the year of assessment, transferred from its profits for such year to a price stabilization fund for distribution to its members or winegrowers within a period not exceeding five years reckoned from the end of such year of assessment, as does not exceed an amount equal to that portion of the profits derived by such vereniging for that year of assessment in the exercise of its functions relating to the control of, and the stabilization of prices in, the wine industry;
[Para. (h) substituted by s. 28 (c) of Act 129 of 1991.]

(i) ...... [Para. (i) added by s. 15 (1) (c) of Act 96 of 1985, amended by s. 18 (c) of Act 85 of 1987 and deleted by s. 28 (d) of Act 129 of 1991.]

[Sub-s. (2) substituted by s. 17 (1) of Act 113 of 1977.]

(2A) ...... [Sub-s. (2A) inserted by s. 21 (1) (d) of Act 96 of 1981 and deleted by s. 28 (e) of Act 129 of 1991.]

(3) The aggregate of the allowances under subsection (2) (b) and section 13 (1) in respect of any building or improvements shall not exceed the cost (after the deduction of any amount referred to in subsection (4)) of such building or improvements, as the case may be, less the aggregate of any storage building initial allowance and any allowances made to the agricultural co-operative concerned in respect of such building or improvements, as the case may be, under section 11 (g).

[Sub-s. (3) substituted by s. 17 (1) of Act 113 of 1977 and by s. 15 (1) (d) of Act 96 of 1985.]

(4) If in any year of assessment there falls to be included in an agricultural co-operative's income in terms of paragraph (a) of section 8 (4) an amount, which has been recovered or recouped, in respect of any allowance made under subsection (2) (b) in respect of any building or improvements, such portion of the amount so recovered or recouped as is set off against the cost of a further building as hereinafter provided shall, notwithstanding the provisions of the said paragraph, at the option of such co-operative, to be notified by it in writing to the Commissioner when submitting its return of income for the year of assessment during which the recovery of recoupment occurred, and provided it erects within twelve months or such further period as the Commissioner may allow from the date on which the event giving rise to the recovery or recoupment occurred, any other building to which the provisions of subsection (2) (b) apply, not be included in its income for such year of assessment, but shall be set off against so much of the cost to it of such further building erected by it as remains after the deduction of any portion of such cost in respect of which an allowance has been granted to such co-operative under section 11 (g), whether in the current or any previous year of assessment.

[Sub-s. (4) added by s. 17 (1) of Act 113 of 1977.]
(5) Where any agricultural co-operative (hereinafter referred to as the new co-operative) has before 1 April 1977 been constituted by an amalgamation under section 94 of the Co-operative Societies Act, 1939, of two or more other agricultural co-operatives and by reason of such amalgamation the ownership of any building used as a storage building by one of such other co-operatives (hereinafter referred to as the other co-operative) has passed from the other co-operative to the new co-operative-

(a) an allowance may in the appropriate circumstances be granted under subsection (2) (b) to the new co-operative in respect of such building or any improvements (other than repairs) thereto if such allowance would have been granted to the other co-operative if the amalgamation had not been effected;

[Para. (a) substituted by s. 23 (b) of Act 113 of 1993.]

(b) ......

[Para. (b) deleted by s. 28 (f) of Act 129 of 1991.]

(c) where an allowance or deduction may be granted or allowed as contemplated in paragraph (a) or (b), the provisions of subsections (2) (b), (3) and (4) shall be applied as though the other co-operative and the new co-operative had at all relevant times been one co-operative.

[Para. (c) substituted by s. 28 (g) of Act 129 of 1991.]

[Sub-s. (5) added by s. 17 (1) of Act 113 of 1977 and amended by s. 19 (1) (c) of Act 104 of 1980.]

(5A) Where any agricultural co-operative has on or after 1 April 1977 and before the date of commencement of the Co-operatives Act, 1981, been constituted by an amalgamation under section 94 of the Co-operatives Societies Act, 1939, of two or more other agricultural co-operatives, the said co-operative and such other co-operatives shall, for the purposes of assessments under this Act, be deemed to be and to have been one and the same agricultural co-operative.

[Sub-s. (5A) inserted by s. 19 (1) (d) of Act 104 of 1980 and substituted by s. 21 (1) (e) of Act 96 of 1981.]

(5B) Where any co-operative has on or after the date of commencement of the Co-operatives Act, 1981, come into being in pursuance of a conversion or amalgamation in terms of Chapter VIII of the Act, such co-operative and any company, co-operative or co-operatives out of which it so came into being shall,
for the purposes of assessments under this Act for the year of assessment during which such co-operative came into being and subsequent years of assessment but subject to such conditions as the Commissioner may impose, be deemed to be and to have been one and the same co-operative.

[Sub-s. (5B) inserted by s. 21 (1) (f) of Act 96 of 1981.]

(6) ......

[Sub-s. (6) added by s. 17 (1) of Act 113 of 1977, amended by s. 11 (c) of Act 101 of 1978, by s. 19 (1) (e) of Act 104 of 1980 and by s. 21 (1) (g) of Act 96 of 1981 and deleted by s. 28 (h) of Act 129 of 1991.]

(7) ......

[Sub-s. (7) added by s. 17 (1) of Act 113 of 1977, amended by s. 11 (d) of Act 101 of 1978, by s. 19 (1) (f) of Act 104 of 1980 and by s. 21 (1) (h) of Act 96 of 1981 and deleted by s. 28 (h) of Act 129 of 1991.]

(8) (a) The full amount of any bonus distributed by any agricultural co-operative shall, to the extent that such amount qualifies for deduction from the income of such co-operative under subsection (2) (a) or, if it is distributed out of the stabilization fund referred to in subsection (2) (h), be included in the gross income of the person who has become entitled thereto and shall be deemed to have accrued to such person on the date of the distribution of the bonus by such co-operative.

(b) For the purposes of this section the amount of any bonus distributed by way of capitalization shares or bonus debentures or securities shall be deemed to be the nominal value of such shares, debentures or securities, as the case may be.

[Sub-s. (8) added by s. 17 (1) of Act 113 of 1977.]

(9) In this section-

'agricultural co-operative' means any co-operative agricultural society or company or any farmers' special co-operative company, as defined in the Co-operative Societies Act, 1939;

'bonus' means any amount distributed by any co-operative society or company referred to in this section out of its profits or surplus for any year of assessment or, in the case of the vereniging referred to in paragraph (h) of subsection (2), out of the stabilization fund referred to in that paragraph, whether such amount is distributed in cash or by way of a credit or an award of capitalization shares or bonus debentures or securities, if such amount-
(a) is divided among the persons entitled thereto in such manner that the amount accruing to each such person is determined in accordance with the value of the business transactions between such society or company and such person; and

(b) is distributed during the specified period in relation to such year of assessment or is distributed out of the stabilization fund referred to in subsection (2) (h);

'improvements', in relation to any storage building, means any extension, addition or improvements (other than repairs) to a storage building which is or are effected for the purpose of increasing the capacity of the building for storing or packing pastoral, agricultural or other farm products or for carrying on therein any primary process in respect of any such products;

'primary process', in relation to any product produced in the course of pastoral, agricultural or other farming operations, means the first process to which such product is subjected by an agricultural co-operative in order to render such product marketable or to convert such product into a marketable commodity, and includes any further process carried on by such co-operative which is so connected with the said first process that such first process and such further process or processes may be regarded as one process and to be necessary to convert such product into a marketable commodity;

[Definition of 'primary process' substituted by s. 23 (c) of Act 113 of 1993.]

'storage building', in relation to any agricultural co-operative, means-

(a) a building which is at any relevant time or during any relevant period wholly or mainly used by such co-operative for storing or packing pastoral, agricultural or other products produced by such co-operative's members or for carrying on therein any primary process in respect of such products; or

(b) a structure of a permanent nature which is at any relevant time or during any relevant period wholly or mainly used by such co-operative in connection with the fattening of livestock on behalf of the members of such co-operative:

Provided that for the purposes of this definition the members of a central co-operative agricultural company or central farmers' special co-operative company or federal co-operative agricultural company or federal farmers' special co-operative company, as defined in the Co-operative Societies Act, 1939, shall be deemed to include the members of any agricultural co-operative which itself is a member of such company.
28 Determination of taxable income derived from insurance business

(1) Notwithstanding anything to the contrary contained in this Act the taxable income derived from the carrying on of long-term insurance business by any taxpayer who carries on such business in the Republic (whether on mutual principles or otherwise), shall be an amount determined in accordance with the formula-

\[ T = I - E \]

in which formula-

(a) 'T' represents the amount of taxable income determinable under this paragraph;

(b) 'I' represents the sum of-

(i) the gross amounts which the Commissioner is satisfied have been derived by the taxpayer during the year of assessment from the investment (including the letting of any property) of so much of his funds as are invested within or outside the Republic in respect of any long-term insurance business carried on by him in the Republic and of so much of his funds as are invested within the Republic in respect of any long-term insurance business carried on by him outside the Republic, but excluding one-third of any such amounts which have been derived by way of dividends (other than dividends referred to in section 11 (s)) and-

(A) amounts proved to the satisfaction of the Commissioner to have been derived by the taxpayer from the investment of funds attributable to any long-term insurance business carried on by him in the Republic with any benefit fund, pension fund, provident fund or retirement annuity fund or to any long-term insurance business carried on by the taxpayer in the territory or in any country the territory of which formerly formed part of the Republic with any fund the receipts and accruals of which are exempt from tax under the provisions of section 10 (1) (dA);
(B) amounts proved to the satisfaction of the Commissioner to have been derived by the taxpayer from the investment of funds attributable to individual annuity contracts entered into by him in respect of which annuities are being paid and which are not connected with any business carried on by him in the Republic with any fund referred to in item (A);

(C) interest on the loan portion of the normal tax imposed under any Income Tax Act;

(D) amounts proved to the satisfaction of the Commissioner to have been derived by the taxpayer from the investment of funds attributable to any long-term insurance business carried on by the taxpayer in any country the territory of which formerly formed part of the Republic, if-

(aa) the profit or income derived from carrying on such business, as determined under the taxation law of such country, is subject to a tax on income imposed by such country and is not relieved from such tax under any agreement in force between such country and the Republic for the avoidance of double taxation; and

(bb) no tax on income is imposed by such country on amounts derived by the taxpayer from the investment of funds relating to long-term insurance business carried on by him in the Republic; and

(E) amounts derived from the investment of funds held by the insurer in his untaxed policyholder fund in terms of section 29 (4) (a); and

(ii) where the taxpayer is a company, the gross amounts which have been derived by the taxpayer during the year of assessment by way of remuneration for managerial or secretarial or other services from subsidiary companies of the taxpayer (including any company in which the taxpayer is
directly or indirectly interested, if the beneficial interest of the taxpayer in the issued share capital or the issued equity share capital of such company is a direct interest, or is equivalent to a direct interest, in at least 10 per cent of such issued share capital or such equity share capital, but excluding any company the sole or principal function of which is, in the opinion of the Commissioner, the rendering of services); and

(c) 'E' represents an amount equal to 55 per cent of so much of the total of-

(i) the annual average of the expenditure proved to the satisfaction of the Commissioner to have been incurred by the taxpayer by way of selling expenses during the current and the four preceding years of assessment; and

(ii) any other expenditure proved to the satisfaction of the Commissioner to have been incurred by the taxpayer during the year of assessment in the carrying on of such business,

[Para. (c) amended by s. 29 (a) of Act 129 of 1991.]

(1A) There shall be deducted from the taxable income determined in terms of subsection (1) so much of any expenditure incurred by the taxpayer in respect of-

(i) any regional services levy and any regional establishment levy payable in terms of the Regional Services Councils Act, 1985 (Act 109 of 1985), and the KwaZulu and Natal Joint Services Act, 1990 (Act 84 of 1990); and

(ii) any levy payable to the Financial Services Board in terms of section 16 of the Financial Services Board Act, 1990 (Act 97 of 1990),

[Sub-s. (1) substituted by s. 21 (1) (a) of Act 88 of 1971, amended by s. 19 (1) of Act 91 of 1982, by s. 17 (a) of Act 65 of 1986, by s. 23 (1) of Act 90 of 1988 and by s. 13 (1) (a) of Act 70 of 1989, substituted by s. 25 (1) (a) of Act 101 of 1990 and amended by s. 19 (1) (b) of Act 21 of 1994.]
as was payable in relation to any long-term insurance business carried on by the
taxpayer and any managerial or secretarial or other services rendered by him, if
the gross amounts derived by him from the carrying on of such long-term
insurance business or the rendering of such managerial or secretarial or other
services are included in the said taxable income.

[Sub-s. (1A) inserted by s. 17 (b) of Act 65 of 1986 and substituted by s. 29 (b) of
Act 129 of 1991.]

(1B) Where, in any year of assessment, the amount represented by
symbol 'E' in the formula in subsection (1) exceeds the amount represented by
symbol 'I' in that formula, the provisions of section 20 shall apply to such excess
as though it were an assessed loss determined under that section.

[Sub-s. (1B) inserted by s. 13 (1) (b) of Act 70 of 1989 and amended by s. 25 (1)
(b) of Act 101 of 1990.]

(1C) The provisions of subsection (1) shall-

(a) in the first and second years of assessment of the taxpayer
commencing on or after 1 July 1993, be applied subject to the
provisions of section 29 (17); and

(b) not apply in any succeeding year of assessment.

[Sub-s. (1C) inserted by s. 24 (b) of Act 113 of 1993.]

(2) Subject to the provisions of this Act the taxable income derived by any
taxpayer from the carrying on in the Republic of short-term insurance business
(whether on mutual principles or otherwise) shall be determined by charging
against the sum of all premiums (including premiums on reinsurance) received by
or accrued to such taxpayer in respect of the insurance of any risk, and other
amounts derived from the carrying on of such business of insurance in the
Republic, the sum of-

(a) the total amount of the liability incurred in respect of premiums on
reinsurance;

(b) the actual amount of the liability incurred in respect of any claims
during the year of assessment in respect of that business of
insurance, less the value of any claims recovered or recoverable
under any contract of insurance, guarantee, security or indemnity;

(c) the expenditure, not being expenditure falling under paragraph (a)
or (b), incurred in respect of that business of insurance;
(d) such allowance as may be made each year by the Commissioner in respect of unexpired risks: Provided that the allowance granted under this paragraph in respect of any year of assessment shall be included in the income of the taxpayer in the following year of assessment;

[Para. (d) substituted by s. 24 of Act 89 of 1969 and amended by s. 22 of Act 94 of 1983.]

(e) such allowance as may be made each year by the Commissioner in respect of claims which have been intimated but not paid: Provided that the allowance granted under this paragraph in respect of any year of assessment shall be included in the income of the taxpayer in the following year of assessment, and for that purpose any allowance granted in terms of paragraph (v) of subsection (2) of section eighteen of the Income Tax Act, 1941, in respect of the year of assessment ended on the thirtieth day of June, 1961, shall be deemed to be an allowance which was granted under this paragraph; and

[Para. (e) amended by s. 17 of Act 90 of 1962.]

(f) such allowance as may be made each year by the Commissioner in respect of claims which have not been intimated or paid: Provided that the allowance granted under this paragraph in respect of any year of assessment shall be included in the income of the taxpayer in the following year of assessment.

[Para. (f) added by s. 22 of Act 55 of 1966.]

(3) Nothing in this section contained shall be construed as relieving any taxpayer from the obligation to render returns of any income derived otherwise than from the carrying on of long-term or short-term insurance business or in the form of dividends (notwithstanding the inclusion of such dividends or of a portion thereof in the gross amounts referred to in subsection (1)) or from any liability for taxation in respect of any taxable income so derived or as depriving the taxpayer of the right to set off against the taxable income derived from the business of insurance any loss incurred in respect of any other business or any balance of loss so incurred which the taxpayer would be entitled to set off under the provisions of section 20.

[Sub-s. (3) substituted by s. 21 (1) (b) of Act 88 of 1971 and amended by s. 25 (1) (c) of Act 101 of 1990.]

(4) In this section-
'insurance' includes reinsurance;

'long-term insurance business' means long-term insurance business as defined in the Insurance Act, 1943 (Act 27 of 1943), and includes any business which is for the purposes of the said Act dealt with by the Registrar of Insurance as long-term insurance business and any business which in the opinion of the Commissioner is medical aid insurance business conducted on a non-cancellable basis;

[Definition of 'long-term insurance business' substituted by s. 19 (1) of Act 65 of 1973.]

'short-term insurance business' means any insurance business other than long-term insurance business.

**28bis Assessments on transfer of business undertaking by foreign company to South African subsidiary**

(1) If the Commissioner is satisfied that the circumstances warrant a concession and it is proved to his satisfaction-

(a) that any company (hereinafter referred to as the subsidiary) which is incorporated, managed and controlled in the Republic has under an arrangement with any other company (hereinafter referred to as the foreign company) which is incorporated, managed and controlled outside the Republic, acquired all the assets and assumed all the liabilities of the foreign company relating to any industrial, commercial or other business undertaking of the foreign company in the Republic which has been transferred by the foreign company to the subsidiary as a going concern; and

[Para. (a) amended by s. 25 of Act 85 of 1974.]

(b) that at the time the arrangement was implemented, all the issued shares of the subsidiary were held for its own benefit by the foreign company or a company which was incorporated, managed and controlled outside the Republic and was controlled by or controlled the foreign company, or that the arrangement was implemented in order to meet the requirements of section 3quat of the Insurance Act, 1943 (Act 27 of 1943),

[Para. (b) amended by s. 25 of Act 85 of 1974 and substituted by s. 18 (1) of Act 113 of 1977.]

any taxable income derived or any assessed loss incurred by the foreign
company prior to the discontinuance by it of the said undertaking and any taxable income derived or assessed loss incurred by the subsidiary after the transfer to it of such undertaking shall, subject to any conditions imposed by the Commissioner, be determined in accordance with the provisions of this Act as though, so far as the foreign company is concerned, such undertaking had not been discontinued by it and, so far as the subsidiary is concerned, such undertaking had belonged to and had been carried on by it prior to the transfer to it of such undertaking.

(2) ......

[Sub-s. (2) added by s. 25 of Act 89 of 1969 and deleted by s. 23 of Act 94 of 1983.]

[S. 28bis inserted by s. 19 (1) of Act 88 of 1965.]

29 Taxable income of companies carrying on long-term insurance business

(1) For the purposes of this section-

'Insurance Act' means the Insurance Act, 1943 (Act 27 of 1943);

'insurer' means any company carrying on long-term insurance business as defined in section 1 of the Insurance Act;

'market value', in relation to any asset, means the sum which a person having the right freely to dispose of such asset might reasonably expect to obtain from a sale of such asset in the open market;

'owner', in relation to a policy, means the person who is entitled to enforce any benefit provided for in the policy;

'policy' means a policy as defined in section 1 of the Insurance Act, the assumption of obligations under which constitutes long-term insurance business as so defined;

'policy-holder fund' means any fund contemplated in subsection (4) (a), (b) or (c);

'prescribed value', in relation to the assets required to be held at any time by an insurer in a policyholder fund, means an amount equal to the net liabilities of the insurer in respect of the business conducted by it in the fund concerned in the Republic determined in the manner as contemplated in section 1 (2) (a) of the Insurance Act, but subject to such modifications as may from time to time be determined for the purposes of this section by the Chief Actuary of the Financial
Services Board.

[Definition of 'prescribed value' substituted by s. 16 (a) of Act 36 of 1996.]

(2) The taxable income derived by any insurer shall be determined in accordance with the provisions of this Act, but subject to the provisions of this section.

(3) Every insurer shall, not later than the commencement of its first year of assessment commencing on or after 1 July 1996, establish four separate funds as contemplated in subsection (4), and shall thereafter maintain such funds in accordance with the provisions of this section.

(4) The funds referred to in subsection (3) shall be-

(a) a fund, to be known as the untaxed policyholder fund, in which shall be placed assets having a market value equal to the prescribed value determined in relation to, and liabilities (other than those taken into account in the determination of such prescribed value) relating to-

(i) business carried on by the insurer with, and any policy of which the owner is, any pension fund, provident fund, retirement annuity fund or benefit fund;

(ii) any policy of which the owner is a person or body the entire receipts and accruals of whom or of which are exempt from tax under any provision of section 10: Provided that an insurer shall not deal with a policy in terms of the provisions of this subparagraph unless it has satisfied itself beyond all reasonable doubt that the owner of such policy is a person or body contemplated herein;

(iii) any annuity contracts entered into by it in respect of which annuities are being paid;

(b) a fund, to be known as the individual policyholder fund, in which shall be placed assets having a market value equal to the prescribed value determined in relation to, and liabilities (other than those taken into account in the determination of such prescribed value) relating to, any policy (other than a policy contemplated in paragraph (a)) of which the owner is any person other than a company;

(c) a fund, to be known as the company policyholder fund, in which shall be placed assets having a market value equal to the
prescribed value determined in relation to, and liabilities (other than those taken into account in the determination of such prescribed value) relating to, any policy (other than a policy contemplated in paragraph (a)) of which the owner is a company; and

(d) a fund, to be known as the corporate fund, in which shall be placed all the assets (if any) held by the insurer, and all liabilities owed by it, other than those contemplated in paragraphs (a), (b) and (c) and those relating to business conducted by it elsewhere than in the Republic.

[Para. (d) substituted by s. 16 (b) of Act 36 of 1996.]

(5) For the purposes of subsection (4), where the owner of a policy is the trustee of any trust or where two or more owners jointly own a policy-

(a) if all the beneficiaries in such trust or all such owners are funds, persons or bodies contemplated in subsection (4) (a), the owner of such policy shall be deemed to be such a fund, person or body, as the case may be; or

(b) where paragraph (a) is not applicable and all the beneficiaries in such trust or all such owners are persons other than a company, the owner of such policy shall be deemed to be a person other than a company; or

(c) where paragraphs (a) and (b) are not applicable, the owner of such policy shall be deemed to be a company.

(6) Every insurer shall within a period of six months after the end of every year of assessment redetermine the prescribed value in relation to each of its policyholder funds as at the last day of such year, and-

(a) where the market value of the assets actually held by it in any such fund exceeds the prescribed value, it shall, subject to the provisions of subsection (8), within the said period transfer from such fund to its corporate fund assets having a market value equal to such excess; or

(b) where the market value of the assets actually held by it in any such fund is less than the prescribed value, it shall within the said period transfer from its corporate fund to such fund assets having a market value equal to the shortfall.

(7) (a) An insurer who becomes aware that, in consequence of a change of ownership of any policy issued by it, the assets held by it in relation to such
policy should in terms of the provisions of subsection (4) be held in a policyholder fund other than the policyholder fund in which such assets are actually held, may at its option forthwith transfer from such lastmentioned fund to such firstmentioned fund assets having a market value equal to the prescribed value determined on the date of such transfer in relation to the said policy.

(b) Any transfer of an asset effected by an insurer between one policyholder fund and another policyholder fund otherwise than in terms of the provisions of paragraph (a), shall be effected by way of a sale of such asset at the market value thereof and shall for the purposes of this section be treated as a purchase or sale of such asset, as the case may be, in each such fund.

(8) An insurer shall, in addition to assets having a market value equal to the prescribed value, be permitted to retain in each of its policyholder funds at the end of any year of assessment assets having a market value not exceeding the sum of

(a) 80 per cent of the residual surplus arising in the fund concerned during such year;

(b) 60 per cent of the residual surplus so arising in the year of assessment immediately preceding the year referred to in paragraph (a);

(c) 40 per cent of the residual surplus so arising in the year of assessment immediately preceding the year referred to in paragraph (b); and

(d) 20 per cent of the residual surplus so arising in the year of assessment immediately preceding the year referred to in paragraph (c):

Provided that where in any case the year of assessment first mentioned in paragraph (b), (c) or (d) is a year of assessment which commenced before 1 July 1993, the provisions of that paragraph shall not apply.

(9) For the purposes of subsection (8), the residual surplus arising in any fund during a year of assessment shall be an amount determined in accordance with the formula-

\[ S = A - B + C - D \]

in which formula-

(a) ‘S’ represents the residual surplus to be determined;
(b) ‘A’ represents the amount of the excess (if any) contemplated in subsection (6) (a) determined in respect of the fund concerned at the end of the said year of assessment;

(c) ‘B’ represents the amount of the excess (if any) contemplated in subsection (6) (a) determined in respect of the fund concerned at the end of the immediately preceding year of assessment;

(d) ‘C’ represents the amount (if any) actually transferred from the fund concerned to the corporate fund in respect of the said immediately preceding year of assessment in terms of the provisions of subsection (6) (a); and

(e) ‘D’ represents the amount (if any) actually transferred from the corporate fund to the fund concerned in respect of the said immediately preceding year of assessment in terms of the provisions of subsection (6) (b).

(10) (a) Where-

(i) the market value of the assets actually held by an insurer in its individual policyholder fund or its company policyholder fund at the end of any year of assessment is less than the prescribed value in relation to the fund concerned and the insurer is required in terms of the provisions of subsection (6) (b) to transfer assets from its corporate fund to make good the shortfall; and

(ii) the taxable income derived by the insurer in its corporate fund in such year, as determined before deducting the transfer contemplated in subparagraph (i), is less than the amount of such transfer,

the insurer may designate so much of the amount of such transfer as exceeds its taxable income (determined as contemplated in subparagraph (ii)) to be a special transfer for the purposes of subsection (14).

(b) Where any amount has been designated as a special transfer under the provisions of paragraph (a), so much of any subsequent transfer made from the insurer’s individual policyholder fund or company policyholder fund, as the case may be, to its corporate fund under the provisions of subsection (6) (a) as does not exceed the amount of the said special transfer, shall be a special transfer for the purposes of subsection (14).

(11) (a) An insurer may as at the commencement of the first year of assessment in which it establishes separate funds as contemplated in subsection (3) calculate in respect of each of its policyholder funds, in a manner determined
for the purposes of this section by the Chief Actuary of the Financial Services Board, an amount representing unrecouped new business expenses.

(b) The amount calculated by an insurer under paragraph (a) shall be advised to the Commissioner in the return of income rendered by the insurer in respect of the said first year of assessment.

(c) So much of any amount transferred by an insurer from any policyholder fund to its corporate fund as does not exceed the sum of-

(i) 12.5 per cent of the amount calculated under paragraph (a) in relation to such policyholder fund; and

(ii) any amount carried forward from the preceding year of assessment in terms of the provisions of paragraph (d),

shall for the purposes of subsection (14) constitute a special transfer.

(d) Where in relation to any year of assessment the sum referred to in paragraph (c) exceeds the amount transferred from the policyholder fund concerned to the corporate fund, the excess shall be carried forward and be included for the purposes of determining the amount which may constitute a special transfer in relation to the succeeding year of assessment.

(e) The amounts constituting special transfers in relation to any policyholder fund in terms of the provisions of this subsection shall not in the aggregate exceed the amount calculated under paragraph (a) in respect of that fund.

(12) There shall be exempt from tax-

(a) any income received by or accrued to an insurer from assets held by it in, and business conducted by it in relation to, its untaxed policyholder fund; and

(b) any amount transferred to that fund in terms of subsection (6) (b).

(13) The taxable income derived by an insurer in respect of its individual policyholder fund, its company policyholder fund and its corporate fund shall be determined separately in accordance with the provisions of this Act as if each such fund had been a separate taxpayer.

(14) In the determination of the taxable income derived by an insurer in respect of its individual policyholder fund, its company policyholder fund and its corporate fund-
(a) the amount to be allowed as a deduction in respect of selling expenses shall be the annual average of such expenses incurred during the current year of assessment and the immediately preceding four years of assessment;

(b) any amount received or accrued from a source outside the Republic in respect of business conducted by the insurer in the Republic, shall be deemed to have been received or accrued from a source within the Republic;

[Para. (b) substituted by s. 16 (c) of Act 36 of 1996.]

(c) there shall be exempt from tax income derived by the insurer from assets held by it in the Republic in respect of business conducted by it in Namibia;

(d) any amount transferred in terms of the provisions of subsection (6) shall be deducted from the income of the fund from which it is transferred and included in the income of the fund to which it is transferred;

(e) the amount of any transfer contemplated in subsection (7) (a) and of any special transfer contemplated in subsection (10) or (11) shall not be deducted from the income of the fund from which it is transferred and shall not be included in the income of the fund to which it is transferred; and

(f) premiums and reinsurance claims received and claims and reinsurance premiums paid shall be disregarded.

(15) Where any insurer is in its first year of assessment to which the provisions of this section apply entitled in terms of section 20 (1) (a) to set off a balance of assessed loss carried forward from the preceding year of assessment, such balance of assessed loss shall be allowed to be set off against the income derived in its individual policyholder fund, its company policyholder fund and its corporate fund in the ratio which the assets held in each such fund at the commencement of such first year of assessment bears to the total assets held in the said funds.

(16) In the allocation of any asset, expenditure or liability to any fund contemplated in subsection (4), an insurer shall, when establishing such fund and at all times thereafter-

(a) to the extent to which such asset, expenditure or liability relates exclusively to business conducted by it in any one fund, allocate such asset, expenditure or liability to that fund; and
(b) to the extent to which such asset, liability or expenditure does not relate exclusively to business conducted by it in any one fund, allocate such asset, expenditure or liability in a manner which is consistent with and appropriate to the manner in which its business is conducted.

(17) Notwithstanding the provisions of this section and of section 28, the tax payable by an insurer in respect of its first and second years of assessment commencing on or after 1 July 1993, shall be equal to the greater of the tax payable in respect of the year concerned as determined by applying the provisions of section 28 and-

(a) in respect of the said first year, an amount equal to two-thirds of the tax payable as determined by applying the provisions of section 28 and one-third of the tax payable as determined by applying the provisions of this section; and

(b) in respect of the said second year, an amount equal to one-third of the tax payable as determined by applying the provisions of section 28 and two-thirds of the tax payable as determined by applying the provisions of this section.

(18) For the purposes of subsection (17), the tax payable on taxable income determined in terms of section 28 in respect of any year of assessment ending during the period of 12 months ending on 31 March of any calendar year shall be calculated at the highest marginal rate of tax fixed under section 5 (2) for the year of assessment ending on the last day of February of that calendar year in respect of taxable income received by or accrued to a natural person.

[Sub-s. (18) amended by s. 22 of Act 21 of 1995.]

(19) An insurer who as at the commencement of its first year of assessment commencing on or after 1 July 1993 has not established the separate funds contemplated in subsection (4) shall as at the commencement of that year determine the prescribed value required in respect of each of its policyholder funds, and shall be deemed for the purposes of applying this section in that year and in any succeeding year of assessment in which it has not yet established such funds, to have established and maintained such funds in accordance with the provisions of this section.

(20) For the purposes of subsection (19)-

(a) an appropriate portion of all the assets and liabilities of an insurer shall be deemed to have been placed by it in each of its funds in accordance with the provisions of this section;
(b) an appropriate portion of any income received by or accrued to an insurer and any expenditure incurred by it shall be deemed to have been received by or to have accrued to, or to have been incurred by, as the case may be, each of its funds; and

(c) any amount which would have been required to be transferred in terms of the provisions of subsection (6) (a) or (b) had such separate funds been so established and maintained, shall be deemed to have been so transferred.

[S. 29 amended by s. 18 of Act 90 of 1962, repealed by s. 23 of Act 121 of 1984 and inserted by s. 25 (1) of Act 113 of 1993.]

30 ......

[S. 30 amended by s. 26 of Act 113 of 1993 and repealed by s. 20 (1) of Act 21 of 1994.]

31 Determination of taxable income of certain persons in respect of international transactions

(1) For the purposes of this section-

'goods' includes any corporeal movable thing, fixed property and any real right in any such thing or fixed property;

'international agreement' means a transaction, operation or scheme entered into between-

(a) (i) a person who, in the case of a natural person, is ordinarily resident in the Republic or in the case of a person other than a natural person, is managed or controlled in the Republic; and

(ii) any other person who, in the case of a natural person, is ordinarily resident outside the Republic or in the case of a person other than a natural person, is managed or controlled outside the Republic; or

(b) (i) a person who, in the case of a natural person, is ordinarily resident outside the Republic or in the case of a person other than a natural person, is managed or controlled outside the Republic; and

(ii) any other person who, in the case of a natural person, is
ordinarily resident outside the Republic or in the case of a person other than a natural person, is managed or controlled outside the Republic,

for the supply of goods or services to or by a permanent establishment as contemplated in section 9C(1) of either of such persons in the Republic; and

[Definition of 'international agreement' substituted by s. 37 (1) of Act 30 of 1998.]

'services' includes anything done or to be done, including, without limiting the generality of the foregoing-

(a) the granting, assignment, cession or surrender of any right, benefit or privilege;

(b) the making available of any facility or advantage;

(c) the granting of financial assistance, including a loan, advance or debt, and the provision of any security or guarantee;

(d) the performance of any work;

(e) an agreement of insurance; or

(f) the conferring of rights to incorporeal property.

(2) Where any goods or services are supplied or acquired in terms of an international agreement and-

(a) the acquirer is a connected person in relation to the supplier; and

(b) the goods or services are supplied or acquired at a price which is either-

(i) less than the price which such goods or services might have been expected to fetch if the parties to the transaction had been independent persons dealing at arm's length (such price being the arm's length price); or

(ii) greater than the arm's length price,

then, for the purposes of this Act in relation to either the acquirer or supplier, the Commissioner may, in the determination of the taxable income of either the acquirer or supplier, adjust the consideration in respect of the transaction to reflect an arm’s length price for the goods or services.
(3) (a) Where any natural person ordinarily resident outside the Republic or any person other than a natural person who is managed or controlled outside the Republic (hereinafter referred to as the investor) has granted financial assistance contemplated in paragraph (c) of the definition of 'services' in subsection (1), whether directly or indirectly, to-

(i) any connected person in relation to the investor who, in the case of a natural person, is ordinarily resident in the Republic or in the case of a person other than a natural person, is managed or controlled in the Republic; or

(ii) any other person (in whom he has a direct or indirect interest) other than a natural person, who is managed or controlled in the Republic (hereinafter referred to as the recipient) and, by virtue of such interest, is entitled to participate in not less than 25 per cent of the dividends, profits or capital of the recipient, or is entitled, directly or indirectly, to exercise not less than 25 per cent of the votes of the recipient,

and the Commissioner is, having regard to the circumstances of the case, of the opinion that the value of the aggregate of all such financial assistance is excessive in relation to the fixed capital (being share capital, share premium, accumulated profits, whether of a capital nature or not, or any other permanent owners' capital, other than permanent capital in the form of financial assistance as so contemplated) of such connected person or recipient, any interest, finance charge or other consideration payable for or in relation to or in respect of the financial assistance shall, to the extent to which it relates to the amount which is excessive as contemplated in this paragraph, be disallowed as a deduction for the purposes of this Act.

(b) For the purposes of paragraph (a), financial assistance granted indirectly shall be deemed to include any financial assistance granted by any third person who is not a connected person in relation to the investor, a connected person contemplated in paragraph (a) or the recipient, where such financial assistance has been granted by arrangement, directly or indirectly, with the investor and on the strength of any financial assistance granted, directly or indirectly, by the investor or any connected person in relation to the investor, to such third person.

[S. 31 substituted by s. 23 (1) of Act 21 of 1995.]

32 Assessment in the case of submarine cable or wireless business

(1) Any person who carries on in the Republic the business of transmitting messages to places outside the Republic by submarine cables or by any form of wireless apparatus, shall be deemed to have derived therefrom (apart from the
taxable income derived from other sources) a taxable income of ten rand for every two hundred rand payable to such person in respect of messages transmitted from any office of such person in the Republic, whether the amount be payable in or outside the Republic.

(2) For the purposes of this section any message which is delivered at any office in the Republic of the person who carries on the business referred to in subsection (1) for transmission in any manner whatsoever shall be deemed to be transmitted from that office.

(3) The provisions of this section shall not apply to any person so carrying on business who renders accounts which satisfactorily disclose the taxable income derived by such person from the business carried on by him in the Republic.

[Sub-s. (3) substituted by s. 27 of Act 113 of 1993.]

33 Assessment of owners or charterers of ships or aircraft not ordinarily resident or registered, managed or controlled in the Republic

(1) Any person (not being a person ordinarily resident in the Republic or a domestic company) who embarks passengers or loads livestock, mails or goods in the Republic, as an owner or charterer of any ship or aircraft, shall be deemed to have derived therefrom (apart from any taxable income derived by him from other sources) a taxable income of 10 per cent of the amount payable to him or to any agent on his behalf, whether the amount be payable in or outside the Republic, in respect of passengers, livestock, mails and goods so embarked or loaded, but the provisions of this section shall not apply to any such person who renders accounts which satisfactorily disclose the taxable income derived by him from the embarking of passengers or the loading of livestock, mails and goods as aforesaid.

[Sub-s. (1) amended by s. 26 of Act 85 of 1974 and substituted by s. 28 of Act 113 of 1993.]

(2) Where the person so embarking passengers or loading livestock, mails or goods has no recognized agent in the Republic other than the master of the ship or the pilot of the aircraft in connection with which any such amounts are payable, or where the agent fails to make returns of any such amounts payable in respect of any ship or aircraft-

(a) the Commissioner may make the assessment from such information as may be available to him;

(b) the tax thereon shall be payable to the Commissioner prior to the clearance of the ship or aircraft;
(c) the principal officer of customs at the port or airport where such
ship or aircraft is being cleared shall have power to detain the
clearance until such payment is made; and

(d) upon such payment the master, pilot or agent (as the case may be)
shall be entitled to a certificate from such officer of customs that the
amount so paid has been paid under the provisions of this Act, and
such certificate shall be sufficient warrant to such master, pilot or
agent of the amount so paid.

34 ......

[S. 34 repealed by s. 19 of Act 90 of 1962.]

35 Assessment of persons not ordinarily resident or registered, managed
or controlled in the Republic who derive income from royalties or
similar payments

(1) Any person (not being a person who is ordinarily resident in the
Republic or a domestic company) to whom any amount referred to in paragraph
(b) or (bA) of subsection (1) of section 9 is deemed to accrue from a source
within the Republic, shall (apart from taxable income derived by him from other
sources) be deemed to have derived from the amount a taxable income equal to
thirty per cent of that amount.

[Sub-s. (1) amended by s. 20 (a) of Act 90 of 1962, substituted by s. 20 (1) (a) of
Act 65 of 1973 and amended by s. 27 (a) of Act 85 of 1974.]

(2) (a) Any person who incurs a liability to pay to any other person (not
being a person who is ordinarily resident in the Republic or a company which has
its place of effective management inside the Republic) any amount referred to in
section 9 (1) (b) or (bA), or who receives payment of any such amount on behalf
of such other person, shall within 14 days after the end of the month during which
the said liability is incurred or the said payment is received, as the case may be,
or within such further period as the Commissioner may approve, make a
payment (which shall be deemed to be an advance payment made on behalf of
such other person) to the Commissioner in respect of such other person's
obligation to pay normal tax for the year of assessment during which the said
amount accrues to or is received by such other person, calculated at the rate of
12 per cent of the said amount and shall submit to the Commissioner at the time
of such tax payment a declaration in such form as the Commissioner may
prescribe: Provided that-

(i) if the Commissioner is satisfied that the tax payment required to be
made in terms of this paragraph in respect of the said amount has
been or will be made by any person, the Commissioner may direct that any other person who is in terms of this paragraph required to make a tax payment in respect of the said amount, shall be relieved of the duty to make such payment;

(ii) for the purposes of this subsection a person having an address outside the Republic shall until the contrary is proved be deemed to be not ordinarily resident in the Republic or, in the case of a company, to be a company which is not a domestic company;

[Para. (ii) substituted by s. 27 (c) of Act 85 of 1974.]

(iii) this paragraph shall not be construed as requiring any person to make a tax payment in terms of this paragraph in respect of any liability to pay any amount in respect of the use in the Republic of or the grant of permission to use in the Republic or the imparting of or the undertaking to impart any knowledge directly or indirectly connected with the use in the Republic of any motion picture film or any sound recording or advertising matter used or intended to be used in connection with such film, if such liability was incurred and discharged before the commencement of the Income Tax Amendment Act, 1962.

[Para. (a) amended by s. 20 (b) of Act 90 of 1962, by s. 20 (1) (b) of Act 65 of 1973, by s. 27 (b) of Act 85 of 1974, by s. 24 of Act 94 of 1983 and by s. 21 (1) of Act 21 of 1994.]

(b) Any person making a payment to the Commissioner in terms of paragraph (a) shall, notwithstanding any agreement to the contrary, be entitled to deduct or withhold the amount of such payment from the amount which he is liable to pay to the aforesaid other person, or to recover the amount so paid from such other person or to retain out of any money that may be in his possession or may come to him as the agent of such other person an amount equal to the amount of such payment.

(c) The provisions of subsection (2) of section five shall mutatis mutandis apply in respect of payments made to the Commissioner in terms of paragraph (a).

(d) A taxpayer on whose behalf a payment has been made to the Commissioner in terms of paragraph (a) shall not be entitled to recover the amount of such payment from the person who under the provisions of paragraph (b) deducts, withholds or retains the amount of such payment and shall be deemed to have received the amount so deducted or withheld.

(e) Every person who is required to make a payment to the Commissioner
in terms of paragraph (a) shall be personally liable for making such payment, and
the amount so payable shall be deemed to be a tax due by such person and shall
be recoverable from him in the manner prescribed in section ninety-one.

(f) Nothing in this section contained shall be construed as relieving any
person to whom the provisions of subsection (1) apply from the obligation to
render a return of income for any year of assessment or from paying any tax for
which he may be liable or as depriving him of the right to prove for the purposes
of section one hundred and two that payments made on his behalf in terms of
paragraph (a) in respect of any year of assessment were in excess of the amount
of normal tax properly chargeable under this Act in respect of income received by
or accrued to him during such year.

36 Calculation of redemption allowance and unredeemed balance of
capital expenditure in connection with mining operations

(1) and (2) ......

[Sub-ss. (1) and (2) deleted by s. 24 (a) of Act 141 of 1992.]

(2)bis ......

[Sub-s. (2)bis inserted by s. 12 (a) of Act 72 of 1963 and deleted by s. 24 (a) of
Act 141 of 1992.]

(3) ......

[Sub-s. (3) amended by s. 12 (b) of Act 72 of 1963 and deleted by s. 24 (a) of Act
141 of 1992.]

(3)bis ......

[Sub-s. (3)bis inserted by s. 12 (c) of Act 72 of 1963, substituted by s. 15 (a) of
Act 90 of 1964, amended by s. 20 of Act 88 of 1965 and by s. 14 (1) (a) of Act 76
of 1968 and deleted by s. 24 (a) of Act 141 of 1992.]

(3)ter ......

[Sub-s. (3)ter inserted by s. 14 (1) (b) of Act 76 of 1968 and deleted by s. 24 (a)
of Act 141 of 1992.]

(4) ......

[Sub-s. (4) amended by s. 12 (d) of Act 72 of 1963 and by s. 14 (1) (c) of Act 76
of 1968 and deleted by s. 24 (a) of Act 141 of 1992.]
(5) ...... [Sub-s. (5) deleted by s. 24 (a) of Act 141 of 1992.]

(6) ...... [Sub-s. (6) amended by s. 15 (b) and (c) of Act 90 of 1964 and deleted by s. 24 (a) of Act 141 of 1992.]

(7) ...... [Sub-s. (7) deleted by s. 24 (a) of Act 141 of 1992.]

(7A) ...... [Sub-s. (7A) inserted by s. 26 of Act 89 of 1969 and deleted by s. 24 (a) of Act 141 of 1992.]

(7B) ...... [Sub-s. (7B) inserted by s. 21 (a) of Act 65 of 1973 and deleted by s. 24 (a) of Act 141 of 1992.]

(7C) Subject to the provisions of subsections (7E), (7F) and (7G), the amounts to be deducted under section 15 (a) from income derived from the working of any producing mine shall be the amount of capital expenditure incurred.

(7D) ...... [Sub-s. (7D) inserted by s. 21 (a) of Act 65 of 1973, amended by s. 25 (a) of Act 94 of 1983 and deleted by s. 24 (a) of Act 141 of 1992 and by s. 29 of Act 113 of 1993.]

(7E) The aggregate of the amounts of capital expenditure determined under subsection (7C) in respect of any year of assessment in relation to any mine or mines shall not exceed the taxable income (as determined before the deduction of any amount allowable under section 15 (a), but after the set-off of any balance of assessed loss incurred by the taxpayer in relation to such mine or mines in any previous year which has been carried forward from the preceding year of assessment) derived by the taxpayer from mining, and any amount by which the said aggregate would, but for the provisions of this subsection, have
exceeded such taxable income as so determined, shall be carried forward and be deemed to be an amount of capital expenditure incurred during the next succeeding year of assessment in respect of the mine or mines to which such capital expenditure relates.

[Sub-s. (7E) inserted by s. 25 (c) of Act 94 of 1983 and substituted by s. 26 (b) of Act 101 of 1990.]

(7F) The aggregate of the amounts of capital expenditure determined under subsection (7C) in respect of any year of assessment in relation to any one mine shall, unless the Minister of Finance, after consultation with the Minister of Mineral and Energy Affairs and having regard to any relevant fiscal, financial or technical implications, otherwise directs, not exceed the taxable income (as determined before the deduction of any amount allowable under section 15 (a), but after the set-off of any balance of assessed loss incurred by the taxpayer in relation to that mine in any previous year which has been carried forward from the preceding year of assessment) derived by the taxpayer from mining on that mine, and any amount by which the said aggregate would, but for the provisions of this subsection, have exceeded such taxable income as so determined, shall be carried forward and be deemed to be an amount of capital expenditure incurred during the next succeeding year of assessment in respect of that mine:

Provided that where the taxpayer was on 5 December 1984 carrying on mining operations on two or more mines, the said mines shall for the purposes of this subsection be deemed to be one mine.

[Sub-s. (7F) inserted by s. 16 (1) of Act 96 of 1985 and amended by s. 26 (c) of Act 101 of 1990.]

(7G) (a) Where in the case of any mine in respect of which mining operations or any related operations were or are commenced by the taxpayer after 14 March 1990 (in this subsection referred to as a new mine) an amount of capital expenditure falls to be disallowed under the provisions of subsection (7F), there shall, notwithstanding the provisions of that subsection, be deducted from the total taxable income derived by the taxpayer from mining (as determined after the deduction of any capital expenditure which does not fall to be disallowed under the said provisions and after the set-off of any assessed loss incurred by him from mining operations in a previous year of assessment which has been carried forward) so much of the total amount of capital expenditure which has been so disallowed in relation to all producing new mines owned by the taxpayer as does not exceed 25 per cent of such taxable income.

(b) The provisions of paragraph (a) shall not apply to capital expenditure incurred in respect of any new mine-

(i) which has been disposed of by the taxpayer in the current or any previous year of assessment; or
(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 is to be calculated by reference to that portion of the company’s profits which is attributable to the operation of such mine.

[Sub-s. (7G) inserted by s. 26 (d) of Act 101 of 1990.]

(8) ......  

[Sub-s. (8) substituted by s. 21 (b) of Act 65 of 1973 and by s. 28 (1) (a) of Act 85 of 1974 and deleted by s. 24 (c) of Act 141 of 1992.]

(9) ......  

[Sub-s. (9) substituted by s. 21 (b) of Act 65 of 1973 and deleted by s. 24 (c) of Act 141 of 1992.]

(10) Where separate and distinct mining operations are carried on in mines that are not contiguous, the allowance for redemption of capital expenditure shall be computed separately.

[Sub-s. (10) substituted by s. 24 (d) of Act 141 of 1992.]

(11) For the purposes of this section-

'capital expenditure' means-

(a) expenditure (other than interest or finance charges) on shaft sinking and mine equipment (other than expenditure referred to in paragraph (d)) and, in the case of a natural oil mine, the cost of laying pipelines from the mining block to the marine terminal or the local refinery, as the case may be; and

[Para. (a) substituted by s. 28 (1)(b) of Act 85 of 1974, by s. 14 (a) of Act 70 of 1989 and by s. 30 of Act 129 of 1991.]

(b) expenditure on development, general administration and management (including any interest and other charges payable after the thirty-first day of December, 1950, on loans utilized for mining purposes) prior to the commencement of production or during any period of non-production; and

(c) in the case of any post-1973 gold mine, any other deep level gold mine, any post-1990 gold mine or any natural oil mine, a capital
allowance calculated at the rate of 10 per cent per annum in the case of a post-1973 gold mine or any other deep level gold mine or 12 per cent per annum in the case of any post-1990 gold mine or any natural oil mine on the amount of the aggregate of-

(i) the expenditure referred to in paragraphs (a) and (b), excluding any interest and other charges on loans referred to in paragraph (b), if the mine is a post-1973 gold mine, a post-1990 gold mine or a natural oil mine, or the expenditure referred to in paragraph (a), if the mine is any other deep level gold mine;

(ii) the amount (if any) allowed to rank as capital expenditure in terms of section 37;

(iii) any expenditure incurred during any period of production on development on any reef on which at the date of such development stoping has not yet commenced;

(iv) the instalments of expenditure referred to in paragraph (d); and

[Sub-para. (iv) substituted by s. 24 (f) of Act 141 of 1992.]

(v) the unredeemed balance of the aggregate determined in terms of this paragraph up to the end of the year of assessment immediately preceding the year of assessment under charge and which shall include the capital allowance determined in terms of this paragraph for such preceding year of assessment,

[Sub-para. (v) substituted by s. 24 (f) of Act 141 of 1992.]

if the mine is a post-1973 gold mine, a post-1990 gold mine or a natural oil mine, for the period from the end of the month in which the expenditure is actually incurred up to the end of the year of assessment immediately preceding the first year of assessment in respect of which the determination of the taxable income derived from the working of such mine does not result in an assessed loss or nil, and, if the mine is any other deep level gold mine, for a period of ten years from the commencement of the year of assessment during which the mine is recognized as any other deep level gold mine: Provided that-

(aa) the amount under this paragraph shall not be calculated for any period during which mining operations are not carried on
in accordance with the terms of the relevant mining authorization issued under the Minerals Act, 1991 (Act 50 of 1991);

(bb) notwithstanding anything to the contrary in any law contained, the amount under this paragraph shall not be taken into account for the purpose of calculating the capital allowance provided for in section 26 (2) of the Mining Rights Act, 1967, or for the purpose of determining the profits of which a share is payable to the State in terms of any mining authorization issued under the Minerals Act, 1991 (Act 50 of 1991);

(cc) the unredeemed balance of the aggregate of the amounts referred to in subparagraphs (i) to (v) inclusive, of this paragraph, shall be determined by the deduction from such aggregate at the end of every year of assessment-

(i) of the taxable income derived from the working of such mine for such year of assessment, as determined before the deduction of any amount allowable under section 15 (a) in relation to such mine and before the set-off in terms of section 20 (1) (a) of any balance of assessed loss which is attributable to any deduction made under section 15 (a) in relation to such mine; and

(ii) where the mine concerned is a mine to which subsection (7G) applies, an amount equal to that portion of the capital expenditure of such mine which has been set off against the taxable income of another mine or mines during such year of assessment;

(dd) the sum of the expenditure contemplated in this paragraph shall be reduced by the sum of the amounts received or accrued during the said relevant period from disposals of assets contemplated in the definition of 'capital expenditure incurred';

(ee) ......

(ff) ......

(gg) notwithstanding anything to the contrary in this paragraph, the instalment of expenditure which is in terms of paragraph (d) deemed to be payable during a year of assessment shall qualify for the calculation of the amount under this paragraph as from the first day of the year of assessment following the
said year of assessment;

(hh) where a change of ownership of a mining property occurs and the assets passing by such change of ownership include any asset in respect of which the provisions of paragraph (d) are applicable, so much of the effective value as relates to the asset so included shall qualify for the calculation of the amount under this paragraph as from the first day of the year of assessment following the year of assessment during which the change of ownership occurred; and

[Para. (c) amended by s. 14 (1) (d) of Act 76 of 1968, substituted by s. 28 (1)(c) of Act 85 of 1974, amended by s. 20 (1) of Act 104 of 1980, substituted by s. 14 (b) of Act 70 of 1989 and amended by s. 26 (e) of Act 101 of 1990 and by s. 24 (e) and (g) of Act 141 of 1992.]

(d) expenditure (excluding the cost of land, surface rights and servitudes) the payment of which has become due on or after 1 July 1989 in respect of the acquisition, erection, construction, improvement or laying out of-

(i) housing for residential occupation by the taxpayer's employees (other than housing intended for sale) and furniture for such housing;

(ii) infrastructure in respect of residential areas developed for sale to the taxpayer's employees;

(iii) any hospital, school, shop or similar amenity (including furniture and equipment) owned and operated by the taxpayer mainly for the use of his employees or any garage or carport for any motor vehicle referred to in subparagraph (vi);

(iv) recreational buildings and facilities owned and operated by the taxpayer mainly for the use of his employees;

(v) any railway line or system having a similar function for the transport of minerals from the mine to the nearest public transport system or outlet;

(vi) motor vehicles intended for the private or partly private use of the taxpayer's employees:

Provided that-

(aa) such expenditure shall for the purposes of this definition be
deemed to be payable in ten successive equal annual instalments or, where subparagraph (vi) is applicable, five successive equal annual instalments, the first of which shall be deemed to be payable on the date on which payment of the relevant expenditure became due and the succeeding instalments on the appropriate anniversaries of that date, but if any such anniversary falls on a date after the asset to which such expenditure relates has been sold, disposed of or scrapped by the taxpayer, the instalment of such expenditure so deemed to be payable on such anniversary shall be disregarded;

(bb) where it is shown to the satisfaction of the Commissioner that the life of the relevant mine will extend over a period which is shorter than the period during which the said instalments are so deemed to be payable, the Commissioner may reduce the number of instalments relating to the expenditure not yet redeemed and the amount of each such instalment shall be determined by dividing the amount of the expenditure remaining to be redeemed by the number of years in the remainder of the life of the mine;

(cc) where any asset the expenditure in respect of which has qualified as capital expenditure under this paragraph is sold, disposed of or scrapped by the taxpayer during any year of assessment, an allowance shall be made in respect of that asset, equal to the amount by which the full amount of the expenditure incurred by the taxpayer in respect of that asset, as contemplated in this paragraph, exceeds the total amount of all the instalments of such expenditure which are deemed by paragraph (aa) of this proviso to be payable before the asset was sold, disposed of or scrapped, and in such case the amount of the said allowance shall be deemed to be the final instalment of the said expenditure made on the date on which the asset was sold, disposed of or scrapped;

[Para. (d) added by s. 14 (c) of Act 70 of 1989.]

[Definition of 'capital expenditure' amended by s. 12 (e), (f), (g) and (h) of Act 72 of 1963 and substituted by s. 15 (d) of Act 90 of 1964, by s. 23 of Act 55 of 1966 and by s. 16 of Act 95 of 1967.]

'capital expenditure incurred', for the purpose of determining the amount of capital expenditure incurred during any period in respect of any mine, means the amount (if any) by which the expenditure that is incurred during such period in respect of such mine and is capital expenditure, exceeds the sum of the amounts
received or accrued during the said period from disposals of assets the cost of which has in whole or in part been included in capital expenditure taken into account (whether under this Act or any previous Income Tax Act) for the purposes of any deduction in respect of such mine under section 15 (a) of this Act or the corresponding provisions of any previous Income Tax Act;

[Definition of 'capital expenditure incurred' inserted by s. 21 (c) of Act 65 of 1973 and substituted by s.17 of Act 36 of 1996.]

'expenditure on shaft sinking' includes the expenditure on sumps, pump-chambers, stations and ore bins accessory to a shaft;

'expenditure' means net expenditure after taking into account any rebates or returns from expenditure, regardless of when such last-mentioned expenditure was incurred.

[Definition of 'expenditure' substituted by s. 21 (d) of Act 65 of 1973.]

(12) The balance of capital expenditure unredeemed at the commencement of the first year of assessment chargeable under this Act shall be the balance shown to be unredeemed at the end of the last year of assessment chargeable under the Income Tax Act, 1941.

37 Calculation of capital expenditure on change of ownership of mining property

(1) For the purposes of this Act, whenever a change of ownership of a mining property occurs the new owner shall be deemed to have acquired such preliminary surveys, boreholes, shafts, development and equipment (in this section referred to as the development assets) as are included in the assets passing by such change of ownership, at a cost equal to the effective value to the new owner of the development assets at the time the change of ownership takes place, and the said cost shall be deemed to be expenditure that is incurred by the new owner during the period of assessment during which the change of ownership occurs and to be capital expenditure which is in respect of such period required to be taken into account for the purposes of the definition of 'capital expenditure incurred' in section 36 (11): Provided that if in a case in which consideration is given, the effective value of all the assets so passing exceeds the consideration, the amount of such cost and expenditure shall be deemed to be an amount which bears to the amount of such consideration the same ratio as such effective value of the development assets bears to the effective value to the new owner at the said time of all the assets passing.

[Sub-s. (1) substituted by s. 29 (a) of Act 85 of 1974.]
(2) For the purposes of paragraph (j) of the definition of 'gross income' in section 1 and section 36, the person from whom ownership of any mining property is acquired in consequence of a change of ownership of that property shall be deemed to have disposed of the development assets included in the assets passing by the change of ownership for a consideration equal in value to the cost of the development assets to the new owner, as determined under subsection (1), and such consideration shall be deemed to have been received by or to have accrued to the said person at the time the change of ownership takes place.

[Sub-s. (2) substituted by s. 29 (a) of Act 85 of 1974.]

(3) If the value of the consideration given or of the property passing where no consideration is given is in dispute, it may with the consent of the new owner be fixed by the Commissioner and shall failing such consent be determined in the same manner as if transfer duty were payable.

(4) The effective value at the time the change of ownership takes place, of all the assets passing and of the development assets included therein shall be determined by the Director-General: Mineral and Energy Affairs who shall notwithstanding the repeal of the Second Schedule to the Transvaal Mining Leases and Mineral Law Amendment Act, 1918 (Act 30 of 1918), for the purposes of such determination have all the powers which were conferred upon him by the provisions of that Schedule.

[Sub-s. (4) substituted by s. 29 (b) of Act 85 of 1974 and amended by s. 25 of Act 141 of 1992.]

37A ......

[S. 37A inserted by s. 27 of Act 89 of 1969, amended by s. 18 (1) of Act 52 of 1970, by s. 22 (1) of Act 88 of 1971 and by s. 30 (1) of Act 85 of 1974 and repealed by s. 26 of Act 94 of 1983.]

37B ......

[S. 37B inserted by s. 12 (1) of Act 101 of 1978 and repealed by s. 22 (1) of Act 21 of 1994.]

37C Determination of taxable income of persons previously assessable under certain other laws

Where any rule provided in this Act as to the inclusion of any amount in the income of a taxpayer for any year of assessment ending on or after 1 March 1984, or as to the deduction or set-off of any amount from or against his income for such year, in effect requires that regard shall be had to anything that has
been done or has occurred in or in relation to a previous year of assessment, anything that has in fact been done or has in fact occurred in or in relation to a year of assessment in respect of which the taxpayer was assessable for taxation purposes under the Black Taxation Act, 1969 (Act 92 of 1969), or any law of a legislative assembly established under the provisions of section 1 of the National States Constitution Act, 1971 (Act 21 of 1971), imposing a tax on income, shall for the purposes of applying such rule but subject to such adjustments as the Commissioner may make, be taken into account.

[S. 37C inserted by s. 3 of Act 30 of 1984.]

37D Determination of taxable income of married women

For the purposes of the determination of the taxable income of any married woman, where any rule provided in this Act as to the inclusion of any amount in her income or as to the deduction or set-off of any amount from or against her income, in effect requires that regard shall be had to anything that has been done or has occurred in or in relation to a previous year of assessment, anything that has in fact been done or has in fact occurred in or in relation to a year of assessment during which income derived by such married woman was under the provisions of section 7 (2) (prior to the amendment thereof by section 4 of the Income Tax Act, 1990) deemed to be income derived by her husband, shall, subject to such adjustments as may in the circumstances be appropriate, be taken into account for the purposes of applying such rule.

[S. 37D inserted by s. 27 of Act 101 of 1990.]

37E Application of certain provisions where taxpayer carries on value-added process

(1) For the purposes of this section-

'commencement date' means 12 September 1991;

'committee' means the committee appointed in terms of subsection (2);

'intermediate product' means any substance or material which is produced by any person in order to be subjected to further processing by any other person;

'local country' means the Republic, Botswana, Lesotho, Namibia, Swaziland or any country the territory of which formerly formed part of the Republic;

'value-added process' means any process approved by the committee whereby any raw material or any intermediate product is processed to yield any intermediate product or final product, if in the opinion of the committee-
(a) such process will add at least 35 per cent to the value of the raw material or intermediate product processed, such added value being determined in accordance with the formula-

\[
\frac{A - (B + C)}{A} \times 100
\]

in which formula-

(i) ‘A’ represents the ex-factory price of the intermediate product or final product produced by the taxpayer;

(ii) ‘B’ represents the cost of raw materials and intermediate products used by him in the production of such intermediate product or final product; and

(iii) ‘C’ represents the cost of electricity consumed by him in such production;

(b) such process will be carried on on a scale which makes it internationally competitive; and

(c) where the taxpayer intends acquiring any imported capital goods for use in such process, he will make use of any foreign term credits which may be available for the purpose of financing the acquisition of such capital goods,

but excludes any process which is either a simple purification process in consequence of which the raw material or intermediate product in question remains unchanged except for the removal of impurities or a physical process resulting merely in a change of shape and any process which is a mining operation or any operation which is normally carried on in the course of mining operations.

(2) The Minister of Finance shall with the concurrence of the Minister of Trade and Industry appoint a committee which shall have power to-

(a) approve any process as a value-added process for the purposes of this section, subject to such requirements and conditions as the committee considers necessary to ensure that the provisions of this section are applied in such a manner as to promote the carrying on of value-added processes;

(b) direct that where the provisions of this section are applicable to any
taxpayer, the taxpayer shall be excluded from such further assistance from the State as the committee may determine; and

(c) perform such other functions as are assigned to it under the provisions of this section.

(3) In deciding whether a process is to be approved as a value-added process, the committee shall have regard to-

(a) the degree to which the production of an intermediate product will encourage further processing of such intermediate product by industries situated in a local country;

(b) the effect on the Exchequer;

(c) the degree of preference which will be granted to products and skills from a local country; and

(d) the effect of such process on small and medium size enterprises in a local country.

(4) Where any taxpayer incurs expenditure for the purpose of his trade on or in connection with-

(a) any new or unused machinery or plant referred to in section 12C(1)(a) which the committee is satisfied will-

(i) be brought into use by the taxpayer within a period determined by the committee; and

(ii) be used by the taxpayer directly in a value-added process carried on by him; or

(b) any building referred to in section 13 (1) (b) which the committee is satisfied will-

(i) be brought into use by the taxpayer within a period determined by the committee; and

(ii) be used by the taxpayer for the purpose of carrying on therein any value-added process,

the provisions of sections 11 (bA), 12C and 13 (1) shall, notwithstanding the fact that such machinery, plant or building may not have been brought into use or used as contemplated in those sections, be applied in accordance with the provisions of subsection (5), but subject to the provisions of subsection (6).
(5) Where any expenditure referred to in subsection (4)-

(a) constitutes an amount of interest or related finance charges referred to in section 11 (bA) which has been incurred by the taxpayer in respect of the cost of any machinery or plant referred to in subsection (4) (a) or any building referred to in subsection (4) (b), the deduction under section 11 (bA) shall be allowed in the year of assessment in which such expenditure is incurred;

(b) constitutes the whole or a portion of the cost to the taxpayer of any machinery or plant referred to in subsection (4) (a), the deduction under section 12C shall be allowed in the year of assessment in which such expenditure is incurred and in each of the four succeeding years of assessment; or

(c) constitutes the whole or a portion of the cost to the taxpayer of any building referred to in subsection (4) (b), the deduction under section 13 (1) shall be allowed in the year of assessment in which such expenditure is incurred and in each applicable succeeding year of assessment.

(6) The provisions of this section shall apply to any taxpayer who on the commencement date has not yet commenced the erection of a value-added plant, if the process to be carried on by the taxpayer is approved by the committee as a value-added process within two years (or such shorter period as the committee in any case determines) after the commencement date.

(7) For the purposes of subsection (6), a taxpayer shall be deemed to have commenced the erection of a value-added plant on the date upon which he concludes an agreement for the acquisition of any machinery or plant referred to in subsection (4) (a) or on the date upon which he concludes an agreement for the erection of a building referred to in subsection (4) (b), whichever date is the earlier.

(8) Where a taxpayer fails to comply with any of the requirements or conditions imposed by the committee, no deduction shall be granted under the provisions of this section unless the committee otherwise directs.

(9) Where the sum of the deductions to which the taxpayer is entitled in any year of assessment under the provisions of sections 11(bA), 12C and 13(1), as applied in terms of the provisions of this section, in respect of expenditure referred to in subsection (4) exceeds the taxable income of the taxpayer for such year as determined before allowing the said deductions, the Commissioner may on application made to him by the taxpayer-
(a) disallow as a deduction in the determination of the taxpayer's taxable income for such year an amount equal to so much of such sum as would, had such amount been allowed as a deduction, have created or increased an assessed loss as defined in section 20 (2); and

(b) issue, subject to such terms and conditions as he may determine, to the taxpayer a negotiable tax credit certificate for such amount as, having regard to the rate of normal tax applicable to the taxpayer in such year, represents the amount of normal tax which would be payable in respect of a taxable income equal to the amount disallowed under the provisions of paragraph (a).

(10) A negotiable tax credit certificate issued to any taxpayer under the provisions of subsection (9) or (11) may be disposed of by such taxpayer or subsequent holder to any other taxpayer, and may in such case be utilized by such other taxpayer in payment of any normal tax, secondary tax on companies or provisional tax due by him.

(11) Where a negotiable tax credit certificate is utilized by any taxpayer and the value thereof is in excess of the amount of normal tax, secondary tax on companies or provisional tax due by such taxpayer, the Commissioner shall not be required to make a refund of such excess if such excess exceeds R5000, but he may issue to such taxpayer a replacement negotiable tax credit certificate in respect of such excess.

(12) The utilization by the taxpayer of a negotiable tax credit certificate or a refund by the Commissioner of any excess of a negotiable tax credit certificate shall be treated as a drawback from revenue charged to the National Revenue Fund.

Sub-s. (12) amended by s. 41 of Act 36 of 1996.

(13) For the purposes of section 8 (4) (a), any amount disallowed under subsection (9) (a) shall be deemed to be an amount allowed to be deducted or set off as contemplated in that section.

Sub-s. 37E inserted by s. 3 (1) of Act 136 of 1991, amended by s. 26 (1) of Act 141 of 1992 and substituted by s. 30 (1) of Act 113 of 1993.

37F Determination of taxable income derived by persons previously assessable under certain other laws

Where it is necessary for any rule provided in this Act as to the inclusion in the income of any taxpayer for any year or as to the deduction or set-off of any amount from or against his income for such year, that regard shall be had to
anything that has been done or has occurred in or in relation to a previous year of assessment, anything that has in fact been done or has in fact occurred in or in relation to a year of assessment during which the taxpayer was assessable for taxation purposes in terms of any law of a former self-governing territory declared under section 26 of the repealed Self-governing Territories Constitution Act, 1971 (Act 21 of 1971), to be a self-governing territory or of the former Republic of Transkei, Bophuthatswana, Venda or Ciskei for any year of assessment, shall, subject to such adjustments as may in the circumstances be appropriate, for the purposes of applying such rule be taken into account.

[S. 37F inserted by s. 24 (1) of Act 21 of 1995.]

37G Determination of taxable income derived from small business undertakings

(1) The Minister of Finance may make regulations to facilitate compliance with the provisions of this Act by natural persons who carry on business through small business undertakings, whether as sole proprietors or in partnership with other natural persons.

(2) A regulation made under subsection (1) may-

(a) prescribe what shall constitute a small business undertaking, having regard to-

(i) the nature of the undertaking;

(ii) the turnover, taxable income or profit of the undertaking;

(iii) the number of persons employed in the undertaking;

(iv) the nature and extent of other income derived by the proprietor or partners; and

(v) any other feature which, in the opinion of the said Minister, indicates that an undertaking should be regarded as a small business undertaking;

(b) provide for the variation of any provision of this Act relating to the determination of the taxable income derived from a small business undertaking, including-

(i) the determination of taxable income having regard only to amounts actually received or expended;

(ii) any variation in the manner in which the values of trading
stock are taken into account;

(iii) the manner in which expenditure of a capital nature incurred is to be treated; and

(iv) any other provision which, save in so far as the timing of the receipt or accrual of income or the incurrence of expenditure is concerned, will not result in a material variation in the determination of the taxable income derived by the undertaking over a period of time;

(c) provide for the exemption from, or extension of time limits in, any provision of this Act relating to the preparation and submission of documents, accounts, returns or payments;

(d) make such other provision as in the opinion of the said Minister will facilitate the carrying on of small business undertakings.

[S. 37G inserted by s. 24 (1) of Act 21 of 1995.]

37H Tax holiday scheme for certain companies

(1) For the purposes of this section-

'board' means the board established by section 2 of the Regional Industrial Development Act, 1993 (Act 187 of 1993);

'commencement date' means 1 October 1996;

'goods' means goods as defined in section 31 (1);

'project' means a project which in the opinion of the board-

(a) represents the manufacturing of any products, goods, articles or any other things as classified in 'Major Division 3: Manufacturing' of the Standard Industrial Classification of all Economic Activities (Fifth Edition) issued by the Central Statistical Services in January 1993; and

(b) meets the investment requirements prescribed by the regulations under subsection (14) (a);

'qualifying company' means any company which-

(a) is incorporated on or after the commencement date;
(b) commences the carrying on of one qualifying project for the first time on or after the commencement date; and

(c) has the sole object of carrying on one qualifying project as from the date of such incorporation and which does not carry on any trade other than such qualifying project;

'qualifying project' means a project which has been approved by the board in terms of subsection (2) (a);

'services' means services as defined in section 31 (1);

'State' means the Departments and Administrations as listed in Column 1 of Schedule 1 to the Public Service Act, 1994 (Proclamation 103 of 1994);

'tax holiday scheme' means a scheme in terms of which qualifying companies enjoy tax holiday status;

'tax holiday status' means the status whereby in respect of a year of assessment ending-

(a) during the period of six months ending 31 March 1997, the income of a qualifying company is reduced in accordance with subsection (12); or

(b) after 31 March 1997, the rate of normal tax on each rand of the taxable income received by or accrued to or in favour of a qualifying company is fixed at a rate of zero per cent in terms of section 5.

(2) The board may-

(a) evaluate and approve any project, to be carried on by a company, as a qualifying project;

(b) investigate or cause to be investigated any project for the purposes of this section;

(c) monitor the tax holiday scheme to-

(i) determine whether the objectives of that scheme are being achieved; and

(ii) advise the Minister of Finance and the Minister of Trade and Industry on any future proposed amendment or adjustment thereof;
(d) direct that where this section is applicable to any company, the company shall be excluded from any such further assistance from the State as the board may determine;

(e) require any company contemplated in subsection (4) to furnish the board with any such information or documents as are necessary for the board to perform its functions in terms of this section; and

(f) perform such other functions as are assigned to it under this section.

(3) The board shall not approve any project as a qualifying project-

(a) if it is of the opinion that the project to be carried on by any company is substantially the same manufacturing concern as was or is carried on by any other person within the Republic on or before the submission of the application for approval of the project in terms of subsection (4); or

(b) after the commencement of the carrying on of such project by any company.

(4) Any application by a company for the approval by the board of any project to be carried on by such company as a qualifying project, shall be made directly to the board in such form as the board may prescribe.

(5) This section shall apply to any project which has been approved by the board as a qualifying project in respect of any application received by the board from the relevant company on or before 30 September 1999.

(6) An application contemplated in subsection (4) shall be in respect of a project which shall consist of one or more of the following components-

(a) a spatial component as contemplated in subsection (14) (b);

(b) an industry component as contemplated in subsection (14) (c); and

(c) a human resource component as contemplated in subsection (14) (d).

(7) In determining whether a project is a qualifying project, the board shall-

(a) have regard to the-

(i) financial viability of the project;
(ii) effect on national competitiveness;

(iii) utilisation of resources;

(iv) utilisation of competitive technology; and

(v) commitment to the upgrading and training of local skills; and

(b) subject to subsection (8)-

(i) analyse each component of the project; and

(ii) where it is satisfied that such component is a component as contemplated in subsection (14) (b), (c) or (d), as the case may be, certify such component accordingly.

(8) Where the project consists solely of a human resource component or where one of the components of a project consists of a human resource component, the board shall-

(a) subject to paragraph (b), carry out an initial analysis and certification of such human resource component on application for approval of the project; and

(b) review such initial analysis and certification-

(i) where the project consists solely of a human resource component, within six months after the end of the first year of assessment during which the qualifying company commences its tax holiday status; and

(ii) where the project consists of more than one component, one of which is a human resource component, before the expiration of the tax holiday status of the qualifying company attributable to the certification by the board of all other components of such project.

(9) Where the board has approved a project to be carried on by a company as a qualifying project, the tax holiday status of such company shall, subject to subsections (10) and (15), be a period of-

(a) two consecutive years of assessment where the board has certified one component of the project;

(b) four consecutive years of assessment where the board has certified two components of the project; or
(c) six consecutive years of assessment where the board has certified three components of the project.

(10) Where a project consists of more than one component, one of which is a human resource component, the period of the tax holiday status in respect of such human resource component shall, for the purposes of this section, be deemed to commence as from the commencement of the year of assessment immediately subsequent to the expiration of the period of the tax holiday status in respect of every other component.

(11) The tax holiday status of a qualifying company shall commence as from the commencement of the first year of assessment during which such qualifying company derives a taxable income.

(12) Where a qualifying company has a year of assessment ending during the period of six months ending 31 March 1997, there shall be allowed to be deducted from the income of such company in respect of such year of assessment, an amount equal to the taxable income in respect of such year of assessment of such company as determined before granting a deduction under this subsection.

(13) Notwithstanding the provisions of this section, a qualifying company shall no longer enjoy tax holiday status after the expiry of 10 years as from the commencement of the year of assessment during which the project which is carried on by the qualifying company was approved as a qualifying project by the board.

(14) The Minister of Trade and Industry may in consultation with the Minister of Finance make regulations to-

(a) prescribe the investment requirements for any project having regard to the amount of capital invested in-

(i) land whereon and buildings wherein the process of manufacture is to be carried on; and

(ii) machinery and plant to be used directly in the process of manufacture;

(b) provide for the demarcation of a location with an existing specialisation and advantage in manufacturing within which a project is to be carried on (in this section referred to as the spatial component), having regard to the-

(i) reinforcement of secondary cities;
(ii) reinforcement of key urban nodes along any development corridor which qualifies as a spatial development initiative;

(iii) consolidation of emerging agglomeration areas where a sufficient supply of appropriate infrastructure is available; and

(iv) supporting of the diversification of local economies where a sufficient supply of appropriate infrastructure is available as a result of the restructuring of existing manufacturing activities;

(c) identify any manufacturing group (as contemplated in the Standard Industrial Classification of all Economic Activities (Fifth Edition) issued by the Central Statistical Services in January 1993) that, on an average basis, is likely to contribute most significantly to the achievement of sustainable economic growth and employment creation in the medium to longer term through enhanced international competitiveness, as a qualifying industry (in this section referred to as the industry component), having regard to the-

(i) employment and output linkages throughout the economy;

(ii) capital to human resource ratio;

(iii) generation of increased output; and

(iv) potential to experience an increase in international demand for such group's products, goods, articles or any other things over the short to medium term;

(d) prescribe a ratio in respect of human resource remuneration to value added (in this section referred to as the human resource component);

(e) prescribe criteria in order to determine for the purposes of-

(i) subsection (3) (a), whether the project to be carried on by the company is substantially the same manufacturing concern as is or was carried on by any other person within the Republic, having regard to the-

(aa) scale and scope of the project;

(bb) extent of the utilisation of-
(A) machinery and plant; or

(B) human resources;

(cc) influence thereof on the national normal tax base in existence on the date on which the application for approval is considered by the board; and

(dd) relationship between such company or its shareholders and any previous owner of such manufacturing concern; and

(ii) subsection (3) (b), when the carrying on of a project commences;

(f) define any expression referred to in this subsection, if necessary;

(g) further describe and define the issues as contemplated in subsection (7) (a) to which the board shall have regard; and

(h) prescribe and define any condition as he may deem necessary for the evaluation, approval or monitoring of a project or the monitoring of the tax holiday scheme.

(15) Where the-

(a) board is satisfied that the approval of the project was obtained by fraud or as a result of any misrepresentation or failure to disclose any material fact by the company, the board shall, unless it otherwise directs, withdraw such approval if it is satisfied that in the light of the full facts such approval should not have been granted and, in such a case, such approval shall be deemed to have been withdrawn as from the date on which such project was approved as a qualifying project;

(b) board, in reviewing its initial analysis and certification of the human resource component as contemplated in subsection (8) (b), is satisfied that such human resource component is not a human resource component as contemplated in subsection (14) (d), the board shall, unless it otherwise directs, withdraw the certification of such human resource component and such certification shall, where it was reviewed in terms of-

(i) subsection (8) (b) (i), be deemed to have been withdrawn as from the commencement of the year of assessment wherein such review takes place; and
(ii) subsection (8) (b) (ii), be deemed to be withdrawn as from the date of the board's initial certification of such human resource component;

(c) board is satisfied that a spatial component or an industry component no longer constitutes a spatial component or an industry component, as the case may be, as contemplated in subsection (14) (b) or (c), as the case may be, as a result of any reason other than a reason contemplated in paragraph (a), the board shall, unless it otherwise directs, withdraw the certification of such spatial component or industry component, as the case may be, and such certification shall be deemed to have been withdrawn from the commencement of the year of assessment during which such spatial component or industry component, as the case may be, no longer constitutes such a spatial component or such an industry component, as the case may be, as originally certified by the board; or

(d) Commissioner is satisfied that a qualifying company has entered into or carried out any transaction, operation or scheme whereby any goods or services are, directly or indirectly-

(i) supplied to a connected person in relation to the qualifying company; or

(ii) acquired from a connected person in relation to the qualifying company,

and the goods or services are supplied or acquired, as the case may be, at a price which is either-

(aa) less than the price which such goods or services might have been expected to fetch if the parties to the transaction had been independent persons dealing at arm's length (such price being the arm's length price); or

(bb) greater than the arm's length price,

the tax holiday status of such qualifying company shall, unless the Commissioner otherwise directs, lapse from the commencement of the year of assessment during which such qualifying company entered into or carried out such transaction, operation or scheme.

(16) Where subsection (15) (a) has been applied, the company shall pay, in addition to the tax chargeable in respect of its taxable income for each of the
years of assessment during which the tax holiday status was previously granted, an amount equal to twice the tax chargeable in respect of its taxable income for each of such years of assessment.

(17) (a) The Commissioner may in his discretion remit the additional charge imposed by subsection (16) or any part thereof.

(b) Notwithstanding the provisions of this subsection, the Commissioner may either before or after an assessment is issued agree with the company on the amount of the additional charge to be paid, and the amount so agreed upon shall not be subject to any objection and appeal.

(18) (a) The board shall notify the company and the Commissioner of any decision taken in accordance with subsection (2), (3), (7) or (15) (a), (b) or (c) within a period of 30 days after the approval of the minutes of the meeting whereat such decision was taken.

(b) The board shall furnish the company with reasons for any decision contemplated in paragraph (a) simultaneously with the notification of such decision.

(19) (a) Notwithstanding the provisions of section 4, the Commissioner may disclose to the board such information relating to the company's affairs as is necessary to enable the board to perform its functions in terms of this section.

(b) Before disclosing such information the Commissioner shall deliver or send to the company a written notification of his intended action setting forth particulars of the said information.

(c) The company may within 30 days after the date of such written notification or such further period as the Commissioner may approve, lodge in writing with the Commissioner any objection it may have to the disclosure of the information.

(d) If, on the expiry of the said period of 30 days or the said further period, no objection has been lodged as contemplated in paragraph (c) or, if an objection has been lodged and the Commissioner is not satisfied that the objection should be sustained, the Commissioner may thereupon disclose such information as contemplated in paragraph (a).

(20) (a) The members and employees of the board shall preserve and aid in preserving secrecy with regard to all matters that may come to their knowledge in the performance of their functions in terms of this section, and shall not communicate any such matter to any person whatsoever other than the company concerned or its legal representative nor suffer or permit any such person to have access to any records in the possession or custody of the Commissioner,
except in the performance of their functions as members and employees of the board or by order of a competent court.

(b) Every member and employee of the board shall take and subscribe before a magistrate or justice of the peace or an officer of the South African Revenue Service who is a commissioner of oaths, such oath or solemn declaration, as the case may be, of fidelity or secrecy as may be prescribed.

(c) Any member or employee of the board who contravenes a provision of paragraph (a), shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(21) Where-

(a) the certification of a component in respect of a qualifying company has been withdrawn in terms of subsection (15) (b) or (c); or

(b) the tax holiday status of a qualifying company has lapsed in terms of subsection (15) (d),

the Commissioner may, notwithstanding the provisions of section 79, raise assessments in respect of the company as if such company were not a qualifying company.

(22) Any decision of the Commissioner under this section shall be subject to objection and appeal.

(23) The relevant division of the High Court may, on the application of a company which has made any application in terms of this section and which feels aggrieved by a decision made by the board in connection with that application, review the decision on the following grounds-

(a) interest in the application, bias, malice or corruption on the part of any member of the board;

(b) gross irregularity in the proceedings; and

(c) exercise of a power in an arbitrary, mala fide or unreasonable manner.

[Sub-s. (23) amended by s. 38 of Act 30 of 1998.]

(24) The court in reviewing a decision of the board in terms of subsection (23) may, if the court is satisfied that-

(a) any of the grounds for review referred to in the said subsection has
been proved; and

(b) the applicant has been substantially prejudiced by the decision,

set aside the decision, and shall, in setting aside the decision, unless in its
opinion exceptional circumstances warrant another order, issue an order that the
board consider afresh the matter in respect of which the decision was made.

(25) (a) A company which has made any application in terms of this
section and which feels aggrieved by a decision on a question of law made by
the board in connection with the application, may appeal to the relevant division
of the High Court against the decision.

[Para. (a) amended by s. 38 of Act 30 of 1998.]

(b) Such an appeal shall be noted and prosecuted as if it were an appeal
against a judgment in a magistrate’s court in civil proceedings.

(c) If the court, after considering the appeal, is satisfied that the board has
misdirected itself in the making of the decision concerned, the court may set
aside that decision, and shall, in setting aside the decision, unless in its opinion
exceptional circumstances warrant another order, issue an order that the board
consider afresh the matter in respect of which the decision was made.

[S. 37H inserted by s. 12 (1) of Act 46 of 1996.]

Part II
Special Provisions Relating to Companies (ss 38-40B)

38 Classification of companies

(1) For the purposes of this Act a company shall in respect of each year of
assessment be recognized as either a public or a private company, and the
Commissioner shall upon the request of any company inform that company
whether it is recognized as a public company or as a private company.

(2) The following companies shall, subject to the provisions of section
thirty-nine, be recognized as public companies, namely-

(a) any company all classes of whose equity shares are publicly
quoted on the specified date by a stock exchange in the list issued
under its authority, provided the Commissioner is satisfied-

(i) that the stock exchange is a recognized and bona fide stock
exchange under adequate control;
(ii) that the rules and regulations of the stock exchange for granting and continuing a quotation for the purchase and sale of shares provide for full protection of the interests of the public in regard to dealings in the shares of the company;

(iii) that the memorandum and articles of association of the company contain no such restrictions on the right to acquire or transfer any of its shares as are likely to preclude members of the general public from becoming shareholders in any class of the company's shares; and

(iv) that the general public was throughout the year of assessment in question interested either directly as shareholders in the company or indirectly as shareholders in any other company, in more than forty per cent, of every class of equity shares issued by the company;

[Sub-para. (iv) substituted by s. 16 (a) of Act 90 of 1964.]

(b) any other company, not being a private company as defined in section 20 of the Companies Act, 1973 (Act 61 of 1973) (as in force on 1 January 1974), nor a close corporation, in respect of which the Commissioner is satisfied-

(i) that the general public was throughout the year of assessment in question interested either directly as shareholders in the company or indirectly as shareholders in any other company, in more than fifty per cent of every class of equity shares issued by the company; and

[Sub-para. (i) substituted by s. 16 (b) of Act 90 of 1964.]

(ii) that the business of the company is conducted and its profits are distributed in such a manner that no person enjoys or receives or is entitled to enjoy or receive, by reason of shareholding, participation in the management or otherwise, any advantage which would not be enjoyed or received by him if the company had been under the control of a board of directors acting in the best interests of all its shareholders and had been one which could have been recognized as a public company under paragraph (a);

[Para. (b) amended by s. 31 (b) of Act 85 of 1974 and by s. 24 of Act 121 of 1984.]

(c) any company which the Commissioner is satisfied was incorporated
to serve a specified purpose, beneficial to the public or a section of the public, if under the constitution of the company no shareholder is entitled to participate in the profits or income of the company to an extent greater than seven per cent of the nominal value of his shareholding;

(d) any co-operative formed and incorporated or deemed to be formed and incorporated under the Co-operatives Act, 1981 (Act 91 of 1981);

[Para. (d) substituted by s. 28 of Act 89 of 1969 and by s. 27 of Act 94 of 1983.]

(e) any insurance society or company subject to assessment in terms of section twenty-eight;

(f) any public utility company, established by or under a special Act of Parliament;

(g) any company the sole or principal business of which in the Republic is mining for gold or diamonds;

(h) any company to which the provisions of section thirty-three apply; and

(i) any unit portfolio referred to in paragraph (e) of the definition of 'company' in section one.

[Para. (i) added by s. 21 of Act 90 of 1962.]

(3) A company which is not recognized as a public company shall be recognized as a private company.

[Sub-s. (3) amended by s. 16 (c) of Act 90 of 1964.]

(4) For the purposes of this section-

(a) the general public in relation to any company (in this paragraph referred to as the company) shall be deemed not to include-

(i) any director of the company; or

(ii) any relative of any director of the company, unless it is shown to the satisfaction of the Commissioner that such relative, if he is not the spouse or minor child of such director, has at all times which the Commissioner considers relevant exercised his rights as a shareholder in the company or in any other
company through which such relative is interested in the shares of the company, independently of such director, or

(iii) the executor of the deceased estate or the trustee of the insolvent estate of any person referred to in subparagraph (i) or (ii); or

(iv) any person to the extent that he acts in a fiduciary capacity, or as a nominee, for the benefit of any person who is not in fact or in terms of any other provision of this subsection a member of the general public in relation to the company; or

(v) any man or his wife or any minor child of any man or his wife, if one or more of such persons are directly or indirectly interested (otherwise than by virtue of any shareholding in any public company or any private company which is interested in the shares of the company through a direct or indirect interest in the issued share capital of a public company) in altogether more than fifteen per cent of any class of equity shares issued by the company;

(b) the general public in relation to any company (in this paragraph referred to as the company) shall be deemed to include-

(i) any benefit fund, pension fund, provident fund or retirement annuity fund or any trust or institution which in the opinion of the Commissioner is of a public character, and

(ii) any person to the extent that he acts in a fiduciary capacity, or as a nominee, for the benefit of any person who is in fact or in terms of any other provision of this subsection a member of the general public in relation to the company;

(c) where any person-

(i) being a public company, is indirectly interested in any shares of any other company; or

(ii) being a member of the general public in relation to any company, is indirectly interested in any shares of that company,

by virtue of his being a shareholder in any private company and such interest is not attributable to a direct or indirect interest of such private company in the issued share capital of a public company, the said person shall be deemed to be interested in only that
portion of such shares as the Commissioner is satisfied such person would be entitled to receive if every company through which that person is interested in those shares were to be wound up or liquidated and the assets of each such company were, without regard to its liabilities, to be distributed among its shareholders;

(d) where persons are jointly interested, whether directly or indirectly, but otherwise than through a direct or indirect interest in the issued share capital of a public company, in the shares of any company, each such person shall be deemed to be interested in only such proportion of those shares as the Commissioner is satisfied he would be entitled to receive if the joint interest of all such persons in such shares were to be divided between such persons.

[Sub-s. (4) added by s. 16 (d) of Act 90 of 1964.]

39 Redetermination of company's status

If owing to changes in the constitution or shareholding of any company which has been recognized as a public company under paragraph (a), (b) or (c) of subsection (2) of section thirty-eight, or for any other reason, the Commissioner is no longer satisfied of the matters of which he is in terms of the applicable paragraph required to be satisfied, or the company ceases to comply with the requirements of that paragraph, the Commissioner may notify the public officer of the company that it will as from the next succeeding specified date be recognized as a private company.

40 Objection and appeal

The decision of the Commissioner in the exercise of his discretion under paragraph (a), (b) or (c) of subsection (2) of section thirty-eight shall be subject to objection and appeal.

40A Close corporations

(1) Where any company registered under the Companies Act, 1973 (Act 61 of 1973), has under the provisions of section 27 of the Close Corporations Act, 1984 (Act 69 of 1984), been converted into a close corporation, or any close corporation has under the provisions of section 29C of the Companies Act, 1973, been converted into a company, such company and such close corporation shall for the purposes of this Act be deemed to be and to have been one and the same company.

(2) to (4) inclusive ......

[Sub-ss. (2) to (4) inclusive deleted by s. 28 (1) of Act 101 of 1990.]
40B Conversion of co-operative to company

Where any co-operative incorporated under the Co-operatives Act, 1981 (Act 91 of 1981), is incorporated as a company in accordance with the provisions of section 161A or 161C of that Act, such co-operative and such company shall for the purposes of this Act be deemed to be and to have been one and the same company.

[S. 40B inserted by s. 17 of Act 96 of 1985, repealed by s. 29 (1) of Act 101 of 1990 and inserted by s. 31 of Act 113 of 1993.]

Part III

[Part III repealed by s. 25 (1) of Act 21 of 1995.]

41 ...... [S. 41 amended by s. 17 of Act 103 of 1976 and repealed by s. 25 (1) of Act 21 of 1995.]


43 ...... [S. 43 repealed by s. 25 (1) of Act 21 of 1995.]

43A ...... [S. 43A inserted by s. 29 of Act 94 of 1983 and repealed by s. 25 (1) of Act 21 of 1995.]

44 ...... [S. 44 repealed by s. 25 (1) of Act 21 of 1995.]
45  .......

[S. 45 substituted by s. 24 of Act 55 of 1966 and by s. 18 of Act 95 of 1967 and
repealed by s. 25 (1) of Act 21 of 1995.]

46 and 47  .......

[Ss. 46 and 47 repealed by s. 25 (1) of Act 21 of 1995.]

**Part IV**

*Undistributed Profits Tax (ss 48-53)*

48  .......

[S. 48 substituted by s. 30 of Act 89 of 1969, amended by s. 23 (1) of Act 65 of
1973, by s. 33 of Act 85 of 1974 and by s. 19 (1) of Act 103 of 1976 and repealed
by s. 30 (1) of Act 101 of 1990.]

49  .......

[S. 49 amended by s. 22 of Act 90 of 1962, by s. 9 of Act 6 of 1963, by s. 17 of
Act 90 of 1964, by s. 31 (1) of Act 89 of 1969, by s. 24 (1) of Act 88 of 1971, by s.
24 (1) of Act 65 of 1973, by s. 34 (1) of Act 85 of 1974, by s. 23 (1) of Act 69 of
1975, by s. 20 (1) of Act 113 of 1977, by s. 21 of Act 104 of 1980, by s. 22 (1) of
46 and 47 of Act 97 of 1986 and by s. 19 of Act 85 of 1987 and repealed by s. 31
(1) of Act 101 of 1990.]

50  .......

[S. 50 amended by s. 23 of Act 90 of 1962, by s. 19 of Act 95 of 1967, by s. 32
(1) of Act 89 of 1969, by s. 25 (1) of Act 88 of 1971, by s. 25 of Act 65 of 1973, by
s. 35 (1) of Act 85 of 1974, by s. 27 of Act 121 of 1984 and by s. 20 (1) of Act 85
of 1987 and repealed by s. 32 (1) of Act 101 of 1990.]

51  .......

[S. 51 repealed by s. 33 (1) of Act 101 of 1990.]

52  .......

[S. 52 amended by s. 24 of Act 90 of 1962 and by s. 36 (1) of Act 85 of 1974 and
repealed by s. 34 (1) of Act 101 of 1990.]

53  ......
Part V
Donations Tax (ss 54-64)

54 Levy of donations tax

Subject to the provisions of section 56 there shall be paid for the benefit of the National Revenue Fund a tax (in this Act referred to as donations tax) on the value of any property disposed of (whether directly or indirectly and whether in trust or not) under any donation which took or takes effect on or after 16 March 1988 by any person (in this Part referred to as the donor) who, in the case of a person other than a company, is ordinarily resident in the Republic, or, in the case of a company, is a domestic company.

[S. 54 amended by s. 37 of Act 85 of 1974 and by s. 20 of Act 103 of 1976, substituted by s. 24 of Act 90 of 1988 and amended by s. 41 of Act 36 of 1996.]

55 Definitions for purposes of this Part

(1) In this Part, unless the context otherwise indicates-

'cumulative taxable value' ......

[Definition of 'cumulative taxable value' deleted by s. 25 (a) of Act 90 of 1988.]

'donation' means any gratuitous disposal of property including any gratuitous waiver or renunciation of a right;

'donee' means any beneficiary under a donation and includes, where property has been disposed of under a donation to any trustee to be administered by him for the benefit of any beneficiary, such trustee: Provided that any donations tax paid or payable by any trustee in his capacity as such may, notwithstanding anything to the contrary contained in the trust deed concerned, be recovered by him from the assets of the trust;

'fair market value', in relation to immovable property on which a bona fide farming undertaking is being carried on in the Republic, means, at the option of the donor, either-

(a) the fair market value thereof; or

(b) an amount to be determined in accordance with the provisions of subsection (2) as representing the aggregate of the fair agricultural or pastoral value of the land and the value which any improvements
situated thereon may be expected to add to such value of the land (which aggregate is hereinafter referred to as the surface value) together with the fair market value of any mineral rights attaching to the land, as at the date upon which the donation takes effect; [Definition of 'fair market value' amended by s. 25 (b) of Act 90 of 1988.]

'transfer' means any right in or to property movable or immovable, corporeal or incorporeal, wheresoever situated.

(2) (a) In the case of any property in respect of which the donor elects the value determined in accordance with paragraph (b) of the definition of 'fair market value' in subsection (1), the donor shall lodge an application in the prescribed form in duplicate for a determination of the surface value of that property with the magistrate of the district in which such property is situate.

(b) Any magistrate with whom such an application has been lodged shall forward both copies thereof to a land bank valuator selected by him who has been appointed in terms of section seventy of the Land Bank Act, 1944 (Act 13 of 1944), with instructions to make a valuation of the surface value of the property in question.

(c) The provisions of the Land Bank Act, 1944, applicable to valuators under the said Act, and any instructions issued from time to time by the Land Bank to such valuators in connection with the exercise of their duties, shall apply to any such valuator instructed to make a valuation of the surface value of any such property, as though he were making a valuation for land bank purposes.

(d) Fees and travelling expenses shall be paid by the donor to any such valuator in accordance with the tariffs applicable to the valuation of property by sworn appraisers appointed by Masters of the High Court. [Para. (d) amended by s. 22 of Act 28 of 1997.]

(e) Any land bank valuator to whom any such application in duplicate has been referred, shall cause the particulars of his valuation of the surface value of the property in question to be inserted on both copies of the application and shall within three days from the date on which his valuation was made forward one copy to the donor and the remaining copy to the magistrate for transmission to the Commissioner.

(f) The Commissioner shall, subject to the provisions of paragraph (h), thereupon determine the surface value of the property in question, or may refer the matter to the Board of the Land Bank as constituted under section four of the Land Bank Act, 1944 (in this section referred to as the Board), for its determination of such value.
(g) The Commissioner shall at the same time determine the fair market value of the mineral rights attaching to the property in question and shall advise the donor of the values determined by him under this paragraph and paragraph (f) and shall indicate in such advice whether the determination of the surface value of the property was made by him or by the Board.

(h) If the donor considers himself aggrieved by the Commissioner's determination of the surface value of any property in terms of paragraph (f) he shall notify the Commissioner thereof in writing within twenty-one days or such further period as the Commissioner may allow from the date of the advice referred to in paragraph (g) and the Commissioner shall thereupon cause the matter to be referred to the Board for review.

(i) For the purposes of its determination under paragraph (f) or (h) the Board shall apply the same principles and follow the same practice and procedure as in the case of a determination by it of the value of property for land bank purposes.

(j) Any person duly authorized thereto by the Board shall at all reasonable times have full access to the property the value of which is being determined by the Board.

(k) There shall be no appearance by or on behalf of either party before the Board, whose decision shall be final and shall be communicated in duplicate to the Commissioner who shall forward one copy thereof to the donor.

(3) For the purposes of this Part a donation shall be deemed to take effect upon the date upon which all the legal formalities for a valid donation have been complied with.

56 Exemptions

(1) Donations tax shall not be payable in respect of the value of any property which is disposed of under a donation-

(a) to or for the benefit of the spouse of the donor under a duly registered antenuptial or post-nuptial contract or under a notarial contract entered into as contemplated in section 21 of the Matrimonial Property Act, 1984 (Act 88 of 1984);

[Para. (a) amended by s. 18 (a) of Act 90 of 1964 and substituted by s. 18 (1) of Act 96 of 1985.]

(b) to or for the benefit of the spouse of the donor who is not separated
from him under a judicial order or notarial deed of separation;

[Para. (b) amended by s. 18 (b) of Act 90 of 1964.]

(c) as a *donatio mortis causa*;

(d) in terms of which the donee will not obtain any benefit thereunder until the death of the donor;

(e) which is cancelled within six months from the date upon which it took effect;

(f) ......

[Para. (f) deleted by s. 32 (1) (a) of Act 113 of 1993.]

(g) if such property consists of any right in property situated outside the Republic and was acquired by the donor-

(i) before the donor, being a person other than a company, became ordinarily resident in the Republic for the first time or, in the case of a company, became for the first time, a domestic company; or

[Sub-para. (i) amended by s. 38 (a) of Act 85 of 1974.]

(ii) by inheritance from a person who at the date of his death was not ordinarily resident in the Republic or by a donation if at the date of the donation the donor was a person (other than a company) not ordinarily resident in the Republic; or

[Sub-para. (ii) substituted by s. 21 of Act 113 of 1977.]

(iii) out of funds derived by him from the disposal of any property referred to in subparagraph (i) or (ii) or, if the donor disposed of such lastmentioned property and replaced it successively with other properties (all situated outside the Republic and acquired by the donor out of funds derived by him from the disposal of any of the said properties), out of funds derived by him from the disposal of, or from revenue from any of those properties; or

(iv) out of funds derived by him from any trade carried on by him outside the Republic; or

(v) in the case of immovable property, not less than ten years
before the date on which the donation takes effect;

[Para. (g) substituted by s. 18 (c) of Act 90 of 1964.]

(gA) ......

[Para. (gA) inserted by s. 33 of Act 89 of 1969 and deleted by s. 26 (a) of Act 90 of 1988.]

(h) by or to any person (including any government) referred to in section 10 (1) (a), (b), (cA), (cB), (cC), (cD), (cE), (cF), (cI), (cJ), (cL), (d), (e) or (fA);

[Para. (h) substituted by s. 38 (b) of Act 85 of 1974, by s. 23 (a) of Act 96 of 1981, by s. 21 of Act 85 of 1987, by s. 28 of Act 141 of 1992 and by s. 32 (1) (b) of Act 113 of 1993.]

(i) by or to any institution for the advancement of science or art or of a charitable, educational or religious nature, if the Minister of Finance is satisfied that the operations of such institution are in the interest of the public;

[Para. (i) amended by s. 26 (b) of Act 90 of 1988.]

(j) if such property or the income therefrom is required to be devoted wholly to purposes which the Minister of Finance is satisfied are in the interest of the public and which are of a charitable, educational or religious nature;

[Para. (j) amended by s. 26 (c) of Act 90 of 1988.]

(k) as a voluntary award the value of which is required to be included in the gross income of the donee in terms of paragraph (c), (d) or (i) of the definition of 'gross income' in section 1;

[Para. (k) substituted by s. 28 of Act 121 of 1984.]

(l) if such property is disposed of under and in pursuance of any trust;

(m) if such property consists of a right (other than a fiduciary, usufructuary or other like interest) to the use or occupation of property used for farming purposes, for no consideration or for a consideration which is not an adequate consideration, and the donee is a child of the donor;

(n) on or after the seventeenth day of August, 1966, by any company
which is recognized as a public company in terms of section 38;

[Para. (n) added by s. 25 (1) of Act 55 of 1966.]

(o) where such property consists of the full ownership in immovable property, if-

(i) such immovable property was acquired by any beneficiary entitled to any grant or services in terms of the Land Reform Programme, as contemplated in the White Paper on South African Land Policy, 1997; and

(ii) the Minister of Land Affairs or a person designated by him has, on such terms and conditions as such Minister may in consultation with the Commissioner prescribe, approved the particular project in terms of which such immovable property is so acquired.

[Para. (o) added by s. 38 (c) of Act 85 of 1974, deleted by s. 4 (1) of Act 30 of 1984 and added by s. 39 (1) of Act 30 of 1998.]

(p) ......

[Para. (p) added by s. 31 (1) (a) of Act 94 of 1983 and deleted by s. 18 (1) (a) of Act 36 of 1996.]

(2) Donations tax shall not be payable in respect of-

(a) so much of the sum of the values of all casual gifts made by a donor other than a natural person during any year of assessment as does not exceed R5 000: Provided that where the year of assessment exceeds or is less than 12 months, the amount in respect of which the tax shall not be payable in terms of this paragraph shall be an amount which bears to R5 000 the same ratio as that year of assessment bears to 12 months.

[Para. (a) substituted by s. 23 (b) of Act 96 of 1981, amended by s. 31 (1) (b) of Act 94 of 1983 and substituted by s. 26 (d) of Act 90 of 1988.]

(b) so much of the sum of the values of all property disposed of under donations by a donor who is a natural person as does not during any year of assessment exceed R25 000;

[Para. (b) amended by s. 13 (1) of Act 101 of 1978 and by s. 31 (1) (c) of Act 94 of 1983 and substituted by s. 26 (d) of Act 90 of 1988 and by s. 18 (1) (b) of Act 36 of 1996.]
(c) so much of any bona fide contribution made by the donor towards
the maintenance of any person as the Commissioner considers to
be reasonable.

57 Donations by a body corporate at the instance of any person

(1) If any property is disposed of under any donation by any body
corporate at the instance of any person, that property shall for the purposes of
this Part be deemed to be disposed of under a donation by that person: Provided
that any tax paid or payable by that person in respect of any property so
disposed of under a donation by any body corporate may be recovered from the
assets of that body corporate.

(2) For the purposes of subsection (1) property shall be deemed to be
disposed of under a donation by any body corporate at the instance of any
person if, having regard to the circumstances under which that donation was
made by such body corporate, the Commissioner is of the opinion-

(a) that it was not made in the ordinary course of the normal income
earning operations of that body corporate; and

(b) that the selection of the donee who benefited by the donation was
made at the instance of that person.

[S. 57 amended by s. 22 of Act 88 of 1965 and by s. 27 of Act 90 of 1988 and
substituted by s. 26 of Act 21 of 1995.]

57A Donations by spouses married in community of property

For the purposes of this Part, in the case of spouses married in community
of property, where any property is disposed of in terms of a donation by one of
the spouses and-

(a) such property falls within the joint estate of the spouses, such
donation shall be deemed to have been made in equal shares by
each spouse; and

(b) such property was excluded from the joint estate of the spouses,
such donation shall be deemed to have been made solely by the
spouse making the donation.

[S. 57A inserted by s. 27 of Act 21 of 1995.]

58 Property disposed of under certain transactions deemed to have been
disposed of under a donation
Where any property has been disposed of for a consideration which, in the opinion of the Commissioner, is not an adequate consideration that property shall for the purposes of this Part be deemed to have been disposed of under a donation: Provided that in the determination of the value of such property a reduction shall be made of an amount equal to the value of the said consideration.

59 Persons liable for the tax

The person liable for donations tax shall be the donor: Provided that if the donor fails to pay the tax within the period prescribed in subsection (1) of section sixty the donor and the donee shall be jointly and severally liable for the tax.

60 Payment and assessment of the tax

(1) Donations tax shall be payable within three months or such longer period as the Commissioner may allow from the date upon which the donation in question takes effect and shall be paid to the receiver of revenue for the district within which the donor (in the case of any person other than a company) is ordinarily resident or (in the case of any company) has its registered office or principal place of business.

[Sub-s. (1) substituted by s. 39 of Act 85 of 1974.]

(2) Where a donor has during the year of assessment disposed of property under more than one donation in respect of which an exemption may be applicable under the provisions of section 56 (2) (a) or (b), the amount to be exempted in respect of any such donation shall be calculated according to the order in which such donations took effect.

[Sub-s. (2) substituted by s. 28 of Act 90 of 1988.]

(3) Where a donor has disposed of property under more than one donation on the same date those donations shall for the purpose of determining the tax payable in respect of each donation be deemed to have taken effect-

(a) in such order as the donor may elect; or

(b) if the donor fails to make an election within fourteen days after having been called upon by the Commissioner to do so, in such order as the Commissioner may determine.

(4) The payment of the tax in terms of subsection (1) shall be accompanied by a return in such form as may be prescribed by the
(5) The Commissioner may at any time assess either the donor or the donee or both the donor and the donee for the amount of donations tax payable or, where the Commissioner is satisfied that the tax payable under this Part has not been paid in full, for the difference between the amount of the tax payable and the amount paid, but the payment by either of the said parties of the amount payable under such assessment shall discharge the joint obligation.

61 Extension of scope of certain provisions of Act for purposes of donations tax

For the purposes of the donations tax-

(a) any reference in subsection (1) or (2) of section seventy-four, paragraph (c) or (d) of subsection (1) of section seventy-five or paragraph (a) or (e) of the definition of 'representative taxpayer' in section one to the income of any person or to the gross income received by or accrued to or in favour of any person shall be deemed to include a reference to property disposed of by any person under a donation or to the value of such property, as the context may require;

(b) the reference in subsection (2) of section seventy-four to any person entitled to or in receipt of any income shall be deemed to include a reference to any person who has disposed of property under a donation;

(c) the reference in section seventy-eight to the taxable income in relation to which any return or information is required shall be deemed to include a reference to the value of any property disposed of under a donation in relation to which the return or information is required;

(d) the reference in paragraphs (b) and (c) of the definition of 'representative taxpayer' in section one to the income under the management, disposition or control of an agent or to income the subject of any trust, as the case may be, shall be deemed to include a reference to any property disposed of under a donation which is under the management, disposition or control of the agent or to property disposed of under a donation which is the subject of the trust, as the case may be.

(e) the reference in subsection (1) of section ninety-five to the income to which a representative taxpayer is entitled in his representative capacity, or of which in such capacity he has the management,
receipt, disposal, remittance, payment or control shall be deemed to include a reference to any property disposed of under a donation of which a representative taxpayer in his representative capacity has the management, receipt, disposal, remittance, payment or control, and the reference in the said subsection to income received by or accruing to or in favour of such a person beneficially shall be deemed to include a reference to property disposed of by such a person in his own right under a donation.

(f) the reference in subsection (1)bis of section ninety-five to the income received by or accrued to any deceased person during his lifetime shall be deemed to include a reference to any property disposed of by the deceased person under any donation during his lifetime, and the reference in the said subsection to income received by or accruing to or in favour of a representative taxpayer beneficially shall be deemed to include a reference to property disposed of by the representative taxpayer in his own right under a donation;

[Para. (f) added by s. 25 of Act 90 of 1962.]

(g) the reference in section 96 (2) to the taxable income of any deceased person shall be deemed to include a reference to the value of property disposed of by such person under any donation.

[Para. (g) added by s. 25 of Act 90 of 1962 and substituted by s. 29 of Act 90 of 1988.]

62 Value of property disposed of under donations

(1) For the purposes of donations tax the value of any property shall be deemed to be-

(a) in the case of any fiduciary, usufructuary or other like interest in property, an amount determined by capitalizing at twelve per cent. the annual value of the right of enjoyment of the property over which such interest was or is held, to the extent to which the donee becomes entitled to such right of enjoyment, over the expectation of life of the donor, or if such right of enjoyment is to be held for a lesser period than the life of the donor, over such lesser period;

[Para. (a) amended by s. 8 (a) of Act 114 of 1977.]

(b) in the case of any right to any annuity, an amount equal to the value of the annuity capitalized at twelve per cent. over the
expectation of life of the donor, or if such right is to be held by the donee for a lesser period than the life of the donor, over such lesser period;

[Para. (b) amended by s. 8 (b) of Act 114 of 1977.]

(c) in the case of a right of ownership in any movable or immovable property which is subject to a usufructuary or other like interest in favour of any person, the amount by which the fair market value of the full ownership of such property exceeds the value of such interest, determined-

(i) in the case of a usufructuary interest, by capitalizing at twelve per cent. the annual value of the right of enjoyment of the property subject to such usufructuary interest over the expectation of life of the person entitled to such interest, or, if such right of enjoyment is to be held for a lesser period than the life of such person, over such lesser period;

[Sub-para. (i) amended by s. 8 (c) of Act 114 of 1977.]

(ii) in the case of an annuity charged upon the property, by capitalizing at twelve per cent. the amount of the annuity over the expectation of life of the person entitled to such annuity, or, if it is to be held for a lesser period than the life of such person, over such lesser period; or

[Sub-para. (ii) amended by s. 8 (c) of Act 114 of 1977.]

(iii) in the case of any other interest, by capitalizing at twelve per cent. such amount as the Commissioner may consider reasonable as representing the annual yield of such interest, over the expectation of life of the person entitled to such interest, or, if such interest is to be held for a lesser period than the life of such person, over such lesser period;

[Sub-para. (iii) amended by s. 8 (c) of Act 114 of 1977.]

(d) in the case of any other property, the fair market value of such property as at the date upon which the donation takes effect:

Provided that in any case in which, as a result of conditions which in the opinion of the Commissioner were imposed by or at the instance of the donor, the value of any property is reduced in consequence of the donation, the value of such property shall be determined as though the conditions in terms of which the value of the said property is reduced in consequence of the donation, had
not been imposed.

(1A) Where any company not quoted on any stock exchange owns immovable property on which bona fide farming operations are being carried on in the Republic, the value of such immovable property shall, in so far as it is relevant for the purposes of determining the value of any shares in such company, be determined in the manner prescribed in the definition of ‘fair market value’ in section 55 (1).

[Sub-s. (1A) inserted by s. 36 of Act 101 of 1990.]

(2) For the purposes of paragraphs (a) and (c) of subsection (1) the annual value of the right of enjoyment of a property means an amount equal to twelve per cent. upon the value of the full ownership of the property which is subject to any fiduciary, usufructuary or other like interest: Provided that-

(a) where it is established to the satisfaction of the Commissioner that the property which is subject to any such interest could not reasonably be expected to produce an annual yield equal to 12 per cent on such value of the property, the Commissioner may fix such sum as representing the annual yield as may seem to him to be reasonable, and the sum so fixed shall for the purposes of paragraphs (a) and (c) of subsection (1) be deemed to be the annual value of the enjoyment of such property;

[Para. (a) amended by s. 8 (d) of Act 114 of 1977 and by s. 23 (1) of Act 28 of 1997.]

(b) where the property which is subject to any such interest consists of books, pictures, statuary or other objects of art, the annual value of the right of enjoyment shall for the purposes of paragraph (a) of subsection (1) be deemed to be the average net receipts (if any) derived by the person entitled to such right of enjoyment of such property during the three years immediately preceding the date on which the donation took effect.

[Sub-s. (2) amended by s. 8 (d) of Act 114 of 1977.]

(3) Where for the purposes of subsection (1) any calculation is required to be made over the expectation of life of any person, such calculation shall, in the case of a person who is not a natural person, be made over a period of fifty years.

(4) If the Commissioner is of the opinion that the amount shown in any return as the fair market value of any property other than property whereof the fair market value has been determined in accordance with the provisions of
subsection (2) of section fifty-five, is less than the fair market value of such property, he may fix the fair market value of that property, and the value so fixed shall, subject to the provisions of section sixty-three, be deemed for the purposes of this Part to be the fair market value of such property.

(5) In fixing the fair market value of any property in terms of subsection (4), the Commissioner shall have regard inter alia-

(a) to the municipal or divisional council valuation (if any) of such property;

(b) to any sworn valuation of such property furnished by or on behalf of the donor or the donee; and

(c) to any valuation of such property made by any competent and disinterested person appointed by the Commissioner.

63 Objection and appeal

The decision of the Commissioner in the exercise of his discretion under subsection (3) of section fifty-seven, subparagraph (iii) of paragraph (c) of subsection (1) of section sixty-two or the proviso to paragraph (d) of the said subsection (1) or subsection (4) of section sixty-two, and any determination by the Commissioner under paragraph (g) of subsection (2) of section fifty-five of the value of the mineral rights attaching to any property, shall be subject to objection and appeal.

64 Rate of donations tax

(1) The rate of the donations tax chargeable under section 54 in respect of the value of any property disposed of under a donation shall be 25 per cent of such value.

[S. 64 substituted by s. 30 of Act 90 of 1988 and amended by s. 19 (1) of Act 36 of 1996.]

Part VI

64A .....  
[S. 64A inserted by s. 4 of Act 136 of 1991, substituted by s. 29 (1) of Act 141 of 1992, amended by s. 33 of Act 113 of 1993, by s. 28 (1) of Act 21 of 1995 and by 
s. 20 (1) of Act 36 of 1996 and repealed by s. 24 (1) of Act 28 of 1997.]

Part VII  
Secondary Tax on Companies (ss 64B-64C)  
[Part VII inserted by s. 34 (1) of Act 113 of 1993.]

64B Levy and recovery of secondary tax on companies

(1) For the purposes of this Part-

'affecte company' means the other company contemplated in the 
definition of 'holding company';

[Definition of 'affecte company' inserted by s. 21 (1) 
(b) of Act 36 of 1996.]

'declared', in relation to any dividend (including a dividend in specie),
means the approval of the payment or distribution thereof by the directors of the company or by some other person under authority conferred by the 
memorandum and articles of association of the company;

'dividend cycle' means-

(a) in relation to the first dividend declared by a company (other than a company which carries on long-term insurance business) on or 
after 17 March 1993, the period commencing on the later of-

(i) 1 September 1992; and

(ii) the day following the date of declaration of the last dividend 
(other than a dividend in specie or a dividend payable on a 
preference share) declared by the company prior to 17 March 
1993,

and ending on the date on which such first dividend accrues to the 
shareholder concerned;

Para. (a) amended by s. 24 (1) (a) of Act 21 of 1994.]

(aA) in relation to the first dividend declared by a company which carries
on long-term insurance business out of profits derived during any year of assessment commencing on or after 1 July 1993, the period commencing on the later of-

(i) the day falling six months prior to the declaration of the said dividend; and

(ii) the day following the date of declaration of the last dividend (other than a dividend in specie or a dividend payable on a preference share) declared by the company prior to the declaration of the said first dividend,

and ending on the date on which such first dividend accrues to the shareholder concerned; and

[Para. (aA) inserted by s. 24 (1) (c) of Act 21 of 1994.]

(b) in relation to any subsequent dividend declared by that company, the period commencing immediately after the previous dividend cycle of the company and ending on the date on which such dividend accrues to the shareholder concerned.

‘holding company’ means any company which holds for its own benefit whether directly, or indirectly through one or more intermediate companies, together with shares held in terms of a share incentive scheme, all the equity share capital of any other company;

[Definition of ‘holding company’ added by s. 21 (1) (c) of Act 36 of 1996.]

‘intermediate company’ means any company all of whose equity share capital is, together with shares held in terms of a share incentive scheme, held by-

(a) the first-mentioned company in the definition of 'holding company'; or

(b) (i) one or more companies which are intermediate companies in terms of paragraph (a); or

(ii) a ‘holding company’ and one or more companies referred to in subparagraph (i);

[Definition of ‘intermediate company’ inserted by s. 21 (1) (c) of Act 36 of 1996.]

‘share incentive scheme’ means a scheme in terms of which not more than 10 per cent of the equity share capital of a company is-
(a) held by the directors and full-time employees of-

(i) such company; or

(ii) an associated institution, as defined in paragraph 1 of the Seventh Schedule, in relation to such company,

in terms of a share incentive scheme carried on for their own benefit;

(b) held by a trustee for the benefit of such directors and employees under a scheme referred to in section 38 (2) (b) of the Companies Act, 1973 (Act 61 of 1973); or

(c) collectively held by such directors and full-time employees, and such a trustee.

[Definition of 'share incentive scheme' added by s. 21 (1) (c) of Act 36 of 1996 and substituted by s. 25 (1) (a) of Act 28 or 1997.]

[Sub-s. (1) amended by s. 21 (1) (a) of Act 36 of 1996.]

(2) There shall be levied and paid for the benefit of the National Revenue Fund a tax, to be known as the secondary tax on companies, which is calculated at the rate of 12.5 per cent of the net amount, as determined in terms of subsection (3), of any dividend declared by any company on or after 14 March 1996.

[Sub-s. (2) substituted by s. 24 (1) (d) of Act 21 of 1994 and by s. 21 (1) (d) of Act 36 of 1996.]

(3) The net amount of any dividend referred to in subsection (2) shall be the amount by which such dividend declared by a company exceeds the sum of any dividends (other than any dividends contemplated in subsection (5) (b), (c), (d) and (f)) which have during the dividend cycle in relation to such firstmentioned dividend accrued to the company: Provided that-

(a) where the sum of such dividends accrued exceeds such dividend declared, the excess shall be carried forward and be deemed to be a dividend which accrued to the company during the succeeding dividend cycle of the company; and

(b) in the determination of the net amount of any dividend distributed in the course or in anticipation of the liquidation or winding up or deregistration of a company, there shall be allowed as a deduction
any dividend contemplated in subsection (5) (c) which has during the current or any previous dividend cycle accrued to the company.

[Para. (b) substituted by s. 29 (1) (a) of Act 21 of 1995.]

[Sub-s. (3) amended by s. 24 (1) (e) of Act 21 of 1994.]

(4) (a) Where any dividend is declared by a company subject to the condition that it will be payable to shareholders registered in the company's share register on a specified date, such dividend or interim dividend shall for the purposes of this section be deemed to accrue to the shareholders on that date.

(b) Any interim dividend declared by a company otherwise than as contemplated in paragraph (a), shall for the purposes of this section be deemed to accrue to the shareholders on the date upon which it is declared.

(c) Where any cash or assets is or are given-

(i) by a company to shareholders of that company otherwise than by way of a formal declaration of a dividend; or

(ii) by the liquidator of a company to the shareholders of that company in the course of the winding up or liquidation of that company,

and the amount of such cash or the value of such assets, in whole or in part constitutes a dividend, such dividend shall for the purposes of this section be deemed to have been declared by the company and to have accrued to the shareholders on the date on which the shareholders became entitled to such cash or assets.

(5) There shall be exempt from the secondary tax on companies-

(a) dividends declared by any company the entire receipts and accruals of which, or so much of the receipts and accruals of which as are derived otherwise than from investments, are exempt from tax under the provisions of section 10: Provided that the provisions of this paragraph shall not apply to a company (other than a company referred to in section 10 (1) (s)) which is exempt from tax under the said provisions solely because it derives gross income of a particular nature;

[Para. (a) amended by s. 12 (1) (a) of Act 140 of 1993.]

(b) any dividend declared by a fixed property company contemplated in section 11 (s) which may be allowed as a deduction in the determination of the taxable income of such company in terms of
the provisions of that section;

(c) so much of any dividend distributed in the course or in anticipation of the liquidation or winding up or deregistration of a company, as is shown by the company to be a distribution of profits derived during any year of assessment which ended not later than 31 March 1993 (other than any such profits derived by way of the revaluation of trading stock held by such company) or profits of a capital nature: Provided that where such dividend is distributed in anticipation of the liquidation or winding up or deregistration of a company and such company is not liquidated or wound up or deregistered within six months after the date on which such dividend is so distributed or such further period as is in the circumstances of the case considered reasonably necessary, the provisions of this paragraph and of subsection (3) (b) shall be deemed not to have applied to such dividend and any secondary tax on companies which becomes payable as a result thereof shall be recoverable from the shareholders to whom such dividend was distributed in the same proportion as such dividend was so distributed;

[Para. (c) substituted by s. 12 (1) (b) of Act 140 of 1993 and by s. 29 (1) (b) of Act 21 of 1995.]

(d) so much of any dividend declared by a unit portfolio referred to in paragraph (e) of the definition of ‘company’ in section 1 as represents a distribution of interest or of dividends referred to in section 11 (s) received by or accrued to such unit portfolio;

(e) so much of any dividend declared by a company referred to in subsection (12) (e) during any subsequent year of assessment as contemplated in that subsection, as represents a distribution of an amount received by or accrued to such company as a result of the disposal of gold mining assets;

[Para. (e) added by s. 24 (1) (g) of Act 21 of 1994.]

(f) any dividend declared by any affected company to a holding company or intermediate company (other than a holding company or an intermediate company which is a company referred to in paragraph (a)), if-

(i) such holding company or intermediate company, as the case may be, was, on the date of such declaration and throughout the period of 12 months ending on the date of such declaration a holding company or intermediate company, as the case may be, in relation to such affected company;
(ii) such holding company or intermediate company, as the case may be, has its place of effective management in the Republic and at least 90 per cent of its profits (excluding profits derived by way of dividends) during the three years of assessment immediately preceding the date of such declaration, were derived from a source within the Republic;

(iiA) such dividend was declared solely out of profits earned by such affected company during any period in which it was an affected company in relation to such holding company or intermediate company, as the case may be; and

(iii) such affected company has by notice in writing furnished to the Commissioner by not later than the last day on which secondary tax on companies would, but for this exemption, have been payable in respect of the declaration of such dividend or such later date as the Commissioner may approve, elected that such dividend be exempt from the payment of secondary tax on companies in terms of this paragraph;

[Para. (f) added by s. 24 (1) (g) of Act 21 of 1994, amended by s. 29 (1) (c) of Act 21 of 1995 and substituted by s. 21 (1) (e) of Act 36 of 1996.]

(g) any dividend declared by a company which carries on long-term insurance business out of profits derived during any year of assessment commencing prior to 1 July 1993;

[Para. (g) added by s. 24 (1) (g) of Act 21 of 1994 and substituted by s. 21 (1) (f) of Act 36 of 1996.]

(h) in the case of any company which has its place of effective management outside the Republic and which carries on a trade through a branch or an agency within the Republic, any dividend declared by such company out of profits (excluding profits derived from the mining for gold and from carrying on long-term insurance business) derived through such branch or agency;

[Para. (h) added by s. 21 (1) (h) of Act 36 of 1996.]

(i) in the case of any company which is a 'qualifying company' as defined in section 37H, any dividend declared by such company during the period ending six months after the end of the last year of assessment during which such company qualifies for the tax holiday status referred to in that section out of profits derived during
the period during which such company qualifies for such tax holiday status; and

[Para. (i) added by s. 13 (b) of Act 46 of 1996.]

(j) any dividend declared by a company contemplated in paragraph (e) of the definition of 'company' in section 1.

[Para. (j) added by s. 13 (b) of Act 46 of 1996.]

(6) (a) If any dividend subject to the payment of secondary tax on companies has been declared by a company which derives profits from sources within and outside the Republic, the secondary tax on companies in respect of that dividend shall be calculated on an amount which bears to the net amount of that dividend the same ratio as the sum of the net annual profits of the company derived from sources within or deemed to be within the Republic in terms of section 9 or 9C bears to the total sum of its net annual profits derived from all sources.

[Para. (a) substituted by s. 25 (1) (b) of Act 28 of 1997.]

(b) For the purposes of paragraph (a)-

(i) the net annual profits of a company shall be determined by excluding profits derived by way of dividends; and

(ii) the said ratio shall, subject to the provisions of paragraph (c), be determined on the basis of the last year of assessment of the company which ended prior to the declaration of the dividend concerned.

(c) If the Commissioner is in any case satisfied that the ratio determined in the manner contemplated in paragraph (b) (ii) does not reasonably represent the ratio in which the company's profits are normally derived from sources within and outside the Republic, he may direct that such ratio be determined in such other manner as appears to him to be fair and reasonable.

(d) Any exercise by the Commissioner of his discretion under paragraph (c) shall be subject to objection and appeal.

(7) The secondary tax on companies shall be paid to the Commissioner by the company liable therefor-

(a) where such tax is payable in respect of any dividend declared on or before 30 June 1993-
(i) if a year of assessment of the company ended during the period from 1 December 1992 to 31 March 1993, by not later than 31 December 1993; and

(ii) in any other case, by not later than 31 July 1993; and

(b) where such tax is payable in respect of any dividend declared after 30 June 1993, by not later than the last day of the month following the month in which the dividend cycle relevant to such dividend ends,

and each payment of such tax shall be accompanied by a return in such form as the Commissioner may require: Provided that-

(i) the Commissioner may in any case extend the applicable date of payment; and

(ii) for the purposes of paragraph (b) the expression 'month' means any of the twelve portions into which any calendar year is divided.

(8) Where the Commissioner is satisfied that any amount of secondary tax on companies has not been paid in full, he may estimate the unpaid amount and issue to the company concerned a notice of assessment of the unpaid amount.

(9) If any company fails to pay any amount of secondary tax on companies in full within the period concerned contemplated in subsection (7), interest shall be paid by such company on the balance of the tax outstanding at the prescribed rate reckoned from the end of the period concerned.

(10) Where any company has declared a dividend prior to 17 March 1993 and-

(a) in the case of a company which is listed on a recognized stock exchange or a subsidiary (as defined in section 1 of the Companies Act, 1973 (Act 61 of 1973)), of any such company, it had not prior to that date paid the dividend to the shareholders concerned or publicly announced the declaration thereof; or

(b) in the case of any other company, it had not prior to that date paid the dividend to the shareholders concerned,

such dividend shall for the purposes of this section be deemed to have been declared by the company on the said date: Provided that the provisions of this subsection shall not apply to any such dividend in respect of which the company had prior to the said date taken reasonable steps to pay.
(11) The provisions of this Act relating to the assessment and recovery of normal tax shall *mutatis mutandis* apply for the purposes of the assessment and recovery of secondary tax on companies.

(12) (a) Any company which on 17 March 1993 was engaged in mining for gold, may by notice in writing furnished to the Commissioner not later than 31 August 1993, elect to be exempt from the payment of secondary tax on companies.

(b) Any company which after 17 March 1993 commences mining for gold may by notice in writing furnished to the Commissioner not later than six months after the date on which it so commences, elect to be exempt from the payment of secondary tax on companies.

(c) An election made in terms of paragraph (a) or (b) shall, subject to the provisions of paragraph (e), be binding upon the company in respect of all future dividends declared by it.

(d) The exemption under this subsection shall apply to all dividends declared by the company concerned, whether payable out of profits derived from mining for gold or otherwise.

(e) Where any company which has made an election in terms of paragraph (a) or (b) ceases mining for gold during any year of assessment, the exemption under this subsection shall not apply to any dividend declared by such company during any subsequent year of assessment.

(13) In the determination of the net amount of any dividend declared by a company which carries on long-term insurance business, the amount to be taken into account in terms of subsection (3) in respect of dividends accrued to the company shall be limited-

(a) where the company has established or deemed to have established separate funds as contemplated in section 29, to dividends accrued on shares constituting an asset in its corporate fund; or

(b) where the company has not established such separate funds, to an amount which bears to the total dividends which accrued to the company during the dividend cycle concerned the same ratio as the company's free reserves (calculated as provided in subsection (14) as at the end of the last year of assessment of the insurer which ended prior to the declaration of the firstmentioned dividend) bears to the market value of the total assets held by the insurer as at the end of that year.

(14) For the purposes of subsection (13) the free reserves of an insurer
shall be the amount by which the market value of the total assets held by the insurer exceeds the prescribed value determinable in terms of section 29 in relation to business and policies contemplated in subsection (4) (a), (b) and (c) of that section.

(15) Where a company which carries on long-term insurance business declares a dividend out of profits derived during any year of assessment commencing on or after 1 July 1993 and the company's normal tax payable for that year has in terms of section 29 (17) been determined wholly or partially by applying the provisions of section 28, there shall be deducted from the secondary tax on companies payable in respect of such dividend, an amount (hereinafter referred to as the insurers' credit) equal to so much of the normal tax payable in respect of such year as exceeds the normal tax which would have been payable had the company's normal tax been determined entirely by applying the provisions of section 29.

[Sub-s. (15) added by s. 24 (1) (h) of Act 21 of 1994.]

(16) Where the insurers' credit exceeds the secondary tax on companies payable in respect of any dividend declared out of profits derived during-

(a) the first year of assessment commencing on or after 1 July 1993, such excess shall be carried forward and be deemed to be the insurers' credit in respect of the second year of assessment; and

(b) the second year of assessment commencing on or after 1 July 1993, such excess shall be carried forward and be deducted from the secondary tax on companies payable in respect of dividends declared out of profits derived during the third year of assessment commencing on or after 1 July 1993.

[Sub-s. (16) added by s. 24 (1) (h) of Act 21 of 1994.]

(17) For the purposes of subsections (5) (g), (15) and (16) a dividend shall be deemed not to have been declared out of profits derived during any year of assessment to the extent that such dividend could have been declared out of profits derived during any subsequent year of assessment.

[Sub-s. (17) added by s. 24 (1) (h) of Act 21 of 1994.]

[S. 64B inserted by s. 34 (1) of Act 113 of 1993.]

64C Certain amounts distributed deemed to be dividends

(1) For the purposes of this section 'recipient', in relation to any company, means-
(a) any shareholder of such company;

(b) any relative of such shareholder; or

(c) any trust of which such shareholder or relative is a beneficiary.

(2) For the purposes of section 64B any amount which is in terms of subsection (3) deemed to have been distributed by a company to a recipient, shall, subject to the provisions of subsection (4), be deemed to be a dividend declared by such company, notwithstanding the fact that such amount may have been so distributed by way of a loan or credit to the recipient or that the recipient may in consequence of such distribution have assumed any other form of obligation to make a future payment to the company.

(3) For the purposes of subsection (2) an amount shall be deemed to have been distributed by a company to a recipient if-

(a) any cash or asset is distributed by the company to or for the benefit of such recipient;

(b) the recipient is released from any obligation measurable in money which is owed to the company by the recipient;

(c) any debt owed by the recipient to any third party is paid or settled by the company;

(d) any amount is used or applied by the company in any other manner for the benefit of the recipient; or

(e) such amount represents an amount which has been adjusted or disallowed in accordance with the provisions of section 31.

[Para. (e) added by s. 30 (c) of Act 21 of 1995.]

(4) The provisions of subsection (3) shall not apply-

(a) where the distribution of such amount constitutes a dividend or would have constituted a dividend but for the provisions of paragraphs (e) to (i), inclusive, of the definition of 'dividend' in section 1;

[Para. (a) substituted by s. 13 (1) (a) of Act 140 of 1993.]

(b) where such amount distributed constitutes remuneration in the hands of the recipient or the settlement of any debt owed by the
company to the recipient;

(c) to so much of any such amount distributed as exceeds the company’s profits and reserves which are available for distribution, including any amount deemed in terms of the definition of 'dividend' in section 1 to be a profit available for distribution: Provided that any prohibition or limitation on any such distribution contained in the company's memorandum and articles of association or founding statement or any agreement shall be disregarded in the application of this paragraph;

(d) to any loan granted-

(i) which is denominated in the currency of the Republic, in respect of which a rate of interest not less than the 'official rate of interest', as defined in paragraph 1 of the Seventh Schedule; or

(ii) which is denominated in a foreign currency, in respect of which a market-related rate of interest, is payable by the recipient;

[Para. (d) substituted by s. 40 of Act 30 of 1998.]

(e) to any loan granted to the recipient if the recipient is an employee of the company or an associated institution contemplated in paragraph 1 of the Seventh Schedule in relation to the company and such loan is granted under, and in compliance with the normal terms and conditions of, a loan scheme generally available to employees of the company or of the associated institution who are not shareholders;

[Para. (e) substituted by s. 13 (1) (b) of Act 140 of 1993.]

(f) to any loan or credit granted to a recipient of the company during any year of assessment, if-

(i) such loan or credit is repaid or otherwise extinguished by not later than the end of the immediately succeeding year of assessment;

(ii) the amount thereof is not included in any subsequent loan or credit granted to the recipient; and

(iii) the provisions of this paragraph have not been applied in the
case of the company in any previous year of assessment;

[Para. (f) amended by s. 25 (1) (a) of Act 21 of 1994.]

(g) to a loan made by any company to any other company, if such loan is utilised by such other company in the Republic and the equity share capital of both such companies is held by the same person or persons;

[Para. (g) substituted by s. 22 (1) of Act 36 of 1996.]

(h) to a loan made by any affected company to-

(i) a holding company, in relation to such affected company; or

(ii) any other affected company, where both such affected companies are directly or indirectly held by the same holding company,

if such loan is utilised by such holding company or other affected company, as the case may be, in the Republic; and

[Para. (h) substituted by s. 13 (1) (c) of Act 140 of 1993, deleted by s. 30 (d) of Act 21 of 1995 and inserted by s. 22 (1) of Act 36 of 1996.]

(i) to any loan or credit granted to a trust by a company to enable such trust to purchase shares in such company with a view to the resale of such shares by such trust to employees of such company or of an associated company in relation to such company, under a share incentive scheme operated by the company for the benefit of such employees.

[Para. (i) added by s. 25 (1) (d) of Act 21 of 1994.]

(5) Where any loan granted by a company to a recipient-

(a) was deemed to be a dividend declared by the company in terms of this section; and

(b) is thereafter wholly or partly repaid by the recipient,

the amount so repaid shall for the purposes of section 64B be deemed to be a dividend which accrued to the company concerned on the date on which such amount was repaid.

[Sub-s. (5) amended by s. 25 (1) (e) of Act 21 of 1994.]
CHAPTER III
GENERAL PROVISIONS (ss 65-112)

Part I
Returns (ss 65-76)

65 Returns to be in form prescribed by Commissioner

All forms of returns and other forms required for the administration of this Act shall be in such form as may be prescribed by the Commissioner from time to time.

66 Notice by Commissioner requiring returns for assessment of taxes under this Act and manner of furnishing returns and interim returns

(1) (a) The Commissioner shall annually give public notice that all persons who are personally or in a representative capacity liable to taxation under the provisions of this Act and are required to furnish returns for the assessment of tax, shall within sixty days after the date of such notice, or within such further time as the Commissioner may for good cause allow, furnish returns for the purposes of assessments in respect of the years of assessment specified in such notice.

(b) For the purposes of this subsection, persons referred to in paragraph (a) shall be deemed to include-

(i) any person, other than a company, whose gross income for the year of assessment under charge consisted of or included remuneration (as defined in paragraph 1 of the Fourth Schedule) exceeding in total an amount to be stated by the Commissioner in the notice referred to in paragraph (a);

(ii) any person, other than a company, whose gross income for the year of assessment under charge consisted of or included-

(aa) any amount derived by way of interest or dividends contemplated in section 19 (5A) if the aggregate of such interest and dividends exceeded R2000; or

[Item (aa) substituted by s. 19 of Act 65 of 1986 and amended by s. 23 of Act 85 of 1987 and by s. 37 of Act 101 of 1990.]
(bb) any amount derived otherwise than by way of interest and remuneration (as defined in paragraph 1 of the Fourth Schedule),

[Item (bb) substituted by s. 19 of Act 65 of 1986.]

if such gross income exceeded an amount to be stated by the Commissioner in the said notice;

(iii) any company;

(iv) any person required by the Commissioner in writing to render a return of income in respect of the year of assessment under charge.

[Sub-s. (1) amended by s. 27 of Act 88 of 1971 and substituted by s. 22 (a) of Act 91 of 1982.]

(2) Such notice shall state the places at which the prescribed forms may be obtained, and it shall be the duty of all persons, and of all persons required by this Act to furnish such returns, to apply for the prescribed forms of returns.

(3) Any such person failing to furnish such returns shall not be relieved from any penalty by reason only of his having received no notice to furnish the same or of the prescribed from not having been delivered to him, but the Commissioner may, if he deems it advisable, cause forms to be delivered or sent by post to any person.

(4) The Commissioner may, prior to the issue of any such annual notice, require any person by notice in writing to render interim returns for any period he may designate in such notice, and may proceed to make an assessment in respect of that period.

(5) (a) Every person shall on publication of the annual notice or on receipt of a form delivered or sent by post as provided in subsection (3) or of a notice issued in terms of subsection (4), prepare and deliver in the prescribed manner within the time mentioned in any such notice or form to the person appointed to receive the same, a return in the form prescribed, giving the particulars required and all other details in relation thereto which may be prescribed.

(b) .......

[Para. (b) deleted by s. 22 (b) of Act 91 of 1982.]

(5A) Any person who is not in terms of this section required to furnish a return in respect of any year of assessment may for the purpose of having his
liability for taxation determined on assessment furnish such a return within three years after the end of such year of assessment.

[Sub-s. (5A) inserted by s. 22 (c) of Act 91 of 1982.]

(6) Any return furnished as contemplated in this section shall be signed by the taxpayer or by his agent duly authorized in that behalf, and any person signing any such return shall be deemed for all purposes in connection with this Act to be cognizant of all statements made in that return.

[Sub-s. (6) substituted by s. 22 (d) of Act 91 of 1982.]

(7) Any return made or purporting to be made or signed by or on behalf of any person for the purposes of this Act, shall be deemed to be duly made and signed by the person affected unless such person proves that such return was not made or signed by him or on his behalf.

(8) If any person fails to make such a return, the Commissioner may appoint a person to make a return on behalf of such person, and the return made by the person so appointed shall for all the purposes of this Act be deemed to be the return of the person liable to make the same.

(9) The returns furnished by or on behalf of any person required to furnish returns under this Act shall contain such particulars, be in such form, and be furnished to the person appointed to receive the same at such time as may be prescribed by the Commissioner.

(10) The Commissioner may, when and as often as he thinks necessary, require any person to make further or more detailed returns respecting any matter of which a return is required or prescribed by this Act.

(11) All returns required to be furnished under this Act shall be delivered at, or sent by post to, the prescribed address.

(12) ......

[Sub-s. (12) deleted by s. 26 of Act 21 of 1994.]

(13) The return of income to be made by any person in respect of the year of assessment ended the thirtieth day of June, 1962, or by any person (other than a company) in respect of any year of assessment referred to in subparagraph (i) of paragraph (b) of subsection (1) of section five shall be a full and true return for the whole period of twelve months ending upon the last day of the year of assessment under charge: Provided that where it is established to the satisfaction of the Commissioner that the income of a person cannot be conveniently returned for that period, the Commissioner may accept returns
made up to a date agreed to by him which returns shall be deemed for all purposes of this Act to be returns for the periods covered by the years of assessment under charge, and the taxpayer shall not without the consent of the Commissioner be entitled to make a return in respect of any subsequent year of assessment to a date other than the date so agreed to.

[Sub-s. (13) amended by s. 10 (a) of Act 6 of 1963 and substituted by s. 19 (a) of Act 90 of 1964.]

(13)bis The return of income to be made by any person (other than a company)-

(a) in respect of the period (hereinafter referred to as the transition period) referred to in subparagraph (ii) of paragraph (b) of subsection (1) of section five or subparagraph (i) of paragraph (c) of that subsection, shall be a full and true return for the whole period under charge and where in terms of the proviso to subsection (13) a return in respect of the year of assessment (hereinafter referred to as the preceding year) which immediately precedes the transition period has in respect of the whole or any portion of the taxpayer's income been accepted to a date other than the last day of the preceding year, the taxpayer's return for the transition period shall, subject to the provisions of subsection (13)ter-

(i) where the date to which the return for the preceding year is made falls before the last day of the preceding year, include any income received by or accrued to the taxpayer during the period commencing immediately after such date and ending upon the said last day if such income was properly excluded from the taxpayer's return for the preceding year, and such income shall be deemed to be income of the taxpayer in respect of the transition period; and

(ii) where the date to which the return in respect of the preceding year is made falls after the last day of the preceding year, not include any income received by or accrued to the taxpayer during the period commencing immediately after such last day and ending upon the said date if such income was properly included in the taxpayer's return for the preceding year;

(b) in respect of any year of assessment referred to in subparagraph (ii) of paragraph (b) of subsection (1) of section five or subparagraph (ii) of paragraph (c) of that subsection, shall be a full and true return for the whole period of twelve months ending upon the last day of the year of assessment under charge.
Where-

(a) it is established to the satisfaction of the Commissioner that the whole or some portion of the income of any person to whom the provisions of subsection (13)bis apply cannot be conveniently returned for the transition period referred to in paragraph (a) of that subsection or any year of assessment referred to in paragraph (b) of that subsection the Commissioner may, subject to such conditions as he may impose, accept accounts in respect of the whole or a portion of the taxpayer's income drawn to a date agreed to by the Commissioner, whether for a longer or shorter period than the transition period or the year of assessment under charge, and the income disclosed in any such accounts shall be deemed to be income of the person concerned in respect of such period or year under charge, as the case may be;

(b) any such accounts are drawn to a date later than the last day of the transition period or year of assessment, as the case may be, no further regard shall be had to the income disclosed by such accounts for purposes of any subsequent year of assessment;

(c) any such accounts are drawn to a date falling within the transition period or year of assessment and the person concerned dies or his estate is sequestrated during the interim period between that date and the last day of the transition period or year of assessment, as the case may be, any income received by or accrued to such person during such interim period shall be deemed to be part of such person's income for the transition period or the year of assessment, as the case may be.

The return of income to be made by any company in respect of any year of assessment (other than the year of assessment ended the thirtieth day of June, 1962) shall be a full and true return for the whole period of the relevant financial year of such company comprising the year of assessment.

If any person when called upon to furnish a return under this Act is unable to furnish such return, the Commissioner may accept a return of estimated income for assessment, and such assessment shall be adjusted by the
(15) Persons carrying on any business in partnership shall make a joint return as partners in respect of such business, together with such particulars as may from time to time be prescribed, and each partner shall be separately and individually liable for the rendering of the joint return.

67 ......

[S. 67 amended by s. 16 of Act 76 of 1968, by s. 37 (1) of Act 90 of 1988 and by s. 38 of Act 101 of 1990 and repealed by s. 32 of Act 129 of 1991.]

68 Income of married women and minor children

(1) Any income received by or accrued to or in favour of any person married with or without community of property which in terms of section 7 (2) is deemed to be income received by or accrued to such person's spouse, shall be included by such spouse in returns of income required to be rendered by that spouse under this Act.

[Sub-s. (1) substituted by s. 26 of Act 90 of 1962 and by s. 23 of Act 88 of 1965, amended by s. 39 of Act 101 of 1990 and substituted by s. 33 of Act 129 of 1991.]

(2) In the event of the death of any person during any year in respect of which such income is chargeable, the income of such person's spouse for the period elapsing between the date of such death and the last day of the year of assessment shall be returned as the separate income of such spouse.

[Sub-s. (2) substituted by s. 33 of Act 129 of 1991.]

(3) (a) Every parent shall be required to include in his return any income received by or accrued to or in favour of any of his minor children either directly or indirectly from himself or his wife, together with such particulars as may be required by the Commissioner.

(b) Every parent shall be required to include in his return any income deemed to be his in terms of subsection (3) or (4) of section seven.

69 Duty to furnish returns as to employees, their earnings and other matters

(1) Every person shall, if required by the Commissioner, furnish to him, in such form and within such time as may be prescribed or as the Commissioner may direct, returns showing-
(a) the names and addresses of all persons or of all persons of any particular class employed by him, and the earnings, salary, wages, allowances or pensions, whether in money or otherwise, received by or accrued to or in favour of each such person in respect of such employment;

(b) all amounts received by or accrued to or in favour of any person in respect of any share or interest in any business carried on by the person furnishing the return;

(c) all moneys received by the person furnishing the return from any person for investment or on loan or on deposit with or without interest;

(d) all interest or rent received by or accrued to or in favour of any person from the person furnishing the return or from any business carried on by the last-named person in the Republic;

(e) all interest, rent or dividends collected for or on behalf of any person by the person furnishing the return;

(f) all such other information in his possession with regard to the income received by or accrued to or in favour of himself or of any other person as may be required by the Commissioner.

(2) In addition to the returns specified in subsection (1), every person, whether a taxpayer or not, shall, if required by the Commissioner-

(a) furnish the Commissioner with information reflecting-

(i) the full name and address; and

(ii) in the case of-

(aa) any natural person, his or her identification number: Provided that if he or she is not in possession of a South African identity document, any other form of identification; or

(bb) any person other than a natural person, the registration number,

in relation to the amounts received by or accrued to such person as contemplated in subsection (1) (b) to (f), inclusive; and
(b) supply such information and furnish such returns or such further or other returns as the Commissioner may require.

[Sub-s. (2) substituted by s. 41 of Act 30 of 1998.]

(3) Every person to whom a form of return or a written request for information is sent by the Commissioner shall complete the form of return or comply with the written request for information in accordance with the requirements of the Commissioner and shall return the completed form or furnish the information to the Commissioner at such place and within such time as the Commissioner may direct.

70 Duty of companies to furnish returns

(1) Where, during any period of 12 months ending on the last day of February in any year, any interest has become due by any company upon or in respect of debentures, debenture stock, loans or advances, the company shall, within 30 days after the end of such period or within such further period as the Commissioner may allow, furnish the Commissioner with a return giving-

(a) the full name and address; and

(b) in the case of-

(i) any natural person, his or her identification number: Provided that where he or she is not in possession of a South African identity document, any other form of identification; or

(ii) any person other than a natural person, the registration number,

of each person to whom such interest became due and the amount of such interest.

[Sub-s. (1) amended by s. 11 of Act 6 of 1963 and substituted by s. 43 (a) of Act 85 of 1974 and by s. 26 of Act 28 of 1997.]

(2) Where, during any period of twelve months ending on the last day of February in any year, any cash or any asset the amount or value of which in whole or part constitutes a dividend as defined in section 1, is given to shareholders in any company or a company distributes to shareholders any amount which constitutes a dividend so defined, whether by way of an award of capitalization shares or bonus debentures or securities or otherwise, the company concerned shall, within thirty days after the end of the said period, or within such further period as the Commissioner may allow, furnish the Commissioner with a return giving the full name and address of each shareholder
and the amount of the dividend accruing to such shareholder.

[Sub-s. (2) amended by s. 11 of Act 6 of 1963 and substituted by s. 43 (a) of Act 85 of 1974.]

(3) Every company which has after 31 December 1973 transferred from its reserves (excluding any share premium account) or unappropriated profits to its share capital or share premium account any amount which is in whole or part deemed by the second proviso to the definition of 'dividend' in section 1 to be a profit available for distribution to shareholders of the company, shall, when rendering the annual return of the company's income, furnish the Commissioner with a statement (which may be included in the, accounts or statements accompanying such return) showing the profits of a capital nature and those not of a capital nature so deemed to be available for distribution on the last day of the year of assessment in question.

[Sub-s. (3) deleted by s. 20 of Act 90 of 1964 and inserted by s. 43 (b) of Act 85 of 1974.]

(3A) Where any cash or any asset (including any asset, interest, benefit or advantage referred to in the third proviso to the definition of 'dividend' in section 1) is given to any shareholder of a company in consequence of the winding-up, liquidation or reconstruction of the company or the partial reduction or redemption of its share capital (including any share premium), and the amount of such cash or the value of such asset or a portion of such amount or value constitutes a dividend in terms of the said definition the company shall, before payment to the shareholders is effected or within such period as the Commissioner may approve, calculate the amount of such dividend and furnish the Commissioner with a written statement setting forth the facts necessary for a determination by the Commissioner of the amount of such dividend and giving details of the company's calculation of that amount.

[Sub-s. (3A) inserted by s. 43 (b) of Act 85 of 1974 and substituted by s. 24 of Act 69 of 1975.]

(3B) Within thirty days after the date of an advice by the Commissioner of the amount of any dividend determined by him as contemplated in subsection (3A) or within such further period as the Commissioner may approve, the company shall, on the basis of the Commissioner's determination, calculate the amount accruing to each shareholder by way of such dividend and notify the shareholder accordingly.

[Sub-s. (3B) inserted by s. 43 (b) of Act 85 of 1974.]

(4) Every company shall file with the Commissioner a copy of the memorandum and articles of association constituting the company and copies of
(5) Every company shall, within thirty days of the registration by the Registrar of Companies of any prospectus proposed to be issued by it, file with the Commissioner a copy of the prospectus.

71 Return of payments in respect of bearer warrants

Every bank carrying on business in the Republic or company dealing in or negotiating bearer warrants shall keep a record of all payments in respect of interest or dividends made to any person by means of bearer warrants, and shall in such manner and form and at such times as may be prescribed or as the Commissioner may require, furnish particulars of such payments.

72 Return as to shareholdings

Every person who makes a return of his own income or in a representative capacity makes a return of the income of some other person, shall attach to such return a statement showing fully-

(a) the number of shares in any company registered in the name of the taxpayer for whom the return is rendered;

(b) the dividends from any company received by or accrued to the taxpayer for whom the return is rendered;

(c) the name and address of the person, if the taxpayer for whom the return is rendered is not entitled to retain the dividends received or accrued from any company, or, in the case of a private company, to participate in the profit or income of any such company, who, under any agreement or arrangement, is entitled to receive and retain such dividends or to participate in such profit or income;

(d) the number of shares in any company which are not registered in the name of the taxpayer for whom the return is rendered but in respect of which such taxpayer under an agreement or arrangement with the registered owner obtains all dividends payable by such company or in the case of a private company the rights of the registered owner to participate in the profit or income of such company;

(e) the dividends so received by the taxpayer for whom the return is rendered from the person in whose name such shares are registered.

73 Duty of persons submitting accounts in support of returns or
preparing accounts for other persons

(1) If any person submits in support of any return furnished by him under this Act any balance sheet, statement of assets and liabilities or account prepared by any other person, he shall, if the Commissioner so requires, submit a certificate or statement by such other person recording the extent of the examination by such other person of the books of account and of the documents from which the books of account were written up, and recording in so far as may be ascertained by such examination, whether or not the entries in such books and documents disclose the true nature of any transaction, receipt, accrual, payment or debit.

(2) Any person who has prepared any balance sheet, statement of assets and liabilities or account for any other person shall, at the request of such other person, furnish him with the certificate of statement required under subsection (1).

74 General provisions with regard to information, documents or things

(1) For the purposes of this section and sections 74A, 74B, 74C, 74D and 75-

'administration of this Act' means the-

(a) obtaining of full information in relation to any-
   (i) amount received by or accrued to any person;
   (ii) property disposed of under a donation by any person; and
   (iii) dividend declared by any company;

(b) ascertaining of the correctness of any return, financial statement, document, declaration of facts or valuation;

(c) determination of the liability of any person for any tax, duty or levy and any interest or penalty in relation thereto leviable under this Act;

(d) collecting of any such liability;

(e) ascertaining whether an offence in terms of this Act has been committed;

(f) ascertaining whether a person has, other than in relation to a
matter contemplated in paragraphs (a), (b), (c), (d) and (e) of this definition, complied with the provisions of this Act;

(g) enforcement of any of the Commissioner's remedies under this Act to ensure that any obligation imposed upon any person by or under this Act, is complied with; and

(h) performance of any other administrative function which is necessary for the carrying out of the provisions of this Act;

'authorisation letter' means a written authorisation granted by the Commissioner, or any chief director, receiver of revenue or chief revenue inspector under the control, direction or supervision of the Commissioner, to an officer to inspect, audit, examine or obtain, as contemplated in section 74B, any information, documents or things;

'documents' include any document, book, record, account, deed, plan, instrument, trade list, stock list, affidavit, certificate, photograph, map, drawing and any 'computer print-out' as defined in section 1 of the Computer Evidence Act, 1983 (Act 57 of 1983);

'information' includes any data stored by means of a 'computer' as defined in section 1 of the Computer Evidence Act, 1983;

'judge' means a judge of the High Court and includes a judge in chambers;

[jDefinition of 'judge' substituted by s. 27 of Act 28 of 1997.]

'officer' means an officer contemplated in section 3 (1);

'premises' include any building, premises, aircraft, vehicle, vessel or place;

'things' include any corporeal or incorporeal thing and any document relating thereto;

'warrant' means a written authorisation issued by a judge to search for and seize any information, documents or things under section 74D.

(2) For the purposes of sections 74A, 74B, 74C and 74D, where any information, documents or things are not in one of the official languages, the Commissioner or any officer may by notice in writing require the taxpayer or, on the taxpayer's default, any other person, to produce, within a reasonable period, a translation thereof in one of the official languages determined by the Commissioner or such officer.

(3) Any translation referred to in subsection (2) shall be-
(a) produced at such time and premises as may be specified by the Commissioner or any officer; and

(b) prepared and certified by a sworn translator or another person approved by the Commissioner or such officer.

(4) For the purposes of sections 74C and 74D, the Commissioner may delegate the powers vested in him by those sections, to any other officer.

[S. 74 amended by s. 24 of Act 88 of 1965 and substituted by s. 14 of Act 46 of 1996.]

74A Furnishing of information, documents or things by any person

The Commissioner or any officer may, for the purposes of the administration of this Act in relation to any taxpayer, require such taxpayer or any other person to furnish such information (whether orally or in writing) documents or things as the Commissioner or such officer may require.

[S. 74A inserted by s. 14 of Act 46 of 1996.]

74B Obtaining of information, documents or things at certain premises

(1) The Commissioner, or an officer named in an authorisation letter, may, for the purposes of the administration of this Act in relation to any taxpayer, require such taxpayer or any other person, with reasonable prior notice, to furnish, produce or make available any such information, documents or things as the Commissioner or such officer may require to inspect, audit, examine or obtain.

(2) For the purposes of the inspection, audit, examination or obtaining of any such information, documents or things, the Commissioner or an officer contemplated in subsection (1), may call on any person-

(a) at any premises; and

(b) at any time during such person's normal business hours.

(3) For the purposes of subsection (2), the Commissioner or any officer contemplated in subsection (1), shall not enter any dwelling-house or domestic premises (except any part thereof as may be occupied or used for the purposes of trade) without the consent of the occupant.

(4) Any officer exercising any power under this section, shall on demand produce the authorisation letter issued to him.
74C Inquiry

(1) The Commissioner or an officer contemplated in section 74 (4) may authorise any person to conduct an inquiry for the purposes of the administration of this Act.

(2) Where the Commissioner, or any officer contemplated in section 74 (4), authorises a person to conduct an inquiry, the Commissioner or such officer shall apply to a judge for an order designating a presiding officer before whom the inquiry is to be held.

(3) A judge may, on application by the Commissioner or any officer contemplated in section 74 (4), grant an order in terms of which a person contemplated in subsection (7) is designated to act as presiding officer at the inquiry contemplated in this section.

(4) An application under subsection (2) shall be supported by information supplied under oath or solemn declaration, establishing the facts on which the application is based.

(5) A judge may grant the order referred to in subsection (3) if he is satisfied that there are reasonable grounds to believe that-

(a) (i) there has been non-compliance by any person with his obligations in terms of this Act; or

(ii) an offence in terms of this Act has been committed by any person;

(b) information, documents or things are likely to be revealed which may afford proof of-

(i) such non-compliance; or

(ii) the committing of such offence; and

(c) the inquiry referred to in the application is likely to reveal such information, documents or things.

(6) An order under subsection (3) shall, *inter alia*—
(a) name the presiding officer;
(b) refer to the alleged non-compliance or offence to be inquired into;
(c) identify the person alleged to have failed to comply with the provisions of the Act or to have committed the offence; and
(d) be reasonably specific as to the ambit of the inquiry.

(7) Any presiding officer shall be a person appointed by the Minister of Finance in terms of section 83A (4).

(8) For the purposes of an inquiry contemplated in this section, a presiding officer designated under subsection (3) shall-

(a) determine the proceedings as he may think fit;
(b) have the same powers to enforce the attendance of witnesses and to compel them to give evidence or to produce evidential material as are vested in a President of the Special Court contemplated in section 83; and
(c) record the proceedings and evidence at an inquiry in such manner as he may think fit.

(9) Any person may, by written notice issued by the presiding officer, be required to appear before him in order to be questioned under oath or solemn declaration for the purposes of an inquiry contemplated in this section.

(10) The notice contemplated in subsection (9) shall specify the-

(a) place where such inquiry will be conducted;
(b) date and time of such inquiry; and
(c) reasons for such inquiry.

(11) Any person whose affairs are investigated in the course of an inquiry contemplated in this section, shall be entitled to be present throughout the inquiry, unless on application by the person contemplated in subsection (1), the presiding officer directs otherwise on the ground that the presence of the person and his representative, or either of them, would be prejudicial to the effective conduct of the inquiry.

(12) Any person contemplated in subsection (9) has the right to a representative of his choice.
(13) An inquiry contemplated in this section shall not be public and the presiding officer shall at any time on application of the person whose affairs are investigated or any other person giving evidence, exclude from such inquiry or require to withdraw therefrom, all or any persons whose attendance is not necessary for the inquiry.

(14) Any person may, at the discretion of the presiding officer, be compensated for his reasonable expenditure related to the attendance of an inquiry, by way of witness fees in accordance with the tariffs prescribed in terms of section 51bis of the Magistrates’ Courts Act, 1944 (Act 32 of 1944).

(15) Where the person referred to in subsection (1) is a person other than an officer contemplated in section 3 (1), the provisions of section 4 shall mutatis mutandis apply to such person with regard to the preservation of secrecy.

[S. 74C inserted by s. 14 of Act 46 of 1996.]

74D Search and seizure

(1) For the purposes of the administration of this Act, a judge may, on application by the Commissioner or any officer contemplated in section 74 (4), issue a warrant, authorising the officer named therein to, without prior notice and at any time-

(a) enter and search any premises; and

(b) seiz any such information, documents or things; and

(c) in carrying out any such search, open or cause to be opened or removed and opened, anything in which such officer suspects any information, documents or things to be contained.

[Sub-s. (1) amended by s. 29 of Act 28 of 1997.]

(2) An application under subsection (1) shall be supported by information supplied under oath or solemn declaration, establishing the facts on which the
application is based.

(3) A judge may issue the warrant referred to in subsection (1) if he is satisfied that there are reasonable grounds to believe that-

(a) (i) there has been non-compliance by any person with his obligations in terms of this Act; or

(ii) an offence in terms of this Act has been committed by any person;

(b) information, documents or things are likely to be found which may afford evidence of-

(i) such non-compliance; or

(ii) the committing of such offence; and

(c) the premises specified in the application are likely to contain such information, documents or things.

(4) A warrant issued under subsection (1) shall-

(a) refer to the alleged non-compliance or offence in relation to which it is issued;

(b) identify the premises to be searched;

(c) identify the person alleged to have failed to comply with the provisions of the Act or to have committed the offence; and

(d) be reasonably specific as to any information, documents or things to be searched for and seized.

(5) Where the officer named in the warrant has reasonable grounds to believe that-

(a) such information, documents or things are-

(i) at any premises not identified in such warrant; and

(ii) about to be removed or destroyed; and

(b) a warrant cannot be obtained timeously to prevent such removal or destruction,
such officer may search such premises and further exercise all the powers granted by this section, as if such premises had been identified in a warrant.

(6) Any officer who executes a warrant may seize, in addition to the information, documents or things referred to in the warrant, any other information, documents or things that such officer believes on reasonable grounds afford evidence of the non-compliance with the relevant obligations or the committing of an offence in terms of this Act.

(7) The officer exercising any power under this section shall on demand produce the relevant warrant (if any).

(8) The Commissioner, who shall take reasonable care to ensure that the information, documents or things are preserved, may retain them until the conclusion of any investigation into the non-compliance or offence in relation to which the information, documents or things were seized or until they are required to be used for the purposes of any legal proceedings under this Act, whichever event occurs last.

(9) (a) Any person may apply to the relevant division of the Supreme Court for the return of any information, documents or things seized under this section.

(b) The court hearing such application may, on good cause shown, make such order as it deems fit.

(10) The person to whose affairs any information, documents or things seized under this section relate, may examine and make extracts therefrom and obtain one copy thereof at the expense of the State during normal business hours under such supervision as the Commissioner may determine.

[S. 74D inserted by s. 14 of Act 46 of 1996.]

75 Penalty on default

(1) Any person who-

(a) fails or neglects to furnish, file or submit any return or document as and when required by or under this Act; or

(b) without just cause shown by him, refuses or neglects to-

(i) furnish, produce or make available any information, documents or things;

(ii) reply to or answer truly and fully, any questions put to him; or

(fails or neglects to furnish, file or submit any return or document as and when required by or under this Act; or without just cause shown by him, refuses or neglects to furnish, produce or make available any information, documents or things; or reply to or answer truly and fully, any questions put to him; or
(iii) attend and give evidence,

as and when required in terms of this Act; or

[Para. (b) substituted by s. 15 of Act 46 of 1996.]

(c) fails to show in any return made by him any portion of the gross income received by or accrued to or in favour of himself or fails to disclose to the Commissioner, when making such return, any material facts which should have been disclosed; or

(d) fails to show in any return prepared or rendered by him on behalf of any other person any portion of the gross income received by or accrued to or in favour of such other person or fails to disclose to the Commissioner when preparing or making such return, any facts which, if so disclosed, might result in increased taxation; or

(e) obstructs or hinders any officer in the discharge of his duties; or

(f) not being a person whose gross income consists solely of salary, wages or similar compensation for personal service, without just cause shown by him fails to retain all records, namely ledgers, cash books, journals, cheque books, bank statements, deposit slips, paid cheques, invoices, stock lists and all other books of account, relating to any trade carried on by him and recording the details from which his returns for the assessment of taxes under this Act were prepared, for a period of four years from the date upon which the return relevant to the last entry in any such record was received by the Commissioner; or

[Para. (f) substituted by s. 30 of Act 141 of 1992 and amended by s. 35 of Act 113 of 1993.]

(g) submits or furnishes a false certificate or statement under section seventy-three,

shall be guilty of an offence and liable on conviction to a fine not exceeding R2000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

[Sub-s. (1) amended by s. 40 of Act 101 of 1990 and by s. 34 (a) of Act 129 of 1991.]

(2) The Commissioner may, subject to such conditions as he may determine, and in respect of such books (other than ledgers, cash books and
journals) or documents as he may specify, authorize the retention of any book or
document referred to in subsection (1) in a form acceptable to him in lieu of the
original thereof.

[Sub-s. (2) substituted by s. 27 of Act 21 of 1994.]

(3) Any person who has been convicted under subsection (1) of failing to
furnish any return, information or reply, shall, if he fails within any period deemed
by the Commissioner to be reasonable and of which notice has been given to
him by the Commissioner, to furnish the return, information or reply in respect of
which the offence was committed, be guilty of an offence and liable on conviction
to a fine of R50 for each day during which such default continues or to
imprisonment without the option of a fine for a period not exceeding 12 months.

[Sub-s. (3) substituted by s. 34 (b) of Act 129 of 1991.]

75A Publication of names of offenders

(1) The Commissioner may from time to time publish by notice in the
Gazette a list of persons who have been convicted of any offence in terms of-

(a) section 75 or 104, paragraph 11A (7) or 30 of the Fourth Schedule
or paragraph 19 of the Seventh Schedule;

(b) the common law, where the criminal conduct corresponds
materially with an offence referred to in paragraph (a),

after any appeal or review proceedings in relation thereto have been completed
or not been instituted within the period allowed therefor.

(2) Every such list may specify-

(a) the name and address of the offender;

(b) such particulars of the offence as the Commissioner may think fit;

(c) the year of assessment or tax period during which the offence
occurred;

(d) the amount or estimated amount of the tax or additional tax
involved;

(e) the particulars of the fine or sentence imposed.

[S. 75A inserted by s. 42 (1) of Act 30 of 1998.]
Additional tax in the event of default or omission

(1) A taxpayer shall be required to pay in addition to the tax chargeable in respect of his taxable income-

(a) if he makes default in rendering a return in respect of any year of assessment, an amount equal to twice the tax chargeable in respect of his taxable income for that year of assessment; or

(b) if he omits from his return any amount which ought to have been included therein, an amount equal to twice the difference between the tax as calculated in respect of the taxable income returned by him and the tax properly chargeable in respect of his taxable income as determined after including the amount omitted;

(c) if he makes an incorrect statement in any return rendered by him which results or would if accepted result in the assessment of the normal tax at an amount which is less than the tax properly chargeable, an amount equal to twice the difference between the tax as assessed in accordance with the return made by him and the tax which would have been properly chargeable.

(2) (a) The Commissioner may remit the additional charge imposed under subsection (1) or any part thereof as he may think fit: Provided that, unless he is of the opinion that there were extenuating circumstances, he shall not so remit if he is satisfied that any act or omission of the taxpayer referred to in paragraph (a), (b) or (c) of subsection (1) was done with intent to evade taxation.

(b) In the event of the Commissioner deciding not to remit the whole of the additional charge imposed under subsection (1), his decision shall be subject to objection and appeal.

(c) Notwithstanding the provisions of this subsection, the Commissioner may either before or after an assessment is issued agree with the taxpayer on the amount of the additional charge to be paid, and the amount so agreed upon shall not be subject to any objection and appeal.

(3) The additional amounts of tax for which provision is made under this section shall be chargeable in cases where the taxable income or any part thereof is estimated by the Commissioner in terms of section seventy-eight or agreed upon with the taxpayer in terms of the proviso to subsection (2) of the said section as well as in cases where such taxable income or any part thereof is determined from accounts rendered by the taxpayer.

(4) The powers conferred upon the Commissioner by this section shall be
in addition to any right conferred upon him by this Act to take proceedings for the recovery of any penalties for evading or avoiding assessment or the payment of tax or attempting to do so.

(5) Any taxpayer who in determining his taxable income as disclosed by his return, deducts or sets off any amount the deduction or set-off whereof is not permissible under the provisions of this Act, or shows as an expenditure or loss any amount which he has not in fact expended or lost, shall be deemed for the purposes of this section to have omitted such amount from his return.

(6) Any taxpayer who wilfully fails to disclose in any return made by him any facts which should be disclosed and the disclosure of which would result in the taxation of the taxpayer's income on an amount which is higher than the amount upon which such income would be taxable on such return, shall for the purposes of this section be deemed to have omitted from his return the amount by which the former amount exceeds the latter.

(7) If in any year of assessment in which the determination of the taxable income of the taxpayer does not result in an assessed loss, he is entitled to the set-off of a balance of assessed loss from the previous year of assessment and such balance is less than it would have been had it been calculated on the basis of the returns rendered by him, he shall for the purposes of this section be deemed to have omitted from his return for the first-mentioned year of assessment an amount equal to the difference between the amount at which such balance is finally determined and the amount at which it would have been determined on the said basis.

Part II
Assessments (ss 77-80)

77 Assessments and recording thereof

(1) All assessments required to be made under this Act shall, subject to the provisions of section three, be made by the Commissioner or under his direction.

(2) The particulars of every assessment and the amount of tax payable thereon shall be recorded or filed and kept in the office of the Commissioner: Provided that any assessment so recorded or filed may be destroyed by the Commissioner after the expiration of such period from the date of recording or filing as may be approved by the Controller and Auditor-General.

(3) Upon recording or filing the particulars of any assessment the Commissioner shall give notice of the assessment to the taxpayer assessed.
(4) .......

(5) The Commissioner shall, in the notice of assessment, give notice to the taxpayer that any objection to the assessment made must be sent to him within 30 days after the date of the assessment.

(6) .......

(7) Separate assessments shall, notwithstanding the provisions of subsection (15) of section sixty-six, be made upon partners.

(8) .......

78 Estimated assessments

(1) In every case in which any person makes default in furnishing any return or information or the Commissioner is not satisfied with the return or information furnished by any person, the Commissioner may estimate either in whole or in part the taxable income in relation to which the return or information is required.

(2) Any such estimate of the taxable income shall be subject to objection and appeal: Provided that if it appears to the Commissioner that any person is unable from any cause to furnish an accurate return of his income, the Commissioner may agree with such person as to what amount of such income shall be taxable income and any amount so agreed upon shall not be subject to any objection or appeal.

79 Additional assessments

(1) If at any time the Commissioner is satisfied-

(a) that any amount which was subject to tax and should have been assessed to tax under this Act has not been assessed to tax; or
that any amount of tax which was chargeable and should have been assessed under this Act has not been assessed; or

that, as respects any tax which is chargeable and has become payable under this Act otherwise than under an assessment, such tax has not been paid in respect of any amount upon which such tax is chargeable or an amount is owing in respect of such tax,

he shall raise an assessment or assessments in respect of the said amount or amounts, notwithstanding that an assessment or assessments may have been made upon the person concerned in respect of the year or years of assessment in respect of which the amount or amounts in question is or are assessable, and notwithstanding the provisions of sections 81 (5) and 83 (18): Provided that the Commissioner shall not raise an assessment under this subsection-

(i) after the expiration of three years from the date of the assessment (if any) in terms of which any amount which should have been assessed to tax under such assessment was not so assessed or in terms of which the amount of tax assessed was less than the amount of such tax which was properly chargeable, unless the Commissioner is satisfied that the fact that the amount which should have been assessed to tax was not so assessed or the fact that the full amount of tax chargeable was not assessed, was due to fraud or misrepresentation or non-disclosure of material facts; or

(ii) in respect of any tax referred to in paragraph (c), after the expiration of three years from the date of payment of any amount paid in respect of such tax unless the Commissioner is satisfied that the fact that such tax was not paid in full was due to fraud or misrepresentation or non-disclosure of material facts; or

(iii) if the amount which should have been assessed to tax under the assessment referred to in paragraph (i) of this proviso was, in accordance with the practice generally prevailing at the date of the assessment, not assessed to tax, or the full amount of tax which should have been assessed under such assessment was, in accordance with such practice, not assessed; or

(iv) in respect of any amount, if any previous assessment made on the person concerned has in respect of that amount been amended or reduced pursuant to any order made by a special court for hearing income tax appeals constituted under the provisions of this Act, unless the Commissioner is satisfied that the order in question was obtained by fraud or misrepresentation or non-disclosure of material facts; or
(v) in respect of any year of assessment of any taxpayer (other than a company) ending on or after 28 February 1983, if-

(aa) the taxpayer's income for such year of assessment consisted solely of any amount or amounts of remuneration as defined in the Fourth Schedule;

(bb) a period of at least three years has elapsed since the end of such year of assessment; and

(cc) the taxpayer was not required under any provision of this Act to furnish a return of income for such year of assessment and did not render such a return during the period referred to in subparagraph (bb),

unless any amount of employees tax which should have been deducted or withheld from such remuneration under the provisions of the said Schedule was not so deducted or withheld or an amount of employees tax was deducted or withheld which was less than the amount of such tax which should have been so deducted or withheld, and the Commissioner is not satisfied that the omission or failure of the employer concerned to deduct or withhold such tax or the full amount of such tax was not due-

(A) to any intent by the employer to assist or enable the taxpayer to evade tax or any of his obligations under this Act; or

(B) to the fact that the employee has furnished false information to the employer and in consequence thereof, an incorrect amount of tax was withheld:

[Item (B) substituted by s. 32 of Act 21 of 1995.]

[Para. (v) added by s. 23 of Act 91 of 1982.]

Provided further that where the Commissioner has in respect of any year of assessment made an assessment upon any company for normal tax purposes he shall not after the expiration of three years from the date of the said assessment (or, where more than one such assessment has been made, from the date of the latest of such assessments) make any assessment in respect of any amount of undistributed profits tax or secondary tax on companies payable by the company in respect of the said year, unless the Commissioner is satisfied that the fact that an assessment in respect of the said amount was not previously made was due to fraud or misrepresentation or non-disclosure of material facts.
(2) For the purposes of this section any amount referred to in subsection (1) (a) shall include an amount the incorporation of which in an assessment would result in the reduction of any loss ranking for set-off or in only a portion of such amount becoming chargeable with tax.

(2A) For the purposes of paragraph (ii) of the first proviso to subsection (1) the date of payment of any amount referred to in that paragraph shall be deemed to be the date of the official receipt acknowledging the receipt of such amount, and, where more than one such payment was made, the date from which the period of three years referred to in that paragraph shall be reckoned shall be the date of the official receipt acknowledging the latest of such payments.

(3) The provisions of sections seventy-six and seventy-eight shall apply to any assessments or additional assessments made by the Commissioner under the powers conferred by this section.

80 Inspection of record of assessments

The record of assessments shall not be open to public inspection, but every taxpayer shall be entitled to copies certified by or on behalf of the Commissioner of such recorded particulars as relate to him.

Part III
Objections and Appeals (ss 81-88)

81 Time and manner of lodging objections

(1) Objections to any assessment made under this Act may be made within 30 days after the date of the assessment, in the manner and under the terms prescribed by this Act by any taxpayer who is aggrieved by any assessment in which he is interested.

(2) No objection shall be entertained by the Commissioner which is not delivered at his office or posted to him in sufficient time to reach him on or before
the last day appointed for lodging objections, unless the Commissioner is satisfied that reasonable grounds exist for delay in lodging the objection. Provided that any decision of the Commissioner in the exercise of his discretion under this subsection shall be subject to objection and appeal.

[Sub-s. (2) amended by s. 15 (b) of Act 70 of 1989.]

(3) Every objection shall be in writing and shall specify in detail the grounds upon which it is made.

(4) On receipt of a notice of objection to an assessment the Commissioner may reduce or alter the assessment or may disallow the objection and shall send the taxpayer notice of such alteration, reduction or disallowance, and record any alteration or reduction made in the assessment.

(5) Where no objections are made to any assessment or where objections have been allowed or withdrawn, such assessment or altered or reduced assessment, as the case may be, shall, subject to the right of appeal hereinafter provided, be final and conclusive.

82 Burden of proof as to exemptions, deductions or abatements

The burden of proof that any amount is exempt from or not liable to any tax chargeable under this Act or is subject to any deduction, abatement or set-off in terms of this Act, shall be upon the person claiming such exemption, non-liability, deduction, abatement or set-off, and upon the hearing of any appeal from any decision of the Commissioner, the decision shall not be reversed or altered unless it is shown by the appellant that the decision is wrong.

83 Appeals to specially constituted court against Commissioner's decision

(1) Any person entitled to make an objection who is dissatisfied with any decision of the Commissioner as notified to him in terms of section 81 (4) may, subject to the provisions of section 83A, appeal therefrom to a special court for hearing income tax appeals, constituted in accordance with the provisions of this section.

[Sub-s. (1) substituted by s. 36 (a) of Act 129 of 1991.]

(2) Every court so constituted shall consist of a judge or an acting judge of the High Court, who shall be the President of the court, an accountant of not less than ten years' standing, and a representative of the commercial community: Provided that in all cases relating to the business of mining such third member
shall, if the President of the court, the Commissioner or the appellant so desires, be a qualified mining engineer.

[Sub-s. (2) substituted by s. 36 (a) of Act 129 of 1991 and amended by s. 30 (a) and (b) of Act 28 of 1997.]

(3) The President of the Republic may, by proclamation in the Gazette, constitute such court or courts for such area or areas as he may think fit, and may from time to time by such proclamation abolish any existing court or courts or constitute such additional courts as circumstances may require.

[Sub-s. (3) amended by s. 30 (c) of Act 28 of 1997.]

(4) Any court constituted or deemed to be constituted under the provisions of this Act may, subject to the regulations, hear and determine any appeal lodged under the provisions of this Act or the Income Tax Act, 1941, whether or not the appellant is resident or carries on business within the area for which such court is constituted and whether or not the dispute arose within that area.

[Sub-s. (4) substituted by s. 21 of Act 90 of 1964.]

(5) (a) The members of any such court other than judges shall be appointed by the President of the Republic by proclamation in the Gazette, and shall hold office for five years from the date of the relevant proclamation: Provided that the appointment of any such member may at any time be terminated by the President of the Republic for any reason which he considers good and sufficient, and shall lapse in the event of the abolition of the court in terms of subsection (3).

[Para. (a) amended by s. 30 (c) of Act 28 of 1997.]

(b) Any person so appointed shall be eligible for re-appointment for such further period or periods as the President of the Republic may think fit.

[Para. (b) amended by s. 30 (c) of Act 28 of 1997.]

(c) The members of any special court for the hearing of income tax appeals constituted under the provisions of the Income Tax Act, 1941, shall be deemed to have been appointed under the provisions of this subsection.

(6) The Judge-President of the Provincial Division of the High Court having jurisdiction in the area for which a court has been constituted shall nominate and second a judge or an acting judge of such division to be the President of such court, and such secondment shall be for such period or for the hearing of such cases as the said Judge-President shall determine.
(7) (a) Every notice of appeal shall be in writing and shall be lodged with the Commissioner within a period of 30 days after the date of the notice mentioned in section 81 (4) or, if the Commissioner has in terms of the provisions of section 106 (4) withdrawn the last-mentioned notice and sent it anew, the date of the notice so sent anew.

(b) No notice of appeal shall be of any force or effect whatsoever which is not delivered at the Commissioner's office or posted to him in sufficient time to reach him on or before the last day appointed for lodging appeals, unless the Commissioner is satisfied that reasonable grounds exist for the delay in lodging the notice of appeal: Provided that any decision of the Commissioner in the exercise of his discretion under this paragraph shall be subject to objection and appeal.

(c) At any such appeal the person who made the objection shall be limited to the grounds stated in his notice of objection, unless the Commissioner agrees to the amendment of such grounds: Provided that the special court may, on good cause shown at the hearing of the appeal, permit such person to amend his notice of objection within a reasonable period, subject to such conditions with regard to postponement and costs as the court may deem fit.

(8) If an assessment has been altered or reduced, the assessment as altered or reduced shall be deemed to be the assessment against which the appeal is made.

(9) At least 21 business days (or such shorter number of business days as may be agreed upon by the Commissioner and the taxpayer or his duly authorised representative) before the date fixed for the hearing of an appeal the Commissioner shall send to the taxpayer or to his duly authorised representative a written notice of the time and place appointed for the hearing of such appeal.

(10) The hearing of an appeal may be adjourned by the court from time to time to any time and place that may seem convenient.

(11) The sittings of the court for the hearing of such appeals shall not be public, and the court shall at any time on the application of the appellant exclude from such sitting or require to withdraw therefrom all or any persons whomsoever whose attendance is not necessary for the hearing of the appeal under consideration.
(12) The Commissioner or any person authorized by him may appear in support of the assessment on the hearing of any appeal, and the appellant and any person who is interested in such appeal may appear in person or by his counsel, attorney or agent.

(13) Subject to the provisions of this Act, the court may-

(a) in the case of any assessment under appeal, order such assessment to be amended, reduced or confirmed, or may if it thinks fit refer the assessment back to the Commissioner for further investigation and assessment;

(b) in the case of any appeal against the amount of the additional charge imposed by the Commissioner under subsection (1) of section seventy-six, reduce, confirm or increase the amount of the additional charge so imposed;

(c) in the case of any other decision of the Commissioner which is subject to appeal, confirm or amend such decision.

(14) Any assessment made by the Commissioner on reference under subsection (13) shall be subject to objection and appeal as in this Part provided.

(15) Any matter of law arising for decision before the court, and any question as to whether a matter for decision is a matter of fact or a matter of law, shall be decided by the President of the court, and the other members shall have no voice in such decision.

(16) Any decision of the court shall be recorded by the Commissioner.

(17) The court shall not make any order as to costs save when the claim of the Commissioner is held to be unreasonable or the grounds of appeal therefrom to be frivolous or where the decision of the Board referred to in section 83A is substantially confirmed.

[Sub-s. (17) substituted by s. 36 (b) of Act 129 of 1991.]

(18) Any decision of the court under this section shall, subject to the provisions of section 86A, be final.

[Sub-s. (18) substituted by s. 22 of Act 103 of 1976 and by s. 36 (b) of Act 113 of 1993.]

(19) (a) The President of the court may indicate which judgments or decisions of the court he considers ought to be published for general information.
(b) A copy of any judgment or decision of the court so indicated by the President of the court shall be referred by the registrar of the court to the appellant or his representative concerned in the case in such form as does not reveal the identity of such appellant, with a written request that the appellant give his consent in writing to the publication thereof in that form or any other suitable form which the appellant may approve.

(c) Where the appellant fails to give his written consent to such publication within 30 days after being requested by the registrar of the court to do so, or after the expiry of any extension of that period which the registrar may grant, the registrar shall refer the matter to the President of the court who, if he is satisfied-

(i) that the appellant's consent to publication of the relevant judgment or decision in a suitable form has been unreasonably withheld; and

(ii) that such judgment or decision is in a form which does not reveal the identity of the appellant concerned in the case,

may authorize the publication of such judgment or decision in that form or any other form which he may deem fit.

[Sub-s. (19) inserted by s. 15 (1) of Act 104 of 1979.]

83A Appeals to specially constituted board

(1) Any appeal referred to in section 83 (1) of this Act shall in the first instance be heard by the Board referred to in subsection (2) of this section, where-

(a) the amount of the tax in dispute does not exceed R30 000 (or any other amount which the Minister of Finance may from time to time fix by notice in the Gazette) or, having regard to any assessed loss which may be carried forward, will probably not in total exceed the relevant amount; or

[Para. (a) amended by Government Notice R1245 of 26 September 1997.]

(b) the Commissioner and the appellant agree thereto; or

(c) no objection to the jurisdiction of the Board to hear the appeal is made at or before the commencement of the hearing of the appeal:

Provided that where the Commissioner, at any time prior to the hearing of such appeal, or the Chairman of the Board, at any time prior to or during the hearing of such appeal, is of the opinion that on the ground of the disputes or legal
principles arising or that may arise out of such appeal, such appeal should rather be heard by the special court, such appeal shall be set down for hearing de novo before the special court referred to in section 83.

(2) A special board (hereinafter referred to as the Board) is hereby established for the hearing of an appeal referred to in subsection (1).

(3) The Board shall consist of an advocate or attorney referred to in subsection (4), who shall be the Chairman of the Board, and, if the Chairman, the Commissioner or the taxpayer considers it necessary, an accountant or a representative of the commercial community referred to in section 83 (2).

[Sub-s. (3) substituted by s. 37 (a) of Act 113 of 1993.]

(4) (a) The Minister of Finance shall in consultation with the Judge-President of the Provincial Division within whose area of jurisdiction the Board is to sit, appoint, by notice in the Gazette, advocates and attorneys to a panel, from which a Chairman of the Board shall be nominated from time to time or as required, and such persons shall hold office for five years from the date of the relevant notice: Provided that the appointment of such a person may at any time be terminated by the said Minister for any reason which he considers good and sufficient.

(b) A person so appointed shall be eligible for reappointment for such further period or periods as the said Minister may think fit.

(5) The Commissioner shall appoint a clerk of the Board.

(6) The Commissioner shall determine the places for the hearing of appeals by the Board, and the Board shall hear an appeal at whichever place is closest to the appellant's residence: Provided that the appellant and the Commissioner may agree that the appeal be heard at another place.

(7) The clerk shall-

(a) act as convener of the Board;

(b) within 21 business days before the date of the hearing of the appeal, furnish the members of the Board and the appellant with a written notice of the time and place of the hearing of the appeal and copies of-

(i) the assessment against which the appeal has been lodged;

(ii) the notice of objection and appeal;
(iii) the relevant return of income; and

(iv) any correspondence between the Commissioner and the appellant as well as any other documents which are, in the opinion of the Commissioner, relevant to the appeal.

[Para. (b) amended by s. 37 (b) of Act 113 of 1993.]

(8) The Commissioner shall designate an officer from his office to appear in support of the assessment at the hearing of the appeal.

(9) The appellant shall-

(a) in the case of a natural person who has the capacity to act, appear in person; or

(b) in any other case, be represented by his representative taxpayer, at the hearing of the appeal: Provided that-

(i) the appellant or his representative taxpayer may, together with his notice of appeal under section 83 (7) (a) or within such further period as the Chairman may allow, request permission to present his case otherwise than as contemplated in this subsection;

(ii) the Chairman may as he deems fit permit the appellant to present his case in such manner as the Chairman sees fit;

(iii) where the appellant's return of income for the relevant year of assessment was prepared by any other person, such other person may appear on the appellant's behalf.

(10) (a) During the hearing of the appeal the Chairman shall determine the procedures as he sees fit, subject to each party having the opportunity to put his case to the Board in a reasonable manner.

(b) The Board shall not be required to record its proceedings, but the decision of the Board shall be recorded in writing by the Chairman, with a short statement of the facts of the case as found by the Board and the reasons for its decision.

(c) The hearing of an appeal may be adjourned by the Chairman to any time and place that may seem convenient.

(d) The clerk shall by notice in writing furnish the Commissioner and the appellant with a copy of the Board's decision.
(e) (i) If neither the appellant or anyone authorized to appear on his behalf appears before the Board at the time and place appointed for the purpose, the Board may, at the request of the Commissioner's representative and on proof that the prescribed notice of the sitting of the Board had been submitted to the appellant, confirm the assessment in respect of which the appeal has been lodged, and thereafter such appellant shall not be entitled to request that the appeal be referred to the special court in terms of subsection 13 (a).

(ii) If the Commissioner's representative fails to appear before the Board at the time and place appointed for the purpose the Board may, at the request of the appellant, allow the appellant's, [sic] appeal and thereafter the Commissioner shall not be entitled to refer the appeal to the special court in terms of subsection 13 (b).

(f) The provisions of paragraph (e) shall not apply where the Chairman is satisfied that sound reasons exist for the non-appearance and such reasons are advanced by the appellant or the Commissioner (as the case may be) within seven days after the date on which the appeal was set down for hearing.

(g) If the appellant has failed to state the grounds of his objection and appeal in definite terms, the Board may, upon the opening of the proceedings, decide what shall be considered to constitute the grounds of the objection and appeal.

(11) For the purposes of this section the provisions of sections 82, 83 (7), (8), (11), (13) and (15), 87 and 88 shall *mutatis mutandis* apply.

(12) Subject to the provisions of subsection (13), any decision of the Board in terms of this section, shall be final and conclusive.

(13) (a) Where an appellant is not satisfied with the decision of the Board, he may, within 30 days (or within such further period as the Chairman may on good cause shown allow) after the date of the notice referred to in subsection (10) (d), require that the appeal be referred to the special court for hearing.

(b) Where the Commissioner is not satisfied with the decision of the Board, he may decide to refer the appeal to the special court for hearing and he shall notify the appellant thereof within 30 days (or within such further period as the Chairman may on good cause shown allow) after the date of the notice referred to in subsection (10) (d).

(14) An appeal which has been heard by the Board and has been referred to the special court by virtue of subsection (13) (a) or (b), shall be heard *de novo* by the special court.
84 Summoning of witnesses and penalty for non-attendance

(1) The Commissioner, the appellant or the President of a special court may procure the attendance of any witness (whether residing or for the time being within the area of jurisdiction of that court or not) in the manner prescribed in the regulations.

(2) If any person who has been duly subpoenaed to give evidence at the hearing of an appeal or to produce any book, record, document or thing in his possession or under his control, fails without reasonable cause to attend or to give evidence or to produce that book, record, document or thing according to the subpoena or, unless excused by the President of the court, to remain in attendance throughout the proceedings, the President of the court may, upon being satisfied upon oath or by the return of the person by whom the subpoena was served, that such person has been duly subpoenaed and that his reasonable expenses have been paid or offered to him, impose upon the said person a fine not exceeding fifty rand or in default of payment imprisonment for a period not exceeding three months.

(3) If any person so subpoenaed fails to appear or unless duly excused to remain in attendance throughout the proceedings, the President of the court may also, upon being satisfied as aforesaid and in case no lawful excuse for such failure seems to him to exist, issue a warrant for the apprehension of that person in order that he may be brought up to give evidence or to produce any book, record, document or thing according to the subpoena, and on failure so to give evidence or produce that book, record, document or thing to be dealt with in the manner prescribed in subsection (2).

(4) The President of the court may, on cause shown, remit the whole or any part of any fine or imprisonment which he may have imposed under this section.

(5) The President of the court may order the costs of any postponement or adjournment occasioned by the default of a witness, or any portion of those costs, to be paid out of any fine imposed under this section.

(6) A penalty imposed under subsection (2) or (3) shall be enforced mutatis mutandis as if it were a penalty imposed by a magistrate’s court in circumstances such as are described in the relevant subsection, and the provisions of any law which are applicable in respect of such a penalty imposed by a magistrate’s court shall mutatis mutandis apply in respect of a penalty imposed under either of the said subsections.

85 Contempt of special court
(1) If during the sitting of a special court, any person wilfully insults a member of the court or any officer of the court attending at the sitting, or wilfully interrupts the proceedings of the court or otherwise misbehaves himself in the place where the court is held, the President of the court may make an order committing that person to imprisonment for any period not exceeding three months or order that person to pay a fine not exceeding one hundred rand or in default of payment thereof to be imprisoned for such a period.

(2) An order made under subsection (1) shall be executed *mutatis mutandis* as if it were an order made by a magistrate's court under circumstances such as are described in that subsection, and the provisions of any law which are applicable in respect of such an order made by a magistrate's court shall *mutatis mutandis* apply in respect of an order made under the said subsection.

86 ......

[S. 86 amended by s. 23 of Act 103 of 1976 and repealed by s. 38 of Act 113 of 1993.]

86A Appeals against decisions of a special court

(1) The appellant in a special court or the Commissioner may in the manner hereinafter provided appeal under this section against any decision of that court.

[Sub-s. (1) substituted by s. 39 (a) of Act 113 of 1993.]

(2) Such appeal shall lie-

(a) to the provincial division of the High Court having jurisdiction in the area in which the sitting of the special court was held; or

[Para. (a) amended by s. 31 (a) of Act 28 of 1997.]

(b) where the President of the special court has granted leave under subsection (5), to the Supreme Court of Appeal, without any intermediate appeal to such provincial division.

[Para. (b) amended by s. 31 (b) of Act 28 of 1997.]

(3) Any party who in terms of subsection (1) has a right to appeal against a decision of a special court and intends to lodge an appeal against such decision under this section shall, within twenty-one business days after the date
of the notice issued by the registrar of the special court notifying such decision or
within such further period as the President of that court may on good cause
shown allow, lodge with the said registrar and the opposite party or his attorney
or agent a notice of his intention to appeal against such decision.

(4) Any such notice of an intention to appeal shall state-

(a) in which division of the High Court the intending appellant wishes
    the appeal to be heard;

   [Para. (a) amended by s. 31 (c) of Act 28 of 1997.]

(b) if the intending appellant wishes the appeal to be heard by the
    Supreme Court of Appeal, whether the whole or part only of the
    judgment is to be appealed against and if part only what part, and
    the contemplated grounds of the intended appeal, indicating the
    findings of fact or rulings of law to be appealed against; and

   [Para. (b) amended by s. 31 (d) of Act 28 of 1997.]

(c) whether, for the purposes of preparing the record on appeal, a
    transcript is required of the evidence given at the hearing of the
    case by the special court or, if only a part of such evidence is
    required, what part is required.

(5) If an intending appellant wishes his appeal against a decision of the
special court to be heard by the Supreme Court of Appeal, the registrar of the
special court shall submit the notice or notices of intention to appeal lodged
under subsection (3) to the President of the special court who shall, having
regard to the contemplated grounds of the intended appeal or appeals as
indicated in the said notice or notices, make an order granting or refusing, as he
sees fit, leave to appeal against such decision to the said Court, and the order so
made shall be final.

   [Sub-s. (5) amended by s. 31 (e) of Act 28 of 1997.]

(6) If the person nominated as President of the special court cannot act in
that capacity for the purposes of this section by reason of his having ceased to
be a judge or acting judge or if such person has died or if it is inconvenient for
such person to act in the said capacity by reason of his absence or illness or for
some other reason, the Judge President of the provincial division of the High
Court having jurisdiction in the area for which the special court has been
constituted may nominate and second another judge or acting judge to act as
President of the special court for the purposes of this section in the place of the
said person.
(7) (a) Where in any case leave to appeal to the Supreme Court of Appeal has been granted under subsection (5), any appeal which any party is entitled to note against any decision given in that case shall, unless the parties otherwise agree, be noted to the said Court.

(b) Where such leave has been refused, the party by whom the notice of intention to appeal was lodged, may, subject to the provisions of this section, note an appeal to the appropriate provincial division of the High Court.

(8) Any person who was entitled under this section to appeal against a decision of the special court but has not within the time allowed by subsection (3) lodged a notice of his intention to appeal against such decision as required by that subsection, shall be deemed to have abandoned his right of appeal against such decision: Provided that he shall be entitled as the respondent in an appeal noted by the opposite party in the same case, to note in the manner hereinafter provided a cross-appeal in that case.

(9) Any person who has in terms of subsection (3) lodged a notice of his intention to appeal against a decision of the special court but has subsequently withdrawn such notice shall be deemed to have abandoned his right to note any appeal or cross-appeal against such decision.

(10) (a) After the expiry of the time allowed under subsection (3) for the lodging of a notice of intention to appeal against a decision of the special court the registrar of that court shall-

(i) give notice to any person who has lodged a notice of intention in terms of the said subsection and has not withdrawn such notice, that if it is decided to appeal the appeal should be noted within twenty-one business days after the date of the registrar's notice;

(ii) supply to such person a certified copy of any order made by the President of the special court under subsection (5) in relation to the intended appeal against the said decision; and

(iii) where the opposite party is not also an intending appellant in the same case, supply to the opposite party a copy of the notice given under subparagraph (i) and a copy of any order referred to in subparagraph (ii).
(b) Where it appears that an order be made by the President of the special court under subsection (5) or where an intending appellant requires a transcript of evidence given at the hearing of the case by the special court to enable him to prepare the record on appeal, the registrar of that court shall not give notice under paragraph (a) (i) until such order has been made and such transcript has been completed.

(11) Any appeal under this section against a decision of a special court shall be noted by lodging a written notice of such appeal with the registrar of the special court, the opposite party or his attorney and the registrar of the appeal court.

(12) Such notice of appeal shall be lodged within the period referred to in subsection (10) (a) (i) or within such longer period as may be allowed under the rules of the appeal court.

(13) Any cross-appeal against a decision of the special court in any case in which an appeal has been lodged under this section shall be noted by lodging a written notice of such cross-appeal with the registrar of the special court, the opposite party or his attorney and the registrar of the appeal court.

(14) Such notice of cross-appeal shall be lodged within twenty-one business days after the date of the noting of the appeal or within such longer period as may be allowed under the rules of the appeal court.

(15) A notice of appeal or cross-appeal lodged under this section shall state-

(a) whether the whole or part only of the judgment is appealed against, and if part only, then what part;

(b) the grounds of appeal or cross-appeal specifying the findings of fact or rulings of law appealed against; and

(c) any further particulars that may be required under the rules of the appeal court.

(16) (a) A party may, by notice in writing lodged with the opposite party or his attorney or agent and the registrar of the special court, abandon the whole or any part of a judgment of that court in his favour.

(b) Such notice of abandonment shall become part of the record.

(17) The record lodged with an appeal court in an appeal against a decision of a special court shall include any documents placed before the special court in terms of the regulations: Provided that merely formal documents and, if
the parties consent, such other documents as do not relate to the matters in dispute in the appeal, may be excluded from the record.

(18) Any application or notice which may in terms of this section be lodged with the registrar of the special court shall be delivered to the registrar or an assistant registrar of that court personally during office hours or shall be despatched to the registrar by registered post at his official address in Pretoria.

(19) Service of any notice which the registrar of the special court is required to give to any person under this section or of any notice which any party may under this section lodge with an opposite party or his attorney or agent shall be effected by the registrar or the party lodging the notice, as the case may be, or by some person acting on the instructions of the registrar or such party, in the manner prescribed by law for the service of process of the High Court, or by despatching such notice to the person to whom it is addressed by registered post addressed to such person's residential or business address.

[Sub-s. (19) amended by s. 31 (i) of Act 28 of 1997.]

(20) For the purposes of this section-

(a) any application or notice duly despatched by registered post as contemplated in subsection (18) or (19) shall be deemed to have been given or lodged at the time of posting;

(b) any notice served by or on behalf of the Commissioner or the registrar of the special court upon the public officer of a company in his capacity as such shall be deemed to have been served upon the company;

(c) ......

[Para. (c) deleted by s. 39 (b) of Act 113 of 1993.]

[S. 86A inserted by s. 24 (1) of Act 103 of 1976.]

87 Members of courts not disqualified from adjudicating

A member of any special court or a judge of any division of the High Court of South Africa shall not solely on account of his liability to be assessed under this Act be deemed to be interested in any matter upon which he may be called upon to adjudicate thereunder.

[S. 87 amended by s. 32 of Act 28 of 1997.]

88 Payment of tax pending appeal
(1) The obligation to pay and the right to receive and recover any tax chargeable under this Act shall not, unless the Commissioner so directs, be suspended by any appeal or pending the decision of a court of law under section 86A, but if any assessment is altered on appeal or in conformity with any such decision or a decision by the Commissioner to concede the appeal to the special board or the special court or such court of law, a due adjustment shall be made, amounts paid in excess being refunded with interest at the prescribed rate, such interest being calculated from the date proved to the satisfaction of the Commissioner to be the date on which such excess was received and amounts short-paid being recoverable with interest calculated as provided in section 89.

(2) The payment by the Commissioner of any interest under the provisions of this section shall be deemed to be a drawback from revenue charged to the National Revenue Fund.

[Sub-s. (2) added by s. 14 (1) of Act 140 of 1993 and amended by s. 41 of Act 36 of 1996.]

[S. 88 amended by s. 12 of Act 6 of 1963, substituted by s. 44 of Act 85 of 1974, amended by s. 25 of Act 103 of 1976 and by s. 24 (1) of Act 91 of 1982 and substituted by s. 30 (1) of Act 121 of 1984, by s. 17 (1) of Act 70 of 1989 and by s. 40 of Act 113 of 1993.]

Part IV
Payment and Recovery of Tax (ss 89-94A)

89 Appointment of day for payment of tax and interest on overdue payments

(1) Subject to the provisions of section eighty-nine bis any tax chargeable shall be paid on such days and at such places as may be notified by the Commissioner or as specified in this Act, and may be paid in one sum or in instalments of equal or varying amounts as may be determined by the Commissioner having regard to the circumstances of the case.

(2) If the taxpayer fails to pay any tax in full within the period for payment notified by the Commissioner in the notice of assessment or within the period for payment prescribed by this Act, as the case may be, interest shall, unless the Commissioner having regard to the circumstances of the case grants an extension of such period and otherwise directs, be paid by the taxpayer at the prescribed rate on the outstanding balance of such tax in respect of each completed month (reckoned from the date for payment specified in the notice of assessment or the date on which the tax has become payable in terms of this
Act, as the case may be) during which any portion of the tax has remained
unpaid.

[Sub-s. (2) substituted by s. 25 (1) (a) of Act 91 of 1982, by s. 31 (1) of Act 121 of
1984 and by s. 20 (1) of Act 65 of 1986.]

(3) .......

[Sub-s. (3) deleted by s. 25 (1) (b) of Act 91 of 1982.]

[S. 89 substituted by s. 13 of Act 6 of 1963.]

89bis Payments of employees' tax and provisional tax and interest on
overdue payments of such taxes

(1) Payments by way of employees' tax and provisional tax shall be made
in accordance with the provisions of the Fourth Schedule and shall be made at
such place as may be notified by the Commissioner, and any such payments
which relate to a taxpayer shall, for the purposes of this Act and subject to the
provisions of paragraph 28 of the said Schedule, be deemed to have been made
in respect of his liability for taxes as defined in subsection (3), whether or not
such liability has been ascertained or determined at the date of any payment.

[Sub-s. (1) amended by s. 21 of Act 95 of 1967 and substituted by s. 28 of Act 88
of 1971, by s. 45 (a) of Act 85 of 1974 and by s. 35 of Act 94 of 1983.]

(2) If any amount of employees' tax is not paid in full within the period of
seven days prescribed for payment of such amount by paragraph 2 (1) of the
Fourth Schedule, or if any amount of provisional tax is not paid in full within the
relevant period prescribed for payment of such amount by paragraph 21, 22, 23,
23A or 25 (1) of that Schedule, interest shall, unless the Commissioner having
regard to the circumstances of the case otherwise directs, be paid by the person
liable to pay the amount in question at the prescribed rate (but subject to the
provisions of section 89quin) on so much of such amount as remains unpaid in
respect of the period (reckoned from the end of the relevant period prescribed as
aforesaid for payment of such amount) during which the amount underpaid
remains unpaid.

[Sub-s. (2) amended by s. 26 (1) of Act 91 of 1982, by s. 32 (1) of Act 121 of
1984 and by s. 21 of Act 65 of 1986.]

(3) For the purposes of this section 'taxes' means the taxes
comprehended in the definition of 'tax' in section 1, excluding-

(a) non-resident shareholders tax, undistributed profits tax, excess
profits duty, donations tax and non-residents tax on interest;

(b) any tax on persons levied by any provincial council and payable by any person who is not an income tax payer in terms of section 110bis.

[Sub-s. (3) added by s. 45 (b) of Act 85 of 1974.]
[S. 89bis inserted by s. 14 of Act 6 of 1963.]

89ter Accounts and recovery proceedings in respect of certain taxes

(1) Where any taxes as defined in subsection (3) are owing by the taxpayer in respect of more than one year of assessment or more than one of such taxes are owing by the taxpayer, whether for one or more years of assessment, the Commissioner shall not be required to maintain a separate account in respect of each year of assessment or each of such taxes, but may maintain one tax account for the taxpayer recording details of the assessed amounts of the said taxes and the interest payable in respect of such taxes in terms of section 89 (2) or 89quat for which the taxpayer has from time to time become liable, the amounts of the payments made in respect of such taxes or interest (excluding payment made by way of provisional tax in terms of the Fourth Schedule), any credit in respect of any amount of employees' tax or provisional tax which the taxpayer is under that Schedule entitled to have set off against his liability for such taxes and such other details as may be required to establish the total amount owing by the taxpayer from time to time in respect of such taxes or interest, and any such payment or credit shall be deemed to have been made or to have accrued in respect of the total amount reflected in such tax account as owing by the taxpayer at the time such payment is made or such credit is passed.

[Sub-s. (1) amended by s. 33 (a) of Act 121 of 1984.]

(1A) Where, in addition to any amount of tax or additional tax which is payable by any person in terms of this Act, an amount of penalty is payable by him in terms of the provisions of the Fourth or Seventh Schedule, or interest is payable by him in terms of any provision of this Act, any payment made by that person on or after 1 April 1994 in respect of such tax, additional tax, penalty or interest which is less than the total amount due by him in respect of such tax, additional tax, penalty and interest shall for the purposes of this Act be deemed to be made-

(a) in respect of such penalty;

(b) to the extent to which such payment exceeds the amount of such penalty, in respect of such interest; and
(c) to the extent to which such payment exceeds the sum of the amounts of such penalty and interest, in respect of such tax or additional tax.

[Sub-s. (1A) inserted by s. 41 of Act 113 of 1993.]

(1B) (a) Any practice generally applied by the Commissioner prior to 1 April 1994 in the allocation of payments shall be deemed to have had the force of law.

(b) Any agreement concluded prior to 1 April 1994 between the Commissioner and a taxpayer which provides for the allocation of any payment contemplated in subsection (1A) to be made on or after that date otherwise than in accordance with the provisions of subsection (1A) shall, in so far as it provides for such allocation, cease to have effect.

[Sub-s. (1B) inserted by s. 41 of Act 113 of 1993.]

(2) The total amount owing by the taxpayer after the deduction of the relevant payments or other credits in respect of any taxes as defined in subsection (3) and of interest in respect of such taxes payable by the taxpayer in terms of section 89 (2) or 89quat shall for the purposes of any proceedings for recovery (including proceedings under section 91) be deemed to be a debt due to the State, and in any such proceedings the Commissioner shall not be required to furnish particulars of the amount claimed: Provided that the Commissioner shall at the request of the taxpayer furnish the taxpayer with copies of any notices of assessments relating to the taxpayer as the taxpayer may require.

[Sub-s. (2) amended by s. 33 (b) of Act 121 of 1984.]

(3) For the purposes of subsections (1) and (2) 'taxes' means the taxes comprehended in the definition of 'tax' in section 1, excluding-

(a) non-resident shareholders' tax, donations tax, non-residents tax on interest, levy on financial services and secondary tax on companies;

[Para. (a) substituted by s. 28 (1) of Act 21 of 1994.]

(b) ......

[Para. (b) deleted by s. 36 of Act 94 of 1983.]

(c) any tax on persons levied by any provincial council and payable by any person who is not an income tax payer in terms of section
110bis;

(d) any normal tax payable by a close corporation in terms of section 40A (4) (b).

[Para. (d) added by s. 33 (c) of Act 121 of 1984.]

[Sub-s. (3) amended by s. 28 (1) of Act 21 of 1994.]

[S. 89ter inserted by s. 14 of Act 6 of 1963, amended by s. 22 (1) of Act 90 of 1964 and by s. 22 (1) of Act 95 of 1967 and substituted by s. 37 of Act 89 of 1969.]

Interest on underpayments and overpayments of provisional tax

(1) For the purposes of this section-

'credit amount', in relation to any year of assessment of any provisional taxpayer, means the sum of-

(a) the provisional tax paid by the taxpayer under the provisions of paragraph 21, 22 or 23 of the Fourth Schedule in respect of such year;

(b) any additional provisional tax paid by the taxpayer in respect of such year under the provisions of paragraph 23A of that Schedule;

(c) any amounts of employees' tax deducted or withheld by the taxpayer's employer during such year;

(d) ......

[Para. (d) deleted by s. 42 (1) (b) of Act 113 of 1993.]

'effective date', in relation to any year of assessment of a provisional taxpayer, means-

(a) where the provisional taxpayer is a company which has a year of assessment which ends on the last day of February or is a person (other than a company) who has not been granted permission by the Commissioner under the provisions of section 66 (13)ter to render accounts for a period ending on a date other than the last day of February, the date falling 7 months after the last day of such year; or
(2) If the taxable income of any provisional taxpayer as finally determined for any year of assessment exceeds-

(a) R20 000 in the case of a company; or

(b) R50 000 in the case of any person other than a company,

and the normal tax payable by him in respect of such taxable income exceeds the credit amount in relation to such year, interest shall, subject to the provisions of subsection (3), be payable by the taxpayer at the prescribed rate on the amount by which such normal tax exceeds the credit amount, such interest being calculated from the effective date in relation to the said year until the date of assessment of such normal tax.

(3) Where the Commissioner having regard to the circumstances of the case is satisfied that any amount has been included in the taxpayer's taxable income or that any deduction or allowance claimed by the taxpayer has not been allowed, and the taxpayer has on reasonable grounds contended that such amount should not have been so included or that such deduction or allowance should have been allowed, the Commissioner may, subject to the provisions of section 103 (6), direct that interest shall not be paid by the taxpayer on so much of the said normal tax as is attributable to the inclusion of such amount or the disallowance of such deduction or allowance.

(3A) Where any natural person has, in respect of the year of assessment during which he for the first time became a provisional taxpayer, become liable for the payment of interest under subsection (2), the Commissioner may, subject to the provisions of section 103 (6), if he is satisfied that the circumstances warrant such action, direct that interest shall not be paid by such person in respect of such year of assessment.

[Sub-s. (3A) inserted by s. 42 (1) (d) of Act 113 of 1993 and substituted by s. 24 (1) of Act 36 of 1996.]

[Definition of 'effective date' substituted by s. 33 (1) of Act 21 of 1995.]

[Definition of 'normal tax' added by s. 42 (1) (c) of Act 113 of 1993.]

[Sub-s. (3) substituted by s. 24 (1) of Act 36 of 1996.]
(4) If in the case of any provisional taxpayer the credit amount in relation to any year of assessment exceeds the normal tax payable in respect of his taxable income as finally determined for that year and-

(a) the amount of that excess exceeds R10 000; or

(b) such taxable income exceeds R20 000 in the case of a company or R50000 in the case of any person other than a company,

interest shall be payable to the taxpayer at the prescribed rate on the difference between the credit amount and such normal tax, such interest being calculated from the effective date in relation to the said year until the date on which such difference is refunded to the taxpayer: Provided that where any interest is payable to the taxpayer on any amount in respect of any period in terms of the provisions of section 88, no interest shall be payable to the taxpayer in terms of the provisions of this subsection in respect of the said amount and period.

[Sub-s. (4) amended by s. 18 (1) of Act 70 of 1989 and by s. 42 (1) (e) of Act 113 of 1993.]

(5) Any decision of the Commissioner in the exercise of his discretion under subsection (3) or (3A) shall be subject to objection and appeal.

[Sub-s. (5) added by s. 42 (1) (f) of Act 113 of 1993.]

(6) The payment by the Commissioner of any interest under the provisions of this section shall be deemed to be a drawback from revenue charged to the National Revenue Fund.

[Sub-s. (6) added by s. 15 (1) of Act 140 of 1993 and amended by s. 41 of Act 36 of 1996.]

[S. 89quat inserted by s. 46 of Act 85 of 1974, repealed by s. 37 of Act 94 of 1983, inserted by s. 34 (1) of Act 121 of 1984 and substituted by s. 22 (1) of Act 65 of 1986.]

89quin Calculation of interest payable under this Act

Where-

(a) any interest is payable under the provisions of section 88, 89, 89bis or 89quat;

[Para. (a) substituted by s. 25 of Act 36 of 1996.]
the rate at which such interest is payable has with effect from any date been altered; and

(c) such interest is payable in respect of any period or any number of completed months which commenced before the said date,

the interest to be determined in respect of that portion of such period which ended immediately before the said date or in respect of any such completed months which commenced before the said date shall be calculated as if the said rate had not been so altered.

[S. 89quin inserted by s. 34 (1) of Act 121 of 1984.]

89sex Determination of day for payment of tax, interest or penalties

Where any day specified for any payment to be made under the provisions of this Act, or the last day of any period within which payment under any provision of this Act shall be made, falls on a Saturday, Sunday or a public holiday, such payment shall be made not later than the last business day falling prior to such Saturday, Sunday or public holiday.

[S. 89sex inserted by s. 33 of Act 28 of 1997.]

90 Persons by whom normal tax payable

Subject to the provisions of this Act, any tax (other than non-resident shareholder's tax, undistributed profits tax, excess profits duty, donations tax and non-residents tax on interest) and any interest payable in terms of section 89 (2) or 89quat, shall be payable-

(a) by any representative taxpayer, liable to assessment or for the payment of such tax or interest under this Act or under any previous Income Tax Act;

[Para. (a) substituted by s. 43 of Act 30 of 1998.]

(b) ......

[Para. (b) deleted by s. 38 of Act 129 of 1991.]

(c) in respect of any other income and in all other cases, by the person by whom the income is received or to whom or in whose favour it accrues or who is legally entitled to the receipt thereof:

Provided that any person may recover so much of the taxation paid by him under
this Act as is due to the inclusion in his income of any income deemed to have been received by him or to be his income, as the case may be, in terms of section 7 (3), (4), (5), (6) or (7), from the person entitled, whether on his own behalf or in a representative capacity, to the receipt of the income so included: Provided further that nothing herein contained shall be construed as relieving any person required to make any payment by way of employees’ tax under the provisions of the Fourth Schedule from any liability, responsibility or duty imposed upon him by this Act.

[S. 90 amended by s. 15 of Act 6 of 1963, by s. 23 of Act 95 of 1967, by s. 35 of Act 121 of 1984 and by s. 20 of Act 96 of 1985.]

91 Recovery of tax

(1) (a) Any tax or any interest payable in terms of section 89 (2) or 89quat shall, when such tax or interest becomes due or is payable, be deemed to be a debt due to the State and shall be payable to the Commissioner in the manner and at the place prescribed.

[Para. (a) amended by s. 16 (a) of Act 6 of 1963 and by s. 36 of Act 121 of 1984.]

(b) If any person fails to pay any tax or any interest payable in terms of section 89 (2) or 89quat when such tax or interest becomes due or is payable by him, the Commissioner may file with the clerk or registrar of any competent court a statement certified by him as correct and setting forth the amount of the tax or interest so due or payable by that person, and such statement shall thereupon have all the effects of, and any proceedings may be taken thereon as if it were, a civil judgment lawfully given in that court in favour of the Commissioner for a liquid debt of the amount specified in the statement.

[Para. (b) amended by s. 16 (b) of Act 6 of 1963 and by s. 36 of Act 121 of 1984.]

(bA) The Commissioner may by notice in writing addressed to the aforesaid clerk or registrar, withdraw the statement referred to in paragraph (b) and such statement shall thereupon cease to have any effect: Provided that, in the circumstances contemplated in the said paragraph, the Commissioner may institute proceedings afresh under that paragraph in respect of any tax or interest referred to in the withdrawn statement.

[Para. (bA) inserted by s. 26 (a) of Act 55 of 1966.]

(c) The Commissioner may institute proceedings for the sequestration of the estate of any taxpayer and shall for the purposes of such proceedings be deemed to be the creditor in respect of any tax due by such taxpayer or any interest payable by him in terms of section 89 (2) or 89quat.
(2) Notwithstanding anything contained in the Magistrates’ Courts Act, 1944 (Act 32 of 1944), a statement for any amount whatsoever may be filed in terms of subsection (1) (b) with the clerk of the court of the magistrate having jurisdiction in respect of the person by whom such amount is payable in accordance with the provisions of this Act.

(3) ......

(4) So much of any tax payable by any person as is due to the inclusion in his income of any income deemed to have been received by him or to be his income, as the case may be, in terms of subsection (3), (4), (5) or (6) of section seven, may be recovered from the assets by which the income so included was produced.

(5) So much of any interest payable in terms of section eighty-nine as relates to such portion of any tax as is in terms of subsection (4) recoverable from the assets referred to in that subsection may also be recovered from such assets.

92 Correctness of assessment cannot be questioned

It shall not be competent for any person in any proceedings in connection with any statement filed in terms of paragraph (b) of subsection (1) of section ninety-one to question the correctness of any assessment on which such statement is based, notwithstanding that objection and appeal may have been lodged thereto.

93 Collection of taxes under arrangements made under section 108

(1) If the Commissioner has, in accordance with any arrangements made with the government of any other country by an agreement entered into in accordance with section 108 or the corresponding provisions of any previous
Income Tax Act with a view to rendering reciprocal assistance in the collection of taxes, received a request for the collection from any person in the Republic of an amount alleged to be due by him under the income tax laws of such other country, the Commissioner may, by notice in writing, call upon such person to state, within a period specified in the notice, whether or not he admits liability for the said amount or for any lesser amount.

[Sub-s. (1) substituted by s. 34 (1) (a) of Act 28 of 1997.]

(2) The Commissioner may-

(a) if such person so admits liability; or

(b) if such person fails to comply with the notice or in answer to the notice denies his liability for the said amount or for any part thereof, and the President of the special court has certified that he has afforded the person concerned an opportunity of presenting his case, and that on the information submitted to him by the Commissioner and by such person (if any), the amount specified in the certificate appears to be payable by such person in terms of a final determination under the income tax laws of such other country,

[Para. (b) substituted by s. 34 (1) (b) of Act 28 of 1997.]

by notice in writing require such person to pay the amount for which he has admitted liability or the amount so specified, as the case may be, on a date, at a place and to a person specified in the notice, for transmission to the proper authority in such other country.

[Sub-s. (2) amended by s. 34 (1) (b) of Act 28 of 1997.]

(3) If such person fails to comply with the notice under subsection (2) the amount in question may, subject, in the case of any amount to which any such certificate relates, to the outcome of any proceedings which such person may institute in such other country for determining his liability for the said amount, be recovered for transmission to the said authority as if it were a tax payable by such person under this Act.

[Sub-s. (3) substituted by s. 34 (1) (c) of Act 28 of 1997.]

(4) No steps taken in any other country under any arrangements referred to in subsection (1), for the collection of an amount alleged to be due by any person under the income tax laws of the Republic, and no judgment given against any such person in pursuance of such arrangements in such other country for any such amount, shall affect his right to have his liability for any such amount determined in the Republic in accordance with the provisions of the
relevant law.

[Sub-s. (4) substituted by s. 34 (1) (c) of Act 28 of 1997.]

93bis ......

[S. 93bis inserted by s. 17 of Act 6 of 1963 and repealed by s. 8 of Act 6 of 1972.]

94 Evidence as to assessments

The production of any document under the hand of the Commissioner purporting to be a copy of or an extract from any notice of assessment shall be conclusive evidence of the making of such assessment and, except in the case of proceedings on appeal against the assessment, shall be conclusive evidence that the amount and all the particulars of such assessment appearing in such document are correct.

94A ......

[S. 94A inserted by s. 39 of Act 89 of 1969 and repealed by s. 38 of Act 94 of 1983.]

Part V
Representative Taxpayers (ss 95 to 101)

95 Liability of representative taxpayer

(1) Every representative taxpayer shall as regards the income to which he is entitled in his representative capacity, or of which in such capacity he has the management, receipt, disposal, remittance, payment or control, be subject in all respects to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially and shall be liable to assessment in his own name in respect of that income, but any such assessment shall be deemed to be made upon him in his representative capacity only.

(1)bis Every representative taxpayer referred to in paragraphs (e) and (f) of the definition of ‘representative taxpayer’ in section 1 shall as regards the income received by or accrued to any-

(a) deceased person during his lifetime; or

(b) insolvent person prior to the date of sequestration of his estate,

be subject in all respects to the same duties, responsibilities and liabilities as if
the income were income received by or accrued to or in favour of him beneficially and shall be liable to assessment in his own name in respect of that income, but any such assessment shall be deemed to be made upon him in his representative capacity only.

[Sub-s. (1)bis inserted by s. 27 of Act 90 of 1962 and substituted by s. 35 of Act 28 of 1997.]

(2) Any abatement, deduction, exemption or right to set off a loss which could be claimed by the person represented by him shall be allowed in the assessment made upon the representative taxpayer in his capacity as such.

(3) Any tax payable in respect of any such assessment shall, save in the case of an assessment upon the public officer of a company, be recoverable from the representative taxpayer, but to the extent only of any assets belonging to the person whom he represents which may be in his possession or under his management, disposal or control.

(4) Any tax payable in respect of any assessment made upon a public officer of a company in his capacity as such shall be recoverable from the company of which he is the public officer.

96 Right of representative taxpayer to indemnity

(1) Every representative taxpayer who, as such, pays any tax shall be entitled to recover the amount so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the amount so paid.

(2) Every representative taxpayer referred to in paragraphs (e) and (f) of the definition of 'representative taxpayer' in section 1 who, as such, pays any tax in respect of the taxable income of any-

(a) deceased person; or

(b) insolvent person prior to the date of sequestration of his estate,

shall be entitled to recover the amount so paid from the estate of such deceased or insolvent person or to retain out of any moneys of the estate of such deceased or insolvent person that may be in his possession or that may come to him as executor or trustee of such estate, an amount equal to the amount so paid.

[Sub-s. (2) added by s. 28 of Act 90 of 1962 and substituted by s. 36 of Act 28 of 1997.]

97 Personal liability of representative taxpayer
Every representative taxpayer shall be personally liable for any tax payable by him in his representative capacity, if, while it remains unpaid-

(a) he alienates, charges or disposes of the income in respect of which the tax is chargeable; or

(b) he disposes of or parts with any fund or money, which is in his possession or comes to him after the tax is payable, if the tax could legally have been paid from or out of such fund or money.

98 Company regarded as agent for absent shareholder

Where a shareholder or a member of a company is absent from the Republic, such company shall for the purposes of this Act be deemed to be the agent for such shareholder or member, and shall as regards such shareholder or member and in respect of any income received by or accruing to him or in his favour as a shareholder or member, have and exercise all the powers, duties and responsibilities of an agent for a taxpayer absent from the Republic.

99 Power to appoint agent

The Commissioner may, if he thinks necessary, declare any person to be the agent of any other person, and the person so declared an agent shall be the agent for the purposes of this Act and may be required to make payment of any tax due from any moneys, including pensions, salary, wages or any other remuneration, which may be held by him for or due by him to the person whose agent he has been declared to be.

100 Remedies of Commissioner against agent or trustee

The Commissioner shall have the same remedies against all property of any kind vested in or under the control or management of any agent or trustee as he would have against the property of any person liable to pay any tax and in as full and ample a manner.

101 Public officers of companies

(1) Every company carrying on business or having an office in the Republic and every unit portfolio constituting a company in terms of paragraph (e) of the definition of 'company' in section one, shall at all times be represented by an individual residing therein.

[Sub-s. (1) amended by s. 29 (a) of Act 90 of 1962.]
(2) Such individual shall be a person approved by the Commissioner and shall be appointed by the company or by an agent or attorney who has authority to appoint such a representative for the purposes of this Act: Provided that in the event of any company being placed in voluntary or compulsory liquidation the liquidator or liquidators duly appointed shall be required to exercise in respect of that company all the functions and assume all the responsibilities of a public officer under this Act during the continuance of the liquidation: Provided further that in the case of any unit portfolio referred to in subsection (1) the public officer of the relevant management company shall be the public officer except in the event of the winding-up of the management company, in which event the trustee under the relevant unit trust scheme shall be the public officer.

[Sub-s. (2) amended by s. 29 (b) of Act 90 of 1962.]

(3) The representative shall be called the public officer of the company and shall be appointed within one month after the company begins to carry on business or acquires an office in the Republic.

(4) In default of any such appointment the public officer of any company shall be such managing director, director, secretary or other officer of the company, as the Commissioner may designate for that purpose.

(5) Every company shall also within the period prescribed by subsection (3) appoint a place within the Republic approved by the Commissioner at which any notices or other documents under this Act affecting the company may be served or delivered or to which any such notices or documents may be sent: Provided that in the case of any unit portfolio referred to in subsection (1) the place at which any such notice or other document may be served or delivered or to which any such notice or document may be sent shall be the place appointed by the relevant management company in regard to any notice or other document affecting itself, or, in the event of the trustee under the relevant unit trust scheme becoming the public officer, the place within the Republic appointed by the trustee and approved by the Commissioner: Provided further that such trustee shall appoint such place within one month after becoming the public officer.

[Sub-s. (5) amended by s. 29 (c) of Act 90 of 1962.]

(6) No appointment shall be deemed to have been made under subsection (3) or (5), until notice thereof specifying the name of the public officer and an address for service or delivery of notices and documents has been given to the Commissioner.

(7) Every company shall keep the office of public officer constantly filled and shall at all times maintain a place for the service or delivery of notices in accordance with subsection (5), and every change of public officer or of the place for the service or delivery of notices shall be notified to the Commissioner within
fourteen days of such change taking effect and every trustee referred to in subsection (5) shall at all times maintain a place for the service or delivery of such notices and shall within fourteen days of any change in such place taking effect notify the Commissioner thereof.

[Sub-s. (7) amended by s. 29 (d) of Act 90 of 1962.]

(8) Any company which makes default in appointing a public officer or appointing a place for service or delivery of notices in accordance with this Act, or in keeping the office of public officer constantly filled, or in maintaining a place for the service or delivery of notices, or which fails to notify to the Commissioner any change of public officer or of the place for the service or delivery of notices, and every person who acts within the Republic as agent or manager or representative of such company, shall incur a penalty not exceeding R25 for every day during which the default continues, and any such penalty shall be recoverable by the Commissioner by action in any competent court.

[Sub-s. (8) amended by s. 40 of Act 129 of 1991 and by s. 27 (1) of Act 36 of 1996.]

(9) Every notice, process or proceeding which under this Act may be given to, served upon or taken against any company, may be given to, served upon or taken against its public officer, or if at any time there is no public officer, any officer or person acting or appearing to act in the management of the business or affairs of such company or as agent for such company.

(10) Every public officer shall be answerable for the doing of all such acts, matters or things as are required to be done under this Act by a taxpayer and in case of default shall be liable to the penalties provided in respect of defaults by a taxpayer.

(11) Everything done by a public officer which he is required to do in his representative capacity shall be deemed to have been done by the company which he represents.

(12) The absence or non-appointment of a public officer shall not exonerate any company from the necessity of complying with the provisions of this Act, but the company shall in all respects be subject to and liable to comply with the provisions of the Act as if there were no requirement to appoint such officer.

(13) Any public officer appointed or deemed to have been appointed under the provisions of the Income Tax Act, 1941, and holding office at the commencement of this Act shall, provided no objection to his continuance in office is raised by the Commissioner, be deemed to be a public officer appointed under this Act.
102 Refunds

(1) If it is proved to the satisfaction of the Commissioner that any amount paid by a taxpayer was in excess of the amount properly chargeable under this Act, the Commissioner may, subject to the provisions of subsection (4), authorize a refund to such taxpayer of any tax overpaid: Provided that no amount paid in respect of an assessment accepted by the taxpayer and made in accordance with the practice generally prevailing at the date of that assessment shall be deemed to have been otherwise than properly so chargeable.

(2) The Commissioner shall not authorize any refund under this section unless the claim therefor is made within three years after the date of the assessment under which such tax was payable or, where such tax was chargeable and was payable under this Act otherwise than under an assessment, the date of payment of such tax (which date shall for the purposes of this subsection be deemed to be the date of the official receipt acknowledging such payment or, where more than one such payment was made, the date of the official receipt acknowledging the latest of such payments.)

(3) If in respect of any year of assessment of any taxpayer (other than a company) ending on or after 28 February 1983-

(a) the taxpayer's income for such year consisted solely of any amount or amounts of remuneration as defined in the Fourth Schedule;

(b) a period of at least three years has elapsed since the end of such year of assessment; and

(c) the taxpayer was not required under any provision of this Act to furnish a return of income for such year of assessment and did not render such a return during the period referred to in paragraph (b),

the Commissioner shall not authorize a refund of any amount of employees tax deducted or withheld from such remuneration under the provisions of the said
Schedule unless the claim therefor is made within the period referred to in paragraph (b).

[Sub-s. (3) added by s. 27 of Act 91 of 1982.]

(4) Where any refund contemplated in subsection (1) is due to any person who has failed to pay any amount of tax, additional tax, duty, levy, charge, interest or penalty levied or imposed under this Act or any other law administered by the Commissioner within the period prescribed for payment of the amount, the Commissioner may set off against the amount which the person has failed to pay, any amount which has become refundable to the person under this section.

[Sub-s. (4) added by s. 44 (b) of Act 30 of 1998.]
[S. 102 substituted by s. 28 (1) of Act 69 of 1975.]

102A Treatment of certain small tax claims and refunds

Notwithstanding anything to the contrary in this Act, if in the case of any person (other than a company)-

(a) whose taxable income for the year of assessment consists entirely of remuneration (as defined in paragraph 1 of the Fourth Schedule) the amount of which does not exceed the amount referred to in section 66 (1) (b) (i), as applicable in respect of the said year; and

(b) who was not in terms of section 66 (l) required to furnish a return for the assessment of tax in respect of the said year (whether or not he did in fact furnish such a return),

the amount of his liability for normal tax for the said year either exceeds or falls short of the aggregate of the amounts of employees tax deducted or withheld from the said remuneration under the provisions of the Fourth Schedule, such excess shall not be recoverable by the Commissioner from the said person if the amount thereof is less than R25 or such shortfall shall not be refundable by the Commissioner to the said person if the amount thereof is less than R2.

[S. 102A inserted by s. 40 of Act 94 of 1983 and amended by s. 28 (1) of Act 36 of 1996.]

103 Transactions, operations or schemes for purposes of avoiding or postponing liability for or reducing amounts of taxes on income

(1) Whenever the Commissioner is satisfied that any transaction, operation or scheme (whether entered into or carried out before or after the
commencement of this Act, and including a transaction, operation or scheme involving the alienation of property)-

(a) has been entered into or carried out which has the effect of avoiding or postponing liability for the payment of any tax, duty or levy imposed by this Act or any previous Income Tax Act, or of reducing the amount thereof; and

(b) having regard to the circumstances under which the transaction, operation or scheme was entered into or carried out-

(i) was entered into or carried out-

(aa) in the case of a transaction, operation or scheme in the context of business, in a manner which would not normally be employed for bona fide business purposes, other than the obtaining of a tax benefit; and

(bb) in the case of any other transaction, operation or scheme, being a transaction, operation or scheme not falling within the provisions of item (aa), by means or in a manner which would not normally be employed in the entering into or carrying out of a transaction, operation or scheme of the nature of the transaction, operation or scheme in question;

[Sub-para. (i) substituted by s. 29 (a) of Act 36 of 1996.]

(ii) has created rights or obligations which would not normally be created between persons dealing at arm's length under a transaction, operation or scheme of the nature of the transaction, operation or scheme in question; and

(c) was entered into or carried out solely or mainly for the purposes of obtaining a tax benefit,

[Para. (c) substituted by s. 29 (b) of Act 36 of 1996.]

the Commissioner shall determine the liability for any tax, duty or levy imposed by this Act, and the amount thereof, as if the transaction, operation or scheme had not been entered into or carried out, or in such manner as in the circumstances of the case he deems appropriate for the prevention or diminution of such avoidance, postponement or reduction.

[Sub-s. (1) substituted by s. 14 (1) (a) of Act 101 of 1978.]
(2) Whenever the Commissioner is satisfied that-

(a) any agreement affecting any company or trust; or

(b) any change in-

(i) the shareholding in any company; or

(ii) the members' interests in any company which is a close corporation; or

(iii) the trustees or beneficiaries of any trust,

as a direct or indirect result of which income has been received by or has accrued to that company or trust during any year of assessment, has at any time before or after the commencement of the Income Tax Act, 1946, been entered into or effected by any person solely or mainly for the purpose of utilizing any assessed loss or any balance of assessed loss incurred by the company or trust, in order to avoid liability on the part of that company or trust or any other person for the payment of any tax, duty or levy on income, or to reduce the amount thereof, the set-off of any such assessed loss or balance of assessed loss against any such income shall be disallowed.

[Sub-s. (2) substituted by s. 14 (1) (a) of Act 101 of 1978, by s. 37 (a) of Act 121 of 1984 and by s. 45 (1) (a) of Act 30 of 1998.]

(3) For the purposes of subsection (1) any transaction, operation or scheme (whether entered into or carried out before or after the commencement of this Act) whereby any person (other than a company) who is ordinarily resident or carrying on business in the Republic, or any company registered or carrying on business in the Republic, has disposed of shares held by such person or such company in any company registered or incorporated in the Republic to any person (other than a company) not ordinarily resident or carrying on business in the Republic or to any company registered outside the Republic, shall unless it is proved to the satisfaction of the Commissioner that the parties are independent persons dealing at arm's length with each other, be deemed to be a transaction, operation or scheme entered into or carried out by means or in a manner not normally employed in the entering into or carrying out of such a transaction, operation or scheme of the nature of the transaction, operation or scheme in question.

(4) Any decision of the Commissioner under subsection (1), (2) or (3) shall be subject to objection and appeal, and whenever in proceedings relating thereto it is proved that the transaction, operation, scheme, agreement or change in shareholder or members' interests or trustees or beneficiaries of the trust in question would result in the avoidance or the postponement of liability for
payment of any tax, duty or levy imposed by this Act or any previous Income Tax Act or any other law administered by the Commissioner, or in the reduction of the amount thereof, it shall be presumed, until the contrary is proved-

(a) in the case of any such transaction, operation or scheme, that it was entered into or carried out solely or mainly for the purposes of the avoidance or the postponement of such liability or the reduction of the amount of such liability; or

(b) in the case of any such agreement or change in shareholding or members' interests or trustees or beneficiaries of such trust, that it has been entered into or effected solely or mainly for the purpose of utilizing the assessed loss or balance of assessed loss in question in order to avoid or postpone such liability or to reduce the amount thereof.

[Para. (b) substituted by s. 37 (c) of Act 121 of 1984 and by s. 45 (1) (c) of Act 30 of 1998.]

[Sub-s. (4) substituted by s. 14 (1) (b) of Act 101 of 1978 and amended by s. 37 (b) of Act 121 of 1984 and by s. 45 (1) (b) of Act 30 of 1998.]

(5) (a) Where under any transaction, operation or scheme any taxpayer has ceded his right to receive any amount of interest in exchange for any amount of dividends, and in consequence of such cession the taxpayer's liability for normal tax, 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 such cession had not been effected.

(b) Paragraph (a) shall be deemed to have come into operation on 22 December 1988 and shall apply-

(i) to any transaction, operation or scheme concluded on or after that date; and

(ii) to any transaction, operation or scheme concluded before that date, if the taxpayer is at liberty to terminate the operation of such transaction, operation or scheme without incurring liability for damages, compensation or similar relief.

[Sub-s. (5) added by s. 19 of Act 70 of 1989.]

(6) Where the Commissioner has applied the provisions of this section in the determination of any taxpayer's liability for any tax, duty or levy imposed in terms of this Act, the Commissioner shall not exercise his discretion in terms of the provisions of section 89 quat (3) or (3A) so as to direct that interest shall not
be payable in respect of that portion of any tax which is attributable to the application of this section.

[Sub-s. (6) added by s. 29 (c) of Act 36 of 1996.]

(7) For the purposes of subsection (1) 'tax benefit' includes any avoidance, postponement or reduction of liability for payment of any tax, duty or levy imposed by this Act or by any other law administered by the Commissioner.

[Sub-s. (7) added by s. 29 (c) of Act 36 of 1996.]

104 Offences and penalties

(1) Any person who with intent to evade or to assist any other person to evade assessment or taxation-

(a) makes or causes or allows to be made any false statement or entry in any return rendered in terms of this Act, or signs any statement or return so rendered without reasonable grounds for believing the same to be true; or

(b) gives any false answer, whether verbally or in writing, to any request for information made under this Act by the Commissioner or any person duly authorized by him or any officer referred to in section three; or

(c) prepares or maintains or authorizes the preparation or maintenance of any false books of account or other records or falsifies or authorizes the falsification of any books of account or other records; or

(d) makes use of any fraud, art or contrivance whatsoever, or authorizes the use of any such fraud, art or contrivance,

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Whenever in any proceedings under this section it is proved that any false statement or entry is made in any return rendered under this Act by or on behalf of any taxpayer or in any books of account or other records of any taxpayer, that taxpayer shall be presumed, until the contrary is proved, to have made that false statement or entry or to have caused that false statement or entry to be made or to have allowed it to be made with intent to evade assessment or taxation, and any other person who made any such false
statement or entry shall be presumed, until the contrary is proved, to have made such false statement or entry with intent to assist the taxpayer to evade assessment or taxation.

105 Jurisdiction of courts

Any person charged with an offence under this Act may, notwithstanding anything to the contrary contained in any law, be tried in respect of that offence by any court having jurisdiction within any area in which he resides or carries on business.

105A Reporting of unprofessional conduct

(1) For the purposes of this section 'controlling body" means any professional association, body or board which has been established, whether voluntarily or by or under any law, for the purpose of exercising control over the carrying on of any profession, calling or occupation and which has power to take disciplinary action against any person who in the carrying on of such profession, calling or occupation fails to comply with or contravenes any rules or code of conduct laid down by such association, body or board.

(2) Where any person who carries on any profession, calling or occupation in respect of which a controlling body has been established has, in relation to the affairs of any taxpayer, done or omitted to do anything which in the opinion of the Commissioner-

(a) was intended to enable or assist such taxpayer to avoid or unduly postpone the performance of any duty or obligation imposed on such taxpayer by or under this Act, or by reason of negligence on the part of such person resulted in the avoidance or undue postponement of the performance of any such duty or obligation; and

(b) constitutes a contravention of any rule or code of conduct laid down by the controlling body which may result in disciplinary action being taken against such person by that body,

the Commissioner may lodge a complaint with the said controlling body.

(3) (a) Notwithstanding the provisions of section 4 of this Act the Commissioner may in lodging any complaint under subsection (2) disclose such information relating to the taxpayer's affairs as in the opinion of the Commissioner it is necessary to lay before the controlling body to which the complaint is made.

(b) Before lodging any such complaint or disclosing such information the
Commissioner shall deliver or send to the taxpayer and the person against whom the complaint is to be made a written notification of his intended action setting forth particulars of the said information.

(c) The taxpayer or the said person may within 30 days after the date of such written notification lodge in writing with the Commissioner any objection he may have to the lodging of the said complaint.

(d) If on the expiry of the said period of 30 days no objection has been lodged as contemplated in paragraph (c) or, if an objection has been lodged and the Commissioner is not satisfied that the objection should be sustained, the Commissioner may thereupon lodge the complaint as contemplated in subsection (2).

(4) The complaint shall be considered by the controlling body to which it is made and may be dealt with by it in such manner as the controlling body in terms of its rules sees fit: Provided that any hearing of the matter shall not be public and may only be attended by persons whose attendance, in the opinion of the controlling body, is necessary for the proper consideration of the complaint.

(5) The controlling body with which a complaint is lodged and its members shall at all times preserve and aid in preserving secrecy in regard to such information as to the affairs of the taxpayer as may be conveyed to them by the Commissioner or as may otherwise come to their notice in the investigation of the Commissioner's complaint and shall not communicate such information to any person whomsoever other than the taxpayer concerned or the person against whom the complaint is lodged, unless the disclosure of such information is ordered by a competent court of law.

[S. 105A inserted by s. 23 of Act 65 of 1986.]

106 Authentication and service of documents

(1) Any form, notice, demand or other document issued or given by or on behalf of the Commissioner or any other officer under this Act shall be sufficiently authenticated if the name or official designation of the Commissioner or officer by whom the same is issued or given is stamped or printed thereon.

(2) Any form, notice, demand, document or other communication required or authorized under this Act to be issued, given or sent to or served upon any person by the Commissioner or any other officer under this Act shall, except as otherwise provided in this Act, be deemed to have been effectually issued, given, sent or served-

(a) if delivered to him; or
(b) if left with some adult person apparently residing at or occupying or employed at his last known abode or office or place of business in the Republic; or

(c) if despatched by registered or any other kind of post addressed to him at his last known address, which may be any such place or office as is referred to in paragraph (b) or his last known post office box number or that of his employer; and

(d) in the case of a company-

(i) if delivered to the public officer of the company; or

(ii) if left with some adult person apparently residing at or occupying or employed at the place appointed by the company under subsection (5) of section 101 or, in the case of any unit portfolio referred to in paragraph (e) of the definition of ‘company’ in section 1, the public officer of which is the trustee referred to in the said subsection (5), by such trustee, or where no such place has been appointed by the company or trustee, as the case may be, if left with some adult person apparently residing at or occupying or employed at the last known office or place of business of the company or trustee, as the case may be, in the Republic; or

(iii) if despatched by registered or any other kind of post addressed to the company or its public officer at its or his last known address, which may be any such office or place as is referred to in subparagraph (ii) or its or his last known post office box number or that of his employer.

[Sub-s. (2) amended by s. 26 (a) of Act 103 of 1976.]

(3) Any form, notice, demand, document or other communication referred to in subsection (2) which has been issued, given, sent or served in the manner contemplated in paragraph (c) or (d) (iii) of that subsection shall be deemed to have been received by the person to whom it was addressed at the time when it would, in the ordinary course of post, have arrived at the place to which it was addressed, unless the Commissioner is satisfied that it was not so received or was received at some other time or, where the time at which it was received or the fact that it was received is in dispute in proceedings under this Act in any court having jurisdiction to decide the matter, the court is so satisfied: Provided that the preceding provisions of this subsection shall not apply where any person is in criminal proceedings charged with the commission of an offence under this Act by reason of his failure, refusal or neglect to do anything which he is required to do in terms of the said form, notice, demand, document or other
communication, unless it was despatched to such person by registered or certified post.

[Sub-s. (3) substituted by s. 26 (b) of Act 103 of 1976.]

(4) If the Commissioner is satisfied that any form, notice, demand, document or other communication (other than a notice of assessment) issued, given, sent or served in a manner contemplated in paragraph (b), (c) or (d) (ii) or (iii) of subsection (2), has not been received by the person to whom it was addressed or has been received by such person considerably later than it should have been received by him and that such person has in consequence been placed at a disadvantage, the Commissioner may, if he is satisfied that the circumstances warrant such action, direct that such form, notice, demand, document or other communication be withdrawn and be issued, given, sent or served anew.

[S. 106 amended by s. 30 of Act 90 of 1962 and substituted by s. 29 of Act 69 of 1975.]

107 Regulations

(1) The Minister of Finance may make regulations-

(a) prescribing the duties of all persons engaged or employed in the administration of this Act;

(b) defining the limits of areas within which such persons are to act;

(c) prescribing the nature and contents of the accounts to be rendered by any taxpayer in support of any returns rendered under this Act and the manner in which such accounts shall be authenticated;

[Para. (c) substituted by s. 46 of Act 30 of 1998.]

(d) prescribing the method of valuation of annuities or of fiduciary, usufructuary or other limited interests in property referred to in section sixty-two;

(dA) ......

[Para. (dA) inserted by s. 26 (1) of Act 65 of 1973 and deleted by s. 29 of Act 21 of 1994.]

(e) prescribing the procedure to be observed in the conduct and hearing of objections and appeals before the special courts,
and generally for giving effect to the objects and purposes of this Act.

[Sub-s. (1) amended by s. 46 of Act 97 of 1986.]

(2) The Regulations may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of R1 000.

[Sub-s. (2) amended by s. 37 of Act 28 of 1997.]

(3) Any regulation made under the Income Tax Act, 1941, and in force at the date of commencement of this Act, shall be deemed to have been made under this Act.

108 Prevention of or relief from, double taxation

(1) The National Executive may enter into an agreement with the government of any other country, whereby arrangements are made with such government with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Republic and of such other country, of tax in respect of the same income, profits or gains, or tax imposed in respect of the same donation, or to the rendering of reciprocal assistance in the administration of and the collection of taxes under the said laws of the Republic and of such other country.

[Sub-s. (1) substituted by s. 15 (1) (a) of Act 101 of 1978 and by s. 38 (1) (a) of Act 28 of 1997.]

(2) As soon as may be after the approval by Parliament of any such agreement, as contemplated in section 231 of the Constitution, the arrangements thereby made shall be notified by publication in the Gazette and the arrangements so notified shall thereupon have effect as if enacted in this Act.

[Sub-s. (2) substituted by s. 15 (1) (a) of Act 101 of 1978 and by s. 38 (1) (a) of Act 28 of 1997.]

(3) ......

[Sub-s. (3) deleted by s. 38 (1) (b) of Act 28 of 1997.]

(4) ......

[Sub-s. (4) amended by s. 25 of Act 96 of 1981 and deleted by s. 38 (1) (b) of Act 28 of 1997.]

(5) The duty imposed by any law to preserve secrecy with regard to such tax shall not prevent the disclosure to any authorized officer of the country
contemplated in subsection (1), of the facts, knowledge of which is necessary to enable it to be determined whether immunity, exemption or relief ought to be given or which it is necessary to disclose in order to render or receive assistance in accordance with the arrangements notified in terms of subsection (2).

[Sub-s. (5) substituted by s. 15 (1) (b) of Act 101 of 1978 and by s. 38 (1) (c) of Act 28 of 1997.]

109 ......

[S. 109 amended by s. 13 of Act 72 of 1963 and repealed by s. 31 of Act 141 of 1992.]

110 Determination of increase in the scale of taxation for purposes of certain leases of the right to mine for gold

For the purposes of any lease of the right to mine for gold in which provision is made for the set-off of the whole or a portion of the amount payable by the lessee by reason of any increase in the scale of taxation leviable upon incomes derived from mining for gold against the annual consideration payable by the lessee in respect of such lease, and which has as the basis for determining whether or not such an increase has been effected the taxation which was leviable at the rates prescribed by either-

(a) the Income Tax Act, 1933 (Act 31 of 1933), and the Gold Mines Excess Profits Duty Act, 1933 (Act 33 of 1933); or

(b) the Gold Mines Excess Profits Duty Act, 1933 (Act 33 of 1933), as amended by the Gold Mines Excess Profits Duty (Amendment) Act, 1934 (Act 43 of 1934), and the Income Tax Act, 1934 (Act 44 of 1934),

the amount to be so set off in respect of any year shall be the amount by which the amount of normal tax leviable for that year upon the income derived from mining for gold, including excess recoupments of capital expenditure, together with an amount equal to the amount of gold profits surtax which would have been payable for that year by the lessee concerned, if the provisions of section two of the Gold Mines Excess Profits Duty Amendment Act, 1935 (Act 51 of 1935), had still been in force and had applied in respect of that year, exceeds the amount of normal tax which would have been payable for such year on the same income, if the provisions of section one of the Income Tax Act, 1936 (Act 34 of 1936), had still been in force and had applied in respect of that year.

110bis ......

[S. 110bis inserted by s. 18 of Act 6 of 1963, amended by s. 14 of Act 72 of 1963,
by s. 29 (1) of Act 88 of 1971, by s. 27 of Act 103 of 1976 and by s. 41 of Act 36 of 1996 and repealed by s. 39 of Act 28 of 1997.]

111 Repeal of laws

(1) Subject to the provisions of subsection (2), the laws specified in the Third Schedule are hereby repealed to the extent set out in the third column of that Schedule: Provided that any tax or other amount which but for such repeal would have been capable of being levied, assessed or recovered and which has not been levied, assessed or recovered at the commencement of this Act, may be levied, assessed or recovered as if such repeal had not been effected.

(2) Any notice or proclamation issued or regulation made or anything done under any provision of a law repealed by subsection (1) shall be deemed to have been issued, made or done under the corresponding provision of this Act.

111A......

[S. 111A inserted by s. 40 of Act 89 of 1969 and repealed by s. 41 of Act 94 of 1983.]

112 Short title and commencement

This Act shall be called the Income Tax Act, 1962, and shall come into operation on the first day of July, 1962.

First Schedule

COMPUTATION OF TAXABLE INCOME DERIVED FROM PASTORAL, AGRICULTURAL OR OTHER FARMING OPERATIONS (paras. 1-19)

(Section twenty-six of this Act)

1. In this Schedule-

(a) a reference to a year of assessment shall in the case of any taxpayer who has under the provisions of subsection (13) or (13)ter of section sixty-six of this Act been permitted to furnish accounts in respect of the income derived by him from pastoral, agricultural or other farming operations made up to a date other than the last day of the relevant year of assessment, be construed as a reference to the period covered by such accounts; and

(b) a reference to the end of a year of assessment includes, where the period assessed ends on a date other than the last day of the year
2. Every farmer shall include in his return rendered for income tax purposes the value of all livestock or produce held and not disposed of by him at the beginning and the end of each year of assessment.

3. (1) Subject to the provisions of subparagraphs (2) and (3), the value of livestock or produce held and not disposed of at the end of the year of assessment shall be included in income for such year of assessment, and there shall be allowed as a deduction from such income the value of livestock or produce, as determined in accordance with the provisions of paragraph 4, held and not disposed of at the beginning of the year of assessment.

(2) For the purposes of subparagraph (1), the value of livestock or produce held and not disposed of at the end of any year of assessment by any person who discontinued farming operations during such year, shall be included in his income for such year and for all subsequent years of assessment so long as such livestock or produce, or any portion thereof, is so held and not disposed of.

(3) Any livestock which is the subject of any 'sheep lease' or similar agreement concerning livestock, and any produce which is the subject of a similar agreement, shall be deemed to be held and not disposed of by the grantor of such lease or agreement.

4. (1) The values of livestock and produce held and not disposed of at the beginning of any year of assessment shall, subject to the provisions of subparagraph (2), be deemed to be-

(a) in the case of a farmer who was carrying on farming operations on the last day of the year immediately preceding the year of assessment, the sum of-

(i) the values of livestock and produce held and not disposed of by him at the end of the year immediately preceding the year
of assessment; and

[Sub-item (i) amended by s. 17 (b) of Act 72 of 1963.]

(ii) the market value of livestock or produce acquired by such farmer during the current year of assessment otherwise than by purchase or natural increase or in the ordinary course of farming operations; or

[Sub-item (ii) substituted by s. 43 (a) of Act 113 of 1993.]

(b) in the case of any person commencing or recommencing farming operations during the year of assessment, the sum of-

(i) the value of any livestock or produce held and not disposed of by him at the end of the day immediately preceding the date of such commencement or recommencement; and

(ii) the market value of livestock or produce (other than livestock or produce to which subitem (i) refers) acquired by such person during the year of assessment otherwise than by purchase or natural increase or in the ordinary course of farming operations.

[Sub-item (ii) substituted by s. 43 (b) of Act 113 of 1993.]

(2) ......

[Sub-para. (2) added by s. 17 (c) of Act 72 of 1963 and deleted by s. 30 of Act 36 of 1996.]

(3) ......

[Sub-para. (3) added by s. 41 of Act 89 of 1969 and deleted by s. 42 of Act 94 of 1983.]

5. (1) The value to be placed upon livestock for the purposes of this Schedule shall, subject to the provisions of paragraph 4 (1) and subparagraph (2) of this paragraph as respects livestock held and not disposed of at the end of the year of assessment, be the standard value applicable to the livestock.

[Sub-para. (1) amended by s. 30 of Act 88 of 1971 and substituted by s. 28 (a) of Act 103 of 1976, by s. 26 of Act 96 of 1981 and by s. 31 (a) of Act 36 of 1996.]

(1A) ......
(2) The value to be placed on livestock held and not disposed of by any farmer (other than a company) at the end of the period of assessment terminating at the date of the sequestration of his estate under the law relating to insolvency, or by a company in liquidation, at the end of the final period of assessment in respect of which such value has to be accounted for under this Schedule, shall be the current market price of the livestock.

(3) ......

6. (1) The standard value applicable to any class of livestock shall be-

(a) in the case of any farmer (other than a company or the estate of a deceased person) who on or after the first day of July, 1955, and before the first day of July, 1962, rendered returns of income in respect of farming operations, the standard value which in relation to such farmer applied to that class of livestock in accordance with the provisions of paragraph 13 of the Third Schedule to the Income Tax Act, 1941;

(b) in the case of any other farmer (other than a company or the estate of a deceased person) or in the case of any farmer (other than a company or the estate of a deceased person) who on or after 1 July 1962 includes that class of livestock in his return of income for the first time, either-

(i) such standard value as may be fixed for that class of livestock by regulation made under this Act; or

(ii) such other standard value as the farmer may, subject to the provisions of subparagraphs (2) and (3), adopt for that class of livestock when rendering his first return of income on or after the said date in respect of farming operations, or when so including in any return of income such a class of livestock for the first time;

(c) in the case of any company or estate of a deceased person the
return of income of which in respect of farming operations for the first year of assessment of that company or estate ending on or after 1 January 1977 includes that class of livestock, either-

(i) such standard value as may be fixed for that class of livestock by regulation made under this Act; or

(ii) such other standard value as such company or the executor of such estate, as the case may be, may, subject to the provisions of subparagraphs (2) and (3), adopt for that class of livestock when rendering the said return of income;

(d) in the case of any company or estate of a deceased person the return of income of which in respect of farming operations for a year of assessment subsequent to the year of assessment referred to in item (c), includes that class of livestock for the first time, either-

(i) such standard value as may be fixed for that class of livestock by regulation made under this Act; or

(ii) such other standard value as such company or the executor of such estate, as the case may be, may, subject to the provisions of subparagraphs (2) and (3), adopt for that class of livestock when rendering the said return of income.

(2) No standard value adopted under subparagraph (1) (b) (ii), (1) (c) (ii) or (1) (d) (ii) in respect of any class of livestock shall be more than twenty per cent higher or lower than the standard value fixed by regulation under this Act in respect of livestock of that class.

(3) Any farmer who classifies any kind of his livestock on a basis other than that applied by a regulation referred to in subparagraph (1) (b) (i), (1) (c) (i) or (1) (d) (i), may adopt in respect of any class into which he so classifies that livestock such a standard value as may be approved by the Commissioner with due regard to the values fixed by regulation.

[Para. 6 substituted by s. 29 of Act 103 of 1976.]

7. The exercise of an option under subparagraph (1) (b) (ii), (1) (c) (ii) or (1) (d) (ii) of paragraph 6 shall be binding upon the farmer in respect of all subsequent returns for income tax purposes, and no standard value fixed by any farmer whether under this Act or any previous Income Tax Act may be varied by him in respect of any subsequent year of assessment, save with the consent and approval of the Commissioner and upon such terms as the Commissioner may require.
8. (1) Where any farmer has during any year of assessment incurred expenditure in respect of the acquisition of livestock, the deduction which may be allowed to him under section 11 (a) or (b) of this Act in respect of the cost price of such livestock shall be limited to an amount which, together with the value of livestock held and not disposed of by him at the beginning of such year, does not exceed the income received by or accrued to him from farming during such year and the value of livestock held and not disposed of by him at the end of such year.

(2) Any amount which has been disallowed under the provisions of subparagraph (1) shall be carried forward and be deemed to be expenditure incurred by the farmer in respect of the acquisition of livestock during the succeeding year of assessment.

(3) The provisions of this paragraph shall not apply-

(a) in any case where it is shown by the farmer that livestock the cost of which falls to be dealt with under such provisions is no longer held and not disposed of by him; and

(b) to so much of any expenditure (including any amount which has been carried forward under the provisions of subparagraph (2) which falls to be disallowed under subparagraph (1) as, together with the value of livestock held and not disposed of by him at the beginning of the year of assessment, exceeds such amount as is shown by him to be market value of all livestock held and not disposed of by him at the end of such year.

9. The value to be placed upon produce included in any return shall be such fair and reasonable value as the Commissioner may fix.

10. ......
income from sources within the Republic, been removed by him from the Republic; or

(c) (i) has been donated by the farmer;

(ii) has been disposed of by the farmer, other than in the ordinary course of his farming operations, for a consideration less than the market value thereof;

(iii) where the farmer is a company, has on or after 21 June 1993 been distributed in specie (whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital (including any share premium) or a redemption of redeemable preference shares) to a shareholder of such company; or

(iv) has been applied by the farmer for any other purpose other than the disposal thereof in the ordinary course of his farming operations and under circumstances other than those contemplated in subparagraph (a) or (b) or item (i), (ii) or (iii) of this subparagraph,

there shall be included in the income of such farmer for that year of assessment-

(A) where such livestock or produce has been applied in a manner contemplated in subparagraph (a), an amount equal to the cost price to him of such livestock or produce, or where the cost price cannot be readily determined, the market value of such livestock or produce; or

(B) where such livestock or produce has been applied, disposed of or distributed in a manner contemplated in subparagraph (b) or (c), an amount equal to the market value of such livestock or produce:

Provided that where-

(a) any livestock or produce so applied, is used or consumed by the farmer in the ordinary course of his farming operations, the amount included in his income under this paragraph shall for the purposes of this Act be deemed to be expenditure incurred in respect of the acquisition by him of such livestock or produce; or

(b) the provisions of subparagraph (c) (ii) are applicable and an
amount of consideration as contemplated in such subparagraph has been received by or accrued to the farmer, the amount included in his income in terms of this paragraph shall be reduced by such consideration.

[Para. 11 substituted by s. 42 of Act 101 of 1990, by s. 44 (1) of Act 113 of 1993 and by s. 32 of Act 36 of 1996.]

12. (1) Subject to the provisions of subparagraphs (2) to (6), inclusive, there shall be allowed as deductions in the determination of the taxable income derived by any farmer the expenditure incurred by him during the year of assessment in respect of-

(a) the eradication of noxious plants;

(b) the prevention of soil erosion;

(c) dipping tanks;

(d) dams, irrigation schemes, boreholes and pumping plants;

(e) fences;

(f) the erection of, or extensions, additions or improvements (other than repairs) to, buildings used in connection with farming operations, other than those used for the domestic purposes of persons who are not employees of such farmer;

[Item (f) substituted by s. 27 (1) (b) of Act 96 of 1981.]

(g) the planting of trees, shrubs or perennial plants for the production of grapes or other fruit, nuts, tea, coffee, hops, sugar, vegetable oils or fibres, and the establishment of any area used for the planting of such trees, shrubs or plants;

[Item (g) substituted by s. 27 of Act 55 of 1966.]

(h) the building of roads and bridges used in connection with farming operations;

(i) the carrying of electric power from the main transmission lines to the farm apparatus or under an agreement concluded with the Electricity Supply Commission in terms of which the farmer has undertaken to bear a portion of the cost incurred by the said Commission in connection with the supply of electric power consumed by the farmer wholly or mainly for farming purposes;
(1B) (a) Where any asset in respect of which any deduction has been allowed to a farmer under the provisions of subparagraph (1) or (1A) (whether in the current or any previous year of assessment) and which is or has become a movable asset, is disposed of by the farmer, there shall be included in his income so much of the amounts received by or accrued to or in favour of the farmer in respect of such disposal as does not exceed the expenditure in respect of such asset allowed under subparagraph (1) or the original cost to him of such asset taken into account under subparagraph (1A), as the case may be, less any amounts which in terms of item (c) of this subparagraph are not allowable as deductions under subparagraph (1A) in respect of such asset in respect of the succeeding year or years of assessment referred to in the said item.

(b) Where any allowance was granted in respect of such asset under the provisions of section 11 (e) of this Act the provisions of section 8 (4) (a) of this Act shall not apply in respect of any amount recovered or recouped in respect of such allowance.

(c) ......

[Item (c) deleted by s. 45 (c) of Act 113 of 1993.]

[Sub-para. (1B) inserted by s. 24 (b) of Act 113 of 1977.

(1C) For the purposes of this paragraph, where any asset in respect of which any deduction has been allowed to a farmer under the provisions of subparagraph (1) or (1A) (whether in the current or any previous year of assessment) and which is or has become a movable asset, is disposed of by the farmer to any other person by way of donation or for a consideration which is not an adequate consideration or is not readily capable of valuation, a consideration equal in value to the fair value of such asset shall be deemed to have been
received by the farmer in respect of his disposal of the asset and to have been paid by such other person in respect of his acquisition of the asset: Provided that the lastmentioned consideration shall not exceed the cost to the farmer of such asset.

[Sub-para. (1C) inserted by s. 24 (b) of Act 113 of 1977 and substituted by s. 45 (d) of Act 113 of 1993.]

(2) No deduction under section 11 (e) or (o) of this Act shall be allowed in respect of any machinery, implements, utensils or articles for which a deduction is allowable under subparagraph (1) or (1A) of this paragraph or the corresponding provisions of a previous Income Tax Act and no deduction under section 11 (q) of this Act shall be allowed in respect of expenditure of a capital nature for which a deduction is allowable under subparagraph (1) or (1A) of this paragraph or the said corresponding provisions.

[Sub-para. (2) substituted by s. 42 of Act 89 of 1969, by s. 24 (c) of Act 113 of 1977 and by s. 27 (1) (d) of Act 96 of 1981.]

(3) The amount by which the total expenditure incurred by any farmer during any year of assessment in respect of the matters referred to in items (c) to (j), inclusive, of subparagraph (1) exceeds the taxable income (as calculated before allowing the deduction of such expenditure and before the inclusion as hereinafter provided of the said amount in the farmer's income) derived by him from farming operations during that year of assessment shall be included in his income from such operations for that year and be carried forward and be deemed for the purposes of subparagraph (1) to be expenditure which has been incurred by him during the next succeeding year of assessment in respect of the matters referred to in the said items.

[Sub-para. (3) substituted by s. 42 of Act 89 of 1969, amended by s. 24 (d) of Act 113 of 1977 and substituted by s. 27 (1) (e) of Act 96 of 1981.]

(3A) For the purposes of subparagraph (3) any amount which has been carried forward from the year of assessment ended 30 June 1961 in terms of the proviso to paragraph 17 (3) of the Third Schedule to the Income Tax Act, 1941 shall be deemed to be an amount which has been so carried forward in terms of the said subparagraph.

[Sub-para. (3A) inserted by s. 27 (1) (e) of Act 96 of 1981.]

(3B) Where an amount (hereinafter referred to as the recoupment) falls to be included in a farmer's income for any year of assessment under the provisions of subparagraph (1B) and an amount (hereinafter referred to as the qualifying balance) has in terms of subparagraph (3) been carried forward to the year of assessment in question from the preceding year of assessment the recoupment
shall to the extent that it does not exceed the qualifying balance be deducted therefrom, and in such case-

(a) the recoupment shall, to the extent that it has been deducted from the qualifying balance, not be included in the farmer's income under subparagraph (1B); and

(b) only so much of the qualifying balance as remains after the deduction therefrom of the recoupment shall be taken into account for the purposes of subparagraph (3) as expenditure incurred during the year of assessment in question in respect of the matters mentioned in that subparagraph.

[Sub-para. (3B) inserted by s. 27 (1) (f) of Act 96 of 1981.]

(4)(a) For the purposes of this paragraph 'employees', in relation to any farmer, means persons employed by that farmer in connection with his farming operations, but does not include his relatives or, where the farmer, the shareholders (or the relatives of shareholders) in that company or in any company which is associated with it by virtue of shareholding.

(b) For the purposes of item (a) 'shareholders" in relation to any company does not include persons who hold all their shares in that company solely because they are employed by that company and who, will, in terms of the articles of association of that company, not be entitled to hold those shares after they cease to be so employed.

(5) The aggregate of all the deductions allowed under item (f) of subparagraph (1) or the corresponding provisions of any previous Income Tax Act to any farmer in respect of the erection of, or extensions, addition or improvements (other than repairs) to, any buildings used for the domestic purposes of any one of his employees shall not exceed the sum of R6 000.

[Sub-para. (5) amended by s. 24 of Act 104 of 1980, substituted by s. 27 (1) (g) of Act 96 of 1981 and amended by s. 28 (1) (b) of Act 91 of 1982.]

(6) If in any year of assessment any building in relation to which a deduction has been allowed to any farmer under item (f) of subparagraph (1) of this paragraph or item (f) of subparagraph (1) of paragraph 17 of the Third Schedule to the Income Tax Act, 1941, whether in the current or in any previous year of assessment, is used for the domestic purposes of any person other than an employee of that farmer, there shall be included in the income of that farmer for the current year of assessment the amount of such deduction less one-tenth of the said amount in respect of each completed period of one year, but not exceeding ten years, during which such building was used by the said farmer in connection with his farming operations other than for the domestic purposes of
persons who are not his employees.

13. (1) If it is proved to the satisfaction of the Commissioner—

(a) that any farmer—

(i) has in any year of assessment sold livestock on account of drought, stock disease or damage to grazing by fire or plague; and

[Sub-item (i) substituted by s. 17 (1) of Act 101 of 1978.]

(ii) has within four years after the close of the said year of assessment purchased livestock to replace the livestock so sold; or

(b) that any farmer—

(i) has in any year of assessment (other than a year of assessment in respect of which the normal tax chargeable in the case of such farmer is required to be determined under paragraph 19) sold livestock by reason of his participation in a livestock reduction scheme organized by the Government; and

(ii) has within nine years after the close of the said year of assessment purchased livestock to replace the livestock so sold, the cost of the livestock so purchased shall, notwithstanding anything in this Schedule contained, be allowed, at the option of such farmer, as a deduction in the determination of his taxable income for the year of assessment during which the livestock was so sold, provided the claim for such deduction is made within five years after the close of that year of assessment in the case of a farmer referred to in item (a), or within ten years after the close of that year of assessment in the case of a farmer referred to in item (b).

(2) The cost of livestock so allowed as a deduction shall not be allowed as a deduction in the year of assessment in which the purchases were made.

(3) Every farmer who desires to claim a deduction in terms of subparagraph (1), shall with his return of income for the year of assessment in which he sold livestock on account of conditions of drought or stock disease or by reason of his participation in a livestock reduction scheme organized by the Government, or within such period as the Commissioner may allow, notify the
Commissioner accordingly and furnish full particulars in regard to the livestock so sold.

(4) Notwithstanding anything contained in the preceding provisions of this paragraph, the Commissioner shall, until proof has been submitted to him as provided in subitem (ii) of item (a) or subitem (ii) of item (b) of subparagraph (1), assess and recover any tax payable by a farmer in respect of any year of assessment in which livestock has been sold as aforesaid, as if the said item had not been enacted: Provided that if proof is submitted to the satisfaction of the Commissioner in terms of the said item (a) or (b) he shall revise the assessment concerned and refund to the farmer so much of the amount paid by him as exceeds the amount found to be payable after allowing the deduction referred to in the said item (a) or item (b), whichever is applicable.

(5) The provisions of this paragraph shall not apply to the cost of any livestock purchased to replace livestock sold if the proceeds derived from the sale of such lastmentioned livestock have been dealt with under the provisions of paragraph 13A.

[Sub-para. (5) added by s. 43 of Act 94 of 1983.]

[Para. 13 substituted by s. 21 (1) of Act 90 of 1972.]

13A. (1) If any farmer has on or after 1 March 1982 disposed of any livestock on account of drought, and the whole or any portion of the proceeds of such disposal has as soon as possible, but in any case within three months after the receipt thereof by the farmer, been deposited by him in an account in his name with the Land and Agricultural Bank of South Africa, so much of such proceeds as has been so deposited by him shall, notwithstanding the provisions of section 23 (e) of this Act but subject to the provisions of subparagraph (3), be deemed not to be gross income derived by such farmer.

[Sub-para. (1) substituted by s. 46 (1) (a) of Act 113 of 1993.]

(2) Every farmer who desires that the proceeds derived by him from the disposal of livestock shall be dealt with under the provisions of this paragraph shall with his return of income for the year of assessment during which such livestock was disposed of, or within such period as the Commissioner may allow, notify the Commissioner accordingly and submit a certificate containing such information in connection with the disposal as the Commissioner may require.

(3) Any amount, being the whole or any portion of a sum deposited in an account following the disposal of livestock as contemplated in subparagraph (1), shall-

(a) if it is withdrawn from such account before the expiration of a period
of six months after the last day of the year of assessment in which such disposal took place, be deemed to be gross income derived by the taxpayer from the disposal of livestock on the date of such disposal; or

[Item (a) amended by s. 24 of Act 85 of 1987 and substituted by s. 46 (1) (b) of Act 113 of 1993.]

(aA) if it is withdrawn from such account after the expiration of a period of six months but before the expiration of a period of six years after the last day of the year of assessment in which such disposal took place, be deemed to be gross income derived by the taxpayer from the disposal of livestock on the date of such withdrawal; or

[Item (aA) inserted by s. 46 (1) (b) of Act 113 of 1993.]

(b) in the event of the taxpayer's death or insolvency before the expiration of the said period, be deemed to be gross income so derived on the day before the date of his death or insolvency, as the case may be; or

(c) if it is not so withdrawn and the taxpayer does not die or become insolvent before the expiration of such period, be deemed to be gross income so derived on the last day of such period.

(4) ......

[Sub-para. (4) deleted by s. 46 (1) (c) of Act 113 of 1993.]

[Para. 13A inserted by s. 44 (1) of Act 94 of 1983.]

14. (1) Any amount received by or accrued to a farmer in respect of the disposal of any plantation shall, whether such plantation is disposed of separately or with the land on which it is growing, be deemed not to be a receipt or accrual of a capital nature and shall form part of such farmer's gross income.

(2) Where any plantation is disposed of by a farmer with the land on which it is growing the amount to be included in such farmer's gross income in terms of subparagraph (1) shall-

(a) if the amount representing the consideration payable in respect of the disposal of the plantation is agreed to between the parties to the transaction, be the amount so agreed to; or

(b) failing such agreement, be such portion of the consideration payable in respect of the disposal of the land and the plantation as
in the opinion of the Commissioner represents the consideration payable for the plantation.

15. (1) In the determination of the taxable income of any farmer there shall be allowed as a deduction-

(a) any expenditure incurred by such farmer during the year of assessment in respect of the establishment and maintenance of plantations;

(b) any expenditure incurred by such farmer prior to the first day of July, 1948, in respect of the establishment and maintenance of any plantation or the cost of acquisition of any plantation purchased by such farmer whether before or after the first day of July, 1948:

Provided that-

(i) any deductions allowed under this item in respect of any plantation shall not in respect of any year of assessment exceed the gross income derived by such farmer in that year from the said plantation;

(ii) the aggregate of the deductions allowed in terms of this item or the corresponding provisions of the Income Tax Act, 1941, or by virtue of any other provision of the last-mentioned Act or the Income Tax Act, 1925 (Act 40 of 1925), in respect of plantations shall not exceed the amount of such expenditure or such cost of acquisition.

(2) For the purpose of calculating the cost of acquisition of any plantation the provisions of subparagraph (2) of paragraph 14 shall apply mutatis mutandis in the case of any plantation acquired by any farmer with the land on which it is growing.

(3) If in any year of assessment the income of any farmer other than a company includes income derived from the disposal of plantations or forest produce and the taxable income derived by him in that year from the disposal of plantations and forest produce (determined as though the income derived by him from that source were his only income) exceeds the annual average taxable income derived by him from that source (as so determined) over the three years of assessment immediately preceding the said year of assessment, the normal tax chargeable in the case of such farmer for the said year of assessment shall, subject to the provisions of section 5 of this Act, be determined in accordance with the provisions of subsection (10) of that section: Provided that-

(i) the provisions of this subparagraph shall not apply unless the disposal of plantations or forest produce forms part of the normal
farming operations of the farmer concerned;

[Para. (i) substituted by s. 47 of Act 113 of 1993.]

(ii) for the purposes of this subparagraph, where the farmer has in respect of any of the aforesaid years of assessment derived any excess plantation farming profits determined under paragraph 20 (3) (g) such excess plantation farming profits shall-

(aa) where such excess plantation farming profits have been derived during the first-mentioned year of assessment, be excluded from the farmer's taxable income derived in that year from the disposal of plantations and forest produce;

(bb) where such excess plantation farming profits have been derived during any of the aforesaid three years of assessment, not be taken into account in the determination of the aforesaid average taxable income derived by the farmer over those years;

(iii) the Commissioner's determination as to what portion of a farmer's taxable income is derived from the disposal of plantations and forest produce shall be final;

(iv) nothing in this paragraph contained shall be construed as relieving any farmer from liability for taxation under this Act upon any portion of his taxable income;

(v) the provisions of this subparagraph shall not apply if the normal tax chargeable in the case of such farmer in respect of the first-mentioned year of assessment is required to be determined under the provisions of paragraph 19.

[Sub-para. (3) substituted by s. 25 of Act 88 of 1965, by s. 26 of Act 95 of 1967, by s. 31 (1) of Act 88 of 1971 and by s. 30 (1) of Act 69 of 1975.]

16. For the purposes of paragraphs 14, 15 and 20-

'plantation' means any artificially established tree as ordinarily understood (not being a tree of the nature described in paragraph 12 (1) (g) or any forest of such trees and includes any natural extension of such trees;

'forest produce' means trees (other than trees of the nature described in paragraph 12 (1) (g)) and anything derived from such trees, including timber, wood, bark, leaves, seeds, gum, resin and sap.
17. Where the sugar cane fields of any farmer other than a company have been damaged by fire and the taxable income of such farmer for any year of assessment includes taxable income derived from the disposal of sugar cane as a result of such fire which but for such fire would not have been derived by him in such year, the normal tax chargeable in the case of such farmer in respect of such year shall, subject to the provisions of section 5 of this Act, be determined in accordance with the provisions of subsection (10) of that section, but nothing in this paragraph contained shall be construed as relieving such farmer from liability for taxation under this Act upon any portion of his taxable income: Provided that the provisions of this paragraph shall not apply if the normal tax chargeable in the case of such farmer in respect of the said year of assessment is required to be determined under the provisions of paragraph 19.

18. ......

19. (1) If any taxpayer has made an election as provided in subparagraph (5) which is binding upon him in respect of any period of assessment (hereinafter referred to as the relevant period) during which he or his spouse has carried on farming operations or has derived income from farming operations, and his taxable income derived during the relevant period from farming exceeds his average taxable income from farming as determined in relation to the relevant period in accordance with subparagraph (2), the normal tax chargeable in respect of his taxable income for the relevant period shall, subject to the provisions of section 5 of this Act, be determined in accordance with section 5 (10).

(2) For the purposes of subparagraph (1) the taxpayer's average taxable income from farming in relation to the relevant period shall be deemed to be-

\( (a) \) where the taxpayer or his spouse carried on farming operations before the commencement of the relevant period, such amount as the Commissioner may determine as representing the taxpayer's
annual average taxable income (if any) from farming in respect of the periods of assessment-

(aa) for which the taxpayer was assessable under this Act and which fall within the period of five years ending on the last day of the relevant period; and

(bb) during which such farming operations were carried on or farming income was derived by the taxpayer:

Provided that any excess farming profits derived by the taxpayer in any of the said periods of assessment, as determined by the Commissioner under paragraph 20 (3) (a), shall not be taken into account in the determination of such annual average taxable income: Provided further that in the case of the estate of a deceased or insolvent person any farming operations carried on by such person prior to his death or insolvency, any income derived by him from such operations and any deductions allowable against such income under this Act shall, so far as such estate is concerned, be deemed for the purposes of this item to be respectively operations, income or deductions of such estate, and the annual average taxable income derived by such estate from farming shall be determined accordingly, but subject to such adjustments as the Commissioner may make; or

(b) where the taxpayer is a person referred to in subparagraph (5) (a) and did not carry on farming operations before the commencement of the relevant period and-

(i) the taxpayer's taxable income from farming for the relevant period does not exceed R5 000, the amount of such taxable income; or

(ii) the taxpayer's taxable income from farming for the relevant period exceeds R5 000 but not R7 500, the amount of R5 000; or

(iii) the taxpayer's taxable income from farming for the relevant period exceeds R7 500, an amount equal to two-thirds of such taxable income.

[Item (b) amended by s. 34 (c) of Act 21 of 1995 and by s. 40 of Act 28 of 1997.]
(3) Where the taxpayer's assessment for a relevant period has in terms of section 81 (5) of this Act become final and conclusive, the Commissioner shall not, merely by reason of the fact that the amount determined under subparagraph (2) (a), as the taxpayer's annual average taxable income from farming in relation to such period is incorrect, be required to make a further assessment upon the taxpayer for such period in terms of section 79 of this Act or to authorize a refund under section 102 of this Act of any tax overpaid in respect of such period, unless it appears that such annual average taxable income from farming should be increased or reduced by at least six hundred rand.

[Sub-para. (3) substituted by s. 32 (1) (c) of Act 69 of 1975.]

(4) In determining under this paragraph any amount of normal tax which is or would be chargeable no regard shall be had to the deductions provided for in section 6 or 6bis of this Act, and nothing in this paragraph contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of his taxable income.

[Sub-para. (4) substituted by s. 42 of Act 129 of 1991.]

(5) Any person-

(a) who is a natural person and whose taxable income for any period of assessment consists of or includes taxable income derived from farming operations carried on by him for his own benefit or by his spouse for such spouse's own benefit; or

[Item (a) substituted by s. 34 (d) of Act 21 of 1995.]

(b) who is the executor of the estate of any deceased person or the trustee of the insolvent estate of a natural person and who in his capacity as such has during the period of assessment commencing immediately after the death or insolvency of the said person continued farming operations commenced by such deceased or insolvent person prior to his death or insolvency,

may, within three months after the end of such period of assessment or within such further time as the Commissioner may prescribe, and in such form as the Commissioner may approve and in such form as the Commissioner may prescribe, elect that the normal tax chargeable in respect of his taxable income if item (a) is applicable or the taxable income of such estate if item (b) is applicable, be determined as provided in subparagraph (1), and such election shall be binding upon such natural person or estate, as the case may be, in respect of the said period of assessment and every succeeding period of assessment: Provided that-
(i) no election may be made under this subparagraph by any person in respect of any period of assessment referred to in item (a) if during such period such person was married and such person's income for such period is in terms of section 7 (2) of this Act deemed to be income accrued to such person's spouse;

(ii) where an election has been made by such person in respect of any period of assessment referred to in item (a) and such person's income for any succeeding period of assessment is in terms of section 7 (2) of this Act deemed to be income accrued to such person's spouse, such election shall, with effect from such succeeding period, cease to have any force or effect.

[Sub-para. (5) amended by s. 34 (e) of Act 21 of 1995.]

(6) ......

[Sub-para. (6) added by s. 33 (b) of Act 88 of 1971 and deleted by s. 45 (b) of Act 94 of 1983.]

[Para. 19 added by s. 28 of Act 95 of 1967.]

20.(1) If any taxpayer (other than a company) who derives income from farming operations submits an application to the Commissioner as provided in subparagraph (6) and proves to the satisfaction of the Commissioner-

(a) that his income was in whole or in part derived from farming operations carried on on any land acquired-

(i) by the State (including the Railways Administration and any provincial administration) or any local authority as defined in section 1 of the Expropriation Act, 1975 (Act 63 of 1975); or

(ii) by any juristic person or body mentioned in section 3 (2) of the said Act, if such juristic person or body acquired the land by expropriation or, where the owner of the land agreed to dispose of it, the Minister referred to in subparagraph (6) (b)

(ii) has given a certificate as contemplated therein;

[Item (a) substituted by s. 31 (1) (a) of Act 103 of 1976.]

[NB: In terms of s. 36 (2) of the Legal Succession to the South African Transport Services Act 9 of 1989, the reference to 'the State' and to 'the Railways Administration' in the above provision is to be construed as including the Company (Transnet Limited) and the Corporation (the South African Rail Commuter Corporation Limited).]
(b) that in consequence of the acquisition of such land as aforesaid the farming undertaking on such land (hereinafter referred to as the undertaking) has been or is being wound up; and

[Item (b) amended by s. 31 (1) (b) of Act 103 of 1976.]

(c) that the taxpayer's income for any year of assessment (being the year of assessment during which the said land was acquired as aforesaid or the first or the second year of assessment succeeding the first-mentioned year of assessment) includes any abnormal farming receipts or accruals referred to in subparagraph (2) which relate to the aforesaid farming operations,

[Item (c) amended by s. 31 (1) (c) of Act 103 of 1976.]

the normal tax chargeable (as determined before the deduction of any rebate or the addition of any loan portion of such tax) in respect of the taxpayer's taxable income for such year of assessment shall, notwithstanding any other provisions of this Act to the contrary, be determined at an amount equal to the sum of-

(i) an amount equal to the taxpayer's excess farming profits for the year of assessment (as determined in accordance with subparagraph (3) (a)) multiplied by the relevant rate of tax fixed for the year of assessment in terms of section 5 (2) in respect of the first rand of taxable income; and

[Item (i) substituted by s. 43 of Act 129 of 1991.]

(ii) an amount equal to the amount of normal tax (as determined before the deduction of any rebate or the addition of any loan portion of such tax) which would have been payable by the taxpayer in respect of the year of assessment if his taxable income for that year had been an amount equal to the balance of his taxable income for that year (as determined in accordance with subparagraph (4)).

[Sub-para. (1) amended by s. 26 (a) of Act 104 of 1980 and by s. 30 of Act 91 of 1982.]

(1A) Where it is shown by the taxpayer to the satisfaction of the Commissioner that the land referred to in subparagraph (1) was acquired as contemplated in item (a) of that subparagraph within the period of twelve months after the owner accepted an offer to purchase the land, it shall be deemed for purposes of that subparagraph that such land was acquired on the date on which the offer was accepted.
(2) For the purposes of subparagraph (1) (c), the taxpayer's abnormal farming receipts or accruals for any year of assessment referred to in subparagraph (1) (c) shall be deemed to be such amounts as are proved to the satisfaction of the Commissioner to consist of-

(a) any amounts derived from disposals, in the course of the winding-up of the undertaking, of livestock normally held for the purposes of the undertaking; or

(b) any amounts derived from the disposal of any plantation together with the land referred to in subparagraph (1) (a) or from the disposal in the course of the winding-up of the undertaking of any plantation on such land or any forest produce from such plantation.

(3) (a) For the purposes of this paragraph the taxpayer's excess farming profits for any year of assessment referred to in subparagraph (1) (c) shall be deemed to be the sum of the taxpayer's excess livestock profits (if any) for such year, as determined under item (b), and the taxpayer's excess plantation farming profits (if any) for such year, as determined under item (g): Provided that the amount of such excess farming profits shall not be determined at an amount exceeding the amount of the taxpayer's taxable income for such year.

(b) The taxpayer's excess livestock profits for such year shall be so much of the sum of the amounts referred to in subparagraph (2) (a) which have been derived by the taxpayer during such year as does not exceed the taxpayer's abnormal livestock profits for such year, as determined under item (c).

(c) The taxpayer's abnormal livestock profits for such year shall be the amount by which his livestock profits for such year, as determined under item (d) or (f), exceed his average livestock profits (as determined under item (e) or (f)) for the years of assessment (but not exceeding five years of assessment) which immediately precede the said year and during which the undertaking was carried on.

(d) For the purposes of this subparagraph, the taxpayer's livestock profits for any year of assessment shall be the amount by which the sum of the amounts included in his income from farming for such year in respect of disposals of livestock during such year and the value (as determined under this Schedule) of the livestock held and not disposed of by him at the end of such year exceeds the sum of the amounts allowed to be deducted from such income in respect of livestock acquired by him during such year and the value (as determined under this Schedule) of the livestock held and not disposed of by him at the beginning of such year, and the taxpayer's livestock loss for such year shall be determined accordingly.
(e) The taxpayer's average livestock profits for the years of assessment referred to in item (c) shall be the sum of his livestock profits for the said years, as determined under item (d) (reduced by any livestock loss as determined under that item in respect of any such years), divided by the number of such years of assessment.

(f) If by reason of disposals of livestock otherwise than in the ordinary course of farming or because of any unusual circumstances the Commissioner is of opinion that the taxpayer's livestock profits or loss for any year of assessment cannot be determined in a satisfactory manner under item (d) or that the taxpayer's average livestock profits for the years of assessment referred to in item (c) cannot be determined in a satisfactory manner under item (e), the Commissioner shall determine such livestock profits or loss or such average livestock profits in such other manner as he may consider appropriate.

(g) The taxpayer's excess plantation farming profits for any year of assessment referred to in item (a) shall be so much of the sum of the amounts referred to in subparagraph (2) (b) which have been derived by the taxpayer during such year, as does not exceed the amount by which the taxpayer's taxable income (as determined under subparagraph (3) of paragraph 15 before applying paragraph (ii) of the proviso to the said subparagraph) derived during such year from the disposal of plantations and forest produce exceeds the annual average taxable income (as determined under paragraph 15 (3)) derived by him from that source over the three years of assessment immediately preceding the said year of assessment.

(4) For the purposes of this paragraph, the balance of the taxpayer's taxable income for a year of assessment referred to in subparagraph (1) (c) shall be deemed to be the amount remaining after deducting the taxpayer's excess farming profits for that year (as determined under subparagraph (3) (a)) from the full amount of the taxpayer's taxable income for such year, as determined under this Act.

(5) ......

[Sub-para. (5) deleted by s. 26 (b) of Act 104 of 1980.]

(6) (a) Any taxpayer (other than a company) may, at his option, make written application to the Commissioner for the normal tax payable by him to be determined under this paragraph.

(b) Any such application shall be submitted to the Commissioner and shall be accompanied by-

(i) a certificate by the head of the department of State or the
administration concerned in the acquisition by the State or such administration of the land referred to in item (a) of subparagraph (1), or where such land was acquired by a local authority, juristic person or body referred to in the said item, by the chief executive officer of such local authority, juristic person or body, to the effect that the State or such administration, local authority, juristic person or body, as the case may be, has acquired such land; and

(ii) where such land was acquired by such juristic person or body, a certificate by a Minister referred to in section 3 (1) of the Expropriation Act, 1975, to the effect that the land was acquired by such juristic person or body by expropriation or, where the owner of the land agreed to dispose of it, to the effect that, if the owner had not so agreed, steps would have been taken for the expropriation of the land.

[Item (b) substituted by s. 31 (1) (d) of Act 103 of 1976.]

[Para. 20 added by s. 33 (1) of Act 69 of 1975.]

Second Schedule

COMPUTATION OF GROSS INCOME DERIVED BY WAY OF LUMP SUM BENEFITS FROM PENSION, PROVIDENT AND RETIREMENT ANNUITY FUNDS (paras. 1-4)

(Paragraph (e) of the definition of 'gross income' in section one of this Act.)

1. For the purposes of this Schedule-

'formula A', in relation to a pension fund or provident fund, means the formula-

\[
Y = \frac{15}{1} N \times \frac{1}{50} \times \frac{1}{3} \times \text{Average Salary}
\]

in which formula ‘Y’ represents the amount which has to be determined, ‘N’ represents the number of completed years (not exceeding fifty) in the period of employment of the taxpayer which, in terms of the rules of the fund in question, is taken into account for the purpose of determining the amount of the benefits payable to him under the fund, or, if the period of employment is not taken into account for that purpose, in the period of his membership of the fund during which contributions thereto were made in respect of his membership, and 'average salary' means the highest annual average salary (not exceeding R60
(a) the period of employment or membership to be taken into account in applying the formula in relation to any such fund shall be reduced by any period of employment or membership which is common to such fund and any other such fund, if such common period has been included in the period of employment or membership taken into account in applying the formula in relation to such other fund;

(b) unless, not later than the date on which he submits his first return of income in which is included or should have been included any lump sum benefit referred to in subparagraph (1) of paragraph 5, or within such further period as the Commissioner in the circumstances of the case may allow, any taxpayer who is a member of two or more such funds having a common period of employment or membership informs the Commissioner in writing in relation to which fund such common period shall be applied, the said common period shall be applied to such fund as the Commissioner may, with the object of achieving the best result for the taxpayer, determine;

(c) in the case of a member of a pension fund who was permitted to retain his membership of such fund in the circumstances contemplated in paragraph (ii) (ee) of the proviso to paragraph (c) of the definition of 'pension fund' in section 1 of this Act, the period of employment of such member shall be deemed to include the period during which he continued to be a member after becoming a partner, and for the purpose of determining his average salary he shall be deemed to have earned during the last-mentioned period a salary calculated at the rate at which the amount of his pensionable emoluments contemplated in the said paragraph (ii) (ee) was payable during the 12 months referred to in that paragraph;
\[ Z = C + E - D, \]

in which formula-

(a) 'Z' represents the amount which has to be determined;

(b) 'C' represents an amount equal to the sum of the amounts calculated in accordance with formula A in relation to the taxpayer in respect of the different pension and provident funds of which he is or was a member and from which any lump sum benefits were or may be derived in consequence of or following upon his retirement or death on or after 15 March 1961, and the aggregate of the lump sum benefits received by or accrued to him from retirement annuity funds in the circumstances described in paragraph 5 (1) on or after 15 March 1961 and whether in the current or any previous year of assessment: Provided that-

(i) the amount determined under this paragraph shall not exceed the greater of R120 000 or an amount equal to R4 500 multiplied by the number of completed years referred to in paragraph 5 (6);

[Sub-para. (i) amended by s. 24 (c) of Act 65 of 1986.]

(ii) the lump sum benefits in respect of any retirement annuity fund taken into account for the purpose of this calculation shall not exceed the amount received or accrued in commutation of not more than one-third of the taxpayer's annuity from such fund, or, in the case of the death of a member before his retirement in relation to such fund, an amount equal to one-third of the member's own contributions to such fund (including so much of any amount paid into such fund for his benefit by another approved retirement annuity fund, or any approved pension or provident fund, as represented his own contributions to the fund by which such amount was so paid) together with reasonable interest on one-third of the said contributions calculated from the dates of payment of the respective contributions to the date of death of such member;

[Para. (b) amended by s. 34 (b) of Act 88 of 1971, by s. 34 (b) of Act 69 of 1975, by s. 26 (b) of Act 113 of 1977 and by s. 27 (b) of Act 104 of 1980 and substituted by s. 46 (1) (b) of Act 94 of 1983.]

(c) 'D' represents the sum of the deductions which may have been allowed to the taxpayer in terms of subparagraph (1) of paragraph 5
of this Schedule or subparagraph (1) of paragraph 5 of the Fourth Schedule to the Income Tax Act, 1941, in respect of previous years of assessment; and

(d) 'E' represents the sum of the taxpayer's own contributions to any pension funds, provident funds and retirement annuity funds of which he is or was a member and from which any lump sum benefits were or may be derived in consequence of or following upon his retirement or death on or after the fifteenth day of March, 1961, including so much of the amounts paid into such funds for his benefit by other pension funds, provident funds or retirement annuity funds as represented his own contributions to such other funds, but excluding so much of any such contributions or amounts representing contributions as ranked for deduction against the taxpayer's income in terms of section 11 (k) or (n) of this Act or the corresponding provisions of any previous Income Tax Act: Provided that for the purposes of this definition the surrender value of any policy of insurance ceded or otherwise made over to the taxpayer by any pension, provident or retirement annuity fund and ceded or otherwise made over by the taxpayer to any other pension, provident or retirement annuity fund, or any amount paid by the taxpayer into the latter fund in lieu of or as representing such surrender value or a portion thereof, shall be deemed to be an amount paid into the latter fund by the former fund for the benefit of the taxpayer:

[Para. (d) added by s. 31 (a) of Act 90 of 1962 and substituted by s. 23 (a) of Act 90 of 1964 and by s. 17 (1) (b) of Act 104 of 1979.]

Provided that, notwithstanding the provisions of section 37D, any lump sum benefit which was received by or accrued to a married woman and which was taken into account for the purposes of this definition in the determination of her husband's taxable income, shall for the purposes of this definition in relation to any lump sum subsequently received by or accrued to either spouse be deemed to be a lump sum which was received by or accrued to the husband:

[Definition of 'formula B' amended by s. 31 (a) of Act 90 of 1962 and by s. 43 of Act 101 of 1990.]

'formula C', in relation to any fund referred to in paragraphs (a) and (b) of the definition of 'pension fund' in section 1 of this Act, means the formula-

\[
A = \frac{B}{C} \times D
\]
in which formula-

(a) ‘A’ represents the amount which has to be determined;

(b) ‘B’ represents-

(i) where the number of completed years of employment are in terms of the rules of the fund in question taken into account for the purpose of determining the amount of the benefit payable to him by the fund, the number of completed years of employment of the taxpayer after 1 March 1998, including previous or other periods of service approved as pensionable service in terms of the rules of any fund after 1 March 1998 (other than completed years of employment representing any benefit of a member of any fund referred to in paragraph (a) or (b) of the definition of "pension fund" in section 1, hereinafter referred to as a 'public sector fund', which is after 1 March 1998 paid for the benefit of such member into another public sector fund in respect of any previous or other periods of service or membership accounted for prior to 1 March 1998 in terms of the rules of any public sector fund); or

(ii) where the number of completed years of employment is not taken into account for that purpose, the number of completed years after 1 March 1998 during which the taxpayer had, until the date of accrual of any benefit, been a member of any public sector fund or funds;

[Para. (b) substituted by s. 47 (1) (a) of Act 30 of 1998.]

(c) ‘C’ represents-

(i) where the number of completed years of employment are in terms of the rules of the fund in question taken into account for the purpose of determining the amount of the benefits payable to him by the fund, the total number of completed years of employment taken into account for the purpose of determining the amount of the benefits payable to the taxpayer by the fund; or

(ii) where the number of completed years of employment is not taken into account for that purpose, the number of completed years during which the taxpayer had, until the date of accrual of any benefit, continuously been a member of any public sector fund or funds;
'lump sum benefit' includes any amount determined by the commutation of any annuity or portion of an annuity and any fixed or ascertainable amount (other than an annuity) payable by or provided in consequence of membership or past membership of any fund referred to in paragraph (e) of the definition of 'gross income' in section one of this Act whether in one amount or in instalments;

[Definition of 'lump sum benefit' substituted by s. 47 (1) (b) of Act 30 of 1998.]

'pension fund', in relation to any taxpayer, means-

(a) a fund which has in respect of the year of assessment in question or any previous year of assessment been approved by the Commissioner as a pension fund under paragraph (c) of the definition of 'pension fund' in section 1 or a corresponding definition in any previous Income Tax Act; or

(b) a fund referred to in paragraph (a) or (b) of the definition of 'pension fund' in section 1 of this Act (other than a fund referred to in paragraph (b) of the definition of 'provident fund'), the rules of which wholly or mainly provide for annuities on retirement to its members,

if during any such year the taxpayer was a member of such fund;

[Definition of 'pension fund' amended by s. 31 (b) of Act 90 of 1962 and substituted by s. 46 (1) (c) of Act 94 of 1983 and s. 41 (1) (b) of Act 28 of 1997.]

'provident fund', in relation to any taxpayer, means-

(a) a fund which has in respect of the year of assessment in question or any previous year of assessment been approved by the Commissioner as a provident fund as defined in section one of this Act or the corresponding provisions of any previous Income Tax Act, if during any such year the taxpayer was a member of such fund;

(b) a fund referred to in paragraph (a) or (b) of the definition of 'pension
fund' in section 1, the rules of which provides the benefits in a lump sum exceeding one-third of the capitalised value of all benefits (including lump sum payments and annuities) to its members on retirement,

if during any such year the taxpayer was a member of such fund;

[Definition of 'provident fund' substituted by s. 41 (1) (c) of Act 28 of 1997.]

'retire' means in relation to a member of-

(a) a pension fund, to retire from employment and become entitled to the payment of an annuity from such fund;

(b) a provident fund, to retire from employment and become entitled to the payment of full benefits in terms of the rules of the fund: Provided that for the purposes of this paragraph 'full benefits' shall in the case of a member who retires from employment on the grounds of ill-health or who retires from employment after attaining the age of fifty-five years in the case of a male or fifty years in the case of a female, include the surrender value of any policy of insurance which is in terms of subparagraph (2)bis of paragraph 4 deemed to be a lump sum benefit.

[Para. (b) amended by s. 23 (b) of Act 90 of 1964.]

[NB: Para. (b) has been amended by s. 35 (1) of the Income Tax Act 21 of 1995, a provision which will come into operation on 1 March 2000. See PENDLEX.]

(c) a retirement annuity fund, to become entitled to the payment of an annuity from such fund, and 'retirement' in relation to a member of any of the said funds bears a corresponding meaning;

'retirement annuity fund' in relation to any taxpayer, means a fund which has in respect of the year of assessment in question or any previous year of assessment been approved by the Commissioner as a retirement annuity fund as defined in section one of this Act or the corresponding provisions of any previous Income Tax Act, if during any such year the taxpayer was a member of such fund.

2. Subject to the provisions of paragraph 2A, the amount to be included in the gross income of any person in terms of paragraph (e) of the definition of 'gross income' in section 1 of this Act shall be the aggregate of the amounts received by or accrued to such person by way of lump sum benefits during any year of assessment from or in consequence of membership or past membership of any pension funds, provident funds or retirement annuity funds, less the
deductions permitted under the provisions of this Schedule.

[Para. 2 substituted by s. 42 of Act 28 of 1997 and by s. 48 of Act 30 of 1998.]

2A For the purposes of paragraph 2, where any lump sum benefit is received from a fund referred to in paragraph (a) or (b) of the definition of 'pension fund' in section 1 of this Act, the amount of such lump sum benefit shall be deemed to be an amount equal to the amount determined in accordance with formula C: Provided that the determination of the deemed amount of the lump sum benefit in terms of this paragraph shall only apply if the person was a member of a fund referred to in paragraph (a) or (b) of the definition of 'pension fund' in section 1 of this Act on 1 March 1998 and thereafter uninterruptedly continued to be a member of any such fund until the date of accrual of the lump sum benefit.

[Para. 2A inserted by s. 43 (1) of Act 28 of 1997 and amended by s. 49 of Act 30 of 1998.]

3. Any lump sum benefit which becomes recoverable in consequence of or following upon the death of a member or past member of a pension fund, provident fund or retirement annuity fund shall be deemed to be a lump sum benefit which accrued to such member or past member immediately prior to his death: Provided that so much of any tax payable as is due to the inclusion in the income of such member or past member of any amount in accordance with the provisions of this paragraph, may be recovered from the person to whom or in whose favour the lump sum benefit in question accrues: Provided further that where any annuity which became payable or may become payable or which is provided or may be provided on or in consequence of or following upon the death of a member or past member of any such fund has on or after 1 July 1983 been commuted for a lump sum, such lump sum shall for the purposes of this paragraph be deemed to be a lump sum which has become recoverable in consequence of or following upon the death of such member or past member.

[Para. 3 amended by s. 47 of Act 94 of 1983 and substituted by s. 50 of Act 30 of 1998.]

4. (1) If in terms of the rules of a pension, provident or retirement annuity fund any lump sum benefit arising out of a member's withdrawal or resignation is payable at a fixed or ascertainable future date, such benefit shall be deemed to have accrued to such member on that date or on the date of his death, whichever is earlier, and shall be assessed to tax in respect of the year of assessment during which such benefit is deemed to accrue as though it were a lump sum benefit derived by him upon his withdrawal or resignation from the fund or upon his retirement or immediately prior to his death, as the case may be.

(2) If upon a member's withdrawal or resignation from or the winding up of
a pension fund, provident fund or retirement annuity fund on or after the fifteenth day of March, 1961, a policy of insurance is ceded or otherwise made over to or in favour of such member before the date of promulgation of the Income Tax Act, 1964, any lump sum due in respect of such policy upon its maturity or surrender before such date shall be deemed to be a lump sum benefit accruing to such member from a pension fund, provident fund or retirement annuity fund, as the case may be, on the date of such maturity or surrender, or, if such member dies before such last-mentioned date, on the date of his death, and shall be assessed to tax in respect of the year of assessment during which such benefit is deemed to accrue as though it were a lump sum benefit derived by him upon his withdrawal or resignation from the fund or upon his retirement or immediately prior to his death, as the case may be: Provided that if after the cession or making over of such policy any premiums are paid thereon by such member, there shall be deducted from such lump sum, in addition to any other deduction to which such member may be entitled in terms of this Schedule, an amount which bears to such lump sum the same ratio as the sum of the premiums paid by him after such cession or making over bears to the sum of all the premiums paid on such policy.

[Sub-para. (2) amended by s. 20 of Act 72 of 1963 and substituted by s. 24 (a) of Act 90 of 1964.]

(2)bis If a policy of insurance is ceded or otherwise made over to or in favour of a member of a pension fund, provident fund or retirement annuity fund by the fund in question on or after the date of commencement of the Income Tax Act, 1964, the surrender value of such policy shall, provided such member retired or ceased to be a member of such fund on or after the fifteenth day of March, 1961, be deemed for the purposes of this Schedule to be a lump sum benefit accruing to such member from such fund on the date of such cession or making over.

[Sub-para. (2)bis inserted by s. 24 (b) of Act 90 of 1964.]

(3) If a member of a provident fund retires from such fund before he reaches the age of fifty-five years in the case of a male or fifty years in the case of a female on grounds other than ill-health, any lump sum benefits received by or accrued to such member in consequence of or following upon such retirement shall, unless the Commissioner having regard to the circumstances of the case otherwise directs, be assessed to tax not in accordance with the provisions of paragraph 5 but in accordance with the provisions of paragraph 6 as though it were a lump sum benefit derived by such member in consequence of or following upon such member's withdrawal or resignation from such fund.

[NB: Sub-para. (3) has been substituted by s. 36 (1) of the Income Tax Act 21 of 1995, a provision which will come into operation on 1 March 2000. See PENDLEX.]
BENEFITS ACCRUING UPON RETIREMENT AND BENEFITS DEEMED TO HAVE ACCRUED IMMEDIATELY PRIOR TO THE TAXPAYER'S DEATH:
DEDUCTIONS (para. 5)

5. (1) The deduction to be allowed in determining the amount required to be included in the taxpayer's gross income for any year of assessment in terms of paragraph 2 shall, if the lump sum benefits in question have been derived in consequence of or following upon the taxpayer's retirement or are deemed to have accrued to him immediately prior to his death, be an amount (not exceeding the aggregate value of such lump sum benefits) equal to the greater of the following amounts, namely-

(a) an amount determined in accordance with formula B in relation to such taxpayer, but subject to the provisions of subparagraph (2); or

(b) an amount equal to the sum of the amounts which would have been allowed to be deducted in terms of paragraph (b)ter of the definition of 'gross income' in section seven of the Income Tax Act, 1941, prior to its amendment by the Income Tax Act, 1961 (Act 80 of 1961), if such lump sum benefits had been received by or had accrued to such taxpayer on the fourteenth day of March, 1961, and had been required to be included in his gross income in terms of the said paragraph, less the aggregate of any deductions which may have been allowed to the taxpayer under this subparagraph or subparagraph (1) of paragraph 5 of the Fourth Schedule to the Income Tax Act, 1941, in respect of any years of assessment preceding the year of assessment in question.

(2) Notwithstanding anything to the contrary contained in the definition of 'formula B' in paragraph 1, the amount that shall be taken into account as represented by the symbol C in that formula for the purpose of determining the amount of the deduction to be allowed in terms of item (a) of subparagraph (1) in the circumstances described in any of the items of this subparagraph shall not be less than the amount stated in the relevant item, namely-

(a) R24 000 if the taxpayer is or was a member of a provident fund (other than a provident fund which has become a pension fund) from which any lump sum benefit was or may be derived in consequence of or following upon his retirement on or after the fifteenth day of March, 1961;

[Item (a) amended by s. 25 of Act 90 of 1964, by s. 35 (a) of Act 88 of 1971, by s. 35 (a) of Act 69 of 1975, by s. 27 (a) of Act 113 of 1977, by s. 28 (a) of Act 104 of 1980, by s. 48 (a) of Act 94 of 1983 and by s. 25 (a) of Act 65 of 1986.]
(b) in respect of lump sum benefits deemed to have accrued immediately prior to the taxpayer's death R60 000 or, if such benefits consist of or include benefits from any pension or provident fund, the greater of the following amounts namely R60 000 or an amount equal to twice so much of the salary actually earned by the taxpayer during the period of twelve months ending at his death from the employer by whom he was employed during his membership of such fund, as does not exceed R60 000;

[Item (b) amended by s. 31 (c) of Act 90 of 1962, by s. 21 of Act 72 of 1963, by s. 35 (b) of Act 88 of 1971, by s. 35 (b) of Act 69 of 1975, by s. 27 (b) of Act 113 of 1977, by s. 28 (b) of Act 104 of 1980, by s. 48 (b) of Act 94 of 1983 and by s. 25 (b) of Act 65 of 1986.]

(c) ......

[Item (c) deleted by s. 31 (d) of Act 90 of 1962.]

(d) in respect of lump sum benefits deemed to have accrued to the taxpayer immediately prior to his death and consisting of or including lump sum benefits derived from retirement annuity funds in any case in which the death has occurred before the taxpayer's retirement in relation to such funds, an amount (not exceeding the aggregate value of such lump sum benefits) equal to so much of the sum of the amounts the taxpayer could have derived in respect of the commutation of one-third of all annuities to which he would have become entitled from such funds if the date of his retirement in relation to such funds had fallen on the day preceding his death, as does not exceed the greater amount which is applicable in relation to the said lump sum benefits under paragraph (i) of the proviso in paragraph (b) of the definition of 'formula B' in paragraph 1 of this Schedule.

[Item (d) amended by s. 35 (c) of Act 88 of 1971, by s. 35 (c) of Act 69 of 1975, by s. 27 (c) of Act 113 of 1977 and by s. 28 (c) of Act 104 of 1980 and substituted by s. 48 (c) of Act 94 of 1983.]

(3) Where in respect of any year of assessment an amount has to be determined in accordance with formula A for the purposes of formula B in relation to any taxpayer in regard to any pension fund or provident fund prior to the date of his retirement in relation to such fund, it shall be assumed for the purposes of such determination that such taxpayer will survive the date of his retirement in relation to the fund in question and that until that date he will continue to be employed on the scale of salary at which he is employed at the date on which the determination is made, and, in regard to any provident fund, will continue to contribute to such fund at the rate at which he is contributing at the last-
(4) For the purposes of any calculation in accordance with formula B no regard shall be had to any lump sum benefit from any retirement annuity fund which has not yet been received by or accrued to the taxpayer.

(5) For the purposes of calculating any amount which would have been allowed to be deducted in terms of paragraph (b) of the definition of 'gross income' in section seven of the Income Tax Act, 1941, in the circumstances described in item (b) of subparagraph (1), regard shall be had to the contributions actually made by the taxpayer to the fund or funds in question and the period or periods of his employment before the fifteenth day of March, 1961, and no cognizance shall be taken of any contributions or of any employment on or after that date.

(6) The number of completed years referred to in paragraph (i) of the proviso to paragraph (b) of the definition of 'formula B' in paragraph 1 of this Schedule shall be the number of completed years during the whole of which the taxpayer concerned had, until the date of accrual of any lump sum benefit to which the provisions of subparagraph (1) of this paragraph apply, been a member of one or more pension funds, provident funds or retirement annuity funds (other than a fund from which he had withdrawn or resigned or a fund which had been wound up): Provided that for the purposes of this paragraph-

(i) where the taxpayer was a member of a pension fund or provident fund the benefits under which are in terms of the rules of such fund determinable according to the periods of employment of the members thereof, the period during which the taxpayer was a member of such fund shall be deemed to be so much of his period of employment (including any period which under the said rules is required to be taken into account for the purpose of determining the amount of such benefits) as had elapsed before the aforesaid date of accrual;

(ii) where the taxpayer was a member of a retirement annuity fund, he had discontinued his contributions to such fund prematurely and he had not been reinstated as a full member in respect of the contributions so discontinued, he shall for the purposes of this paragraph be deemed not to have been a member of such fund during the period in respect of which the contributions in question were not made by him to the fund.
6. The deduction to be allowed in determining the amount required to be included in the taxpayer's gross income for any year of assessment in terms of paragraph 2 shall, if the lump sum benefits in question have been derived in consequence of or following upon his withdrawal or resignation from any pension funds, provident funds or retirement annuity funds or the winding up of any such funds, be the sum of the following amounts, namely-

(a) so much of any lump sum benefit so derived by the taxpayer from any pension fund as is paid for the benefit of such taxpayer into any other pension fund or retirement annuity fund;

[Para. (a) substituted by s. 51 (1) (a) of Act 30 of 1998.]

(b) so much of any lump sum benefit so derived by the taxpayer from any provident fund as is paid for the benefit of such taxpayer into any pension fund, provident fund or retirement annuity fund;

[Para. (b) substituted by s. 51 (1) (a) of Act 30 of 1998.]

(c) so much of any lump sum benefit so derived by the taxpayer from any retirement annuity fund as is applied in accordance with the provisions of subparagraph (xi) of paragraph (b) of the definition of 'retirement annuity fund' in section one of this Act; and

(cA) so much of any lump sum benefit so derived by the taxpayer from any retirement annuity fund as is paid for the benefit of the taxpayer into any other retirement annuity fund;

[Para. (cA) inserted by s. 32 of Act 141 of 1992.]

(d) so much of the excess of the aggregate value of the lump sum benefits in question so derived by the taxpayer from all the funds over the sum of the amounts allowed to be deducted by the taxpayer under the preceding items as does not exceed R1 800:

[Sub-para. (d) amended by s. 5 of Act 30 of 1984.]

Provided that-

(i) in respect of any lump sum benefits so derived by the taxpayer from any pension fund, provident fund or retirement annuity fund the sum of the deductions under this paragraph shall not be less
than the lesser of either the aggregate value of such lump sum benefits or the sum of the taxpayer's own contributions to such fund, including so much of any amounts paid into such fund for his benefit by any other pension fund, provident fund or retirement annuity fund as represented his own contributions to such other fund, but excluding so much of such contributions and amounts representing contributions as ranked for deduction against the taxpayer's income in terms of section 11 (k) or (n) of this Act or the corresponding provisions of any previous Income Tax Act;

(ii) for the purposes of this paragraph the surrender value of any policy of insurance ceded or otherwise made over to the taxpayer by any aforesaid fund and ceded or otherwise made over by the taxpayer to another such fund in the appropriate circumstances contemplated by this paragraph or any amount paid in such circumstances by the taxpayer into such other fund in lieu of or as representing such surrender value or a portion thereof, shall, if such surrender value is in terms of subparagraph (2)bis of paragraph 4 deemed to be a lump sum benefit accruing to the taxpayer, be deemed to have been paid for the benefit of the taxpayer into such other fund; and

(iii) where the lump sum benefit in question has been derived in consequence of or following upon the taxpayer's withdrawal or resignation from a fund referred to in paragraph (a) or (b) of the definition of 'pension fund' in section 1 of this Act, the deduction to be allowed in terms of subparagraph (a) or (b) of this paragraph shall be limited to the amount determined in accordance with 'formula C'.

[Para. 6 substituted by s. 26 of Act 90 of 1964 and amended by s. 18 of Act 104 of 1979 and by s. 51 (1) (b) of Act 30 of 1998.]

7. The normal tax payable in respect of any year of assessment by any person whose income for that year includes an amount determined in accordance with the provisions of this Schedule, shall, subject to the provisions of section 5 of this Act, be determined in accordance with the provisions of section 5 (10) of this Act, but nothing herein contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of his taxable income.

[Para. 7 substituted by s. 27 of Act 88 of 1965, by s. 29 of Act 95 of 1967 and by s. 36 of Act 88 of 1971 and amended by s. 25 of Act 85 of 1987.]
<table>
<thead>
<tr>
<th>Number and year of Law</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act 29 of 1939</td>
<td>Co-operative Societies Act, 1939</td>
<td>Subsections (2) and (3) of section ninety-nine</td>
</tr>
<tr>
<td>Act 31 of 1941</td>
<td>Income Tax Act, 1941</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 46 of 1941</td>
<td>Special Taxation Act, 1941</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 34 of 1942</td>
<td>Income Tax Act, 1942</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 26 of 1943</td>
<td>Income Tax Act, 1943</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 31 of 1943</td>
<td>Special Taxation Amendment Act, 1943</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 47 of 1944</td>
<td>Income Tax Act, 1944</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 39 of 1945</td>
<td>Income Tax Act, 1945</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 59 of 1946</td>
<td>Income Tax Act, 1946</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 52 of 1947</td>
<td>Income Tax Act, 1947</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 40 of 1948</td>
<td>Income Tax Act, 1948</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 45 of 1949</td>
<td>Income Tax Act, 1949</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 35 of 1950</td>
<td>Income Tax Act, 1950</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 64 of 1951</td>
<td>Income Tax Act, 1951</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 56 of 1952</td>
<td>Income Tax Act, 1952</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 34 of 1953</td>
<td>Income Tax Act, 1953</td>
<td>The whole, except section two</td>
</tr>
<tr>
<td>Act 43 of 1955</td>
<td>Income Tax Act, 1955</td>
<td>The whole except sections fourteen and fifteen</td>
</tr>
<tr>
<td>Act 55 of 1956</td>
<td>Income Tax Act, 1956</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 61 of 1957</td>
<td>Income Tax Act, 1957</td>
<td>The whole, except section three</td>
</tr>
<tr>
<td>Act 36 of 1958</td>
<td>Income Tax Act, 1958</td>
<td>The whole, except sections three and nineteen</td>
</tr>
<tr>
<td>Act 78 of 1959</td>
<td>Income Tax Act, 1959</td>
<td>The whole, except section three</td>
</tr>
<tr>
<td>Act 58 of 1960</td>
<td>Income Tax Act, 1960</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 80 of 1961</td>
<td>Income Tax Act, 1961</td>
<td>The whole, except sections thirty-two and thirty-three</td>
</tr>
</tbody>
</table>

Fourth Schedule

AMOUNTS TO BE DEDUCTED OR WITHHELD BY EMPLOYERS AND PROVISIONAL PAYMENTS IN RESPECT OF NORMAL TAX AND PROVINCIAL TAXES (paras1-34)

[Fourth Schedule added by s. 19 of Act 6 of 1963.]

(Section eighty-nine bis of this Act)

PART I
DEFINITIONS (para. 1)

1. For the purposes of this Schedule, unless the context otherwise indicates-

'Black person' ......

[Definition of ‘Black Person’ substituted by s. 47 (1) (a) of Act 85 of 1974 and deleted by s. 6 (a) of Act 30 of 1984.]

'employee' means-
(a) any person (other than a company) who receives any remuneration or to whom any remuneration accrues;

(b) any person who receives any remuneration or to whom any remuneration accrues by reason of any services rendered by such person to or on behalf of a labour broker;

(c) any labour broker; and

(d) any person or class or category of person whom the Minister of Finance by notice in the Gazette declares to be an employee for the purposes of this definition;

[Definition of 'employee' substituted by s. 44 (1) (a) of Act 101 of 1990.]

'employees' tax' means the tax required to be deducted or withheld by an employer in terms of paragraph 2 from remuneration paid or payable to an employee;

'employees' tax certificate' means a certificate required to be issued by an employer in terms of paragraph 13;

'employer' means any person (excluding any person not acting as a principal, but including any person acting in a fiduciary capacity or in his capacity as a trustee in an insolvent estate, an executor or an administrator of a benefit fund, pension fund, provident fund, retirement annuity fund or any other fund) who pays or is liable to pay to any person any amount by way of remuneration, and any person responsible for the payment of any amount by way of remuneration to any person under the provisions of any law or out of public funds (including the funds of any provincial council or any administration or undertaking of the State) or out of funds voted by Parliament or a provincial council;

[Definition of 'employer' amended by s. 22 of Act 72 of 1963 and substituted by s. 44 (1) (b) of Act 101 of 1990.]

'labour broker' means any person who conducts or carries on any business whereby such person for reward provides a client of such business with other persons (other than any person who qualifies as a labour broker under this definition) to render a service or perform work for such client, or procures such other persons for the client, for which services or work such other persons are remunerated by such person;

[Definition of 'labour broker' inserted by s. 44 (1) (c) of Act 101 of 1990 and substituted by s. 52 (1) (a) of Act 30 of 1998.]
'provincial income tax'......

[Definition of 'provincial income tax' deleted by s. 37 of Act 88 of 1971.]

'provincial taxes'......

[Definition of 'provincial taxes' deleted by s. 37 of Act 88 of 1971.]

'provisional tax' means any payment required to be made in terms of paragraph 17;

'provisional taxpayer' means-

(a) any person (other than a company or a person referred to in subparagraph (1) of paragraph 18) who derives by way of income any amount which does not constitute remuneration in terms of the definition of that expression in this paragraph;

(b) unless the Commissioner in the particular case otherwise directs, any director of a private company if such director is ordinarily resident in the Republic or such company is managed and controlled or has its registered office in the Republic;

[Para. (b) substituted by s. 47 (1) (b) of Act 85 of 1974.]

(bA) unless the Commissioner in the particular case otherwise directs, any member of a close corporation if such member is ordinarily resident in the Republic;

[Para. (bA) inserted by s. 38 of Act 121 of 1984.]

(c) any company; and

[Para. (c) substituted by s. 44 (1) (a) of Act 129 of 1991.]

(d) any person (other than a person referred to in paragraph 18 (1) (c)) who is notified by the Commissioner that he is a provisional taxpayer;

[Para. (d) substituted by s. 44 (1) (a) of Act 129 of 1991.]

'remuneration' means any amount of income which is paid or is payable to any person by way of any salary, leave pay, allowance, wage, overtime pay, bonus, gratuity, commission, fee, emolument, pension, superannuation allowance, retiring allowance or stipend, whether in cash or otherwise and whether or not in respect of services rendered, including-
(a) any amount referred to in paragraph (a), (c), (d), (e), (e) or (f) of the definition of 'gross income' in section 1 of this Act;

[Sub-para. (a) substituted by s. 44 (1) (a) of Act 28 of 1997.]

(b) any amount required to be included in such person's gross income under paragraph (i) of that definition;

[Para. (b) substituted by s. 44 of Act 89 of 1969.]

(c) 50 per cent of-

(i) the amount of any allowance or advance in respect of transport expenses referred to in section 8 (1) (b), other than any such allowance or advance contemplated in section 8 (1) (b) (iii) which is based on the actual distance travelled by the recipient, and which is calculated at a rate per kilometre which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under the said section 8 (1) (b) (iii); and

(ii) the amount of any allowance referred to in section 8 (1) (d) granted to the holder of a public office contemplated in section 8 (1) (e).

[Para. (c) inserted by s. 44 (1) (b) of Act 129 of 1991, substituted by s. 33 (b) of Act 141 of 1992, amended by s. 48 (1) of Act 113 of 1993, substituted by s. 16 of Act 140 of 1993 and by s. 37 (1) of Act 21 of 1995 and amended by s. 44 (1) (b) of Act 28 of 1997 and by s. 52 (1) (b) of Act 30 of 1998.]

but not including-

(i) 

[Para. (i) amended by s. 6 (b) of Act 30 of 1984 and deleted by s. 34 of Act 36 of 1996.]

(ii) any amount paid or payable in respect of services rendered or to be rendered by any person (other than a person who is not ordinarily resident in the Republic or an employee contemplated in paragraph (b), (c) or (d) of the definition of 'employee') in the course of any trade carried on by him independently of the person by whom such amount is paid or payable and of the person to whom such services have been or are to be rendered: Provided that for the purposes of this paragraph a person shall not be deemed to carry on a trade
independently as aforesaid-

(aa) if he is subject to the control or supervision of any other person as to the manner in which his duties are performed or to be performed or as to his hours of work; or

(bb) if the amounts paid or payable for his services consist of or include earnings of any description which are payable at regular daily, weekly, monthly or other intervals;

[Para. (ii) substituted by s. 47 (1) (c) of Act 85 of 1974 and amended by s. 44 (1) (e) of Act 101 of 1990.]

(iii) any pension or additional pension under the Aged Persons Act, 1967 (Act 81 of 1967), or the Blind Persons Act, 1968 (Act 26 of 1968), any disability grant or additional or supplementary allowance under the Disability Grants Act, 1968 (Act 27 of 1968), or any grant or contribution under the provisions of section 89 of the Children's Act, 1960 (Act 33 of 1960);

[Para. (iii) substituted by s. 47 (1) (c) of Act 85 of 1974.]

(iv) .......

[Para. (iv) deleted by s. 44 (1) (f) of Act 101 of 1990.]

(v) .......

[Para. (v) substituted by s. 24 of Act 52 of 1970 and deleted by s. 6 (c) of Act 30 of 1984.]

(vi) any amount paid or payable to any employee wholly in reimbursement of expenditure actually incurred by such employee in the course of his employment;

[Para. (vi) substituted by s. 20 of Act 70 of 1989.]

(vii) any amount paid or payable to any director of any private company in respect of services rendered or to be rendered by such director to such company, unless the Commissioner in the particular case otherwise directs;

[Para. (vii) substituted by s. 44 (1) (g) of Act 101 of 1990 and by s. 33 (c) of Act 141 of 1992.]

(viii) any annuity under an order of divorce or decree of judicial
separation or under any agreement of separation;

[Definition of 'remuneration' amended by s. 44 (1) (d) of Act 101 of 1990 and by s. 33 (a) of Act 141 of 1992.]

'representative employer' means-

(a) in the case of any company, the public officer of that company, or, in the event of such company being placed in liquidation or under judicial management, the liquidator or judicial manager, as the case may be;

(b) in the case of any divisional council, municipal council, village management board or like authority or any body corporate or unincorporate (other than a company or a partnership) any manager, secretary, officer or other person responsible for paying remuneration on behalf of such council, board, authority or body;

(c) in the case of a person under legal disability, any guardian, curator, administrator or other person having the management or control of the affairs of the person under legal disability; or

(d) in the case of any employer who is not ordinarily resident in the Republic, any agent of such employer having authority to pay remuneration,

but nothing in this definition shall be construed as relieving any person from any liability, responsibility or duty imposed upon him by this Schedule.

PART II
EMPLOYEES' TAX (paras. 2-16)
EMPLOYERS TO DEDUCT TAX (paras. 2-11A)

2. (1) Every employer (whether or not registered as an employer under paragraph 15) who pays or becomes liable to pay any amount by way of remuneration to any employee shall, unless the Commissioner has granted authority to the contrary, deduct or withhold from that amount by way of employees' tax an amount which shall be determined as provided in paragraph 9, 10, 11 or 12, whichever is applicable, in respect of the liability for normal tax of that employee, or, if such remuneration is paid or payable to an employee who is married and such remuneration is deemed to be income of the employee's spouse, in respect of such liability of that spouse, and shall pay the amount so deducted or withheld to the Commissioner within seven days after the end of the month during which the amount was deducted or withheld, or in the case of a person who ceases to be an employer before the end of such month, within seven days after the day on which he
ceased to be an employer, or in either case within such further period as the Commissioner may approve.

[Sub-para. (1) amended by s. 23 (a) of Act 72 of 1963 and substituted by s. 29 (1) (a) of Act 55 of 1966, by s. 38 of Act 88 of 1971 and by s. 45 (a) of Act 129 of 1991.]

(2) Any employer may, at the written request of any employee, deduct or withhold from any amount of remuneration an amount by way of employees' tax greater than that required to be deducted or withheld in terms of subparagraph (1), and shall remit such amount to the Commissioner, and the provisions of this Schedule relating to employees' tax shall \textit{mutatis mutandis} apply in respect of such amount.

(3) For the purposes of this paragraph 'month' means any of the twelve portions into which any calendar year is divided.

(4) Any amount required to be deducted or withheld from any amount of remuneration under this Schedule by way of employees' tax shall be calculated on the balance of such amount of remuneration remaining after deducting in respect of-

(a) any contribution by the employee concerned to any pension fund or retirement annuity fund which the employer is entitled or required to deduct from such amount of remuneration; and

(b) at the option of the employer, any such contribution to a retirement annuity fund which has been paid by the employee and in respect of which proof of payment has been furnished by the employer, an amount which, having regard to such remuneration or to the period in respect of which it is payable, is sufficient to restrict the aggregate of the deductions under this subparagraph during the year of assessment to an amount equal to the deduction to which the employee is entitled under the provisions of section 11 (k) (i) or (ii) or 11 (n) (aa) or (bb), as the case may be and, in the case of any employee who is entitled to a rebate under section 6 (2) (b), after deducting any contribution by the employee to a medical scheme contemplated in section 18 (1) (a).

[Sub-para. (4) amended by s. 23 (b) of Act 72 of 1963, substituted by s. 29 (1) (b) of Act 55 of 1966 and by s. 48 of Act 85 of 1974, amended by s. 28 of Act 113 of 1977, substituted by s. 40 of Act 90 of 1988 and amended by s. 21 of Act 70 of 1989, by s. 45 (b) of Act 129 of 1991 and by s. 38 of Act 21 of 1995.]

(5) (a) The Commissioner shall on application made to him by any person who is a labour broker or who is an employee by reason of the provisions of
paragraph (d) of the definition of ‘employee’ in paragraph 1, issue to such person a certificate of exemption if-

(i) such person carries on an independent trade and is registered as a provisional taxpayer under the provisions of paragraph 17;

(ii) in the case of any such labour broker, he is registered as an employer under the provisions of paragraph 15; and

(iii) such person has, subject to any extension granted by the Commissioner, submitted all such returns as are required to be submitted by him under this Act.

(b) The certificate of exemption referred to in item (a) shall be issued in such form as the Commissioner may decide and shall be valid for such period as the Commissioner may indicate thereon.

(c) An employer shall not be required to deduct or withhold employees’ tax from any remuneration paid or payable by him to any person who produces to the employer a valid certificate of exemption issued by the Commissioner under item (a).

[Sub-para. (5) added by s. 45 of Act 101 of 1990.]

(6) Any amount included in gross income in terms of paragraph (eA) of the definition of ‘gross income’ shall for the purposes of this Schedule be deemed to be an amount which an employer pays or becomes liable to pay by way of remuneration to an employee.

[Sub-para. (6) added by s. 45 (1) of Act 28 of 1997.]

3. (1) The liability of any employer to deduct or withhold any amount of employees’ tax in terms of paragraph 2 shall not be reduced or extinguished by reason of the fact that the employer has a right or is otherwise than in terms of any law under an obligation to deduct or withhold any other amount from the employees’ remuneration, and such right or obligation shall notwithstanding anything to the contrary in any other law contained, for all purposes be deemed to have reference only to the amount of the remuneration remaining after the amount of employees’ tax referred to in that paragraph has been deducted or withheld.

(2) The provisions of paragraph 2 shall apply in respect of all amounts payable by way of remuneration, notwithstanding the provisions of any law which provide that any such amount shall not be reduced or shall not be subject to attachment.
4. Any amount required to be deducted or withheld in terms of paragraph 2 shall be a debt due to the State and the employer concerned shall save as otherwise provided be absolutely liable for the due payment thereof to the Commissioner.

5. (1) Subject to the provisions of subparagraph (6) any employer who fails to deduct or withhold the full amount of employees' tax as provided in paragraph 2 shall be personally liable for the payment to the Commissioner of the amount which he fails to deduct or withhold, and shall, subject to the provisions of subparagraph (2), pay that amount to the Commissioner not later than the date on which payment should have been made if the employees' tax had in fact been deducted or withheld in terms of paragraph 2.

(2) Where the employer has failed to deduct or withhold employees' tax in terms of paragraph 2 and the Commissioner is satisfied that the failure was not due to an intent to postpone payment of the tax or to evade the employer's obligations under this Schedule, the Commissioner may, if he is satisfied that there is a reasonable prospect of ultimately recovering the tax from the employee, absolve the employer from his liability under subparagraph (1) of this paragraph.

(3) An employer who has not been absolved from liability as provided in subparagraph (2) shall have a right of recovery against the employee in respect of the amount paid by the employer in terms of subparagraph (1) in respect of that employee, and such amount may in addition to any other right of recovery be deducted from future remuneration which may become payable by the employer to that employee, in such manner as the Commissioner may determine.

(4) Until such time as an employee pays to his employer any amount which is due to the employer in terms of subparagraph (3), such employee shall not be entitled to receive from the employer an employees' tax certificate in respect of that amount.

(5) Any amount which an employer is required to pay in terms of subparagraph (1) and which he is entitled to recover from the employee in terms of subparagraph (3) shall, insofar as the employer only is concerned, be deemed to be a penalty due and payable by that employer.

(6) The provisions of subparagraph (1) shall not apply in respect of any amount or any portion of any amount of employees' tax which an employer has failed to deduct or withhold and in respect of which the provisions of subparagraph (3) of paragraph 28 apply.

6. (1) If an employer fails to pay any amount of employees' tax for which he is liable within the period allowable for payment thereof in terms of paragraph 2 he shall, in addition to any other penalty or charge for which he may be liable
under this Act, pay a penalty equal to ten per cent, of such amount.

(2) The Commissioner may, if he is satisfied that the employer's failure to pay the amount of employees' tax was not due to an intent to postpone payment of such tax or otherwise evade his obligations under this Act and was not designed to enable the employee concerned to evade such employee's obligations under this Act, remit the whole or any part of the penalty imposed under subparagraph (1).

(3) The penalty imposed under subparagraph (1) shall be paid to the Commissioner when payment is made of the amount of employees' tax to which it refers or within such further period as the Commissioner may approve.

7. Any agreement between an employer and an employee whereby the employer undertakes not to deduct or withhold employees' tax shall be void.

8. An employee shall not be entitled to recover from an employer any amount deducted or withheld by the employer from the employee's remuneration in terms of paragraph 2.

9. (1) The Commissioner may from time to time, having regard to the rates of normal tax as fixed by Parliament or foreshadowed by the Minister of Finance in his budget statement or as varied by the said Minister under section 5 (3) of this Act, to the rebates applicable in terms of section 6 of this Act and to any other factors having a bearing upon the probable liability of taxpayers for normal tax, prescribe deduction tables applicable to such classes of employees as he may determine, and the manner in which such tables shall be applied, and the amount of employees' tax to be deducted from any amount of remuneration shall, subject to the provisions of subparagraph (3) of this paragraph and paragraphs 10, 11 and 12, be determined in accordance with such tables or where subparagraph (3) is applicable, in accordance with that subparagraph.

[Sub-para. (1) substituted by s. 39 of Act 88 of 1971 and by s. 32 (a) of Act 103 of 1976 and amended by s. 29 of Act 104 of 1980 and by s. 46 of Act 101 of 1990.]

(2) Any tables prescribed by the Commissioner in accordance with subparagraph (1) shall come into force on such date as may be notified by the Commissioner in the Gazette, and shall remain in force until withdrawn by the Commissioner.

(3) The amount to be deducted or withheld in respect of employees' tax from any lump sum to which paragraph (d) or (e) of the definition of 'gross income' in section 1 of this Act or section 7A thereof applies, shall be ascertained by the employer from the Commissioner before paying out such lump sum, and the Commissioner's determination of the amount to be so deducted or withheld
(4) The amount to be deducted or withheld in respect of any amount contemplated in paragraph (eA) of the definition of ‘gross income’ in section 1 of this Act, shall be ascertained by the employer on inquiry from the Commissioner before the date of transfer or conversion of any amount for the benefit or ultimate benefit of any member as contemplated in such paragraph and the Commissioner’s determination of the amount to be so deducted or withheld shall be final.

[Sub-para. (4) added by s. 46 (1) of Act 28 of 1997.]

10. (1) If the Commissioner is satisfied that the circumstances warrant a variation of the basis provided in paragraph 9 for the determination of amounts of employees’ tax to be deducted or withheld from remuneration of employees in the case of any employer he may agree with such employer as to the basis of determination of the said amounts to be applied by that employer, and the amounts to be deducted or withheld by that employer in terms of paragraph 2 shall, subject to the provisions of paragraphs 11 and 12, be determined accordingly.

(2) Any agreement made in terms of subparagraph (1) shall remain in force indefinitely, but the Commissioner or the employer concerned may give notice of termination thereof and upon the expiration of a period of three months from the date of such notice such agreement shall terminate.

11. In order to alleviate hardship to an employee due to illness or other circumstances or to correct any error in regard to the calculation of employees’ tax the Commissioner may, having regard to the circumstances of the case, issue a directive to the employer concerned authorizing the employer to refrain from deducting or withholding any amount under paragraph 2 by way of employees’ tax from any remuneration due to the employee or to deduct or withhold by way of employees’ tax a specified amount or an amount to be determined in accordance with a specified rate or scale, and the employer shall comply with such directive.

[Para. 11 substituted by s. 39 of Act 21 of 1995.]

11A. (1) Where by virtue of the provisions of paragraph (b) of the definition of ‘remuneration’ in paragraph 1, the remuneration of an employee includes any gain made by the exercise, cession or release of any right to acquire any marketable security as contemplated in section 8A of this Act, the amount of such gain shall for the purposes of this Schedule be deemed to be an amount of remuneration which is payable to such employee by the employer by whom such
right was granted.

(2) Employees' tax in respect of the said amount of remuneration shall unless the Commissioner has granted authority to the contrary, be deducted or withheld by the said employer from any consideration paid or payable by him to the said employee in respect of the cession or release of the said right or from any cash remuneration paid or payable by the said employer to the said employee after the said right has to the knowledge of the said employer been exercised, ceded or released.

(3) The provisions of this Schedule shall apply in relation to the amount of employees' tax deducted or withheld under subparagraph (2) as though such amount had been deducted or withheld from the amount of the gain referred to in subparagraph (1).

(4) Before deducting or withholding employees tax under subparagraph (2) the said employer shall ascertain from the Commissioner the amount to be so deducted or withheld.

(5) If the said employer is, by reason of the fact that the amount to be deducted or withheld by way of employees' tax exceeds the amount from which the deduction or withholding is to be made, unable to deduct or withhold the full amount of employees' tax, he shall immediately notify the Commissioner of the fact.

(6) Where an employee has under any transaction to which the employer is not a party made any gain referred to in subparagraph (1), such employee shall forthwith inform the employer of the fact that such gain has been made and of the amount of such gain.

(7) Any employee who without just cause shown by him fails to comply with the provisions of subparagraph (6), shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000.

[Para. 11A inserted by s. 45 of Act 89 of 1969 and amended by s. 47 of Act 28 of 1997.]

STANDARD INCOME TAX ON EMPLOYEES (para. 11B)

[Heading inserted by s. 41 of Act 90 of 1989.]

11B. (1) For the purposes of this paragraph-

'annual equivalent', in relation to any net remuneration, means an amount equal to the sum of such net remuneration multiplied by the ratio which a full year bears to the period in respect of which such net remuneration is payable:
Provided that where the Commissioner has in relation to the employment of any employee issued a directive as contemplated in paragraph (c) of the definition of 'standard employment', he may further direct that the annual equivalent of the net remuneration derived by such employee from such standard employment be determined in such manner as the Commissioner may consider reasonable in the circumstances.

[Definition of 'annual equivalent' amended by s. 22 (a) of Act 70 of 1989.]

'annual tax', in relation to any amount of net remuneration, means an amount equal to the normal tax payable in accordance with the rates of tax fixed in respect of the relevant year of assessment under section 5 (2) of this Act in respect of a taxable income equal to such net remuneration, less a deduction equal to the sum of the rebates to which the employee would have been entitled under section 6 (2) and (3) had the relevant year of assessment ended on the last day of the relevant tax period;

[Definition of 'annual tax' substituted by s. 22 (b) of Act 70 of 1989 and by s. 47 (a) of Act 101 of 1990.]

'net remuneration' means the balance of any remuneration as determined by an employer under paragraph 2 (4) or by the Commissioner under subparagraph (4), but excluding-

(a) any amounts which, when included in the taxpayer's income, will result in the normal tax payable by him being determined under the provisions of section 5 (10);

(b) any amount, if the taxpayer has in the production of such amount incurred expenditure which is deductible in the determination of the taxable income derived by him from such amount, or if he is entitled to an allowance under section 11 (e) which is so deductible, and such expenditure or allowance, or the sum of such expenditure and allowance, as the case may be, exceeds 1 per cent of such amount;

[Para. (b) substituted by s. 47 (b) of Act 101 of 1990.]

(c) any remuneration derived by any person which is under the provisions of section 7 (2) deemed to be income accrued to such person's spouse;

[Para. (c) substituted by s. 47 (b) of Act 101 of 1990 and by s. 46 (a) of Act 129 of 1991.]

(d) ......
Para. (d) deleted by s. 22 (c) of Act 70 of 1989.

(e) ...... 

[Para. (e) deleted by s. 47 (c) of Act 101 of 1990.]

(f) any remuneration not derived-

(i) from standard employment; or

(ii) by way of an annuity payable by a pension fund, provident fund or benefit fund;

[Para. (f) substituted by s. 22 (d) of Act 70 of 1989, by s. 46 (b) of Act 129 of 1991 and by s. 34 (1) of Act 141 of 1992.]

(g) any remuneration paid or payable to any director of any company in respect of services rendered or to be rendered by such director to such company;

[Para. (g) added by s. 46 (c) of Act 129 of 1991.]

(h) the amount of any allowance or advance contemplated in paragraph (c) of the definition of ‘remuneration’ in paragraph 1;

[Para. (h) added by s. 46 (c) of Act 129 of 1991.]

(i) remuneration derived by the taxpayer during any year of assessment in respect of which he is entitled to set off an assessed loss under section 20 (1);

[Para. (i) added by s. 46 (c) of Act 129 of 1991.]

'standard employment' means-

(a) any employment in terms of which an employee is required to render service to any one employer for a period of at least 22 hours in every full week falling within the period of such employment; Provided that for the purposes of this paragraph no regard shall be had to-

(i) periods of temporary absence of an employee due to leave or exceptional circumstances; or

(ii) any temporary reduction in working hours imposed by the
employer; or

(b) the employment of any employee with an employer if such employee declares in writing that he does not and will not during the period in which he holds such employment render services (other than such casual services as may be determined by the Commissioner in the deduction tables prescribed by him under paragraph 9) to any other employer; or

[Para. (b) substituted by s. 47 (d) of Act 101 of 1990 and by s. 40 (a) of Act 21 of 1995.]

(c) where any employer conducts his business in such manner that employees are regularly or frequently employed for such periods as may be required by the employer, the employment of any such employee if the Commissioner, after consultation with the employer or with any body or association representing any group of employers, so directs;

[Definition of 'standard employment' inserted by s. 22 (e) of Act 70 of 1989.]

'tax period', in relation to any employee, means any unbroken period in the year of assessment during which the employee was employed in the Republic in standard employment by any one employer or during which any annuity was paid or became payable to him by any one employer or, where the Commissioner has in relation to the employment of any employee issued a directive as contemplated in paragraph (c) of the definition of 'standard employment', such period as the Commissioner considers appropriate in the circumstances: Provided that where any employer has for the purposes of paragraph 15 applied for separate registration of branches of his undertaking, each such branch shall for the purposes of this definition be deemed at the option of the employer to be a separate employer;

[Definition of 'tax period' substituted by s. 22 (a) of Act 70 of 1989 and amended by s. 47 (a) of Act 101 of 1990, by s. 40 (a) of Act 21 of 1995 and by s. 35 (a) of Act 36 of 1996.]

(2) Notwithstanding the provisions of paragraphs 9 and 10, the amount of employees tax required to be deducted or withheld from any net remuneration paid or payable by an employer to an employee during any tax period shall-

(a) to the extent that the annual equivalent of all such net remuneration so paid or payable during the tax period does not exceed R60 000; or

[Item (a) substituted by s. 47 (f) of Act 101 of 1990 and amended by s. 48 of Act]
(b) where such net remuneration includes any annual payment (being an amount of net remuneration which in terms of the employee's service conditions or in accordance with the employer's practice is payable to the employee once annually or which is determined without reference to any period), to the extent that the sum of all such annual payments and the annual equivalent of all other net remuneration so paid or payable during the tax period does not exceed R60 000,

[Item (b) substituted by s. 47 (f) of Act 101 of 1990 and amended by s. 48 of Act 28 of 1997.]

be an amount (to be known as Standard Income Tax on Employees) which shall, subject to the provisions of subparagraphs (2A) and (4), be finally determined by the employer at the end of the tax period under the provisions of subparagraph (3).

[Sub-para. (2) substituted by s. 22 (g) of Act 70 of 1989 and amended by s. 46 (d) of Act 129 of 1991.]

(2A) Where at the end of a tax period the total amount of employees tax which has been deducted or withheld by an employer from the net remuneration paid or payable by him to an employee during such tax period exceeds or falls short of the amount of Standard Income Tax on Employees determinable under subparagraph (3) in relation to such net remuneration by an amount not exceeding R5, the said total amount of employees tax shall at the option of the employer be deemed to be the amount of Standard Income Tax on Employees determinable in relation to such net remuneration under the said subparagraph.

[Sub-para. (2A) inserted by s. 22 (h) of Act 70 of 1989.]

(3) The amount of Standard Income Tax on Employees to be deducted or withheld from any net remuneration under the provisions of subparagraph (2) shall-

(a) in the case of any net remuneration other than an annual payment referred to in subparagraph (2) (b), be an amount equal to the annual tax determined in relation to so much of the annual equivalent of such net remuneration as does not exceed R60 000 divided by the ratio which a full year bears to the tax period; and

[Item (a) substituted by s. 22 (i) of Act 70 of 1989 and by s. 47 (g) of Act 101 of 1990 and amended by s. 48 of Act 28 of 1997.]
(b) in the case of any annual payment referred to in subparagraph (2) (b), be an amount determined in accordance with the formula-

\[ S = T1 - T2 \]

in which formula-

(i) ‘S’ represents the amount of Standard Income Tax on Employees to be determined;

(ii) ‘T1’ represents the annual tax determined in relation to an amount (not exceeding R60 000) equal to the sum of all such annual payments and the annual equivalent of all other net remuneration paid or payable by the employer to the employee during the tax period; and

(iii) ‘T2’ represents the annual tax determined in relation to an amount (not exceeding R60 000) equal to the said annual equivalent.

[Item (b) amended by s. 22 (j) of Act 70 of 1989, substituted by s. 47(g) of Act 101 of 1990 and amended by s. 48 of Act 28 of 1997.]

[Sub-para. (3) amended by s. 46 (d) of Act 129 of 1991.]

(4) Where the taxpayer is entitled to a deduction under section 11 (k) or (n) of this Act in respect of any contribution to a pension fund or retirement annuity fund which has not been taken into account by his employer in the determination of the balance contemplated in the definition of 'net remuneration' in subparagraph (1), or to a deduction under section 18 of this Act, and the taxpayer's taxable income derived otherwise than from net remuneration cannot be reduced by the full amount of any such deduction, the Commissioner shall on application made by the taxpayer amend-

(a) the determination of the amount of any net remuneration derived by the taxpayer; and

(b) the amount of Standard Income Tax on Employees payable by the taxpayer in respect of such net remuneration.

[Sub-para. (4) amended by s. 47 (h) of Act 101 of 1990 and by s. 53 (1) of Act 30 of 1998.]

(4A) Where in respect of any tax period falling within a year of assessment which ended on the last day of February 1991, 1992 or 1993 any employee failed to furnish his employer with a return of personal particulars or a fresh return as
required in terms of paragraph 12 (1) and in consequence of such failure the
employer determined an amount of Standard Income Tax on Employees in
relation to such employee which exceeded the amount of Standard Income Tax
on Employees which would have been determined had such return or fresh
return been duly furnished, the Commissioner may, notwithstanding the
provisions of subparagraph (6), amend the determination of the amount of
Standard Income Tax on Employees payable by the employee in respect of such
tax period and may, notwithstanding the provisions of section 102 (2), make a
refund of the amount paid in excess: Provided that the provisions of this
subparagraph shall not apply in respect of any application for amendment of the
determination of the amount of Standard Income Tax on Employees received by
the Commissioner on or after 1 December 1996.

[Sub-para. (4A) inserted by s. 3 of Act 168 of 1993 and amended by s. 35 (b)
of Act 36 of 1996.]

(5) (a) Where at the end of any tax period the employees tax required to
be deducted or withheld from any net remuneration paid or payable by an
employer to an employee during the tax period consists solely of an amount of
Standard Income Tax on Employees and the total amount of employees tax
actually deducted or withheld by the employer from such net remuneration
exceeds such Standard Income Tax on Employees required to be deducted or
withheld from such net remuneration, the employer shall repay to the employee
the amount of such excess.

[Item (a) substituted by s. 22 (k) of Act 70 of 1989.]

(b) Any amount of employees tax which has been repaid by an employer
to an employee under the provisions of item (a) may be deducted by the
employer from any subsequent payment of employees tax due by him, or shall
be refunded to the employer by the Commissioner.

(6) For the purposes of determining the amount of Standard Income Tax
on Employees required to be deducted or withheld from any net remuneration
paid or payable by an employer to an employee, the employer shall not allow the
deduction of the rebate contemplated in section 6 (2) (b) unless he is in
possession of a written declaration by the employee that he would be over the
age of 65 years on the last day of the year of assessment: Provided that-

(a) where the employee has failed, or is deemed to have failed in terms
of paragraph (b), to furnish such written declaration and in
consequence of such failure the amount of Standard Income Tax
on Employees determined by the employer is greater than the
amount which would have been determined had the employee
submitted such written declaration, the amount so determined by
the employer shall for the purposes of this paragraph be deemed to
have been correctly determined; and

(b) where an employee has not furnished such written declaration in sufficient time to enable the employer to take account thereof for the purpose of determining such amount of annual tax, the employee shall be deemed for the said purpose to have failed to render such written declaration.

[Sub-para. (6) substituted by s. 40 (c) of Act 21 of 1995.]

(7) Any amount of employees tax which-

(a) has been determined by an employer as representing the amount of Standard Income Tax on Employees required to be determined by him under the provisions of this paragraph in relation to any net remuneration paid or payable by him to an employee;

(b) has been deducted or withheld by the employer from such net remuneration; and

(c) is not more than 2 per cent greater or less than the amount of Standard Income Tax on Employees required to be determined in relation to such net remuneration,

[Item (c) amended by s. 46 (e) of Act 129 of 1991.]

shall be deemed to be an amount of Standard Income Tax on Employees correctly determined under those provisions.

(8) Every employer shall on any employees tax certificate furnished by him in terms of paragraph 13 (1), indicate separately the amount of Standard Income Tax on Employees determined by him and deducted or withheld from remuneration payable to the employee concerned.

(9) (a) For the purposes of determining the amount of Standard Income Tax on Employees for which any employee has become liable at the end of any tax period, an employer shall, subject to any variation referred to in paragraph 10, have regard to the latest tax deduction tables, and the manner in which such tables shall be applied, which have been prescribed by the Commissioner under paragraph 9 and which are in force on the date upon which such tax period ends.

(b) Any determination made by an employer in accordance with the provisions of item (a) shall be deemed to have been correctly made in accordance with the rates of tax fixed for the relevant year of assessment under section 5 (2) and in accordance with the provisions of this Act as applicable to the tax period, notwithstanding that the rates of tax so fixed may differ from the
rates of tax upon which such deduction tables are based or that any provision of this Act taken into account by the Commissioner in prescribing the manner in which such tables shall be applied, is amended with effect from a date falling before the end of such tax period.

[Sub-para. (9) deleted by s. 22 (l) of Act 70 of 1989 and added by s. 47 (i) of Act 101 of 1990.]

[Para. 11B inserted by s. 41 of Act 90 of 1988.]


12A. ...... [Para. 12A inserted by s. 49 of Act 113 of 1993 and deleted by s. 42 of Act 21 of 1995.]

**FURNISHING AND OBTAINING OF EMPLOYEES’ TAX CERTIFICATES (para. 13)**

13. (1) Subject to the provisions of paragraphs 5 and 28, every employer who during any period contemplated in subparagraph (1A) deducts or withholds any amount by way of employees tax as required by paragraph 2 shall within the time allowed by subparagraph (2) of this paragraph deliver to each employee or former employee to whom remuneration has during the period in question been paid or become due by such employer, an employees tax certificate in such form as the Commissioner may prescribe or approve, which shall show the total remuneration of such employee or former employee and the sum of the amounts of employees tax deducted or withheld by such employer from such remuneration during the said period, excluding any amount of remuneration or employees tax included in any other employees tax certificate issued by such employer unless such other certificate has been surrendered to such employer by the employee or former employee and has been cancelled by such employer and dealt with by him as provided in subparagraph (10).

[Sub-para. (1) amended by s. 24 (a) of Act 72 of 1963 and substituted by s. 49 (a) of Act 101 of 1990.]

(1A) The period referred to in subparagraph (1) shall be the period of 12 months ending on the last day of February of any year or, at the option of the employer which may be exercised by him in relation to all his employees or any class of his employees, the period, whether of 12 months or not (to be known as an alternate period), commencing on the day following the last day of the
preceding alternate period in relation to the employer and ending on a date falling not more than 14 days (or such greater number of days as the Commissioner having regard to the circumstances of the case may allow) before or after the last day of February of any year.

[Sub-para. (1A) inserted by s. 49 (b) of Act 101 of 1990.]

(1B) Where any employer has in relation to any employee exercised an option as contemplated in subparagraph (1A), any remuneration which is paid or becomes payable to the employee by the employer during an alternate period shall for the purposes of this Act be deemed to have been paid or to have become payable to the employee during the year of assessment ended on the last day of February of the calendar year in which such alternate period ended.

[Sub-para. (1B) inserted by s. 49 (b) of Act 101 of 1990.]

(2) The employees’ tax certificate referred to in subparagraph (1) shall be delivered-

(a) if the employer who is required to deliver the certificate has not ceased to be an employer in relation to the employee concerned, within 60 days after the end of the period to which the certificate relates;

[Item (a) amended by s. 24 (a) of Act 72 of 1963 and by s. 49 (c) of Act 101 of 1990.]

(b) if the said employer has ceased to be an employer in relation to the employee concerned but has continued to be an employer in relation to other employees, within fourteen days of the date on which he has so ceased; or

[Sub-item (b) amended by s. 24 (a) of Act 72 of 1963.]

(c) if the said employer has ceased to be an employer, within seven days of the date on which he has so ceased,

[Sub-item (c) amended by s. 24 (a) of Act 72 of 1963.]

or in any particular case within such further period as the Commissioner may approve.

(3) For the purposes of subparagraph (2) an employer shall, if the Commissioner having regard to the circumstances of the case so directs be deemed not to have ceased to be an employer in relation to any of his casual employees who is likely from time to time to be re-employed by such employer.
(4) Notwithstanding the provisions of subparagraphs (1) and (2) any employer who has deducted or withheld employees' tax from the remuneration of any employee shall as and when required by the Commissioner deliver to such employee an employees' tax certificate in such form as the Commissioner may prescribe or approve, which shall show the total remuneration of such employee or former employee and the sum of the amounts of employees' tax deducted or withheld by such employer from such remuneration during any period specified by the Commissioner but excluding any amount of remuneration or employees' tax included in any other employees' tax certificate issued by such employer unless such other certificate has been surrendered to such employer by the employee or former employee and has been cancelled by such employer and dealt with by him as provided in subparagraph (10).

(5) It shall be the duty of any employee or former employee who has not received an employees' tax certificate within the time allowed by subparagraph (2) forthwith to apply to the employer for such certificate.

(6) Every taxpayer shall when rendering a return of income under the provisions of section sixty-six of this Act, attach to such return all employees' tax certificates in his possession which disclose information in respect of the year of assessment to which the return relates.

(7) It shall be sufficient compliance with the provisions of subparagraph (1) or (4) in regard to the delivery of any employees' tax certificate to any employee or former employee if such certificate is delivered to the employees' authorized agent or the representative taxpayer in respect of the remuneration shown in such certificate or, where delivery cannot conveniently be effected by personal delivery, if such certificate is sent to the employee or former employee or such agent or representative taxpayer by registered post.

(8) An employer may at the request of the employee or former employee issue a duplicate employees' tax certificate but any such duplicate shall be clearly marked as such and shall disclose full details of the original certificate.

(9) Unless authorized thereto by the Commissioner no duplicate employees' tax certificate may be issued by an employer otherwise than as provided in subparagraph (8).

(10) Any cancelled or spoiled employees' tax certificate shall not be
destroyed by the employer concerned but shall be retained by him until the
Commissioner requires it to be surrendered to him.

(11) The Commissioner shall control the issue to employers of stocks of
unused employees’ tax certificates and may prescribe conditions in regard to the
manner in which such unused certificates may be used or as to the surrender of
unused stocks of such certificates and every employer shall account to the
Commissioner for used, unused, cancelled or spoiled certificates as and when
required by the Commissioner.

(12) In the case of any employer who has a mechanized accounting
system the Commissioner may subject to such conditions as he may impose
approve the use by such employer of employees’ tax certificates in a form other
than the form prescribed for general use and if any such employer fails to comply
with the conditions imposed by the Commissioner the Commissioner may
withdraw his consent for the use of such certificates and the employer shall
forthwith or from any date specified by the Commissioner cease to use such
certificates and shall within such period as the Commissioner may prescribe
surrender to the Commissioner all unused stocks of such certificates.

(13) Every person who ceases to be an employer shall, unless the
Commissioner otherwise directs, within fourteen days of his ceasing to be an
employer surrender to the Commissioner all unused employees’ tax certificates in
his possession.

(14) If any person fails to surrender any unused employees' tax certificates
as required by subparagraph (12) or (13), any officer engaged in carrying out the
provisions of this Act who has in relation to such person been authorized thereto
by the Commissioner in writing or by telegram may without previous notice, at
any time during the day enter any premises whatsoever and on such premises
search for and seize such certificates and in carrying out such search, open or
cause to be removed and open any article in which he suspects any such
certificates to be contained.

(15) For the purposes of this Schedule any employees’ tax certificate on
which appears the name or any trade name of any employer shall until the
contrary is proved be deemed to have been issued by such employer if such
certificate is in a form prescribed by the Commissioner for general use and was
supplied by the Commissioner to such employer for use by him or is in a form
approved by the Commissioner under subparagraph (12) for use by such
employer.

[Sub-para. (15) amended by s. 24 (b) of Act 72 of 1963.]

EMPLOYERS TO KEEP RECORDS AND FURNISH RETURNS (para. 14)
14. (1) Every employer shall in respect of each employee maintain a record showing the amounts of remuneration paid or due by him to such employee and the amount of employees' tax deducted or withheld from each such amount of remuneration, and such record shall be retained by the employer and shall be available for scrutiny by the Commissioner.

(2) Every employer shall when making any payment of employees' tax submit to the Commissioner a declaration in such form as the Commissioner may prescribe.

[Sub-para. (2) substituted by s. 40 of Act 88 of 1971.]

(3) Every employer shall-

(a) within 60 days after the end of each period contemplated in paragraph 13 (1A); and

(b) if during any such period he ceases to carry on any business or other undertaking in respect of which he has paid or becomes liable to pay remuneration to any employee or otherwise ceases to be an employer, within 14 days after the date on which he has so ceased to carry on such business or undertaking or to be an employer, as the case may be,

or within such longer time as the Commissioner may approve, render to the Commissioner a return in such form as the Commissioner may prescribe showing the names and addresses of all the persons who during such period were employees in relation to such employer and the total remuneration paid to or accrued to each employee in respect of such period and the total amount of employees tax deducted or withheld from the remuneration of each such employee during such period.

[Sub-para. (3) substituted by s. 50 of Act 101 of 1990.]

REGISTRATION OF EMPLOYERS (para. 15)

15. (1) Every person who is an employer shall apply to the Commissioner in such form as the Commissioner may prescribe for registration as an employer within 14 days after becoming an employer, or within such further period as the Commissioner may approve: Provided that where no one of such employer's employees is liable for normal tax, the provisions of this paragraph shall not apply to such employer.

[Sub-para. (1) substituted by s. 36 of Act 36 of 1996.]

(1A) ......
(2) Any person who has furnished a declaration to the Commissioner under the provisions of section thirty-six of the Income Tax Amendment Act, 1962 (Act 90 of 1962), shall be deemed to have applied for registration as an employer under this paragraph.

(3) Every person who has applied or is deemed to have applied for registration under subparagraph (1) shall within fourteen days after changing his address or ceasing to be an employer, notify the Commissioner in writing of his new address or of the fact of his having ceased to be an employer, as the case may be.

(4) The Commissioner may at such times as he may decide issue public notices drawing attention to the provisions of this paragraph.

LIABILITY OF REPRESENTATIVE EMPLOYERS AND OTHERS (para. 16)

16. (1) Every representative employer shall as regards the remuneration which he pays or is liable to pay to any employee in his representative capacity, be subject in all respects to the same duties, responsibilities and liabilities under this Schedule as if that remuneration were remuneration paid or liable to be paid by him in his personal capacity.

(2) Any employees’ tax or interest on employees’ tax or any penalty imposed under this Part shall be recovered from the person who in terms of the definition of ‘employer’ in paragraph 1 is an employer by virtue of his having paid or become liable to pay remuneration in a fiduciary capacity or in his capacity as a trustee in an insolvent estate, an executor, or an administrator of a benefit fund, pension fund, provident fund, retirement annuity fund or any other fund, or from the representative employer, but to the extent only of any assets belonging to the person, body, trust, estate or fund represented or administered by him which may be in his possession or under his management, disposal or control, and the provisions of sections ninety-six and ninety-seven of this Act shall mutatis mutandis apply in the case of such first-mentioned person or representative employer as if he were a representative taxpayer.

(3) The executor of the estate of any deceased employer or the trustee of the insolvent estate of any employer shall fulfill such obligations of the deceased or insolvent employer under paragraphs 13 and 14 as arise in consequence of that employer ceasing to be an employer because of his death or insolvency, or as have not been fulfilled by such employer before his death or insolvency.

PART III
PROVISIONAL TAX (paras. 17-27)
PAYMENT OF PROVISIONAL TAX (para. 17)

17. (1) Every provisional taxpayer shall in the manner provided in this Part make payments (called provisional tax) to the Commissioner in respect of his liability for normal tax in respect of every year of assessment.

[Sub-para. (1) substituted by s. 41 (a) of Act 88 of 1971.]

(2) ......

[Sub-para. (2) deleted by s. 41 (b) of Act 88 of 1971.]

(3) Where for the purpose of determining any amount of provisional tax required to be paid by any provisional taxpayer in respect of any year of assessment the liability of such taxpayer for normal tax is required to be estimated in respect of such year, such liability shall be deemed to be the amount of normal tax which, calculated at the relevant rate referred to in subparagraph (4), would be payable by the provisional taxpayer in respect of the amount of taxable income estimated by such taxpayer in terms of paragraph 19 (1) during the period prescribed by this Schedule for the payment of the said amount of provisional tax, or any extension of such period granted in terms of paragraph 25 (2), or if the amount so estimated has been increased by the Commissioner in terms of paragraph 19 (3), the amount of normal tax which, calculated at the said rate, would be payable by the provisional taxpayer in respect of the amount of taxable income as so increased, or if the Commissioner has estimated the provisional taxpayer's taxable income in terms of paragraph 19 (2), the amount of normal tax which, calculated at the said rate, would be payable by the provisional taxpayer in respect of the amount of taxable income so estimated.

[Sub-para. (3) substituted by s. 41 (c) of Act 88 of 1971.]

(4) For the purposes of any calculation of normal tax under subparagraph (3) the rate at which such tax is to be calculated shall be the relevant rate which on the date of payment of the provisional tax in question is in force in respect of the year of assessment in respect of which such provisional tax is required to be paid under this Schedule, or if at the said date the rate has not been fixed, the relevant rate in respect of that year foreshadowed by the Minister of Finance in his budget statement, or if at that date the rate has not been fixed or so foreshadowed, the relevant rate which is in force in respect of the latest preceding year of assessment in respect of which rates have been fixed by Parliament.

[Sub-para. (4) substituted by s. 41 (c) of Act 88 of 1971 and by s. 33 of Act 103 of 1976.]
(5) The Commissioner may from time to time, having regard to the rates of normal tax as fixed by Parliament or foreshadowed by the Minister of Finance in his budget statement or as varied by the said Minister under section 5 (3) of this Act, to the rebates applicable in terms of section 6 (2) and (3) (a) of this Act and to any other factors having a bearing upon the probable liability of taxpayers for normal tax, prescribe tables for optional use by provisional taxpayers falling within any category specified by the Commissioner, or by provisional taxpayers generally, for the purpose of estimating the liability of such taxpayers for normal tax, and the Commissioner may prescribe the manner in which such tables shall be applied.

[Sub-para. (5) added by s. 27 of Act 90 of 1964, substituted by s. 41 (c) of Act 88 of 1971 and by s. 33 of Act 103 of 1976 and amended by s. 30 of Act 104 of 1980.]

(6) Any tables prescribed by the Commissioner in accordance with subparagraph (5) shall come into force on such date as may be notified by the Commissioner in the Gazette, and shall remain in force until withdrawn by the Commissioner.

[Sub-para. (6) added by s. 27 of Act 90 of 1964.]

(7) The provisions of subparagraphs (3) and (4) shall not apply where the liability of a provisional taxpayer for normal tax is estimated in accordance with any tables prescribed for his use under the provisions of subparagraph (5) and not withdrawn under the provisions of subparagraph (6).

[Sub-para. (7) added by s. 27 of Act 90 of 1964 and substituted by s. 41 (d) of Act 88 of 1971.]

(8) Every person who is a provisional taxpayer shall within 30 days after the date upon which he becomes a provisional taxpayer, apply to the Commissioner for registration as a provisional taxpayer.

[Sub-para. (8) added by s. 51 of Act 101 of 1990.]

EXEMPTIONS (para. 18)

18. (1) There shall be exempt from payment of provisional tax-

(a) in respect of any period in respect of which provisional tax would but for the provisions of this item be payable by him any person (other than a company or a director of a private company) who satisfies the Commissioner that apart from any taxable income which he may derive by way of remuneration or any amount
referred to in paragraph (i), (iii) or (v) of the definition of 'remuneration' in paragraph 1, he will not during that period derive any taxable income in excess of \( \text{R}1\,000 \).

[Item (a) substituted by s. 28 of Act 90 of 1964 and amended by s. 19 of Act 104 of 1979.]

(b) any person in respect of whose liability for normal tax for the relevant year of assessment payments are required to be made under section thirty-three or thirty-five of this Act;

(c) any person who under the provisions of subparagraph (2) has elected not to be a provisional taxpayer and who has not under the provisions of subparagraph (3) become a provisional taxpayer in respect of the relevant year of assessment;

(d) any natural person (other than a director of a private company) who on the last day of the year of assessment will be over the age of 65 years, if the Commissioner is satisfied that such person's taxable income for that year-

(i) will not exceed \( \text{R}50\,000 \);

[Sub-item (i) amended by s. 23 of Act 70 of 1989, by s. 50 of Act 113 of 1993 and by s. 37 (1) of Act 36 of 1996.]

(ii) will not be derived wholly or in part from the carrying on of any business; and

(iii) will not be derived otherwise than from remuneration, interest, dividends, dividends on shares in any mutual building society or rental from the letting of fixed property.

[Sub-item (iii) substituted by s. 9 (1) of Act 108 of 1986.]

[Item (d) added by s. 42 of Act 88 of 1971, deleted by s. 49 (1) of Act 85 of 1974 and added by s. 26 (1) of Act 65 of 1986.]

(2) Any person (other than a company) who-

(a) has at any time during the period of eight months ending the twenty-eighth day of February, 1963, carried on and is on that date carrying on farming, fishing or diamond digging operations, or has after that date, but not later than the thirtieth day of June, 1965, commenced for the first time to carry on any such operations, unless prior to the date of such commencement he has by virtue of
paragraph (a) of the definition of 'provisional taxpayer' in paragraph 1 become a provisional taxpayer; and

(b) shows to the satisfaction of the Commissioner that his taxable income will be wholly or mainly derived from such operations,

shall, subject to the provisions of subparagraph (5), be entitled to elect not to be a provisional taxpayer provided such election is made in such form as the Commissioner may prescribe and is lodged with the Commissioner not later than the thirtieth day of June, 1963, or, in the case of any person who commenced to carry on such operations after the twenty-eighth day of February, 1963, not later than the last day of the year of assessment during which such operations were so commenced.

(3) Any election made under subparagraph (2) shall be binding upon the person making such election and shall remain in force until-

(a) the Commissioner upon such terms and conditions as he may impose has consented in writing to such person becoming a provisional taxpayer; or

(b) it appears to the Commissioner that it is unlikely that such person will derive his taxable income wholly or mainly from farming, fishing or diamond digging operations.

(4) Any decision of the Commissioner in the exercise of his discretion under item (b) of subparagraph (3) shall be subject to objection and appeal.

(5) In any case where it appears that the taxable income of any person will consist in whole or in part of amounts derived by his wife, regard shall for the purposes of item (b) of subparagraph (2) and item (b) of subparagraph (3) be had to the total taxable income to be derived by both the husband and the wife, and in such case the election under subparagraph (2) shall be made by the husband.

ESTIMATES OF TAXABLE INCOME TO BE MADE BY PROVISIONAL TAXPAYERS (para. 19)

19. (1) (a) Every provisional taxpayer (other than a company) shall, during every period within which provisional tax is or may be payable by him as provided in this Part, or any extension of such period granted in terms of paragraph 25 (2), submit to the Commissioner, in such form as the Commissioner may prescribe, an estimate of the total taxable income which will be derived by the taxpayer in respect of the year of assessment in respect of which provisional tax is or may be payable by him.

(b) Every company which is a provisional taxpayer shall, during every
period within which provisional tax is or may be payable by it as provided in this Part or any extension of such period granted in terms of paragraph 25 (2), submit to the Commissioner, in such form as the Commissioner may prescribe, an estimate of the total taxable income which will be derived by the company in respect of the year of assessment in respect of which provisional tax is or may be payable by the company.

[Item (b) substituted by s. 49 (a) of Act 94 of 1983.]

(c) The amount of any estimate so submitted by a provisional taxpayer (other than a company) during the period referred to in paragraph 21 (1) (a) or any extension of such period granted in terms of paragraph 25 (2), or by a company (as a provisional taxpayer) during the period referred to in paragraph 23 (a) or any extension of such period granted in terms of paragraph 25 (2), shall, unless the Commissioner, having regard to the circumstances of the case, agrees to accept an estimate of a lower amount, not be less than the basic amount applicable to the estimate in question, as contemplated in item (d).

[Item (c) substituted by s. 49 (b) of Act 94 of 1983.]

(d) The basic amount applicable to any estimate submitted by a provisional taxpayer under this paragraph shall, for the purposes of this paragraph and paragraph 20, be deemed to be-

(i) as respects an estimate submitted by a provisional taxpayer (other than a company) under item (a), the taxpayers’ taxable income, as assessed by the Commissioner, for the latest preceding year of assessment in relation to such estimate; or

(ii) as respects an estimate submitted by a company under item (b), the company’s taxable income, as assessed by the Commissioner, for the latest preceding year of assessment in relation to such estimate;

[Sub-item (ii) substituted by s. 49 (c) of Act 94 of 1983.]

(iii) ......

[Sub-item (iii) deleted by s. 49 (d) of Act 94 of 1983, added by s. 52 (1) (a) of Act 101 of 1990 and deleted by s. 44 (c) of Act 21 of 1995.]

(e) For the purposes of item (d), the latest preceding year of assessment in relation to any estimate under this paragraph shall be deemed to be the latest of the years of assessment-

(i) preceding the year of assessment in respect of which the estimate
(ii) in respect of which a notice of assessment relevant to the estimate has been issued by the Commissioner not less than fourteen days before the date on which the estimate is submitted to the Commissioner: Provided that where the Commissioner has in respect of any estimate required to be made by a provisional taxpayer issued to the taxpayer a return for the payment of provisional tax upon which the Commissioner has indicated the taxpayer's taxable income for the latest preceding year of assessment, in respect of which a notice of assessment was issued prior to the issue of such return, such taxable income shall at the option of the taxpayer be deemed to be the basic amount applicable to such estimate.

[Sub-item (ii) amended by s. 52 (1) (b) of Act 101 of 1990.]

[Sub-para. (1) substituted by s. 28 (1) of Act 88 of 1965, by s. 46 (1) of Act 89 of 1969 and by s. 50 (1) (a) of Act 85 of 1974.]

(1A) ......

[Sub-para. (1A) inserted by s. 43 (1) of Act 88 of 1971 and deleted by s. 49 (e) of Act 94 of 1983.]

(2) If any provisional taxpayer fails to submit any estimate as required by subparagraph (1), the Commissioner may estimate the taxable income which is required to be estimated, and such estimate shall be final and conclusive.

[Sub-para. (2) substituted by s. 50 (1) (b) of Act 85 of 1974.]

(3) The Commissioner may call upon any provisional taxpayer to justify any estimate made by him in terms of subparagraph (1), or to furnish particulars of his income and expenditure or any other particulars that may be required, and, if the Commissioner is dissatisfied with the said estimate, he may increase the amount thereof to such amount as he considers reasonable, and the estimate as increased shall be final and conclusive.

(4) ......

[Sub-para. (4) deleted by s. 50 (1) (c) of Act 85 of 1974.]

(5) Any estimate made by the Commissioner under the provisions of subparagraph (2) or (3) shall be deemed to take effect in respect of the relevant period within which the provisional taxpayer is required to make any payment of provisional tax in terms of this Part, or within any extension of such period.
grant in terms of subparagraph (2) of paragraph 25.

ADDITIONAL TAX IN THE EVENT OF TAXABLE INCOME BEING UNDERESTIMATED (para. 20)

20. (1) If the final or last estimate of his taxable income submitted in terms of paragraph 19 (1) (a) by a provisional taxpayer other than a company, or the estimate of his taxable income in respect of the period contemplated in paragraph 23 (b) submitted in terms of paragraph 19 (1) (b) by a company which is a provisional taxpayer, in respect of any year of assessment discloses an estimated amount of taxable income which is less than 90 per cent of the amount of the actual taxable income in respect of which the estimate was made, as finally determined for that year under this Act, and which is also less than the basic amount applicable to the estimate in question, as contemplated in paragraph 19 (1) (d), the taxpayer shall, subject to the provisions of subparagraphs (2), (3) and (4), be required to pay to the Commissioner, in addition to the normal tax chargeable in respect of his taxable income for such year of assessment, an amount by way of additional tax equal to 20 per cent of the difference between the amount of normal tax as calculated in respect of the amount of taxable income as so disclosed and the lesser of the following amounts, namely-

(a) the amount of normal tax calculated, at the rates applicable in respect of the said year of assessment, in respect of a taxable income equal to ninety per cent of the said actual taxable income; and

(b) the amount of normal tax calculated in respect of a taxable income equal to the said basic amount, at the rates applicable in respect of that year.

[Sub-para. (1) amended by s. 25 of Act 72 of 1963, substituted by s. 29 (1) of Act 88 of 1965, by s. 47 (1) (a) of Act 89 of 1969, by s. 44 of Act 88 of 1971 and by s. 51 (1) (a) of Act 85 of 1974 and amended by s. 36 of Act 69 of 1975, by s. 50 of Act 94 of 1983 and by s. 39 (1) of Act 121 of 1984.]

(1A) .......

[Sub-para. (1A) inserted by s. 47 (1) (b) of Act 89 of 1969 and deleted by s. 51 (1) (b) of Act 85 of 1974.]

(2) Where the Commissioner is satisfied that the amount of any estimate referred to in subparagraph (1) was not deliberately or negligently understated and was seriously calculated with due regard to the factors having a bearing thereon, or if the Commissioner is partly so satisfied, the Commissioner may in his discretion remit the additional tax or a part thereof.
(3) The provisions of subparagraph (1) of this paragraph shall not apply in relation to any final or last estimate referred to in that subparagraph if the Commissioner has under the provisions of subparagraph (3) of paragraph 19, increased such final or last estimate.

(4) Any decision of the Commissioner in the exercise of his discretion under subparagraph (2) shall be subject to objection and appeal.

ADDITIONAL TAX IN THE EVENT OF FAILURE TO SUBMIT AN ESTIMATE OF TAXABLE INCOME TIMEOUSLY (para. 20A)

20A. (1) Subject to the provisions of subparagraphs (2) and (3), where any provisional taxpayer is liable for the payment of normal tax in respect of any amount of taxable income derived by him during any year of assessment and the estimate of his taxable income for that year required to be submitted by him under paragraph 19 (1) during the period contemplated in paragraph 21 (1) (b), 22 (1) or 23 (b), as the case may be, was not submitted by him on or before the last day of that year or, if the period for the payment of provisional tax due by him in respect of such period has under paragraph 25 (2) been extended to a date later than the end of such year, on or before such date, the taxpayer shall, unless the Commissioner has estimated the said taxable income under paragraph 19 (2), be required to pay to the Commissioner, in addition to the normal tax chargeable in respect of such taxable income, an amount by way of additional tax equal to 20 per cent of the amount by which the normal tax payable by him in respect of such taxable income exceeds the sum of any amounts of provisional tax paid by him in respect of such taxable income within any period allowed for the payment of such provisional tax under this Part or within any extension of such period under paragraph 25 (2) and any amounts of employees tax deducted or withheld from his remuneration by his employer during such year.

(2) The Commissioner may, if he is satisfied that the provisional taxpayer’s failure to submit such an estimate timeously was not due to an intent to evade or postpone the payment of provisional tax or normal tax, remit the whole or any part of the additional tax imposed under subparagraph (1).

(3) Any decision of the Commissioner in the exercise of his discretion under subparagraph (2) shall be subject to objection and appeal.
PAYMENT OF PROVISIONAL TAX BY PROVISIONAL TAXPAYERS (OTHER THAN COMPANIES) WHOSE INCOME IS NOT NORMALLY DERIVED WHOLLY OR MAINLY FROM FARMING, FISHING OR DIAMOND DIGGING (para. 21)

21. (1) Subject to the provisions of subparagraph (2), provisional tax shall be paid by every provisional taxpayer (other than a company) in the following manner, namely-

(a) within the period of six months reckoned from the commencement of the year of assessment in question, one half of an amount equal to the total estimated liability of such taxpayer (as determined in accordance with paragraph 17) for normal tax in respect of that year, less the total amount of any employees' tax deducted by the taxpayer's employer from the taxpayer's remuneration during such period; and

(b) not later than the last day of the year of assessment in question, an amount equal to the total estimated liability of such taxpayer (as finally determined in accordance with paragraph 17) for normal tax in respect of that year, less the sum of the amounts of any employees' tax deducted by the taxpayer's employer from the taxpayer's remuneration during such year and the amount paid in terms of item (a).

(2) If the Commissioner has in terms of subsection (13) of section sixty-six of this Act agreed to accept accounts from any provisional taxpayer in respect of any year of assessment drawn to a date falling after the end of such year, the period referred to in item (a) of subparagraph (1) shall, notwithstanding the provisions of that subparagraph, be reckoned from such date as the Commissioner upon application of the taxpayer and having regard to the circumstances of the case may approve, and in such case the last day of such year of assessment shall for the purposes of item (b) of that subparagraph be deemed to be the day preceding the first anniversary of the said date.

(3) The provisions of this paragraph shall not apply in the case of any provisional taxpayer in respect of whom the Commissioner has under item (a) of paragraph 26 directed that the provisions of paragraph 22 shall apply.

[Para. 21 substituted by s. 30 (1) of Act 88 of 1965.]
22. (1) Every provisional taxpayer (other than a company) whose income is normally derived wholly or mainly from farming, fishing or diamond digging and in respect of whom the Commissioner has directed that the provisions of this paragraph shall apply, shall not later than the last day of the year of assessment in question pay by way of provisional tax an amount equal to the total estimated liability of such taxpayer (determined in accordance with paragraph 17) for normal tax in respect of that year, less the sum of the amounts of any employees' tax deducted by the taxpayer's employer from the taxpayer's remuneration during that year.

[Sub-para. (1) substituted by s. 47 of Act 88 of 1971.]

(2) If the Commissioner has in terms of subsection (13) of section sixty-six of this Act agreed to accept accounts from any provisional taxpayer referred to in subparagraph (1) in respect of any year of assessment drawn to a date falling after the end of such year the Commissioner may upon the application of the taxpayer direct that the last day of such year of assessment shall for the purposes of subparagraph (1) be deemed to be such day as the Commissioner having regard to the circumstances of the case fixes.

[Para. 22 amended by s. 26 of Act 72 of 1963 and substituted by s. 30 (1) of Act 88 of 1965.]

PROVISIONAL TAX PAYMENTS BY COMPANIES (para. 23)

23. Provisional tax shall be paid by every company which is a provisional taxpayer in the following manner, namely-

(a) within the period ending 6 months after the commencement of the year of assessment in question, one half of an amount equal to the total estimated liability of such company (as determined in accordance with paragraph 17) for normal tax in respect of that year;

[Item (a) substituted by s. 41 (1) of Act 121 of 1984.]

(b) within the period ending on the last day of that year, an amount equal to the total estimated liability of such company (as so determined) for normal tax in respect of that year less the amount paid in terms of item (a),

[Item (b) substituted by s. 41 (1) of Act 121 of 1984.]
(c) ...... 

[Item (c) added by s. 41 (1) of Act 121 of 1984 and deleted by s. 27 (1) (b) of Act 65 of 1986.]

less, in either case, the total amount of employees tax deducted by the taxpayer's employer from the taxpayer's remuneration during the relevant period.

[Para. 23 substituted by s. 30 (1) of Act 88 of 1965, by s. 53 (1) of Act 85 of 1974 and by s. 51 of Act 94 of 1983 and amended by s. 53 of Act 101 of 1990.]

ADDITIONAL PROVISIONAL TAX PAYMENTS (paras. 23A-24)

[Heading inserted by s. 42 (1) of Act 121 of 1984 and substituted by s. 28 (1) of Act 65 of 1986.]

23A. (1) Any provisional taxpayer may for the purpose of avoiding or reducing his liability for any interest which may become payable by him in respect of any year of assessment under section 89quat, elect to make an additional payment of provisional tax in respect of such year.

(2) If any additional payment of provisional tax contemplated in subparagraph (1) is paid after the end of the period ending on the effective date in relation to the said year as determined under section 89quat (1), such payment shall be deemed for the purposes of section 89bis (2) to be an amount of provisional tax which was payable within the said period.

[Para. 23A inserted by s. 42 (1) of Act 121 of 1984 and substituted by s. 28 (1) of Act 65 of 1986.]

24. The Commissioner may absolve any provisional taxpayer from making payment of any amount of provisional tax payable in terms of paragraph 21 (1) (a) or paragraph 22 or paragraph 23 (a), if he is satisfied that the taxable income which may be derived by such taxpayer for the year of assessment in question cannot be estimated on the facts available at the time when payment of the amount in question has to be made.

[Para. 24 amended by s. 27 of Act 72 of 1963 and substituted by s. 30 (1) of Act 88 of 1965, by s. 54 of Act 85 of 1974 and by s. 52 of Act 94 of 1983.]

EXTENSION OF TIME FOR PAYMENT OF PROVISIONAL TAX (para. 25)

25. (1) If after the end of any period within which provisional tax is payable in terms of this Schedule the Commissioner has under the provisions of subparagraph (3) of paragraph 19 increased the amount of any estimate of taxable income submitted by any provisional taxpayer during such period, any
additional provisional tax payable as a result of the Commissioner having made such increase shall, notwithstanding the provisions of paragraphs 21, 22 and 23, be payable within such period as the Commissioner may determine.

(2) The Commissioner may, having regard to the circumstances of the case, extend the period within which any amount of provisional tax is to be paid, or may agree to accept payment of any such amount in equal or varying amounts.

CERTAIN MATTERS TO BE DECIDED BY THE COMMISSIONER (para. 26)

26. The Commissioner's decision or direction in regard to the following matters shall be final and conclusive, namely-

(a) the question whether any provisional taxpayer (other than a company) should from time to time pay provisional tax in the manner provided in paragraph 21 or in the manner provided in paragraph 22;

(b) ......

[Sub-para. (b) deleted by s. 48 of Act 129 of 1991.]

PENALTY ON LATE PAYMENT OF PROVISIONAL TAX (para. 27)

27. (1) If any provisional taxpayer fails to pay any amount of provisional tax for which he is liable within the period allowed for payment thereof in terms of paragraph 21, 22 or 23, or subparagraph (1) of paragraph 25, or within such extended period as the Commissioner may allow in terms of subparagraph (2) of paragraph 25, he shall, in addition to any other penalty or charge incurred by him under this Act, pay to the Commissioner a penalty equal to ten per cent of the amount not paid.

(2) The Commissioner may, if he is satisfied that the provisional taxpayer's failure to pay the amount of provisional tax was not due to an intent to evade or postpone payment of the tax, or otherwise evade his obligations under this Act, remit the whole or any part of the penalty imposed under subparagraph (1).

(3) ......

[Sub-para. (3) added by s. 43 (1) of Act 121 of 1984 and deleted by s. 29 of Act 65 of 1986.]

PART IV
GENERAL ( paras. 28-34)
EMPLOYEES' TAX AND PROVISIONAL TAX TO BE SET OFF AGAINST TAX
LIABILITY (para. 28)

[Heading substituted by s. 55 (1) of Act 85 of 1974 and by s. 53 (a) of Act 94 of 1983.]

28. (1) There shall be set off against the liability of the taxpayer in respect of any taxes (as defined in subparagraph (8) due by the taxpayer, the amounts of employees tax deducted or withheld by the taxpayer's employer during any year of assessment for which the taxpayer's liability for normal tax has been assessed by the Commissioner and the amounts of provisional tax paid by the taxpayer in respect of any such year, and if-

(a) the sum of the said amounts of employees tax and provisional tax exceeds the amount of the taxpayer's total liability for the said taxes, the excess amount shall be refunded to the taxpayer; or

(b) the taxpayer's total liability for the aforesaid taxes exceeds the sum of the said amounts of employees tax and provisional tax, the amount of the excess shall be payable by the taxpayer to the Commissioner.

[Sub-para. (1) amended by s. 30 of Act 95 of 1967 and substituted by s. 48 of Act 89 of 1969, by s. 48 (a) of Act 88 of 1971, by s. 55 (1) of Act 85 of 1974, by s. 53 (a) of Act 94 of 1983 and by s. 30 (1) (a) of Act 65 of 1986.]

(1)bis ......

[Sub-para. (1)bis inserted by s. 29 (1) (a) of Act 90 of 1964, substituted by s. 48 (a) of Act 88 of 1971, by s. 23 (1) of Act 90 of 1972, by s. 55 (1) of Act 85 of 1974 and by s. 53 (a) of Act 94 of 1983 and deleted by s. 30 (1) (b) of Act 65 of 1986.]

(2) The burden of proof that any amount of employees' tax has been deducted or withheld by his employer shall be upon the taxpayer and any employees' tax certificate shall be prima facie evidence that the amount of employees' tax reflected therein has been deducted by the employer.

(3) If the Commissioner is satisfied that the amount or any portion of the amount of employees' tax shown in any employees' tax certificate has not been deducted or withheld by the employer and the amount of employees' tax shown in such tax certificate has been applied as provided in subparagraph (1), the employer and the employee shall be jointly and severally liable to pay to the Commissioner the amount which should not have been so applied and such amount shall be recoverable under this Act as if it were a tax.

(4) An employer who has under subparagraph (3) paid to the Commissioner an amount which has but should not have been applied under the
provisions of subparagraph (1), may, if the amount was shown or included in the certificate because of a *bona fide* error, recover the amount so paid from the employee concerned, and in that case the provisions of subparagraph (3) of paragraph 5 shall *mutatis mutandis* apply.

(5) No employees' tax certificate shall be issued by the employer in respect of any amount recovered by him from the employee in terms of subparagraph (4) nor shall any such amount be included in any return rendered in terms of subparagraph (3) of paragraph 14.

(6) If the Commissioner is satisfied that the employee to whom an employees' tax certificate refers was directly or indirectly responsible for an incorrect amount being shown on such certificate he may absolve the employer from the liability imposed upon him by subparagraph (3), and in that case the employee shall be solely liable under that subparagraph.

(7) If the Commissioner, purporting to act under the provisions of this paragraph, pays to any person by way of a refund any amount which was not properly payable to that person under those provisions or which was in excess of the amount due to such person by way of a refund under those provisions, such amount or the excess, as the case may be, shall forthwith be repaid by the person concerned to the Commissioner and shall be recoverable by the Commissioner under this Act as if it were a tax.

[Sub-para. (7) added by s. 29 (1) (b) of Act 90 of 1964.]

(8) For the purposes of this paragraph, 'taxes' means the normal tax levied under this Act, but excluding any normal tax payable by a close corporation under section 40A (4) (b).

[Sub-para. (8) added by s. 48 (b) of Act 88 of 1971 and substituted by s. 53 (b) of Act 94 of 1983 and by s. 44 of Act 121 of 1984.]

[Heading preceding para. 28A inserted by s. 56 (1) of Act 85 of 1974 and deleted by s. 38 of Act 36 of 1996.]

28A. ......

[Para. 28A inserted by s. 56 (1) of Act 85 of 1974 and deleted by s. 54 of Act 94 of 1983.]

29. No refund of any amount of employees tax or provisional tax shall be made to the taxpayer concerned otherwise than as provided in paragraph 11B or 28 or in such circumstances as may be determined by the Commissioner in any deduction tables prescribed by him under paragraph 9.
OFFENCES (para. 30)

30. (1) Any person who-

(a) makes or becomes liable to make any payment of remuneration and who fails to deduct or withhold therefrom any amount of employees' tax or to pay such amount to the Commissioner as and when required by paragraph 2; or

(b) uses or applies any amount deducted or withheld by him by way of employees' tax for purposes other than the payment of such amount to the Commissioner; or

(c) makes or issues or causes or allows to be made or issued or knowingly possesses or uses or causes to be used any employees' tax certificate which is false; or

(d) without just cause shown by him fails to comply with any directive issued to him by the Commissioner in terms of paragraph 11; or

(e) gives any false information or misleads his employer in relation to any matter affecting the amount of employees' tax to be deducted in his case; or

(f) fails or neglects to deliver to any employee or former employee any employees' tax certificate as required by paragraph 13; or

(g) fails to comply with any condition prescribed by the Commissioner in terms of subparagraph (11) of paragraph 13 in regard to the manner in which employees' tax certificates may be used or as to the surrender of unused stocks of such certificates, or to account for used, unused or spoiled employees' tax certificates when required by the Commissioner under that paragraph or on ceasing to be an employer fails to surrender unused employees' tax certificates in his possession as required by subparagraph (13) of that paragraph; or

(h) fails to comply with any condition prescribed by the Commissioner by which he is bound in terms of subparagraph (12) of paragraph 13; or
(i) fails or neglects to maintain any record as required by paragraph 14 or to retain such record for a period of five years from the date of the last entry therein or to furnish to the Commissioner any declaration as required by that paragraph; or

(j) fails or neglects to apply to the Commissioner for registration as an employer as required by subparagraph (1) of paragraph 15, or having so applied fails or neglects to notify the Commissioner of any change of his address or the fact of his having ceased to be an employer as required by subparagraph (3) of that paragraph; or

(k) alters any employees' tax certificate made or issued by any other person or falsely pretends to be the employee named in any employees' tax certificate or for his own advantage or benefit obtains credit with respect to or payment of the whole or any part of any amount of employees' tax deducted or withheld from remuneration received by another person; or

(l) not being an employer and without being duly authorized by any person who is an employer, issues or causes to be issued any document purporting to be an employees' tax certificate; or

(m) fails to submit to the Commissioner any estimate of his taxable income as required under paragraph 19,

shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) For the purposes of item (b) of subparagraph (1) an amount which has been deducted or withheld by any person from remuneration shall until the contrary is proved be deemed to have been used or applied by such person for purposes other than the payment of such amount to the Commissioner if such amount is not paid to the Commissioner within the period allowed for payment under paragraph 2.

RECOVERY OF EMPLOYEES’ TAX, PROVISIONAL TAX, PENALTY, ADDITIONAL TAX AND INTEREST (para. 31)

31. Any amount of employees' tax, provisional tax, penalty or additional tax payable in terms of this Schedule, and any amount of interest payable in terms of section eighty-nine bis of this Act shall when it becomes due or is payable be a debt due to the State and may be recovered by the Commissioner in the manner prescribed in section ninety-one for the recovery of tax and interest due or payable under this Act.
EXTENSION OF SCOPE OF CERTAIN PROVISIONS OF ACT FOR
PURPOSES OF THIS SCHEDULE (para. 32)

32. For the purposes of this Schedule-

(a) any reference in subsection (1) or (2) of section seventy-four of this Act to the income of any person shall be deemed to include a reference to any remuneration paid or payable by any employer and to any employees' tax required to be deducted or withheld and paid by any employer;

(b) any reference in subsection (3) of section ninety-five of this Act to any tax payable in respect of any assessment shall be deemed to include a reference to any provisional tax payable in terms of this Schedule and any reference in subsection (4) of that section to any tax payable in respect of any assessment made upon any public officer in his capacity as such shall be deemed to include a reference to any provisional tax payable by any public officer in his capacity as such;

(c) any reference in sections ninety-six to one hundred, inclusive, of this Act, to tax shall be deemed to include a reference to provisional tax.

[Para. 32 amended by s. 28 of Act 72 of 1963.]

[Headings following para. 32 deleted by s. 39 of Act 36 of 1996.]

33. ......

[Para. 33 amended by s. 29 of Act 72 of 1963, by s. 30 of Act 55 of 1966 and by s. 31 of Act 95 of 1967 and deleted by s. 49 of Act 88 of 1971.]

[Heading deleted by s. 39 of Act 36 of 1996.]

34. ......

[Para. 34 added by s. 30 of Act 72 of 1963, amended by s. 32 of Act 95 of 1967 and deleted by s. 49 of Act 89 of 1969.]

Fifth Schedule

LOAN PORTIONS OF THE NORMAL TAX (paras. 1-10)

[Fifth Schedule added by s. 26 (1) of Act 52 of 1970.]

(Section 5 (2B) of this Act)
1. For the purposes of this Schedule 'loan portion' means the portion of the normal tax in respect of any year of assessment which is a loan portion of such tax as contemplated in section 5 (2B) of this Act, and the provisions of this Schedule shall where relevant apply in respect of such loan portion.

2. (1) A person shall not be liable for the payment of the loan portion chargeable in respect of any period of assessment if, before any notice of assessment is issued by the Commissioner in respect of his taxable income for such period or any amount is appropriated to such loan portion as contemplated in paragraph 8 (1)-

(a) such person dies or his estate is sequestrated or, in the case of a company, the winding-up or liquidation thereof has commenced; or

(b) such person, if she is a woman, marries; or

(c) such person (not being a company) departs from the Republic or ceases to carry on business in the Republic and the Commissioner is satisfied that such person will thereafter not be ordinarily resident nor carrying on business in the Republic; or

(d) such person proves to the satisfaction of the Commissioner that owing to old age, continued ill health or infirmity or for any other reason, his financial circumstances are permanently reduced and that he will probably not be liable for normal tax in the future.

[Sub-para. (1) substituted by s. 24 (1) (a) of Act 90 of 1972.]

(1A) The estate of a deceased or insolvent person shall not be liable for the payment of any loan portion in respect of any income received by or accrued to or in favour of such estate: Provided that nothing in this paragraph contained shall be construed as relieving any person from liability for the payment of any loan portion in respect of any taxable income of any trust which is assessable in the hands of such person.

[Sub-para. (1A) inserted by s. 24 (1) (a) of Act 90 of 1972.]

(2) A person to whom the provisions of section 33 of this Act apply and who has no recognized agent in the Republic other than the master of the ship concerned or the pilot of the aircraft concerned, shall not be liable for the payment of any loan portion of the normal tax in respect of his taxable income determined in accordance with the said provisions.

(3) Any person (other than a company) who is not ordinarily resident and is not carrying on business in the Republic and any company which is not a
South African company and is not carrying on business in the Republic, shall not
be liable for the payment of any loan portion: Provided that any person (other
than a company) who proves to the satisfaction of the Commissioner that his
business operations in the Republic are of a temporary and non-recurrent nature
shall for the purposes of this paragraph not be deemed to be carrying on
business in the Republic.

[Sub-para. (3) substituted by s. 58 of Act 85 of 1974.]

(4) A natural person who is over the age of seventy years on the last day
of any year of assessment shall not be liable for the payment of any loan portion
in respect of such year if his taxable income for that year does not exceed R15
000.

[Sub-para. (4) added by s. 50 of Act 88 of 1971 and substituted by s. 34 of Act
103 of 1976 and by s. 31 of Act 91 of 1982.]

(5) and (6) ......

[Sub-paras. (5) and (6) added by s. 50 of Act 88 of 1971 and deleted by s. 56 of
Act 94 of 1983.]

3. The provisions of section 76 of this Act and paragraphs 20 and 20A of the
Fourth Schedule to this Act shall not apply in relation to any loan portion.

4. (1) ......

[Sub-para. (1) deleted by s. 35 (1) (a) of Act 103 of 1976.]

(2) The amounts accruing from time to time under any law to the
Transkeian Revenue Fund, the Rehoboth Revenue Fund or a Revenue Fund
referred to in section 6 of the National States Constitution Act, 1971 (Act 21 of
1971), in respect of normal tax shall, notwithstanding the provisions of such law,
be reduced by so much of such amounts as the Commissioner determines to
have been collected in respect of loan portions, whether by way of employees'
tax, provisional tax or otherwise.

[Sub-para. (2) substituted by s. 25 (1) of Act 90 of 1972 and by s. 35 (1) (b) of Act
103 of 1976.]

(3) ......

[Sub-para. (3) substituted by s. 25 (1) of Act 90 of 1972 and by s. 59 (1) of Act 85
of 1974 and deleted by s. 35 (1) (c) of Act 103 of 1976.]

5. (1) The Commissioner shall, at such time as he may decide, but not later
than the date referred to in paragraph 6, issue to every person who has paid any loan portion, a statement of the amount so paid by such person: Provided that such statement need not be issued if such loan portion has been repaid before such date.

(2) A statement issued in terms of subparagraph (1) shall not be redeemable or transferable.

6. (1) The Minister of Finance shall in respect of each relevant year of assessment determine a date, not being later than the last day of February in the seventh calendar year commencing after the end of such year of assessment, after which the loan portion in respect of such year of assessment shall be repaid to the person by whom it was paid: Provided that-

   (a) if in the opinion of the Commissioner the circumstances of the case warrant such action, he may, subject to such conditions as he may impose, make such repayment to a person other than the person by whom such loan portion was paid;

   (b) the Commissioner may, before the date so determined, repay to any person (or if such person has died or his estate has been sequestrated, to his estate) the amount paid by that person in respect of such loan portion, together with simple interest determined as hereinafter provided, if, before such date-

   (i) such person dies or his estate is sequestrated or, in the case of a company, the winding-up or liquidation thereof has commenced; or

   (ii) such person, if she is a woman, marries; or

   (iii) such person (not being a company) departs from the Republic or ceases to carry on business in the Republic and the Commissioner is satisfied that such person will thereafter not be ordinarily resident nor carrying on business in the Republic; or

   (iv) such person proves to the satisfaction of the Commissioner that owing to old age, continued ill-health or infirmity or for any other reason, his financial circumstances are permanently reduced and that he will probably not be liable for normal tax in the future; or

   (v) the Commissioner is satisfied that such person's taxable income will in future consist solely of remuneration (as defined in paragraph 1 of the Fourth Schedule) not exceeding the
amount contemplated in section 66 (1) (b) (i) of this Act, and that such person will consequently not be required in future to render a return of income under the provisions of the said section;

(c) the date so determined in the case of persons other than companies may be a date other than the date so determined in the case of companies.

[Sub-para. (1) amended by s. 31 (1) of Act 104 of 1980 and substituted by s. 57 of Act 94 of 1983.]

(2) Any moneys repaid under the provisions of subparagraph (1) shall be deemed to have been appropriated by law.

[Sub-para. (2) added by s. 18 (1) of Act 101 of 1978.]

[Para. 6 amended by s. 26 (1) of Act 90 of 1972 and by s. 60 of Act 85 of 1974.]

7. (1) Where any loan portion is repaid as provided in paragraph 6, simple interest at the rate specified in subparagraph (2) shall be paid for the period from the date on which such loan portion is paid to the date determined by the Minister of Finance under paragraph 6 or, if repayment is made under the second or third proviso to that paragraph, the date of repayment, but such interest shall not be payable until such time as the loan portion is repaid to the person concerned.

(2) Interest payable under subparagraph (1) shall be calculated-

(a) where the loan portion was chargeable in respect of a year of assessment other than a year of assessment referred to in item (b), at the rate of 5 per cent per annum; or

(b) where the loan portion is chargeable in respect of a year of assessment ending on or after 28 February 1983, at the rate of 8 per cent per annum.

[Para. 7 substituted by s. 61 of Act 85 of 1974 and by s. 32 of Act 91 of 1982.]

8. (1) The Commissioner may appropriate to the loan portion for which any person is liable in respect of any year of assessment so much of-

(a) any employees' tax deducted or withheld from such person's remuneration and set off in whole or in part against his liability for normal and provincial taxes in respect of the said year under the provisions of paragraph 28 of the Fourth Schedule to this Act; and
(b) any payments made by such person by way of provisional tax in respect of such year and set off in whole or in part against his said liability under the provisions of the said paragraph; and

(c) any other payments made by such person in respect of normal, provincial income or personal tax, whether for the said year or any other year of assessment, to the extent that the Commissioner deems it necessary to appropriate such other payments in order to discharge in whole or in part the said person’s liability for the said loan portion,

as does not exceed such loan portion: Provided that the Commissioner may adjust any appropriation made by him under this paragraph if the said person’s liability for such loan portion is increased or reduced on assessment of such liability by the Commissioner or in order to rectify any calculation or accounting error.

(2) A person shall for the purposes of this Schedule be deemed to have paid the amounts finally appropriated to the loan portion for which he is liable in respect of any year of assessment-

(a) if employees’ tax has during such year of assessment been deducted or withheld from his remuneration as required by the Fourth Schedule to this Act and he either is not required under that Schedule to pay provisional tax in respect of such year of assessment or has made arrangements to the satisfaction of the Commissioner for increased deductions by way of employees’ tax to cover his liability for provisional tax in respect of such year, on the first day of September during such year; or

(b) if during such year of assessment he has paid directly by way of provisional tax in respect of such year of assessment the amount payable by him in terms of paragraph 21 (1) (a), 22 (1) or 23 (a) (i) or 23 (b) (i) of the Fourth Schedule to this Act, on the first day of the month during which he paid such amount: Provided that this item shall not apply in the case of a company whose taxable income is derived wholly or mainly in the form of dividends; or

[Item (b) amended by s. 51 (1) of Act 88 of 1971 and by s. 62 of Act 85 of 1974.]

(c) if the provisions of item (a) or (b) do not apply, on such date as the Commissioner, having regard to the payments made by the said person, may determine.

8A. (1) Where-
(a) any amount in respect of any of the taxes as defined in paragraph 28 (8) of the Fourth Schedule is owing by any taxpayer and the period allowed under this Act for the payment of that amount has expired, or any interest payable under this Act in respect of the late payment of any such tax or any portion thereof is owing by any taxpayer;

(b) by reason of the fact that the taxpayer's whereabouts are unknown, the Commissioner is unable to take action for the recovery of the said amount of tax or the said interest;

(c) a period of at least two years has elapsed since the expiration of the period referred to in item (a) or since the date on which the said interest commenced to run;

(d) the Commissioner is satisfied that every reasonable attempt has been made to trace the taxpayer; and

(e) an amount stands to the credit of the taxpayer in respect of any loan portion,

the Secretary may, on a date determined by him-

(i) calculate the interest which is due and has become payable to the taxpayer in respect of the said loan portion or, if the loan portion has not by the said date become repayable to the taxpayer, the interest which would have been payable to the taxpayer under the provisions of paragraph 7 in respect of the said loan portion if he had under the second proviso to paragraph 6 become entitled to a repayment of the loan portion on the said date; and

(ii) set off against the amounts owing by the taxpayer as contemplated in item (a) so much of the amount of the said loan portion and the interest referred to in item (i) as does not exceed the aggregate of the amounts owing.

(2) Where any loan portion or interest thereon has under the provisions of subparagraph (1) been set off against any amount owing by the taxpayer, such loan portion or interest shall be deemed to have been repaid or paid to the taxpayer as though the repayment of the loan portion had been made in accordance with the provisions of paragraph 6 and the payment of such interest had been made in accordance with the provisions of paragraph 7.

(3) If, before any relevant date on which any loan portion has become repayable under the provisions of paragraph 6 such loan portion and the interest calculated thereon under subparagraph (1) (i) have been set off only in part
against amounts owing by the taxpayer, so much of the excess amount standing
to the taxpayer's credit as does not exceed the amount of the said loan portion
shall be deemed to be a loan portion paid by the taxpayer on the date
determined under subparagraph (1) in respect of the year of assessment in
respect of which the first-mentioned loan portion was paid.

(4) If the taxpayer's whereabouts become known to the Commissioner, the
Commissioner shall issue a notification to the taxpayer informing him of what has
been done under subparagraph (1) in the case of that taxpayer.

[Para. 8A inserted by s. 27 (1) of Act 90 of 1972.]

9. The Minister of Finance may make regulations as to all matters which he
considers it necessary or expedient to prescribe in order that the objects of this
Schedule may be achieved, and may in such regulations prescribe penalties for
any contravention thereof or failure to comply therewith not exceeding a fine of
fifty rand.

[Para. 9 amended by s. 46 of Act 97 of 1986.]

10. The Minister of Finance may by notice in the Gazette determine a date
after which assessments for the payment of the loan portion in respect of any
year of assessment shall not be issued by the Commissioner.

[Para. 10 amended by ss. 46 and 47 of Act 97 of 1986.]

Sixth Schedule

[Sixth Schedule added by s. 28 (1) of Act 90 of 1972 and repealed by s. 51(1) of
Act 113 of 1993.]

Seventh Schedule

BENEFITS OR ADVANTAGES DERIVED BY REASON OF EMPLOYMENT OR
THE HOLDING OF ANY OFFICE (paras. 1-20)

[Seventh Schedule added by s. 46 of Act 121 of 1984.]

(Paragraph (i) of the definition of 'gross income' in section 1 of this Act)

DEFINITIONS (para. 1)

1. For the purposes of this Schedule, unless the context otherwise indicates-
'associated institution', in relation to any single employer, means-

(a) where the employer is a company, any other company which is associated with the employer company by reason of the fact that both companies are managed or controlled directly or indirectly by substantially the same persons; or

(b) where the employer is not a company, any company which is managed or controlled directly or indirectly by the employer or by any partnership of which the employer is a member; or

(c) any fund established solely or mainly for providing benefits for employees or former employees of the employer or for employees or former employees of the employer and any company which is in terms of paragraph (a) or (b) an associated institution in relation to the employer, but excluding any fund established by a trade union or industrial council and any fund established for post-graduate research otherwise than out of moneys provided by the employer or by any associated institution in relation to the employer;

'consideration', as respects any reference in this Schedule to any consideration given by an employee, does not include any consideration in the form of services rendered or to be rendered by the employee;

'employee', in relation to any employer, means a person who is an employee in relation to such employer for the purposes of the Fourth Schedule, excluding any person who prior to 1 March 1992 by reason of superannuation, ill-health or other infirmity retired from the employ of such employer, but including, in relation to any company, any director of such company and any person who was previously employed by, or was a director of, such company if such person is or was the sole shareholder or one of the controlling shareholders in such company and, for the purposes of paragraphs 2 (h) and 13, including any person who has retired as aforesaid and who, after his retirement, is released by his employer from an obligation which arose before the employee's retirement to reimburse the employer for an amount paid by the employer on behalf of the employee or to pay any amount which became owing by the employee to the employer before the employee's retirement;

[Definition of 'employee' substituted by s. 49 of Act 129 of 1991.]

'employer' means any person who is an employer as defined in paragraph 1 of the Fourth Schedule and includes-

(a) any company; and

(b) for the purpose of paragraph 2 and the determination of the cash
equivalent of the value of any taxable benefit granted to any person who derives remuneration as defined in the said paragraph from employment in the public service or any administration or undertaking of the State or who holds office under the Republic, the State;

'employment' means any office or employment;

'loan' includes any form of credit and any loan applied directly towards the replacement of any other loan;

'month' means any of the twelve portions into which any calendar year is divided;

'official rate of interest' means a rate of interest of 16 per cent per annum;


'taxable benefit' means a taxable benefit contemplated in paragraph 2, whether the grant of such benefit is voluntary or otherwise, but excluding-

(a) any benefit the amount or value of which is exempt from normal tax under the provisions of section 10 of this Act; or

(b) any benefit provided by any benefit fund in respect of medical, dental and similar services, hospital services, nursing services and medicines; or

(c) any lump sum benefit payable by a benefit fund, pension fund or provident fund, being a benefit referred to in the definition of 'benefit fund' in section 1 of this Act or in paragraph (i) of the proviso to paragraph (c) of the definition of 'pension fund' in that section or in paragraph (a) of the definition of 'provident fund' in that section.

[Para. (c) substituted by s. 26 (b) of Act 96 of 1985.]

TAXABLE BENEFITS (para. 2)
2. For the purposes of this Schedule and of paragraph (i) of the definition of ‘gross income’ in section 1 of this Act, a taxable benefit shall be deemed to have been granted by an employer to his employee in respect of the employee's employment with the employer, if as a benefit or advantage of or by virtue of such employment or as a reward for services rendered or to be rendered by the employee to the employer-

(a) any asset consisting of any goods, commodity, marketable security or property of any nature (other than money) has been acquired by the employee from the employer or any associated institution in relation to the employer or from any person by arrangement with the employer, either for no consideration or for a consideration given by the employee which is less than the value of such asset, as determined under paragraph 5 (2): Provided that the provisions of this subparagraph shall not apply in respect of any meal, refreshment, voucher, board, fuel, power or water with which the employee has been provided as contemplated in subparagraph (c) or (d) or in respect of any marketable security acquired by the exercise by the employee, as contemplated in section 8A of this Act, of any right to acquire any marketable security; or

(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 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) in the case of an asset other than a motor vehicle or under paragraph 7 (4) or (7) in the case of a motor vehicle; or

(c) the employee has been provided with any meal or refreshment or voucher entitling him to any meal or refreshment (other than any board or meals referred to in item (d)), either free of charge or for a consideration less than the value of such meal, refreshment or voucher, as the case may be, as determined under paragraph 8 (2); or

(d) the employee has been provided with residential accommodation (whether furnished or unfurnished and with or without board, meals, fuel, power or water) either free of charge or for a rental consideration payable by the employee which is less than the rental value of such accommodation as determined under the applicable provisions of paragraph 9; or
(d) any service (other than a service to which the provisions of 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), such service has been utilized by the employee for his private or domestic purposes and no consideration has been given by the employee to the employer in respect of such service or, if any such 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 the said subparagraph, as the case may be; or

(e) a loan (other than a loan which was treated as a dividend under the provisions of section 8B of this Act prior to the repeal thereof by section 6 of the Income Tax Act, 1990, or a loan in respect of which a subsidy is payable as contemplated in subparagraph (gA)) has been granted to the employee, whether by the employer or by any other person by arrangement with the employer or any associated institution in relation to the employer, and either no interest is payable by the employee on such loan or interest is payable by him thereon at a rate of lower than the official rate of interest; or

(f) the employer has paid any subsidy in respect of the amount of interest or capital repayments payable by the employee in terms of any loan; or

(g) the employer has in respect of any loan granted to the employee by any lender, paid to such lender any subsidy, being an amount which, together with any interest payable by the employee on such loan, exceeds the amount of the interest which, if calculated at the official rate of interest, would have been payable on such loan; or

(h) the employer has, whether directly or indirectly, paid any amount owing by the employee to any third person, without requiring the employee to reimburse the employer for the amount paid or the employer has released the employee from an obligation to pay any amount owing by the employee to the employer: Provided that where any debt owing by the employee to the employer has been
extinguished by prescription the employer shall be deemed to have released the employee from his obligation to pay the amount of such debt if the employer could have recovered the amount owing or caused the running of the prescription to be interrupted, unless it is shown to the satisfaction of the Commissioner that the employer's failure to recover the amount owing or to cause the running of the prescription to be interrupted was not due to any intention of the employer to confer a benefit on the employee; or

[Sub-para. (h) amended by s. 27 (d) of Act 96 of 1985.]

(i) the employer has during any period, directly or indirectly, made any contribution or payment to any fund contemplated in paragraph (b) of the definition of 'benefit fund' in section 1 of this Act, for the benefit of any employee or the dependants of any such employee, which exceeds two thirds of the total contribution or payment in relation to such employee or dependants to such fund during such period.

[Sub-para. (i) added by s. 54 (1) (b) of Act 30 of 1998.]

DETERMINATION OF CASH EQUIVALENT OF VALUE OF TAXABLE BENEFIT (para. 3)

3. (1) The cash equivalent of the value of a taxable benefit shall, for the purposes of paragraph (i) of the definition of 'gross income' in section 1 of this Act, be determined in accordance with the provisions of this Schedule by the employer by whom the taxable benefit has been granted.

(2) The Commissioner may, if such determination appears to him to be incorrect, re-determine such cash equivalent upon the assessment of the liability for normal tax of the employee to whom such taxable benefit has been granted.

(3) If the employee concerned is dissatisfied with any determination or proposed determination by his employer of the cash equivalent of the value of any taxable benefit included in the remuneration of the employee for employees tax purposes, the employee or the employer may refer the matter to the Commissioner and the Commissioner may, if it appears to him that the determination or proposed determination should be adjusted, issue a directive to the employer as to the manner in which such determination should be made and the employer shall be obliged to act upon such directive: Provided that nothing in this subparagraph contained shall be construed as preventing the Commissioner from making a re-determination of such cash equivalent under the provisions of subparagraph (2).

TAXABLE BENEFITS GRANTED BY ASSOCIATED INSTITUTIONS (para. 4)
4. Where any associated institution in relation to any employer has given any employee of that employer, by reason of the fact that the employee is in the employment of the employer, or as a benefit or advantage of such employment or as a reward for services rendered or to be rendered by the employee to the employer any benefit or advantage which, if such benefit or advantage had been given to the employee directly by the employer in the circumstances contemplated in paragraph 2, would have constituted a taxable benefit, such benefit or advantage shall for the purposes of this Schedule be deemed to be a taxable benefit granted by the employer to the employee and the cash equivalent of the value of such taxable benefit shall be determined accordingly.

ACQUISITION OF AN ASSET AT LESS THAN ACTUAL VALUE (para. 5)

5. (1) Where an asset has been acquired by an employee as contemplated in paragraph 2 (a), the cash equivalent of the value of the taxable benefit shall be so much of the value of such asset (as determined under subparagraph (2) of this paragraph) as exceeds the value of any consideration given by the employee for such asset.

(2) The value to be placed on such asset shall be the market value thereof at the time the asset is acquired by the employee: Provided that where the asset in question is movable property (other than marketable securities or an asset which the employer had the use of prior to acquiring ownership thereof) and was acquired by the employer in order to dispose of it to the employee or the asset in question (other than marketable securities) was held by the employer as trading stock, the value to be placed thereon shall be the cost thereof to the employer or, where such asset was held as trading stock and the market value thereof was less than such cost, such market value: Provided further that where-

(a) any asset is presented by an employer to an employee as an award for bravery, such value to be placed thereon shall be reduced by the lesser of the cost to the employer of all such assets so awarded to the employee during the year of assessment and R2 000; or

(b) any asset is given by an employer to an employee for long service, such value to be placed thereon shall be reduced by the lesser of the cost to the employer of all such assets so given to the employee during the year of assessment and R2 000.

[Sub-para. (2) amended by s. 57 (1) (a) of Act 101 of 1990, by s. 31 (a) of Act 21 of 1994 and by s. 46 of Act 21 of 1995.]

(3) No value shall be placed under this paragraph on fuel or lubricants supplied by an employer to his employee for use in a motor vehicle where the value of the private use of such vehicle has been determined under paragraph 7.
(4) For the purposes of this paragraph, 'long service' means an initial unbroken period of service of not less than 15 years or any subsequent unbroken period of service of not less than 10 years.

RIGHT OF USE OF ANY ASSET (OTHER THAN RESIDENTIAL ACCOMMODATION OR ANY MOTOR VEHICLE) (para. 6)

6. (1) Where an employee has been granted the right to use any asset (other than residential accommodation or any motor vehicle) as contemplated in paragraph 2 (b), the cash equivalent of the value of the taxable benefit shall be so much of the value of the private or domestic use of such asset (as determined under subparagraph (2) of this paragraph for the period of use) as exceeds any consideration given by the employee for the use of such asset during such period or any amount expended by the employee on the maintenance or repair of such asset.

(2) The value to be placed on the private or domestic use of such asset shall be-

(a) where the asset is held by the employer as the lessee under a lease or hiring agreement, the amount of the rental payable by the employer in respect of the period during which the employee has the use of the asset; or

(b) where the asset is owned by the employer, an amount calculated for the period during which the employee has the use of the asset at the rate of 15 per cent per annum on the lesser of the cost of such asset to the employer or the market value thereof at the date of commencement of the period of use: Provided that where an employee is granted the sole right of the use of the asset for a period extending over the useful life of the asset or over a major portion thereof, the value to be placed on the private or domestic use of the asset shall be the cost thereof to the employer, and in such case the taxable benefit in respect of such use shall be deemed to have accrued to the employee on the date on which he was first granted the right of use of such asset.
(3) For employees tax purposes an appropriate portion of the said cash equivalent shall be apportioned to each period during the year of assessment in respect of which any cash remuneration is paid or becomes payable by the employer to the employee.

(4) No value shall be placed under this paragraph on the private or domestic use of an asset by an employee, if-

(a) such use is incidental to the use of the asset for the purposes of the employer's business or the asset is provided by the employer as an amenity to be enjoyed by the employee at his place of work or for recreational purposes at that place or a place of recreation provided by the employer for the use of his employees in general; or

(b) the asset consists of any equipment or machine which the employer concerned allows his employees in general to use from time to time for short periods and the Commissioner is satisfied that the value of the private or domestic use of the asset, as determined under subparagraph (2), is negligible; or

(c) the asset consists of books, literature, recordings or works of art.

RIGHT OF USE OF MOTOR VEHICLE (para. 7)

7. (1) For the purposes of this paragraph, 'determined value', in relation to a motor vehicle, means-

(a) where such motor vehicle (not being a vehicle in respect of which paragraph (b) (ii) of this definition applies) was acquired by the employer under a bona fide agreement of sale or exchange concluded by parties acting at arm's length, the original cost thereof to him (excluding any finance charge, interest or sales tax payable by him, or value-added tax borne by him, in respect of his acquisition thereof); or

(b) where such motor vehicle-

(i) is held by the employer under a lease; or

(ii) was held by the employer under a lease and the ownership thereof was acquired by him on the termination of the lease, the retail market value thereof at the time the employer first obtained the right of use of the vehicle or, where at such time such
lease was a financial lease for the purposes of the Sales Tax Act, 1978 (Act 103 of 1978), the cash value thereof as determined under Schedule 4 to that Act or, where at such time the lease was a lease contemplated in paragraph (b) of the definition of 'instalment credit agreement' in section 1 of the Value-Added Tax Act, 1991 (Act 89 of 1991), the cash value thereof as contemplated in the definition of 'cash value' in the said section, but excluding the tax referred to therein; or

[Item (b) amended by s. 50 (1) (b) of Act 129 of 1991 and by s. 36 (1) of Act 141 of 1992.]

(c) in any other case, the market value of such motor vehicle at the time when the employer first obtained the vehicle or the right of use thereof:

Provided that-

(a) where an employee has been granted the right of use of such motor vehicle as contemplated in subparagraph (2) and such vehicle, or the right of use thereof, was acquired by the employer not less than 12 months before the date on which the employee was granted such right of use, there shall be deducted from the amount determined under the foregoing provisions of this subparagraph a depreciation allowance calculated according to the reducing balance method at the rate of 15 per cent for each completed period of 12 months from the date on which the employer first obtained such vehicle or the right of use thereof to the date on which the said employee was first granted the right of use thereof; and

(b) where such motor vehicle was acquired by the employer from an associated institution in relation to the employer and the employee concerned had, prior to such acquisition, enjoyed the right of use of such motor vehicle, the determined value shall be the determined value as at the date on which the employee was granted the right of use of such motor vehicle for the first time.

[Sub-para. (1) amended by s. 32 (a) of Act 21 of 1994 and by s. 47 (1) (a) of Act 21 of 1995.]

(1A) ......

[Sub-para. (1A) inserted by s. 32 (b) of Act 21 of 1994 and deleted by s. 47 (1) (b) of Act 21 of 1995.]
(2) Where an employee has been granted the right to use any motor vehicle as contemplated in paragraph 2 (b), the cash equivalent of the value of the taxable benefit shall be so much of the value of the private use of such vehicle (as determined under this paragraph in respect of the period of use) as exceeds any consideration given by the employee to the employer for the use of such vehicle during such period: Provided that where the employee receives an allowance or advance contemplated in section 8 (1) (b), such value of the private use of such vehicle shall not be reduced by any such consideration.

[Sub-para. (2) amended by s. 47 (1) (c) of Act 21 of 1995.]

(3) (a) Where an employer's rights and obligations under a lease in respect of a motor vehicle are transferred to his employee the employer shall for the purposes of this Schedule be deemed to have granted the employee the right to use such vehicle for the remainder of the period of the lease.

(b) In such case-

(i) any rentals becoming payable by the employee under the lease shall be deemed to be a consideration payable by him for the said right; and

(ii) the determined value of the vehicle shall be deemed to be an amount determined in accordance with the provisions of subparagraph (1) (b);

(4) Subject to the provisions of subparagraphs (9) and (10), the value to be placed on the private use of such vehicle shall be determined for each month or part of a month during which the employee was entitled to use the vehicle for private purposes (including travelling between the employee's place of residence and his place of employment) and the said value shall-

(a) as respects each such month, be an amount equal to 1,8 per cent of the determined value of such motor vehicle: Provided that-

(i) where more than one motor vehicle is made available by an employer to a particular employee at the same time and the provisions of subparagraph (6) are not applicable in the case of such vehicles, the said value shall be an amount equal to 1,8 per cent of the determined value of the motor vehicle having the highest determined value and 4 per cent of the determined value of every other such motor vehicle; and

(ii) where the employee has in addition to the right to use a vehicle also been granted an allowance in respect of transport expenses in respect of another vehicle for the same period
(excluding any allowance or advance contemplated in section 8 (1) (b) (iii)), such vehicle shall be deemed to be a vehicle in respect of which the rate of 4 per cent shall apply for the purposes of subitem (i):

Provided further that where the employee-

(i) bears the cost of all fuel used for the purposes of the private use of the vehicle (including travelling between the employee's place of residence and his place of employment), the value of private use for each such month as determined in accordance with the foregoing provisions of this subparagraph shall be reduced by an amount of R120;

(ii) bears the full cost of maintaining the vehicle (including the cost of repairs, servicing, lubrication and tyres), the value of private use for each such month as determined in accordance with the foregoing provisions of this subparagraph shall be reduced by an amount of R85; and

[Item (a) amended by s. 30 of Act 96 of 1985, substituted by s. 10 (1) (a) of Act 108 of 1986, amended by GN 956 of 1988 and s. 44 (1) of Act 90 of 1988, substituted by GN R715 of 1989, by s. 25 (1) of Act 70 of 1989, by GN R764 of 29 March 1990, by s. 58 (1) of Act 101 of 1990 and by s. 50 (1) (c) of Act 129 of 1991 and amended by s. 47 (1) (d) of Act 21 of 1995 and by s. 50 (1) of Act 28 of 1997.]

(b) as respects any such part of a month, be an amount which bears to the appropriate amount determined in accordance with item (a) for a month the same ratio as the number of days in such part of a month bears to the number of days in the month in which such part falls.

(5) Subject to the provisions of subparagraph (7), no reduction in the value determined under subparagraph (4) shall be made by reason of the fact that the vehicle in question was during any period for any reason temporarily not used by the employee for private purposes.

(6) Where more than one motor vehicle is made available by an employer to a particular employee at the same time and the Commissioner is satisfied that each such vehicle was used by the employee during the year of assessment primarily for business purposes, the value to be placed on the private use of all the said vehicles shall be deemed to be the value of the private use of the vehicle having the highest value of private use or such other vehicle as the Commissioner may direct: Provided that the preceding provisions of this subparagraph shall not apply where the provisions of subparagraph (7) or (8) are
applied.

[Sub-para. (6) substituted by s. 10 (1) (b) of Act 108 of 1986.]

(7) Where it is proved to the satisfaction of the Commissioner that accurate records of distances travelled in such vehicle for private purposes (including travelling between the employee's place of residence and his place of employment) are kept, the Commissioner may upon the assessment of the employee's liability for normal tax reduce the value placed on the private or domestic use of the vehicle to such amount as appears to the Commissioner to be fair and reasonable in the circumstances of the case if the total distance so travelled during the year of assessment was less than 10 000 kilometres or, where the period in that year during which the vehicle was available for the employee's use was less than 12 months, a distance which bears to 10 000 kilometres the same ratio as the said period bears to 12 months.

(8) If-

(a) the cash equivalent of the value of a taxable benefit in respect of a motor vehicle falls to be included in the income of an employee;

(b) the employee was required by his employer to bear any portion of the cost of the licence for the vehicle, the insurance thereof, the fuel used therein or the maintenance thereof;

(c) no compensation in the form of an allowance or reimbursement was payable by the employer to the employee in respect of the expenditure borne by the employee in respect of the said cost; and

(d) where the cost of fuel for or of maintenance of the vehicle was borne by the employee, the value determined under subparagraph (4) included an amount in respect of fuel or the maintenance thereof, as the case may be,

the said cash equivalent shall, on assessment of the employee's liability for normal tax, be reduced by the amount actually incurred by the employee during the relevant year of assessment in respect of the said cost and any such reduction shall, in so far as the amount thereof includes any amount which would otherwise qualify for deduction from the employee's income, be deemed to be in lieu of such deduction in respect of fuel or maintenance, as the case may be.

(9) Any decision of the Commissioner in the exercise of his discretion under subparagraph (6) or (7) shall be subject to objection and appeal.

(10) For the purposes of this paragraph the private use by an employee of a motor vehicle shall be deemed to have no value, if-
(a) (i) the vehicle is available to and is in fact used by employees of the employer in general;

(ii) the private use of the vehicle by the employee concerned is infrequent or is merely incidental to its business use; and

(iii) the vehicle is not normally kept at or near the residence of the employee concerned when not in use outside of business hours; or

(b) the nature of the employee's duties are such that he is regularly required to use the vehicle for the performance of such duties outside his normal hours of work, and he is not permitted to use such vehicle for private purposes other than travelling between his place of residence and his place of work.

MEALS, REFRESHMENTS AND MEAL AND REFRESHMENT VOUCHERS
(para. 8)

8. (1) Where an employee has been provided with any meal, refreshment or voucher as contemplated in paragraph 2 (c), the cash equivalent of the taxable benefit shall be so much of the value of such meal, refreshment or voucher (as determined under subparagraph (2) of this paragraph) as exceeds any consideration given by the employee in respect of such meal, refreshment or voucher.

(2) The value to be placed on such meal, refreshment or voucher shall be the cost to the employer of such meal, refreshment or voucher.

(3) No value shall be placed under this paragraph on-

(a) any meal or refreshment supplied by an employer to his employee in any canteen, cafeteria or dining room operated by or on behalf of the employer and patronised wholly or mainly by his employees or on the business premises of the employer;

(b) any meal or refreshment supplied by an employer to an employee during business hours or extended working hours or on a special occasion; or

(c) any meal or refreshment enjoyed by an employee in the course of providing a meal or refreshment to any person whom the employee is required to entertain on behalf of the employer.

RESIDENTIAL ACCOMMODATION (para. 9)
9. (1) For the purposes of this paragraph-

'remuneration', in relation to any employee, means the aggregate of the amounts of remuneration (as determined in accordance with the definition of 'remuneration' in paragraph 1 of the Fourth Schedule but excluding any amounts referred to in paragraph (c) and including any amounts referred to in paragraph (vii) of that definition) which have been derived by him from his employer and any companies and funds which are associated institutions in relation to the employer, but excluding-

(a) the value of any benefit or taxable benefit derived from the private use of any motor vehicle or the occupation of residential accommodation;

(b) the amount of any remuneration derived by any employee who is not the controlling shareholder or one of the controlling shareholders of the employer company, from an associated institution in relation to the employer if it is shown to the satisfaction of the Commissioner that the employee's employment with the employer is not and was not in any way connected with the employee's employment with such associated institution (any decision of the Commissioner under this paragraph being subject to objection and appeal); and

(c) any amount referred to in paragraph (iii) of the proviso to paragraph (c) of the definition of 'gross income' in section 1 of this Act;

[Definition of 'remuneration' amended by s. 53 of Act 113 of 1993 and by s. 33 of Act 21 of 1994.]

'remuneration factor', in relation to a year of assessment during which an employee has occupied residential accommodation, means the remuneration derived by him during the year of assessment immediately preceding the firstmentioned year of assessment: Provided that-

(i) where during a portion of such preceding year the employee was not in the employment of the employer or any associated institution in relation to the employer, the remuneration factor shall as respects that employee be deemed to be an amount which bears to the amount of his remuneration for the portion of such preceding year during which he was in such employment the same ratio as the period of 365 days bears to the number of days in such lastmentioned portion;

(ii) where during the whole of such preceding year, the employee was
not in the employment of the employer or of any associated institution in relation to the employer, the remuneration factor shall as respects that employee be deemed to be an amount which bears to the employee’s remuneration during the first month during which he was in the employment of the employer the same ratio as 365 days bears to the number of days during which he was in such employment.

(2) The cash equivalent of the value of the taxable benefit derived from the occupation of residential accommodation as contemplated in paragraph 2 (d) shall be the rental value of such accommodation (as determined under subparagraph (3), (3A), (4) or (5) of this paragraph in respect of the year of assessment) less any rental consideration given by the employee for such accommodation in respect of such year, any rental consideration given by him in respect of household goods supplied with such accommodation and any charge made to the employee by the employer in respect of power or fuel provided with the accommodation.

[Sub-para. (2) substituted by s. 31 (a) of Act 96 of 1985 and by s. 55 (1) (a) of Act 30 of 1998.]

(3) Subject to the provisions of subparagraph (3A), the rental value to be placed on such accommodation (other than accommodation referred to in subparagraph (4)) for any year of assessment shall be the greater of-

(a) an amount determined in accordance with the formula

\[
\frac{(A - B) \times C \times D}{100 \times 12}
\]

in which formula-

(i) ‘A’ represents the remuneration factor as determined in relation to the year of assessment;

(ii) ‘B’ represents an abatement equal to an amount of R20 000: Provided that in any case where-

(aa) the employer is a private company and the employee or his spouse controls the company or is one of the persons controlling the company, whether control is exercised directly as a shareholder in the company or as a shareholder in any other company; or

(bb) the employee, his spouse or minor child has a right of option or pre-emption granted by the employer or by any other
person by arrangement with the employer or any associated institution in relation to the employer whereby the employee, his spouse or minor child may become the owner of the accommodation, whether directly or indirectly by virtue of a controlling interest in a company or otherwise,

the said abatement shall be reduced to zero;

(iii) 'C' represents a quantity of 17: Provided that where the accommodation consists of a house, flat or apartment consisting of at least four rooms-

(aa) 'C' represents a quantity of 18 if-

(A) such accommodation is unfurnished and power or fuel is supplied by the employer; or

(B) such accommodation is furnished but power or fuel is not supplied; or

(bb) 'C' represents a quantity of 19 if such accommodation is furnished and power or fuel is supplied by the employer; and

(iv) 'D' represents the number of months in relation to a year of assessment during which the employee was entitled to occupation of such accommodation; or

(b) the total amount of the rentals payable for such accommodation by the employer or associated institution in relation to the employer and any other expenditure defrayed by the employer or associated institution in respect of such accommodation.

[Sub-para. (3) amended by s. 34 (1) (a) of Act 65 of 1986, by s. 29 (a) of Act 85 of 1987 and by s. 51 (1) (a) of Act 28 of 1997 and substituted by s. 55 (1) (b) of Act 30 of 1998.]

(3A) Subject to subparagraph (3B), the value determined in accordance with the formula contemplated in subparagraph (3) (a) shall apply where-

(a) the full ownership of such accommodation vests in the employer or associated institution in relation to the employer; or

(b) the full ownership does not so vest in the employer or associated institution, and-
(i) it is customary for an employer in the industry concerned to provide free or subsidised accommodation to its employees; and

(ii) it is necessary for the particular employer, having regard to the particular kind of employment, to provide free or subsidised accommodation-

\[(aa)\] for the proper performance by the employees of their duties; or

\[(bb)\] as a result of the frequent movement of employees; or

\[(cc)\] as a result of the lack of employer-owned accommodation; and

(iii) the benefit is provided solely for \textit{bona fide} business purposes, other than the obtaining of a tax benefit.

[Sub-para. (3A) inserted by s. 55 (1) (c) of Act 30 of 1998.]

(3B) Where the employee has an interest in the accommodation in question, subparagraph (3) shall apply.

[Sub-para. (3B) inserted by s. 55 (1) (c) of Act 30 of 1998.]

(4) The rental value to be placed on accommodation occupied temporarily for the purposes of a holiday shall be-

\[(a)\] where such accommodation is hired by the employer from a person other than an associated institution in relation to the employer, so much of the rental payable and any amounts chargeable in respect of meals, refreshments or any services relating to such accommodation as have been borne by the employer and are connected with the period during which the accommodation was so occupied; or

\[(b)\] in any other case, an amount calculated at the rate of R100 per person per day for each day during which the accommodation was so occupied or at the prevailing rate per day at which such accommodation would normally be let to any person who is not an employee of the employer or of any associated institution in relation to the employer, whichever rate is lower.

[Item (b) amended by s. 59 (a) of Act 101 of 1990 and by s. 51 (1) (b) of Act 28 of 1997.]
(5) Where, by reason of the situation, nature or condition of the accommodation or any other factor, the Commissioner is satisfied that the rental value of such accommodation is less than the rental value thereof determined in accordance with the formula contemplated in subparagraph (3) (a) or the rental value determinable under subparagraph (4), he may determine such rental value at such lower amount as to him appears fair and reasonable.

[Sub-para. (5) substituted by s. 55 (1) (d) of Act 30 of 1998.]

(6) Where any employee has been provided by his employer with residential accommodation consisting of two or more residential units situated at different places which the employee is entitled to occupy from time to time while performing his duties the cash equivalent of the value of the benefit of such units which shall be included in the gross income of the employee shall be the value of the unit with the highest rental value determined under subparagraph (2) over the full period during which the employee was entitled to occupy more than one unit.

[Sub-para. (6) substituted by s. 51 (1) (c) of Act 28 of 1997.]

(7) No rental value shall be placed under this paragraph on any accommodation away from an employee's usual place of residence provided by his employer while such employee is absent from his usual place of residence for the purposes of performing the duties of his employment: Provided that the preceding provisions of this subparagraph shall not apply in respect of any residential unit referred to in subparagraph (6).

(8) For employees' tax purposes an appropriate portion of the cash equivalent referred to in subparagraph (2) shall be apportioned to each period during the year of assessment in respect of which any cash remuneration is paid or becomes payable by the employer to the employee.

(9) Where the employee has been provided with residential accommodation by his employer or any associated institution in relation to the employer and such employee has an interest in the accommodation in question, as contemplated in subparagraph (10), and the accommodation has been let to the employer or to any associated institution in relation to the employer, the said rental shall for the purposes of this Act (excluding this subparagraph) be deemed not to have been received by or to have accrued to the employee or any connected person in relation to the employee.

[Sub-para. (9) added by s. 31 (b) of Act 96 of 1985 and substituted by s. 34 (1) (b) of Act 65 of 1986, by s. 29 (b) of Act 85 of 1987, by s. 59 (b) of Act 101 of 1990, by s. 51 (1) (d) of Act 28 of 1997 and by s. 55 (1) (e) of Act 30 of 1998.]

(10) For the purposes of subparagraphs (3B) and (9), an employee shall
be deemed to have an interest in accommodation if-

(a) such accommodation is owned by the employee or a connected person in relation to such employee;

(b) any increase in the value of the accommodation in any manner whatsoever, whether directly or indirectly, accrues for the benefit of the employee or a connected person in relation to such employee; or

(c) such employee or a connected person in relation to such employee, has a right to acquire the accommodation from his employer.

[Sub-para. (10) added by s. 59 (c) of Act 101 of 1990, substituted by s. 51 (1) (d) of Act 28 of 1997 and amended by s. 55 (1) (f) of Act 30 of 1998.]

FREE OR CHEAP SERVICES (para. 10)

10. (1) The cash equivalent of the value of any taxable benefit derived from the rendering of a service to any employee as contemplated in paragraph 2 (e) shall be-

(a) in the case of any travel facility granted by an employer who is engaged in the business of conveying passengers for reward by sea or by air to enable any employee or any relative of such employee to travel to any destination outside the Republic for his private or domestic purposes, if the lowest fare payable by a passenger utilizing such facility (had he paid the full fare) at the relevant time in respect of any such journey exceeds R500, an amount equal to such lowest fare, less the amount of any consideration given by the employee or his relative in respect of such facility: Provided that for the purposes hereof a forward journey and a return journey shall be regarded as one journey; or

(b) in the case of the rendering of any other service as contemplated in the said paragraph, the cost to the employer in rendering such service or having such service rendered, less the amount of any consideration given by the employee in respect of such service.

(2) No value shall be placed under this paragraph on-

(a) any travel facility granted by any employer who is engaged in the business of conveying passengers for reward by land, sea or air to enable any employee in his employment or such employee’s spouse or minor child to travel-
(i) to any destination in the Republic or to travel overland to any destination outside the Republic; or

(ii) to any destination outside the Republic if such travel was undertaken on a flight or voyage made in the ordinary course of the employer's business and such employee, spouse or minor child was not permitted to make a firm advance reservation of the seat or berth occupied by him, or if the lowest fare in respect of such travel facility, as contemplated in subparagraph (1) (a), did not exceed R500;

(b) any transport service rendered by any employer to his employees in general for the conveyance of such employees from their homes to the place of their employment and vice versa;

(c) any services rendered by an employer to his employees at their place of work for the better performance of their duties or as a benefit to be enjoyed by them at that place or for recreational purposes at that place or a place of recreation provided by the employer for the use of his employees in general; or

(d) occasional services (other than a facility or service referred to in item (a), (b) or (c) rendered by any employer to his employee if the cost to the employer of rendering such services or of having such services rendered does not in the aggregate exceed the sum of R500 during the year of assessment.

10A. (1) Where-

(a) any employee has been granted the right to occupy residential accommodation owned by his employer or by any associated institution in relation to his employer;

(b) the employee, his spouse or minor child is in terms of an agreement entered into with such employer or associated institution, entitled or obliged to acquire such residential accommodation at a future date at a price stated in such agreement; and

(c) the employee is required to pay in respect of his occupation of such residential accommodation a rental which is calculated wholly or partly as a percentage of the price referred to in item (b),

it shall be deemed for the purposes of this Schedule that the employer or, where the residential accommodation is owned by such associated institution, the associated institution, has granted to the employee a loan equal to the price
referred to in item \((b)\) and that interest is payable on such loan at a rate equal to the percentage referred to in item \((c)\).

(2) The provisions of paragraph 2 \((d)\) shall not apply to any residential accommodation with which an employee has been provided in the circumstances contemplated in subparagraph \((1)\), and the provisions of paragraph 2 \((a)\) shall not apply where any such residential accommodation is acquired by the employee in terms of an agreement referred to in item \((b)\) of that subparagraph at a price which is not lower than the market value of such residential accommodation on the date such agreement is concluded.

[Sub-para. (2) substituted by s. 60 (1) of Act 101 of 1990.]

[Para. 10A inserted by s. 32 of Act 96 of 1985.]

**BENEFITS IN RESPECT OF INTEREST ON LOANS (para. 11)**

11. (1) The cash equivalent of the value of the taxable benefit derived in consequence of the grant of a loan to an employee in the circumstances contemplated in paragraph 2 \((f)\) shall be the amount of interest that would have been payable on the amount owing in respect of the loan in respect of the year of assessment if the employee had been obliged to pay interest on such amount during such year at the official rate of interest, less the amount of interest (if any) actually incurred by the employee in respect of the loan in respect of such year.

[Sub-para. (1) amended by s. 33 of Act 96 of 1985 and substituted by s. 48 of Act 21 of 1995.]

(2) For the purposes of this Act-

\((a)\) a portion of the said cash equivalent shall be deemed to have accrued to the employee-

\((i)\) where interest on the loan in question becomes payable by the employee at regular intervals, on each date during the year of assessment on which interest becomes so payable for a portion of such year;

\((ii)\) where interest on the loan in question becomes payable by the employee at irregular intervals or where interest on the loan is not payable by him, on the last day of each period during the year of assessment in respect of which any cash remuneration becomes payable by the employer to the employee; and

\((b)\) the said portion shall be determined by calculating interest at the
official rate of interest for the portion of the year referred to in subparagraph (2) (a) (i) or the period referred to in subparagraph (2) as the case may be, and deducting therefrom so much of the amount of interest (if any) payable by him on the loan as relates to the said portion of a year or the said period, as the case may be: Provided that where the official rate of interest has been altered with effect from any date, any cash equivalent which is under item (a) deemed to have accrued to the employee on any date falling before the date on which such interest rate was so altered shall be determined as though such rate of interest had not been so altered.

[Item (b) amended by s. 35 (1) (b) of Act 65 of 1986.]

[Sub-para. (2) amended by s. 35 (1) (a) of Act 65 of 1986.]

(3) With the consent of the Commissioner a different method of calculation of the said cash equivalent or portions thereof may be employed if the Commissioner is satisfied that such method achieves substantially the same result as the methods provided in subparagraphs (1) and (2).

(4) No value shall be placed under this paragraph on the taxable benefit derived in consequence of-

(a) the grant by any employer to his employee of any casual loan or loans if such loan or the aggregate of such loans does not exceed the sum of R3 000 at any relevant time; or

(b) the grant by any employer to his employee of any loan for the purpose of enabling that employee to further his own studies.

(5) Where any amount, being the cash equivalent as determined under the provisions of this paragraph, of the value of a taxable benefit derived by any taxpayer in consequence of a loan granted to him, has been included in such taxpayer's taxable income in any year of assessment, such amount shall for the purposes of section 11 (a) of this Act be deemed to be interest actually incurred by him in that year of assessment in respect of the said loan where such amount, had it been actually incurred as interest, would have been incurred by the taxpayer in the production of his income.

**SUBSIDIES IN RESPECT OF LOANS (para. 12)**

[Heading substituted by s. 34 of Act 96 of 1985.]

12. The cash equivalent of the value of the taxable benefit consisting of any subsidy in respect of the amounts of interest or capital repayments referred to in paragraph 2 (g) or any subsidy contemplated in paragraph 2 (gA) shall be the
amount of such subsidy.

[Para. 12 substituted by s. 34 of Act 96 of 1985 and by s. 49 of Act 21 of 1995.]

CONTRIBUTION TO BENEFIT FUND (para. 12A)

12A (1) The cash equivalent of the value of the taxable benefit contemplated in paragraph 2 (i) shall be the amount by which the contribution or payment by the employer, directly or indirectly, to any fund, contemplated in paragraph (b) of the definition of 'benefit fund' in section 1 of this Act, for the benefit of any employee or dependants of such employee for any period, exceeds two thirds of the total contribution or payment in relation to such employee or dependants of such employee to such fund during such period.

(2) Where any contribution or payment made by an employer contemplated in subparagraph (1) is made in such a manner that an appropriate portion thereof cannot be attributed to the relevant employee or dependants of such employee for whose benefit it is made, the cash equivalent of the value of the taxable benefit contemplated in paragraph 2 (i) in relation to such employee shall be determined in accordance with the formula

\[ A = \frac{B + C - E}{3 \times D}, \]

in which formula-

(a) 'A' represents the value of the taxable benefit in relation to an employee;

(b) 'B' represents the total contribution or payment by the employer to the fund for the benefit of all employees or dependants of such employees in respect of whom such payment is made in such a manner that an appropriate portion thereof cannot be attributed to the relevant employees or their dependants;

(c) 'C' represents the total contribution or payment by all employees contemplated in symbol 'B';

(d) 'D' represents the number of employees contemplated in symbol 'B'; and

(e) 'E' represents the contribution or payment by the relevant employee.

(3) If the Commissioner is in any case satisfied that the apportionment of the cash equivalent of the value of the benefit amongst all members of any fund
in accordance with the formula contemplated in subparagraph (2) does not reasonably represent a fair apportionment of such value amongst the members, he may direct that such apportionment be made in such other manner as to him appears fair and reasonable.

(4) The exercise by the Commissioner of his discretion contemplated in subparagraph (3) shall be subject to objection and appeal.

(5) No value shall be placed in terms of this paragraph on the taxable benefit derived from an employer by-

(a) a person who by reason of superannuation, ill-health or other infirmity retired from the employ of such employer; or

(b) the dependants of a person after such person's death, if such person was in the employ of such employer on the date of death; or

(c) the dependants of a person after such person's death, if such person retired from the employ of such employer by reason of superannuation, ill-health or other infirmity.

[Para. 12A inserted by s. 56 (1) of Act 30 of 1998.]

**PAYMENT OF EMPLOYEE’S DEBT OR RELEASE OF EMPLOYEE FROM OBLIGATION TO PAY A DEBT (para. 13)**

13. (1) The cash equivalent of the value of the taxable benefit derived by reason of the payment of any amount by an employer in the circumstances contemplated in paragraph 2 (h) shall be an amount equal to such amount and the cash equivalent of the benefit to an employee by reason of his release from the obligation to pay an amount owing, as contemplated in the said paragraph, shall be an amount equal to the amount that was owing.

(2) No value shall be placed under this paragraph on the value of any taxable benefit derived-

(a) ......

[Item (a) deleted by s. 51 (1) (a) of Act 129 of 1991.]

(b) by reason of the fact that an employer has paid subscriptions due by his employee to a professional body, if membership of such body is a condition of the employee's employment; or

(c) ......
(3) Where-

(a) in consideration for the grant by any employer (hereinafter referred to as the former employer) to an employee of any bursary, study loan or similar assistance, the employee assumed an obligation to render services to the former employer for an agreed period;

(b) in consequence of the employee having terminated his services with the former employer before the expiry of the said period and having taken up employment with another employer (hereinafter referred to as the present employer), the employee thereupon became liable to pay an amount to the former employer;

(c) such amount was paid to the former employer on the employee's behalf by the present employer; and

(d) the employee has in consideration for such payment by the present employer assumed an obligation to render services to the present employer for a period which is not shorter than the unexpired portion of the period during which he had been obliged to render services to the former employer,

no value shall be placed under this paragraph on the value of any taxable benefit derived by reason of the payment referred to in item (c).

[Sub-para. (3) added by s. 37 (1) of Act 141 of 1992.]

13A. ...... [Para. 13A inserted by s. 36 of Act 96 of 1985 and deleted by s. 50 of Act 21 of 1995.]


15. ...... [Para. 15 amended by s. 38 of Act 96 of 1985, by s. 37 (1) of Act 65 of 1986 and by s. 11 of Act 108 of 1986 and deleted by s. 52 of Act 21 of 1995.]

BENEFITS GRANTED TO RELATIVES OF EMPLOYEES AND OTHERS (para. 16)
16. (1) For the purposes of this Schedule and of paragraph (i) of the definition of 'gross income' in section 1 of this Act, an employee shall be deemed to have been granted a taxable benefit in respect of his employment with an employer if as a benefit or advantage of or by virtue of the employee's employment with the employer or as a reward for services rendered or to be rendered by the employee-

(a) the employer has granted a benefit or advantage (whether directly or indirectly) to a relative of the employee; or

(b) anything is done by the employer under any agreement, transaction or arrangement so as to confer any benefit or advantage upon any person other than the employee (whether directly or indirectly),

and such benefit or advantage, if it had been granted directly by the employer to the employee, would have constituted a taxable benefit contemplated in paragraph 2.

(2) The provisions of this Schedule shall apply in relation to the taxable benefit so deemed to have been granted as though the taxable benefit had in fact been granted to the employee.

CERTIFICATES BY EMPLOYERS (para. 17)

17. (1) Every employer shall, within 30 days after the end of any year or period of assessment during which an employee of that employer has enjoyed any taxable benefit granted by the employer, or, in any particular case, within such further period as the Commissioner may approve, deliver to such employee a certificate which shall show the nature of such taxable benefit and the full cash equivalent of the value thereof during such year or period.

(2) The provisions of subparagraph (1) shall also apply in respect of any taxable benefit referred to in paragraph 4 or 16.

(3) Such employer shall within the said period of 30 days or the said further period, deliver to the Commissioner a copy of such certificate.

(4) Any employer who fails to comply with the requirements of this paragraph shall pay to the Commissioner a penalty equal to 10 per cent of the cash equivalent of the value of the taxable benefit in question or where the said cash equivalent has been understated, of the amount by which the cash equivalent was understated: Provided that the Commissioner may, if he is satisfied that such failure was not due to any intention on the part of the employer to evade his obligations under this Act and was not designed to enable the employee concerned to evade such employee's obligations under this Act, remit
the whole or any part of the penalty imposed under this subparagraph.

(5) Such penalty shall be assessable upon and recoverable from the employer concerned as though it were a tax chargeable under this Act: Provided that any refusal by the Commissioner to remit any part of such penalty shall be subject to objection and appeal.

(6) The preceding provisions of this paragraph shall not apply where the cash equivalent of such taxable benefit constituted remuneration in the hands of the employee concerned from which employees tax was deducted or withheld by the employer and such cash equivalent has been included in an employees tax certificate delivered to the employee in terms of paragraph 13 of the Fourth Schedule, except to the extent that such cash equivalent was understated in such certificate.

ANNUAL STATEMENTS BY EMPLOYERS (para. 18)

18. (1) Every employer shall on the return referred to in paragraph 14 of the Fourth Schedule declare that all taxable benefits enjoyed by employees of such employer during the period in respect of which such return was furnished, are declared on the employees tax certificates delivered to such employees or on the return to be furnished in terms of section 69.

(2) Every such return shall, in the case of a company, be certified as correct by a director of such company.

[Para. 18 repealed by s. 26 of Act 70 of 1989 and inserted by s. 61 of Act 101 of 1990.]

OFFENCES (para. 19)

19. Any person who makes or issues or causes to be made or issued or knowingly possesses or uses or causes to be used any certificate referred to in paragraph 17 (1) which is false, shall be guilty of an offence and liable on conviction to a fine not exceeding R400 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Para. 19 substituted by s. 27 of Act 70 of 1989.]

AMENDMENTS TO THIS SCHEDULE (para. 20)

20. (1) The Minister of Finance may by notice in the Gazette amend-

(a) the definition of 'official rate of interest' in paragraph 1 so as to vary the rate of interest specified therein;
(b) the provisions of paragraph 5 (2) so as to vary the amount specified therein;

[Item (b) substituted by s. 34 of Act 21 of 1994.]

(c) the provisions of paragraph 7 (4) so as to substitute a different scale for the scale specified therein and so as to vary the amounts specified in the proviso thereto;

(d) the provisions of paragraph 7 (7) so as to vary the distance in kilometres specified therein;

(e) the provisions of paragraph 9 (3) (b) so as to vary the amount specified therein;

(f) the provisions of paragraph 9 (3) (c) so as to vary the quantities specified therein;

(g) the provisions of paragraph 9 (4) (b) so as to vary the daily amount specified therein;

(h) the provisions of paragraph 10 (1) (a) so as to vary the amount specified therein;

(i) the provisions of paragraph 10 (2) (d) so as to vary the amount specified therein; and

(j) the provisions of paragraph 11 (4) (a) so as to vary the amount specified therein.

[Sub-para. (1) amended by s. 39 of Act 96 of 1985.]

(2) Any amendment made in terms of subparagraph (1) which is in force immediately before the date of promulgation of the Act of Parliament fixing rates of normal tax for the said year of assessment shall, unless Parliament otherwise provides, lapse on that date, and in such case it shall as from that date cease to have the force of law.


**Section 10 (1) - further proviso to para. (h)**

Provided further that in the case of any such person not ordinarily resident nor carrying on business in a neighbouring country or any such company which is not incorporated, registered, managed or controlled in a
neighbouring country, the exemption under this paragraph shall not apply unless such stock or securities were directly or indirectly paid for in the currency of any country other than the Republic or a neighbouring country;

[Date of commencement to be fixed - see s. 10 (2) (b) of Act 101 of 1990.]


**Section 7A (4A) (a)**

the taxpayer has attained the age of 55 years; or

**Section 10 (1) (x) - para. (i) of first proviso**

such person has attained the age of 55 years; or

**Second Schedule, para. 1 - definition**

'retire' - proviso to para. (b)

Provided that for the purposes of this paragraph 'full benefits' shall in the case of a member who retires from employment on the grounds of ill-health or who retires from employment after attaining the age of 55 years, include the surrender value of any policy of insurance which is in terms of subparagraph (2) *bis* of paragraph 4 deemed to be a lump sum benefit.

**Second Schedule - para. 4 (3)**

If a member of a provident fund retires from such fund before he reaches the age of 55 years on grounds other than ill-health, any lump sum benefits received by or accrued to such member in consequence of or following upon such retirement shall, unless the Commissioner having regard to the circumstances of the case otherwise directs, be assessed to tax not in accordance with the provisions of paragraph 5 but in accordance with the provisions of paragraph 6 as though it were a lump sum benefit derived by such member in consequence of or following upon such member's withdrawal or resignation from such fund.

**INCOME TAX AMENDMENT ACT 90 OF 1962**

[ASSENTED TO 27 JUNE 1962] [DATE OF COMMENCEMENT: 4 JULY 1962]

(English text signed by the State President)

as amended by
ACT

To fix the rates of normal tax in respect of the year of assessment ending the thirtieth day of June, 1962, to provide for the payment of a portion of the normal tax payable by certain companies into provincial revenue funds, to amend the law relating to income tax, and to provide for the furnishing of information by employers and others.

1 Rates of normal tax

The rates of normal tax to be levied in terms of subsection (2) of section five of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of the year of assessment ending the thirtieth day of June, 1962, shall be as set forth in the Schedule to this Act.

2 ...... [S. 2 repealed by s. 31 of Act 90 of 1972.]

3 Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) amends the definition of 'assessment' (date of commencement 1 July, 1962); paragraph (b) amends the definition of 'company'; paragraph (c) amends the definition of 'dividend' and with effect from 1 July, 1962, substitutes paragraphs (g) and (h) for paragraph (g) of that definition; paragraph (d) amends paragraph (c) of the definition of 'gross income'; paragraph (e) amends paragraph (e) of the definition of 'gross income'; paragraph (f) inserts subparagraph (ii)bis in paragraph (g) of the definition of 'gross income'; paragraph (g) amends subparagraph (iv) of paragraph (g) of the definition of 'gross income'; paragraph (h) substitutes the definition of 'married person'; paragraph (i) amends the definition of 'pension fund'; and paragraph (j) substitutes the definition of 'shareholder'.

4 and 5 Amend respectively sections 6 and 7 of the Income Tax Act 58 of 1962.

6 (1) Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraphs (a) to (c) inclusive amend subsection (2); paragraph (d) amends subsection (3); and paragraph (e) amends subsection (4).

(2) The amendments effected by paragraphs (a), (b), (c) and (d) of subsection (1) shall first take effect in respect of assessments for the year of
assessment ending the twenty-eighth day of February, 1963.

[Sub-s. (2) amended by s. 28 of Act 6 of 1963.]

7 to 9 inclusive Amend respectively the following sections of the Income Tax Act 58 of 1962: 9, 10, 11.


(2) The amendment effected by subsection (1) shall first take effect in respect of assessments for the year of assessment ending the twenty-eighth day of February, 1963, or, in the case of a company, the first year of assessment of such company ending after the thirtieth day of June, 1962.

[Sub-s. (2) amended by s. 29 of Act 6 of 1963 and by s. 32 of Act 72 of 1963.]

11 to 13 inclusive Amend respectively the following sections of the Income Tax Act 58 of 1962: 12, 13, 14.


20 to 30 inclusive Amend respectively the following sections of the Income Tax Act 58 of 1962: 35, 38, 49, 50, 52, 61, 68, 95, 96, 101, 106.


32 Construction of paragraph (b)ter of definition of 'gross income' in section 7 of Act 31 of 1941, for purposes of assessments for year ended 30th June, 1961

(1) For the purposes of any assessment under the Income Tax Act, 1941 (Act 31 of 1941), in respect of the year of assessment ended the thirtieth day of June, 1961, the provisions of paragraph (b)ter of the definition of 'gross income' in section seven of that Act, as substituted by paragraph (b) of section five of the Income Tax Act, 1961 (Act 80 of 1961), shall not apply in respect of any amount which is received by or accrues to or is deemed to have been received by or to have accrued to any person prior to the fifteenth day of March, 1961, and the
provisions of the said paragraph (b)ter as they were in force prior to the amendment effected by the said paragraph (b) shall be deemed to apply in respect of any such amount.

(2) The provisions of subsection (1) shall be deemed to have taken effect in respect of all assessments in respect of the year of assessment ended the thirtieth day of June, 1961.

33 **Interest on loans to or deposits and dividends on shares in building societies registered in the Republic, accruing to certain persons in South-West Africa, deemed for purposes of assessments under Act 31 of 1941 not to have been derived from any source in the Republic**

For the purposes of any assessment under the Income Tax Act, 1941 (Act 31 of 1941), any amount of interest which has been received by or has accrued to any person (other than a company) who is ordinarily resident in the Republic or the territory of South-West Africa (including the Eastern Caprivi Zipfel referred to in section three of the South-West Africa Affairs Amendment Act, 1951 (Act 55 of 1951)) or any company which is registered, managed or controlled in the Republic or the said territory, in respect of any loan to or deposit in any building society registered under the Building Societies Act, 1934 (Act 62 of 1934), or the amount of any dividend or share of profits distributed by any such society which has been received by or has accrued to any such person or company, shall, if such loan or deposit was made through any branch or agency of that society in the said territory or if the shareholding to which such dividend or share of profits relates was acquired through any such branch or agency, be deemed not to have been derived from any source within the Republic: Provided that if any such amount has been subjected to tax and the assessment in respect of that amount has in terms of subsection (7) of section seventy-seven of the said Act become final and conclusive, the Commissioner shall not be required to discharge or amend such assessment nor to refund any amount of tax which has been paid in respect of the amount so subject to tax.

34 **Construction of paragraph (v) of subsection (2) of section 18 of Act 31 of 1941 for purposes of assessments under that Act**

(1) For the purposes of any assessment under the Income Tax Act, 1941 (Act 31 of 1941), in respect of the taxable income derived by any person from the carrying on in the Republic of short-term insurance business as defined in section eighteen of that Act-

(a) the provisions of paragraph (v) of subsection (2) of the said section shall be applied as though the second proviso to that paragraph had not been enacted; and

(b) if the taxpayer has in respect of any year of assessment prior to the
year of assessment ended the thirtieth day of June, 1961, claimed as a deduction in the determination of the taxable income so derived by him any amount in respect of claims intimated to him but not yet paid by him and the Commissioner has in any assessment of that taxable income allowed the amount so claimed as a deduction, the Commissioner shall not in respect of that amount raise any further assessment under section sixty-six of that Act: Provided that any such amount shall be included in the income of the taxpayer for the next succeeding year of assessment under the said Act.

(2) The provisions of paragraph (a) of subsection (1) shall be deemed to have taken effect in respect of all assessments in respect of the year of assessment ended the thirtieth day of June, 1961, and the provisions of paragraph (b) of the said subsection shall be deemed to have taken effect on the first day of July, 1960.

35 Fourth Schedule to Act 31 of 1941 deemed for purposes of assessments under that Act to have been amended

For the purposes of any assessment under the Income Tax Act, 1941 (Act 31 of 1941), in respect of any amount received by or accrued to or deemed to have been received by or to have accrued to any person, the amendments effected by section thirty-one to the Second Schedule to the principal Act shall be deemed also to have been effected to the corresponding provisions of the Fourth Schedule to the first-mentioned Act.

36 ...... [S. 36 repealed by s. 30 of Act 6 of 1963.]

37 Commencement of certain amendments

Except where otherwise provided the amendments effected by this Act to the principal Act shall first take effect in respect of assessments for the year of assessment ending the thirtieth day of June, 1962.

38 Short title

This Act shall be called the Income Tax Amendment Act, 1962.

Schedule

RATES OF NORMAL TAX FOR THE YEAR ENDING THE THIRTIETH DAY OF JUNE 1962

(Section one of this Act.)
1. (1) The rates of normal tax referred to in section one of this Act are as follows:-

(a) In respect of the taxable income (excluding so much as is derived from mining operations carried on in the Republic by any company, but including so much as the Commissioner determines to be attributable to the inclusion in the gross income derived from mining in the Republic for gold, of any amount referred to in paragraph (j) of the definition of gross income' in section one of the principal Act)-

(i) in the case of all companies, except as provided in paragraph (b) of subsection (1) of section two of this Act, for each rand of the taxable income, thirty cents;

(ii) in the case of persons other than companies, as prescribed in the tables below:

TABLES

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income - does not exceed R600</td>
<td>6 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>exceeds R600, but does not exceed R1 000</td>
<td>R36 plus 7 per cent of the amount by which the taxable income exceeds R600;</td>
</tr>
<tr>
<td>&quot; R1 000, &quot; &quot; &quot; &quot; R1 200</td>
<td>R64 plus 8 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R1 200, &quot; &quot; &quot; &quot; R2 400</td>
<td>R80 plus 8 per cent of the amount by which the taxable income exceeds R1 200;</td>
</tr>
<tr>
<td>&quot; R2 400, &quot; &quot; &quot; &quot; R3 000</td>
<td>R176 plus 8 per cent of the amount by which the taxable income exceeds R2 400;</td>
</tr>
<tr>
<td>&quot; R3 000, &quot; &quot; &quot; &quot; R4 600</td>
<td>R224 plus 9 per cent of the amount by which the taxable income exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 600, &quot; &quot; &quot; &quot; R5 000</td>
<td>R368 plus 16 per cent of the amount by which the taxable income exceeds R4 600;</td>
</tr>
<tr>
<td>&quot; R5 000, &quot; &quot; &quot; &quot; R6 000</td>
<td>R432 plus 25 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R6 000, &quot; &quot; &quot; &quot; R8 000</td>
<td>R682 plus 29 per cent of the amount by which the taxable income exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R8 000, &quot; &quot; &quot; &quot; R10 000</td>
<td>R1 262 plus 35 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R10 000, &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 962 plus 39 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R12 000, &quot; &quot; &quot; &quot; R14 000</td>
<td>R2 742 plus 40 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R14 000, &quot; &quot; &quot; &quot; R16 000</td>
<td>R3 542 plus 44 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R16 000, &quot; &quot; &quot; &quot; R18 000</td>
<td>R4 422 plus 47 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R18 000......................</td>
<td>R5 362 plus 50 per cent of the amount by which the taxable income exceeds R18 000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED</th>
</tr>
</thead>
<tbody>
<tr>
<td>R1 000, &quot; &quot; &quot;</td>
<td>R36 plus 7 per cent of the amount by which the taxable income exceeds R600;</td>
</tr>
<tr>
<td>&quot; R1 200, &quot; &quot;</td>
<td>R64 plus 8 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R2 400, &quot; &quot;</td>
<td>R80 plus 8 per cent of the amount by which the taxable income exceeds R1 200;</td>
</tr>
<tr>
<td>&quot; R3 000, &quot; &quot;</td>
<td>R176 plus 8 per cent of the amount by which the taxable income exceeds R2 400;</td>
</tr>
<tr>
<td>&quot; R4 600, &quot; &quot;</td>
<td>R224 plus 9 per cent of the amount by which the taxable income exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R5 000, &quot; &quot;</td>
<td>R368 plus 16 per cent of the amount by which the taxable income exceeds R4 600;</td>
</tr>
<tr>
<td>&quot; R6 000, &quot; &quot;</td>
<td>R432 plus 25 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R8 000, &quot; &quot;</td>
<td>R682 plus 29 per cent of the amount by which the taxable income exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R10 000, &quot; &quot;</td>
<td>R1 262 plus 35 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R12 000, &quot; &quot;</td>
<td>R1 962 plus 39 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R14 000, &quot; &quot;</td>
<td>R2 742 plus 40 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R16 000, &quot; &quot;</td>
<td>R3 542 plus 44 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R18 000......................</td>
<td>R4 422 plus 47 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R6 000, &quot; &quot;</td>
<td>R816 plus 50 per cent of the amount by which the taxable income exceeds R18 000</td>
</tr>
</tbody>
</table>
Where the taxable income -
does not exceed R600,
but does not exceed R1 000
" R1 000, " " " " R1 200
" R1 200, " " " " R2 400
" R2 400, " " " " R3 000
" R3 000, " " " " R4 600
" R4 600, " " " " R5 000
" R5 000, " " " " R6 000
" R6 000, " " " " R8 000
" R8 000, " " " " R10 000
" R10 000, " " " " R12 000
" R12 000, " " " " R14 000
" R14 000, " " " " R16 000
" R16 000, " " " " R18 000
" R18 000 ......................

(b) in respect of so much of the taxable income as has been derived by
any company from mining in the Republic for gold (but with the
exclusion of so much of the taxable income as the Commissioner
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 one of the principal Act), on each rand of the
taxable income, a percentage determined in accordance with the
formula:

\[
y = \frac{360}{x}
\]

in which formula (and in the formulae set out in the proviso hereto)
y represents such percentage and x the ratio expressed as a
percentage which the taxable income so derived (with the said
exclusion) bears to the income so derived (with the said exclusion):
Provided that if the taxable income so derived (with the said
exclusion) does not exceed forty thousand rand, the rate of tax
shall not exceed a percentage determined in accordance with the
formula:

R45 plus 9 per cent of the amount by which the taxable income excee
R600;
R81 plus 9 per cent of the amount by which the taxable income exceed:
R600;
R207 plus 10 per cent of the amount by which the taxable income exce:
R2 400;
R267 plus 11 per cent of the amount by which the taxable income exce:
R3 000;
R443 plus 18 per cent of the amount by which the taxable income exce:
R4 600;
R515 plus 26 per cent of the amount by which the taxable income exce:
R5 000;
R775 plus 30 per cent of the amount by which the taxable income exce:
R6 000;
R1 375 plus 36 per cent of the amount by which the taxable income excee
R8 000;
R2 095 plus 41 per cent of the amount by which the taxable income exce:
R10 000;
R2 915 plus 42 per cent of the amount by which the taxable income ex:
R12 000;
R3 755 plus 45 per cent of the amount by which the taxable income ex:
R14 000;
R4 655 plus 48 per cent of the amount by which the taxable income ex:
R16 000;
R5 615 plus 50 per cent of the amount by which the taxable income ex:
R18 000.
and if such taxable income exceeds forty thousand rand, the rate of
tax shall not exceed a percentage determined in accordance with a
formula arrived at by increasing the number 20 in the formula

\[
y = 20 \left(1 - \frac{6}{x}\right)
\]

by one for each completed amount of two thousand five hundred
rand by which the said taxable income exceeds forty thousand
rand;

(c) in respect of so much of the taxable income as has been derived by
any company from mining in the Republic for diamonds, for each
rand of the taxable income, forty-five cents;

(d) in respect of so much of the taxable income as has been derived by
any company from mining operations (other than mining for gold or
diamonds) carried on by such company in the Republic, for each
rand of the taxable income, thirty cents;

(e) in respect of so much 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,
as the Commissioner 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 one of the principal Act, for
each rand so determined to be attributable to the inclusion of any
such amount, the amount by which the average rate of normal tax
as determined under item (b) of subparagraph (2) exceeds twenty-
five cents;

(2) (a) For the purposes of subparagraph (1) income derived from mining
in the Republic for gold shall include any income derived from silver, osmiridium,
uranium, pyrites or other minerals which may be won in the course of the mining
for gold, and any income which, in the opinion of the Commissioner, results
directly from mining for gold.

(b) For the purposes of item (e) of subparagraph (1), the average rate of
normal tax shall be determined by dividing the total normal tax (excluding the tax
determined in accordance with the said paragraph for the period assessed) paid
by the company concerned in respect of its aggregate taxable income from gold
mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(c) The tax determined in accordance with any one of the items (a) to (e) of subparagraph (1), shall be payable in addition to the tax determined in accordance with any other of the said paragraphs.

INCOME TAX AMENDMENT ACT 6 OF 1963

[ASSENTED TO 16 FEBRUARY 1963] [DATE OF COMMENCEMENT: 20 FEBRUARY 1963]

(Unless otherwise indicated)

(English text signed by the State President)

as amended by

Insolvency Amendment Act 6 of 1972
Income Tax Act 90 of 1972
Financial Relations Act 65 of 1976

ACT

To amend the law relating to income tax, to provide for payments in respect of normal tax, the taxes levied by the provinces on persons and the incomes of persons and interest in respect of overdue payments to be made of amounts to be deducted or withheld by employers from the remuneration of employees and by way of provisional payments, to provide for the method of payment and recovery of certain taxes and interest, to provide for certain provisions of the law relating to income tax to be applied for the purposes of any ordinance of a provincial council imposing a tax on persons or on the incomes of persons, to provide for the loan portions of the normal and super taxes levied in respect of the years of assessment ended the thirtieth day of June, 1953, 1957, 1958 and 1959 to be discharged in certain cases, to provide for the payment into the Consolidated Revenue Fund and the various provincial revenue funds of portions of the amounts collected in respect of normal tax and the aforesaid taxes levied by the provinces (excluding the normal tax imposed on companies) and interest and other charges in respect of such taxes, and to amend the Insolvency Act, 1936, the Financial Relations Consolidation and Amendment Act, 1945, and the Exchequer and Audit Act, 1956.


3 to 6 inclusive Amend respectively the following sections of the Income Tax
Act 58 of 1962: 6, 12, 13, 19.


8 to 10 inclusive Amend respectively the following sections of the Income Tax Act 58 of 1962: 22, 49, 66.


   [Date of commencement of s. 11: 1 March 1963.]


   [Date of commencement of s. 13: 1 April 1963.]

14 Inserts sections 89bis and 89ter in the Income Tax Act 58 of 1962.

   [Date of commencement of s. 14: 1 April 1963.]


   [Date of commencement of ss. 15 and 16: 1 April 1963.]

17 ......

   [S. 17 repealed by s. 8 of Act 6 of 1972.]


21 and 22 Amend respectively sections 49 and 101 of the Insolvency Act 24 of 1936.

   [Date of commencement of ss. 21 and 22: 1 March 1963.]

23 and 24 ......

   [Ss. 23 and 24 repealed by s. 31 of Act 90 of 1972.]

25 (a) ......
[Para. (a) repealed by s. 32 (1) of Act 65 of 1976.]

(b) ...... [Para. (b) repealed by s. 31 of Act 90 of 1972.]

(c) and (d) ...... [Paras. (c) and (d) repealed by s. 32 (1) of Act 65 of 1976.]

26 and 27 ...... [Ss. 26 and 27 repealed by s. 31 of Act 90 of 1972.]

28 and 29 Amend respectively sections 6 and 10 of the Income Tax Amendment Act 90 of 1962.


[Date of commencement of s. 30: 1 March 1963.]

31 Discharge of loan portion of normal or super tax in respect of year of assessment ended 30th June 1953, 1957, 1958 or 1959 due by persons who have not paid such tax in full

(1) If any person has not prior to the first day of April, 1963, paid in full the amount of normal or super tax for which he has been assessed under the Income Tax Act, 1941 (Act 31 of 1941), in respect of any of the years of assessment ended the thirtieth day of June, 1953, 1957, 1958 or 1959 his liability for such tax shall be reduced by such portion of such amount as in terms of the provisions of section two of the Income Tax Act, 1953 (Act 34 of 1953), section three of the Income Tax Act, 1957 (Act 61 of 1957), section three of the Income Tax Act, 1958 (Act 36 of 1958) or section three of the Income Tax Act, 1959 (Act 78 of 1959), is a loan portion, and in such case the person concerned shall not be entitled under the said provisions to repayment of any portion of the normal or super tax paid by him in respect of the year of assessment in question.

(2) If the liability of any person for any tax referred to in subsection (1) has in terms of that subsection been reduced by an amount which exceeds the balance of that tax owing by him in respect of the year of assessment in question the Commissioner may, having regard to the circumstances of the case, refund without interest the excess to such person or retain it as a set-off against the liability of such person for any other tax, or interest in respect of such tax, for which he is or may become liable under the provisions of any Income Tax Act or the ordinance of any provincial council imposing any tax on persons or the
32 Commencement of certain amendments

The amendments effected to the principal Act by sections thirteen to sixteen, inclusive, shall come into operation on the first day of April, 1963.

33 Short title

This Act shall be called the Income Tax Amendment Act, 1963.

INCOME TAX ACT 72 OF 1963

[ASSENTED TO 27 JUNE 1963] [DATE OF COMMENCEMENT: 3 JULY 1963]
(Unless otherwise indicated)

(English text signed by the State President)

as amended by

Income Tax Act 90 of 1972

ACT

To fix the rates of normal tax payable by persons other than companies in respect of the years of assessment ending the twenty-eighth day of February, 1963, the thirtieth day of June, 1963, the twenty-ninth day of February, 1964, and the thirtieth day of June, 1964, and by companies in respect of their financial years ending on or before the thirty-first day of December, 1963, to provide for the payment of a portion of the normal tax payable by certain companies into provincial revenue funds, to provide for the basis of calculation of any tax levied by a provincial council on the incomes of persons other than companies, and to amend the Technological Training Advancement Act, 1960, the Income Tax Act, 1962, and the Income Tax Amendment Act, 1962.

1 Rates of normal tax

The rates of normal tax to be levied in terms of subsection (2) of section five of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act-

(a) in the case of any person referred to in paragraph (b) of subsection (1) of that section, in respect of the years of assessment ending the thirtieth day of June, 1963, and the thirtieth day of June, 1964;

(b) in the case of any person referred to in paragraph (c) of subsection
(1) of that section, in respect of the period of eight months ended the twenty-eighth day of February, 1963, and the year of assessment ending the twenty-ninth day of February, 1964; and

(c) in the case of any company, in respect of every financial year of such company ending on or before the thirty-first day of December, 1963,

shall be as set forth in the Schedule to this Act.

2 and 3 ......

[Ss. 2 and 3 repealed by s. 31 of Act 90 of 1972.]


5 and 6 Amend respectively sections 6 and 9 of the Income Tax Act 58 of 1962, with effect from the commencement of the year of assessment ending 29 February, 1964.

7 Amends section 10 of the Income Tax Act 58 of 1962, as follows: paragraph (a) amends subsection (1) (i) with effect in respect of assessments for the year of assessment ended 28 February, 1963; and paragraph (b) amends subsection (1) (p) with effect from the commencement of the year of assessment ending 29 February, 1964.

8 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraphs (a) and (b) amend respectively paragraphs (k) and (n) with effect from the commencement of the year of assessment ending 29 February, 1964; and paragraphs (c) and (d) amend respectively paragraphs (r) and (t).


Amend respectively paragraphs 3 and 4 of the First Schedule to the Income Tax Act 58 of 1962, with effect in respect of assessments for the year of assessment ended 28 February, 1963.


Substitutes paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962.

Amends paragraph 2 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) amends subparagraph (1) with effect from the commencement of the Income Tax Amendment Act, 1963 (20 February 1963); and paragraph (b) amends subparagraph (4).

Amend respectively the following paragraphs of the Fourth Schedule to the Income Tax Act 58 of 1962: 13, 20, 22, 24, 32, 33.


Amends section 1 of the Technological Training Advancement Act 69 of 1960.

(2) The provisions of subsection (1) shall first take effect in respect of donations made on or after the commencement of this Act by a company as contemplated in paragraph (r) of section eleven of the principal Act.


Commencement of certain amendments

Save as otherwise provided the amendments effected to the principal Act
by sections four, seven, twelve and fifteen to twenty-one, inclusive, shall first take effect in respect of assessments for the year of assessment ended the twenty-eighth day of February, 1963.

34 Short title

This Act shall be called the Income Tax Act, 1963.

Schedule


(Section one of this Act.)

1 (1) The rates of normal tax referred to in section one of this Act are as follows:—

(a) In respect of the taxable income (excluding so much as is derived from mining operations carried on in the Republic by any company, but including so much as the Commissioner determines to be attributable to the inclusion in the gross income derived from mining in the Republic for gold, of any amount referred to in paragraph (j) of the definition of ‘gross income’ in section one of the principal Act)—

(i) in the case of all companies, except as provided in paragraph (b) of subsection (1) of section two of this Act, for each rand of the taxable income, thirty cents;

(ii) in the case of persons other than companies, as prescribed in the tables below: Provided that there shall in respect of the year of assessment ending the twenty-ninth day of February, 1964, or the thirtieth day of June, 1964, whichever is applicable, be deducted from the amount of tax calculated in accordance with the said tables a sum equal to five per cent. of the net amount arrived at after deducting the rebates provided for in section six of the principal Act from the amount of the tax so calculated:
### TAXABLE INCOME RATES OF TAX IN RESPECT OF MARRIED PERSONS

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td>6 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>does not exceed R600</td>
<td>R36 plus 7 per cent of the amount by which the taxable income exceeds R600;</td>
</tr>
<tr>
<td>exceeds R600 but does not exceed R1 000</td>
<td>R64 plus 8 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>R1 000</td>
<td>R1 200</td>
</tr>
<tr>
<td>R1 200</td>
<td>R2 400</td>
</tr>
<tr>
<td>R2 400</td>
<td>R3 000</td>
</tr>
<tr>
<td>R3 000</td>
<td>R4 600</td>
</tr>
<tr>
<td>R4 600</td>
<td>R5 000</td>
</tr>
<tr>
<td>R5 000</td>
<td>R6 000</td>
</tr>
<tr>
<td>R6 000</td>
<td>R8 000</td>
</tr>
<tr>
<td>R8 000</td>
<td>R10 000</td>
</tr>
<tr>
<td>R10 000</td>
<td>R12 000</td>
</tr>
<tr>
<td>R12 000</td>
<td>R14 000</td>
</tr>
<tr>
<td>R14 000</td>
<td>R16 000</td>
</tr>
<tr>
<td>R16 000</td>
<td>R18 000</td>
</tr>
<tr>
<td>R18 000</td>
<td>R20 000</td>
</tr>
</tbody>
</table>

### TAXABLE INCOME RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td>7.5 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>does not exceed R600</td>
<td>R45 plus 9 per cent of the amount by which the taxable income exceeds R600;</td>
</tr>
<tr>
<td>exceeds R600 but does not exceed R1 000</td>
<td>R81 plus 9 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>R1 000</td>
<td>R2 200</td>
</tr>
<tr>
<td>R1 200</td>
<td>R2 400</td>
</tr>
<tr>
<td>R2 400</td>
<td>R3 000</td>
</tr>
<tr>
<td>R3 000</td>
<td>R4 600</td>
</tr>
<tr>
<td>R4 600</td>
<td>R5 000</td>
</tr>
<tr>
<td>R5 000</td>
<td>R6 000</td>
</tr>
<tr>
<td>R6 000</td>
<td>R8 000</td>
</tr>
<tr>
<td>R8 000</td>
<td>R10 000</td>
</tr>
<tr>
<td>R10 000</td>
<td>R12 000</td>
</tr>
<tr>
<td>R12 000</td>
<td>R14 000</td>
</tr>
<tr>
<td>R14 000</td>
<td>R16 000</td>
</tr>
<tr>
<td>R16 000</td>
<td>R18 000</td>
</tr>
</tbody>
</table>
in respect of so much of the taxable income as has been derived by any company from mining in the Republic for gold (but with the exclusion of so much of the taxable income as the Secretary 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 one of the principal Act), on each rand of the taxable income, a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x},
\]

in which formula (and in the formulae set out in the proviso hereto) \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion):

Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20 \left(1 - \frac{6}{x}\right)
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20 \left(1 - \frac{6}{x}\right)
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand;

in respect of so much of the taxable income as has been derived by any company from mining in the Republic for diamonds, for each rand of the taxable income, forty-five cents;

in respect of so much of the taxable income as has been derived by any company from mining operations (other than mining for gold or
diamonds) carried on by such company in the Republic, for each rand of the taxable income, thirty cents;

(e) in respect of so much 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, as the Commissioner 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 one of the principal Act, for each rand so determined to be attributable to the inclusion of any such amount, the amount by which the average rate of normal tax as determined under item (b) of subparagraph (2) exceeds twenty-five cents;

(2) (a) For the purposes of subparagraph (1) income derived from mining in the Republic for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(b) For the purposes of item (e) of subparagraph (1), the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said paragraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(c) The tax determined in accordance with any one of the items (a) to (e) of subparagraph (1), shall be payable in addition to the tax determined in accordance with any other of the said items.

INCOME TAX ACT 90 OF 1964

[ASSENTED TO 24 JUNE 1964] [DATE OF COMMENCEMENT: 7 JULY 1964]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

as amended by

Income Tax Act 90 of 1972

ACT

To fix the rates of normal tax payable by persons other than companies in
respect of the years of assessment ending the twenty-eighth day of February 1965, and the thirtieth day of June, 1965, and by companies in respect of years of assessment ending during the period of twelve months ending the thirty-first day of December, 1964, to provide for the payment of a portion of the normal tax payable by certain companies into provincial revenue funds, to provide for the basis of calculation of any tax levied by a provincial council on the incomes of persons other than companies, and to amend the Income Tax Act, 1962.

1 Rates of normal tax

The rates of normal tax to be levied in terms of subsection (2) of section five of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of any year of assessment ending-

(a) in the case of any person other than a company, on the twenty-eighth day of February 1965, or the thirtieth day of June, 1965; and

(b) in the case of any company, during the period of twelve months ending on the thirty-first day of December, 1964,

shall be as set forth in the Schedule to this Act.

2 and 3 ...... [Ss. 2 and 3 repealed by s. 31 of Act 90 of 1972.]

4 and 5 Amend respectively sections 1 and 5 of the Income Tax Act 58 of 1962.

6 Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) amends subsection (4) (a) with effect in respect of assessments for years of assessment ending on and after 1 May, 1964; and paragraph (b) amends subsection (4) (e).


9 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) amends paragraph (e); paragraph (b) inserts paragraph (r)bis with effect from the commencement of the year of assessment ended 29 February 1964; and paragraph (c) amends the Afrikaans version of paragraph (t).

10 Inserts section 11ter, 11quat and 11quin in the Income Tax Act 58 of
1962, with effect in respect of assessments for years of assessment ending on or after 1 May, 1964.


12 to 14 inclusive Amend respectively the following sections of the Income Tax Act 58 of 1962: 13, 20, 22, with effect from the commencement of the year of assessment ended 29 February 1964.


16 and 17 Amend respectively sections 38 and 49 of the Income Tax Act 58 of 1962, with effect from the commencement of the year of assessment ended 29 February 1964.

18 to 21 inclusive Amend respectively the following sections of the Income Tax Act 58 of 1962: 56, 66, 70, 83.


(2) The amendment effected by subsection (1) shall apply in respect of all payments made by way of provisional tax under the Fourth Schedule to the principal Act on or after the first day of February 1964, and any credits in respect of such payments.

23 to 25 inclusive Amend respectively the following paragraphs of the Second Schedule to the Income Tax Act 58 of 1962: 1, 4, 5.


27 and 28 Amend respectively paragraphs 17 and 18 of the Fourth Schedule to the Income Tax Act 58 of 1962.

29 Amends paragraph 28 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subparagraph (1)bis (date of commencement 1 February 1964); and paragraph (b) adds subparagraph (7) with effect from the date of commencement of paragraph 28 (20 February 1963).

30 Substitution of 'Secretary' for 'Commissioner' in Act 58 of 1962 and other laws

The principal Act and any other law relating to income tax is hereby amended by the substitution for the words 'Commissioner' and 'Commissioner's'
wherever they are used to denote the head of the Department of Inland Revenue of the words 'Secretary' and 'Secretary's' respectively.

31 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall first take effect in respect of assessments for the year of assessment ending the twenty-eighth day of February 1965.

32 Short title

This Act shall be called the Income Tax Act, 1964.

Schedule


(Section one of this Act.)

1 The rates of normal tax referred to in section one of this Act are as follows:

(a) In respect of the taxable income of any person other than a company, as prescribed in the tables below: Provided that there shall be deducted from the amount of tax calculated in accordance with the said tables a sum equal to five per cent. of the net amount arrived at after deducting the rebates provided for in section six of the principal Act from the amount of tax so calculated:

TABLES

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income- does not exceed R600</td>
<td>6 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>exceeds R600 but does not exceed R1 000</td>
<td>R36 plus 7 per cent of the amount by which the taxable income exceed R600;</td>
</tr>
<tr>
<td>&quot; R1 000 &quot; &quot; &quot; &quot; R1 200</td>
<td>R64 plus 8 per cent of the amount by which the taxable income exceed R1 000;</td>
</tr>
<tr>
<td>&quot; R1 200 &quot; &quot; &quot; &quot; R2 400</td>
<td>R80 plus 8 per cent of the amount by which the taxable income exceed R1 200;</td>
</tr>
<tr>
<td>&quot; R2 400 &quot; &quot; &quot; &quot; R3 000</td>
<td>R176 plus 8 per cent of the amount by which the taxable income exceed R2 400;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 600</td>
<td>R224 plus 9 per cent of the amount by which the taxable income exceed R3 000;</td>
</tr>
<tr>
<td>TAXABLE INCOME</td>
<td>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------------------------------------------------</td>
</tr>
<tr>
<td>Where the taxable income—</td>
<td></td>
</tr>
<tr>
<td>does not exceed R600</td>
<td></td>
</tr>
<tr>
<td>exceeds R600 but does not exceed R1 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R1 000 &quot; &quot; &quot; &quot; R1 200</td>
<td></td>
</tr>
<tr>
<td>&quot; R2 400 &quot; &quot; &quot; &quot; R3 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 600</td>
<td></td>
</tr>
<tr>
<td>&quot; R4 600 &quot; &quot; &quot; &quot; R5 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R12 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R14 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R16 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R18 000 .........................</td>
<td></td>
</tr>
</tbody>
</table>

7.5 per cent of each R1 of taxable income;

| R4 600 " " " " R5 000 | |
| R5 000 " " " " R6 000 | |
| R6 000 " " " " R7 000 | |
| R7 000 " " " " R8 000 | |
| R8 000 " " " " R9 000 | |
| R9 000 " " " " R10 000 | |
| R10 000 " " " " R12 000 | |
| R12 000 " " " " R14 000 | |
| R14 000 " " " " R16 000 | |
| R16 000 " " " " R18 000 | |
| " R18 000 ......................... | |

R368 plus 10 per cent of the amount by which the taxable income exceeds R4 600;

R408 plus 20 per cent of the amount by which the taxable income exceeds R5 000;

R608 plus 29 per cent of the amount by which the taxable income exceeds R6 000;

R898 plus 32 per cent of the amount by which the taxable income exceeds R7 000;

R1 558 plus 38 per cent of the amount by which the taxable income exceeds R9 000;

R1 938 plus 39 per cent of the amount by which the taxable income exceeds R10 000;

R2 718 plus 40 per cent of the amount by which the taxable income exceeds R12 000;

R3 518 plus 44 per cent of the amount by which the taxable income exceeds R14 000;

R4 398 plus 47 per cent of the amount by which the taxable income exceeds R16 000;

R5 338 plus 50 per cent of the amount by which the taxable income exceeds R18 000;

(b) on each rand of the taxable income of any company (excluding so much as is derived from mining operations carried on by it in the
Republic and, in the case of any company referred to in item \((d)\), so much as the Commissioner for Inland Revenue 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 one of the principal Act), thirty cents;

\((c)\) on each rand of the taxable income derived by any company from mining in the Republic for gold (but with the exclusion of so much of the taxable income as the Commissioner for Inland Revenue 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 one of the principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x}
\]

in which formula (and in the formulae set out in the proviso hereto) \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20 \left(1 - \frac{6}{x}\right)
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20

\[
y = 20 \left(1 - \frac{6}{x}\right)
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand;

\((d)\) on each rand 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 for Inland Revenue 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 one of the principal Act, the average rate of normal tax or twenty-five cents, whichever is higher;

(e) on each rand of the taxable income derived by any company from mining in the Republic for diamonds, forty-five cents;

(f) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds) carried on by such company in the Republic, thirty cents.

2 (1) For the purposes of paragraph 1 income derived from mining in the Republic for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner for Inland Revenue, results directly from mining for gold.

(2) For the purposes of item (d) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said item for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(3) The tax determined in accordance with any one of the items (a) to (f), inclusive of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said items.

INCOME TAX ACT 88 OF 1965

[ASSENTED TO 18 JUNE 1965] [DATE OF COMMENCEMENT: 30 JUNE 1965]

(Unless otherwise indicated)

(English text signed by the State President)

as amended by

Income Tax Act 55 of 1966
Income Tax Act 52 of 1970
Income Tax Act 90 of 1972

ACT

To fix the rates of normal tax payable by persons other than companies in
respect of taxable incomes for the years of assessment ending the twenty-eighth day of February, 1966, and the thirtieth day of June, 1966, and by companies in respect of certain taxable incomes for certain years of assessment ending during the period of twenty-four months ending the thirty-first day of December, 1966, to provide for the repayment of certain portions of the said taxes to the taxpayers concerned, to provide for the payment of a portion of the normal tax payable by certain companies into provincial revenue funds, to provide for the basis of calculation of any tax levied by a provincial council on the incomes of persons other than companies, and to amend certain sections of and Schedules to the Income Tax Act, 1962, and to insert certain sections in the said Act.

1 Rates of normal tax

The rates of normal tax to be levied in terms of subsection (2) of section five of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of the relevant years of assessment referred to in the Schedule to this Act, shall be as set forth in that Schedule.

2 and 3 ......

[Ss. 2 and 3 repealed by s. 31 of Act 90 of 1972.]

4 ......

[S. 4 repealed by s. 27 of Act 52 of 1970.]

5 Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the definition of 'local authority' with effect from the commencement of the year of assessment ended 28 February 1965; and paragraph (b) substitutes the definition of 'married person'.


7 Inserts section 6bis in the Income Tax Act 58 of 1962.


9 Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (4) (a) with effect in respect of assessments for years of assessment ending on or after 1 January 1964; and paragraph (b) adds subsection (4) (g), (h), (i) and (j) with effect in respect of assessments for years of assessment ending on or after 1 April 1965.

Amends section 11 of the Income Tax Act 58 of 1962, with effect in respect of assessments for years of assessment ending on or after 1 April 1965.


Amends section 12 of the Income Tax Act 58 of 1962, with effect in respect of assessments for years of assessment ending on or after 23 March 1965.

Amends section 13 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subsection (4)bis with effect from 1 January 1964, in respect of assessments for years of assessment ending on or after that date; paragraph (b) substitutes subsections (5) and (6) with effect in respect of assessments for years of assessment ending on or after 23 March 1965; and paragraph (c) adds subsection (7) with effect from 1 January 1964, in respect of assessments for years of assessment ending on or after that date.

Inserts section 13bis in the Income Tax Act 58 of 1962, with effect in respect of assessments for years of assessment ending on or after 1 January 1964.

Inserts section 14bis in the Income Tax Act 58 of 1962, with effect in respect of assessments for years of assessment ending on or after 1 April 1965.


Amend respectively sections 68 and 74 of the Income Tax Act 58 of 1962.

26 Substitutes paragraph 17 of the First Schedule to the Income Tax Act 58 of 1962.


(2) The amendments effected by subsection (1) shall apply in respect of estimates of taxable income submitted by provisional taxpayers to the Commissioner for Inland Revenue on or after the date of promulgation of this Act in respect of years of assessment ending on or after such date.


(2) The amendments effected by subsection (1) shall apply in respect of estimates of taxable income submitted by provisional taxpayers to the Commissioner for Inland Revenue on or after the date of promulgation of this Act in respect of years of assessment ending on or after such date.


31 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall first take effect in respect of assessments for the year of assessment ending the twenty-eighth day of February, 1966.

32 Short title

This Act shall be called the Income Tax Act, 1965.

Schedule

1 The rates of normal tax referred to in section one of this Act (which rates shall be applicable in respect of the relevant years of assessment referred to hereunder) are as follows:

(a) In respect of the taxable income of any person other than a company for the year of assessment ending on the twenty-eighth day of February 1966, or the thirtieth day of June, 1966, whichever is applicable, as prescribed in the tables below: Provided that there shall be deducted from the amount of tax calculated in accordance with the said tables a sum equal to five per cent. of the net amount arrived at after deducting the rebates provided for in section six of the principal Act from the amount of the tax so calculated:

### TABLES

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income does not exceed R600</td>
<td>6 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>exceeds R600 but does not exceed R1 000</td>
<td>R36 plus 7 per cent of the amount by which the taxable income exceeds R600;</td>
</tr>
<tr>
<td>&quot; R1 000 &quot; &quot; &quot; &quot; R1 200</td>
<td>R64 plus 8 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R1 200 &quot; &quot; &quot; &quot; R2 400</td>
<td>R80 plus 8 per cent of the amount by which the taxable income exceeds R1 200;</td>
</tr>
<tr>
<td>&quot; R2 400 &quot; &quot; &quot; &quot; R3 000</td>
<td>R176 plus 8 per cent of the amount by which the taxable income exceeds R2 400;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 600</td>
<td>R224 plus 9 per cent of the amount by which the taxable income exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 600 &quot; &quot; &quot; &quot; R5 000</td>
<td>R368 plus 10 per cent of the amount by which the taxable income exceeds R4 600;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R408 plus 20 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td>R608 plus 29 per cent of the amount by which the taxable income exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R898 plus 32 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R1 218 plus 34 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R1 558 plus 38 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 938 plus 39 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R2 718 plus 40 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R3 518 plus 44 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R4 398 plus 47 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R18 000</td>
<td>R5 338 plus 50 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>R1 000</td>
<td>R36 plus 7 per cent of the amount by which the taxable income exceeds R600;</td>
</tr>
<tr>
<td>R1 200</td>
<td>R64 plus 8 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>R2 400</td>
<td>R80 plus 8 per cent of the amount by which the taxable income exceeds R1 200;</td>
</tr>
<tr>
<td>R3 000</td>
<td>R176 plus 8 per cent of the amount by which the taxable income exceeds R2 400;</td>
</tr>
<tr>
<td>R4 600</td>
<td>R224 plus 9 per cent of the amount by which the taxable income exceeds R3 000;</td>
</tr>
<tr>
<td>R5 000</td>
<td>R368 plus 10 per cent of the amount by which the taxable income exceeds R4 600;</td>
</tr>
<tr>
<td>R6 000</td>
<td>R408 plus 20 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>R7 000</td>
<td>R608 plus 29 per cent of the amount by which the taxable income exceeds R6 000;</td>
</tr>
<tr>
<td>R8 000</td>
<td>R898 plus 32 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>R9 000</td>
<td>R1 218 plus 34 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>R10 000</td>
<td>R1 558 plus 38 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>R12 000</td>
<td>R1 938 plus 39 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>R14 000</td>
<td>R2 718 plus 40 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>R16 000</td>
<td>R3 518 plus 44 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>R18 000</td>
<td>R4 398 plus 47 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>R20 000</td>
<td>R5 338 plus 50 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
</tbody>
</table>
Where the taxable income does not exceed R600
exceeds R600 but does not exceed R1 000
  " R1 000 " " " " R1 200
  " R1 200 " " " " R2 400
  " R2 400 " " " " R3 000
  " R3 000 " " " " R4 600
  " R4 600 " " " " R5 000
  " R5 000 " " " " R6 000
  " R6 000 " " " " R7 000
  " R7 000 " " " " R8 000
  " R8 000 " " " " R9 000
  " R9 000 " " " " R10 000
  " R10 000 " " " " R12 000
  " R12 000 " " " " R14 000
  " R14 000 " " " " R16 000
  " R16 000 " " " " R18 000
  " R18 000

7.5 per cent of each R1 of taxable income;
R45 plus 9 per cent of the amount by which the taxable income exceeds R600;
R81 plus 9 per cent of the amount by which the taxable income exceeds R1 000;
R99 plus 9 per cent of the amount by which the taxable income exceeds R1 200;
R207 plus 10 per cent of the amount by which the taxable income exceeds R2 400;
R267 plus 11 per cent of the amount by which the taxable income exceeds R3 000;
R443 plus 12 per cent of the amount by which the taxable income exceeds R4 600;
R491 plus 21 per cent of the amount by which the taxable income exceeds R5 000;
R701 plus 30 per cent of the amount by which the taxable income exceeds R6 000;
R1 001 plus 33 per cent of the amount by which the taxable income exceeds R7 000;
R1 331 plus 35 per cent of the amount by which the taxable income exceeds R8 000;
R1 681 plus 39 per cent of the amount by which the taxable income exceeds R9 000;
R2 071 plus 41 per cent of the amount by which the taxable income exceeds R10 000;
R2 891 plus 42 per cent of the amount by which the taxable income exceeds R12 000;
R3 731 plus 45 per cent of the amount by which the taxable income exceeds R14 000;
R4 631 plus 48 per cent of the amount by which the taxable income exceeds R16 000;
R5 591 plus 50 per cent of the amount by which the taxable income exceeds R18 000;

(b) on each rand of the taxable income of any company (excluding so much as is derived from mining operations carried on by it in the Republic and, in the case of any company referred to in item (d), so much as the Commissioner for Inland Revenue 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 one of the principal Act) for each year of assessment of such company ending during the period of twenty-four months ending on the thirty-first day of December, 1966, thirty cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to five per cent. of such amount;

(c) on each rand of the taxable income derived by any company in respect of any year of assessment of such company ending during the period of twelve months ending on the thirty-first day of December, 1965, from mining in the Republic for gold (but with the exclusion of so much of the taxable income as the Commissioner for Inland Revenue 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 one of the principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x}
\]

in which formula (and in the formulae set out in the proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion):

Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20(1 - \frac{6}{x})
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20(1 - \frac{6}{x})
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand;

\(d\) on each rand 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 for Inland Revenue 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 one of the principal Act, a rate for any year of assessment of such company ending during the period of twelve months ending on the thirty-first day of December, 1965, equal to the average rate of normal tax or twenty-five cents, whichever is higher;

\(e\) on each rand of the taxable income derived by any company in respect of each year of assessment of such company ending during
the period of twenty-four months ending on the thirty-first day of December, 1966, from mining in the Republic for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to five per cent. of such amount;

\( f \) on each rand of the taxable income derived by any company in respect of each year of assessment of such company ending during the period of twenty-four months ending on the thirty-first day of December, 1966, from mining operations (other than mining for gold or diamonds) carried on by such company in the Republic, thirty cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to five per cent. of such amount;

\( g \) in respect of the taxable income of any person other than a company for the year of assessment ending on the twenty-eighth day of February 1966, or the thirtieth day of June, 1966, whichever is applicable, a sum equal to five per cent. of the amount of tax determined in accordance with item \( a \) after the deduction of the rebates provided for in section \( \text{six} \) of the principal Act but before the deduction of the sum referred to in the proviso to that item: Provided that any fraction of a rand of the sum calculated under this item shall be disregarded: Provided further that the tax under this item shall not be payable by any taxpayer whose liability under this item would, but for this proviso, be less than five rand;

\( h \) in respect of the taxable income of any company (excluding so much as is derived from gold mining operations carried on by it in the Republic and, in the case of any company referred to in item \( d \), so much as the Commissioner for Inland Revenue determines to be attributable to the inclusion on its gross income of any amount referred to in paragraph \( j \) of the definition of ‘gross income’ in section \( \text{one} \) of the principal Act) for each year of assessment of such company ending during the period of twelve months ending the thirty-first day of December, 1966, a sum equal to five per cent. of the aggregate of the amounts of tax determined in respect of such year of assessment under items \( b \), \( e \) and \( f \) before the addition of the sums referred to in the provisos to those items: Provided that any fraction of a rand of the sum calculated under this item shall be disregarded: Provided further that the tax under this item shall not be payable by any taxpayer whose liability under this item would, but for this proviso, be less than five rand.

2 (1) For the purposes of paragraph 1 income derived from mining in the Republic for gold shall include any income derived from silver, osmiridium,
uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner for Inland Revenue, results directly from mining for gold.

(2) For the purposes of item (d) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said item for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(3) The tax determined in accordance with any one of the items (a) to (h), inclusive, of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said items.

INCOME TAX ACT 55 OF 1966

[ASSENTED TO 24 OCTOBER 1966] [DATE OF COMMENCEMENT: 28 OCTOBER 1966]

(English text signed by the State President)

as amended by

Income Tax Act 95 of 1967
Income Tax Act 52 of 1970
Income Tax Act 90 of 1972

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending the twenty-eighth day of February, 1967, and the thirtieth day of June, 1967, and by companies in respect of certain taxable incomes for years of assessment ending during the period of twenty-four months ending the thirty-first day of December, 1967; to provide for the payment of a portion of the normal tax payable by certain companies into provincial revenue funds; to provide for the basis of calculation of any tax levied by a provincial council on the incomes of persons other than companies; to provide for the repayment to the taxpayers concerned of certain portions of the normal tax paid by those taxpayers; and to amend the Income Tax Act, 1962, and the Income Tax Act, 1965.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in
respect of the relevant years of assessment referred to in the Schedule to this Act, shall be as set forth in that Schedule.

2 ......  

[S. 2 amended by s. 33 of Act 95 of 1967 and repealed by s. 31 of Act 90 of 1972.]

3 ......  

[S. 3 repealed by s. 31 of Act 90 of 1972.]

4 ......  

[S. 4 repealed by s. 27 of Act 52 of 1970.]

5 Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) amends the definition of 'gross income' with effect from the commencement of the year of assessment ended 28 February 1966; and paragraph (b) inserts the definition of 'post-1966 gold mine'.


8 and 9 Amend respectively sections 6 and 7 of the Income Tax Act 58 of 1962.

10 Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (4) (a) with effect in respect of assessments for the year of assessment ended 28 February 1966; paragraph (b) substitutes subsection (4) (b), (c) and (d) with effect in respect of assessments for years of assessment ending on or after 17 August 1966; and paragraph (c) inserts subsection (4) (dA) with effect in respect of assessments for years of assessment ending on or after 17 August 1966.


12 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (e) (iii) with effect in respect of assessments for the year of assessment ended 28 February 1965; paragraph (b) substitutes paragraph (e) (vi); paragraph (c) inserts paragraphs (gA) and (gB); paragraphs (d) and (e) substitute respectively paragraphs (k) and (n); paragraph (f) substitutes paragraph (o) with effect in respect of assessments for the year of assessment ended 28 February 1966; and paragraph (g) substitutes paragraph
[Date of commencement of s. 24: 17 August 1966.]
[Date of commencement of s. 25: 17 August 1966.]
29 (1) Amends paragraph 2 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); and paragraph
(b) substitutes subparagraph (4).

(2) The amendment effected by subsection (1) (a) shall be deemed to have applied in respect of employees’ tax deducted or withheld on or after the first day of March, 1965.


31 ...... [S. 31 repealed by s. 27 of Act 52 of 1970.]

32 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall first take effect in respect of assessments for the year of assessment ending the twenty-eighth day of February 1967.

33 Short title

This Act shall be called the Income Tax Act, 1966.

Schedule


(Section 1 of this Act.)

1. The rates of normal tax referred to in section 1 of this Act (which rates shall be applicable in respect of the relevant years of assessment referred to hereunder) are as follows:-

(a) In respect of the taxable income of any person other than a company for the year of assessment ending on the twenty-eighth day of February, 1967, or the thirtieth day of June, 1967, whichever is applicable as prescribed in the tables below:

TABLES
<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</th>
</tr>
</thead>
</table>
| Where the taxable income—
  does not exceed R600
  exceeds R600 but does not exceed R1 000 | 6 per cent of each R1 of taxable income; |
| " R1 000 " " " " R1 200 | R368 plus 10 per cent of the amount by which the taxable income exceeds R4 600; |
| " R1 200 " " " " R2 400 | R408 plus 20 per cent of the amount by which the taxable income exceeds R5 000; |
| " R2 400 " " " " R3 000 | R608 plus 29 per cent of the amount by which the taxable income exceeds R6 000; |
| " R3 000 " " " " R4 600 | R898 plus 32 per cent of the amount by which the taxable income exceeds R7 000; |
| " R4 600 " " " " R5 000 | R1 218 plus 34 per cent of the amount by which the taxable income exceeds R8 000; |
| " R5 000 " " " " R6 000 | R1 558 plus 38 per cent of the amount by which the taxable income exceeds R9 000; |
| " R6 000 " " " " R7 000 | R1 938 plus 39 per cent of the amount by which the taxable income exceeds R10 000; |
| " R7 000 " " " " R8 000 | R2 718 plus 40 per cent of the amount by which the taxable income exceeds R12 000; |
| " R8 000 " " " " R9 000 | R3 518 plus 44 per cent of the amount by which the taxable income exceeds R14 000; |
| " R9 000 " " " " R10 000 | R4 398 plus 47 per cent of the amount by which the taxable income exceeds R16 000; |
| " R10 000 " " " " R12 000 | R5 338 plus 50 per cent of the amount by which the taxable income exceeds R18 000; |
| " R12 000 " " " " R14 000 | |
| " R14 000 " " " " R16 000 | |
| " R16 000 " " " " R18 000 | |
| " R18 000 | |

Where the taxable income—
  does not exceed R600
  exceeds R600 but does not exceed R1 000

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</th>
</tr>
</thead>
</table>
| Where the taxable income—
  does not exceed R600
  exceeds R600 but does not exceed R1 000 | 7.5 per cent of each R1 of taxable income; |
| " R1 000 " " " " R1 200 | R45 plus 9 per cent of the amount by which the taxable income exceeds R600; |
| " R1 200 " " " " R2 400 | R81 plus 9 per cent of the amount by which the taxable income exceeds R1 000; |
| " R2 400 " " " " R3 000 | R99 plus 9 per cent of the amount by which the taxable income exceeds R1 000; |
| " R3 000 " " " " R4 600 | R207 plus 10 per cent of the amount by which the taxable income exceeds R2 400; |
| " R4 600 " " " " R5 000 | R267 plus 11 per cent of the amount by which the taxable income exceeds R3 000; |
| " R5 000 " " " " R6 000 | R443 plus 12 per cent of the amount by which the taxable income exceeds R4 600; |
| " R6 000 " " " " R7 000 | R491 plus 21 per cent of the amount by which the taxable income exceeds R5 000; |
| " R7 000 " " " " R8 000 | R701 plus 30 per cent of the amount by which the taxable income exceeds R6 000; |
| " R8 000 " " " " R9 000 | R1 001 plus 33 per cent of the amount by which the taxable income exceeds R7 000; |
| " R9 000 | R1 331 plus 35 per cent of the amount by which the taxable income exceeds R8 000; |
(b) on each rand of the taxable income of any company (excluding so much as is derived from mining operations carried on by it in the Republic and, in the case of any company referred to in item (d), so much as the Commissioner for Inland Revenue 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 principal Act) for each year of assessment of such company ending during the period of twelve months ending on the thirty-first day of December, 1967, thirty-three and one-third cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to ten per cent of such amount;

[Item (b) substituted by s. 34 (1) (a) of Act 95 of 1967.]

(c) on each rand of the taxable income derived by any company in respect of any year of assessment of such company ending during the period of twenty-four months ending on the thirty-first day of December, 1967, from mining in the Republic for gold (but with the exclusion of so much of the taxable income as the Commissioner for Inland Revenue 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x},
\]

in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rate of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>R9 000</td>
<td>R1 681 plus 39 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>R10 000</td>
<td>R2 071 plus 41 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>R12 000</td>
<td>R2 891 plus 42 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>R14 000</td>
<td>R3 731 plus 45 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>R16 000</td>
<td>R4 631 plus 48 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>R18 000</td>
<td>R5 591 plus 50 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
</tbody>
</table>
formula:
\[ \frac{6}{y} = 20(1 - \frac{1}{x}) \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[ \frac{6}{y} = 20(1 - \frac{1}{x}) \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item in respect of any year of assessment ending during the period of twelve months ending on the thirty-first day of December, 1967, a sum equal to five per cent of such amount;

[Item (c) substituted by s. 34 (1) (a) of Act 95 of 1967.]

(d) on each rand 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 for Inland Revenue 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 principal Act-

(i) a rate for any year of assessment of such company ending during the period of twelve months ending on the thirty-first day of December, 1966, equal to the average rate of normal tax or twenty-five cents, whichever is higher; and

(ii) a rate for any year of assessment of such company ending during the period of twelve months ending on the thirty-first day of December, 1967, equal to the average rate of normal tax or twenty-eight and one-third cents, whichever is higher;

(e) on each rand of the taxable income derived by any company in respect of each year of assessment of such company ending during the period of twelve months ending on the thirty-first day of
December, 1967, from mining in the Republic for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to ten per cent of such amount;

[Item (e) substituted by s. 34 (1) (b) of Act 95 of 1967.]

(f) on each rand of the taxable income derived by any company in respect of each year of assessment of such company ending during the period of twelve months ending on the thirty-first day of December, 1967, from mining operations (other than mining for gold, diamonds or natural oil) carried on by such company in the Republic, thirty-three and one-third cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to ten per cent of such amount;

[Item (f) substituted by s. 34 (1) (b) of Act 95 of 1967.]

(g) in respect of the taxable income of any person other than a company for the year of assessment ending on the twenty-eighth day of February, 1967, or the thirtieth day of June, 1967, whichever is applicable, a sum equal to five per cent of the amount of tax determined in accordance with item (a) after the deduction of the rebates provided for in section 6 of the principal Act: Provided that any fraction of a rand of the sum calculated under this item shall be disregarded: Provided further that the tax under this item shall not be payable by any taxpayer whose liability under this item would, but for this proviso, be less than five rand;

(h) in respect of the taxable income of any company derived during each year of assessment of such company ending during the period of twelve months ending the thirty-first day of December, 1967-

(i) a sum equal to ten per cent of the aggregate of the amounts of tax determined in respect of such year of assessment under items (b), (e) and (f) before the addition of the sum referred to in the proviso to item (b), the sum referred to in the proviso to item (e) and the sum referred to in the proviso to item (f); and

(ii) a sum equal to five per cent of the amount of tax determined in respect of such year of assessment under item (c) before the addition of the sum referred to in the second proviso to that item: Provided that any fraction of a rand of the tax
calculated under this item shall be disregarded: Provided further that the tax under this item shall not be payable by any company whose liability under this item would, but for this proviso, be less than five rand.

[Item (h) substituted by s. 34 (1) (c) of Act 95 of 1967.]

2. (1) For the purposes of paragraph 1 income derived from mining in the Republic for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner for Inland Revenue, results directly from mining for gold.

(2) For the purposes of item (d) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said item for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(3) The tax determined in accordance with any one of the items (a) to (h), inclusive, of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said items.
tax payable by certain companies into provincial revenue funds; to provide for the basis of calculation of any tax levied by a provincial council on the incomes of persons other than companies; to provide for the repayment to the taxpayers concerned of certain portions of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962, so as to increase the rate of the non-resident shareholders tax, to impose a non-residents tax on interest and to amend the law relating to income tax; to amend section 2 of the Income Tax Act, 1966, so as to provide that certain sums shall not be payable into provincial revenue funds and to amend the Schedule to that Act so as to change certain rates of normal tax applicable in respect of years of assessment of companies ending during the period of twelve months ending on the thirty-first day of December, 1967; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of any year of assessment ending-

(a) in the case of any person other than a company, on the twenty-ninth day of February, 1968, or the thirtieth day of June, 1968; and

(b) in the case of any company, during the period of three months ending on the thirty-first day of March, 1968,

shall be as set forth in the Schedule to this Act.

2 and 3 ......

[Ss. 2 and 3 repealed by s. 31 of Act 90 of 1972.]

4 ......

[S. 4 repealed by s. 27 of Act 52 of 1970.]


6 (1) Amends section 5 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2); paragraph (b) inserts subsection (2A); paragraph (c) substitutes subsection (3) (a) and (b); and paragraph (d) substitutes subsection (8).

(2) The amendments effected by subsection (1) (c) and (d) to paragraph (b) of subsection (3) of section 5 of the principal Act and subsection (8) of that section shall apply in respect of assessments for years of assessment ending on
or after the first day of April, 1967.


8 Inserts section 6ter of the Income Tax Act 58 of 1962, with effect in respect of assessments for years of assessment ending on or after 1 April 1967.

9 Amends section 9 of the Income Tax Act 58 of 1962, with effect in respect of assessments for years of assessment ending on or after 1 January 1967.

10 to 12 inclusive Amend respectively the following sections of the Income Tax Act 58 of 1962: 10, 11, 11bis.


14 Amends section 13bis of the Income Tax Act 58 of 1962, with effect in respect of assessments for years of assessment ending on or after 1 January 1964.


16 and 17 Amend respectively sections 36 and 42 of the Income Tax Act 58 of 1962.


[Date of commencement of s. 18: 22 March 1967.]


(2) The amendments effected by subsection (1) shall be deemed to have come into operation on the first day of April, 1967: Provided that, notwithstanding the provisions of section 64F of the principal Act, any amount of tax which was, in terms of that section, payable within a period ending on or before the date of commencement of this Act, shall be payable within fourteen days after that date or within such further period as the Commissioner may approve.

21 to 23 inclusive Amend respectively the following sections of the Income Tax Act 58 of 1962: 89bis, 89ter, 90 (date of commencement 1 April 1967).

24 ......


29 Substitutes paragraph 7 of the Second Schedule to the Income Tax Act 58 of 1926.

30 to 32 inclusive Amend respectively the following paragraphs of the Fourth Schedule to the Income Tax Act 58 of 1962: 28, 33, 34.

[Date of commencement of ss. 30 to 32 inclusive: 1 April 1967.]

33 ......

[Date of commencement of ss. 33: 1 April 1967.]


(2) The amendments effected by subsection (1) shall be deemed to have come into operation on the date of promulgation of the Income Tax Act 1966 and shall apply in respect of all years of assessment of companies ending during the period of twelve months ending on the thirty-first day of December, 1967.

35 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall first take effect in respect of assessments for the year of assessment ending the twenty-ninth day of February, 1968.

36 Short title

This Act shall be called the Income Tax Act, 1967.

Schedule

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING THE TWENTY-NINTH DAY OF FEBRUARY 1968, AND THE THIRTIETH DAY OF

(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:

(a) In respect of the taxable income of any person other than a company, as prescribed in the tables below;

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td></td>
</tr>
<tr>
<td>does not exceed R600</td>
<td>6 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>exceeds R600 but does not exceed R1 000</td>
<td>R36 plus 7 per cent of the amount by which the taxable income exceeds R600;</td>
</tr>
<tr>
<td>&quot; R1 000 &quot; &quot; &quot; &quot; R1 200</td>
<td>R64 plus 8 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R1 200 &quot; &quot; &quot; &quot; R2 400</td>
<td>R80 plus 8 per cent of the amount by which the taxable income exceeds R1 200;</td>
</tr>
<tr>
<td>&quot; R2 400 &quot; &quot; &quot; &quot; R3 000</td>
<td>R176 plus 8 per cent of the amount by which the taxable income exceeds R2 400;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 600</td>
<td>R224 plus 9 per cent of the amount by which the taxable income exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 600 &quot; &quot; &quot; &quot; R5 000</td>
<td>R368 plus 10 per cent of the amount by which the taxable income exceeds R4 600;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R408 plus 20 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td>R608 plus 29 per cent of the amount by which the taxable income exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R898 plus 32 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R1 218 plus 34 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R1 558 plus 38 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 938 plus 39 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R2 718 plus 40 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R3 518 plus 44 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R4 398 plus 47 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R18 000</td>
<td>R5 338 plus 50 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td></td>
</tr>
<tr>
<td>does not exceed R600</td>
<td>7.5 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>exceeds R600 but does not exceed R1 000</td>
<td>R45 plus 9 per cent of the amount by which the taxable income exceeds R600;</td>
</tr>
</tbody>
</table>
(b) on each rand of the taxable income of any company (excluding so much as is derived from mining operations carried on by it in the Republic and, in the case of any company referred to in item (e), so much as the Commissioner for Inland Revenue 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 principal Act), thirty-three and one-third cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to ten per cent of such amount;

(c) on each rand of the taxable income derived by any company from mining in the Republic for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner for Inland Revenue 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 principal Act), a percentage determined in accordance with the formula:

\[ y = 60 - \frac{360}{x} \]

\[(x),\]
in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20 \left( 1 - \frac{6}{x} \right),
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20 \left( 1 - \frac{6}{x} \right),
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item, a sum equal to five per cent of such amount;

\( (d) \) on each rand of the taxable income derived by any company from mining for gold on any mine in the Republic which is a post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner for Inland Revenue 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{480}{x},
\]

in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said
exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y = \frac{8}{x} (1 - \frac{y}{x}), \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula:

\[ y = 20 (1 - \frac{y}{x}) \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to five per cent of such amount;

(e) on each rand 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 for Inland Revenue 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 principal Act, the average rate of normal tax or twenty-eight and one-third cents, whichever is higher;

(f) on each rand of the taxable income derived by any company from mining in the Republic for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to ten per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold, diamonds or natural oil) carried on by such company in the Republic, thirty-three and one-third cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to ten per cent of such amount;

(h) in respect of the taxable income of any person other than a
company, a sum equal to fifteen per cent of the amount of tax determined in accordance with item (a) after the deduction of the rebates provided for in section 6 of the principal Act: Provided that any fraction of a rand of the tax calculated under this item shall be disregarded: Provided further that the tax calculated under this item shall not be payable by any taxpayer whose liability under this item would, but for this proviso, be less than fifteen rand;-

(i) in respect of the taxable income of any company-

(i) a sum equal to ten per cent of the aggregate of the amounts of tax determined under items (b), (f) and (g) before the addition of the sum referred to in the proviso to item (b), the sum referred to in the proviso to item (f) and the sum referred to in the proviso to item (g); and

(ii) a sum equal to five percent of the aggregate of the amounts of tax determined under items (c) and (d) before the addition of the sum referred to in the second proviso to item (c) and the sum referred to in the second proviso to item (d);

Provided that any fraction of a rand of the tax calculated under this item shall be disregarded: Provided further that the tax calculated under this item shall not be payable by any company whose liability under this item would, but for this proviso, be less than five rand.

2.(1) For the purposes of paragraph 1 income derived from mining in the Republic for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner for Inland Revenue, results directly from mining for gold.

(2) For the purposes of item (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said item for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(3) The tax determined in accordance with any of the items (a) to (i), inclusive, of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said items.

INCOME TAX ACT 76 OF 1968

[ASSENTED TO 20 JUNE 1968] [DATE OF COMMENCEMENT: 5 JULY 1968] (Unless otherwise indicated)
To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending the twenty-eighth day of February, 1969, and the thirtieth day of June, 1969, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending the thirty-first day of March, 1969; to provide for the payment of a portion of the normal tax payable by certain companies into provincial revenue funds; to provide for the basis of calculation of any tax levied by a provincial council on the incomes of persons other than companies; to provide for the repayment to the taxpayers concerned of certain portions of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of any year of assessment ending-

(a) in the case of any person other than a company, on the twenty-eighth day of February, 1969, or the thirtieth day of June, 1969; and

(b) in the case of any company, during the period of twelve months ending on the thirty-first day of March, 1969,

shall be as set forth in the Schedule to this Act.

2 and 3 ......

[Ss. 2 and 3 repealed by s. 31 of Act 90 of 1972.]

4 ......

[S. 4 repealed by s. 27 of Act 52 of 1970.]

5 Amends section 1 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts the definition of 'assisted gold mine'; and paragraph (b) substitutes paragraph (l) of the definition of 'gross income'.


8 (1) Amends section 10 of the Income Tax Act 58 of 1962, as follows: paragraphs (a) and (b) substitute respectively subsections (1) (i) and (1) (r); paragraph (c) substitutes subsection (1) (t) (date of commencement: 6 August 1964); paragraph (d) substitutes subsection (1) (x); and paragraph (e) adds subsection (1) (y).

(2) The amendments effected by subsection (1) (a) and (e) shall be deemed to have first taken effect in respect of assessments for the year of assessment ended on the twenty-ninth day of February, 1968.

9 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraphs (a) and (b) substitute respectively paragraphs (n) and (t).


(2) The amendment effected by subsection (1) shall apply in respect of assessments for years of assessment ended on or after the first day of April, 1968.

14 (1) Amends section 36 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts in subsection (3)bis the expression '(not being an assisted gold mine)' after the word 'mine' where it occurs for the first time; paragraph (b) inserts subsection (3)ter; paragraph (c) substitutes in subsection (4) the expression '(3), (3)bis or (3)ter' for the expression '(3) or (3)bis'; and paragraph (d) adds paragraph (ff) to the proviso to paragraph (c) of the definition of 'capital expenditure' in subsection (11).

(2) The amendments effected by subsection (1) shall apply in respect of assessments for years of assessment ended on or after the first day of April
1968.

15 Amends section 64C of the Income Tax Act 58 of 1962 by inserting paragraph (fA).

[Date of commencement of s. 15: 1 March 1968.]

16 Amends section 67 of the Income Tax Act 58 of 1962 by adding subsection (5).

17 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall first take effect in respect of assessments for the year of assessment ending the twenty-eighth day of February, 1969.

18 Short title

This Act shall be called the Income Tax Act, 1968.

Schedule


(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:-

(a) In respect of the taxable income of any person other than a company, as prescribed in the tables below:

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income does not exceed R600</td>
<td>6 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>exceeds R600 but does not exceed R1 000</td>
<td>R36 plus 7 per cent of the amount by which the taxable income exceeds R600;</td>
</tr>
<tr>
<td>&quot; R1 000 &quot; &quot; &quot; &quot; R1 200</td>
<td>R64 plus 8 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R1 200 &quot; &quot; &quot; &quot; R2 400</td>
<td>R80 plus 8 per cent of the amount by which the taxable income exceeds R1 200;</td>
</tr>
<tr>
<td>&quot; R2 400 &quot; &quot; &quot; &quot; R3 000</td>
<td>R176 plus 8 per cent of the amount by which the taxable income exceeds R2 400;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 600</td>
<td>R224 plus 9 per cent of the amount by which the taxable income exceeds R3 000;</td>
</tr>
</tbody>
</table>
Where the taxable income—

does not exceed R600

exceeds R600 but does not exceed R1 000

" R1 000 " " " " R1 200

" R1 200 " " " " R2 400

" R2 400 " " " " R3 000

" R3 000 " " " " R4 600

" R4 600 " " " " R5 000

" R5 000 " " " " R6 000

" R6 000 " " " " R7 000

" R7 000 " " " " R8 000

" R8 000 " " " " R9 000

" R9 000 " " " " R10 000

" R10 000 " " " " R12 000

" R12 000 " " " " R14 000

" R14 000 " " " " R16 000

" R16 000 " " " " R18 000

" R18 000

(b) on each rand of the taxable income of any company (excluding so
much as is derived from mining operations and, in the case of any company referred to in item (e), so much as the Commissioner for Inland Revenue 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 principal Act), thirty-three and one-third cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item a sum equal to ten per cent of such amount;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner for Inland Revenue 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 principal Act), a percentage determined in accordance with the formula:

\[ y = \frac{360}{x} \]

in which formula (and in the formulae set out in the first and second provisos hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y = 20(1 - \frac{6}{x}) \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[ y = 20(1 - \frac{6}{x}) \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the conditions in respect of an assisted gold mine
imposed by the Minister of Mines under section 2 (2) of the Gold Mines Assistance Act, 1968, have been complied with by the company concerned during the year of assessment, the rate of tax in respect of taxable income derived by the company from mining for gold on such mine shall not exceed a percentage determined in accordance with the formula

\[
y = \frac{601}{x} + 68 - \frac{y}{x}
\]

Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item, excluding the second proviso, a sum equal to five per cent of such amount;

\( (d) \) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner for Inland Revenue 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 principal Act), a percentage determined in accordance with the formula:

\[
y = \frac{480}{x} + 60 - \frac{y}{x}
\]

in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20(1 - \frac{8}{x})
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20(1 - \frac{8}{x})
\]

by one for each completed amount of two thousand five hundred rand by which
the said taxable income exceeds forty thousand rand: Provided further that there
shall be added to the amount of tax calculated in accordance with the preceding
provisions of this item a sum equal to five per cent of such amount;

(e) on each rand 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 for Inland Revenue 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
principal Act, the average rate of normal tax or twenty-eight and
one-third cents, whichever is higher;

(f) on each rand of the taxable income derived by any company from
mining for diamonds, forty-five cents: Provided that there shall be
added to the amount of tax calculated in accordance with the
preceding provisions of this item a sum equal to ten per cent of
such amount;

(g) on each rand of the taxable income derived by any company from
mining operations (other than mining for gold, diamonds or natural
oil), thirty-three and one-third cents: Provided that there shall be
added to the amount of tax calculated in accordance with the
preceding provisions of this item a sum equal to ten per cent of
such amount;

(h) in respect of the taxable income of any person other than a
company, a sum equal to fifteen per cent of the amount of tax
determined in accordance with item (a) after the deduction of the
rebates provided for in section 6 of the principal Act: Provided that
any fraction of a rand of the tax calculated under this item shall be
disregarded: Provided further that the tax calculated under this item
shall not be payable by any taxpayer whose liability under this item
would, but for this proviso, be less than fifteen rand;

(i) in respect of the taxable income of any company-

(i) a sum equal to ten per cent of the aggregate of the amounts
of tax determined under items (b), (f) and (g) before the
addition of the sum referred to in the proviso to item (b), the
sum referred to in the proviso to item (f) and the sum referred
to in the proviso to item (g); and

(ii) a sum equal to five per cent of the aggregate of the amounts
of tax determined under items (c) and (d) before the addition
of the sum referred to in the third proviso to item (c) and the sum referred to in the second proviso to item (d):

Provided that any fraction of a rand of the tax calculated under this item shall be disregarded: Provided further that the tax calculated under this item shall not be payable by any company whose liability under this item would, but for this proviso, be less than five rand.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner for Inland Revenue, results directly from mining for gold.

(2) For the purposes of item (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said item for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(3) The tax determined in accordance with any of the items (a) to (i), inclusive, of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said items.

INCOME TAX ACT 89 OF 1969

[ASSENTED TO 19 JUNE 1969] [DATE OF COMMENCEMENT: 4 JULY 1969] (Unless otherwise indicated)

(English text signed by the State President)

as amended by

Income Tax Act 52 of 1970
Income Tax Act 90 of 1972
General Law Amendment Act 49 of 1996

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on the twenty-eighth day of February, 1970, and the thirtieth day of June, 1970, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on the thirty-first day of March, 1970, and for certain other years of assessment; to provide for the payment of certain portions of the normal tax payable by certain
companies into provincial revenue funds; to provide for the basis of calculation of any tax levied by a provincial council on the incomes of persons other than companies; to provide for the repayment to the taxpayers concerned of certain portions of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962; and to provide for incidental matters.

[Long title amended by s. 1 of Act 49 of 1996.]

1 Rates of normal tax

(1) The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending the twenty-eighth day of February, 1970, or the thirtieth day of June, 1970; and

(b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on the thirty-first day of March, 1970;

(c) ......

[Para. (c) deleted by s. 1 of Act 49 of 1996.]

shall be as set forth in the Schedule to this Act.

(2) ......

[Sub-s. (2) deleted by s. 1 of Act 49 of 1996.]

2 ......

[S. 2 repealed by s. 31 of Act 90 of 1972.]

3 ......

[S. 3 repealed by s. 1 of Act 49 of 1996.]

4 ......

[S. 4 repealed by s. 31 of Act 90 of 1972.]

5 ......
6 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the definition of 'financial year'; paragraph (b) substitutes paragraph (g) (iii) of the definition of 'gross income'; paragraph (c) substitutes paragraph (i) of the definition of 'gross income'; paragraph (d) substitutes paragraph (j) of the definition of 'gross income'; paragraph (e) substitutes the definition of 'hotel keeper'; paragraph (f) inserts the definition of 'Republic'; paragraph (g) substitutes paragraph (b) (viii) and (ix) of the definition of 'retirement annuity fund'; paragraph (h) inserts the definition of 'territory'; and paragraph (i) substitutes the definition of 'trade'.

(2) The amendments effected by subsection (1) (c) and (g) shall first take effect in respect of assessment for the year of assessment ending on the twenty-eighth day of February, 1970.

7 Amends section 5 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2A); paragraph (b) substitutes subsection (3); and paragraph (c) adds subsection (9).

8 (1) Amends section 6 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraphs (a) and (b); paragraph (b) substitutes paragraph (cc) of the proviso to paragraph (c); paragraph (c) substitutes paragraph (d) (ii); and paragraph (d) substitutes paragraph (f).

(2) The amendments effected by subsection (1) shall first apply in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.


10 Amends section 8 (4) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (a); and paragraph (b) substitutes paragraph (e).


12 Amends section 9 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (b) (i); paragraph (b) deletes in subsection (1) (e) the expression 'of South-West Africa (excluding the Eastern Caprivi Zipfel referred to in section three of the South-West Africa Affairs Amendment Act, 1951 (Act 55 of 1951))'; paragraph (c) substitutes in subsection (2) the expression '1965 (Act 24 of 1965)' for the expression '1934 (Act 62 of 1934)'; and paragraph (d) substitutes in subsection (3) the expression 'Banks Act, 1965 (Act 23 of 1965)' for the expression 'Banking Act, 1942 (Act 38 of
Amends section 10 of the Income Tax Act 58 of 1962, as follows:

(1) Amends section 10 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes subsection (1) (a); paragraph (b) substitutes subsection 1 (cA); paragraph (c) substitutes subsection (1) (e); paragraph (d) substitutes subsection (1) (i) (xii); paragraph (e) substitutes subsection (1) (i) (xiii); paragraph (f) adds subsection (1) (i) (xiv); paragraph (g) substitutes subsection (1) (k) (i); paragraph (h) deletes subsection (1) (k) (iv); paragraph (i) deletes subsection (1) (k) (vi); paragraph (j) substitutes subsection (1) (m); paragraph (k) inserts subsection (1) (nA); paragraph (l) substitutes subsection (1) (o); paragraph (m) adds subsection (1) (t) (iv) (date of commencement: 13 May 1965); paragraph (n) substitutes subsection (1) (v); paragraph (o) substitutes in subsection (1) (w) the expression 'Banks Act, 1965 (Act 23 of 1965)' for the expression 'Banking Act, 1942 (Act 38 of 1942)'; and paragraph (p) substitutes subsection (4).

(2) The amendments effected by subsection (1) (d) (f), (h), (i), (k) and (p) shall first take effect in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.

Amends section 11 of the Income Tax Act 58 of 1962, as follows:

(1) Amends section 11 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes paragraph (f) (iii); paragraph (b) substitutes paragraph (gA); paragraph (c) substitutes in paragraph (gB) the expression '1967 (Act 57 of 1967)' for the expression '1916 (Act 9 of 1916); paragraph (d) substitutes paragraph (i); paragraph (e) substitutes paragraph (j); paragraph (f) substitutes paragraph (m); paragraph (g) substitutes paragraph (o); paragraph (h) substitutes paragraph (s); and paragraph (i) substitutes paragraph (w).

(2) The amendment effected by subsection (1) (f) and (i) shall first take effect in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.

Amends section 11 bis of the Income Tax Act 58 of 1962, as follows:


(2) The amendments effected by subsection (1) shall first take effect in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.


(2) The amendments effected by subsection (1) shall first apply in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.
18 Amends section 20 of the Income Tax Act 58 of 1962 by adding subsections (4) and (5).


(2) The provisions of section 21 ter of the principal Act, as inserted by subsection (1), shall be deemed to have come into operation on the first day of October, 1968, and shall apply in respect of assessments for years of assessment ending on or after the thirtieth day of September, 1968.


24 Amends section 28 (2) of the Income Tax Act 58 of 1962 by substituting paragraph (d).

25 Amends section 28bis of the Income Tax Act 58 of 1962 by adding subsection (2), the existing section becoming subsection (1).


28 Amends section 38 (2) of the Income Tax Act 58 of 1962 by substituting paragraph (d).

29 (1) Amends section 42 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subsection (1) (iiiA); and paragraph (b) adds subsection (2) (f).

(2) The amendment effected by subsection (1) (a) shall take effect from the commencement of the Companies Amendment Act, 1969, and the amendment effected by subsection (1) (b) shall be deemed to have taken effect on the first day of July, 1962.

31 (1) Amends section 49 of the Income Tax Act 58 of 1962, as follows:-
paragraph (a) substitutes paragraph (ii) of the definition of ‘distributable income’;
paragraph (b) inserts paragraph (iiA) in the definition of ‘distributable income’;
and paragraph (c) substitutes paragraph (iii) of the definition of ‘distributable income’.

(2) The amendments effected by subsection (1) shall apply in respect of
assessments for years of assessment ending on or after the first day of April, 1969.

32 (1) Amends section 50 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts paragraph (aA); paragraph (b) substitutes paragraph (b);
and paragraph (c) substitutes paragraph (i).

(2) The amendments effected by subsection (1) shall apply in respect of
assessments for years of assessment ending on or after the first day of April, 1969.

33 Amends section 56 of the Income Tax Act 58 of 1962 by inserting
subsection (1) (gA).


(2) The amendments effected by subsection (1) shall be deemed to have
come into operation on the first day of April, 1969: Provided that where any
amount of tax chargeable under the provisions of section 64A (c) of the principal
Act is in terms of the provisions of section 64F of that Act payable within a period
ending on or before the date of commencement of this Act, such amount shall,
notwithstanding the provisions of the said section 64F, be payable within fourteen
days after the said date or within such further period as the Commissioner may
approve.


[Date of commencement of s. 35: 1 April 1969.]

36 (1) Amends section 64C of the Income Tax Act 58 of 1962, as follows:-
paragraph (a) substitutes paragraph (a) (date of commencement: 1 April 1969);
paragraph (b) substitutes paragraph (fA) (date of commencement: 21 September
1968); and paragraph (c) adds paragraphs (i) and (j) (date of commencement: 1
April 1967).


38 Amends section 91 of the Income Tax Act 58 of 1962 by substituting
subsection (2).

41 Amends paragraph 4 of the First Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (3).

42 Amends paragraph 12 of the First Schedule to the Income Tax Act 58 of 1962 by substituting subparagraphs (2) and (3).


(2) The amendments effected by subsection (1) shall first apply in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.

44 Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting paragraph (b) of the definition of 'remuneration'.

45 Amends the Fourth Schedule to the Income Tax Act 58 of 1962 by inserting paragraph 11A.

46 (1) Amends paragraph 19 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

(2) The amendments effected by subsection (1) shall apply in respect of estimates of taxable income submitted by provisional taxpayers to the Commissioner on or after the date of promulgation of this Act in respect of years of assessment ending on or after such date.

47 (1) Amends paragraph 20 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); and paragraph (b) inserts subparagraph (1A).

(2) The amendments effected by subsection (1) shall apply in respect of estimates of taxable income submitted by provisional taxpayers to the Commissioner on or after the date of promulgation of this Act in respect of years of assessment ending on or after such date.

48 Amends paragraph 28 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

50 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall first take effect or be deemed to have first taken effect-

(a) for the purposes of assessments in respect of the normal and undistributed profits taxes levied under the principal Act from the commencement of the year of assessment ended the twenty-eighth day of February, 1969, or, in the case of a company referred to in paragraph (d) of the definition of ‘financial year’ in section 1 of the principal Act, from the commencement of the period referred to in subparagraph (i) of the said paragraph; and

(b) for the other purposes of the principal Act, on the date of promulgation of this Act.

56 Short title

This Act shall be called the Income Tax Act, 1969.

Schedule


1. The rates of normal tax referred to in section 1 of this Act are as hereinafter provided.
2. The rates of normal tax payable by persons other than companies in respect of the years of assessment ending the twenty-eighth day of February, 1970, and the thirtieth day of June, 1970, and by companies in respect of years of assessment ending during the period of twelve months ending the thirty-first day of March, 1970, are as follows:

(a) In respect of the taxable income of any person other than a company, as prescribed in the tables below: Provided that-

(i) there shall be added to the amount of tax calculated in accordance with the said tables a sum equal to five per cent of the net amount arrived at after deducting the rebates provided for in section 6 of the principal Act, from the amount of tax so calculated;

(ii) any fraction of a rand of the sum calculated under paragraph (i) of this proviso shall be disregarded;

(iii) the sum referred to in paragraph (i) of this proviso shall not be payable by any taxpayer whose liability for such sum would, but for this paragraph, be less than five rand:

**TABLES**

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income does not exceed R1,000</td>
<td>5 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>exceeds R1 000 but does not exceed R2 000</td>
<td>R50 plus 6 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; R3 000</td>
<td>R110 plus 7 per cent of the amount by which the taxable income exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 000</td>
<td>R180 plus 8 per cent of the amount by which the taxable income exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 000 &quot; &quot; &quot; &quot; R5 000</td>
<td>R260 plus 9 per cent of the amount by which the taxable income exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R350 plus 10.5 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td>R455 plus 12 per cent of the amount by which the taxable income exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R575 plus 13.5 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R710 plus 15 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R860 plus 16.5 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; 10 000 &quot; &quot; &quot; &quot; R11 000</td>
<td>R1 025 plus 18 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1,205 plus 19.5 per cent of the amount by which the taxable income exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
<td>R1,400 plus 21 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R1,610 plus 22.5 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
</tbody>
</table>
Where the taxable income-

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>R14 000</td>
<td>R14 000 plus 24 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>R15 000</td>
<td>R15 000 plus 25.5 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>R16 000</td>
<td>R16 000 plus 27 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>R17 000</td>
<td>R17 000 plus 28.5 per cent of the amount by which the taxable income exceeds R17 000;</td>
</tr>
<tr>
<td>R18 000</td>
<td>R18 000 plus 30 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
<tr>
<td>R19 000</td>
<td>R19 000 plus 31.5 per cent of the amount by which the taxable income exceeds R19 000;</td>
</tr>
<tr>
<td>R20 000</td>
<td>R20 000 plus 33 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>R21 000</td>
<td>R21 000 plus 34.5 per cent of the amount by which the taxable income exceeds R21 000;</td>
</tr>
<tr>
<td>R22 000</td>
<td>R22 000 plus 36 per cent of the amount by which the taxable income exceeds R22 000;</td>
</tr>
<tr>
<td>R23 000</td>
<td>R23 000 plus 37.5 per cent of the amount by which the taxable income exceeds R23 000;</td>
</tr>
<tr>
<td>R24 000</td>
<td>R24 000 plus 39 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td>R25 000</td>
<td>R25 000 plus 40.5 per cent of the amount by which the taxable income exceeds R25 000;</td>
</tr>
<tr>
<td>R26 000</td>
<td>R26 000 plus 42 per cent of the amount by which the taxable income exceeds R26 000;</td>
</tr>
<tr>
<td>R27 000</td>
<td>R27 000 plus 43.5 per cent of the amount by which the taxable income exceeds R27 000;</td>
</tr>
<tr>
<td>R28 000</td>
<td>R28 000 plus 45 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
</tbody>
</table>

Where the taxable income-

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>does not exceed R500</td>
<td>6 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>exceeds R500 but does not exceed R1 000</td>
<td>R30 plus 7 per cent of the amount by which the taxable income exceeds R500;</td>
</tr>
<tr>
<td>&quot; 1 000</td>
<td>R65 plus 8 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R2 000</td>
<td>R145 plus 9 per cent of the amount by which the taxable income exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R3 000</td>
<td>R235 plus 10 per cent of the amount by which the taxable income exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 000</td>
<td>R335 plus 12.5 per cent of the amount by which the taxable income exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R5 000</td>
<td>R460 plus 15 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R6 000</td>
<td>R610 plus 17.5 per cent of the amount by which the taxable income exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R7 000</td>
<td>R785 plus 19.5 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R8 000</td>
<td>R980 plus 21 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000</td>
<td>R1 190 plus 22.5 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R10 000</td>
<td>R1 415 plus 24 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R11 000</td>
<td>R1 655 plus 25.5 per cent of the amount by which the taxable income exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R12 000</td>
<td>R1 910 plus 27 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000</td>
<td>R1 910 plus 27 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>Calculation</td>
</tr>
<tr>
<td>---------------</td>
<td>------------------------------------</td>
</tr>
<tr>
<td>R13 000</td>
<td>R2 180 plus 28.5% of amount</td>
</tr>
<tr>
<td>R14 000</td>
<td>R2 465 plus 30% of amount</td>
</tr>
<tr>
<td>R15 000</td>
<td>R2 765 plus 31.5% of amount</td>
</tr>
<tr>
<td>R16 000</td>
<td>R3 080 plus 33% of amount</td>
</tr>
<tr>
<td>R17 000</td>
<td>R3 410 plus 34.5% of amount</td>
</tr>
<tr>
<td>R18 000</td>
<td>R3 755 plus 36% of amount</td>
</tr>
<tr>
<td>R19 000</td>
<td>R4 115 plus 37.5% of amount</td>
</tr>
<tr>
<td>R20 000</td>
<td>R4 490 plus 39% of amount</td>
</tr>
<tr>
<td>R21 000</td>
<td>R4 880 plus 40.5% of amount</td>
</tr>
<tr>
<td>R22 000</td>
<td>R5 285 plus 42% of amount</td>
</tr>
<tr>
<td>R23 000</td>
<td>R5 705 plus 43.5% of amount</td>
</tr>
<tr>
<td>R24 000</td>
<td>R6 140 plus 45% of amount</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding so much as is derived from mining operations and, in the case of any company referred to in subparagraph (e), so much as the Commissioner 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 principal Act) which is determined under the principal Act to be derived-

(i) and (ii) ......

[Items (i) and (ii) deleted by s. 1 of Act 49 of 1996.]

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 360 \div x
\]

in which formula (and in the formulae set out in the first and second provisos hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived
(with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y = 20(1 - \frac{6}{x}) \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[ y = 20(1 - \frac{6}{x}) \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the conditions in respect of an assisted gold mine imposed by the Minister of Mines under section 2 (2) of the Gold Mines Assistance Act, 1968 (Act 82 of 1968), have been complied with by the company concerned during the year of assessment, the rate of tax in respect of taxable income derived by the company from mining for gold on such mine shall not exceed a percentage determined in accordance with the formula

\[ y = 68 - \frac{601}{x} \]

Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a sum equal to five per cent of such amount;

\[(d)\] on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:
y = 60 - \frac{480}{x}

in which formula (and in the formulae set out in the first proviso hereto) $y$ represents such percentage and $x$ the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

$$y = 20\left(1 - \frac{8}{x}\right)$$

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

$$y = 20\left(1 - \frac{8}{x}\right)$$

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to five per cent of such amount;

(e) on each rand 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 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 principal Act, the average rate of normal tax or thirty-five cents, whichever is the higher;

(f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to ten per
cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold, diamonds or natural oil)-

(i) and (ii) ......

[Items (i) and (ii) deleted by s. 1 of Act 49 of 1996.]

(h) in respect of the taxable income of any person other than a company, a sum equal to five per cent of the amount of tax determined in accordance with subparagraph (a) after the deduction of the rebates provided for in section 6 of the principal Act, but before the addition of the sum referred to in the proviso to the said subparagraph: Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any taxpayer whose liability under this subparagraph would, but for this proviso, be less than five rand;

(i) in respect of the taxable income of any company-

(i) a sum equal to ten per cent of the amount of tax determined under subparagraph (f) before the addition of the sum referred to in the proviso to that subparagraph; and

(ii) a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (c) and (d) before the addition of the sum referred to in the third proviso to subparagraph (c) and the sum referred to in the second proviso to subparagraph (d):

Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

3 (1) For the purposes of paragraph 2 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner results directly from mining for gold.
(2) For the purposes of subparagraph (e) of paragraph 2 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(3) The tax payable in accordance with any of the subparagraphs (a) to (i), inclusive, of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

4 ...... 

[Para. 4 deleted by s. 1 of Act 49 of 1996.]

INCOME TAX ACT 52 OF 1970

[ASSENTED TO 15 SEPTEMBER 1970] [DATE OF COMMENCEMENT: 23 SEPTEMBER 1970] (Unless otherwise indicated)

(English text signed by the State President)

as amended by

Income Tax Act 90 of 1972
General Law Amendment Act 49 of 1996

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on the twenty-eighth day of February, 1971, and the thirtieth day of June, 1971, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on the thirty-first day of March, 1971; to provide for the payment of certain portions of the normal tax payable by certain companies into provincial revenue funds; to provide for the basis of calculation of any tax levied by a provincial council on the incomes of persons other than companies; to provide for the repayment to the taxpayers concerned of certain portions of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1961, and the Income Tax Act, 1969; and to provide for incidental matters.

[Long title amended by s. 1 of Act 49 of 1996.]

1 Rates of normal tax
The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of—

(a) the taxable income of any person other than a company for the year of assessment ending the twenty-eighth day of February, 1971, or the thirtieth day of June, 1971; and

(b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on the thirty-first day of March, 1971,

shall be as set forth in Schedule 1 to this Act.

2 ......

[S. 2 repealed by s. 31 of Act 90 of 1972.]

3 ......

[S. 3 repealed by s. 1 of Act 49 of 1996.]

4 ......

[S. 4 repealed by s. 31 of Act 90 of 1972.]

5 Certain portions of the normal tax to be repayable to the taxpayers concerned

The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) or (i) of Schedule 1 to this Act shall be a loan portion of that tax, and where such loan portion has been paid by the person concerned it shall be repayable to such person in accordance with the provisions of section 5 (2B) of the principal Act and the Fifth Schedule to that Act.

6 Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (i) of the definition of 'gross income'; and paragraph (b) substitutes the definition of 'Republic'.


(2) The amendment effected by subsection (1) shall apply in respect of
any gain made after the first day of June, 1969.

9 (1) Amends section 10 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (i) (xiii); paragraph (c) substitutes subsection (4) (a) (ii); and paragraph (d) substitutes subsection (4) (b) (ii).

(2) The amendments effected by subsection (1) (a) and (b) shall be deemed to have first taken effect in respect of assessments for the year of assessment ended the twenty-eighth day of February, 1970.

10 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (c) deletes paragraph (r) provided that any donation which would have qualified for deduction under item (i) in respect of the year of assessment commencing on the first day of March, 1970, but for the deletion of the said item, shall be deemed to be a donation qualifying for deduction by the company concerned under section 18A (2) (a); and paragraph (b) substitutes paragraph (w).

11 Amends section 11 bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the definition of 'basic export turnover' and 'current export turnover'; and paragraph (b) substitutes subsection (3).

12 (1) Amends section 12 of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the word 'or' at the end of subsection (2) (iii) and adds subsection (2) (iv); and paragraph (b) adds the word 'or' at the end of subsection (2A) (c) and adds subsection (2A) (d).

(2) The amendments effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the thirteenth day of August, 1970.


(2) The amendments effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the thirteenth day of August, 1970.


(2) The amendment effected by subsection (1) shall be deemed to have first taken effect in respect of assessments for the year of assessment ended the twenty-eighth day of February, 1970.

(1) Amends section 20A of the Income Tax Act 58 of 1962 by substituting subsection (2) (b) (iii).

(2) The amendment effected by subsection (1) shall be deemed to have first taken effect in respect of assessments for the year of assessment ended the twenty-eighth day of February, 1970.


(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the date of promulgation of the Income Tax Act, 1969, and shall apply in respect of assessments for years of assessment ending after the thirtieth day of June, 1968.

Amends section 42 of the Income Tax Act 58 of 1962 by substituting subsection (2) (e).

(1) Amends section 64B of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (d); and paragraph (b) substitutes paragraph (dA).

(2) The amendments effected by subsection (1) shall be deemed to have taken effect from the commencement of the Companies Amendment Act, 1969 (Act 90 of 1969).

(1) Amends section 64C of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts paragraph (bA); and paragraph (b) substitutes paragraph (fA).

(2) The amendments effected by subsection (1) (b) shall be deemed to have taken effect on the fifth day of August, 1969.


Amends paragraph 5 of the First Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (2).

Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting paragraph (v) of the definition of 'remuneration'.

Inserts paragraph 20A in the Fourth Schedule to the Income Tax Act 58 of
26  **Addition of 5th Schedule to Act 58 of 1962**

(1) Schedule 2 to this Act is hereby added to the principal Act as the Fifth Schedule thereto, and shall be deemed to be and shall be construed and applied as one with the principal Act.

(2) The provisions of the said Schedule shall be deemed to have come into operation on the first day of March, 1965.

27  **Repeal of several provisions relating to loan portions of normal tax levied under certain Income Tax Acts**


[Date of commencement of s. 28: 4 July 1969.]

29  **Commencement of certain amendments**

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall first take effect in respect of assessments for the year of assessment ending the twenty-eighth day of February, 1971.

30  ......  

[S. 30 repealed by s. 1 of Act 49 of 1996.]

31  **Short title**

This Act shall be called the Income Tax Act, 1970.

Schedule 1

**RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING THE TWENTY-EIGHTH DAY OF FEBRUARY 1971, AND THE THIRTIETH DAY OF JUNE 1971, AND BY COMPANIES IN RESPECT OF YEARS OF**

(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:

(a) In respect of the taxable income of any person other than a company, as prescribed in the tables below: Provided that-

(i) there shall be added to the amount of tax calculated in accordance with the said tables a sum equal to five per cent of the net amount arrived at after deducting the rebates provided for in section 6 of the principal Act, from the amount of tax so calculated;

(ii) any fraction of a rand of the sum calculated under paragraph (i) of this proviso shall be disregarded;

(iii) the sum referred to in paragraph (i) of this proviso shall not be payable by any taxpayer whose liability for such sum would, but for this paragraph, be less than five rand:

TABLES

<table>
<thead>
<tr>
<th>TAXABLE INCOME</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td></td>
</tr>
<tr>
<td>does not exceed R1,000</td>
<td></td>
</tr>
<tr>
<td>exceeds R1 000 but does not exceed R2 000</td>
<td>5 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; R3 000</td>
<td>R50 plus 6 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 000</td>
<td>R110 plus 7 per cent of the amount by which the taxable income exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R4 000 &quot; &quot; &quot; &quot; R5 000</td>
<td>R180 plus 8 per cent of the amount by which the taxable income exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R260 plus 9 per cent of the amount by which the taxable income exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td>R350 plus 10.5 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R455 plus 12 per cent of the amount by which the taxable income exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R575 plus 13.5 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R710 plus 15 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; 10 000 &quot; &quot; &quot; &quot; R11 000</td>
<td>R860 plus 16.5 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 025 plus 18 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
<td>R1,205 plus 19.5 per cent of the amount by which the taxable income exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R1,400 plus 21 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1,610 plus 22.5 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>TAXABLE INCOME</td>
<td>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</td>
</tr>
<tr>
<td>---------------</td>
<td>-------------------------------------------------------------</td>
</tr>
<tr>
<td>Where the taxable income—does not exceed R500</td>
<td>6 per cent of each R1 of taxable income;</td>
</tr>
<tr>
<td>exceeds R500 but does not exceed R1 000</td>
<td>R30 plus 7 per cent of the amount by which the taxable income exceeds R500;</td>
</tr>
<tr>
<td>&quot; 1 000 &quot; &quot; &quot; &quot; 2 000</td>
<td>R65 plus 8 per cent of the amount by which the taxable income exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; 2 000 &quot; &quot; &quot; &quot; 3 000</td>
<td>R145 plus 9 per cent of the amount by which the taxable income exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; 3 000 &quot; &quot; &quot; &quot; 4 000</td>
<td>R235 plus 10 per cent of the amount by which the taxable income exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; 4 000 &quot; &quot; &quot; &quot; 5 000</td>
<td>R335 plus 12.5 per cent of the amount by which the taxable income exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; 5 000 &quot; &quot; &quot; &quot; 6 000</td>
<td>R460 plus 15 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; 6 000 &quot; &quot; &quot; &quot; 7 000</td>
<td>R610 plus 17.5 per cent of the amount by which the taxable income exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; 7 000 &quot; &quot; &quot; &quot; 8 000</td>
<td>R785 plus 19.5 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; 8 000 &quot; &quot; &quot; &quot; 9 000</td>
<td>R980 plus 21 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; 9 000 &quot; &quot; &quot; &quot; 10 000</td>
<td>R1 190 plus 22.5 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; 10 000 &quot; &quot; &quot; &quot; 11 000</td>
<td>R1 415 plus 24 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; 11 000 &quot; &quot; &quot; &quot; 12 000</td>
<td>R1 655 plus 25.5 per cent of the amount by which the taxable income exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; 12 000 &quot; &quot; &quot; &quot; 13 000</td>
<td>R1 910 plus 27 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>Rate of Tax</td>
</tr>
<tr>
<td>---------------</td>
<td>------------</td>
</tr>
<tr>
<td>R13 000</td>
<td>R2 180</td>
</tr>
<tr>
<td>R14 000</td>
<td>R2 465</td>
</tr>
<tr>
<td>R15 000</td>
<td>R2 765</td>
</tr>
<tr>
<td>R16 000</td>
<td>R3 080</td>
</tr>
<tr>
<td>R17 000</td>
<td>R3 410</td>
</tr>
<tr>
<td>R18 000</td>
<td>R3 755</td>
</tr>
<tr>
<td>R19 000</td>
<td>R4 115</td>
</tr>
<tr>
<td>R20 000</td>
<td>R4 490</td>
</tr>
<tr>
<td>R21 000</td>
<td>R4 880</td>
</tr>
<tr>
<td>R22 000</td>
<td>R5 285</td>
</tr>
<tr>
<td>R23 000</td>
<td>R5 705</td>
</tr>
<tr>
<td>R24 000</td>
<td>R6 140</td>
</tr>
</tbody>
</table>

**(b)** on each rand of the taxable income of any company (excluding so much as is derived from mining operations and, in the case of any company referred to in subparagraph (e), so much as the Commissioner 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 principal Act) which is determined under the principal Act to be derived-

(i) and (ii) .....  

[Items (i) and (ii) deleted by s. 1 of Act 49 of 1996.]

**(c)** on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = \frac{360}{x}
\]

in which formula \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived
(with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y = 20 \left( 1 - \frac{6}{x} \right), \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula:

\[ y = 20 \left( 1 - \frac{6}{x} \right), \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the conditions in respect of an assisted gold mine imposed by the Minister of Mines under section 2 (2) of the Gold Mines Assistance Act, 1968 (Act 82 of 1968), have been complied with by the company concerned during the year of assessment, the rate of tax in respect of taxable income derived by the company from mining for gold on such mine shall not exceed a percentage determined in accordance with the formula:

\[ y = 68 - \frac{601}{x}, \]

Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a sum equal to five per cent of such amount;

\((d)\) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner for Inland Revenue 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 principal Act), a percentage determined in accordance with the formula:
\[
y = 60 - \frac{y}{x},
\]
in which formula (and in the formulae set out in the first proviso hereto) \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20\left(1 - \frac{8}{x}\right),
\]
and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula:

\[
y = 20\left(1 - \frac{8}{x}\right)
\]
by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to five per cent of such amount;

(e) on each rand 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 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 principal Act, the average rate of normal tax or thirty-five cents, whichever is the higher;

(f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to ten per
(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold, diamonds or natural oil);

(i) and (ii) ......

[Items (i) and (ii) deleted by s. 1 of Act 49 of 1996.]

(h) in respect of the taxable income of any person other than a company, a sum equal to ten per cent of the amount of tax determined in accordance with subparagraph (a) after the deduction of the rebates provided for in section 6 of the principal Act, but before the addition of the sum referred to in the proviso to the said subparagraph: Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any taxpayer whose liability under this subparagraph would, but for this proviso, be less than ten rand;

(i) in respect of the taxable income of any company-

(i) a sum equal to ten per cent of the amount of tax determined under subparagraph (f) before the addition of the sum referred to in the proviso to that subparagraph;

(ii) a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (c) and (d) before the addition of the sum referred to in the third proviso to subparagraph (c) and the sum referred to in the second proviso to subparagraph (d); and

(iii) a sum equal to two and one-half per cent of the aggregate of the amounts of tax determined under subparagraphs (b) and (g):

Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or
other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner results directly from mining for gold.

(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(3) The tax payable in accordance with any of the subparagraphs (a) to (i), inclusive, of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

Schedule 2

(Fifth Schedule to Act 58 of 1962)

INCOME TAX ACT 88 OF 1971

[ASSENTED TO 18 JUNE 1971]  [DATE OF COMMENCEMENT: 16 JULY 1971]

(Afrikaans text signed by the State President)

as amended by

Income Tax Act 90 of 1972
General Law Amendment Act 49 of 1996

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on the twenty-ninth day of February, 1972, and the thirtieth day of June, 1972, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on the thirty-first day of March, 1972; to provide for the repayment to the taxpayers concerned of certain portions of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962; and to provide for incidental matters.

[Long title amended by s. 1 of Act 49 of 1996.]

1 Rates of normal tax
The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending the twenty-ninth day of February, 1972, or the thirtieth day of June, 1972; and

(b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on the thirty-first day of March, 1972,

shall be as set forth in the Schedule of this Act.

2 ...... [S. 2 repealed by s. 1 of Act 49 of 1996.]

3 Certain portions of the normal tax to be repayable to the taxpayers concerned

The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) or (i) of the Schedule to this Act shall be a loan portion of that tax, and where such loan portion has been paid by the person concerned it shall be repayable to such person in accordance with the provisions of section 5 (2B) of the principal Act and the Fifth Schedule to that Act.

4 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the definition of 'assessment'; paragraph (b) substitutes the definition of 'dependant'; paragraph (c) substitutes paragraph (k) of the definition of 'gross income'; paragraph (d) substitutes paragraph (m) of the definition of 'gross income'; paragraph (e) substitutes the definition of 'married person'; paragraph (f) inserts the definition of 'taxable amount'; and paragraph (g) substitutes the definition of 'taxable income'.

(2) The amendments effected by subsection (1) (c) shall apply in respect of assessments on companies for years of assessment ending on or after the first day of April, 1971.

5 Amends section 5 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subsection (1A); paragraph (b) substitutes subsection (9); and paragraph (c) adds subsection (10).


8 Amends section 8A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (b); paragraph (b) substitutes subsection (5) (b); and paragraph (c) substitutes subsection (6).

9 Amends section 10 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subsection (1) (i) (xiA); paragraph (b) substitutes subsection (1) (k) (i); paragraph (c) adds, with effect from 1 August 1968, subsection (1) (t) (v) and (vi); paragraph (d) substitutes in subsection (1) (x) the words 'nine thousand' for the words 'six thousand'; paragraph (e) adds subsection (1) (z); and paragraph (f) deletes subsection (4).

10 (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (c); paragraph (b) substitutes paragraph (u); paragraph (c) substitutes paragraph (v); and paragraph (d) substitutes subparagraph (B) of paragraph (bb) of the proviso to paragraph (w).

(2) The amendment effected by subsection (1) (b) shall apply in respect of assessments for years of assessment ending on or after the twenty-eighth day of February, 1971.

11 (1) Amends section 12 (2A) of the Income Tax Act 58 of 1962 by substituting paragraph (c).

(2) The amendment effected by subsection (1) shall apply in respect of years of assessment ending on or after the first day of April, 1971.


(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the first day of April, 1969, and shall apply in respect of assessments for years of assessment ending on or after the first day of January, 1969.

13 (1) Amends section 13 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsections (1), (2) and (3); paragraph (b) substitutes subsection (6A) (a); and paragraph (c) substitutes subsection (9).

(2) The amendments effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the first day of April, 1971.

14 (1) Amends section 13bis of the Income Tax Act 58 of 1962 by adding subsections (9), (10) and (11).
(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the first day of April, 1969, and shall apply in respect of assessments for years of assessment ending on or after the first day of January, 1969.


(2) The amendment effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the first day of April, 1971.

17 (1) Amends section 19 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); paragraph (b) adds subsections (4) and (5); and paragraph (c) adds subsection (6).

(2) (a) The amendments effected by subsection (1) (a) and (b) shall apply in respect of assessments on companies for years of assessment ending on or after the first day of April, 1971.

(b) The amendment effected by subsection (1) (c) shall be deemed to have taken effect on the date of commencement of the principal Act and to have first applied in respect of assessments for the year of assessment ended the thirtieth day of June, 1962.

18 (1) Amends section 21ter of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts in subsection (1) the definition of 'Black development area'; paragraph (b) substitutes subsection (2); paragraph (c) substitutes subsection (3) (a) and (b); paragraph (d) adds a proviso to subsection (3); paragraph (e) inserts in subsections (4) and (6) the expression 'or (3)' after the expression '(2)'; and paragraph (f) adds subsection (7).

(2) The amendments effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the first day of April, 1971.


(2) The amendment effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the first day of April, 1971.

(2) The amendments effected by subsection (1) shall, except as otherwise indicated therein, be deemed to have first applied in respect of assessments for the year of assessment which ended on the twenty-eighth day of February, 1970.

21 (1) Amends section 28 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes subsection (3).

(2) The amendment effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the first day of April, 1971.


(2) The amendment effected by subsection (1) shall apply in respect of assessments for years of assessment of companies ending on or after the first day of April, 1971.

23 Amends section 42 (2) of the Income Tax Act 58 of 1962, with effect from the commencement thereof, by adding paragraph (g).

24 (1) Amends section 49 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts the definition of 'adjusted total net profits'; paragraph (b) substitutes paragraphs (ii), (iiA) and (iii) of the definition of 'distributable income'; paragraph (c) adds the word 'and' at the end of paragraph (iv) of the definition of 'distributable income'; paragraph (d) adds paragraph (v) to the definition of 'distributable income'; and paragraph (e) adds a proviso to the definition of 'total net profits'.

(2) (a) The amendments effected by subsection (1) (a), (b), (c) and (d) shall apply in respect of assessments for years of assessment ending on or after the first day of October, 1971.

(b) The amendment effected by subsection (1) (e) shall apply in respect of assessments for years of assessment ending on or after the first day of April, 1971.

25 (1) Amends section 50 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (f) (i); and paragraph (b) substitutes paragraph (i).

(2) The amendments effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the first day of October, 1971.
26 Amends section 64C of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds paragraph (k); and paragraph (b) adds, with effect from 1 April, 1967, paragraph (l).


29 (1) Amends section 110bis (3) of the Income Tax Act 58 of 1962 by substituting paragraph (g).

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the first day of April, 1971.

30 Amends paragraph 5 of the First Schedule to the Income Tax Act 58 of 1962 by substituting item (a) of subparagraph (1).

31 (1) Amends paragraph 15 of the First Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (3).

(2) The amendments effected by subsection (1) shall, so far as companies are affected, apply in respect of assessments on companies for years of assessment ending on or after the first day of April, 1971.


(2) The amendments effected by subsection (1) shall, so far as companies are affected, apply in respect of assessments on companies for years of assessment ending on or after the first day of April, 1971.

33 Amends paragraph 19 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); and paragraph (b) adds subparagraph (6).

34 Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in the definition of 'formula A' the words 'fifteen thousand' for the words 'ten thousand'; and paragraph (b) substitutes in paragraph (b) of the definition of 'formula B' the words 'thirty thousand' for the words 'twenty thousand'.

35 Amends paragraph 5 of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in item (a) of subparagraph (2) the words 'six thousand' for the words 'four thousand'; paragraph (b) substitutes in
item (b) of subparagraph (2) the expression 'fifteen thousand' for the expression 'ten thousand' wherever it occurs; and paragraph (c) substitutes in item (d) of subparagraph (2) the words 'thirty thousand' for the words 'twenty thousand'.


37 Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962 by deleting the definitions of 'provincial income tax' and 'provincial taxes'.

38 Amends paragraph 2 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

39 Amends paragraph 9 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

40 Amends paragraph 14 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting paragraph (2).

41 Amends paragraph 17 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); paragraph (b) deletes subparagraph (2); paragraph (c) substitutes subparagraphs (3), (4) and (5); and paragraph (d) substitutes subparagraph (7).

42 Amends paragraph 18 (1) of the Fourth Schedule to the Income Tax Act 58 of 1962 by adding item (d).

43 (1) Amends paragraph 19 of the Fourth Schedule to the Income Tax Act 58 of 1962 by inserting subparagraph (1A).

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the first day of April, 1971, in respect of years of assessment of companies ending on or after that date.

44 Amends paragraph 20 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

45 Amends paragraph 20A of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

46 Amends paragraph 21 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

47 Amends paragraph 22 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).
48 Amends paragraph 28 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraphs (1) and (1)\textit{bis}; and paragraph (b) adds subparagraph (8).

49 Deletes paragraph 33 of the Fourth Schedule to the Income Tax Act 58 of 1962 with effect from 1 April, 1971.

50 Amends paragraph 2 of the Fifth Schedule to the Income Tax Act 58 of 1962 by adding subparagraphs (4), (5) and (6).

51 (1) Amends paragraph 8 (2) of the Fifth Schedule to the Income Tax Act 58 of 1962 by adding a proviso to item (b).

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the first day of April, 1971, and shall apply in respect of years of assessment of companies ending on or after that date.

52 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, in so far as the assessment, determination, payment, collection and recovery of normal tax, undistributed profits tax, employees' tax and provisional tax are thereby affected, be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of January, 1972.

53 ......

[S. 53 repealed by s. 1 of Act 49 of 1996.]

54 Short title

This Act shall be called the Income Tax Act, 1971.

Schedule


(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:-
(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below on the taxable amount of such person: Provided that-

(i) there shall be added to the amount of tax calculated in accordance with the said tables a sum equal to ten per cent of the said amount if the said amount is not less than one hundred and fifty rand;

(ii) any fraction of a rand of the sum calculated under paragraph (i) of this proviso shall be disregarded:

### TABLES

<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable amount does not exceed R1,000</td>
<td>9 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>exceeds R1 000 but does not exceed R2 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R2 000</td>
<td>&quot; &quot; &quot; R3 000</td>
</tr>
<tr>
<td>&quot; R3 000</td>
<td>&quot; &quot; &quot; R4 000</td>
</tr>
<tr>
<td>&quot; R4 000</td>
<td>&quot; &quot; &quot; R5 000</td>
</tr>
<tr>
<td>&quot; R5 000</td>
<td>&quot; &quot; &quot; R6 000</td>
</tr>
<tr>
<td>&quot; R6 000</td>
<td>&quot; &quot; &quot; R7 000</td>
</tr>
<tr>
<td>&quot; R7 000</td>
<td>&quot; &quot; &quot; R8 000</td>
</tr>
<tr>
<td>&quot; R8 000</td>
<td>&quot; &quot; &quot; R9 000</td>
</tr>
<tr>
<td>&quot; R9 000</td>
<td>&quot; &quot; &quot; R10 000</td>
</tr>
<tr>
<td>&quot; R10 000</td>
<td>&quot; &quot; &quot; R11 000</td>
</tr>
<tr>
<td>&quot; R11 000</td>
<td>&quot; &quot; &quot; R12 000</td>
</tr>
<tr>
<td>&quot; R12 000</td>
<td>&quot; &quot; &quot; R13 000</td>
</tr>
<tr>
<td>&quot; R13 000</td>
<td>&quot; &quot; &quot; R14 000</td>
</tr>
<tr>
<td>&quot; R14 000</td>
<td>&quot; &quot; &quot; R15 000</td>
</tr>
<tr>
<td>&quot; R15 000</td>
<td>&quot; &quot; &quot; R16 000</td>
</tr>
<tr>
<td>&quot; R16 000</td>
<td>&quot; &quot; &quot; R17 000</td>
</tr>
<tr>
<td>&quot; R17 000</td>
<td>&quot; &quot; &quot; R18 000</td>
</tr>
<tr>
<td>&quot; R18 000</td>
<td>&quot; &quot; &quot; R19 000</td>
</tr>
<tr>
<td>&quot; R19 000</td>
<td>&quot; &quot; &quot; R20 000</td>
</tr>
<tr>
<td>R90 plus 10 per cent of the amount by which the taxable amount exceeds R1 000;</td>
<td></td>
</tr>
<tr>
<td>R190 plus 10 per cent of the amount by which the taxable amount exceeds R2 000;</td>
<td></td>
</tr>
<tr>
<td>R290 plus 11 per cent of the amount by which the taxable amount exceeds R3 000;</td>
<td></td>
</tr>
<tr>
<td>R400 plus 12 per cent of the amount by which the taxable amount exceeds R4 000;</td>
<td></td>
</tr>
<tr>
<td>R520 plus 14 per cent of the amount by which the taxable amount exceeds R5 000;</td>
<td></td>
</tr>
<tr>
<td>R660 plus 16 per cent of the amount by which the taxable amount exceeds R6 000;</td>
<td></td>
</tr>
<tr>
<td>R820 plus 18 per cent of the amount by which the taxable amount exceeds R8 000</td>
<td></td>
</tr>
<tr>
<td>R1 000 plus 20 per cent of the amount by which the taxable amount exceeds R8 000;</td>
<td></td>
</tr>
<tr>
<td>R1 200 plus 22 per cent of the amount by which the taxable amount exceeds R9 000;</td>
<td></td>
</tr>
<tr>
<td>R1 420 plus 24 per cent of the amount by which the taxable amount exceeds R10 000;</td>
<td></td>
</tr>
<tr>
<td>R1 660 plus 26 per cent of the amount by which the taxable amount exceeds R11 000;</td>
<td></td>
</tr>
<tr>
<td>R1 920 plus 28 per cent of the amount by which the taxable amount exceeds R12 000;</td>
<td></td>
</tr>
<tr>
<td>R2 200 plus 30 per cent of the amount by which the taxable amount exceeds R13 000;</td>
<td></td>
</tr>
<tr>
<td>R2 500 plus 32 per cent of the amount by which the taxable amount exceeds R14 000;</td>
<td></td>
</tr>
<tr>
<td>R2 820 plus 34 per cent of the amount by which the taxable amount exceeds R15 000;</td>
<td></td>
</tr>
<tr>
<td>R3 160 plus 36 per cent of the amount by which the taxable amount exceeds R16 000;</td>
<td></td>
</tr>
<tr>
<td>R3 520 plus 38 per cent of the amount by which the taxable amount exceeds R17 000;</td>
<td></td>
</tr>
<tr>
<td>R3 900 plus 40 per cent of the amount by which the taxable amount exceeds R18 000;</td>
<td></td>
</tr>
<tr>
<td>R4 300 plus 42 per cent of the amount by which the taxable amount exceeds R19 000;</td>
<td></td>
</tr>
</tbody>
</table>
### TAXABLE AMOUNT

<table>
<thead>
<tr>
<th>Taxable Amount</th>
<th>Rates of Tax in Respect of Persons Who Are Not Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does not exceed R1 000</td>
<td>12 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>Exceeds R1 000 but does not exceed R2 000</td>
<td>R120 plus 12 per cent of the amount by which the taxable amount exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; R3 000</td>
<td>R240 plus 13 per cent of the amount by which the taxable amount exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 000</td>
<td>R370 plus 14 per cent of the amount by which the taxable amount exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 000 &quot; &quot; &quot; &quot; R5 000</td>
<td>R510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td>R880 plus 23 per cent of the amount by which the taxable amount exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R1 110 plus 26 per cent of the amount by which the taxable amount exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R1 370 plus 28 per cent of the amount by which the taxable amount exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R1 650 plus 30 per cent of the amount by which the taxable amount exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R11 000</td>
<td>R1 950 plus 32 per cent of the amount by which the taxable amount exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R2 270 plus 34 per cent of the amount by which the taxable amount exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
<td>R2 610 plus 36 per cent of the amount by which the taxable amount exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R2 970 plus 38 per cent of the amount by which the taxable amount exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R3 350 plus 40 per cent of the amount by which the taxable amount exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R3 750 plus 42 per cent of the amount by which the taxable amount exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R17 000</td>
<td>R4 170 plus 44 per cent of the amount by which the taxable amount exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R17 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R4 610 plus 46 per cent of the amount by which the taxable amount exceeds R17 000;</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R19 000</td>
<td>R5 070 plus 48 per cent of the amount by which the taxable amount exceeds R18 000;</td>
</tr>
<tr>
<td>&quot; R19 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R5 550 plus 50 per cent of the amount by which the taxable amount exceeds R19 000;</td>
</tr>
</tbody>
</table>
(b) on each rand of the taxable income of any company (excluding taxable income in the form of dividends, taxable income derived from mining operations and taxable income referred to in subparagraph (e)) which is determined under the principal Act to be derived-

(i) 

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents;

[Item (ii) amended by s. 1 of Act 49 of 19986.]

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula-

\[
y = 60 - \frac{360}{x}
\]

in which formula (and in the formulae set out in the first and second provisos hereto) \(y\) represents such percentage and \(x\) the ratio, expressed as a percentage, which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula-

\[
y = 20(1 - \frac{6}{x})
\]
and if such taxable income exceeds forty thousand rand, the rate of
tax shall not exceed a percentage determined in accordance with a
formula arrived at by increasing the number 20 in the formula-

\[ y = \frac{20(1 - \frac{6}{x})}{x} \]

by one for each completed amount of two thousand five hundred
rand by which the said taxable income exceeds forty thousand
rand: Provided further that where a certificate is given by the
Government Mining Engineer to the effect that the conditions in
respect of an assisted gold mine imposed by the Minister of Mines
under section 2 (2) of the Gold Mines Assistance Act, 1968 (Act 82
of 1968), have been complied with by the company concerned
during the year of assessment, the rate of tax in respect of taxable
income derived by the company from mining for gold on such mine
shall not exceed a percentage determined in accordance with the
formula-

\[ y = 68 - \frac{601}{x} \]

Provided further that there shall be added to the amount of tax
calculated in accordance with the preceding provisions of this
subparagraph, excluding the second proviso, a sum equal to five
per cent of such amount;

\( (d) \)

on each rand of the taxable income derived by any company from
mining for gold on any post-1966 gold mine (but with the exclusion
of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in
accordance with the formula-

\[ y = 60 - \frac{480}{x} \]

in which formula (and in the formulae set out in the first proviso
hereto) \( y \) represents such percentage and \( x \) the ratio expressed as
a percentage which the taxable income so derived (with the said
exclusion) bears to the income so derived (with the said exclusion):
Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula-

\[ y = 20 \left(1 - \frac{8}{x}\right), \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula-

\[ y = 20 \left(1 - \frac{8}{x}\right) \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to five per cent of such amount;

(e) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or thirty-five cents, whichever is the higher;

(f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to ten per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold, diamonds or natural oil)-

(i) ......

[Item (i) deleted by s. 1 of Act 49 of 1996.]
(ii) forty cents;

[Item (ii) amended by s. 1 of Act 49 of 1996.]

(h) in respect of the taxable income of any person other than a company, a sum equal to-

(i) twelve and a half per cent of the amount of tax determined in accordance with subparagraph (a) before the addition of the sum referred to in the proviso to the said subparagraph, if such amount of tax is not less than one hundred and fifty rand and is less than four hundred rand; or

(ii) fourteen per cent of the said amount of tax if that amount is not less than four hundred rand and is less than seven hundred and fifty rand; or

(iii) sixteen per cent of the said amount of tax if that amount is not less than seven hundred and fifty rand and is less than one thousand five hundred rand; or

(iv) eighteen per cent of the said amount of tax if that amount is not less than one thousand five hundred rand and is less than five thousand rand; or

(v) twenty per cent of the said amount of tax if that amount is not less than five thousand rand:

Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded;

(i) in respect of the taxable income of any company-

(i) a sum equal to seven and a half per cent of the aggregate of the amounts of tax determined under subparagraphs (b) and (g);

(ii) a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (c) and (d) before the addition of the sum referred to in the third proviso to subparagraph (c) and the sum referred to in the second proviso to subparagraph (d);

(iii) a sum equal to ten per cent of the amount of tax determined under subparagraph (f) before the addition of the sum referred
to in the proviso to that subparagraph; and

(iv) a sum equal to seven and a half per cent of so much of the company's taxable income as is derived in the form of dividends:

Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

2. (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(2A) For the purposes of paragraph 1 (b) and (i) of this Schedule-

(a) any amount received by or accrued to or in favour of any company by way of a distribution out of the assets pertaining to any unit portfolio comprised in any unit trust scheme in property shares authorized under the Unit Trusts Control Act, 1947 (Act 18 of 1947); and

(b) so much of any dividend received by or accrued to or in favour of any company as has been distributed out of interest derived by any unit portfolio referred to in paragraph (e) of the definition of 'company' in section 1 of the principal Act and which is exempt from tax in the hands of such unit portfolio under the provisions of section 10 (1) (iA) of that Act,

shall be deemed to be derived otherwise than in the form of dividends.

[Sub-para. (2A) inserted by s. 29 of Act 90 of 1972.]

(3) The tax determined in accordance with any of the subparagraphs (a) to
(i), inclusive, of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 90 OF 1972

[ASSENTED TO 16 JUNE 1972] [DATE OF COMMENCEMENT: 28 JUNE 1972]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)
as amended by
Financial Relations Act 65 of 1976
General Law Amendment Act 49 of 1996

ACT


[Long title amended by s. 1 of Act 49 of 1996.]

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-
(a) the taxable income of any person other than a company for the year of assessment ending the twenty-eighth day of February, 1973, or the thirtieth day of June, 1973; and

(b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on the thirty-first day of March, 1973,

shall be as set forth in Schedule 1 to this Act.

2 ...... 

[S. 2 repealed by s. 1 of Act 49 of 1996.]

3 Certain portion of the normal tax to be repayable to taxpayers

The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) of Schedule 1 to this Act shall be a loan portion of that tax, and where such loan portion has been paid by the person concerned it shall be repayable to such person in accordance with the provisions of section 5 (2B) of the principal Act and the Fifth Schedule to that Act.

4 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts paragraph (eA) of the definition of 'gross income';
paragraph (b) substitutes the definition of 'married person'; paragraph (c) substitutes paragraph (b) (iv) of the definition of 'pension fund'; paragraph (d) substitutes the definition of 'Republic'; and paragraph (e) substitutes paragraph (b) (ii) of the definition of 'retirement annuity fund'.

(2) The amendment effected by subsection (1) (b) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of the year of assessment ended the twenty-ninth day of February, 1972.

5 Amends section 5 (10) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) deletes at the end of paragraph (d) (iii) the word 'and' and adds at the end of paragraph (d) (iv) the word 'and'; and paragraph (b) adds paragraph (d) (v).

6 Amends section 8 (4) of the Income Tax Act 58 of 1962 by substituting paragraph (c).

7 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts paragraph (i) (xiiA); paragraph (b) inserts paragraph (iA); paragraph (c) substitutes paragraph (k) (i); paragraph (d) inserts paragraph (k) (iA); paragraph (e) inserts paragraph (vA); and paragraph (f) adds paragraph
(zA).

(2) For the purposes of assessments and determinations of tax under the principal Act-

(a) the amendments effected by subsection (1) (b), (c) and (d) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of April, 1971;

(b) the amendment effected by subsection (1) (e) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of November, 1970; and

(c) the amendment effected by subsection (1) (f) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of October, 1970.

8 (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (h); and paragraph (b) substitutes in paragraph (t) the expression '1974' for the expression '1971'.

(2) For the purposes of assessments and determinations of tax under the principal Act-

(a) the amendment effected by subsection (1) (a) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the twenty-ninth day of March, 1972; and

(b) the amendment effected by subsection (1) (b) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of January, 1972.

9 Amends section 11bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts in subsection (1) the definition of 'adjusted basic export turnover'; paragraph (b) substitutes in subsection (1) the definition of 'basic export turnover'; paragraph (c) inserts in subsection (1) the definition of 'basic period'; paragraph (d) substitutes in subsection (1) the definition of 'export period'; paragraph (e) inserts in subsection (1) the definition of 'export trade'; and paragraph (f) substitutes subsection (3).


12 Amends section 13 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (5) (d); and paragraph (b) substitutes paragraph (ii) of the proviso to subsection (6).

13 Amends section 18A (1) of the Income Tax Act 58 of 1962 by substituting the definition of ‘college’.

14 (1) Amends section 19 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (4); paragraph (b) inserts subsection (5A); paragraph (c) inserts subsection (5B); and paragraph (d) substitutes subsection (6).

(2) For the purposes of assessments and determinations of tax under the principal Act-

(a) the amendments effected by subsection (1) (a) and (c) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of April, 1971; and

(b) the amendments effected by subsection (1) (b) and (d) shall be deemed to have been taken effect as from the commencement of the year of assessment ended the twenty-ninth day of February, 1972.

15 Amends section 20A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) deletes subsection (2) (a).


(2) The amendment effected by subsection (1) shall for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of the year of assessment ended the twenty-ninth day of February, 1972.

17 Amends section 21 ter (5) of the Income Tax Act 58 of 1962 by substituting paragraph (b).

18 Amends section 42(2) of the Income Tax Act 58 of 1962 by adding paragraph (h) (date of commencement 1 April, 1971).

19 Amends section 64B of the Income Tax Act 58 of 1962 by adding paragraph (h) (date of commencement 1 April, 1971).

20 Amends section 64C of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (a); and paragraph (b) inserts paragraph (fB)
(date of commencement: 1 November 1970).


   (2) The amendments effected by subsection (1), shall, for the purposes of
   assessments and determinations of tax under the principal Act, be deemed to
   have taken effect as from the commencement of the year of assessment ended
   the twenty-eighth day of February, 1970.

22  Amends paragraph 19 of the First Schedule to the Income Tax Act 58 of
1962 by substituting subparagraph (1).

23  (1) Amends paragraph 28 of the Fourth Schedule to the Income Tax Act
58 of 1962 by substituting subparagraph (1)bis.

   (2) The amendment effected by subsection (1) shall apply in respect of
   years of assessment ending on or after the first day of January, 1972, and shall
   be deemed to have taken effect on that date.

24  (1) Amends paragraph 2 of the Fifth Schedule to the Income Tax Act 58 of
1962 by substituting for subparagraph (1), subparagraphs (1) and (1A).

   (2) The amendment effected by subsection (1) shall apply in respect of all
   years of assessment for which any loan portion, as defined in paragraph 1 of the
   said Schedule, may be leviable: Provided that the amendments shall not apply in
   respect of any period of assessment of any taxpayer ending before the date of
   promulgation of this Act if, before that date, the Commissioner for Inland
   Revenue has issued a notice of assessment in respect of the taxable income of
   that taxpayer for that period and an amount has been appropriated to such loan
   portion as contemplated in paragraph 8 (1) of the said Schedule.

25  Amends paragraph 4 of the Fifth Schedule to the Income Tax Act 58 of
1962 by substituting subparagraphs (2) and (3).

   [Date of commencement of s. 25: 1 April 1972.]

26  (1) Amends paragraph 6 of the Fifth Schedule to the Income Tax Act 58 of
1962 by substituting the second proviso.

   (2) The amendment effected by subsection (1) shall apply in respect of all
   years of assessment for which any loan portion, as defined in paragraph 1 of the
   said Schedule, may be leviable: Provided that any repayment authorized by
   paragraph (b), (c) or (d) of the second proviso to paragraph 6 of the said
   Schedule in respect of any loan portion paid in respect of any period of
   assessment ending before the date of promulgation of this Act shall not be
required to be made before a date to be determined by the Minister of Finance.


(2) The amendment effected by subsection (1) shall be applicable in respect of all relevant years of assessment under the principal Act.

28  Addition of 6th Schedule to Act 58 of 1962

(1) Schedule 3 to this Act is hereby added to the principal Act as the Sixth Schedule thereto, and shall be deemed to be and shall be construed and applied as one with the principal Act.

(2) The amendment effected by subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the thirtieth day of March, 1972: Provided that the provisions of paragraphs 16 to 23, inclusive, of the said Schedule shall take effect on the date of promulgation of this Act.

29  Amends paragraph 2 of the Schedule to the Income Tax Act 88 of 1971, by inserting subparagraph (2A).

[Date of commencement of s. 29: 16 July 1971.]

30  Amends section 99 (1) of the Insolvency Act 24 of 1936, as follows: paragraph (a) at the end of paragraph (b) (iii), deletes the word 'or'; paragraph (b) substitutes paragraph (b) (iv); and paragraph (c) inserts paragraph (b) (v).

31  Repeal of certain laws relating to provincial taxes on companies and other persons and their incomes

The laws mentioned in Schedule 2 to this Act are hereby repealed to the extent set forth in the third column of that Schedule: Provided that any tax or other amount imposed under any Act of Parliament or any ordinance of a provincial council in the exercise of its powers under the Financial Relations Consolidation and Amendment Act, 1945 (Act 38 of 1945), on companies or other persons or the incomes of companies or other persons, which has not been assessed or recovered at the commencement of this Act, may be assessed and recovered as if such repeal has not been effected.

32 and 33 ......

[Ss. 32 and 33 repealed by s. 1 of Act 49 of 1996.]

34  Commencement of certain amendments
Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, in so far as the assessment, determination, payment, collection and recovery of normal tax, undistributed profits tax, employees tax and provisional tax are thereby affected, be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of January, 1973.

35 ......

[S. 35 repealed by s. 1 of Act 49 of 1996.]

36 Short title

This Act shall be called the Income Tax Act, 1972.

Schedule 1


(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:-

   (a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below on the taxable amount of such person: Provided that-

   (i) where the amount of tax calculated in accordance with the said tables is not less than one hundred and fifty rand, there shall be added to that amount-

      (aa) in the case of a natural person who is over the age of sixty years on the last day of the year of assessment and whose taxable income for that year of assessment does not exceed five thousand rand, a sum equal to ten per cent of the said amount of tax; or

      (bb) in any other case, a sum equal to twenty per cent of the said amount of tax;
(ii) any fraction of a rand of the sum calculated under paragraph (i) of this proviso shall be disregarded:

### TABLES

<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable amount—</td>
<td></td>
</tr>
<tr>
<td>does not exceed R1,000</td>
<td>9 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>exceeds R1 000 but does not exceed R2 000</td>
<td>R90 plus 10 per cent of the amount by which the taxable amount exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; R3 000</td>
<td>R190 plus 10 per cent of the amount by which the taxable amount exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 000</td>
<td>R290 plus 11 per cent of the amount by which the taxable amount exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 000 &quot; &quot; &quot; &quot; R5 000</td>
<td>R400 plus 12 per cent of the amount by which the taxable amount exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R520 plus 14 per cent of the amount by which the taxable amount exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td>R660 plus 16 per cent of the amount by which the taxable amount exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R820 plus 18 per cent of the amount by which the taxable amount exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R1 000 plus 20 per cent of the amount by which the taxable amount exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R1 200 plus 22 per cent of the amount by which the taxable amount exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R11 000</td>
<td>R1 420 plus 24 per cent of the amount by which the taxable amount exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 660 plus 26 per cent of the amount by which the taxable amount exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
<td>R1 920 plus 28 per cent of the amount by which the taxable amount exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R2 200 plus 30 per cent of the amount by which the taxable amount exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R2 500 plus 32 per cent of the amount by which the taxable amount exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R2 820 plus 34 per cent of the amount by which the taxable amount exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R17 000</td>
<td>R3 160 plus 36 per cent of the amount by which the taxable amount exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R17 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R3 520 plus 38 per cent of the amount by which the taxable amount exceeds R17 000;</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R19 000</td>
<td>R3 900 plus 40 per cent of the amount by which the taxable amount exceeds R18 000;</td>
</tr>
<tr>
<td>&quot; R19 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R4 300 plus 42 per cent of the amount by which the taxable amount exceeds R19 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R21 000</td>
<td>R4 720 plus 44 per cent of the amount by which the taxable amount exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R21 000 &quot; &quot; &quot; &quot; R22 000</td>
<td>R5 160 plus 46 per cent of the amount by which the taxable amount exceeds R21 000;</td>
</tr>
<tr>
<td>&quot; R22 000 &quot; &quot; &quot; &quot; R23 000</td>
<td>R5 620 plus 48 per cent of the amount by which the taxable amount exceeds R22 000;</td>
</tr>
<tr>
<td>&quot; R23 000 &quot; &quot; &quot; &quot; R24 000</td>
<td>R6 100 plus 50 per cent of the amount by which the taxable amount exceeds R23 000;</td>
</tr>
<tr>
<td>&quot; R24 000 &quot; &quot; &quot; &quot; R25 000</td>
<td>R6 600 plus 52 per cent of the amount by which the taxable amount exceeds R24 000;</td>
</tr>
<tr>
<td>&quot; R25 000 &quot; &quot; &quot; &quot; R26 000</td>
<td>R7 120 plus 54 per cent of the amount by which the taxable amount exceeds R25 000;</td>
</tr>
<tr>
<td>&quot; R26 000 &quot; &quot; &quot; &quot; R27 000</td>
<td>R7 660 plus 56 per cent of the amount by which the taxable amount exceeds R26 000;</td>
</tr>
</tbody>
</table>
TAXABLE AMOUNT | RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS
---|---
Where the taxable amount does not exceed R1 000 |
Exceeds R1 000 but does not exceed R2 000 |
" R2 000 " " " " R3 000 |
" R3 000 " " " " R4 000 |
" R4 000 " " " " R5 000 |
" R5 000 " " " " R6 000 |
" R6 000 " " " " R7 000 |
" R7 000 " " " " R8 000 |
" R8 000 " " " " R9 000 |
" R9 000 " " " " R10 000 |
" R10 000 " " " " R11 000 |
" R11 000 " " " " R12 000 |
" R12 000 " " " " R13 000 |
" R13 000 " " " " R14 000 |
" R14 000 " " " " R15 000 |
" R15 000 " " " " R16 000 |
" R16 000 " " " " R17 000 |
" R17 000 " " " " R18 000 |
" R18 000 " " " " R19 000 |
" R19 000 " " " " R20 000 |
" R20 000 " " " " R21 000 |
" R21 000 " " " " R22 000 |
" R22 000 " " " " R23 000 |
" R23 000 " " " " R24 000 |
" R24 000 |
R8 220 plus 58 per cent of the amount by which the taxable amount exceeds R27 000;
R8 800 plus 60 per cent of the amount by which the taxable amount exceeds R28 000.

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income
referred to in subparagraph (e)) which is determined under the principal Act to be derived-

(i) ......  

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents;  

[Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to two and a half per cent of such amount;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
\frac{360}{x} = 60 - y,
\]

in which formula (and in the formula set out in the first and second provisos hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
\frac{6}{x} = 20(1 - y),
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
\frac{6}{x} = 20(1 - y),
\]
by one for each completed amount of two thousand five hundred
rand by which the said taxable income exceeds forty thousand
rand: Provided further that where a certificate is given by the
Government Mining Engineer to the effect that the conditions in
respect of an assisted gold mine imposed by the Minister of Mines
under section 2 (2) of the Gold Mines Assistance Act, 1968 (Act 82
of 1968), have been complied with by the company concerned
during the year of assessment, the rate of tax in respect of taxable
income derived by the company from mining for gold on such mine
shall not exceed a percentage determined in accordance with the
formula

\[
\frac{601}{y} = 68 - \frac{x}{601}
\]

Provided further that there shall be added to the amount of tax
calculated in accordance with the preceding provisions of this
subparagraph, excluding the second proviso, a sum equal to five
per cent of such amount;

\(d\) on each rand of the taxable income derived by any company from
mining for gold on any post-1966 gold mine (but with the exclusion
of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in
accordance with the formula:

\[
\frac{480}{y} = 60 - \frac{x}{480}
\]

in which formula (and in the formulae set out in the first proviso
hereto) \(y\) represents such percentage and \(x\) the ratio expressed as
a percentage which the taxable income so derived (with the said
exclusion) bears to the income so derived (with the said exclusion):
Provided that if the taxable income so derived (with the said
exclusion) does not exceed forty thousand rand, the rate of tax
shall not exceed a percentage determined in accordance with the
formula:

\[
\frac{8}{y} = 20(1 - \frac{x}{8})
\]
and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula:

\[ y = \frac{20(1 - \frac{8}{x})}{x} \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to five per cent of such amount;

(e) on each rand 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 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 principal Act, the average rate of normal tax or thirty-five cents, whichever is the higher;

(f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to ten per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold, diamonds or natural oil)-

(i) ...... 

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents;

[Item (ii) amended by s. 1 of Act 49 of 19986.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a
sum equal to two and a half per cent of such amount;

(h) in respect of the taxable income of any company-

(i) a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d) and (g), before the addition of the sums referred to in the proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d) and the proviso to subparagraph (g);

(ii) a sum equal to three per cent of the amount of tax determined under subparagraph (f) before the addition of the sum referred to in the proviso to that subparagraph; and

(iii) a sum equal to three per cent of so much of the company's taxable income as is derived in the form of dividends:

Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

2. (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(3) For the purposes of paragraph 1 (b) and (h) of this Schedule-

(a) any amount received by or accrued to or in favour of any company by way of a distribution out of the assets pertaining to any unit portfolio comprised in any unit trust scheme in property shares authorized under the Unit Trusts Control Act, 1947 (Act 18 of 1947), and
so much of any dividend received by or accrued to or in favour of any company as has been distributed out of interest derived by any unit portfolio referred to in paragraph (e) of the definition of 'company' in section 1 of the principal Act and which is exempt from tax in the hands of such unit portfolio under the provisions of section 10(1) (A) of that Act,

shall be deemed to be derived otherwise than in the form of dividends.

(4) The tax determined in accordance with any of the subparagraphs (a) to (h), inclusive, of Paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

Schedule 2
REPEALS

(Section 31 of this Act)

<table>
<thead>
<tr>
<th>Law Number and Year</th>
<th>Short Title</th>
<th>Extent of Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act 38 of 1945</td>
<td>Financial Relations Consolidation and Amendment Act, 1945</td>
<td>[Repealed by s 32 (1) of Act 65 of 1976.]</td>
</tr>
<tr>
<td>Act 64 of 1960</td>
<td>Finance Act, 1960</td>
<td>Section 11.</td>
</tr>
<tr>
<td>Act 6 of 1963</td>
<td>Income Tax Amendment Act, 1963</td>
<td>Sections 23 and 24, paragraph (b) of section 25 and sections 26 and 27.</td>
</tr>
<tr>
<td>Act 70 of 1963</td>
<td>Revenue Laws Amendment Act, 1963</td>
<td>Section 5.</td>
</tr>
</tbody>
</table>

Schedule 3
(Sixth Schedule to Act 58 of 1962)

INCOME TAX ACT 65 OF 1973

[ASSENTED TO 19 JUNE 1973] [DATE OF COMMENCEMENT: 27 JUNE 1973]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)
To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1974 and 30 June 1974, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March, 1974; to provide for the repayment to the taxpayers concerned of a certain portion of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962; and to provide for incidental matters.

[Long title amended by s. 1 of Act 49 of 1996.]

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 28 February, 1974 or 30 June 1974; and

(b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on 31 March 1974,

shall be as set forth in the Schedule to this Act.

2 ......

[S. 2 repealed by s. 1 of Act 49 of 1996.]

3 Certain portion of the normal tax to be repayable to the taxpayer concerned

The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) of the Schedule to this Act shall be a loan portion of that tax, and where such loan portion has been paid by the person concerned it shall be repayable to such person in accordance with the provisions of section 5 (2B) of the principal Act and the Fifth Schedule to that Act.
4  (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes paragraph (eA) of the definition of 'gross income';
paragraph (b) substitutes paragraph (g) of the definition of 'gross income';
paragraph (c) inserts paragraph (gA) in the definition of 'gross income'; and
paragraph (d) substitutes paragraph (j) of the definition of 'gross income'.

(2) (a) The amendment effected by subsection (1) (a) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

(b) The amendments effected by subsection (1) (b) and (c) shall in the appropriate circumstances apply in respect of amounts accruing to any person on or after 28 March 1973 and shall, for the purposes of assessments and determinations of tax under the principal Act, apply in respect of years of assessment ending on or after that date.

5  (1) Amends section 5 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) deletes subsections (3) to (8) inclusive; paragraph (b) substitutes in subsection (10) the words preceding paragraph (a); and paragraph (c) substitutes subsection (10) (d) (v).

(2) The amendments effected by subsection (1) (b) and (c) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect from the commencement of years of assessment ending on or after 30 March 1972.

6  (1) Amends section 9 (1) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes paragraph (b); and paragraph (b) inserts paragraph (bA).

(2) (b) The amendments effected by subsection (1) shall in the appropriate circumstances apply in respect of amounts accruing to any person on or after 28 March 1973 and shall, for the purposes of assessments and determinations of tax under the principal Act, apply in respect of years of assessment ending on or after that date.

7  (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) deletes paragraph (i) (vii), (viii), (ix) and (x); paragraph (b) inserts paragraph (i) (xiB); paragraph (c) deletes paragraph (o); and paragraph (d) adds paragraph (zB).

(2) For the purposes of assessments and determinations of tax under the principal Act-
(a) the amendment effected by subsection (1) (b) shall be deemed to have taken effect from the commencement of years of assessment ending on or after 1 January 1973;

(b) the amendment effected by subsection (1) (c) shall take effect as from the commencement of years of assessment ending on or after 1 January 1975; and

(c) the amendment effected by subsection (1) (d) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after 29 March 1973.


(2) The provisions of subsection (1) shall come into operation on 1 October 1973, and the amendment effected by that subsection shall, for the purposes of assessments and determinations of normal tax under the principal Act, apply in respect of any relevant annuity amounts which become due or have become due on or after 1 March 1973.

9 Amends section 11 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes paragraph (k); paragraph (b) substitutes in paragraph (n) the words preceding the provisos; and paragraph (c) deletes paragraph (v).

10 (1) Amends section 11 bis of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in the definition of 'adjusted basic export turnover' the expression 'exporter's' for the expression 'taxpayer's'; paragraph (b) deletes the definition of 'associated companies'; paragraph (c) substitutes in the definition of 'basic export turnover' the expression 'exporter's' for the expression 'taxpayer's' wherever it occurs; paragraph (d) substitutes in the definition of 'basic period' the word 'exporter' for the word 'taxpayer'; paragraph (e) substitutes in the definition of 'current export turnover' the word 'exporter' for the word 'taxpayer'; paragraph (f) inserts the definition of 'export country'; paragraph (g) substitutes the definition of 'exported'; paragraph (h) inserts the definition of 'exporter'; paragraph (i) substitutes in the definition of 'export period' the word 'exporter' for the word 'taxpayer'; paragraph (j) substitutes the definition of 'export trade'; paragraph (k) substitutes the definition of 'export turnover'; paragraph (l) substitutes subsections (2), (3), (4) and (4A); and paragraph (m) inserts subsections (4B), (4C) and (4D).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 28 March 1973.

11 (1) Amends section 11 sex of the Income Tax Act 58 of 1962 by
substituting paragraph (a).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1973.

12  (1) Amends section 12 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2) (iv); and paragraph (b) substitutes subsection (2A) (c) and (d).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 April 1973.

13  (1) Amends section 13 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection 5 (d); paragraph (b) substitutes paragraph (ii) of the proviso to subsection (6); paragraph (c) substitutes subsection (6A) (a); and paragraph (d) inserts subsection (6A) (AA).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 April 1973.

14  Amends section 18A (1) of the Income Tax Act 58 of 1962 by substituting the definition of 'taxable income'.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1973.

16  (1) Amends section 21ter of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the definition of 'industrial undertaking'; and paragraph (b) adds subsection (5) (c).

(2) The amendments effected by subsection (1) shall be deemed to have taken effect on 1 July 1972 and shall apply for the purposes of assessments and determinations of tax under the principal Act in respect of years of assessment ending on or after the said date.


19 (1) Amends section 28 (4) of the Income Tax Act 58 of 1962 by substituting the definition of 'long-term insurance business'.

(2) The amendment effected by subsection (1) shall for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1973.

20 (1) Amends section 35 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes in subsection (2) (a) the words preceding the proviso.

(2) (a) The amendment effected by subsection (1) (a) shall in the appropriate circumstances apply in respect of amounts accruing to any person on or after 28 March 1973, and shall, for the purposes of assessments and determinations of tax under the principal Act, apply in respect of years of assessment ending on or after that date.

(b) The amendment effected by subsection (1) (b) shall in the appropriate circumstances apply in respect of amounts which any person becomes liable to pay to any other person on or after 28 March 1973, and shall be deemed to have taken effect on that date: Provided that, notwithstanding the provisions of section 35 (2) (a) of the principal Act, any amount of tax which in consequence of the said amendment became payable in terms of the said provisions within a period ending on or before the date of promulgation of this Act, shall be payable within fourteen days after that date or within such further period as the Commissioner for Inland Revenue may approve.

21 Amends section 36 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subsections (7B), (7C) and (7D); paragraph (b) substitutes subsections (8) and (9); paragraph (c) inserts in subsection (11) the definition of 'capital expenditure incurred'; and paragraph (d) substitutes in subsection (11) the definition of 'expenditure'.

22 (1) Amends section 42 (2) of the Income Tax Act 58 of 1962 by substituting paragraph (c).

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on 28 March 1973 and shall in the appropriate circumstances apply in respect of dividends (excluding any portion of a dividend as consists of an interim dividend) declared by any company on or after the said date, and interim
dividends the payment of which is approved on or after that date in the manner contemplated in section 42 (1) (b) of the principal Act.

23 (1) Amends section 48 of the Income Tax Act 58 of 1962 by adding subsection (2), the existing section becoming subsection (1).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments in respect of, and determinations of, undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1970.

24 (1) Amends section 49 of the Income Tax Act 58 of 1962 by inserting paragraph (aaA) in the proviso to paragraph (iii) of the definition of ‘distributable income’.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments in respect of, and determinations of, undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 29 March 1973.

25 Amends section 50 (b) of the Income Tax Act 58 of 1962 by substituting subparagraph (i).


(2) Any regulation made by the State President under section 107 (1) (dA) of the principal Act may be made so as to apply with effect from years of assessment under the principal Act ending on or after 30 March 1972.

27 (1) Amends paragraph 1 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the definition of ‘owner’; and paragraph (b) adds the definition of ‘waiver of premium benefit’.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

28 (1) Amends paragraph 2 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) adds item (a) (iv); and paragraph (b) substitutes item (b).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on
or after 30 March 1972.

29  (1) Substitutes paragraph 3 of the Sixth Schedule to the Income Tax Act 58 of 1962.

      (2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

30  (1) Substitutes paragraph 5 of the Sixth Schedule to the Income Tax Act 58 of 1962.

      (2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

31  (1) Amends paragraph 6 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (a); and paragraph (b) deletes subparagraph (2).

      (2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

32  (1) Amends paragraph 7 of the Sixth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (2).

      (2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

33  (1) Substitutes paragraph 8 of the Sixth Schedule to the Income Tax Act 58 of 1962.

      (2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

34  (1) Amends paragraph 11 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (c); paragraph (b) substitutes subparagraphs (2) and (2A) for subparagraph (2); paragraph (c)
deletes subparagraph (3); and paragraph (d) adds subparagraph (4).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

36 (1) Amends paragraph 13 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) substitutes subparagraphs (1), (1A), (1B) and (1C); and paragraph (b) inserts subparagraph (2) (bA).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

37 (1) Amends paragraph 14 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); paragraph (b) substitutes subparagraph (2) (b); and paragraph (c) substitutes in subparagraph (2) (d) the expression '(g)' for the expression '(h)'.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the date of promulgation of the Income Tax Act, 1972 (Act 90 of 1972).

40 (1) Amends paragraph 17 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); and paragraph (b) substitutes subparagraph (3).

(2) The amendments effected by subsection (1) shall be deemed to have taken effect on the date of promulgation of the Income Tax Act, 1972 (Act 90 of 1972).

41 (1) Amends paragraph 18 of the Sixth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (2).

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the date of promulgation of the Income Tax Act, 1972 (Act 90 of 1972).

42 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, in so far as the assessment, determination, payment, collection and recovery of normal tax, undistributed profits tax, employees tax and provisional tax are thereby affected, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1974.

43 ......

[S. 43 repealed by s. 1 of Act 49 of 1996.]

44 Short title

This Act shall be called the Income Tax Act, 1973.

Schedule


(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:
(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below on the taxable amount of such person: Provided that-

(i) where, in the case of any person (other than a natural person who is over the age of sixty years on the last day of the year of assessment and whose taxable income for that year of assessment does not exceed five thousand rand), the amount of tax calculated in accordance with the said tables is not less than one hundred and fifty rand, there shall be added to the amount of tax so calculated a sum equal to ten per cent of that amount;

(ii) any fraction of a rand of the sum calculated under paragraph (i) of this proviso shall be disregarded:

<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
</table>
| Where the taxable amount-  
| does not exceed R1 000  
| exceeds R1 000 but does not exceed R2 000 | 9 per cent of each R1 of taxable amount;  
| " R2 000 " " " " R3 000 | R90 plus 10 per cent of the amount by which the taxable amount exceeds R1 000;  
| " R3 000 " " " " R4 000 | R190 plus 10 per cent of the amount by which the taxable amount exceeds R2 000;  
| " R4 000 " " " " R5 000 | R290 plus 11 per cent of the amount by which the taxable amount exceeds R3 000;  
| " R5 000 " " " " R6 000 | R400 plus 12 per cent of the amount by which the taxable amount exceeds R4 000;  
| " R6 000 " " " " R7 000 | R520 plus 14 per cent of the amount by which the taxable amount exceeds R5 000;  
| " R7 000 " " " " R8 000 | R660 plus 16 per cent of the amount by which the taxable amount exceeds R6 000;  
| " R8 000 " " " " R9 000 | R820 plus 18 per cent of the amount by which the taxable amount exceeds R8 000;  
| " R9 000 " " " " R10 000 | R1 000 plus 20 per cent of the amount by which the taxable amount exceeds R9 000;  
| " R10 000 " " " " R11 000 | R1 200 plus 22 per cent of the amount by which the taxable amount exceeds R10 000;  
| " R11 000 " " " " R12 000 | R1 420 plus 24 per cent of the amount by which the taxable amount exceeds R11 000;  
| " R12 000 " " " " R13 000 | R1 660 plus 26 per cent of the amount by which the taxable amount exceeds R12 000;  
| " R13 000 " " " " R14 000 | R1 920 plus 28 per cent of the amount by which the taxable amount exceeds R13 000;  
| " R14 000 " " " " R15 000 | R2 200 plus 30 per cent of the amount by which the taxable amount exceeds R14 000;  
| " R15 000 " " " " R16 000 | R2 500 plus 32 per cent of the amount by which the taxable amount exceeds R15 000;  
| " R16 000 " " " " R17 000 | R2 820 plus 34 per cent of the amount by which the taxable amount exceeds R16 000;  
| " R17 000 " " " " R18 000 | R3 160 plus 36 per cent of the amount by which the taxable amount exceeds R17 000;  

R3 520 plus 38 per cent of the amount by which the taxable amount exceeds R18 000;
<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable amount does not exceed R1 000</td>
<td>12 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>Exceeds R1 000 but does not exceed R2 000</td>
<td>R120 plus 12 per cent of the amount by which the taxable amount exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; &quot; R3 000</td>
<td>R240 plus 13 per cent of the amount by which the taxable amount exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; &quot; R4 000</td>
<td>R370 plus 14 per cent of the amount by which the taxable amount exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 000 &quot; &quot; &quot; &quot; &quot; R5 000</td>
<td>R510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; &quot; R6 000</td>
<td>R680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; &quot; R7 000</td>
<td>R880 plus 23 per cent of the amount by which the taxable amount exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; &quot; R8 000</td>
<td>R1 110 plus 26 per cent of the amount by which the taxable amount exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; &quot; R9 000</td>
<td>R1 370 plus 28 per cent of the amount by which the taxable amount exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; &quot; R10 000</td>
<td>R1 650 plus 30 per cent of the amount by which the taxable amount exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; &quot; R11 000</td>
<td>R1 950 plus 32 per cent of the amount by which the taxable amount exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; &quot; R12 000</td>
<td>R2 270 plus 34 per cent of the amount by which the taxable amount exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; &quot; R13 000</td>
<td>R2 610 plus 36 per cent of the amount by which the taxable amount exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; &quot; R14 000</td>
<td>R2 970 plus 38 per cent of the amount by which the taxable amount exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; &quot; R15 000</td>
<td>R3 350 plus 40 per cent of the amount by which the taxable amount exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; &quot; R16 000</td>
<td>R3 750 plus 42 per cent of the amount by which the taxable amount exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; &quot; R17 000</td>
<td>R4 170 plus 44 per cent of the amount by which the taxable amount exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R17 000 &quot; &quot; &quot; &quot; &quot; R18 000</td>
<td>R4 610 plus 46 per cent of the amount by which the taxable amount exceeds R17 000;</td>
</tr>
</tbody>
</table>
(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)) which is determined under the principal Act to be derived-

(i)  ......  

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents:  

[Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to two and a half per cent of such amount;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount under the provisions of paragraph (j) of the definition of 'gross income' in section 1 of the principal Act), a percentage determined in accordance with the formula:

\[ y = 60 - \frac{360}{x} \]

in which formula (and in the formulae set out in the first and second provisos hereto) \( y \) represents such percentage and \( x \) the ratio, expressed as a percentage, which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand the rate of
tax shall not exceed a percentage determined in accordance with the formula:

\[ \frac{6}{y} = 20(1 - \frac{1}{x}) \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula arrived at by increasing the number 20 in the formula by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the conditions in respect of an assisted gold mine imposed by the Minister of Mines under section 2 (2) of the Gold Mines Assistance Act, 1968 (Act 82 of 1968), have been complied with by the company concerned during the year of assessment, the rate of tax in respect of taxable income derived by the company from mining for gold on such mine shall not exceed a percentage determined in accordance with the formula

\[ \frac{601}{y} = 68 - \frac{1}{x} \]

Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a sum equal to five per cent of such amount;

\((d)\) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount under the provisions of paragraph \((j)\) of the definition of 'gross income' in section 1 of the principal Act), a percentage determined in accordance with the formula:

\[ \frac{480}{y} = 60 - \frac{1}{x} \]
in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio, expressed as a percentage, which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20\left(1 - \frac{y}{x}\right),
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20\left(1 - \frac{8}{x}\right),
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to five per cent of such amount;

\((e)\) on each rand 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 determines to be attributable to the inclusion in its gross income of any amount under the provisions of paragraph \((j)\) of the definition of 'gross income' in section 1 of the principal Act, a rate equal to the average rate of normal tax or thirty-five cents, whichever is the higher;

\((f)\) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to ten per cent of such amount;

\((g)\) on each rand of the taxable income derived by any company from
mining operations (other than mining for gold, diamonds or natural oil)-

(i) ...... 

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents; 

[Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to two and a half per cent of such amount;

(h) in respect of the taxable income of any company-

(i) a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d) and (g), before the addition of the sums referred to in the proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d) and the proviso to subparagraph (g); and 

(ii) a sum equal to ten per cent of the amount of tax determined under subparagraph (f) before the addition of the sum referred to in the proviso to that subparagraph:

Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

2. (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period as from 1 July 1916 to the end of the period assessed, by the number of rand contained in the said aggregate taxable
income.

(3) The tax determined in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 85 OF 1974

[ASSENTED TO 11 NOVEMBER 1974] [DATE OF COMMENCEMENT: 29 NOVEMBER 1974] (Unless otherwise indicated)

(Afrikaans text signed by the State President)

as amended by

Income Tax Act 103 of 1976
General Law Amendment Act 49 of 1996

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1975 and 30 June 1975, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1975; to provide for the repayment to the taxpayers concerned of a certain portion of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962; to amend section 99 of the Insolvency Act, 1936; and to provide for incidental matters.

[Long title amended by s. 1 of Act 49 of 1996.]

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 28 February 1975 or 30 June 1975; and

(b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on 31 March 1975,
shall be as set forth in the Schedule to this Act.

2 ..... 

[S. 2 repealed by s. 1 of Act 49 of 1996.]

3 Certain portion of the normal tax to be repayable to taxpayers

The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) of the Schedule to this Act shall be a loan portion of that tax, and where such loan portion has been paid by the person concerned it shall be repayable to such person.

4 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts the definition of 'bonus debentures or securities'; paragraph (b) inserts the definition of 'capitalization shares'; paragraph (c) substitutes paragraphs (a), (b) and (c) of the definition of 'company'; paragraph (d) substitutes the definition of 'dependant'; paragraph (e) substitutes the definition of 'dividend'; paragraph (f) inserts the definition of 'domestic company'; paragraph (g) inserts in the Afrikaans version the definition of 'ekwiteitsaandelekapitaal'; paragraph (h) deletes in the Afrikaans version the definition of 'kapitaal aan gewone aandele'; paragraph (i) inserts the definition of 'external company'; paragraph (j) substitutes paragraph (j) of the definition of 'gross income'; paragraph (k) inserts the definition of 'nominal value'; paragraph (l) inserts the definition of 'post-1973 gold mine'; paragraph (m) substitutes paragraph (j) of the proviso to the definition of 'Republic'; and paragraph (n) inserts the definition of 'South African company'.

(2) The amendment effected by subsection (1) (d) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect from the commencement of years of assessment ending on or after 1 January 1975.

5 (1) Amends section 5A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2); paragraph (b) substitutes subsection (3) (a); paragraph (c) deletes subsection (3) (b) and (c); and paragraph (d) substitutes subsection (3) (d), (e), (f) and (g).

(2) The amendments effected by subsection (1) shall, for the purpose of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of the year of assessment ending on 28 February 1975.

Amends section 6ter of the Income Tax Act 58 of 1962 by deleting the words 'after deducting the rebates provided for in section 6 and'.

Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2); paragraph (b) substitutes in subsection (3) (a) (ii) the word 'capitalization' for the word 'bonus'; paragraph (c) substitutes in subsection (3) (b) the word 'capitalization' for the word 'bonus'; paragraph (d) substitutes subsection (4) (a); and paragraph (e) substitutes subsection (4) (b) (bb).

Amends section 9 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (b); paragraph (b) substitutes subsection (1) (c); and paragraph (c) substitutes subsection (3).

(1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (c); paragraph (b) substitutes paragraph (cA); paragraph (c) inserts paragraphs (cB), (cC) and (cD); paragraph (d) substitutes paragraph (d); paragraph (e) substitutes paragraph (e); paragraph (f) substitutes paragraph (i) (ii); paragraph (g) inserts subparagraph (i) (xiC); paragraph (h) substitutes paragraph (i) (xiii); paragraph (i) substitutes in paragraph (k) (v) the words preceding item (aa); paragraph (j) substitutes in paragraph (k) (v) (dd) the word 'capitalization' for the word 'bonus'; paragraph (k) adds paragraph (t) (vii); paragraph (l) adds paragraph (t) (viii); paragraph (m) substitutes in paragraph (w) the words preceding subparagraph (i); paragraph (n) substitutes paragraph (zA); and paragraph (o) substitutes paragraph (zB).

(2) For the purposes of assessments and determinations of tax under the principal Act-

(a) the amendments effected by subsection (1) (c), (d), (e), (f), (g), (h) and (l) shall be deemed to have taken effect from the commencement of years of assessment ending on or after 1 January 1975;

(b) the amendment effected by subsection (1) (k) shall be deemed to have taken effect from the commencement of years of assessment ending on or after 1 January 1972;

(c) the amendment effected by subsection (1) (n) shall be deemed to have taken effect from the commencement of years of assessment ending on or after 28 March 1973; and

(d) the amendment effected by subsection (1) (o) shall be deemed to have taken effect from the commencement of years of assessment ending on or after 29 March 1973.
11 (1) Amends section 10A of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in subsection (1) the definition of 'annuity Contract';
paragraph (b) substitutes in subsection (1) the definition of 'commencement';
paragraph (c) substitutes in subsection (1) the definition of 'expected return';
paragraph (d) substitutes subsection (5); and paragraph (e) substitutes
subsection (7) (a).

(2) The provisions of subsection (1) shall be deemed to have come into
operation on 1 October 1973, and the amendments effected by that subsection
shall, for the purposes of assessments and determinations of normal tax under
the principal Act, apply in respect of any relevant annuity amounts which became
due or have become due on or after 1 March 1973.

12 (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts paragraph (iiA) after paragraph (ii) of the proviso to
paragraph (e); paragraph (b) substitutes paragraph (v) of the proviso to
paragraph (o); and paragraph (c) substitutes in paragraph (t) the words
preceding the proviso.

(2) The amendments effected by subsection (1) (a) and (c) shall, for the
purposes of assessments and determinations of tax under the principal Act, be
deemed to have taken effect from the commencement of years of assessment
ending on or after 1 January 1975.

13 Amends section 11bis (4A) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts after the expression 'subection 4' the words 'has been
incurred'; and paragraph (b) substitutes in the Afrikaans version certain words.


(2) The amendment effected by subsection (1) shall, for the purposes of
assessments and determinations of tax under the principal Act, be deemed to
have taken effect on 1 April 1974 and shall apply in respect of years of
assessment ending on or after that date.

15 (1) Amends section 12 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes subsection (1); paragraph (b) inserts subsections (1A)
and (1B); paragraph (c) substitutes in subsection (2) the words preceding
paragraph (i); paragraph (d) substitutes subsection (2) (iv); paragraph (e)
substitutes subsection (2A) (c) (ii); paragraph (f) inserts after subsection (2A) (c)
(ii) subparagraph (iiA); paragraph (g) substitutes subsection (2A) (c) (iii);
paragraph (h) substitutes subsection (2A) (d) (ii); and paragraph (i) adds
subsection (2A) (d) (iii).

(2) The amendments effected by subsection (1) shall, for the purposes of
assessments and determinations of tax under the principal Act, be deemed to
have taken effect from the commencement of years of assessment ending on or after 15 August 1974.

16 Amends section 13 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (5) (d); paragraph (b) substitutes paragraph (ii) of the proviso to subsection (6); and paragraph (c) substitutes subsection (6A) (a).

17 Amends section 14 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (b); paragraph (b) inserts subsections (1A), (1B) and (1C); and paragraph (c) substitutes subsections (2) and (3) for subsection (2).

18 Amends section 19 (3) by deleting in the heading to the table the words 
'(as determined before the deduction of any amount under section twenty-one bis)'.


(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect from the commencement of years of assessment ending on or after 28 February 1975.


(2) The amendment effected by subsection (1) shall not apply for the purposes of any law other than the principal Act.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1973.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect from the commencement of the year of assessment ending on 28 February 1975.
23 Amends section 22 (4) of the Income Tax Act 58 of 1962 by substituting the first proviso.

24 Amends section 24A (2) (a) of the Income Tax Act 58 of 1962 by substituting the word 'capitalization' for the word 'bonus' wherever it occurs.

25 Amends section 28bis (1) of the Income Tax Act 58 of 1962 by substituting the word 'incorporated' for the word 'registered' wherever it occurs.

26 Amends section 33 (1) of the Income Tax Act 58 of 1962 by substituting the words 'domestic company' for the words 'company registered, managed or controlled in the Republic'.

27 Amends section 35 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the words 'domestic company' for the words 'company which is registered, managed or controlled in the Republic'; paragraph (b) substitutes in subsection (2) (a) the words 'domestic company' for the words 'company which is registered, managed or controlled in the Republic'; and paragraph (c) substitutes paragraph (ii) of the proviso to subsection (2) (a).

28 (1) Amends section 36 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (8); paragraph (b) substitutes in subsection (11) paragraph (a) of the definition of 'capital expenditure'; and paragraph (c) substitutes in subsection (11) paragraph (c) of the definition of 'capital expenditure'.

(2) The amendment effected by subsection (1) (a) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1975.

29 Amends section 37 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsections (1) and (2); and paragraph (b) substitutes subsection (4).

30 (1) Amends section 37A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2) (b); paragraph (b) inserts subsection (2) (bA); and paragraph (c) adds subsection (7).

(2) The amendments effected by subsection (1) (a) and (b) shall in the appropriate circumstances apply in respect of amounts accruing to any company on or after 28 March 1973 and shall, for the purposes of assessments and determinations of tax under the principal Act, apply in respect of years of assessment ending on or after that date.

31 Amends section 38 (2) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) amends the Afrikaans version of paragraph (a); paragraph (b) substitutes in paragraph (b) the words preceding subparagraph (i); and paragraph (c) amends the Afrikaans version of paragraph (b) (i).

32 Amends section 42 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (iii); and paragraph (b) substitutes in subsection (2) (a) the words 'which is not a South African company and is not' for the words 'not registered nor' and by substituting the word 'capitalization' for the word 'bonus'.

33 Amends section 48 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (a) the words 'which is a South African company or is' for the words 'registered or'; and paragraph (b) substitutes in paragraph (b) the words 'which is a South African company or is' for the words 'registered or'.

34 (1) Amends section 49 of the Income Tax Act 58 of 1962 by substituting the definition of 'paid-up capital'.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments in respect of, and determinations of, undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1975.

35 (1) Amends section 50 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts paragraph (aB); paragraph (b) substitutes paragraphs (d), (e) and (f); paragraph (c) substitutes paragraph (g); and paragraph (d) amends the Afrikaans version of paragraph (i).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments in respect of, and determinations of, undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1975.

36 (1) Amends section 52 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the words preceding paragraph (a); paragraph (b) substitutes subsection (1) (b); and paragraph (c) substitutes subsection (2) (a).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments in respect of, and determinations of, undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1975.

37 Amends section 54 of the Income Tax Act 58 of 1962 by substituting the words 'a domestic company' for the words 'registered, managed or controlled in
the Republic'.

38 Amends section 56 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (g) (i) the words 'or, in the case of a company, became for the first time, a domestic company' for the words 'was, in the case of a company, for the first time registered, managed or controlled in the Republic'; paragraph (b) substitutes paragraph (h); and paragraph (c) adds paragraph (o).


40 Amends section 64A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (b) (iii); and paragraph (b) substitutes paragraph (c).

41 Amends section 64B of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (dA) (ii); and paragraph (b) substitutes paragraph (e).

42 (1) Amends section 64C of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (i) of the proviso to paragraph (fA); and paragraph (b) substitutes paragraph (k) (i).

(2) The amendment effected by subsection (1) (a) shall be deemed to have taken effect on 7 June 1974 and the amendment effected by subsection (1) (b) shall be deemed to have taken effect on 16 July 1971.

43 Amends section 70 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsections (1) and (2); and paragraph (b) inserts subsections (3), (3A) and (3B).


45 Amends section 89bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) adds subsection (3).


47 (1) Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the definition of 'Black person'; paragraph (b) substitutes paragraph (b) of the definition of 'provisional taxpayer'; and paragraph (c) substitutes paragraphs (ii) and (iii) of the definition of 'remuneration'.

(2) The amendments effected by subsection (1) shall take effect on the
date of promulgation of this Act.


49 Amends paragraph 18 (1) of the Fourth Schedule to the Income Tax Act 58 of 1962 by deleting item (d).

[Date of commencement of s. 49: 1 April 1975.]

50 Amends paragraph 19 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (date of commencement: 1 April 1975); paragraph (b) substitutes subparagraph (2) (date of commencement: 1 April, 1975); and paragraph (c) deletes subparagraph (4) (date of commencement: 1 April 1975).

51 Amends paragraph 20 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); paragraph (b) deletes subparagraph (1A); and paragraph (c) substitutes subparagraphs (2) and (3).

[Date of commencement of s. 51: 1 April 1975.]

52 Amends paragraph 20A of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

[Date of commencement of s. 52: 1 April 1975.]


[Date of commencement of s. 53: 1 April 1975.]


55 Amends paragraph 28 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraphs (1) and (1)bis, and substitutes the heading immediately preceding that paragraph.

[Date of commencement of s. 55: 1 April 1975.]


[Date of commencement of s. 56: 1 April 1975.]

58 Amends paragraph 2 of the Fifth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (3).

59 Amends paragraph 4 of the Fifth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (3).

[Date of commencement of s. 59: 1 April 1972.]

60 Amends paragraph 6 of the Fifth Schedule to the Income Tax Act 58 of 1962 by adding a further proviso.

61 Substitutes paragraph 7 of the Fifth Schedule to the Income Tax Act 58 of 1962.

62 Amends paragraph 8 (2) (b) of the Fifth Schedule to the Income Tax Act 58 of 1962 by substituting the expression '23 (a) (i) or 23 (b) (i)' for the expression '23 (a)'.

63 Amends paragraph 6 (1) (a) of the Sixth Schedule to the Income Tax Act 58 of 1962 by substituting the words 'a domestic company' for the words 'registered, managed or controlled in the Republic'.

64 (1) Amends paragraph 9 of the Sixth Schedule to the Income Tax Act 58 of 1962 by adding a proviso.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1975.

65 (1) Amends paragraph 11 (1) of the Sixth Schedule to the Income Tax Act 58 of 1962 by substituting item (c).

(2) The amendment effected by subsection (1) shall, for the purposes of the principal Act, be deemed to have taken effect on 15 August 1974 and shall apply in respect of years of assessment ending on or after that date.

66 (1) Amends paragraph 13 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (a); paragraph (b) substitutes subparagraph (1) (b); paragraph (c) substitutes in subparagraph (1C) the words preceding item (i); and paragraph (d) substitutes in subparagraph (2) the words preceding item (a).
(2) For the purposes of the principal Act-

(a) the amendments effected by subsection (1) (a) and (c) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972; and

(b) the amendments effected by subsection (1) (b) and (d) shall be deemed to have taken effect on 15 August 1974 and shall apply in respect of years of assessment ending on or after that date.

67    (1) Amends paragraph 14 (1) of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes item (a) (ii); paragraph (b) inserts item (a) (iiA); paragraph (c) substitutes in item (d) the words preceding the proviso; paragraph (d) substitutes paragraph (i) of the proviso to item (d); and paragraph (e) substitutes in item (e) the words preceding the proviso.

(2) For the purposes of the principal Act-

(a) the amendment effected by subsection (1) (c) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972; and

(b) the amendments effected by subsection (1) (a), (b), (d) and (e) shall be deemed to have taken effect on 15 August 1974 and shall apply in respect of years of assessment ending on or after that date.

68    Amends paragraph 19 of the Sixth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

69    Amends section 99 (1) (b) of the Insolvency Act 24 of 1936, by substituting subparagraphs (iii), (iv) and (v).

70    **Commencement of certain amendments**

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, in so far as the assessment, determination, payment, collection and recovery of normal tax, undistributed profits tax, employees tax and provisional tax are thereby affected, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1974.

71    ......

[S. 71 repealed by s. 1 of Act 49 of 1996.]
This Act shall be called the Income Tax Act, 1974.

Schedule


(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:

(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below on the taxable amount of such person: Provided that-

(i) where, in the case of any person (other than a natural person who is over the age of sixty years on the last day of the year of assessment and whose taxable income for that year of assessment does not exceed five thousand rand), the amount of tax calculated in accordance with the said tables is not less than one hundred and fifty rand, there shall be added to the amount of tax so calculated a sum equal to five per cent of that amount;

(ii) any fraction of a rand of the sum calculated under paragraph (i) of this proviso shall be disregarded:

<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable amount does not exceed R1,000</td>
<td>9 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>exceeds R1 000 but does not exceed R2 000</td>
<td>R90 plus 10 per cent of the amount by which the taxable amount exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; R3 000</td>
<td>R190 plus 10 per cent of the amount by which the taxable amount exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 000</td>
<td>R290 plus 11 per cent of the amount by which the taxable amount exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 000 &quot; &quot; &quot; &quot; R5 000</td>
<td>R400 plus 12 per cent of the amount by which the taxable amount exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R520 plus 14 per cent of the amount by which the taxable amount exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td>R660 plus 16 per cent of the amount by which the taxable amount exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R820 plus 18 per cent of the amount by which the taxable amount exceeds R8 000;</td>
</tr>
<tr>
<td>TAXABLE AMOUNT</td>
<td>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</td>
</tr>
<tr>
<td>---------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>Where the taxable amount does not exceed R1 000</td>
<td>12 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>Exceeds R1 000 but does not exceed R2 000</td>
<td>R120 plus 12 per cent of the amount by which the taxable amount exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; R3 000</td>
<td>R240 plus 13 per cent of the amount by which the taxable amount exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 000</td>
<td>R370 plus 14 per cent of the amount by which the taxable amount exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 000 &quot; &quot; &quot; &quot; R5 000</td>
<td>R510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td>R880 plus 23 per cent of the amount by which the taxable amount exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R1 110 plus 26 per cent of the amount by which the taxable amount exceeds R7 000;</td>
</tr>
<tr>
<td>R8 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R9 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R10 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R11 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R12 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R13 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R14 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R15 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R16 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R17 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R18 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R19 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R20 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R21 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R22 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R23 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
<tr>
<td>R24 000</td>
<td>&quot; &quot; &quot;</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e) which is determined under the principal Act to be derived-

(i) ......

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents:

[Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to two and a half per cent of such amount;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the
Commissioner determines to be attributable to the inclusion in the gross income of any amount under the provisions of paragraph (j) of the definition of ‘gross income’ in section 1 of the principal Act), a percentage determined in accordance with the formula:

\[ y = 60 - \frac{360}{x} \]

in which formula (and in the formulae set out in the first and second provisos hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y = 20(1 - \frac{6}{x}) \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[ y = 20(1 - \frac{6}{x}) \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the conditions in respect of an assisted gold mine imposed by the Minister of Mines under section 2 (2) of the Gold Mines Assistance Act, 1968 (Act 82 of 1968), have been complied with by the company concerned during the year of assessment, the rate of tax in respect of taxable income derived by the company from mining for gold on such mine shall not exceed a percentage determined in accordance with the formula

\[ y = 68 - \frac{601}{x} \]
Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a sum equal to five per cent of such amount;

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount under the provisions of paragraph (j) of the definition of 'gross income' in section 1 of the principal Act), a percentage determined in accordance with the formula:

\[ y = 60 - \frac{480}{x} \]

in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion):

Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y = 20(1 - \frac{8}{x}) \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[ y = 20(1 - \frac{8}{x}) \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand:

Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to five per cent of such amount;

(e) on each rand 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 determines to be attributable to the inclusion in its
gross income of any amount under the provisions of paragraph (j)
of the definition of 'gross income' in section 1 of the principal Act, a
rate equal to the average rate of normal tax or thirty-five cents,
whichever is the higher;

(f) on each rand of the taxable income derived by any company from
mining for diamonds, forty-five cents: Provided that there shall be
added to the amount of tax calculated in accordance with the
preceding provisions of this subparagraph a sum equal to ten per
cent of such amount;

(g) on each rand of the taxable income derived by any company from
mining operations (other than mining for gold, diamonds or natural
oil)-

(i) ......  

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents:  

[Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated
in accordance with the preceding provisions of this subparagraph a
sum equal to two and a half per cent of such amount;

(h) in respect of the taxable income of any company-

(i) a sum equal to two and a half per cent of the aggregate of the
amounts of tax determined under subparagraphs (b), (c), (d)
and (g), before the addition of the sums referred to in the
proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d) and the proviso to
subparagraph (g); and

(ii) a sum equal to five per cent of the amount of tax determined
under subparagraph (f) before the addition of the sum referred
to in the proviso to that subparagraph:

Provided that any fraction of a rand of the tax calculated under this
subparagraph shall be disregarded: Provided further that the tax
calculated in terms of this subparagraph shall not be payable by
any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

2. (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

   (2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from 1 July, 1916 to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

   (3) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any of the other said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 69 OF 1975

[ASSENTED TO 30 JUNE 1975] [DATE OF COMMENCEMENT: 23 JULY 1975]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

as amended by

General Law Amendment Act 49 of 1996

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 29 February 1976 and 30 June 1976, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1976; to provide for the repayment to the taxpayers concerned of a certain portion of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962; and to provide for incidental matters.
1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 29 February 1976 or 30 June 1976; and

(b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on 31 March 1976,

shall be as set forth in the Schedule to this Act.

3 Certain portion of the normal tax to be repayable to taxpayers

The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) of the Schedule to this Act shall be a loan portion of that tax.

4 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the definition of 'assessment'; paragraph (b) inserts the definition of 'date of assessment'; paragraph (c) substitutes paragraph (a) of the definition of 'dividend'; paragraph (d) substitutes paragraphs (c) and (d) of the definition of 'dividend'; paragraph (e) substitutes paragraphs (f), (g) and (h) of the definition of 'dividend'; paragraph (f) inserts paragraphs (iiA) and (iiB) in the second proviso to the definition of 'dividend'; paragraph (g) substitutes in paragraph (iii) of the second proviso to the definition of 'dividend' the words preceding subparagraph (aa); and paragraph (h) deletes the proviso to paragraph (c) of the definition of 'gross income'.

(2) (a) The amendments effected by subsection (1) (a) and (b) shall take effect on the date of promulgation of this Act and shall, in appropriate circumstances, apply in respect of every tax levied under the principal Act, regardless of when such tax is or was assessed and regardless of when it becomes or became payable and in respect of every year of assessment under the principal Act in respect of which the tax in question becomes or became payable: Provided that the amendment effected by subsection (1) (a) shall for the purposes of Part III of Chapter III of the principal Act not apply in respect of any
assessment under the principal Act in relation to which the date of the assessment (as defined in the principal Act) is a date before the date of promulgation of this Act.

(b) Save where the context otherwise indicates the amendments effected by paragraphs (c) to (g), inclusive, of subsection (1) shall be deemed to have taken effect on 6 June 1975 and shall in appropriate circumstances apply in respect of amounts accruing to shareholders on or after that date.

5 Amends section 5A (3) of the Income Tax Act 58 of 1962 by substituting paragraph (g).


7 (1) Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds a proviso to subsection (2); and paragraph (b) substitutes subsection (4) (a).

(2) For the purposes of assessments under the principal Act-

(a) the amendment effected by subsection (1) (a) shall be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 January 1974; and

(b) the amendment effected by subsection (1) (b) shall be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 27 March 1975.

8 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (c) (ii); paragraph (b) substitutes paragraph (cC) (i); paragraph (c) substitutes in paragraph (e) the words 'if the exemption' for the words 'is the exemption'; and paragraph (d) substitutes paragraph (x).

(2) The amendments effected by subsection (1) (a) and (b) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 January 1974.

9 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (k); paragraph (b) substitutes in paragraph (n) the words preceding the provisos; and paragraph (c) substitutes paragraph (ii) of the proviso to paragraph (t).

10 (1) Amends section 11bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (4) the words preceding paragraph (a); paragraph (b) deletes subsection (4) (h); and paragraph (c) inserts subsection
(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 28 March 1973.

11 (1) Amends section 12 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes subsection (2) (iv); paragraph (b) substitutes subsection (2A) (c) (iiA); paragraph (c) inserts subsection (2A) (c) (iiB); paragraph (d) substitutes subsection (2A) (c) (iii); paragraph (e) substitutes subsection (2A) (d) (iii); and paragraph (f) adds subsection (2A) (d) (iv).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 27 March 1975.


13 (1) Amends section 13 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes subsection (5) (d); paragraph (b) adds subsection (5) (e); paragraph (c) substitutes paragraph (ii) of the proviso to subsection (6); paragraph (d) substitutes subsection (6A) (a) (ii); paragraph (e) inserts subsection (6A) (a) (iiA); paragraph (f) substitutes subsection (6A) (a) (iii); paragraph (g) deletes the word 'and' at the end of subsection (6A) (aA); and paragraph (h) inserts subsection (6A) (aB).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 27 March 1975.

14 Amends section 13bis of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in subsection (9) (a) the expression '1973 (Ordinance 20 of 1973)' for the expression '1967 (Ordinance 29 of 1967); paragraph (b) substitutes in subsection (10) the expression '1973' for the expression '1967'; and paragraph (c) substitutes in subsection (11) the expression '1973' for the expression '1967'.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the
commencement of years of assessment ended or ending on or after 27 March 1975.

16 Amends section 18A (1) of the Income Tax Act 58 of 1962 by substituting the definition of 'college'.


18 Amends section 21bis (5) of the Income Tax Act 58 of 1962 by substituting the words 'transition period' for the words 'transition year'.

19 Amends section 21ter (5) of the Income Tax Act 58 of 1962 by deleting paragraph (b).


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 January 1975.


22 Amends section 42 of the Income Tax Act 58 of 1962 by adding subsection (5).

23 (1) Amends section 49 of the Income Tax Act 58 of 1962 by substituting paragraphs (ii) and (iiA) of the definition of 'distributable income'.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments of undistributed profits tax under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 27 March 1975.


25 Amends section 77 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (3); paragraph (b) deletes subsection (4); and paragraph (c) substitutes subsection (5).

26 (1) Amends section 79 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsections (1) and (2); and paragraph (b) inserts
subsection (2A).

(2) The amendments effected by subsection (1) shall take effect on the date of promulgation of this Act and shall, in appropriate circumstances, apply in respect of every tax levied under the principal Act, regardless of when such tax is or was assessed and regardless of when it becomes or became payable and in respect of every year of assessment under the principal Act in respect of which the tax in question becomes or became payable.


(2) The amendment effected by subsection (1) shall apply in respect of all claims for refunds made to the Commissioner for Inland Revenue under the said section on or after the date of promulgation of this Act.


30 (1) Amends paragraph 15 of the First Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (3).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1973.

31 (1) Amends paragraph 16 of the First Schedule to the Income Tax Act 58 of 1962 by substituting the words preceding the definitions.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments in respect of normal tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1973.

32 (1) Amends paragraph 19 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (k); paragraph (b) substitutes subparagraph (2) (a); and paragraph (c) substitutes subparagraph (3).

(2) For the purposes of assessments under the principal Act-

(a) the amendment effected by subsection (1) (b) shall be deemed to
have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1973; and

(b) the amendment effected by subsection (1) (c) shall take effect on the date of promulgation of this Act and shall apply in respect of all years of assessment under the principal Act.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments in respect of normal tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1973.

34 Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in the definition of 'Formula A' the words 'twenty thousand' for the words 'fifteen thousand'; and paragraph (b) substitutes in paragraph (b) of the definition of 'Formula B' the words 'forty thousand' for the words 'thirty thousand'.

35 Amends paragraph 5 (2) of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in item (a) the words 'eight thousand' for the words 'six thousand'; paragraph (b) substitutes in item (b) the expression 'twenty thousand' for the expression 'fifteen thousand', wherever it occurs; and paragraph (c) substitutes in item (d) the words 'forty thousand' for the words 'thirty thousand'.

36 Amends paragraph 20 (1) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'item (b)' for the expression 'item (c)', in both places where it occurs.

37 Amends paragraph 11 of the Sixth Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (5).

[Date of commencement of s. 37: 1 May 1974.]

38 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1976.

39 ......
40 \hspace{0.5cm} \textbf{Short title}

This Act shall be called the Income Tax Act 1975.

\section*{Schedule}

\begin{center}
\textbf{RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 29 FEBRUARY 1976 AND 30 JUNE 1976, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF TWELVE MONTHS ENDING 31 MARCH 1976.}
\end{center}

(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:

\begin{enumerate}[(a)]
\item in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below on the taxable amount of such person: Provided that-
\begin{enumerate}[(i)]
\item where, in the case of any person (other than a natural person who is over the age of sixty years on the last day of the year of assessment and whose taxable income for that year of assessment does not exceed five thousand rand), the amount of tax calculated in accordance with the said tables is not less than one hundred and fifty rand, there shall be added to the amount of tax so calculated a sum equal to five per cent of that amount;
\item any fraction of a rand of the sum calculated under paragraph (i) of this proviso shall be disregarded:
\end{enumerate}
\end{enumerate}

\begin{center}
\textbf{TABLES}
\end{center}

\begin{tabular}{|c|c|c|}
\hline
\textbf{TAXABLE AMOUNT} & \textbf{RATES OF TAX IN RESPECT OF MARRIED PERSONS} \\
\hline \hline
Where the taxable amount does not exceed R1,000 & 9 per cent of each R1 of taxable amount; \\
exceeds R1 000 but does not exceed R2 000 & R90 plus 10 per cent of the amount by which the taxable amount exceeds R1 000; \\
“ R2 000 & “ R3 000 \\
“ R3 000 & “ R4 000 \\
“ R4 000 & “ R5 000 \\
“ R5 000 & “ R6 000 \\
\hline
\end{tabular}
<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable amount- does not exceed R1 000</td>
<td>12 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>Exceeds R1 000 but does not exceed R2 000</td>
<td>R120 plus 12 per cent of the amount by which the taxable amount exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; R3 000</td>
<td>R240 plus 13 per cent of the amount by which the taxable amount exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 000</td>
<td>R370 plus 14 per cent of the amount by which the taxable amount exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R4 000 &quot; &quot; &quot; &quot; R5 000</td>
<td>R510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;</td>
</tr>
</tbody>
</table>
(b) on each rand of the taxable income of any company (excluding taxable income referred to in subparagraph (e)) which is determined under the principal Act to be derived -

(i) ......  

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents:  

[Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to two and a half per cent of such amount;

(c) on each rand of the taxable income derived by any company from

<table>
<thead>
<tr>
<th>Taxable Amount</th>
<th>Taxable Income</th>
<th>Tax</th>
<th>Additional Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>R6 000</td>
<td>R7 000</td>
<td>R800</td>
<td>23% of excess</td>
</tr>
<tr>
<td>R7 000</td>
<td>R8 000</td>
<td>R1 110</td>
<td>26% of excess</td>
</tr>
<tr>
<td>R8 000</td>
<td>R9 000</td>
<td>R1 370</td>
<td>28% of excess</td>
</tr>
<tr>
<td>R9 000</td>
<td>R10 000</td>
<td>R1 650</td>
<td>30% of excess</td>
</tr>
<tr>
<td>R10 000</td>
<td>R11 000</td>
<td>R1 950</td>
<td>32% of excess</td>
</tr>
<tr>
<td>R11 000</td>
<td>R12 000</td>
<td>R2 270</td>
<td>34% of excess</td>
</tr>
<tr>
<td>R12 000</td>
<td>R13 000</td>
<td>R2 610</td>
<td>36% of excess</td>
</tr>
<tr>
<td>R13 000</td>
<td>R14 000</td>
<td>R2 970</td>
<td>38% of excess</td>
</tr>
<tr>
<td>R14 000</td>
<td>R15 000</td>
<td>R3 350</td>
<td>40% of excess</td>
</tr>
<tr>
<td>R15 000</td>
<td>R16 000</td>
<td>R3 750</td>
<td>42% of excess</td>
</tr>
<tr>
<td>R16 000</td>
<td>R17 000</td>
<td>R4 170</td>
<td>44% of excess</td>
</tr>
<tr>
<td>R17 000</td>
<td>R18 000</td>
<td>R4 610</td>
<td>46% of excess</td>
</tr>
<tr>
<td>R18 000</td>
<td>R19 000</td>
<td>R5 070</td>
<td>48% of excess</td>
</tr>
<tr>
<td>R19 000</td>
<td>R20 000</td>
<td>R5 550</td>
<td>50% of excess</td>
</tr>
<tr>
<td>R20 000</td>
<td>R21 000</td>
<td>R6 050</td>
<td>52% of excess</td>
</tr>
<tr>
<td>R21 000</td>
<td>R22 000</td>
<td>R6 570</td>
<td>54% of excess</td>
</tr>
<tr>
<td>R22 000</td>
<td>R23 000</td>
<td>R7 110</td>
<td>56% of excess</td>
</tr>
<tr>
<td>R23 000</td>
<td>R24 000</td>
<td>R7 670</td>
<td>58% of excess</td>
</tr>
<tr>
<td></td>
<td>R24 000</td>
<td>R8 250</td>
<td>60% of excess</td>
</tr>
</tbody>
</table>
mining for gold otherwise than on any post-1966 gold mine (but with
the exclusion of so much of the taxable income as the
Commissioner determines to be attributable to the inclusion in the
gross income of any amount under the provisions of paragraph (j)
of the definition of 'gross income' in section 1 of the principal Act), a
percentage determined in accordance with the formula:

\[ y = 60 - \frac{360}{x} \]

in which formula (and in the formulae set out in the first and second
provisos hereto) \( y \) represents such percentage and \( x \) the ratio
expressed as a percentage which the taxable income so derived
(with the said exclusion) bears to the income so derived (with the
said exclusion): Provided that if the taxable income so derived (with
the said exclusion) does not exceed forty thousand rand, the rate of
tax shall not exceed a percentage determined in accordance with
the formula:

\[ y = 20(1 - \frac{6}{x}) \]

and if such taxable income exceeds forty thousand rand, the rate of
tax shall not exceed a percentage determined in accordance with a
formula arrived at by increasing the number 20 in the formula

\[ y = 20(1 - \frac{6}{x}) \]

by one for each completed amount of two thousand five hundred
rand by which the said taxable income exceeds forty thousand
rand: Provided further that where a certificate is given by the
Government Mining Engineer to the effect that the conditions in
respect of an assisted gold mine imposed by the Minister of Mines
under section 2 (2) of the Gold Mines Assistance Act, 1968 (Act 82
of 1968), have been complied with by the company concerned
during the year of assessment, the rate of tax in respect of taxable
income derived by the company from mining for gold on such mine
shall not exceed a percentage determined in accordance with the
formula:

\[ y = 68 - \frac{601}{x} \]
Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a sum equal to five per cent of such amount;

\[(d)\] on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount under the provisions of paragraph \((j)\) of the definition of ‘gross income’ in section 1 of the principal Act), a percentage determined in accordance with the formula:

\[
y = \frac{480}{x} - 60
\]

in which formula (and in the formulae set out in the first proviso hereto) \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion), does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20(1 - \frac{8}{x})
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20(1 - \frac{8}{x})
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to five per cent of such amount;
(e) on each rand 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 determines to be attributable to the inclusion in its gross income of any amount under the provisions of paragraph (j) of the definition of 'gross income' in section 1 of the principal Act, a rate equal to the average rate of normal tax or thirty-five cents, whichever is the higher;

(f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to ten per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold, diamonds or natural oil)-

(i) ......  

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents:  

[Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to two and a half per cent of such amount;

(h) in respect of the taxable income of any company, a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d), (f) and (g), before the addition of the sums referred to in the proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d), the proviso to subparagraph (f) and the proviso to subparagraph (g): Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or
other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

(3) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.
Tax Act, 1962 (Act 58 of 1962) (hereinafter referred to as the principal Act), in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 28 February 1977 or 30 June 1977; and

(b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on 31 March 1977,

shall be as set forth in the Schedule to this Act.

2 ......

[S. 2 repealed by s. 1 of Act 49 of 1996.]

3 Certain portion of the normal tax to be repayable to taxpayers

The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) or (i) of the Schedule to this Act shall be a loan portion of that tax.

4 Amends section 1 of the Income Tax Act, 58 of 1962, as follows: paragraph (a) deletes paragraph (b) (viii) and (ix) of the definition of 'retirement annuity'; and paragraph (b) substitutes the definition of 'South African company'.

5 Amends section 5 of the Income Tax Act, 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the words 'State Revenue Fund' for the words 'Consolidated Revenue Fund'; paragraph (b) substitutes subsection (2); paragraph (c) inserts subsections (3), (4), (5), (6) and (7); and paragraph (d) substitutes subsection (10) (b).

6 Amends section 5A (3) of the Income Tax Act, 58 of 1962 by substituting paragraph (g).


(2) The provisions of subsections (1) and (2) of the said section 7A, and subsection (3) thereof as substituted by subsection (1) of this section, shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of the year of assessment ended 28 February 1975.

Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes paragraph (h); paragraph (b) substitutes paragraph (i) (ii); paragraph (c) substitutes paragraph (k) (v) (bb); paragraph (d) inserts paragraph (k) (v) (bbA); paragraph (e) inserts paragraph (mA); and paragraph (f) substitutes paragraph (n).

(1) Amends section 11bis of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes the definition of 'export country'; paragraph (b) substitutes subsection (4) (g); and paragraph (c) substitutes subsection (4A).

(2) The amendment effected by subsection (1) (c) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1976.

Amends section 11sept of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (2); paragraph (c) substitutes in subsection (5) (a) to (e) inclusive the words 'training centre or scheme' for the words 'training scheme'; paragraph (d) substitutes subsection (5) (f); paragraph (e) substitutes subsection (5) (g); and paragraph (f) substitutes subsection (5) (h).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after the date of commencement of the Black Employees' In-Service Training Act, 1976.

Amends section 14 (1) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in subsection (1) (b) the words 'of that' for the words 'of that of that'; paragraph (b) substitutes in paragraph (ii) of the proviso to paragraph (a) the words 'the definition of 'adjustable cost' or 'adjustable cost price' in subsection (2)' for the expression 'subsection (2) (a)'; and paragraph (c) substitutes in paragraph (iii) of the proviso to paragraph (b) the words 'the definition of 'adjustable cost' or 'adjustable cost price' in subsection (2)' for the expression 'subsection (2) (a)'.

Amends section 17A (1) of the Income Tax Act 58 of 1962 by substituting the expression '1969 (Act 76 of 1969)' for the expression '1946 (Act 45 of 1946)'.

(1) Amends section 21ter of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts the definition of 'industrialist'; paragraph (b) substitutes the definition of 'industrial profit'; paragraph (c) substitutes the words preceding subsection (2) (a); paragraph (d) inserts subsections (3A) and (3B); paragraph (e) substitutes in subsection (4) the expression '(2), (3) or (3A)' for the expression '(2) or (3)' and inserts the words 'or the supplementary allowance' after the words
'development allowance'; paragraph (f) inserts in subsection (5) (a) the words 'or the supplementary allowance' after the word 'allowance'; paragraph (g) inserts in subsection (5) (c) the words 'or the supplementary allowance' after the words 'development allowance'; paragraph (h) substitutes in subsection (6) the expression '(2), (3) or (3A)' for the expression '(2) or (3)'; paragraph (i) substitutes subsection (7); and paragraph (j) adds subsection (8).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 April 1976.


17 Amends section 41 of the Income Tax Act 58 of 1962 by substituting the words 'State Revenue Fund' for the words 'Consolidated Revenue Fund'.

18 (1) Amends section 42 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (iii); and paragraph (b) substitutes paragraph (iiiA).

(2) The amendments effected by subsection (1) shall be deemed to have taken effect on 31 March 1976 and shall apply in respect of dividends declared on or after that date.


(2) The amendment effected by subsection (1) shall for the purposes of assessments in respect of undistributed profits tax under the principal Act be deemed to have taken effect on 1 April 1976.

20 Amends section 54 of the Income Tax Act 58 of 1962 by substituting the words 'State Revenue Fund' for the words 'Consolidated Revenue Fund'.

21 Amends section 64A of the Income Tax Act 58 of 1962 by substituting the words 'State Revenue Fund' for the words 'Consolidated Revenue Fund'.


[Date of commencement of s. 24: 8 October 1976.]

25 Amends section 88 of the Income Tax Act 58 of 1962 by substituting the expression '86 or 86A' for the expression '86'.

26 Amends section 106 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the words preceding subsection (2) (a); and paragraph (b) substitutes subsection (3).

27 Amends section 110bis (3) (g) of the Income Tax Act 58 of 1962 by substituting the words 'State Revenue Fund' for the words 'Consolidated Revenue Fund'.

28 Amends paragraph 5 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); paragraph (b) inserts subparagraph (1A); paragraph (c) substitutes subparagraph (2); and paragraph (d) deletes subparagraph (3).


30 Amends paragraph 19 (1) of the First Schedule to the Income Tax Act 58 of 1962 by substituting item (i).

31 (1) Amends paragraph 20 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (a); paragraph (b) deletes in subparagraph (1) (b) the words 'by the said Trust'; paragraph (c) deletes in subparagraph (1) (c) the words 'by the said Trust'; and paragraph (d) substitutes subparagraph (6) (b).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 January 1976.

32 Amends paragraph 9 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); and paragraph (b) substitutes subparagraph (3).

33 Amends paragraph 17 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraphs (4) and (5).

34 Amends paragraph 2 of the Fifth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (4).
35 Amends paragraph 4 of the Fifth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes subparagraph (1); paragraph (b) substitutes subparagraph (2); and paragraph (c) deletes subparagraph (3).

[Date of commencement of s. 35: 1 April 1976.]


37 and 38 Amend the Income Tax Ordinance 5 of 1974 of South West Africa.


[Date of commencement of s. 39: 8 October 1976.]

40 Amends the Income Tax Ordinance 5 of 1974 of South West Africa.

41 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1977.

42 ......

[S. 42 repealed by s. 1 of Act 49 of 1996.]

43 Short title

This Act shall be called the Income Tax Act, 1976.

Schedule


(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:
(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below on the taxable amount of such person:

Provided that-

(i) where, in the case of any person (other than a natural person who is over the age of sixty years on the last day of the year of assessment and whose taxable income for that year of assessment does not exceed five thousand rand), the amount of tax calculated in accordance with the said tables is not less than one hundred and fifty rand, there shall be added to the amount of tax so calculated a surcharge equal to ten per cent of that amount;

(ii) any fraction of a rand of the surcharge calculated under paragraph (i) of this proviso shall be disregarded:

**TABLES**

<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable amount-</td>
<td>9 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>does not exceed R1,000</td>
<td>R90 plus 10 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>exceeds R1,000 but does not exceed R2,000</td>
<td>exceeds R1,000;</td>
</tr>
<tr>
<td>&quot; R2,000 &quot; &quot; &quot; &quot;</td>
<td>R190 plus 10 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R3,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R2,000;</td>
</tr>
<tr>
<td>&quot; R4,000 &quot; &quot; &quot; &quot;</td>
<td>R290 plus 11 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R5,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R3,000;</td>
</tr>
<tr>
<td>&quot; R6,000 &quot; &quot; &quot; &quot;</td>
<td>R400 plus 12 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R7,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R4,000;</td>
</tr>
<tr>
<td>&quot; R8,000 &quot; &quot; &quot; &quot;</td>
<td>R520 plus 14 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R9,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R5,000;</td>
</tr>
<tr>
<td>&quot; R10,000 &quot; &quot; &quot; &quot;</td>
<td>R660 plus 16 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R11,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R6,000;</td>
</tr>
<tr>
<td>&quot; R12,000 &quot; &quot; &quot; &quot;</td>
<td>R820 plus 18 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R13,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R8,000;</td>
</tr>
<tr>
<td>&quot; R14,000 &quot; &quot; &quot; &quot;</td>
<td>R1,000 plus 20 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R15,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R8,000;</td>
</tr>
<tr>
<td>&quot; R16,000 &quot; &quot; &quot; &quot;</td>
<td>R1,200 plus 22 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R17,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R9,000;</td>
</tr>
<tr>
<td>&quot; R18,000 &quot; &quot; &quot; &quot;</td>
<td>R1,420 plus 24 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R19,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R10,000;</td>
</tr>
<tr>
<td>&quot; R20,000 &quot; &quot; &quot; &quot;</td>
<td>R1,660 plus 26 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R21,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R11,000;</td>
</tr>
<tr>
<td>&quot; R22,000 &quot; &quot; &quot; &quot;</td>
<td>R1,920 plus 28 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R23,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R12,000;</td>
</tr>
<tr>
<td>&quot; R24,000 &quot; &quot; &quot; &quot;</td>
<td>R2,200 plus 30 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R25,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R13,000;</td>
</tr>
<tr>
<td>&quot; R26,000 &quot; &quot; &quot; &quot;</td>
<td>R2,500 plus 32 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R27,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R14,000;</td>
</tr>
<tr>
<td>&quot; R28,000 &quot; &quot; &quot; &quot;</td>
<td>R2,820 plus 34 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R29,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R15,000;</td>
</tr>
<tr>
<td>&quot; R30,000 &quot; &quot; &quot; &quot;</td>
<td>R3,160 plus 36 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R31,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R16,000;</td>
</tr>
<tr>
<td>&quot; R32,000 &quot; &quot; &quot; &quot;</td>
<td>R3,520 plus 38 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R33,000 &quot; &quot; &quot; &quot;</td>
<td>exceeds R17,000;</td>
</tr>
</tbody>
</table>
TAXABLE AMOUNT | RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS
--- | ---
Where the taxable amount—does not exceed R1 000  | 12 per cent of each R1 of taxable amount;
Exceeds R1 000 but does not exceed R2 000  | 120 per cent of each R1 of taxable amount which exceeds R1 000;
" R2 000 " " " " R3 000  | R240 plus 12 per cent of the amount by which the taxable amount exceeds R2 000;
" R3 000 " " " " R4 000  | R370 plus 14 per cent of the amount by which the taxable amount exceeds R3 000;
" R4 000 " " " " R5 000  | R510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;
" R5 000 " " " " R6 000  | R680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;
" R6 000 " " " " R7 000  | R880 plus 23 per cent of the amount by which the taxable amount exceeds R6 000;
" R7 000 " " " " R8 000  | R1 110 plus 26 per cent of the amount by which the taxable amount exceeds R7 000;
" R8 000 " " " " R9 000  | R1 370 plus 28 per cent of the amount by which the taxable amount exceeds R8 000;
" R9 000 " " " " R10 000  | R1 650 plus 30 per cent of the amount by which the taxable amount exceeds R9 000;
" R10 000 " " " " R11 000  | R1 950 plus 32 per cent of the amount by which the taxable amount exceeds R10 000;
" R11 000 " " " " R12 000  | R2 270 plus 34 per cent of the amount by which the taxable amount exceeds R11 000;
" R12 000 " " " " R13 000  | R2 610 plus 36 per cent of the amount by which the taxable amount exceeds R12 000;
" R13 000 " " " " R14 000  | R2 970 plus 38 per cent of the amount by which the taxable amount exceeds R13 000;
" R14 000 " " " " R15 000  | R3 350 plus 40 per cent of the amount by which the taxable amount exceeds R14 000;
" R15 000 " " " " R16 000  | R3 750 plus 42 per cent of the amount by which the taxable amount exceeds R15 000;
" R16 000 " " " " R17 000  | R4 170 plus 44 per cent of the amount by which the taxable amount exceeds R16 000;
" R17 000 " " " " R18 000  | R4 610 plus 46 per cent of the amount by which the taxable amount exceeds R17 000;
(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)) which is determined under the principal Act to be derived-

(i) ...... [Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents: [Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to seven and a half per cent of such amount;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount under the provisions of paragraph (j) of the definition of 'gross income' in section 1 of the principal Act), a percentage determined in accordance with the formula:

\[
y = \frac{360}{x}
\]

in which formula (and in the formula set out in the first and second provisos hereto) \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion). Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of
tax shall not exceed a percentage determined in accordance with 
the formula:

\[ \frac{6}{y - 20(1 - \frac{20}{x})} \]

and if such taxable income exceeds forty thousand rand, the rate of 
tax shall not exceed a percentage determined in accordance with a 
formula arrived at by increasing the number 20 in the formula

\[ \frac{6}{y - 20(1 - \frac{20}{x})} \]

by one for each completed amount of two thousand five hundred 
rand by which the said taxable income exceeds forty thousand 
rand: Provided further that where a certificate is given by the 
Government Mining Engineer to the effect that the conditions in 
respect of an assisted gold mine imposed by the Minister of Mines 
under section 2 (2) of the Gold Mines Assistance Act, 1968 (Act 82 
of 1968), have been complied with by the company concerned 
during the year of assessment, the rate of tax in respect of taxable 
income derived by the company from mining for gold on such mine 
shall not exceed a percentage determined in accordance with the 
formula

\[ y = 68 - \frac{601}{x} \]

Provided further that there shall be added to the amount of tax 
calculated in accordance with the preceding provisions of this 
subparagraph, excluding the second proviso, a surcharge equal to 
ten per cent of such amount;

\((d)\) on each rand of the taxable income derived by any company from 
mining for gold on any post-1966 gold mine (but with the exclusion 
of so much of the taxable income as the Commissioner determines 
to be attributable to the inclusion in the gross income of any amount 
under the provisions of paragraph \((j)\) of the definition of ‘gross 
income’ in section 1 of the principal Act), a percentage determined 
in accordance with the formula:

\[ y = 60 - \frac{480}{x} \]
in which formula (and in the formulae set out in the first proviso hereto) $y$ represents such percentage and $x$, the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

$$\frac{8}{x} y = 20 \left(1 - \frac{\ldots}{x}\right),$$

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

$$\frac{8}{x} y = 20 \left(1 - \frac{\ldots}{x}\right)$$

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to ten per cent of such amount;

\(e\) on each rand 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 determines to be attributable to the inclusion in its gross income of any amount under the provisions of paragraph \((j)\) of the definition of ‘gross income’ in section 1 of the principal Act, a rate equal to the average rate of normal tax or thirty-five cents, whichever is the higher;

\(f\) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to ten per cent of such amount;

\(g\) on each rand of the taxable income derived by any company from
mining operations (other than mining for gold, diamonds or natural oil)-

(i) ......  

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents:  

[Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to seven and a half per cent of such amount;

(h) in respect of the taxable income of any person other than a company, a sum equal to ten per cent of the amount of tax determined in accordance with subparagraph (a) before the addition of the surcharge referred to in the proviso to the said subparagraph, if the said amount is not less than one hundred and fifty rand: Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded;

(i) in respect of the taxable income of any company, a sum equal to fifteen per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d), (f) and (g), before the addition of the surcharges referred to in the proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d), the proviso to subparagraph (f) and the proviso to subparagraph (g): Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any other income, which, in the opinion of the Commissioner, results directly from mining for gold.

(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period
assessed, by the number of rands contained in the said aggregate taxable
income.

(3) The tax payable in accordance with any of the subparagraphs of
paragraph 1 shall be payable in addition to the tax determined in accordance with
any other of the said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or
expression to which a meaning has been assigned in the principal Act, bears the
meaning so assigned thereto.

INCOME TAX ACT 113 OF 1977

[ASSENTED TO 11 JULY 1977] [DATE OF COMMENCEMENT: 29 JULY 1977]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

as amended by

Income Tax Act 101 of 1978
General Law Amendment Act 49 of 1996

ACT

To fix the rates of normal tax payable by persons other than companies in
respect of taxable incomes for the years of assessment ending on 28
February 1978 and 30 June 1978; and by companies in respect of taxable
incomes for years of assessment ending during the period of twelve
months ending on 31 March 1978; to provide for the repayment to the
taxpayers concerned of a certain portion of the normal tax paid by those
taxpayers; to amend the Income Tax Act, 1962; and to provide for
incidental matters.

[Long title amended by s. 1 of Act 49 of 1996.]

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income
Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in
respect of-

(a) the taxable income of any person other than a company for the
year of assessment ending 28 February 1978 or 30 June 1978; and

(b) the taxable income of any company for any year of assessment
ending during the period of twelve months ending on 31 March
shall be as set forth in the Schedule to this Act.

[S. 2 repealed by s. 1 of Act 49 of 1996.]

3 Certain portion of the normal tax to be repayable to taxpayers

The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) or (i) of the Schedule to this Act shall be a loan portion of that tax.

4 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the words preceding paragraph (a) of the definition of 'dividend'; paragraph (b) inserts paragraph (i) in the definition of 'dividend'; paragraph (c) substitutes paragraph (l) of the definition of 'gross income'; and paragraph (d) inserts the definition of 'specified period'.

(2) The amendments effected by subsection (1) (a) and (b) shall, for the purposes of assessments under the principal Act in respect of years of assessment ending on or after 1 April 1977, be deemed to have taken effect on that date.

5 Amends section 5 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2); and paragraph (b) substitutes subsection (2A).

6 Amends section 5A (3) of the Income Tax Act 58 of 1962 by substituting paragraph (d).

7 (1) Amends section 8 (4) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (a); and paragraph (b) substitutes paragraph (e).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect in respect of years of assessment commencing on or after 1 April 1977.

8 (1) Amends section 10 (1) (i) (xiii) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the words 'eight hundred' for the words 'seven hundred and fifty'; and paragraph (b) substitutes in paragraph (aa) of the proviso the word 'eight' for the words 'seven and a half'.

(2) The amendments effected by subsection (1) shall, for the purposes of
assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 28 February 1977.

9 (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes paragraph (iv) of the proviso to paragraph (e);
paragraph (b) substitutes paragraph (vi) of the proviso to paragraph (e);
paragraph (c) substitutes paragraph (iv) of the proviso to paragraph (g);
paragraph (d) inserts paragraph (gC); paragraph (e) substitutes paragraph (k);
paragraph (f) substitutes paragraph (n); paragraph (g) substitutes in paragraph (o) the words preceding the proviso; and paragraph (h) substitutes paragraph (ii) of the proviso to paragraph (t).

(2) For the purposes of assessments under the principal Act-

(a) the amendments effected by subsection (1) (a), (b), (c) and (g) shall be deemed to have taken effect as from the commencement of years of assessment commencing on or after 1 April 1977.

(b) the amendment effected by subsection (1) (d) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1977.

10 (1) Amends section 11bis of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes the definition of 'goods' in subsection (1); paragraph (b) substitutes in subsection (4) the words preceding paragraph (a); paragraph (c) substitutes subsection (4) (a); paragraph (d) substitutes subsection (4) (d);
paragraph (e) substitutes subsection (4) (e); paragraph (f) substitutes subsection (4) (f); paragraph (g) inserts subsection (4) (fA); paragraph (h) deletes subsection (4) (j); paragraph (i) deletes subsection (4) (m); paragraph (j) substitutes subsection (4) (o); paragraph (k) adds the proviso to subsection (4); paragraph (l) substitutes subsection (4A); and paragraph (m) substitutes subsection (4E) (a).

(2) The amendments effected by subsection (1), except paragraphs (a), (b), (h), (i) and (m) thereof, shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1977, and the amendment effected by subsection (1) (m) shall take effect on 1 July 1977.

(3) The amendment effected by paragraph (i) of subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1979.

[Sub-s. (3) added by s. 20 of Act 101 of 1978.]
11 (1) Amends section 11quin of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes subsection (3) (a).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect in respect of years of assessment ending on or after 1 January 1977.

12 (1) Amends section 11sept of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2); and paragraph (b) substitutes subsection (5) (e).

(2) The amendments effected by subsection (1) shall be deemed to have taken effect from the commencement of years of assessment ended or ending on or after the date of commencement of the Black Employees' In-Service Training Act, 1976 (Act 86 of 1976).

13 Amends section 12 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes in subsection (2) the words preceding paragraph (i).


(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1977.

15 (1) Amends section 20A (2) (b) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (i) of the definition of 'earnings'; and paragraph (b) inserts paragraph (iA) in the definition of earnings.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of the year of assessment ended 28 February 1977.

16 (1) Amends section 21ter (3A) of the Income Tax Act 58 of 1962 by substituting the words preceding paragraph (a).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 April 1976.

17 (1) Amends section 27 of the Income Tax Act 58 of 1962 by substituting for subsections (2) and (3), subsections (2), (3), (4), (5), (6), (7), (8) and (9).
(2) The amendments effected by subsection (1) shall, for the purposes of assessments made upon co-operative societies and companies under the principal Act, be deemed to have taken effect from the commencement of years of assessment commencing on or after 1 April 1977.

18 (1) Amends section 28bis (1) of the Income Tax Act 58 of 1962 by substituting paragraph (b).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 January 1976.

19 Amends section 42 of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds subsection (2) (i) and (j); and paragraph (b) adds subsections (6) and (7).

[Date of commencement of s. 19: 31 March 1976.]

20 (1) Amends section 49 of the Income Tax Act 58 of 1962 by deleting the definition of 'specified period'.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments of undistributed profits tax under the principal Act, apply with effect from the commencement of years of assessment commencing on or after 1 April 1977.

21 Amends section 56 (1) (g) of the Income Tax Act 58 of 1962 by substituting subparagraph (ii).

22 Amends section 64C (fA) of the Income Tax Act 58 of 1962 by substituting in paragraph (i) of the proviso the word 'eight' for the words 'seven and a half'.

[Date of commencement of s. 22: 1 June 1976.]

23 (1) Amends paragraph 7 of the First Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'subparagraph (1) (b) (ii), (1) (c) (ii) or (1) (d) (ii)' for the expression 'subitem (ii) of item (b)'.

(2) The amendment effected by subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1977.

24 Amends paragraph 12 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) adds subparagraph (1) (j); paragraph (b) inserts subparagraphs (1A), (1B) and (1C); paragraph (c) substitutes subparagraph (2);
and paragraph (d) substitutes in subparagraph (3) the words preceding the proviso.

25 Amends paragraph 20 of the First Schedule to the Income Tax Act 58 of 1962 by inserting subparagraph (1A).

26 Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in the definition of ‘formula A’ the words ‘twenty-two thousand five hundred’ for the words ‘twenty thousand’; and paragraph (b) substitutes in paragraph (b) of the definition of ‘formula B’ the words ‘forty-five thousand’ for the words ‘forty thousand’.

27 Amends paragraph 5 (2) of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in item (a) the words ‘nine thousand’ for the words ‘eight thousand’; paragraph (b) substitutes in item (b) the words ‘twenty-two thousand five hundred’ for the words ‘twenty thousand’ wherever they occur; and paragraph (c) substitutes in item (d) the words ‘forty-five thousand’ for the words ‘forty thousand’.

28 Amends paragraph 2 (4) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the expression ‘11 (k) (i)’ for the expression ‘11 (k)’ and the expression ‘11 (n) (aa)’ for the expression ‘11 (n)’.

29 (1) Amends paragraph 13 (5) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the word ‘subparagraph’ for the word ‘subsection’.

(2) The amendment effected by subsection (1) shall be deemed to have taken effect from the commencement of the Income Tax Amendment Act, 1963.

30 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1978.

31 ......

[S. 31 repealed by s. 1 of Act 49 of 1996.]

32 Short title

This Act shall be called the Income Tax Act, 1977.

Schedule
1. The rates of normal tax referred to in section 1 of this Act are as follows:

   (a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below on the taxable amount of such person: Provided that-

   (i) where, in the case of any person (other than a natural person who is over the age of sixty years on the last day of the year of assessment and whose taxable income for that year of assessment does not exceed five thousand rand), the amount of tax calculated in accordance with the said tables is not less than one hundred and fifty rand, there shall be added to the amount of tax so calculated a surcharge equal to ten per cent of that amount;

   (ii) any fraction of a rand of the surcharge calculated under paragraph (i) of this proviso shall be disregarded:

   (Section 1 of this Act)

   TABLES

<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable amount-</td>
<td></td>
</tr>
<tr>
<td>does not exceed R1,000</td>
<td>9 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>exceeds R1 000 but does not exceed R2 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; R3 000</td>
<td>R90 plus 10 per cent of the amount by which the taxable amount exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 000</td>
<td>R190 plus 10 per cent of the amount by which the taxable amount exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R4 000 &quot; &quot; &quot; &quot; R5 000</td>
<td>R290 plus 11 per cent of the amount by which the taxable amount exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R400 plus 12 per cent of the amount by which the taxable amount exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td>R520 plus 14 per cent of the amount by which the taxable amount exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R660 plus 16 per cent of the amount by which the taxable amount exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R820 plus 18 per cent of the amount by which the taxable amount exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R1 000 plus 20 per cent of the amount by which the taxable amount exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R11 000</td>
<td>R1 200 plus 22 per cent of the amount by which the taxable amount exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 420 plus 24 per cent of the amount by which the taxable amount exceeds R10 000;</td>
</tr>
<tr>
<td>TAXABLE AMOUNT</td>
<td>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</td>
</tr>
<tr>
<td>----------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>Where the taxable amount:</td>
<td></td>
</tr>
<tr>
<td>does not exceed R1 000</td>
<td>12 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>Exceeds R1 000 but does not exceed R2 000</td>
<td></td>
</tr>
<tr>
<td>R2 000</td>
<td>120 plus 12 per cent of the amount by which the taxable amount exceeds R1 000;</td>
</tr>
<tr>
<td>R3 000</td>
<td>240 plus 13 per cent of the amount by which the taxable amount exceeds R2 000;</td>
</tr>
<tr>
<td>R4 000</td>
<td>370 plus 14 per cent of the amount by which the taxable amount exceeds R3 000;</td>
</tr>
<tr>
<td>R5 000</td>
<td>510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;</td>
</tr>
<tr>
<td>R6 000</td>
<td>680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;</td>
</tr>
<tr>
<td>R7 000</td>
<td>1 110 plus 26 per cent of the amount by which the taxable amount exceeds R6 000;</td>
</tr>
<tr>
<td>R8 000</td>
<td>1 370 plus 28 per cent of the amount by which the taxable amount exceeds R7 000;</td>
</tr>
<tr>
<td>R9 000</td>
<td>1 650 plus 30 per cent of the amount by which the taxable amount exceeds R8 000;</td>
</tr>
<tr>
<td>R10 000</td>
<td>1 950 plus 32 per cent of the amount by which the taxable amount exceeds R9 000;</td>
</tr>
<tr>
<td>R11 000</td>
<td></td>
</tr>
<tr>
<td>R12 000</td>
<td>1 920 plus 28 per cent of the amount by which the taxable amount exceeds R12 000;</td>
</tr>
<tr>
<td>R13 000</td>
<td>2 200 plus 30 per cent of the amount by which the taxable amount exceeds R13 000;</td>
</tr>
<tr>
<td>R14 000</td>
<td>2 500 plus 32 per cent of the amount by which the taxable amount exceeds R14 000;</td>
</tr>
<tr>
<td>R15 000</td>
<td>2 820 plus 34 per cent of the amount by which the taxable amount exceeds R15 000;</td>
</tr>
<tr>
<td>R16 000</td>
<td>3 160 plus 36 per cent of the amount by which the taxable amount exceeds R16 000;</td>
</tr>
<tr>
<td>R17 000</td>
<td>3 520 plus 38 per cent of the amount by which the taxable amount exceeds R17 000;</td>
</tr>
<tr>
<td>R18 000</td>
<td>3 900 plus 40 per cent of the amount by which the taxable amount exceeds R18 000;</td>
</tr>
<tr>
<td>R19 000</td>
<td>4 300 plus 42 per cent of the amount by which the taxable amount exceeds R19 000;</td>
</tr>
<tr>
<td>R20 000</td>
<td>4 720 plus 44 per cent of the amount by which the taxable amount exceeds R20 000;</td>
</tr>
<tr>
<td>R21 000</td>
<td>5 160 plus 46 per cent of the amount by which the taxable amount exceeds R21 000;</td>
</tr>
<tr>
<td>R22 000</td>
<td>5 620 plus 48 per cent of the amount by which the taxable amount exceeds R22 000;</td>
</tr>
<tr>
<td>R23 000</td>
<td>6 100 plus 50 per cent of the amount by which the taxable amount exceeds R23 000;</td>
</tr>
<tr>
<td>R24 000</td>
<td>6 600 plus 52 per cent of the amount by which the taxable amount exceeds R24 000;</td>
</tr>
<tr>
<td>R25 000</td>
<td>7 120 plus 54 per cent of the amount by which the taxable amount exceeds R25 000;</td>
</tr>
<tr>
<td>R26 000</td>
<td>7 660 plus 56 per cent of the amount by which the taxable amount exceeds R26 000;</td>
</tr>
<tr>
<td>R27 000</td>
<td>8 220 plus 58 per cent of the amount by which the taxable amount exceeds R27 000;</td>
</tr>
<tr>
<td>R28 000</td>
<td>8 800 plus 60 per cent of the amount by which the taxable amount exceeds R28 000;</td>
</tr>
</tbody>
</table>
(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)) which is determined under the principal Act to be derived-

(i) ......  

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents:  

[Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to seven and a half per cent of such amount;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount under the provisions of paragraph (j) of the definition of ‘gross income’ in section 1 of the principal Act), a percentage determined in accordance with the formula:

<table>
<thead>
<tr>
<th>R11 000</th>
<th>R12 000</th>
<th>R13 000</th>
<th>R14 000</th>
<th>R15 000</th>
<th>R16 000</th>
<th>R17 000</th>
<th>R18 000</th>
<th>R19 000</th>
<th>R20 000</th>
<th>R21 000</th>
<th>R22 000</th>
<th>R23 000</th>
<th>R24 000</th>
</tr>
</thead>
<tbody>
<tr>
<td>R12 000</td>
<td>R13 000</td>
<td>R14 000</td>
<td>R15 000</td>
<td>R16 000</td>
<td>R17 000</td>
<td>R18 000</td>
<td>R19 000</td>
<td>R20 000</td>
<td>R21 000</td>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
</tr>
<tr>
<td>R13 000</td>
<td>R14 000</td>
<td>R15 000</td>
<td>R16 000</td>
<td>R17 000</td>
<td>R18 000</td>
<td>R19 000</td>
<td>R20 000</td>
<td>R21 000</td>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>R14 000</td>
<td>R15 000</td>
<td>R16 000</td>
<td>R17 000</td>
<td>R18 000</td>
<td>R19 000</td>
<td>R20 000</td>
<td>R21 000</td>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R15 000</td>
<td>R16 000</td>
<td>R17 000</td>
<td>R18 000</td>
<td>R19 000</td>
<td>R20 000</td>
<td>R21 000</td>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R16 000</td>
<td>R17 000</td>
<td>R18 000</td>
<td>R19 000</td>
<td>R20 000</td>
<td>R21 000</td>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R17 000</td>
<td>R18 000</td>
<td>R19 000</td>
<td>R20 000</td>
<td>R21 000</td>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R18 000</td>
<td>R19 000</td>
<td>R20 000</td>
<td>R21 000</td>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R19 000</td>
<td>R20 000</td>
<td>R21 000</td>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R20 000</td>
<td>R21 000</td>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R21 000</td>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R22 000</td>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R23 000</td>
<td>R24 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

R11 000 plus 34 per cent of the amount by which the taxable amount exceeds R11 000;
R12 000 plus 36 per cent of the amount by which the taxable amount exceeds R12 000;
R13 000 plus 38 per cent of the amount by which the taxable amount exceeds R13 000;
R14 000 plus 40 per cent of the amount by which the taxable amount exceeds R14 000;
R15 000 plus 42 per cent of the amount by which the taxable amount exceeds R15 000;
R16 000 plus 44 per cent of the amount by which the taxable amount exceeds R16 000;
R17 000 plus 46 per cent of the amount by which the taxable amount exceeds R17 000;
R18 000 plus 48 per cent of the amount by which the taxable amount exceeds R18 000;
R19 000 plus 50 per cent of the amount by which the taxable amount exceeds R19 000;
R20 000 plus 52 per cent of the amount by which the taxable amount exceeds R20 000;
R21 000 plus 54 per cent of the amount by which the taxable amount exceeds R21 000;
R22 000 plus 56 per cent of the amount by which the taxable amount exceeds R22 000;
R23 000 plus 58 per cent of the amount by which the taxable amount exceeds R23 000;
R24 000 plus 60 per cent of the amount by which the taxable amount exceeds R24 000.
\[ y = 60 - \frac{360}{x}, \]

in which formula (and in the formulae set out in the first and second provisos hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y - 20(1 - \frac{6}{x}), \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula:

\[ y - 20(1 - \frac{6}{x}), \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the conditions in respect of an assisted gold mine imposed by the Minister of Mines under section 2 (2) of the Gold Mines Assistance Act, 1968 (Act 82 of 1968), have been complied with by the company concerned during the year of assessment, the rate of tax in respect of taxable income derived by the company from mining for gold on such mine shall not exceed a percentage determined in accordance with the formula

\[ y = 68 - \frac{601}{x}, \]

Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a surcharge equal to ten per cent of such amount;
(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount under the provisions of paragraph (j) of the definition of 'gross income' in section 1 of the principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{480}{x},
\]

in which formula (and in the formulae set out in the first proviso hereto) \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20(1 - \frac{8}{x}),
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20(1 - \frac{8}{x}),
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to ten per cent of such amount;

(e) on each rand 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 determines to be attributable to the inclusion in its gross income of any amount under the provisions of paragraph (j)
of the definition of 'gross income' in section 1 of the principal Act, a rate equal to the average rate of normal tax or thirty-five cents, whichever is the higher;

(f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to ten per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds)-

(i) ......  

[Item (i) deleted by s. 1 of Act 49 of 1996.]

(ii) forty cents:  

[Item (ii) amended by s. 1 of Act 49 of 1996.]

Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to seven and a half per cent of such amount;

(h) in respect of the taxable income of any person other than a company, a sum equal to ten per cent of the amount of tax determined in accordance with subparagraph (a) before the addition of the surcharge referred to in the proviso to the said subparagraph, if such tax is not less than one hundred and fifty rand: Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded;

(i) in respect of the taxable income of any company, a sum equal to fifteen per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d), (f) and (g), before the addition of the surcharges referred to in the proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d), the proviso to subparagraph (f) and the proviso to subparagraph (g): Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

2. (1) For the purposes of paragraph 1 income derived from mining for
gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income.

(3) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 101 OF 1978

[ASSENTED TO 20 JUNE 1978] [DATE OF COMMENCEMENT: 28 JUNE 1978]

(English text signed by the State President)

as amended by

General Law Amendment Act 49 of 1996

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1979 and 30 June 1979, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1979; to provide for the repayment to taxpayers concerned of a certain portion of the normal tax paid; to amend the Income Tax Act, 1962; to amend the Income Tax Act, 1977 and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in
respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 28 February 1979 or 30 June 1979; and

(b) the taxable income of any company determined under the principal Act to have been derived for any year of assessment ending during the period of twelve months ending on 31 March 1979,

[Para. (b) amended by s. 1 of Act 49 of 1996.]

shall be set forth in the Schedule to this Act.

2 Certain portion of normal tax repayable to taxpayers

The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) or (i) of the Schedule to this Act shall be a loan portion of that tax.

3 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraphs (a) and (b) of the definition of 'benefit fund'; paragraph (b) adds to the definition of 'dividend' the further proviso; and paragraph (c) substitutes paragraph (b) (v) of the proviso to the definition of 'pension fund'.

(2) For the purposes of assessments under the principal Act-

(a) the amendment effected by paragraph (a) of subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1976; and

(b) the amendment effected by paragraph (b) of subsection (1) shall be deemed to have taken effect in respect of any amount distributed by a company on or after 13 June 1978.

4 (1) Amends section 10 (1) (i) of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subparagraphs (xiD) and (xiE); and paragraph (b) substitutes in subparagraph (xiv) the words 'Corporation for Economic Development, Limited,' for the words 'Black Investment Corporation of South Africa Limited'.

(2) (a) The amendments effected by paragraph (a) of subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 January 1978.
(b) The amendment effected by paragraph (b) of subsection (1) shall be deemed to have taken effect on 15 June 1977.

5 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (k) (i); paragraph (b) substitutes paragraph (m); paragraph (c) substitutes in paragraph (n) (aa) the words preceding the proviso; and paragraph (d) substitutes paragraph (n) (bb).

6 (1) Amends section 12 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (1A); paragraph (c) substitutes in subsection (2) the words preceding subparagraph (i); paragraph (d) substitutes certain words in the Afrikaans text of subsection (2) (iii); paragraph (e) substitutes in subsection (2) (iv) the expression '1982' for the expression '1979'; paragraph (f) substitutes in subsection (2A) (c) (iiB) the expression '1982' for the expression '1979' paragraph (h) substitutes in subsection (2A) (d) (iv) the expression '1982' for the expression '1979'; and paragraph (i) substitutes in subsection (3) the words preceding paragraph (a).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect in respect of years of assessment ending on or after 1 April 1978.

7 Amends section 13 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (5) (e) the expression '1982' for the expression '1979' wherever it occurs; paragraph (b) substitutes the proviso to subsection (5); paragraph (c) substitutes in paragraph (ii) of the proviso to subsection (6) the expression '1983' for the expression '1980'; paragraph (d) substitutes in subsection (6A) (a) (i) the expression '1982' for the expression '1979'; paragraph (e) substitutes in subsection (6A) (a) (ii) the expression '1983' for the expression '1980'; and paragraph (f) substitutes in subsection (6A) (a) (iiA) the expression '1982' for the expression '1979' wherever it occurs, and the expression '1983' for the expression '1980'.


(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 September 1977.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to apply in respect of years of assessment ended or ending on or after 29 March 1978.

Amends section 27 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in subsection (2) (c) (i) and (ii) the expression '1982' for the expression '1979'; paragraph (b) substitutes in subsection (2) (e) the expression '1982' for the expression '1979'; paragraph (c) substitutes in the proviso to subsection (6) the expression '1983' for the expression '1980'; and paragraph (d) substitutes in subsection (7) (c) the expression '1982' for the expression '1979' wherever it occurs.


(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of the year of assessment which ended on 28 February 1978.

(1) Amends section 56 (2) (b) of the Income Tax Act 58 of 1962 by substituting the words 'fifteen' for the word 'ten'.

(2) The amendment effected by subsection (1) shall be deemed to apply in respect of donations made on or after 1 April 1978.

Amends section 103 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes subsections (1) and (2); and paragraph (b) substitutes subsection (4).

Amends section 108 (2) (b) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes subsections (1) and (2); and paragraph (b) substitutes subsection (5).

[Date of commencement of s. 15: 1 April 1978.]

Amends paragraph 3 of the First Schedule to the Income Tax Act 58 of 1962 by substituting subparagraphs (2) and (3).

(1) Amends paragraph 13 (1) (a) of the First Schedule to the Income Tax Act 58 of 1962 by substituting subitem (i).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of the year of assessment which ended on 28 February 1978.

Amends paragraph 6 of the Fifth Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (2), the existing paragraph becoming
subparagraph (1).

[Date of commencement of s. 18: 1 March 1965.]

19 Amends paragraph 8 (6) of the Sixth Schedule to the Income Tax Act 58 of 1962 by substituting the word ‘twelve’ for the word ‘six’.

20 Amends section 10 of the Income Tax Act 113 of 1977 by adding subsection (3).

21 Commencement of certain amendments

Save in so far as is otherwise provided therein, or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, for the purposes of assessments in respects of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1979.

22 Short title

This Act shall be called the Income Tax Act, 1978.

Schedule


(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:

(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below on the taxable amount of such person:

<p>| Tables |
|-----------------|-----------------|
| TAXABLE AMOUNT  | RATES OF TAX IN RESPECT OF MARRIED PERSONS |
| Where the taxable amount- | 9 per cent of each R1 of taxable amount; |
| does not exceed R1,000 | R90 plus 10 per cent of the amount by which the taxable amount | |
| exceeds R1 000 but does not exceed R2 000 | exceeds R1 000; | |
| &quot; R2 000 &quot; &quot; &quot; &quot; R3 000 | R190 plus 10 per cent of the amount by which the taxable amount | |
| &quot; R3 000 &quot; &quot; &quot; &quot; R4 000 | exceeds R2 000; | |
| | R290 plus 11 per cent of the amount by which the taxable amount | |
| | exceeds R3 000; | |</p>
<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable amount-</td>
<td>12 per cent of each R1 of taxable amount;</td>
</tr>
<tr>
<td>does not exceed R1 000</td>
<td>R120 plus 12 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>Exceeds R1 000 but does not exceed R2 000</td>
<td>exceeds R1 000;</td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; R3 000</td>
<td>R240 plus 13 per cent of the amount by which the taxable amount</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 000</td>
<td>exceeds R2 000;</td>
</tr>
</tbody>
</table>

"  R4 000 " " " " R5 000  | R400 plus 12 per cent of the amount by which the taxable amount  |
<p>| &quot; R5 000 &quot; &quot; &quot; &quot; R6 000  | exceeds R4 000;                                                 |
| &quot; R6 000 &quot; &quot; &quot; &quot; R7 000  | R520 plus 14 per cent of the amount by which the taxable amount  |
| &quot; R7 000 &quot; &quot; &quot; &quot; R8 000  | exceeds R5 000;                                                 |
| &quot; R8 000 &quot; &quot; &quot; &quot; R9 000  | R660 plus 16 per cent of the amount by which the taxable amount  |
| &quot; R9 000 &quot; &quot; &quot; &quot; R10 000 | exceeds R6 000;                                                 |
| &quot; R10 000 &quot; &quot; &quot; &quot; R11 000 | R820 plus 18 per cent of the amount by which the taxable amount  |
| &quot; R11 000 &quot; &quot; &quot; &quot; R12 000 | exceeds R8 000;                                                 |
| &quot; R12 000 &quot; &quot; &quot; &quot; R13 000 | R1 000 plus 20 per cent of the amount by which the taxable amount |
| &quot; R13 000 &quot; &quot; &quot; &quot; R14 000 | exceeds R1 000;                                                 |
| &quot; R14 000 &quot; &quot; &quot; &quot; R15 000 | R1 200 plus 22 per cent of the amount by which the taxable amount |
| &quot; R15 000 &quot; &quot; &quot; &quot; R16 000 | exceeds R1 200;                                                 |
| &quot; R16 000 &quot; &quot; &quot; &quot; R17 000 | R1 420 plus 24 per cent of the amount by which the taxable amount |
| &quot; R17 000 &quot; &quot; &quot; &quot; R18 000 | exceeds R1 420;                                                 |
| &quot; R18 000 &quot; &quot; &quot; &quot; R19 000 | R1 660 plus 26 per cent of the amount by which the taxable amount |
| &quot; R19 000 &quot; &quot; &quot; &quot; R20 000 | exceeds R1 660;                                                 |
| &quot; R20 000 &quot; &quot; &quot; &quot; R21 000 | R1 920 plus 28 per cent of the amount by which the taxable amount |
| &quot; R21 000 &quot; &quot; &quot; &quot; R22 000 | exceeds R1 920;                                                 |
| &quot; R22 000 &quot; &quot; &quot; &quot; R23 000 | R2 200 plus 30 per cent of the amount by which the taxable amount |
| &quot; R23 000 &quot; &quot; &quot; &quot; R24 000 | exceeds R2 200;                                                 |
| &quot; R24 000 &quot; &quot; &quot; &quot; R25 000 | R2 500 plus 32 per cent of the amount by which the taxable amount |
| &quot; R25 000 &quot; &quot; &quot; &quot; R26 000 | exceeds R2 500;                                                 |
| &quot; R26 000 &quot; &quot; &quot; &quot; R27 000 | R2 820 plus 34 per cent of the amount by which the taxable amount |
| &quot; R27 000 &quot; &quot; &quot; &quot; R28 000 | exceeds R2 820;                                                 |
| &quot; R28 000                      | R3 160 plus 36 per cent of the amount by which the taxable amount |
|                             | exceeds R3 160;                                                 |
|                             | R3 520 plus 38 per cent of the amount by which the taxable amount |
|                             | exceeds R3 520;                                                 |
|                             | R3 900 plus 40 per cent of the amount by which the taxable amount |
|                             | exceeds R3 900;                                                 |
|                             | R4 300 plus 42 per cent of the amount by which the taxable amount |
|                             | exceeds R4 300;                                                 |
|                             | R4 720 plus 44 per cent of the amount by which the taxable amount |
|                             | exceeds R4 720;                                                 |
|                             | R5 160 plus 46 per cent of the amount by which the taxable amount |
|                             | exceeds R5 160;                                                 |
|                             | R5 620 plus 48 per cent of the amount by which the taxable amount |
|                             | exceeds R5 620;                                                 |
|                             | R6 100 plus 50 per cent of the amount by which the taxable amount |
|                             | exceeds R6 100;                                                 |
|                             | R6 600 plus 52 per cent of the amount by which the taxable amount |
|                             | exceeds R6 600;                                                 |
|                             | R7 120 plus 54 per cent of the amount by which the taxable amount |
|                             | exceeds R7 120;                                                 |
|                             | R7 660 plus 56 per cent of the amount by which the taxable amount |
|                             | exceeds R7 660;                                                 |
|                             | R8 220 plus 58 per cent of the amount by which the taxable amount |
|                             | exceeds R8 220;                                                 |
|                             | R8 800 plus 60 per cent of the amount by which the taxable amount |
|                             | exceeds R8 800;                                                 |</p>
<table>
<thead>
<tr>
<th>Taxable Amount</th>
<th>Rate</th>
<th>Tax Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>R4 000</td>
<td></td>
<td>R5 000</td>
</tr>
<tr>
<td>R5 000</td>
<td></td>
<td>R6 000</td>
</tr>
<tr>
<td>R6 000</td>
<td></td>
<td>R7 000</td>
</tr>
<tr>
<td>R7 000</td>
<td></td>
<td>R8 000</td>
</tr>
<tr>
<td>R8 000</td>
<td></td>
<td>R9 000</td>
</tr>
<tr>
<td>R9 000</td>
<td></td>
<td>R10 000</td>
</tr>
<tr>
<td>R10 000</td>
<td></td>
<td>R11 000</td>
</tr>
<tr>
<td>R11 000</td>
<td></td>
<td>R12 000</td>
</tr>
<tr>
<td>R12 000</td>
<td></td>
<td>R13 000</td>
</tr>
<tr>
<td>R13 000</td>
<td></td>
<td>R14 000</td>
</tr>
<tr>
<td>R14 000</td>
<td></td>
<td>R15 000</td>
</tr>
<tr>
<td>R15 000</td>
<td></td>
<td>R16 000</td>
</tr>
<tr>
<td>R16 000</td>
<td></td>
<td>R17 000</td>
</tr>
<tr>
<td>R17 000</td>
<td></td>
<td>R18 000</td>
</tr>
<tr>
<td>R18 000</td>
<td></td>
<td>R19 000</td>
</tr>
<tr>
<td>R19 000</td>
<td></td>
<td>R20 000</td>
</tr>
<tr>
<td>R20 000</td>
<td></td>
<td>R21 000</td>
</tr>
<tr>
<td>R21 000</td>
<td></td>
<td>R22 000</td>
</tr>
<tr>
<td>R22 000</td>
<td></td>
<td>R23 000</td>
</tr>
<tr>
<td>R23 000</td>
<td></td>
<td>R24 000</td>
</tr>
<tr>
<td>R24 000</td>
<td></td>
<td>R510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R880 plus 23 per cent of the amount by which the taxable amount exceeds R6 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R1 110 plus 26 per cent of the amount by which the taxable amount exceeds R7 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R1 370 plus 28 per cent of the amount by which the taxable amount exceeds R8 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R1 650 plus 30 per cent of the amount by which the taxable amount exceeds R9 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R1 950 plus 32 per cent of the amount by which the taxable amount exceeds R10 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R2 270 plus 34 per cent of the amount by which the taxable amount exceeds R11 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R2 610 plus 36 per cent of the amount by which the taxable amount exceeds R12 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R2 970 plus 38 per cent of the amount by which the taxable amount exceeds R13 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R3 350 plus 40 per cent of the amount by which the taxable amount exceeds R14 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R3 750 plus 42 per cent of the amount by which the taxable amount exceeds R15 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R4 170 plus 44 per cent of the amount by which the taxable amount exceeds R16 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R4 610 plus 46 per cent of the amount by which the taxable amount exceeds R17 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R5 070 plus 48 per cent of the amount by which the taxable amount exceeds R18 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R5 550 plus 50 per cent of the amount by which the taxable amount exceeds R19 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R6 050 plus 52 per cent of the amount by which the taxable amount exceeds R20 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R6 570 plus 54 per cent of the amount by which the taxable amount exceeds R21 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R7 110 plus 56 per cent of the amount by which the taxable amount exceeds R22 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R7 670 plus 58 per cent of the amount by which the taxable amount exceeds R23 000;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>R8 250 plus 60 per cent of the amount by which the taxable amount exceeds R24 000.</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)) forty cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:
in which formula (and in the formulae set out in the first and second provisos hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x}
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20(1 - \frac{6}{x})
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the prescribed conditions have been complied with, the rate of tax in respect of taxable income derived from mining for gold on an assisted gold mine shall not exceed a percentage determined in accordance with the formula

\[
y = 68 - \frac{601}{x}
\]

Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a surcharge equal to seven and a half per cent of such amount;

\( (d) \) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{480}{x}
\]

in which formula (and in the formulae set out in the first proviso hereto) \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20(1 - \frac{8}{x})
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20(1 - \frac{8}{x})
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to seven and a half per cent of such amount;

\((e)\) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or thirty-five cents, whichever is the higher;

\((f)\) on each rand of the taxable income derived by any company from
mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to seven and a half per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds), forty cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;

(h) in respect of the taxable income of any person other than a company, a sum equal to ten per cent of the amount of tax determined in accordance with subparagraph (a), if such tax is not less than one hundred and fifty rand: Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded;

(i) in respect of the taxable income of any company, a sum equal to fifteen per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d), (f) and (g), before the addition of the surcharges referred to in the proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d), the proviso to subparagraph (f) and the proviso to subparagraph (g): Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income.

(3) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with
any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 104 OF 1979

[ASSENTED TO 2 JULY 1979]  [DATE OF COMMENCEMENT: 13 JULY 1979]  
(Unless otherwise indicated)  
(English text signed by the State President)  
as amended by  
General Law Amendment Act 49 of 1996

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 29 February 1980 and 30 June 1980, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1980; to provide for the repayment to taxpayers concerned of a certain portion of the normal tax paid; to amend the Income Tax Act, 1962; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 29 February 1980 or 30 June 1980; and

(b) the taxable income of any company determined under the principal Act to have been derived for any year of assessment ending during the period of twelve months ending on 31 March 1980,

[Para. (b) amended by s. 1 of Act 49 of 1996.]

shall be as set forth in the Schedule to this Act.

2 Certain portion of normal tax repayable to taxpayers

The portion of the normal tax determined in accordance with the
provisions of paragraph 1 (h) or (i) of the Schedule to this Act shall be a loan portion of that tax.

3 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in the definition of 'dependant' the expression 'R200' for the expression 'one hundred rand', wherever it occurs; paragraph (b) adds the word 'or' at the end of paragraph (b) of the definition of 'married person' and adds paragraph (c) to the definition of 'married person'; paragraph (c) substitutes the words preceding the proviso to the definition of 'pension fund'; paragraph (d) inserts the definition of 'retirement-funding employment'; and paragraph (e) substitutes the definition of 'specified period'.

(2) The amendment effected by subsection (1) (e) shall, for the purposes of assessments made upon co-operative societies and companies and their members under the principal Act, be deemed to have taken effect from the commencement of years of assessment commencing on or after 1 April 1977.


5 Amends section 5A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (2) (a) the expression 'R1 500' for the expression 'one thousand two hundred rand'; paragraph (b) substitutes in subsection (2) (b) the expression 'R1 000' for the expression 'seven hundred rand'; paragraph (c) substitutes in subsection (3) (a) the expression 'R600' for the expression 'five hundred rand'; paragraph (d) substitutes in paragraph (aa) of the proviso to subsection (3) (a) the expression 'R700' for the expression 'six hundred rand'; paragraph (e) deletes paragraph (dd) of the proviso to subsection (3) (a); paragraph (f) substitutes in subsection (3) (d) the words following subparagraph (iv) and preceding the proviso; paragraph (g) substitutes in subsection (3) (e) the expression 'R200' for the expression 'one hundred rand'; paragraph (h) substitutes in subsection (3) (f) the expression 'R350' for the expression 'two hundred and fifty rand', wherever it occurs; paragraph (i) substitutes in subsection (3) (g) the expression 'R1 000' for the expression 'seven hundred rand', wherever it occurs; and paragraph (j) substitutes in subsection (5) the expression 'one rand' for the expression 'two rand', wherever it occurs.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 28 February 1978.

7 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (i) (ii); paragraph (b) deletes paragraph (i)
(vi); paragraph (c) deletes paragraph (i) (xi); paragraph (d) deletes paragraph (i) (xiiB); paragraph (e) inserts paragraph (i) (xiiDA); paragraph (f) substitutes paragraph (j) (xiii); paragraph (g) adds paragraph (t) (ix); and paragraph (h) substitutes in paragraph (x) the expression 'R15 000' for the expression 'twelve thousand rand'.

(2) The amendments effected by subsections (1) (e) and (g) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1979.

8 (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the proviso to paragraph (k) (i); paragraph (b) substitutes paragraph (l); and paragraph (c) substitutes paragraph (n) (aa).

(2) The amendment effected by subsection (1) (b) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1979.


(2) In so far as section 11 sept of the principal Act is amended by the replacements thereof by subsection (1) of this section, the said subsection (1) shall, for the purposes of assessments under the principal Act, take effect in respect of years of assessment ending on or after the date on which the In-Service Training Act, 1979, comes into operation.

10 Amends section 12 of the Income Tax Act 58 of 1962 as follows: paragraph (a) adds the proviso to subsection (1); and paragraph (b) substitutes in subsection (2) (b) the words preceding the proviso.

11 Amends section 14 (2) of the Income Tax Act 58 of 1962 by substituting paragraph (c) of the definition of 'foreign-going ship'.

12 Amends section 20A (1) of the Income Tax Act 58 of 1962 by substituting the expression 'R900' for the expression 'seven hundred and fifty rand', wherever it occurs.


(2) In so far as section 24B of the principal Act is amended by the replacement thereof by subsection (1) of this section, the said subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 29 March 1978.
Amends section 64C of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (i) of the proviso to paragraph (fA); paragraph (b) inserts paragraph (fC); and paragraph (c) substitutes paragraph (k) (i) (date of commencement: 1 December 1978).


Amends paragraph 19 (1) of the First Schedule to the Income Tax Act 58 of 1962 by adding a further proviso.

(1) Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) adds paragraph (c) to the proviso to the definition of 'formula A'; and paragraph (b) substitutes subparagraph (d) of the definition of 'formula B'.

(2) The amendment effected by subsection (1) (a) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending or ended on or after 28 February 1979.

Amends paragraph 6 of the Second Schedule to the Income Tax Act 58 of 1962 by substituting the first proviso.

Amends paragraph 18 (1) (a) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'R1 000' for the expression 'five hundred rand'.

Commencement of certain amendments

Save in so far as is otherwise provided therein, or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1980.

Short title

This Act shall be called the Income Tax Act, 1979.

Schedule

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN

(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:

(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below on the taxable amount of such person

### Tables

<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF MARRIED PERSONS</th>
</tr>
</thead>
</table>
| Where the taxable amount-
  does not exceed R1 000
  exceeds R1 000 but does not exceed R2 000 |
| R2 000          | 7 per cent of each R1 of the taxable amount; |
| R3 000          | R70 plus 8 per cent of the amount by which the taxable amount exceeds R1 000; |
| R4 000          | R150 plus 9 per cent of the amount by which the taxable amount exceeds R2 000; |
| R5 000          | R240 plus 10 per cent of the amount by which the taxable amount exceeds R3 000; |
| R6 000          | R340 plus 11 per cent of the amount by which the taxable amount exceeds R4 000; |
| R7 000          | R450 plus 12 per cent of the amount by which the taxable amount exceeds R5 000; |
| R8 000          | R570 plus 14 per cent of the amount by which the taxable amount exceeds R6 000; |
| R9 000          | R710 plus 16 per cent of the amount by which the taxable amount exceeds R7 000; |
| R10 000         | R870 plus 18 per cent of the amount by which the taxable amount exceeds R8 000; |
| R11 000         | R1 050 plus 20 per cent of the amount by which the taxable amount exceeds R9 000; |
| R12 000         | R1 250 plus 22 per cent of the amount by which the taxable amount exceeds R10 000; |
| R13 000         | R1 470 plus 24 per cent of the amount by which the taxable amount exceeds R11 000; |
| R14 000         | R1 710 plus 26 per cent of the amount by which the taxable amount exceeds R12 000; |
| R15 000         | R1 970 plus 28 per cent of the amount by which the taxable amount exceeds R13 000; |
| R16 000         | R2 250 plus 30 per cent of the amount by which the taxable amount exceeds R14 000; |
| R17 000         | R2 550 plus 33 per cent of the amount by which the taxable amount exceeds R15 000; |
| R18 000         | R2 880 plus 36 per cent of the amount by which the taxable amount exceeds R16 000; |
| R19 000         | R3 600 plus 39 per cent of the amount by which the taxable amount exceeds R18 000; |
| R20 000         | R4 380 plus 42 per cent of the amount by which the taxable amount exceeds R20 000; |
| R21 000         | R5 220 plus 45 per cent of the amount by which the taxable amount exceeds R22 000; |
(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)), forty cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;

<table>
<thead>
<tr>
<th>TAXABLE AMOUNT</th>
<th>RATES OF TAX IN RESPECT OF PERSONS WHO ARE NOT MARRIED PERSONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable amount—&lt;br&gt;does not exceed R1 000 &lt;br&gt;exceeds R1 000 but does not exceed R2 000</td>
<td>10 per cent of each R1 of the taxable amount; &lt;br&gt;R100 plus 11 per cent of the amount by which the taxable amount exceeds R1 000; &lt;br&gt;R210 plus 12 per cent of the amount by which the taxable amount exceeds R2 000;</td>
</tr>
<tr>
<td>&quot; R2 000 &quot; &quot; &quot; &quot; R3 000</td>
<td>R330 plus 13 per cent of the amount by which the taxable amount exceeds R3 000;</td>
</tr>
<tr>
<td>&quot; R3 000 &quot; &quot; &quot; &quot; R4 000</td>
<td>R460 plus 14 per cent of the amount by which the taxable amount exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R4 000 &quot; &quot; &quot; &quot; R5 000</td>
<td>R600 plus 16 per cent of the amount by which the taxable amount exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R5 000 &quot; &quot; &quot; &quot; R6 000</td>
<td>R760 plus 18 per cent of the amount by which the taxable amount exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R6 000 &quot; &quot; &quot; &quot; R7 000</td>
<td>R940 plus 20 per cent of the amount by which the taxable amount exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R1 140 plus 22 per cent of the amount by which the taxable amount exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R1 360 plus 24 per cent of the amount by which the taxable amount exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R1 600 plus 27 per cent of the amount by which the taxable amount exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R11 000</td>
<td>R1 870 plus 30 per cent of the amount by which the taxable amount exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R2 170 plus 33 per cent of the amount by which the taxable amount exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
<td>R2 500 plus 36 per cent of the amount by which the taxable amount exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R2 860 plus 39 per cent of the amount by which the taxable amount exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R3 250 plus 42 per cent of the amount by which the taxable amount exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R3 670 plus 45 per cent of the amount by which the taxable amount exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R4 570 plus 48 per cent of the amount by which the taxable amount exceeds R18 000;</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R5 300 plus 52 per cent of the amount by which the taxable amount exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R22 000</td>
<td>R6 570 plus 55 per cent of the amount by which the taxable amount exceeds R22 000;</td>
</tr>
<tr>
<td>&quot; R22 000 .................</td>
<td></td>
</tr>
</tbody>
</table>
(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determined 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 principal Act), a percentage determined in accordance with the formula:

\[
y = \frac{360}{x}
\]

in which formula (and in the formulae set out in the first and second provisos hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y - 20(1 - \frac{6}{x})
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y - 20(1 - \frac{6}{x})
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the prescribed conditions have been complied with, the rate of tax in respect of taxable income derived from mining for gold on an assisted gold mine shall not exceed a percentage determined in accordance with the formula

\[
y = \frac{601}{x}
\]
Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a surcharge equal to five per cent of such amount;

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{480}{x}
\]

in which formula (and in the formulae set out in the first proviso hereto) \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20(1 - \frac{8}{x})
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20(1 - \frac{8}{x})
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;
(e) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or thirty-five cents, whichever is the higher;

(f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds), forty cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;

(h) in respect of the taxable income of any person other than a company, a sum equal to ten per cent of the amount of tax determined in accordance with subparagraph (a), if such tax is not less than one hundred and fifty rand: Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded;

(i) in respect of the taxable income of any company, a sum equal to ten per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d), (f) and (g), before the addition of the surcharges referred to in the proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d), the proviso to subparagraph (f) and the proviso to subparagraph (g): Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any other income which, in the opinion of the Commissioner, results directly from mining for gold.
(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income.

(3) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 104 OF 1980

[ASSENTED TO 8 JULY 1980] [DATE OF COMMENCEMENT: 25 JULY 1980]

(English text signed by the State President)

as amended by

General Law Amendment Act 49 of 1996

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1981 and 30 June 1981, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1981; to amend the Income Tax Act, 1962; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 28 February 1981 or 30 June 1981; and

(b) the taxable income of any company determined under the principal
Act to have been derived for any year of assessment ending during the period of twelve months ending on 31 March 1981,

[Para. (b) amended by s. 1 of Act 49 of 1996.]

shall be as set forth in the Schedule to this Act.

2 Amends section 1 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in the definition of 'assessment' the expression 'rebates' for the expression 'abatements' and the expression 'section 6' for the expression 'section 5A'; paragraph (b) inserts the definition of 'Commissioner' (date of commencement: 1 April 1980); paragraph (c) substitutes in paragraph (a) of the definition of 'dependant' the expression 'a rebate' for the expression 'an abatement' and the expression 'section 6 (3) (a)' for the expression 'section 5A (3) (a)'; paragraph (d) substitutes in the definition of 'married person' the expression 'rebate' for the expression 'abatement', wherever it occurs; and the expression 'section 6 (3) (a)' for the expression 'section 5A (3) (a)', wherever it occurs; paragraph (e) deletes the definition of 'Secretary' (date of commencement: 1 April 1980); paragraph (f) deletes the definition of 'taxable amount'; and paragraph (g) substitutes the definition of 'taxable income'.

3 Amends section 5 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) deletes subsection (1A); paragraph (b) substitutes subsection (4); and paragraph (c) substitutes subsection (10).


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, take effect in respect of the years of assessment ending on or after 28 May 1980.

7 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts paragraph (gA); paragraph (b) substitutes paragraph (i) (xii); and paragraph (c) substitutes the proviso to paragraph (i) (xiii).

(2) The amendments effected by subsection (1) (b) shall, for the purposes of assessments under the principal Act, take effect as from the commencement of the year of assessment ending on 28 February 1982.

8 Amends section 11 (t) of the Income Tax Act 58 of 1962 by substituting the expression '50 per cent' for the expression 'twenty-five per cent' and by substituting in paragraph (ii) of the proviso the expression 'R4000' for the
expression 'three thousand rand'.

9 Amends section 12 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (2) (iv) the expression '1983' for the expression '1982'); paragraph (b) substitutes in subsection (2A) (c) (iiB) the expression '1983' for the expression '1982'; paragraph (c) substitutes in subsection (2A) (c) (iii) the expression '1983' for the expression '1982'; and paragraph (d) substitutes in subsection (2A) (d) (iv) the expression '1983' for the expression '1982'.

10 Amends section 13 of the Income Tax Act 58 of 1962 as follows: paragraph (a) substitutes in subsection (5) (e) the expression '1983' for the expression '1982', wherever it occurs; paragraph (b) substitutes in paragraph (ii) of the proviso to subsection (6) the expression '1984' for the expression '1983'; paragraph (c) substitutes in subsection (6A) (a) (i) the expression '1983' for the expression '1982'; paragraph (d) substitutes in subsection (6A) (a) (ii) the expression '1984' for the expression '1983'; and paragraph (e) substitutes in subsection (6A) (a) (iiA) the expression '1983' for the expression '1982', wherever it occurs, and substitutes the expression '1984' for the expression '1983'.

11 Amends section 15A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in the definition of 'prescribed period' in subsection (1) the expression '1985' for the expression '1980'; and paragraph (b) substitutes in subsection (2) the expression '1986' for the expression '1981', wherever it occurs.


15 Amends section 20A (1) of the Income Tax Act 58 of 1962 by substituting the expression 'R1 200' for the expression 'R900', wherever it occurs.

16 Amends section 21 of the Income Tax Act 58 of 1962 by substituting in the proviso the expression '6 (3) (a)' for the expression '5A (3) (a)'.

17 Amends section 21 *quat* of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes subsection (2); and paragraph (b) substitutes subsection (3).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, take effect on the date of promulgation of this Act and shall apply in respect of years of assessment in respect of which assessments have been made under the principal Act on or after 1 July 1977, notwithstanding that such assessments may have become final and conclusive under the principal Act: Provided that any such assessment which has become final and conclusive under the principal Act prior to the date of promulgation of this Act shall not be altered unless written application for such alteration is made to the Commissioner for Inland Revenue on or before 30 June 1981.

19 (1) Amends section 27 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (2) (c) (i) and (ii) the expression ‘1983’ for the expression ‘1982’; paragraph (b) substitutes in subsection (2) (e) the expression ‘1983’ for the expression ‘1982’; paragraph (c) substitutes in subsection (5) the words preceding paragraph (a); paragraph (d) inserts subsection (5A); paragraph (e) substitutes in the proviso to subsection (6) the expression ‘1984’ for the expression ‘1983’, paragraph (f) substitutes in subsection (7) (c) the expression ‘1983’ for the expression ‘1982’, wherever it occurs; and paragraph (g) substitutes in subsection (9) the definition of ‘storage building’.

(2) The amendment effected by subsection (1) (d) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1977.

20 (1) Amends section 36 (11) of the Income Tax Act 58 of 1962 by substituting in paragraph (c) of the definition of ‘capital expenditure’ the words preceding subparagraph (i).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1980.

21 Amends section 49 of the Income Tax Act 58 of 1962 by substituting in paragraph (ii) of the definition of ‘distributable income’ the expression ‘fifty-eight per cent’ for the expression ‘fifty-five per cent’.

22 Amends section 64C of the Income Tax Act 58 of 1962 by inserting paragraph (eA).

23 Amends paragraph 5(1A) of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in item (b) the words preceding subitem (i); and paragraph (b) inserts item (c).
24 Amends paragraph 12 (5) of the First Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'R5 000' for the expression 'four thousand rand'.

25 Amends paragraph 19 of the First Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

26 Amends paragraph 20 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (i); and paragraph (b) deletes subparagraph (5).

27 Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in the definition of 'formula A' the expression 'R30 000' for the expression 'twenty-two thousand five hundred rand'; and paragraph (b) substitutes in paragraph (b) of the definition of 'formula B' the expression 'R60 000' for the expression 'forty-five thousand rand'.

28 Amends paragraph 5 (2) of the Second schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) the expression 'R12 000' for the expression 'nine thousand rand'; paragraph (b) substitutes in item (b) the expression 'R30 000' for the expression 'twenty-two thousand five hundred rand', wherever it occurs; and paragraph (c) substitutes in item (d) the expression 'R60 000' for the expression 'forty-five thousand rand'.

29 Amends paragraph 9 (1) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'rebates' for the expression 'abatements' and the expression 'section 6 (2) and (3) (a)' for the expression 'section 5A (2) and (3) (a)'.

30 Amends paragraph 17 (5) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'rebates' for the expression 'abatements' and the expression 'section 6 (2) and (3) (a)' for the expression 'section 5A (2) and (3) (a)'.

31 Amends paragraph 6 (1) of the Fifth Schedule to the Income Tax Act 58 of 1962 by inserting a further proviso after the second proviso.

[Date of commencement of s. 31: 1 March 1979.]

32 Substitution of 'Commissioner' for 'Secretary' in Act 58 of 1962 and other laws

(1) The principal Act and any other law relating to income tax is hereby amended by the substitution for the words 'Secretary' and 'Secretary's', wherever they are used to donate the Secretary for Inland Revenue, of the words 'Commissioner' and 'Commissioner's' respectively.
The amendment effected by subsection (1) shall be deemed to have taken effect as from 1 April 1980.

33 Commencement of certain amendments

Save in so far as is otherwise provided therein, or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1981.

34 Short title

This Act shall be called the Income Tax Act, 1980.

Schedule


(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:

(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the table below: Provided that in the case of a person who is not a married person-

(i) there shall be added to the amount of tax calculated in accordance with the said table in respect of so much of the taxable income of such person as does not exceed R28 000 a surcharge equal to 20 per cent of an amount arrived at by deducting from the amount of tax so calculated an amount equal to the sum of the rebates allowed to be deducted under section 6 of the principal Act;

(ii) where the taxable income of such person exceeds R28 000, the amount of tax to be calculated in respect of that portion of his taxable income as remains after the deduction therefrom of the sum of R28 000 shall, in lieu of any calculation of tax in accordance with the said table in respect of the said portion, be calculated at the rate of 50 per cent of the said portion;
<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income- does not exceed R6 000</td>
<td>8 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R6 000 but does not exceed R7 000</td>
<td>R480 plus 10 per cent of the amount by which the taxable income exceeds R6 000;</td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R580 plus 12 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R700 plus 14 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R840 plus 16 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R11 000</td>
<td>R1 000 plus 18 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 180 plus 20 per cent of the amount by which the taxable income exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
<td>R1 380 plus 22 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R1 600 plus 24 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 840 plus 26 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R2 100 plus 28 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R2 380 plus 30 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R2 980 plus 32 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R22 000</td>
<td>R3 620 plus 34 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R22 000 &quot; &quot; &quot; &quot; R24 000</td>
<td>R4 300 plus 36 per cent of the amount by which the taxable income exceeds R22 000;</td>
</tr>
<tr>
<td>&quot; R24 000 &quot; &quot; &quot; &quot; R26 000</td>
<td>R5 020 plus 38 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td>&quot; R26 000 &quot; &quot; &quot; &quot; R28 000</td>
<td>R5 780 plus 40 per cent of the amount by which the taxable income exceeds R26 000;</td>
</tr>
<tr>
<td>&quot; R28 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R6 580 plus 42 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R32 000</td>
<td>R7 420 plus 44 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R32 000 &quot; &quot; &quot; &quot; R34 000</td>
<td>R8 300 plus 46 per cent of the amount by which the taxable income exceeds R32 000;</td>
</tr>
<tr>
<td>&quot; R34 000 &quot; &quot; &quot; &quot; R36 000</td>
<td>R9 220 plus 47 per cent of the amount by which the taxable income exceeds R34 000;</td>
</tr>
<tr>
<td>&quot; R36 000 &quot; &quot; &quot; &quot; R38 000</td>
<td>R10 160 plus 48 per cent of the amount by which the taxable income exceeds R36 000;</td>
</tr>
<tr>
<td>&quot; R38 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R11 120 plus 49 per cent of the amount by which the taxable income exceeds R38 000;</td>
</tr>
<tr>
<td>&quot; R40 000 ..................</td>
<td>R12 100 plus 50 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)), forty cents; Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;
on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x}
\]

in which formula (and in the formulae set out in the first and second provisos hereto) \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20 (1 - \frac{6}{x})
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20 (1 - \frac{6}{x})
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that prescribed conditions have been complied with, the rate of tax in respect of taxable income derived from mining for gold on an assisted gold mine shall not exceed a percentage determined in accordance with the formula

\[
y = 68 - \frac{601}{x}
\]
Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a surcharge equal to five per cent of such amount;

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{480}{x}
\]

in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion):

Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20 \left(1 - \frac{8}{x}\right)
\]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20 \left(1 - \frac{8}{x}\right)
\]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;

(e) on each rand of the taxable income of any company, the sole or
(j) on each rand of the taxable income derived by any company from 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 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 principal Act, a rate equal to the average rate of normal tax or thirty-five cents, whichever is the 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds), forty cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.
To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1982 and 30 June 1982, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1982; to amend the Income Tax Act, 1962; to provide for the commencement of section 21 of the Income Tax Act, 1980; to provide for certain deductions, a rebate and the rate of normal tax applicable to certain persons, and the prescribing of employees tax tables, in respect of the year of assessment ending on 28 February 1983; to repeal section 170 of the Co-operatives Act, 1981; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 28 February 1982 or 30 June 1982; and

(b) the taxable income of any company determined under the principal Act to have been derived for any year of assessment ending during the period of twelve months ending on 31 March 1982,

shall be as set forth in the Schedule to this Act.

2 Amends section 1 of the Income Tax Act 58 of 1962 by substituting paragraph (b) (i) of the definition of 'retirement annuity fund'.

3 Amends section 4 (2) of the Income Tax Act 58 of 1962 by substituting the words 'Directorate: Inland Revenue, Department of Finance' for the words 'Department of Inland Revenue'.

4 Amends section 5 (10) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes the words preceding the formula; and paragraph (b) inserts paragraph (d) (iA).

5 Amends section 6 (3) of the Income Tax Act 58 of 1962 by adding paragraph (f).


7 (1) Inserts sections 8C and 8D in the Income Tax Act 58 of 1962.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 2 October 1981.

8 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (c) (i); paragraph (b) substitutes paragraph (c) (ii); paragraph (c) inserts paragraph (cE); paragraph (d) inserts paragraph (gB); paragraph (e) substitutes paragraph (i) (i); paragraph (f) substitutes paragraph (i) (ii); paragraph (g) inserts paragraph (i) (xiDB) and (xiDC); paragraph (h) substitutes the proviso to paragraph (i) (xii); paragraph (i) substitutes paragraph (i) (xiii); paragraph (j) adds the word ‘or’ to paragraph (cc) of the proviso to paragraph (k) (i) and adds paragraph (dd) to the proviso; and paragraph (k) substitutes in paragraph (x) the expression ‘R20 000’ for the expression ‘R15000’.

(2) For the purposes of assessments under the principal Act-

(a) the amendments effected by subsection (1) (a), (b), (h) and (i) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1981;

(b) the amendment effected by subsection (1) (d) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1979; and

(c) the amendment effected by subsection (1) (j) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 2 October 1981.

9 (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts paragraph (bA); paragraph (b) inserts paragraph (iiiA) in the proviso to paragraph (e); paragraph (c) substitutes in paragraph (k) (i) the words preceding the proviso; paragraph (d) substitutes the proviso to paragraph (k) (ii); paragraph (e) adds paragraph (bb) to the proviso to paragraph (k) (ii); paragraph (f) substitutes in the proviso to paragraph (m) the expression ‘R2 000’ for the
expression 'one thousand rand'; and paragraph (g) adds paragraph (vi) to the proviso of paragraph (o).

(2) The amendments effected by subsection (1) (b), (e) and (g) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1978.

10  (1) Amends section 11bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts in subsection (1) the definition of 'Director-General'; paragraph (b) substitutes in subsection (1) the definition of 'exported'; paragraph (c) deletes in subsection (1) the definition of 'exporters allowance'; paragraph (d) inserts in subsection (1) the definition of 'export incentive scheme'; paragraph (e) substitutes subsection (2) paragraph (f) substitutes in subsection (4) the words preceding paragraph (a); paragraph (g) deletes subsections (4D) and (4E); paragraph (h) substitutes the expression 'Director-General' for the expression 'Secretary for Commerce', wherever it occurs, and for the expression 'said Secretary', wherever it is used in relation to the expression 'Secretary for Commerce'; paragraph (i) substitutes the expression 'marketing allowance' for the expression 'exporters' allowance', wherever it occurs; and paragraph (j) adds subsections (6), (7) and (8).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 September 1980.

11  Amends section 11sept of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (date of commencement 1 November, 1981); paragraph (b) substitutes subsection (2) (date of commencement 1 November, 1981); paragraph (c) substitutes subsection 5 (e) (date of commencement 1 November, 1981); paragraph (d) substitutes subsection (5) (f) (date of commencement: 1 November 1981); paragraph (e) substitutes subsection (7) (date of commencement: 1 November 1981); and paragraph (f) deletes subsection (8) (date of commencement: 1 November 1981).

12  (1) Amends section 12 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1B); paragraph (b) substitutes in subsection (2) (iv) the expression '1985' for the expression '1983'; paragraph (c) substitutes in subsection (2A) the words preceding paragraph (a); paragraph (d) substitutes in subsection (2A) (c) (iiB) the expression '1985' for the expression '1983'; paragraph (e) substitutes in subsection (2A) (c) (iii) the expression '1985' for the expression '1983'; paragraph (f) substitutes in subsection (2A) (d) (iv) the expression '1985' for the expression '1983'; paragraph (g) inserts subsection (3A); paragraph (h) adds the proviso to subsection (4); and paragraph (i) adds
subsection (5).

(2) The amendments effected by subsection (1) (a), (c), (g), (h) and (i) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 24 August 1981.

13 (1) Amends section 12A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (2) the words following paragraph (b); paragraph (b) substitutes in subsection (3) the words following paragraph (b) and preceding the proviso; paragraph (c) inserts subsection (3A); paragraph (d) deletes subsection (4); and paragraph (e) adds subsection (5).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 24 August 1981.

14 Amends section 13 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (5) (e) the expression ‘1985’ for the expression ‘1983’ wherever it occurs; paragraph (b) substitutes in paragraph (ii) of the proviso to subsection (6) the expression ‘1986’ for the expression ‘1984’; paragraph (c) substitutes in subsection (6A) (a) (i) the expression ‘1985’ for the expression ‘1983’; paragraph (d) substitutes in subsection (6A) (a) (ii) the expression ‘1986’ for the expression ‘1984’; paragraph (e) substitutes in subsection (6A) (a) (iiA) the expression ‘1985’ for the expression ‘1983’, wherever it occurs and the expression ‘1986’ for the expression ‘1984’.

15 Amends section 18 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (b) (i); and paragraph (b) adds the word ‘and’ to paragraph (b) and inserts paragraph (c).


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of any year of assessment ended or ending on or after 1 January 1981.

17 Amends section 19 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes in subsection (2) the expression ‘section 11 (a), (b), (i) and (j)’ for the expression ‘paragraphs (a) and (b) of section eleven’; and paragraph (c) substitutes in subsection (3) the expression ‘(other than any portion of a dividend included in a taxpayer's income under section 8D and any dividends referred to in section 11 (s))’ for the expression ‘(other than dividends referred to in paragraph (s) of section eleven)’.
18 Amends section 20A (1) of the Income Tax Act 58 of 1962 by substituting the expression ‘R1 400’ for the expression ‘R1 200’; wherever it occurs.

19 Amends section 21 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes in subsection (3) the expression ‘R2 400’ for the expression ‘R1 200’.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment which commenced or commence on or after 1 September 1978.

21 (1) Amends section 27 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (2) (c) the expression ‘1985’ for the expression ‘1983’, wherever it occurs; paragraph (b) substitutes in subsection (2) (d) the words preceding the proviso; paragraph (c) substitutes in subsection (2) (e) the words preceding the proviso; paragraph (d) inserts subsection (2A); paragraph (e) substitutes subsection (5A); paragraph (f) inserts subsection (5B); paragraph (g) substitutes in the proviso to subsection (6) the expression ‘1986’ for the expression ‘1984’; and paragraph (h) substitutes in subsection (7) (c) the expression ‘1985’ for the expression ‘1983’, wherever it occurs.

(2) The amendments effected by subsection (1) (b), (c) and (d) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 24 August 1981.

22 (1) Amends section 49 of the Income Tax Act 58 of 1962 by substituting in paragraph (iiA) of the definition of ‘distributable income’ the expression ‘fifty per cent’ for the expression ‘thirty-five per cent’.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments of undistributed profits tax under the principal Act, be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 April 1981.

23 Amends section 56 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (h); and paragraph (b) substitutes subsection (2) (a).

24 Amends section 64C of the Income Tax Act 58 of 1962 by substituting the proviso to paragraph (fA).
25 Amends section 108 (4) of the Income Tax Act 58 of 1962 by deleting the words 'in the Senate and'.

26 Amends paragraph 5 of the First Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

27 (1) Amends paragraph 12 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subparagraph (1) the words preceding item (a); paragraph (b) substitutes subparagraph (1) (f); paragraph (c) substitutes subparagraph (1) (j); paragraph (d) substitutes subparagraph (2); paragraph (e) substitutes subparagraphs (3) and (3A) for subparagraph (3); paragraph (f) inserts subparagraph (3B); and paragraph (g) substitutes subparagraph (5).

(2) The amendments effected by subsection (1) (a), (d), (e) and (f) shall for the purposes of assessments under the principal Act be deemed to have taken effect as from the commencement of the year of assessment which ended on the last day of February 1978: Provided that-

(a) if on assessment of the liability for tax of any farmer in respect of a year of assessment which ended on the last day of February 1978, 1979, 1980 or 1981, a deduction in respect of any machinery, implements, utensils or articles has been made under the provisions of section 11 (e) or (o) of the principal Act in lieu of a deduction under paragraph 12 (1) or (1A) of the First Schedule to that Act, the assessment made on the farmer for the year in question shall, as respects such deduction, not be revised; and

(b) where the provisions of paragraph (a) are applicable in respect of any machinery, implements, utensils or articles held by a farmer at the commencement of the year of assessment following the latest year of assessment referred to in that paragraph in respect of which the farmer's liability for tax has been assessed-

(i) any deduction in respect thereof made under the said section 11 (e) shall for the purposes of the said paragraph 12 be deemed to have been made under the provisions of subparagraph (1) or (1A) of that paragraph; and

(ii) the amount (if any) by which the expenditure incurred by the farmer in respect of the acquisition of such machinery, implements, utensils or articles exceeds the aggregate of the deductions made in respect thereof under the said section 11 (e), shall be deemed to be an amount of such expenditure which has been carried forward from such latest year of assessment under the provisions of subparagraph (3) of the
said paragraph 12.

28 (1) Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962 by substituting in the definition of 'formula A' the factor '15'/1 for the factor '10'/1 in the formula.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1981.

29 Amends paragraph 14 (1) of the Sixth Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'R4 000' for the words 'two thousand rand', wherever they occur in items (c), (d) (ii), (e) (i) and (ii) and (f).

30 Commencement of section 21 of Act 104 of 1980

Section 21 of the Income Tax Act, 1980, shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1980.

31 ......

[S. 31 repealed by s. 33 of Act 91 of 1982.]


[Date of commencement of s. 32: 1 January 1982.]

33 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1982.

34 Short title

This Act shall be called the Income Tax Act, 1981.

Schedule

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 1982 AND 30 JUNE 1982, AND BY COMPANIES IN RESPECT

(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:

(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the table below: Provided that in the case of a person who is not a married person-

(i) there shall be added to the amount of tax calculated in accordance with the said table in respect of so much of the taxable income of such person as does not exceed R28000 a surcharge equal to 20 per cent of an amount arrived at by deducting from the amount of tax so calculated an amount equal to the sum of the rebates allowed to be deducted under section 6 of the principal Act;

(ii) where the taxable income of such person exceeds R28 000, the amount of tax to be calculated in respect of that portion of his taxable income as remains after the deduction therefrom of the sum of R28 000 shall, in lieu of any calculation of tax in accordance with the said table in respect of the said portion, be calculated at the rate of 50 per cent of the said portion;

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income- does not exceed R6 000</td>
<td>8 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R6 000 but does not exceed R7 000</td>
<td></td>
</tr>
<tr>
<td>&quot; R7 000 &quot; &quot; &quot; &quot; R8 000</td>
<td>R480 plus 10 per cent of the amount by which the taxable income exceeds R 6 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R580 plus 12 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R700 plus 14 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R11 000</td>
<td>R840 plus 16 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 000 plus 18 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
<td>R1 180 plus 20 per cent of the amount by which the taxable income exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R1 380 plus 22 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 600 plus 24 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R1 840 plus 26 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>Taxable Income Range</td>
<td>Tax Liability</td>
</tr>
<tr>
<td>----------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>R16 000 - R18 000</td>
<td>R2 380 plus 30 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>R18 000 - R20 000</td>
<td>R2 980 plus 32 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
<tr>
<td>R20 000 - R22 000</td>
<td>R3 620 plus 34 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>R22 000 - R24 000</td>
<td>R4 300 plus 36 per cent of the amount by which the taxable income exceeds R22 000;</td>
</tr>
<tr>
<td>R24 000 - R26 000</td>
<td>R5 020 plus 38 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td>R26 000 - R28 000</td>
<td>R5 780 plus 40 per cent of the amount by which the taxable income exceeds R26 000;</td>
</tr>
<tr>
<td>R28 000 - R30 000</td>
<td>R6 580 plus 42 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
<tr>
<td>R30 000 - R32 000</td>
<td>R7 420 plus 44 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>R32 000 - R34 000</td>
<td>R8 300 plus 46 per cent of the amount by which the taxable income exceeds R32 000;</td>
</tr>
<tr>
<td>R34 000 - R36 000</td>
<td>R9 220 plus 47 per cent of the amount by which the taxable income exceeds R34 000;</td>
</tr>
<tr>
<td>R36 000 - R38 000</td>
<td>R10 160 plus 48 per cent of the amount by which the taxable income exceeds R36 000;</td>
</tr>
<tr>
<td>R38 000 - R40 000</td>
<td>R11 120 plus 49 per cent of the amount by which the taxable income exceeds R38 000;</td>
</tr>
<tr>
<td>R40 000</td>
<td>R12 100 plus 50 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)), forty cents; Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x}
\]

in which formula (and in the formulae set out in the first and second provisos hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with
the formula:

\[ y - 20 \left(1 - \frac{6}{x}\right) \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[ y - 20 \left(1 - \frac{6}{x}\right) \]

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the prescribed conditions have been complied with, the rate of tax in respect of taxable income derived from mining for gold on an assisted gold mine shall not exceed a percentage determined in accordance with the formula:

\[ y = 68 - \frac{601}{x} \]

Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a surcharge equal to five per cent of such amount;

\((d)\) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[ y = 60 - \frac{480}{x} \]

in which formula (and in the formulae set out in the first proviso hereto) \(y\) represents such percentage and \(x\) the ratio expressed as
a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y = \frac{20}{x} (1 - \frac{8}{x}) \]

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount;

(e) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or thirty-five cents, whichever is the 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five
per cent of such amount;

\( (g) \) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds), forty cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to five per cent of such amount.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 91 OF 1982

[ASSENTED TO 9 JUNE 1982] [DATE OF COMMENCEMENT: 23 JUNE 1982] (Unless otherwise indicated)

(English text signed by the State President)

as amended by

General Law Amendment Act 49 of 1996

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1983 and 30 June 1983, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1983; to provide for the repayment to taxpayers concerned of a certain portion of normal tax paid; to amend the Income Tax Act, 1962; to repeal section 31 of the Income Tax Act, 1981; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income
Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 28 February 1983 or 30 June 1983; and

(b) the taxable income of any company determined under the principal Act to have been derived for any year of assessment ending during the period of twelve months ending on 31 March 1983,

[Para. (b) amended by s. 1 of Act 49 of 1996.]

shall be as set forth in the Schedule to this Act.

2 Certain portion of normal tax repayable to taxpayers

The portion of the normal tax determined in accordance with the provisions of paragraph (1) (h) of the Schedule to this Act shall be a loan portion of that tax.

3 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts in the definition of 'gross income' paragraph (lB); paragraph (b) substitutes in the definition of 'gross income' paragraph (m); paragraph (c) substitutes in paragraph (b) (iv) of the definition of 'pension fund' the expression 'R250' for the expression 'one hundred and twenty rand'; and paragraph (d) substitutes in paragraph (b) (ii) of the definition of 'retirement annuity fund' the expression 'R250' for the expression 'one hundred and twenty rand'.

(2) (a) The amendment effected by subsection (1) (a) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1982.

(b) The amendment effected by subsection (1) (b) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 June 1982.

4 Amends section 5 (10) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the words preceding paragraph (a); paragraph (b) substitutes paragraph (b); paragraph (c) substitutes paragraph (d) (iA); paragraph (d) inserts paragraph (e); and paragraph (e) substitutes the first proviso.

5 Amends section 6 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (2) (a) the expression 'R320' for the
expression 'R200'; paragraph (b) substitutes in subsection (2) (b) the expression 'R240' for the expression 'R120'; and paragraph (c) adds to subsection (3) (b) the further proviso.

6  (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts paragraph (dA); paragraph (b) substitutes in paragraph (i) (i) the expression 'R10 000' for the expression 'R5 000'; paragraph (c) substitutes paragraph (i) (ii); paragraph (d) substitutes paragraph (i) (iv); paragraph (e) substitutes the proviso to paragraph (i) (xii) and adds the further proviso to paragraph (i) (xiii); paragraph (f) substitutes the proviso to paragraph (i) (xiii) and adds the further proviso to paragraph (i) (xiv) and (xvi); paragraph (h) substitutes paragraph (zB); and paragraph (i) adds paragraphs (zC) and (zD).

(b) The amendment effected by subsection (1) (a) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1981.

(b) The amendment effected by subsection (1) (h) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 November 1981.

(b) The amendment effected by subsection (1) (i) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1982.

7  (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds paragraph (v) to the proviso to paragraph (g); paragraph (b) substitutes in paragraph (n) (bb) the expression 'R1 500' for the expression 'one thousand rand'; paragraph (c) adds the further proviso to paragraph (n) (bb); paragraph (d) substitutes in paragraph (o) the words preceding paragraph (iii) of the proviso; paragraph (e) substitutes in paragraph (ii) of the proviso to paragraph (t) the expression 'R6 000' for the expression 'R4 000'; paragraph (f) substitutes paragraph (bb) (B) in the proviso to paragraph (w); and paragraph (g) adds paragraphs (dd), (ee) and (ff) to the proviso to paragraph (w).

(b) The amendments effected by subsection (1) (a) and (d) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1982.

(b) The amendment effected by subsection (1) (b) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1
January 1982.

(c) The amendment effected by subsection (1) (c) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1978.

(d) The amendments effected by subsection (1) (f) and (g) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 June 1982.

8 (1) Amends section 11 bis (4) of the Income Tax Act 58 of 1962 by substituting paragraph (f).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1982.

9 (1) Amends section 11 sept of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds in subsection (1) at the end of paragraph (b) of the definition of 'training centre or scheme' the word 'or' and inserts paragraph (c); paragraph (b) substitutes subsection (7); and paragraph (c) inserts subsection (8).

(2) (a) Subsection (1) (a) shall be deemed to have come into operation on the date of commencement of the Manpower Training Act, 1981 (Act 56 of 1981).

(b) The amendment effected by subsection (1) (b) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 November 1981.

(c) The amendment effected by subsection (1) (c) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1982.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1982.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect in respect of years of assessment ended or ending on or after the date of commencement of this Act.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect in respect of years of assessment ended or ending on or after the date of commencement of this Act.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect in respect of years of assessment ended or ending on or after 1 April 1982.

14 (1) Amends section 18A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) in paragraph (b) of the definition of 'educational fund' the words preceding subparagraph (i); paragraph (b) substitutes in subsection (1) in paragraph (c) of the definition of 'educational fund' subparagraphs (i) and (ii); paragraph (c) substitutes in subsection (1) in paragraph (c) (iii) of the definition of 'educational fund' the words preceding item (aa); paragraph (d) deletes in subsection (1) the definition of 'specified educational project'; paragraph (e) substitutes subsection (2); paragraph (f) substitutes in subsection (6) the words preceding paragraph (a); and paragraph (g) substitutes subsection (6) (c).

(2) The amendments effected by paragraphs (c) and (e) of subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of any year of assessment ended or ending on or after 1 January 1981.

15 (1) Amends section 19 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subsection (1A); paragraph (b) substitutes subsection (2); and paragraph (c) substitutes subsection (5A).

(2) The amendment effected by subsection (1) (c) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1982.

16 Amends section 20A (1) of the Income Tax Act 58 of 1962 by substituting the expression 'R1 600' for the expression 'R1 400', wherever it occurs.
17 (1) Amends section 21ter of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (3B) the expression 'Director-General: Industries, Commerce and Tourism' for the expression 'Secretary for Industries'; paragraph (b) inserts subsection (3C); and paragraph (c) inserts subsection (5) (b).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1982.


19 (1) Amends section 28 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the words preceding paragraph (a); paragraph (b) substitutes paragraph (a) (i); and paragraph (c) deletes at the end of paragraph (a) (ii) the word 'and' and adds paragraph (a) (iv).

(2) (a) The amendment effected by subsection (1) (a) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1982.

(b) The amendments effected by subsection (1) (b) and (c) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1981.

20 Amends section 42 (2) of the Income Tax Act 58 of 1962 by adding paragraph (k).

21 Amends section 64C of the Income Tax Act 58 of 1962 by adding paragraph (m).

22 Amends section 66 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); paragraph (b) deletes subsection (5) (b); paragraph (c) inserts subsection (5A); and paragraph (d) substitutes subsection (6).

23 Amends section 79 (1) of the Income Tax Act 58 of 1962 by adding at the end of paragraph (iv) of the first proviso the word 'or' and by adding paragraph (v) to the first proviso.

24 Amends section 88 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the expression '10' for the expression 'seven and a half'; and paragraph (b) adds the proviso.
[Date of commencement of s. 24: 1 July 1982.]

25 Amends section 89 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2); and paragraph (b) deletes subsection (3).

[Date of commencement of s. 25: 1 July 1982.]

26 Amends section 89bis (2) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the expression '10' for the expression 'seven and a half'; and paragraph (b) adds the proviso.

[Date of commencement of s. 26: 1 July 1982.]


28 (1) Amends paragraph 12 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (i); and paragraph (b) substitutes in subparagraph (5) the expression 'R6 000' for the expression 'R5 000'.

(2) The amendment effected by subsection (1) (a) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1982.

29 (1) Amends paragraph 19 (1) of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the words and formula preceding item (a); paragraph (b) substitutes item (b); paragraph (c) substitutes the proviso to item (d); paragraph (d) inserts items (i); and (j); and paragraph (e) substitutes the first proviso.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of the years of assessment ended or ending on or after 28 February 1982.

30 Amends paragraph 20 (1) of the First Schedule to the Income Tax Act 58 of 1962 by substituting the words following item (c).

31 Amends paragraph 2 of the Fifth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (4).

32 Amends the Fifth Schedule to the Income Tax Act 58 of 1962 by

34 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1983.

35 Short title

This Act shall be called the Income Tax Act 1982.

Schedule


(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:

(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the table below: Provided that in the case of a person who is not a married person-

(i) there shall be added to the amount of tax calculated in accordance with the said table in respect of so much of the taxable income of such person as does not exceed R28 000 a surcharge equal to 20 per cent of an amount arrived at by deducting from the amount of tax so calculated an amount equal to the sum of the rebates allowed to be deducted under section 6 of the principal Act;

(ii) where the taxable income of such person exceeds R28 000, the amount of tax to be calculated in respect of that portion of his taxable income which remains after the deduction therefrom of the sum of R28 000 shall, in lieu of any calculation of tax in accordance with the said table in respect of the said portion, be calculated at the rate of 50 per cent of
TABLES

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td></td>
</tr>
<tr>
<td>does not exceed R7 000</td>
<td>10 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R7 000 but does not exceed R8 000</td>
<td>R700 plus 12 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R820 plus 14 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R960 plus 16 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R11 000</td>
<td>R1 120 plus 18 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 300 plus 20 per cent of the amount by which the taxable income exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
<td>R1 500 plus 22 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R1 720 plus 24 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1960 plus 26 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R2 220 plus 28 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R2 500 plus 30 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R3 100 plus 32 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R22 000</td>
<td>R3 740 plus 34 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R22 000 &quot; &quot; &quot; &quot; R24 000</td>
<td>R4 420 plus 36 per cent of the amount by which the taxable income exceeds R22 000;</td>
</tr>
<tr>
<td>&quot; R24 000 &quot; &quot; &quot; &quot; R26 000</td>
<td>R5 140 plus 38 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td>&quot; R26 000 &quot; &quot; &quot; &quot; R28 000</td>
<td>R5 900 plus 40 per cent of the amount by which the taxable income exceeds R26 000;</td>
</tr>
<tr>
<td>&quot; R28 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R6 700 plus 42 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R32 000</td>
<td>R7 540 plus 44 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R32 000 &quot; &quot; &quot; &quot; R34 000</td>
<td>R8 420 plus 46 per cent of the amount by which the taxable income exceeds R32 000;</td>
</tr>
<tr>
<td>&quot; R34 000 &quot; &quot; &quot; &quot; R36 000</td>
<td>R9 340 plus 47 per cent of the amount by which the taxable income exceeds R34 000;</td>
</tr>
<tr>
<td>&quot; R36 000 &quot; &quot; &quot; &quot; R38 000</td>
<td>R10 280 plus 48 per cent of the amount by which the taxable income exceeds R36 000;</td>
</tr>
<tr>
<td>&quot; R38 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R11 240 plus 49 per cent of the amount by which the taxable income exceeds R38 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; &quot;</td>
<td>R12 220 plus 50 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)), 42 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 10 per cent of such amount;
(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = \frac{60}{x} - \frac{360}{x}
\]

in which formula (and in the formulae set out in the first and second provisos hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y - 20 \left(1 - \frac{6}{x}\right)
\]

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y - 20 \left(1 - \frac{6}{x}\right)
\]

by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the prescribed conditions have been complied with, the rate of tax in respect of taxable income derived from mining for gold on an assisted gold mine shall not exceed a percentage determined in accordance with the formula

\[
y = \frac{68}{x} - \frac{601}{x}
\]
Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a surcharge equal to 15 per cent of such amount;

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{480}{x}
\]

in which formula (and in the formulae set out in the first proviso thereto) \(y\) represents such percentage and \(x\) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion):

Provided that if the taxable income so derived (with the said exclusion), does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20 \left(1 - \frac{8}{x}\right)
\]

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20 \left(1 - \frac{8}{x}\right)
\]

by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 15 per cent of such amount;

(e) on each rand 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 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 principal Act, a rate
equal to the average rate of normal tax or 35 cents, whichever is
the 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 gold mining for the
period from 1 July 1916 to the end of the period assessed, by the
number of rands contained in the said aggregate taxable income;

(f) on each rand of the taxable income derived by any company from
mining for diamonds, 45 cents: Provided that there shall be added
to the amount of tax calculated in accordance with the preceding
provisions of this subparagraph a surcharge equal to 15 per cent of
such amount;

(g) on each rand of the taxable income derived by any company from
mining operations (other than mining for gold or diamonds) 42
cents: Provided that there shall be added to the amount of tax
calculated in accordance with the preceding provisions of this
subparagraph a surcharge equal to 10 per cent of such amount;

(h) in respect of the taxable income of any person other than a
company, a sum equal to 5 per cent of the amount remaining after
deducting from-

(i) the amount of tax determined in accordance with
subparagraph (a); or

(ii) where under any provision of the principal Act the normal tax
payable by such person (as determined before the addition of
any loan portion thereof) has been determined at an amount
which is less than the amount of tax which would be
determinable under paragraph (a), the amount so determined,

the rebates provided for in section 6 of the principal Act, if such
taxable income is greater than R7 000 and the tax so determined is
not less than R150: Provided that any fraction of a rand of the tax
calculated under this subparagraph shall be disregarded.

2 (1) For the purposes of paragraph 1 income derived from mining for gold
shall include any income derived from silver, osmiridium, uranium, pyrites or
other minerals which may be won in the course of the mining for gold, and any
income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 94 OF 1983

[ASSENTED TO 30 JUNE 1983] [DATE OF COMMENCEMENT: 13 JULY 1983]

(Unless otherwise indicated)

(English text signed by the State President)

as amended by

Income Tax Act 121 of 1984
Income Tax Act 96 of 1985

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 29 February 1984 and 30 June 1984, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1984; to amend the Income Tax Act, 1962; to amend the Income Tax Act, 1982; to provide for a rebate and the rate of normal tax applicable to certain persons, and the prescribing of employees tax tables, in respect of the year of assessment ending on 28 February 1985; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 29 February 1984 or 30 June 1984; and

(b) the taxable income of any company for any year of assessment
ending during the period of 12 months ending on 31 March 1984,

shall be set forth in the Schedule to this Act.

2  (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the definition of 'financial year'; paragraph (b) substitutes in paragraph (e) of the definition of 'gross income' the words preceding the proviso; paragraph (c) substitutes paragraph (j) of the definition of 'gross income'; paragraph (d) adds the further proviso to paragraph (m) of the definition of 'gross income'; paragraph (e) substitutes the definition of 'pension fund'; paragraph (f) substitutes paragraph (b) of the proviso to the definition of 'provident fund'; paragraph (g) deletes the proviso to the definition of 'Republic'; and paragraph (h) substitutes paragraph (b) of the definition of 'retirement-funding employment'.

(2) (a) The amendments effected by subsection (1) (b), (e), (f) and (h) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1982: Provided that subsection (1) (e), in so far as it relates to subparagraph (gg) of paragraph (ii) of the proviso to paragraph (c) of the definition of 'pension fund' in section 1 of the principal Act, shall come into operation on a date fixed by the Minister of Finance by notice in the Gazette.

(b) The amendment effected by subsection (1) (d) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 June 1982.

(c) The amendment effected by subsection (1) (g) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending during the period of 12 months ending on 31 March 1984.

3 Amends section 5 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (9); paragraph (b) substitutes in subsection (10) the words preceding the formula; paragraph (c) substitutes subsection (10) (d) (iA) (bb); and paragraph (d) inserts subsection (10) (d) (iiiA).

4 Amends section 6 (3) (f) of the Income Tax Act 58 of 1962 by substituting the expression 'R180' for the expression 'R80', wherever it occurs.

5 and 6  Repeal respectively sections 6 quat and 6 quin of the Income Tax Act 58 of 1962.

(2) ......  

[Sub-s. (2) deleted by s. 40 of Act 96 of 1985.]

8 Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (4) (a); paragraph (b) substitutes in subsection (4) (e) the words preceding subparagraph (i); paragraph (c) substitutes subsection (5) (b); paragraph (d) inserts subsection (5) (bB) and (bC); and paragraph (e) substitutes subsection (5) (c).

9 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (cA) (i); paragraph (b) substitutes in paragraph (cB) the words preceding subparagraph (i); paragraph (c) substitutes in paragraph (e) the words preceding the proviso; paragraph (d) substitutes paragraph (i) (ii); paragraph (e) deletes paragraph (cc) of the proviso to paragraph (k) (i); paragraph (f) substitutes in paragraph (x) the expression 'R30 000' for the expression 'R20 000'; and paragraph (g) adds paragraph (zE).

(2) (a) The amendment effected by subsection (1) (d) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1983.

(b) The amendment effected by subsection (1) (g) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 13 November 1981.

10 (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (bb) of the proviso to paragraph (f); paragraph (b) substitutes paragraph (ii) of the proviso to paragraph (g); paragraph (c) adds paragraph (vi) to the proviso to paragraph (g); paragraph (d) substitutes in paragraph (gA) the words preceding subparagraph (i); paragraph (e) substitutes paragraph (bb) of the proviso to paragraph (gA); paragraph (f) substitutes in paragraph (h) the words preceding the proviso; paragraph (g) substitutes paragraph (i); paragraph (h) substitutes the proviso to paragraph (j); paragraph (i) substitutes paragraph (k) (i); paragraph (j) adds paragraph (cc) and (dd) to the proviso to paragraph (k) (ii); paragraph (k) substitutes paragraph (v) of the proviso to paragraph (l); paragraph (l) substitutes in paragraph (n) (aa) the words preceding the proviso; paragraph (m) deletes the proviso to paragraph (n) (aa); paragraph (n) substitutes in paragraph (n) (bb) the words preceding the provisos; paragraph (o) deletes the provisos to paragraph (n) (bb); paragraph (p) adds the proviso to paragraph (n); paragraph (q) substitutes in paragraph (o) the words preceding the proviso; paragraph (r) substitutes in paragraph (q) the words preceding the proviso; paragraph (s) substitutes paragraph (i) of the proviso to
paragraph (t); paragraph (t) substitutes paragraph (dd) (A) and (B) of the proviso to paragraph (w); and paragraph (u) substitutes paragraph (ff) of the proviso to paragraph (w).

(2) (a) The amendments effected by subsection (1) (a), (b), (c) and (f) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 July 1983.

(b) The amendments effected by subsection (1) (t) and (u) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 June 1982.

11 (1) Amends section 11bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (4) (b); paragraph (b) substitutes subsection (4A) (d); and paragraph (c) substitutes subsection (6) (b).

(2) The amendment effected by subsection (1) (c) shall, for the purposes of assessment under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 September 1980.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 24 August 1981.

13 Amends section 13bis of the Income Tax Act 58 of 1962 by deleting subsections (9), (10) and (11).


15 Amends section 16 of the Income Tax Act 58 of 1962 by adding the proviso.

16 (1) Amends section 18A of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts in subsection (1) the definition of 'donation'; paragraph (b) substitutes in subsection (1) in paragraph (b) of the definition of 'educational fund' the words preceding subparagraph (i); paragraph (c) substitutes in subsection (1) paragraph (b) (i) and (ii) of the definition of 'educational fund'; paragraph (d) substitutes in subsection (1) in paragraph (b) of the definition of 'educational fund'
the words following subparagraph (iv) (cc); paragraph (e) substitutes in subsection (1) in paragraph (c) of the definition of 'educational fund' the words preceding subparagraph (i); paragraph (f) substitutes paragraph (c) (i) of the definition of 'educational fund'; paragraph (g) inserts in subsection (1) the definition of 'educational or training purposes'; paragraph (h) substitutes subsection (2) (a); paragraph (i) substitutes subsection (3) (d); and paragraph (j) substitutes subsection (4).

(2) Subsection (1) (f), in so far as it relates to the substitution for the word 'notarial' of the word 'written' in the amendment of subparagraph (i) of paragraph (c) of the definition of 'educational fund' in section 18A (1) of the principal Act, shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1981.

17 (1) Amends section 19 of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes subsections (4) and (5); and paragraph (b) adds the proviso to subsection (5A).

(2) The amendment effected by subsection (1) (b) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 September 1982.

18 Amends section 20 of the Income Tax Act 58 of 1962 by deleting subsections (4) and (5).


20 Amends section 22 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subsection (3A); paragraph (b) deletes subsection (7); and paragraph (c) adds subsection (8).


22 Amends section 28 (2) (d) of the Income Tax Act 58 of 1962 by substituting the proviso.


24 Amends section 35 (2) (a) of the Income Tax Act 58 of 1962 by substituting the words preceding the proviso.

25 Amends section 36 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in subsection (7C) the words preceding paragraph (a); paragraph (b) substitutes subsection (7D) (b); and paragraph (c) inserts subsection (7E).


27 Amends section 38 (2) of the Income Tax Act 58 of 1962 by substituting paragraph (d).

28 Amends section 42 (2) of the Income Tax Act 58 of 1962 by deleting paragraph (f).


30 Amends section 49 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (i) of the definition of 'distributable income'; and paragraph (b) substitutes in the definition of 'total net profits' the words preceding paragraph (a).

31 (1) Amends section 56 of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds subsection (1) (p); paragraph (b) substitutes in subsection (2) (a) the expression 'R5 000' for the expression 'R2 000', wherever it occurs; and paragraph (c) substitutes in subsection (2) (b) the expression 'R20 000' for the words 'fifteen thousand rand'.

(2) (a) Subsection (1) (a) shall be deemed to have come into operation on 1 March 1983 and shall apply in respect of donations made on or after that date.

(b) Subsection (1) (b) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 March 1983.

(c) Subsection (1) (c) shall be deemed to have come into operation on 1 April 1983 and shall apply in respect of donations made on or after that date.

32 and 33 Substitute respectively sections 64A and 64B of the Income Tax Act 58 of 1962.

34 Amends section 64C of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (fB); paragraph (b) deletes paragraph (j); and paragraph (c) adds the word 'and' at the end of paragraph (k) (i) and deletes paragraph (k) (iii) (date of commencement: 16 July 1971).

35 Amends section 89bis of the Income Tax Act 58 of 1962 by substituting subsection (1).
36 Amends section 89ter (3) of the Income Tax Act 58 of 1962 by deleting paragraph (b).

37 and 38 Repeal respectively sections 89 quot and 94A of the Income Tax Act 58 of 1962.


42 Amends paragraph 4 of the First Schedule to the Income Tax Act 58 of 1962 by deleting subparagraph (3).

43 Amends paragraph 13 of the First Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (5).


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 March 1982.

45 Amends paragraph 19 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); and paragraph (b) deletes subparagraph (6).

46 (1) Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in the definition of ‘formula A’ the expression ‘R40 000’ for the expression ‘R30 000’; paragraph (b) substitutes paragraph (b) of the definition of ‘formula B’; and paragraph (c) substitutes the definition of ‘pension fund’.

(2) The amendment effected by subsection (1) (c) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1982.

47 Amends paragraph 3 of the Second Schedule to the Income Tax Act 58 of 1962 by adding the further proviso.

48 Amends paragraph 5 of the Second Schedule to the Income Tax Act 58 of
1962, as follows: paragraph (a) substitutes in subparagraph (2) (a) the expression 'R16 000' for the expression 'R12 000'; paragraph (b) substitutes in subparagraph (2) (b) the expression 'R40 000' for the expression 'R30 000', wherever it occurs, paragraph (c) substitutes subparagraph (2) (d); paragraph (d) substitutes subparagraph (3); and paragraph (e) adds subparagraph (6).

49 Amends paragraph 19 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (b); paragraph (b) substitutes subparagraph (1) (c); paragraph (c) substitutes subparagraph (1) (d) (ii); paragraph (d) deletes subparagraph (1) (d) (iii); and paragraph (e) deletes subparagraph (1A).

50 Amends paragraph 20 (1) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the words preceding item (a).

51 and 52 Substitute respectively paragraphs 23 and 24 of the Fourth Schedule to the Income Tax Act 58 of 1962.

53 Amends the heading immediately preceding paragraph 28 and paragraph 28 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the heading preceding paragraph 28 and substitutes paragraph 28 (1) and 1bis, and paragraph (b) substitutes subparagraph (8).


56 Amends paragraph 2 of the Fifth Schedule to the Income Tax Act 58 of 1962 by deleting subparagraphs (5) and (6).

57 Amends paragraph 6 of the Fifth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).

58 Amends paragraph 19 of the Sixth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).


61 ......
62 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1984.

63 Short title

This Act shall be called the Income Tax Act, 1983.

Schedule

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 29 FEBRUARY 1984 AND 30 JUNE 1984, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF TWELVE MONTHS ENDING 31 MARCH 1984

(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:

(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the table below: Provided that in the case of a person who is not a married person-

(i) there shall be added to the amount of tax calculated in accordance with the said table in respect of so much of the taxable income of such person as does not exceed R28 000 a surcharge equal to 20 per cent of an amount arrived at by deducting from the amount of tax so calculated an amount equal to the sum of the rebates allowed to be deducted under section 6 of the principal Act.

(ii) where the taxable income of such person exceeds R28 000, the amount of tax to be calculated in respect of that portion of his taxable income as remains after the deduction there from of the sum of R28 000 shall, in lieu of any calculation of tax in accordance with the said table in respect of the said portion, be calculated at the rate of 50 per cent of the said portion.

TABLE
<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income—does not exceed R7 000</td>
<td>10 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R7 000 but does not exceed R8 000</td>
<td>R700 plus 12 per cent of the amount by which the taxable income exceeds R7 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R9 000</td>
<td>R820 plus 14 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; R10 000</td>
<td>R960 plus 16 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R11 000</td>
<td>R1 120 plus 18 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 300 plus 20 per cent of the amount by which the taxable income exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
<td>R1 500 plus 22 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R1 720 plus 24 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1960 plus 26 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R2 220 plus 28 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R2 500 plus 30 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R3 100 plus 32 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R22 000</td>
<td>R3 740 plus 34 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R22 000 &quot; &quot; &quot; &quot; R24 000</td>
<td>R4 420 plus 36 per cent of the amount by which the taxable income exceeds R22 000;</td>
</tr>
<tr>
<td>&quot; R24 000 &quot; &quot; &quot; &quot; R26 000</td>
<td>R5 140 plus 38 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td>&quot; R26 000 &quot; &quot; &quot; &quot; R28 000</td>
<td>R5 900 plus 40 per cent of the amount by which the taxable income exceeds R26 000;</td>
</tr>
<tr>
<td>&quot; R28 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R6 700 plus 42 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R32 000</td>
<td>R7 540 plus 44 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R32 000 &quot; &quot; &quot; &quot; R34 000</td>
<td>R8 420 plus 46 per cent of the amount by which the taxable income exceeds R32 000;</td>
</tr>
<tr>
<td>&quot; R34 000 &quot; &quot; &quot; &quot; R36 000</td>
<td>R9 340 plus 47 per cent of the amount by which the taxable income exceeds R34 000;</td>
</tr>
<tr>
<td>&quot; R36 000 &quot; &quot; &quot; &quot; R38 000</td>
<td>R10 280 plus 48 per cent of the amount by which the taxable income exceeds R36 000;</td>
</tr>
<tr>
<td>&quot; R38 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R11 240 plus 49 per cent of the amount by which the taxable income exceeds R38 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot;</td>
<td>R12 220 plus 50 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)), 42 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 10 per cent of such amount;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but
with the exclusion of so much of the taxable income as the
Commissioner 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 principal Act), a
percentage determined in accordance with the formula:

\[ y = \frac{600}{x} \]

in which formula (and in the formulae set out in the first and second
provisos hereto) \( y \) represents such percentage and \( x \) the ratio
expressed as a percentage which the taxable income so derived
(with the said exclusion) bears to the income so derived (with the
said exclusion): Provided that if the taxable income so derived (with
the said exclusion) does not exceed R40 000, the rate of tax shall
not exceed a percentage determined in accordance with the
formula:

\[ y - 20 \left( 1 - \frac{6}{x} \right) \]

if such taxable income exceeds R40 000, the rate of tax shall not
exceed a percentage determined in accordance with a formula
arrived at by increasing the number 20 in the formula

\[ y - 20 \left( 1 - \frac{6}{x} \right) \]

by one for each completed amount of R25 000 by which the said
taxable income exceeds R40 000: Provided further that where a
certificate is given by the Government Mining Engineer to the effect
that prescribed conditions have been complied with, the rate of tax
in respect of taxable income derived from mining for gold on an
assisted gold mine shall not exceed a percentage determined in
accordance with the formula

\[ y = \frac{601}{x} \]

Provided further that there shall be added to the amount of tax
calculated in accordance with the preceding provisions of this
subparagraph, excluding the second proviso, a surcharge equal to
15 per cent of such amount;

(d) on each rand of the taxable income derived by a company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{480}{x}
\]

in which formula (and in the formulae set out in the first proviso hereeto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20 \left( 1 - \frac{8}{x} \right)
\]

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20 \left( 1 - \frac{8}{x} \right)
\]

by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 15 per cent of such amount;

(e) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax of 35 cents, whichever is the 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(f) on each rand of the taxable income derived by any company from mining for diamonds, 45 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 15 per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds), 42 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 10 per cent of such amount.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX AMENDMENT ACT 30 OF 1984

[ASSENTED TO 29 FEBRUARY 1984] [DATE OF COMMENCEMENT: 1 MARCH 1984]

(Afrikaans text signed by the State President)

ACT

To amend the Income Tax Act, 1962, so as to provide for the harmonization of income tax payable by members of all population groups in the
Republic; and to authorize the Commissioner for Inland Revenue to furnish certain information; to repeal the Black Taxation Act, 1969; to amend the National States Constitution Act, 1971, so as to provide for the payment of certain amounts into the revenue fund of an area for which a legislative assembly has been established; and to provide for incidental matters.

1 Amends section 1 of the Income Tax Act 58 of 1962 by substituting paragraph (a) of the definition of 'married person'.

2 Amends section 7 (2) of the Income Tax Act 58 of 1962 by adding the proviso.


(2) Subsection (1) shall apply in respect of donations made on or after 1 March 1984.

5 Amends paragraph 6 (d) of the Second Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'R1 800' for the words 'six hundred rand'.

6 Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes the definition of 'Black person'; paragraph (b) substitutes in paragraph (i) of the definition of 'remuneration' the expression 'R2 400' for the words 'four hundred and eighty rand'; and paragraph (c) deletes paragraph (v) of the definition of 'remuneration'.

7 Amends paragraph 15 of the Fourth Schedule to the Income Tax Act 58 of 1962 by inserting subparagraph (1A).

8 Commissioner may furnish certain information

Notwithstanding the provisions of section 4 of the principal Act, the Commissioner for Inland Revenue may furnish any assessing officer contemplated in the Black Taxation Act, 1969 (Act 92 of 1969), with any information which the said Commissioner considers will enable such assessing officer to recover any unpaid amount of tax referred to in section 10 (2) of this Act.

9 Amends section 6 (2) of the National States Constitution Act 21 of 1971, as follows: paragraph (a) substitutes paragraph (a) (i); paragraph (b) inserts paragraph (a) (iA); and paragraph (c) substitutes paragraph (b).
Repeal of laws

(1) Subject to the provisions of subsection (2), the laws specified in the Schedule to this Act are hereby repealed with effect from 1 March 1984 to the extent set out in the third column of that Schedule.

(2) Where, but for the repeal of the Black Taxation Act, 1969 (Act 92 of 1969), any general tax or provisional tax would have been payable or recoverable in respect of taxable income received by or accrued to any person before 1 March 1984, or any employees tax would have been payable or recoverable in respect of remuneration which any employer paid or became liable to pay to any employee before that date, or any return, information, document or certificate would have been required to be rendered or furnished in connection with any such tax, such tax shall be payable or recoverable and such return, information, document or certificate shall be rendered or furnished as if that Act had not been repealed: Provided that, notwithstanding the provisions of section 26 of the Finance and Financial Adjustments Act Consolidation Act, 1977 (Act 11 of 1977), no person or employer shall be liable for the payment of any unpaid amount of any such tax unless an assessing officer has within three years after the aforesaid date advised such person or employer by notice in writing of the amount of such tax payable.

Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall take effect as from the commencement of years of assessment ending on or after 1 March 1984.

Short title

This Act shall be called the Income Tax Amendment Act, 1984.

Schedule

<table>
<thead>
<tr>
<th>Number and year</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act 92 of 1969</td>
<td>Black Taxation Act, 1969</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 12 of 1978</td>
<td>Black Laws Amendment Act, 1978</td>
<td>Section 13</td>
</tr>
<tr>
<td>Act 94 of 1978</td>
<td>Finance Act, 1978</td>
<td>Section 9</td>
</tr>
<tr>
<td>Act 21 of 1979</td>
<td>Black Taxation Amendment Act, 1979</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 98 of 1979</td>
<td>Laws on Plural Relations and Development Second Amendment Act, 1979</td>
<td>Section 10</td>
</tr>
<tr>
<td>Act 79 of 1980</td>
<td>Taxation of Blacks Amendment Act, 1980</td>
<td>The whole</td>
</tr>
</tbody>
</table>

INCOME TAX ACT 121 OF 1984
ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1985 and 30 June 1985, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1985; to amend the Income Tax Act, 1962; to amend the Finance and Financial Adjustments Acts Consolidation Act, 1977, so as to delete an exemption from income tax in respect of certain housing benefits; to amend the Judges' Remuneration Act, 1978, so as to delete an exemption from income tax in respect of certain allowances; to repeal section 61 of the Income Tax Act, 1983; and to provide for incidental matters.

1 Rates of Normal Tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 28 February 1985 or 30 June 1985; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1985,

shall be as set forth in Schedule 1 to this Act.

2 Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts the definition of 'close corporation'; paragraph (b) substitutes paragraph (a) of the definition of 'company'; paragraph (c) substitutes paragraph (d) of the definition of 'company'; paragraph (d) adds the word 'or' at the end of paragraph (e) (ii) of the definition of 'company' and adds paragraph (f) to the definition of 'company'; paragraph (e) inserts the definition of 'entertainment expenditure'; paragraph (f) substitutes paragraph (c) of the definition of 'gross income'; paragraph (g) substitutes paragraph (i) of the
definition of 'gross income'; paragraph \((h)\) inserts the definition of 'prescribed rate' (date of commencement: 1 September 1984); paragraph \((i)\) substitutes paragraph \((a)\) of the definition of 'retirement-funding employment'; and paragraph \((j)\) adds the word 'or' at the end of paragraph \((b)\) of the definition of 'shareholder' and adds paragraph \((c)\) to the definition of 'shareholder'.

3 Amends section 5 (10) of the Income Tax Act 58 of 1962, as follows:

paragraph \((a)\) substitutes the formula

\[
Y = \frac{A}{B - C} \times B
\]

for the formula

\[
Y = \frac{(A - D)}{(B - C)} \times B + D'
\]

paragraph \((b)\) deletes paragraph \((e)\); and paragraph \((c)\) substitutes a proviso for the provisos.

4 Amends section 6 (2) of the Income Tax Act 58 of 1962, as follows:

paragraph \((a)\) substitutes in paragraph \((a)\) the expression 'R460' for the expression 'R320'; and paragraph \((b)\) substitutes in paragraph \((b)\) the expression 'R380' for the expression 'R240'.

5 (1) Amends section 8 of the Income Tax Act 58 of 1962, as follows:

paragraph \((a)\) substitutes subsection (1); paragraph \((b)\) substitutes subsection (4) \((a)\); paragraph \((c)\) substitutes subsection (5) \((bA)\) \((ii)\); paragraph \((d)\) substitutes subsection (5) \((bB)\) \((ii)\); and paragraph \((e)\) adds subsection (5) \((bB)\) \((iv)\) and \((v)\).

(2) The amendments effected by subsection (1) \((c)\), \((d)\) and \((e)\) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 September 1983.

6 Amends section 8B (3) of the Income Tax Act 58 of 1962 by adding the word 'or' at the end of paragraph \((b)\) and by adding paragraphs \((c)\) and \((d)\).

7 Amends section 8C (1) of the Income Tax Act 58 of 1962 by substituting the words preceding paragraph \((a)\).

8 Amends section 8D of the Income Tax Act 58 of 1962 by substituting the words preceding paragraph \((a)\).
9 Amends section 9 (1) (e) of the Income Tax Act 58 of 1962 by adding a further proviso.

10 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in paragraph (a) the words 'South African Transport Services' for the words 'railway administration'; paragraph (b) substitutes paragraph (c) (i); paragraph (c) substitutes in paragraph (h) the words following upon subparagraph (ii) and preceding the proviso; paragraph (d) adds paragraph (ee) to the proviso to paragraph (k) (i); paragraph (e) inserts paragraph (kA); paragraph (f) inserts paragraph (nB), (nC), (nD) and (nE); paragraph (g) substitutes paragraph (qA); and paragraph (h) adds paragraph (t) (x).

(2) The amendment effected by subsection (1) (h) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1983.

11 (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts paragraph (bB); paragraph (b) substitutes paragraph (vi) of the proviso to paragraph (e); paragraph (c) adds paragraph (vii) to the proviso to paragraph (e); paragraph (d) adds paragraph (dd) to the proviso to paragraph (f); paragraph (e) substitutes in paragraph (aa) of the proviso to paragraph (k) (ii) the expression 'R1 800' for the expression 'R1 500'; paragraph (f) substitutes in the proviso to paragraph (m) the expression 'R2 500' for the expression 'R2 000'; paragraph (g) substitutes in paragraph (n) (bb) the expression 'R1 800' for the expression 'R1 500'; paragraph (h) inserts paragraph (iiiA) in the proviso to paragraph (o); paragraph (i) substitutes paragraph (u); and paragraph (j) inserts paragraph (uA).

(2) (a) The amendments effected by subsection (1) (a), (c) and (h) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 15 March 1984.

(b) The amendment effected by subsection (1) (d) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 10 April 1984.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1984.
13 (1) Amends section 11 sept of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsections (3) and (4); and paragraph (b) adds the words 'but excluding any such expenditure incurred on or after 1 September 1984 which in the opinion of the Commissioner relates to the training of any such employee whose remuneration (as determined in accordance with the definition of 'remuneration' in paragraph 1 of the Fourth Schedule but including any amounts referred to in paragraphs (iv) and (vii) of that definition) exceeds R15 000 during the relevant year of assessment of the taxpayer' to subsection (5).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 September 1984.

14 (1) Amends section 12 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the words following upon paragraph (d) and preceding the proviso; paragraph (b) adds a further proviso to subsection (1); paragraph (c) substitutes in subsection (2) the words following upon paragraph (d) and preceding paragraph (i); and paragraph (d) adds subsections (6) and (7).

(2) (a) The amendments effected by subsection (1) (a), (c) and (d) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 15 March 1984.

(b) The amendment effected by subsection (1) (b) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 5 July 1984.

15 Amends section 18 (2) of the Income Tax Act 58 of 1962 by substituting paragraph (a), (b) and (c) for paragraphs (a) and (b).

16 (1) Amends section 18A of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes the word 'and' at the end of subsection (2) (a); paragraph (b) adds the word 'and' at the end of subsection (2) (b); paragraph (c) inserts subsection (2) (c); paragraph (d) substitutes in subsection (3) the words preceding paragraph (a); paragraph (e) substitutes subsection (3) (b); and paragraph (f) substitutes subsection (3) (e).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 March 1984.
17 Amends section 19 of the Income Tax Act 58 of 1962 by substituting subsections (2) and (3).

18 Amends section 21quat (3) of the Income Tax Act 58 of 1962 by substituting the expression 'R3 000' for the expression 'R2 400'.

19 (1) Amends section 22 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes subsection (3); paragraph (b) deletes subsection (3A); paragraph (c) adds the proviso to subsection (5) (a); paragraph (d) substitutes subsection (5) (b); and paragraph (e) adds subsection (5) (d), (e) and (f).

(2) For the purposes of assessments under the principal Act-

(a) the amendment effected by subsection (1) (a) shall be deemed to have applied from the commencement of years of assessment ended or ending on or after 1 June 1984;

(b) the amendment effected by subsection (1) (b) shall be deemed to have applied from the commencement of years of assessment ended or ending on or after 1 January 1984; and

(c) the amendments effected by subsection (1) (c) to (f), inclusive, shall be deemed to have applied from the commencement of years of assessment ended or ending on or after 1 April 1984.

20 Amends section 23 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes paragraph (d); and paragraph (b) adds paragraph (i).


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 15 March 1984.


24 Amends section 38 (2) (b) of the Income Tax Act 58 of 1962 by substituting the words preceding subparagraph (i).

26 (1) Amends section 49 of the Income Tax Act 58 of 1962 by substituting in paragraph (ii) of the definition of 'distributable income' the expression '50 per cent' for the words 'fifty-eight per cent'.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments of undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1984.


28 Amends section 56 (1) of the Income Tax Act 58 of 1962 by substituting paragraph (d).


31 Amends section 89 of the Income Tax Act 58 of 1962 by substituting subsection (2) (date of commencement 1 September, 1984).

32 (1) Amends section 89bis (2) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the words preceding the proviso; and paragraph (b) substitutes the proviso.

(2) (a) The amendment effected by subsection (1) (a) shall take effect on 1 September 1984.

(b) The amendment effected by subsection (1) (b) shall apply in respect of provisional tax payments made by companies on or after a date fixed by the Minister of Finance by notice in the Gazette.

33 Amends section 89ter of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the expression 'section 89 (2) or 89 quat' for the expression 'section 89 (2) or 89 quat' for the expression 'section 89'; and paragraph (c) adds subsection (3) (d).

34 (1) Inserts sections 89quat and 89quin in the Income Tax Act 58 of 1962.

(2) Subsection (1) shall-

(a) in so far as it provides for the insertion of section 89 quat in the principal Act, be deemed to have taken effect as from the
commencement of years of assessment ended or ending on or after 30 June 1984; and

(b) in so far as it provides for the insertion of section 89 quin in the principal Act, be deemed to have come into operation on 1 July 1982.

35 Amends section 90 of the Income Tax Act 58 of 1962 by substituting the expression 'section 89 (2) or 89quat' for the expression 'section 89'.

36 Amends section 91 (1) of the Income Tax Act 58 of 1962 by substituting the expression 'section 89 (2) or 89quat' for the expression 'section 89', wherever it occurs.

37 Amends section 103 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2); paragraph (b) substitutes in subsection (4) the words preceding paragraph (a); and paragraph (c) substitutes subsection (4) (b).

38 Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962 by inserting paragraph (bA) in the definition of 'provisional taxpayer'.

39 (1) Amends paragraph 20 (1) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the words preceding item (a).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1984.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1984.

41 (1) Amends paragraph 23 of the Income Tax Act 58 of 1962 by substituting items (a), (b) and (c) for items (a) and (b).

(2) The amendment effected by subsection (1) shall apply in respect of years of assessment ended or ending on or after 30 June 1984.

42 (1) Inserts the heading preceding paragraph 23A and paragraph 23A in the Fourth Schedule to the Income Tax Act 58 of 1962.
(2) The amendment effected by subsection (1) shall apply in respect of years of assessment ended or ending on or after 30 June 1984.

43 (1) Amends paragraph 27 of the Fourth Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (3).

(2) The amendment effected by subsection (1) shall apply in respect of provisional tax payments made by companies on or after a date fixed by the Minister of Finance by notice in the Gazette.

44 Amends paragraph 28 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (8).

45 Substitutes paragraph 22 of the Sixth Schedule to the Income Tax Act 58 of 1962.

[Date of commencement of s. 45: 1 September 1984.]

46 Addition of 7th Schedule to Act 58 of 1962

Schedule 2 to this Act is hereby added to the principal Act as the Seventh Schedule thereto, and shall be deemed to be and shall be construed and applied as one with the principal Act.


49 ......

[S. 49 repealed by s. 17 of Act 88 of 1989.]

50 Commencement of certain amendments

(1) Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments (other than the amendments referred to in subsection (2) effected to the principal Act by this Act shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1985.

(2) The amendments effected to the principal Acts by sections 2 (1) (e), (f) and (g), 5 (1) (a), 9, 10 (1) (f) and (g), 11 (1) (i) and (j), 20 (b), 23, 28 and 46, and the amendments effected by sections 48 and 49, shall take effect as from the
commencement of years of assessment ending on or after 1 March 1985.

[Sub-s. (2) substituted by s. 38 of Act 65 of 1986.]

51 Short title

This Act shall be called the Income Tax Act, 1984.

Schedule 1


(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:

(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the table below: Provided that in the case of a person who is not a married person-

(i) There shall be added to the amount of tax calculated in accordance with the said table in respect of so much of the taxable income of such person as does not exceed R28000 a surcharge equal to 20 per cent of an amount arrived at by deducting from the amount of tax so calculated an amount equal to the sum of the rebates allowed to be deducted under section 6 of the principal Act;

(ii) where the taxable income of such person exceeds R28 000, the amount of tax to be calculated in respect of that portion of his taxable income as remains after the deduction therefrom of the sum of R28 000 shall, in lieu of any calculation of tax in accordance with the said table in respect of the said portion, be calculated at the rate of 50 per cent of the said portion;

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td>12 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>does not exceed R8 000</td>
<td>R960 plus 14 per cent of the amount by which the taxable income exceeds R 8 000;</td>
</tr>
<tr>
<td>exceeds R8 000 but does not exceed R9 000</td>
<td>R1 100 plus 16 per cent of the amount by which the taxable income exceeds R9 000;</td>
</tr>
<tr>
<td>&quot; R9 000 &quot; &quot; &quot; &quot; ” R10 000</td>
<td></td>
</tr>
</tbody>
</table>

TABLE
(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)), 50 cents;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x}
\]

in which formula (and in the formulae set out in the first and second
provisos hereto) y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

$$\frac{6}{y} - \frac{20}{1 - \frac{1}{x}}$$

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

$$\frac{6}{y} - \frac{20}{1 - \frac{1}{x}}$$

by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that where a certificate is given by the Government Mining Engineer to the effect that prescribed conditions have been complied with, the rate of tax in respect of taxable income derived from mining for gold on an assisted gold mine shall not exceed a percentage determined in accordance with the formula

$$\frac{601}{y} = 68 - \frac{1}{x}$$

Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a surcharge equal to 20 per cent of such amount;

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

$$\frac{480}{y}$$
\[ y = 60 - \frac{\text{---}}{x} \]

in which formula (and in the formula set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y = 20 \left(1 - \frac{8}{x}\right) \]

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 20 per cent of such amount;

\( (e) \) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

\( (f) \) on each rand of the taxable income derived by any company from
mining for diamonds, 45 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 20 per cent of such amount;

\[(g)\] on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds), 50 cents.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any other of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

Schedule 2
(Seventh Schedule to Act 58 of 1962)

INCOME TAX ACT 96 OF 1985

[ASSENTED TO 12 JULY 1985] [DATE OF COMMENCEMENT: 24 JULY 1985]
(Unless otherwise indicated)

(English text signed by the State President)

as amended by

Income Tax Act 65 of 1986

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1986 and 30 June 1986, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1986; to amend the Income Tax Act, 1962; to amend the Income Tax Act, 1983; to provide that the Commissioner for Inland Revenue shall not be required to assess to tax the value of certain benefits
or advantages granted during certain years of assessment; to provide that the said Commissioner shall refrain from taking steps for the assessment or recovery of certain penalties or for the institution of certain legal proceedings; and to provide for incidental matters.

1  Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 28 February 1986 or 30 June 1986, and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1986,

shall be as set forth in the Schedule to this Act.

2  (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts the definition of 'director'; paragraph (b) substitutes paragraph (i) of the proviso to paragraph (c) of the definition of 'gross income'; paragraph (c) substitutes paragraph (b) of the definition of 'pension fund'; and paragraph (d) substitutes the definition of 'South African company'.

(2) The amendments effected by subsection (1) (a) and (d) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1985.

3  Amends section 6 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (2) (a) the expression 'R800' for the expression 'R460'; paragraph (b) substitutes in subsection 2 (b) the expression 'R620' for the expression 'R380'; and paragraph (c) substitutes subsection 3 (f).

4  Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (aa) of the proviso to subsection (1) (b) (i); paragraph (b) amends subsection (1) (b) (ii) in the Afrikaans text; paragraph (c) substitutes in subsection (1) (c) the words preceding the proviso; paragraph (d) substitutes subsection (1) (e) (i); and paragraph (e) adds the proviso to subsection (5) (a).

5  Amends section 9 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) amends the Afrikaans text; and paragraph (b) inserts paragraph (cB).
6 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (c) (i) and (ii); paragraph (b) substitutes paragraph (f); paragraph (c) substitutes paragraph (i) (ii); paragraph (d) substitutes in paragraph (i) (xv) the expression 'R250' for the expression 'R100'; paragraph (e) substitutes in paragraph (i) (xvi) the expression 'R250' for the expression 'R100'; paragraph (f) substitutes in paragraph (nD) the words preceding subparagraph (i); paragraph (g) inserts paragraph (nF); and paragraph (h) adds paragraph (zF).

[Para. (a) substituted by s. 39 (a) of Act 65 of 1986.]

(2) The amendments effected by subsection (1) (a) and (c) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1985.

[Sub-s. (2) substituted by s. 39 (b) of Act 65 of 1986.]

7 Amends section 11bis (7) (b) of the Income Tax Act 58 of 1962 by substituting the proviso.

8 (1) Amends section 11sept (5) of the Income Tax Act 58 of 1962 by substituting the words following upon paragraph (h).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 September 1984.

9 (1) Amends section 12 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the words following upon paragraph (d) and preceding the first proviso; paragraph (b) substitutes in subsection (1A) (i) the words preceding the proviso; paragraph (c) inserts the word 'or' after subsection (1A) (iii); paragraph (d) adds subsection (1A) (iv); paragraph (e) substitutes in subsection (2) (ii) the words preceding subparagraph (aa); and paragraph (f) deletes subsection (2A) (c) (iii).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 July 1985.

10 (1) Amends section 13 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the words preceding paragraph (a); paragraph (b) substitutes subsection (2); paragraph (c) substitutes paragraph (ii) of the proviso to subsection (6); and paragraph (d) inserts subsections (7) and (7A).
The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 July 1985.

11 Amends section 18 (2) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (b) the expressions 'R4 000' and 'R3 000' for the expressions 'R3 000' and 'R2 250' respectively; and paragraph (b) substitutes in paragraph (c) the expressions 'R1 500' and 'R1 000' for the expressions 'R1 000' and 'R750' respectively.

12 (1) Amends section 19 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1A); and paragraph (b) substitutes subsection (3) (b).

(2) The amendment effected by subsection (1) (b) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1985.

13 (1) Amends section 23A (1) of the Income Tax Act 58 of 1962 by substituting the definition of 'machinery, plant or aircraft rental'.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 15 March 1984.


15 (1) Amends section 27 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the second proviso to subsection (2) (b); paragraph (b) substitutes subsection (2) (d); paragraph (c) adds subsection (2) (i); and paragraph (d) substitutes subsection (3).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 July 1985.


(2) The amendment affected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 5 December
1984.


18 Amends section 56 (1) of the Income Tax Act 58 of 1962 by substituting paragraph (a).

   [Date of commencement of s. 18: 1 November 1984.]

19 Amends section 83 (7) of the Income Tax Act 58 of 1962 by substituting paragraph (a).

20 Amends section 90 of the Income Tax Act 58 of 1962 by substituting the first proviso.

21 Amends paragraph 10 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); and paragraph (b) inserts subparagraph (1A).

22 Amends paragraph 11 (1) of the Sixth Schedule to the Income Tax Act 58 of 1962 by substituting items (a) and (b).

23 Amends paragraph 12 of the Sixth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (b).

24 Amends paragraph 14 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (b); paragraph (b) substitutes in subparagraph (1) (c) the words preceding the proviso; paragraph (c) substitutes paragraph (iii) of the proviso to subparagraph (1) (e); paragraph (d) substitutes subparagraph (1) (f); paragraph (e) adds the further proviso to subparagraph (1) (g); paragraph (f) adds subparagraph (1) (h), (i) and (j); and paragraph (g) substitutes subparagraph (2) (d).

25 Amends paragraph 16 of the Sixth Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (5).

26 Amends paragraph 1 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in the definition of 'official rate of interest' the expression '18 per cent' for the expression '12 per cent'; paragraph (b) substitutes paragraph (c) of the definition of 'taxable benefit'; and paragraph (c) amends the Afrikaans text.

27 Amends paragraph 2 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (f); paragraph (b) substitutes subparagraph (g); paragraph (c) inserts subparagraph (gA); and
paragraph (d) substitutes in subparagraph (h) the words preceding the proviso.

28 Amends paragraph 5 of the Seventh Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (4).

29 Amends paragraph 6 (2) (b) of the Seventh Schedule to the Income Tax Act 58 of 1962 by adding the proviso.

30 Amends paragraph 7 (4) (a) of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the scale of values; and paragraph (b) substitutes the proviso.

31 Amends paragraph 9 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (2); and paragraph (b) adds subparagraph (9).


33 Amends paragraph 11 (1) of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'paragraphs 13A and 14' for the expression 'paragraph 14'.

34 Substitutes the heading immediately preceding paragraph 12 and paragraph 12 of the Seventh Schedule to the Income Tax Act 58 of 1962.

35 Amends paragraph 13 (2) (c) of the Seventh Schedule to the Income Tax Act 58 of 1962, in the Afrikaans text.

36 Inserts the heading immediately preceding paragraph 13A and paragraph 13A in the Seventh Schedule to the Income Tax Act 58 of 1962.

37 Amends paragraph 14 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subparagraph (1) the words preceding item (a); and paragraph (b) adds subparagraph (3).

38 Amends paragraph 15 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the heading immediately preceding paragraph 15 and subparagraph (1); paragraph (b) adds the word 'or' at the end of subparagraph (2) (b); and paragraph (c) adds subparagraph (2) (c).

39 Amends paragraph 20 (1) of the Seventh Schedule to the Income Tax Act 58 of 1962 by deleting the words following upon item (j).

41 Commissioner for Inland Revenue not required to assess to tax the value of certain benefits or advantages

The Commissioner for Inland Revenue shall not be required to assess to tax the value of any benefit or advantage granted in respect of employment or to the holder of any office if such benefit was derived by the taxpayer during the year of assessment ended on 28 February 1985 or during any preceding year of assessment and such benefit or advantage would, if it had been derived by the taxpayer during a year of assessment ending on or after 1 March 1985, have constituted a taxable benefit as defined in paragraph 1 of the Seventh Schedule to the principal Act, if the Commissioner is satisfied that in accordance with the practice generally prevailing in respect of assessments for the year of assessment during which such benefit or advantage was derived, the value of such benefit or advantage would not have been assessable to tax, or, where such benefit or advantage was derived during the year of assessment ended on 29 February 1984 or any preceding year of assessment, the value of the benefit or advantage was not returned by the taxpayer in his return of income for the relevant year of assessment by reason of a bona fide and reasonable belief of the taxpayer that the value of such benefit or advantage was not assessable to tax.

42 No steps by Commissioner for Inland Revenue in certain circumstances

Notwithstanding anything to the contrary contained in the principal Act, where during the period with effect from 18 March 1985 up to and including 30 August 1985, any person-

(a) who was not registered as a taxpayer with the Commissioner for Inland Revenue, or who was so registered but whose whereabouts were unknown to the Commissioner, renders a full and true return of his income which he was required to render under that Act but which he had failed so to render, or

(b) who had previously rendered a return of income to the Commissioner, reveals to the Commissioner full and true details of his income which were required to be included in such return but which he had failed so to include and which were unknown to the Commissioner,

the Commissioner shall, if such first-mentioned return of income was rendered or such details of income were revealed otherwise than in response to a request or demand addressed by the Commissioner to that person or his representative and otherwise than in consequence of an investigation into that person's affairs instituted by the Commissioner, refrain from taking steps for the assessment or
recovery of any penalty or for the institution of any legal proceedings to which such person has exposed himself by reason of such failure.

43 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1986.

44 Short title

This Act shall be called the Income Tax Act, 1985.

Schedule


(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:

(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below: Provided that there shall be added to the amount of tax calculated in accordance with the said tables a surcharge equal to 7 per cent of so much of the net amount (being an amount arrived at by deducting the rebates provided for in section 6 of the principal Act from the tax so calculated) as exceeds R750;

TABLE IN RESPECT OF MARRIED PERSONS

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income- does not exceed R12 000</td>
<td>16 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R12 000 but does not exceed R13 000</td>
<td>R1 920 plus 18 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R2 100 plus 20 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R2 300 plus 22 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R2 520 plus 24 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R2 760 plus 26 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>Rates of Tax in respect of Persons who are not Married Persons</td>
</tr>
<tr>
<td>----------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>R18 000</td>
<td>R3 280 plus 28 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
<tr>
<td>R20 000</td>
<td>R3 840 plus 30 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>R22 000</td>
<td>R4 440 plus 32 per cent of the amount by which the taxable income exceeds R22 000;</td>
</tr>
<tr>
<td>R24 000</td>
<td>R5 080 plus 34 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td>R26 000</td>
<td>R5 760 plus 36 per cent of the amount by which the taxable income exceeds R26 000;</td>
</tr>
<tr>
<td>R28 000</td>
<td>R6 480 plus 38 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
<tr>
<td>R30 000</td>
<td>R7 200 plus 40 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>R32 000</td>
<td>R8 040 plus 42 per cent of the amount by which the taxable income exceeds R32 000;</td>
</tr>
<tr>
<td>R34 000</td>
<td>R8 880 plus 43 per cent of the amount by which the taxable income exceeds R34 000;</td>
</tr>
<tr>
<td>R36 000</td>
<td>R9 740 plus 44 per cent of the amount by which the taxable income exceeds R36 000;</td>
</tr>
<tr>
<td>R38 000</td>
<td>R10 620 plus 45 per cent of the amount by which the taxable income exceeds R38 000;</td>
</tr>
<tr>
<td>R40 000</td>
<td>R11 520 plus 46 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>R50 000</td>
<td>R16 120 plus 48 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>R60 000</td>
<td>R20 920 plus 50 per cent of the amount by which the taxable income exceeds R60 000;</td>
</tr>
</tbody>
</table>

Where the taxable income-

- does not exceed R10 000
- exceeds R10 000 but does not exceed R11 000
- R11 000
- R12 000
- R13 000
- R14 000
- R15 000
- R16 000
- R18 000
- R20 000
- R22 000
- R24 000
- R26 000
- R28 000
- R30 000
<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rate of Tax</th>
<th>Formula</th>
</tr>
</thead>
<tbody>
<tr>
<td>R32 000</td>
<td>R8 900</td>
<td>45%</td>
</tr>
<tr>
<td>R34 000</td>
<td>R9 800</td>
<td>46%</td>
</tr>
<tr>
<td>R36 000</td>
<td>R10 720</td>
<td>47%</td>
</tr>
<tr>
<td>R38 000</td>
<td>R11 660</td>
<td>48%</td>
</tr>
<tr>
<td>R40 000</td>
<td>R12 620</td>
<td>49%</td>
</tr>
<tr>
<td>R42 000</td>
<td>R13 600</td>
<td>50%</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)), 50 cents;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x}
\]

in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion):

Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y' = \frac{6}{x} (1 - \frac{y - 20}{x})
\]

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y' = \frac{6}{x} (1 - \frac{y - 20}{x})
\]
by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 per cent of such amount;

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[ y = 60 - \frac{480}{x} \]

in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y = 20 \left(1 - \frac{8}{x}\right) \]

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[ y = 20 \left(1 - \frac{8}{x}\right) \]

by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 per cent of such amount;

(e) on each rand 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 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 principal Act, a rate
equal to the average rate of normal tax or 35 cents, 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 gold mining for the
period from 1 July 1916 to the end of the period assessed, by the
number of rands contained in the said aggregate taxable income;

(f) on each rand of the taxable income derived by any company from
mining for diamonds, 45 cents: Provided that there shall be added
to the amount of tax calculated in accordance with the preceding
provisions of this subparagraph a surcharge equal to 25 per cent of
such amount;

(g) on each rand of the taxable income derived by any company from
mining operations (other than mining for gold or diamonds), 50
cents: Provided that there shall be added to the amount of tax
calculated in accordance with the preceding provisions of this
subparagraph a surcharge equal to 15 per cent of such amount.

2 (1) For the purposes of paragraph 1 income derived from mining for gold
shall include any income derived from silver, osmiridium, uranium, pyrites or
other minerals which may be won in the course of mining for gold, and any
income which, in the opinion of the Commissioner, results directly from mining for
gold.

(2) The tax payable in accordance with any of the subparagraphs of
paragraph 1 shall be payable in addition to the tax determined in accordance with
any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or
expression to which a meaning has been assigned in the principal Act, bears the
meaning so assigned thereto.

INCOME TAX ACT 65 OF 1986

[ASSENTED TO 25 JUNE 1986] [DATE OF COMMENCEMENT: 4 JULY 1986]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)
ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1987 and 30 June 1987, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1987; to amend the Income Tax Act, 1962; to amend the Income Tax Act, 1984; to amend the Income Tax Act, 1985; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1987 or 30 June 1987; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1987,

shall be as set forth in the Schedule to this Act.

2 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes paragraph (a) of the definition of 'benefit fund';
paragraph (b) substitutes the proviso to paragraph (d) of the definition of 'gross income'; paragraph (c) substitutes in paragraph (c) of the definition of 'pension fund' the words preceding the proviso; paragraph (d) substitutes in the definition of 'provident fund' the words preceding the proviso; and paragraph (e) substitutes in the definition of 'retirement annuity fund' the words preceding the proviso.

(2) The amendment effected by subsection (1) (b) shall apply to any amount received or accrued on or after 13 June 1986.

3 Amends section 5 (10) of the Income Tax Act 58 of 1962 by substituting paragraph (b).

4 (1) Amends section 7A of the Income Tax Act 58 of 1962, as follows:
paragraph (a) adds the proviso to subsection (4); paragraph (b) adds the word 'or' at the end of subsection (4A) (c); and paragraph (c) inserts subsection (4A) (d).

(2) Subsection (1) (b) and (c) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28
February 1986, but shall not apply in respect of any amount which is, by reason of an option exercised by the taxpayer under section 7A (4) of the principal Act, one of three instalments of an amount which was actually received by or which accrued to him before 1 March 1985.

5 Amends section 8 (1) (c) of the Income Tax Act 58 of 1962 by substituting the words preceding the proviso.


7 Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (cC) (v); paragraph (b) substitutes in paragraph (dA) the words preceding subparagraph (i); paragraph (c) substitutes in paragraph (i) (xv) the expression 'R500' for the expression 'R250'; paragraph (d) substitutes in paragraph (i) (xvi) the expression 'R500' for the expression 'R250'; paragraph (e) substitutes paragraph (nB) (ii); and paragraph (f) inserts paragraph (nG).

8 (1) Amends section 12 (5) of the Income Tax Act 58 of 1962 by adding paragraph (c).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 2 October 1981.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 2 October 1981.


(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 July 1986.

12 Amends section 19 (1A) of the Income Tax Act 58 of 1962 by substituting the expression 'R500' for the expression 'R250'.
13 (1) Amends section 20A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); paragraph (b) adds subsection (2) (c); and paragraph (c) deletes subsection (3).

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1986.

14 (1) Amends section 22 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (3) (d) the words preceding subparagraph (i); paragraph (b) substitutes subsection (5) (d); and paragraph (c) substitutes subsection (5) (f) (i).

(2) The amendment effected by subsection (1) shall, for the purposes of assessment under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1984.

15 (1) Amends section 23A (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in the definition of 'machinery, plant or aircraft rental' the words following on paragraph (b); and paragraph (b) inserts the definition of 'operating lease'.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 15 March 1984.


(2) The amendment effected by subsection (1) shall, in so far as it relates to the addition of subsection (3) and (4) to section 24 of the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1986.

17 Amends section 28 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (a) (i); and paragraph (b) inserts subsection (1A).

18 Amends section 64C of the Income Tax Act 58 of 1962 by substituting paragraph (a) (date of commencement 1 January, 1985).

19 Amends section 66 (1) (b) (ii) of the Income Tax Act 58 of 1962 by substituting items (aa) and (bb).

(2) Where prior to the commencement of subsection (1) any taxpayer has in accordance with generally prevailing practice paid or become liable to pay any interest in consequence of his failure to pay any tax in full within the period for payment notified by the Commissioner for Inland Revenue in the relevant notice of assessment or within the period for payment prescribed by the principal Act, as the case may be, such interest shall, notwithstanding anything to the contrary contained in section 89 of the principal Act prior to the amendment thereof by subsection (1), be deemed to have been properly payable under the provisions of that section.

Amends section 89bis (2) of the Income Tax Act 58 of 1962 by deleting the proviso.


(2) The amendment effected by subsection (1) shall apply-

(a) in relation to any company, with effect from the commencement of years of assessment ended or ending on or after 28 February 1986; and

(b) in relation to any person other than a company, with effect from the commencement of years of assessment ending on or after 28 February 1987.


Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in the definition of 'formula A' the expression 'R60 000' for the expression 'R40 000'; paragraph (b) substitutes paragraph (c) of the definition of 'formula A'; and paragraph (c) substitutes in paragraph (b) (i) of the definition of 'formula B' the expressions 'R120 000' and 'R4 500', respectively, for the expressions 'R80 000' and 'R3 000'.

Amends paragraph 5 (2) of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in item (a) the expression 'R24 000' for the expression 'R16 000'; and paragraph (b) substitutes in item (b) the expression 'R60 000' for the expression 'R40 000', wherever it occurs.

Amends paragraph 18 (1) of the Fourth Schedule to the Income Tax Act 58 of 1962 by adding item (d).

[Date of commencement of s. 26: 1 November 1985.]
27  (1) Amends paragraph 23 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes the word 'and' at the end of subparagraph (b); and paragraph (b) deletes subparagraph (c).

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1986.

28  (1) Substitutes the heading immediately preceding paragraph 23A and paragraph 23A of the Fourth Schedule to the Income Tax Act 58 of 1962.

(2) Subsection (1) shall-

(a) in the case of any company, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1986; and

(b) in the case of any person other than a company, take effect as from the commencement of years of assessment ending on or after 28 February 1987.

29  Amends paragraph 27 of the Fourth Schedule to the Income Tax Act 58 of 1962 by deleting subparagraph (3).

30  (1) Amends paragraph 28 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); and paragraph (b) deletes subparagraph (1)bis.

(2) Subsection (1) shall-

(a) in the case of any company, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1986; and

(b) in the case of any person other than a company, take effect as from the commencement of years of assessment ending on or after 28 February 1987.

31  (1) Amends paragraph 10 of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subparagraph (1) (b) (ii) of the words preceding the proviso; and paragraph (b) adds subparagraph (3).

(2) Subsection (1) (b) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 24 May 1985.
32  (1) Amends paragraph 14 (1) of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in item (e) the words preceding the proviso; and paragraph (b) inserts item (eA).

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 13 June 1986.

33  Amends paragraph 1 of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting in the definition of 'official rate of interest' the expression '15 per cent' for the expression '18 per cent' (date of commencement 1 December, 1985).

34  (1) Amends paragraph 9 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (3) (b) (ii); and paragraph (b) substitutes subparagraph (9).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1986.

35  (1) Amends paragraph 11 (2) of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the words preceding item (a); and paragraph (b) adds the proviso to item (b).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1986.

36  (1) Amends paragraph 14 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subparagraph (1) the words preceding item (a); and paragraph (b) deletes subparagraph (3).

(2) The amendment effected by subsection (1) (a) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1986.

37  (1) Amends paragraph 15 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subparagraph (1) (b) the words preceding subitem (i); and paragraph (b) substitutes subparagraph (2) (c).

(2) The amendment effected by subsection (1) shall, for the purposes of
assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1986.

38 Amends section 50 of the Income Tax Act 121 of 1984, by substituting subsection (2).

39 Amends section 6 of the Income Tax Act 96 of 1985, as follows: paragraph (a) substitutes subsection (1) (a); and paragraph (b) substitutes subsection (2).

40 Withdrawal of Government Notice R.2706 of 29 November 1985

Government Notice R.2706 of 29 November 1985 is hereby withdrawn.

41 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1987.

42 Short title

This Act shall be called the Income Tax Act, 1986.

Schedule


(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:

(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below: Provided that there shall be deducted from the amount of tax calculated in accordance with the said tables a discount equal to 5 per cent of the net amount (being an amount arrived at by deducting the rebates provided for in section 6 of the principal Act from the tax so calculated);

TABLE IN RESPECT OF MARRIED PERSONS
### Taxable Income Rates of Tax in respect of Married Persons

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td>16 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>Does not exceed R12 000</td>
<td>R1 920 plus 18 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000</td>
<td>R2 100 plus 20 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000</td>
<td>R2 300 plus 22 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000</td>
<td>R2 520 plus 24 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R16 000</td>
<td>R2 760 plus 26 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R18 000</td>
<td>R3 280 plus 28 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
<tr>
<td>&quot; R20 000</td>
<td>R3 840 plus 30 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R22 000</td>
<td>R4 440 plus 32 per cent of the amount by which the taxable income exceeds R22 000;</td>
</tr>
<tr>
<td>&quot; R24 000</td>
<td>R5 080 plus 34 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td>&quot; R26 000</td>
<td>R5 760 plus 36 per cent of the amount by which the taxable income exceeds R26 000;</td>
</tr>
<tr>
<td>&quot; R28 000</td>
<td>R6 480 plus 38 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
<tr>
<td>&quot; R30 000</td>
<td>R7 420 plus 40 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R32 000</td>
<td>R8 040 plus 42 per cent of the amount by which the taxable income exceeds R32 000;</td>
</tr>
<tr>
<td>&quot; R34 000</td>
<td>R8 880 plus 43 per cent of the amount by which the taxable income exceeds R34 000;</td>
</tr>
<tr>
<td>&quot; R36 000</td>
<td>R9 740 plus 44 per cent of the amount by which the taxable income exceeds R36 000;</td>
</tr>
<tr>
<td>&quot; R38 000</td>
<td>R10 620 plus 45 per cent of the amount by which the taxable income exceeds R38 000;</td>
</tr>
<tr>
<td>&quot; R40 000</td>
<td>R11 520 plus 46 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R50 000</td>
<td>R16 120 plus 48 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>&quot; R60 000</td>
<td>R20 920 plus 50 per cent of the amount by which the taxable income exceeds R60 000;</td>
</tr>
</tbody>
</table>

### Taxable Income Rates of Tax in respect of Persons who are not Married Persons

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Persons who are not Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td>16 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>Does not exceed R10 000</td>
<td>R1 600 plus 18 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R11 000</td>
<td>R1 780 plus 20 per cent of the amount by which the taxable income exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R12 000</td>
<td>R1 980 plus 22 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000</td>
<td>R2 200 plus 24 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000</td>
<td>R2 440 plus 26 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000</td>
<td>R2 700 plus 28 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R16 000</td>
<td>R2 980 plus 30 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>Taxable Income</td>
<td></td>
</tr>
<tr>
<td>----------------</td>
<td></td>
</tr>
<tr>
<td><strong>R18 000</strong></td>
<td>R3 580 plus 32 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
<tr>
<td><strong>R20 000</strong></td>
<td>R4 220 plus 34 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td><strong>R22 000</strong></td>
<td>R4 900 plus 36 per cent of the amount by which the taxable income exceeds R22 000;</td>
</tr>
<tr>
<td><strong>R24 000</strong></td>
<td>R5 620 plus 38 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td><strong>R26 000</strong></td>
<td>R6 380 plus 40 per cent of the amount by which the taxable income exceeds R26 000;</td>
</tr>
<tr>
<td><strong>R28 000</strong></td>
<td>R7 180 plus 42 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
<tr>
<td><strong>R30 000</strong></td>
<td>R8 020 plus 44 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td><strong>R32 000</strong></td>
<td>R8 900 plus 45 per cent of the amount by which the taxable income exceeds R32 000;</td>
</tr>
<tr>
<td><strong>R34 000</strong></td>
<td>R9 800 plus 46 per cent of the amount by which the taxable income exceeds R34 000;</td>
</tr>
<tr>
<td><strong>R36 000</strong></td>
<td>R10 720 plus 47 per cent of the amount by which the taxable income exceeds R36 000;</td>
</tr>
<tr>
<td><strong>R38 000</strong></td>
<td>R11 660 plus 48 per cent of the amount by which the taxable income exceeds R38 000;</td>
</tr>
<tr>
<td><strong>R40 000</strong></td>
<td>R12 620 plus 49 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td><strong>R42 000</strong></td>
<td>R13 600 plus 50 per cent of the amount by which the taxable income exceeds R42 000;</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)), 50 cents;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x}
\]

in which formula (and in the formulae set out in the first and second proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:
and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = \frac{20 \times (1 - \frac{6}{x})}{x}
\]

by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 per cent of such amount;

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = \frac{60 \times 480}{x}
\]

in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = \frac{20 \times (1 - \frac{8}{x})}{x}
\]

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula
by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 per cent of such amount;

(e) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(f) on each rand of the taxable income derived by any company from mining for diamonds, 45 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds), 50 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 15 per cent of such amount.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with
any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 85 OF 1987

[ASSENTED TO 6 OCTOBER 1987] [DATE OF COMMENCEMENT: 14 OCTOBER 1987]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 29 February 1988 and 30 June 1988, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1988; to amend the Income Tax Act, 1962; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 29 February 1988 or 30 June 1988; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1988,

shall be as set forth in the Schedule to this Act.

2 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts the definition of ‘neighbouring country’; and paragraph (b) substitutes the definition of ‘prescribed rate’.

(2) (a) The amendment effected by subsection (1) (a) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 21 September 1987.

(b) The amendment effected by subsection (1) (b) shall come into operation on 1 October 1987.
3 Amends section 4 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (a) of the proviso to subsection (1); paragraph (b) inserts subsection (1A); and paragraph (c) substitutes subsection (3).

4 Amends section 6 (2) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (a) the expression 'R920' for the expression 'R880'; and paragraph (b) substitutes in paragraph (b) the expression 'R650' for the expression 'R620'.


6 Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (b) (ii); paragraph (b) substitutes in subsection (1) (c) (i) the expression 'R130' for the expression 'R100'; paragraph (c) substitutes in subsection (1) (c) (iii) the expression 'R65' for the expression 'R50'; paragraph (d) substitutes in subsection (1) (d) the words preceding subparagraph (i); paragraph (e) substitutes subsection (1) (e) (i); and paragraph (f) substitutes subsection (4) (a).

7 (1) Amends section 9 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the proviso to subsection (1) (b); and paragraph (b) adds subsections (4) and (5).

   (2) Subsection (1) (b) shall apply in respect of interest accruing or gains made on or after 21 September 1987.


   (2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 21 September 1987.

9 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (cC) (v); paragraph (b) inserts paragraph (cF); paragraph (c) inserts paragraph (cG); paragraph (d) adds the further proviso to paragraph (h); paragraph (e) substitutes in paragraph (i) (xv) the expression 'R1 000' for the expression 'R500'; and paragraph (f) substitutes in paragraph (i) (xvi) the expression 'R1 000' for the expression 'R500'.

   (2) Subsection (1) (b) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1981.

10 Amends section 11 (o) of the Income Tax Act 58 of 1962 by substituting
the words preceding the proviso.

11 Amends section 12 (1) of the Income Tax Act 58 of 1962 by substituting the expression '1988' for the expression '1986'.

12 Amends section 13 (7) of the Income Tax Act 58 of 1962 by substituting the expression '1988' for the expression '1986' and by substituting the expression '1989' for the expression '1987'.

13 Amends section 19 (1A) of the Income Tax Act 58 of 1962 by substituting the expression 'R1 000' for the expression 'R500'.


(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 31 December 1987.


(2) The amendment effected by subsection (1) shall be deemed to have applied with effect from the commencement of years of assessment ended or ending on or after 1 January 1985.


(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 7 April 1987 and shall apply in respect of any film acquired by a film owner or otherwise than under a written agreement formally and finally signed by every party thereto before that date.

18 Amends section 27 (2) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (d) (i) the expression '1988' for the expression '1986'; paragraph (b) substitutes paragraph (iii) of the proviso to subparagraph (f); and paragraph (c) substitutes in paragraph (i) (i) and (ii) the expression '1988' for the expression '1986', and substitutes in paragraph (c) of the proviso to paragraph (i) the expression '1989' for the expression '1987'.

19 Amends section 49 of the Income Tax Act 58 of 1962 by substituting the proviso to the definition of 'total net profits'. 

20  (1) Amends section 50 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (d) the words preceding the first proviso; and paragraph (b) substitutes paragraph (h).

(2) (a) Subsection (1) (a) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1983.

(b) Subsection (1) (b) shall be deemed to have come into operation on 29 August 1986.

21  Amends section 56 (1) of the Income Tax Act 58 of 1962 by substituting paragraph (h).

22  Amends section 64C of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the proviso to paragraph (a) (date of commencement: 1 November 1987); paragraph (b) deletes paragraph (bA) (date of commencement: 1 November 1987); paragraph (c) adds the proviso to paragraph (k) (date of commencement: 1 July 1987); and paragraph (d) adds paragraph (n) (date of commencement: 1 July 1987).

23  Amends section 66 (1) (b) (ii) (aa) of the Income Tax Act 58 of 1962 by substituting the expression 'R1 000' for the expression 'R500'.

24  Amends paragraph 13A (3) (a) of the First Schedule to the Income Tax Act 58 of 1962 by substituting the expression '6 years' for the expression '4 years'.

25  Amends paragraph 7 of the Second Schedule to the Income Tax Act 58 of 1962 by deleting the proviso.

26  Amends paragraph 1 of Part I of the Sixth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the word 'and' to paragraph (b) of the definition of 'insurance policy'; and paragraph (b) inserts paragraph (c) in the definition of 'insurance policy'.

27  Inserts paragraph 1A in Part I of the Sixth Schedule to the Income Tax Act 58 of 1962.

28  Amends paragraph 1 of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting in the definition of 'official rate of interest' the expression '13 per cent' for the expression '15 per cent'.

29  Amends paragraph 9 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (3) (b) (ii); and
paragraph (b) substitutes subparagraph (9).

30 Amends paragraph 14 of the Seventh Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (3).

31 Withdrawal of Government Notice R.2683 of 19 December 1986

Government Notice R2683 of 19 December 1986 is hereby withdrawn.

32 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1988.

33 Short title

This Act shall be called the Income Tax Act, 1987.

Schedule


(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:

(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income- does not exceed R12 000</td>
<td>15 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R12 000 but does not exceed R13 000</td>
<td>R1 800 plus 16 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R1 960 plus 18 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R2 140 plus 20 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R2 340 plus 22 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>Rates of Tax in respect of Persons who are not Married Persons</td>
</tr>
<tr>
<td>---------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R2 560 plus 24 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R3 040 plus 26 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R22 000</td>
<td>R3 560 plus 28 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R22 000 &quot; &quot; &quot; &quot; R24 000</td>
<td>R4 120 plus 30 per cent of the amount by which the taxable income exceeds R22 000;</td>
</tr>
<tr>
<td>&quot; R24 000 &quot; &quot; &quot; &quot; R26 000</td>
<td>R4 720 plus 32 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td>&quot; R26 000 &quot; &quot; &quot; &quot; R28 000</td>
<td>R5 360 plus 34 per cent of the amount by which the taxable income exceeds R26 000;</td>
</tr>
<tr>
<td>&quot; R28 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R6 040 plus 36 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R35 000</td>
<td>R6 760 plus 38 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R35 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R8 660 plus 40 per cent of the amount by which the taxable income exceeds R35 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; R45 000</td>
<td>R10 660 plus 42 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R45 000 &quot; &quot; &quot; &quot; R50 000</td>
<td>R12 760 plus 43 per cent of the amount by which the taxable income exceeds R45 000;</td>
</tr>
<tr>
<td>&quot; R50 000 &quot; &quot; &quot; &quot; R60 000</td>
<td>R14 910 plus 44 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>&quot; R60 000 .....................</td>
<td>R19 310 plus 45 per cent of the amount by which the taxable income exceeds R60 000;</td>
</tr>
<tr>
<td>Where the taxable income- does not exceed R10 000</td>
<td>R15 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R10 000 but does not exceed R11 000</td>
<td>R1 500 plus 16 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 660 plus 18 per cent of the amount by which the taxable income exceeds R11 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
<td>R1 840 plus 20 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
<td>R2 040 plus 22 per cent of the amount by which the taxable income exceeds R13 000;</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R2 260 plus 24 per cent of the amount by which the taxable income exceeds R14 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R2 500 plus 26 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
<td>R2 760 plus 28 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R3 320 plus 30 per cent of the amount by which the taxable income exceeds R18 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R22 000</td>
<td>R3 920 plus 32 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R22 000 &quot; &quot; &quot; &quot; R24 000</td>
<td>R4 560 plus 34 per cent of the amount by which the taxable income exceeds R22 000;</td>
</tr>
<tr>
<td>&quot; R24 000 &quot; &quot; &quot; &quot; R26 000</td>
<td>R5 240 plus 36 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td>&quot; R26 000 &quot; &quot; &quot; &quot; R28 000</td>
<td>R5 960 plus 38 per cent of the amount by which the taxable income exceeds R26 000;</td>
</tr>
<tr>
<td>&quot; R28 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R6 720 plus 40 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R34 000</td>
<td>R7 520 plus 42 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R34 000 &quot;</td>
<td>&quot; &quot;</td>
</tr>
<tr>
<td>&quot; R38 000 &quot;</td>
<td>&quot; &quot;</td>
</tr>
<tr>
<td>&quot; R42 000 &quot;</td>
<td>&quot; &quot;</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)), 50 cents;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[
y = 60 - \frac{360}{x}
\]

in which formula (and in the formulae set out in the first proviso hereto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[
y = 20(1 - \frac{6}{x})
\]

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[
y = 20(1 - \frac{6}{x})
\]

by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph excluding the second
proviso, a surcharge equal to 25 per cent of such amount;

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[ y = 60 - \frac{480}{x} \]

in which formula (and in the formulae set out in the first proviso hereeto) \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

\[ y = 20(1 - \frac{8}{x}) \]

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

\[ y = 20(1 - \frac{8}{x}) \]

by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 per cent of such amount;

(e) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed by the number of rands contained in the said aggregate taxable income;

(f) on each rand of the taxable income derived by any company from mining for diamonds, 45 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 per cent of such amount;

(g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds), 50 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 15 per cent of such amount.

2. (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 90 OF 1988

[ASSENTED TO 6 JULY 1988] [DATE OF COMMENCEMENT
(But see section 47)

(English text signed by the State President)

as amended by

Income Tax Amendment Act 99 of 1988
ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1989 and 30 June 1989, and by companies in respect of taxable incomes for years of assessment during the period of 12 months ending on 31 March 1989; to amend the Income Tax Act, 1962; to provide for the payment of a minimum tax; to withdraw a certain Government Notice; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1989 or 30 June 1989; and

(b) the taxable income of any company for any year of assessment during the period of 12 months ending on 31 March 1989,

shall be set forth in the Schedule to this Act.

2 Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (b) for paragraphs (b) and (c) of the definition of 'married person'; paragraph (b) deletes the definition of 'dependant'.

3 Amends section 5 of the Income Tax Act 58 of 1962 by inserting subsection (1A).

4 Amends section 6 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes in subsection (2) (a) the expression 'R1 100' for the expression 'R920'; paragraph (c) substitutes in subsection (2) (b) the expression 'R750' for the expression 'R650'; paragraph (d) deletes subsection (3) (b), (c) and (d); and paragraph (e) substitutes subsection (4).

5 Amends section 7 (2) of the Income Tax Act 58 of 1962 by substituting the proviso.

6 Amends section 8 (4) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (a); and paragraph (b) substitutes in paragraph (e) the words preceding subparagraph (i).
(1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the second proviso to paragraph (h); paragraph (b) inserts paragraph (mB); and paragraph (c) adds paragraph (t) (xi).

(2) The amendments effected by subsection (1) (a) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 November 1987.

(1) Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (bB) the words preceding the proviso; paragraph (b) substitutes in paragraph (e) the words preceding the proviso; paragraph (c) adds paragraph (cc) to the proviso to paragraph (gA); paragraph (d) substitutes paragraph (n) (aa) (A); paragraph (e) adds paragraph (vii) to the proviso to paragraph (n); paragraph (f) substitutes in paragraph (o) the words preceding the proviso; and paragraph (g) substitutes in paragraph (p) the words preceding subparagraph (i).

(2) The amendments effected by subsection (1) (a) shall, for the purposes of assessments under the principal Act, be deemed to have come into operation on 13 February 1988 and shall apply to livestock acquired on or after that date.

(1) Amends section 11bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the proviso to subsection (3); and paragraph (b) inserts subsection (3A).

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have come into operation on 23 February 1988 and shall apply to any marketing expenditure incurred by an exporter on or after that date, other than marketing expenditure incurred under a written agreement formally and finally signed by every party thereto before that date.


Amends the Income Tax Act 58 of 1962 by inserting section 12B.

Amends section 13 of the Income Tax Act 58 of 1962 by adding the further proviso to subsection (1).

Amends section 13bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the further proviso to subsection (1); and paragraph (b) adds subsection (9).

Amends section 18 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts the word 'and' at the end of subsection (1) (c); paragraph (b) inserts subsection (1) (d); paragraph (c) adds the further proviso to subsection (1); and paragraph (d) substitutes subsection (2).


16 (1) Amends section 20A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes in subsection (2) the words preceding paragraph (b); paragraph (c) substitutes in subsection (2) (b) the words preceding subparagraph (aa); paragraph (d) substitutes subsection (2) (c); and paragraph (e) adds subsection (2) (d).

(2) The amendments effected by subsection (1) (c) shall be deemed to have come into operation as from the commencement of years ended or ending on or after 28 February 1969.


19 (1) Amends section 24F of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the proviso to subsection (4) (a); paragraph (b) substitutes the proviso to subsection (7) (a); paragraph (c) adds the further proviso to subsection (7); paragraph (d) substitutes subsection (9) (b); and paragraph (e) inserts subsection (11).

(2) (a) The amendments effected by subsection (1) (a), (b) and (c) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 7 April 1987.

(b) The amendments effected by subsection (1) (d) and (e) shall, for the purposes of assessments under the principal Act, be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 23 February 1988 and shall apply in respect of any film acquired by a film owner otherwise than under a written agreement formally and finally signed by every party thereto before that date.


(2) Subsection (1) shall, for the purposes of assessment under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1987.

22 Amends section 27 (2) (b) of the Income Tax Act 58 of 1962 by adding a further (third) proviso.

23 (1) Amends section 28 (1) of the Income Tax Act 58 of 1962 by substituting the expression '70 per cent' for the expression '40 per cent'.

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 April 1988\(^1\).

[Sub-s. (2) added by s. 2 of Act 99 of 1988.]


25 Amends section 55 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes the definition of 'cumulative tax value'; and paragraph (b) substitutes in the definition of 'fair market value' the words preceding paragraph (a).

26 Amends section 56 of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes subsection (1) (gA); paragraph (b) substitutes in subsection (1) (i) the word 'religious' for the word 'ecclesiastical'; paragraph (c) substitutes in subsection (1) (j) the word 'religious' for the word 'ecclesiastical'; and paragraph (d) substitutes subsection (2) (a) and (b).

27 Amends section 57 (1) of the Income Tax Act 58 of 1962 by substituting the words preceding the proviso.


29 Amends section 61 of the Income Tax Act 58 of 1962 by substituting paragraph (g).


(2) The amendments effected by subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.


(2) The amendments effected by subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.

(2) The amendments effected by subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.


(2) The amendments effected by subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.


(2) The amendments effected by subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.


(2) The amendments effected by subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.


(2) The amendments effected by subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any tax contemplated in section 67 of the principal Act which is paid on or after that date, regardless of when liability for the payment of such tax arose.


(2) The amendments effected by subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 31 May 1988, and shall apply in respect of expenditure incurred on or after that date in respect of the acquisition of livestock.

39 Amends paragraph 12 (1) (j) of the First Schedule to the Income Tax Act 58 of 1962 by adding the proviso.

40 Amends paragraph 2 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (4).
41 Inserts after paragraph 11A in the Fourth Schedule to the Income Tax Act 58 of 1962, the heading 'Standard Income Tax on Employees and also inserts paragraph 11B.

42 Amends paragraph 12 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (3).


44 (1) Amends paragraph 7 (4) (a) of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the scale of values; paragraph (b) substitutes in paragraph (i) of the proviso the expression 'R58' for the expression 'R50'; and paragraph (c) substitutes in paragraph (ii) of the proviso the expression 'R35' for the expression 'R30'.

(2) Subsection (1) shall be deemed to have come into operation on 1 June 1988.

45 Minimum Tax on Companies

(1) In this section, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act bears the meaning so assigned thereto, and-

'company' means a company as defined in paragraph (a) of the definition of 'company' in section 1 of the principal Act if such company is a South African company as defined in that section;

'tax year', in relation to any company, means the financial year of that company which ended on 29 February 1988 or, if the company's financial year ends on a date other than the last day of February, the latest financial year of that company which ended before the said date.

(2) Subject to the provisions of subsection (5), there shall be paid for the benefit of the State Revenue Fund by every company which has in relation to the tax year of that company derived a taxable amount, as determined in accordance with the provisions of subsection (3), a tax (referred to in this section as the minimum tax) in respect of such tax year, calculated at the rate of 25 per cent of such taxable amount.

(3) For the purposes of this section a company shall be deemed to have derived a taxable amount in respect of the tax year of that company if the sum of the dividends distributed by it during that year exceeds the sum of-
(a) any normal tax for which the company has or will become liable on its taxable income for the tax year and any taxation levied by any country or territory other than the Republic on any income, profits or gains derived by the company during the tax year from a source outside the Republic; and

(b) any dividends received by or accrued to the company during the tax year, whether from a source within or outside the Republic,

and the excess shall be deemed to be the company's taxable amount for the tax year.

(4) For the purposes of this section a dividend shall be deemed to have been distributed by a company on the date on which payment of the dividend was approved by the company, its directors or some other person acting under authority conferred by the memorandum or articles of association of the company or otherwise, whether the dividend was payable on that date or on a subsequent date.

(5) There shall be exempt from the payment of the minimum tax-

(a) any company which has during the tax year distributed dividends amounting in total to less than R250 000;

(b) any company the receipts and accruals of which from sources within and outside the Republic during the tax year, excluding receipts and accruals of a capital nature and dividends, amounted in the aggregate to not more than R100 000;

(c) any company (hereinafter referred to as the distributing company) which has during the tax year distributed any dividend to one or more shareholders who on or before 24 June 1988 ceased to be shareholders in the distributing company, if the aggregate of the dividends so distributed amounted to not less than 75 per cent of the sum of all the dividends distributed by the distributing company during the tax year: Provided that-

(i) the said aggregate shall not include any dividend distributed to a company, close corporation or body corporate (such company, close corporation or body corporate being hereinafter referred to as the shareholder company) which ceased to be a shareholder in the distributing company by reason of the fact that the shareholder company disposed of its shareholding in the distributing company to another company which was the holding company or a subsidiary of the shareholder company or to a subsidiary of such holding
company;

(ii) for the purposes of paragraph (i) of this proviso 'holding company' in relation to the shareholder company means a company which was the holding company of the shareholder company as contemplated in subsection (4) of section 1 of the Companies Act, 1973 Act 61 of 1973), and 'subsidiary', in relation to the shareholder company or such holding company, means a company which was a subsidiary of the shareholder company or such holding company (as the case may be) as contemplated in subsection (3) of the said section;

(iii) where any close corporation or body corporate is a member of or holds equity share capital in a company such close corporation or body corporate shall in applying the provisions of the said subsections (3) or (4) for the purposes of this proviso be deemed to be a company;

(d) any fixed property company referred to in section 11 (s) of the principal Act;

(e) any company the receipts and accruals of which are exempt from normal tax under the provisions of section 10 (1) (t) of the principal Act;

(f) any company the winding up or liquidation whereof has commenced not later than 30 September 1988: Provided that if at any time after the end of the period of 12 months reckoned from the commencement of the winding up or liquidation the steps necessary for the winding up or liquidation have not been actively taken, the Commissioner, having regard to the circumstances of the case, may notify the company that the exemption under this paragraph is withdrawn and in such case the exemption shall for the purposes of this section be deemed to have been withdrawn with effect from 30 September 1988.

(6) (a) Every company which is liable for the minimum tax and every other company when required by the Commissioner shall, not later than 30 September 1988 or within such period ending after that date as the Commissioner, having regard to the circumstances of the case, may allow, furnish to the Commissioner a declaration in such form as the Commissioner may prescribe, giving such information as may be required for the purposes of this section.

(b) Any company, whether or not liable for the minimum tax, to which a notification has been issued by the Commissioner that it is required to submit such a declaration, shall furnish such declaration to the Commissioner not later
than the said date or within such period as the Commissioner may allow.

(7) The minimum tax for which any company is liable shall be calculated by that company on the declaration referred to in subsection (6) and payment thereof shall accompany such declaration and be made not later than 30 September 1988 or within the period allowed by the Commissioner under the said subsection: Provided that where the amount of normal tax or taxation referred to in subsection (3) (a) has not yet been finally determined, the company shall estimate such amount.

(8) (a) If any company fails to pay the minimum tax for which it is liable in full on or before 30 September 1988 interest shall be paid by the company on the outstanding amount of such tax for the period from 1 October 1988 to the date of payment of such amount at a rate equal to the rate applicable for purposes of the principal Act under paragraph (b) of the definition of 'prescribed rate' in section 1 of that Act.

(b) If a payment of minimum tax is made by any company in excess of its liability for such tax the excess shall on application be refundable to it and interest shall be payable to the company on the excess for the period from the date of payment of the excess to the date on which the refund is made at a rate equivalent to the rate applicable for purposes of the said Act under paragraph (a) of the said definition.

(9) Where it appears to the Commissioner that the amount of minimum tax due by any company has not been paid in full when required by this section the Commissioner may raise an assessment in respect of the amount due and any interest payable thereon.

(10) (a) Any assessment raised by the Commissioner under this section shall be subject to objection and appeal.

(b) The provisions of the principal Act relating to objections and appeals concerning assessments under that Act shall mutatis mutandis apply in respect of objections and appeals concerning assessments under this section.

(11) The minimum tax and any interest thereon which is due by any company shall be a debt due to the State and shall be recoverable by the Commissioner in the manner prescribed in the principal Act for the recovery of any tax or interest due under that Act.

(12) The amount of minimum tax paid by any company (less so much thereof as became refundable in terms of subsection (8) (b)) shall be available as a credit to be set off, on application, against any unpaid amount of provisional tax payable in respect of any period ending on or after the date of commencement of this Act or any unpaid amount of normal tax which has become payable on
assessment, the amount of minimum tax so available as a credit being reduced by the amount so set off.

(13) Where on 1 October 1991 any balance of the minimum tax paid by a company remains available as a credit as contemplated in subsection (12), so much of such balance as the Commissioner is satisfied is not required for set off against provisional tax or normal tax which is due and has not been paid on the said date, shall be refunded to the company.

(14) Where the winding up or liquidation of any company commences on or after 1 October 1988 and before 1 October 1991, the Commissioner may, if he is satisfied that all the formalities for such winding up or liquidation will be complied with within a period of 12 months after the commencement of the winding up or liquidation, make a refund to the company of so much of any balance of the minimum tax paid by the company as remains available as a credit as contemplated in subsection (12) and is not required for set off against provisional tax or normal tax which is or will be payable by the company.

(15) Sections 4, 75, 78, 79, 82, 88, 104 and 105A of the principal Act shall mutatis mutandis apply in relation to the provisions of this section as though such provisions were provisions of the said Act.

46 Withdrawal of Government Notice 956 of 11 May 1988

Government Notice 956 of 11 May 1988 is hereby withdrawn with effect from 1 June 1988.

47 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall be deemed to have taken effect-

(a) for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, as from the commencement of years of assessment ending on or after 1 January 1989; and

(b) for the purposes of the donations tax levied under the principal Act, in respect of donations which have taken effect or take effect, as contemplated in section 55(3) of that Act, on or after 16 March 1988.

48 Short title

This Act shall be called the Income Tax Act, 1988.
Schedule


(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:

(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

<table>
<thead>
<tr>
<th>TABLES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxable Income</td>
</tr>
<tr>
<td>Where the taxable income does not exceed R12 000</td>
</tr>
<tr>
<td>exceeds R12 000 but does not exceed R13 000</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R20 000</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R22 000</td>
</tr>
<tr>
<td>&quot; R22 000 &quot; &quot; &quot; &quot; R24 000</td>
</tr>
<tr>
<td>&quot; R24 000 &quot; &quot; &quot; &quot; R26 000</td>
</tr>
<tr>
<td>&quot; R26 000 &quot; &quot; &quot; &quot; R28 000</td>
</tr>
<tr>
<td>&quot; R28 000 &quot; &quot; &quot; &quot; R30 000</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R35 000</td>
</tr>
<tr>
<td>&quot; R35 000 &quot; &quot; &quot; &quot; R40 000</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; R50 000</td>
</tr>
<tr>
<td>&quot; R50 000 &quot; &quot; &quot; &quot; R60 000</td>
</tr>
<tr>
<td>&quot; R60 000 &quot; &quot; &quot; &quot; R70 000</td>
</tr>
<tr>
<td>&quot; R70 000 &quot; &quot; &quot; &quot; R80 000</td>
</tr>
<tr>
<td>Taxable Income</td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>Where the taxable income—</td>
</tr>
<tr>
<td>does not exceed R10 000</td>
</tr>
<tr>
<td>exceeds R10 000 but does not exceed R11 000</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R20 000</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R22 000</td>
</tr>
<tr>
<td>&quot; R22 000 &quot; &quot; &quot; &quot; R24 000</td>
</tr>
<tr>
<td>&quot; R24 000 &quot; &quot; &quot; &quot; R26 000</td>
</tr>
<tr>
<td>&quot; R26 000 &quot; &quot; &quot; &quot; R28 000</td>
</tr>
<tr>
<td>&quot; R28 000 &quot; &quot; &quot; &quot; R30 000</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R36 000</td>
</tr>
<tr>
<td>&quot; R36 000 &quot; &quot; &quot; &quot; R42 000</td>
</tr>
<tr>
<td>&quot; R42 000 &quot; &quot; &quot; &quot; R48 000</td>
</tr>
<tr>
<td>&quot; R48 000 &quot; &quot; &quot; &quot; R54 000</td>
</tr>
<tr>
<td>&quot; R54 000 .........................</td>
</tr>
</tbody>
</table>

INCOME TAX AMENDMENT ACT 99 OF 1988

[ASSENTED TO 16 SEPTEMBER 1988] [DATE OF COMMENCEMENT: 30 SEPTEMBER 1

(Afrikaans text signed by the State President)

To amend the Income Tax Act, 1962, so as to make further provision with regard to pension funds; to amend the Income Tax Act, 1988, so as to provide for the date of commencement of a certain amendment effected by
that Act; and to provide for incidental matters.

1 (1) Amends section 1 of the Income Tax Act 58 of 1962 by substituting in paragraph (c) of the definition of ‘pension fund’ the words preceding the proviso.

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after 28 February 1989.

2 Amends section 23 of the Income Tax Act 90 of 1988 by adding subsection (2), the existing section becoming subsection (1).

3 Short title

This Act shall be called the Income Tax Amendment Act, 1988.

INCOME TAX ACT 70 OF 1989

[ASSENTED TO 1 JUNE 1989] [DATE OF COMMENCEMENT: 9 JUNE 1989] (Unless otherwise indicated)

(Afrikaans text signed by the State President)

as amended by

Income Tax Act 101 of 1990

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending 28 February 1990 and 30 June 1990, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1990; to amend the Income Tax Act, 1962; to provide that certain provisions of the said Income Tax Act, 1962, shall not apply to expenditure incurred in connection with certain films; to provide for the payment of a loan levy; to withdraw certain Government Notices; and to provide for incidental matters.

1 Rates of Normal Tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending 28 February 1990 or 30 June 1990; and
the taxable income of any company for any year of assessment ending during the period of 12 months ending 31 March 1990,

shall be as set forth in the Schedule to this Act.

2 Amends section 1 of the Income Tax Act 58 of 1962 as follows: paragraph (a) substitutes paragraph (a) of the definition of 'married person'; paragraph (b) inserts the definition of 'married woman'; paragraph (c) deletes the definitions of 'new deep level gold mine' and 'new gold mine'; and paragraph (d) substitutes the definition of 'other deep level gold mine'.

3 Amends section 4 of the Income Tax Act 58 of 1962 as follows: paragraph (a) inserts subsection (2A); and paragraph (b) substitutes subsection (3).

4 (1) Amends section 6 of the Income Tax Act 58 of 1962 as follows: paragraph (a) substitutes subsections (1) and (2); paragraph (b) substitutes in subsection (3) the words preceding paragraph (a); paragraph (c) adds paragraph (cc) to the proviso to subsection (3) (a); and paragraph (d) substitutes in subsection (3) (f) the expression 'R1 330' for the expression 'R380', wherever it occurs.

(2) Subsection (1) (c) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1989.

5 Amends section 7 of the Income Tax Act 58 of 1962 by substituting subsection (2).


7 (1) Amends section (10) of the Income Tax Act 58 of 1962 by substituting paragraph (b) of the second proviso to subsection (1) (h).

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 November 1987.

8 (1) Amends section (11) of the Income Tax Act 58 of 1962 as follows: paragraph (a) substitutes in paragraph (bB) the words preceding the proviso; and paragraph (b) substitutes paragraph (vii) of the proviso to paragraph (n).

(2) Subsection (1) (a) shall be deemed to have come into operation on 22 May 1989 and shall apply to any finance charge incurred in respect of any machinery, plant, aircraft, implement, utensil, article or livestock acquired on or after that date.


11 Amends section 18 of the Income Tax Act 58 of 1962 by substituting the second proviso to subsection (1).


13 (1) Amends section 28 of the Income Tax Act 58 of 1962 as follows: paragraph (a) substitutes in subsection (1) the words preceding paragraph (b); and paragraph (b) inserts subsection (1B).

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 April 1989.

14 Amends section 36 (11) of the Income Tax Act 58 of 1962 as follows: paragraph (a) substitutes paragraph (a) of the definition of 'capital expenditure'; paragraph (b) substitutes paragraph (c) of the definition of 'capital expenditure'; and paragraph (c) adds paragraph (d) to the definition of 'capital expenditure'.

15 Amends section 81 of the Income Tax Act 58 of 1962 as follows: paragraph (a) substitutes in subsection (1) the expression '30' for the words 'twenty-one'; and paragraph (b) adds the proviso to subsection (2).


(2) Where, prior to the commencement of subsection (1), the Commissioner has in accordance with generally prevailing practice paid any interest to any taxpayer in consequence of an appeal conceded by the Commissioner, such interest shall, notwithstanding anything to the contrary contained in section 88 of the principal Act prior to the amendment thereof by subsection (1), be deemed to have been properly payable under the provisions of that section.

18 (1) Amends section 89quat of the Income Tax Act 58 of 1962 by adding the proviso to subsection (4).

(2) The amendment effected by subsection (1) shall be deemed to have come into operation-
(a) in relation to any company, with effect from the commencement of
years of assessment ended or ending on or after 28 February 1986;
and

(b) in relation to any person other than a company, with effect from the
commencement of years of assessment ended or ending on or
after 28 February 1987.

19 Amends section 103 of the Income Tax Act 58 of 1962 by adding
subsection (5).

20 Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of
1962 by substituting paragraph (vi) of the definition of 'remuneration'.

21 Amends paragraph 2 of the Fourth Schedule to the Income Tax Act 58 of
1962 by deleting the proviso to subparagraph (4).

22 Amends paragraph 11B of the Fourth Schedule to the Income Tax Act 58
of 1962 as follows: paragraph (a) adds the proviso to the definition of 'annual
equivalent'; paragraph (b) substitutes the definition of 'annual tax'; paragraph (c)
deletes paragraph (d) of the definition of 'net remuneration'; paragraph (d)
substitutes paragraph (f) of the definition of 'net remuneration'; paragraph (e)
inserts the definition of 'standard employment'; paragraph (f) substitutes the
definition of 'tax period'; paragraph (g) substitutes subparagraph (2); paragraph
(h) inserts subparagraph (2A); paragraph (i) substitutes item (a) of subparagraph
(3); paragraph (j) substitutes subitem (ii) of item (b) of subparagraph (3);
paragraph (k) substitutes item (a) of subparagraph (5); and paragraph (l) deletes
subparagraph (9).

23 Amends paragraph 18 of the Fourth Schedule to the Income Tax Act 58 of
1962 by substituting in subitem (i) of item (d) of subparagraph (1) the expression
'R25000' for the expression 'R20000'.

24 (1) Amends paragraph 1 of the Seventh Schedule to the Income Tax Act
58 of 1962 by substituting in the definition of 'official rate of interest' the
expression '16 per cent' for the expression '13 per cent'.

(2) Subsection (1) shall come into operation on 1 June 1989.

25 (1) Amends paragraph 7 of the Seventh Schedule to the Income Tax Act
58 of 1962 by substituting item (a) of subparagraph (4).

(2) Subsection (1) shall come into operation on 1 June 1989.

26 Repeals paragraph 18 of the Seventh Schedule to the Income Tax Act 58
of 1962.

......

[S. 28 repealed by s. 62 of Act 101 of 1990.]

29 Loan levy on companies

(1) In this section, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act [the Income Tax Act 58 of 1962] bears the meaning so assigned thereto, and 'latest assessment', in relation to any company, means the latest assessment of normal tax payable by such company in respect of its latest year of assessment, which has been issued by the Commissioner and posted to the company not later than 15 July 1989.

(2) Subject to the provisions of subsection (4), there shall be paid for the benefit of the State Revenue Fund by every company which has become liable for the payment of normal tax in terms of its latest assessment, a levy (referred to in this section as the loan levy) calculated as provided in subsection (3).

(3) The loan levy shall be calculated at the rate of 10 per cent of every completed amount of R1 000 of normal tax payable by a company in terms of its latest assessment, but excluding-

(a) so much of any such normal tax as was imposed by way of a surcharge; and

(b) any additional tax imposed under section 76 of the principal Act:

Provided that the loan levy shall not be payable by any company if the amount thereof for which such company is liable is less than R5 000.

(4) Where the Commissioner is satisfied that the normal tax payable in terms of the latest assessment of any company is in consequence of an error in such assessment greater than the normal tax properly payable by the company in respect of the relevant year of assessment, or where any company has lodged objection or appeal against its latest assessment and the Commissioner is satisfied that the company has a reasonable prospect of succeeding with such objection or appeal, the Commissioner may direct that the loan levy payable by such company is liable in respect of such year or will be liable should such objection or appeal succeed.

(5) There shall be exempt from the payment of the loan levy any company
the winding up or liquidation whereof has commenced not later than 31 July 1989: Provided that if at any time after the end of the period of 12 months reckoned from the commencement of the winding up or liquidation the steps necessary for the winding up or liquidation have not actively been taken, the Commissioner, having regard to the circumstances of the case, may notify the company that the exemption under this subsection is withdrawn and in such case the exemption shall for the purposes of this section be deemed to have been withdrawn with effect from 31 July 1989.

(6) (a) The loan levy shall be repayable not later than 31 July 1994.

(b) Simple interest calculated six-monthly in arrear at the rate of 16 per cent per annum shall be payable on the loan levy in such manner as the Minister may determine.

(7) (a) Every company which is liable for the payment of the loan levy shall not later than 31 July 1989 furnish to the Commissioner a declaration in such form as the Commissioner may require.

(b) The loan levy for which any company is liable shall be calculated by that company on the declaration referred to in paragraph (a) and payment thereof shall be made not later than 31 July 1989.

(8) If any company fails to pay the loan levy for which it is liable in full on or before 31 July 1989 interest shall be paid by the company on the outstanding amount of such loan levy for the period from 1 August 1989 to the date of payment of such amount at a rate equal to the rate applicable for purposes of the principal Act under paragraph (b) of the definition of 'prescribed rate' in section 1 of that Act.

(9) Where it appears to the Commissioner that the amount of loan levy due by any company has not been paid in full when required by this section the Commissioner may raise an assessment in respect of the amount due and any interest payable thereon.

(10) The loan levy and any interest thereon which is due by any company shall be a debt due to the State and shall be recoverable by the Commissioner in the manner prescribed in the principal Act for the recovery of any tax or interest due under that Act.

(11) No provision of the principal Act conferring any exemption from normal tax in respect of interest derived on the loan portion of any normal tax shall apply to the loan levy.

30 Withdrawal of Government Notice R714 and Government Notice R715 of 14 April 1989
Government Notices R714 and R715 of 14 April 1989 are hereby withdrawn with effect from 1 June 1989.

31 **Commencement of certain amendments**

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1990.

32 **Short title**

This Act shall be called the Income Tax Act, 1989.

**Schedule**

**RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING ON 28 FEBRUARY 1990 AND 30 JUNE 1990, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF TWELVE MONTHS ENDING 31 MARCH 1990.**

(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:

(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

<table>
<thead>
<tr>
<th>TABLES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Taxable Income</strong></td>
</tr>
<tr>
<td>Where the taxable income does not exceed R12 000</td>
</tr>
<tr>
<td>exceeds R12 000 but does not exceed R13 000</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R20 000</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R22 000</td>
</tr>
<tr>
<td>Taxable Income</td>
</tr>
<tr>
<td>---------------</td>
</tr>
<tr>
<td>Where the taxable income does not exceed R10 000</td>
</tr>
<tr>
<td>exceeds R10 000 but does not exceed R11 000</td>
</tr>
<tr>
<td>&quot; R11 000 &quot; &quot; &quot; &quot; R12 000</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R13 000</td>
</tr>
<tr>
<td>&quot; R13 000 &quot; &quot; &quot; &quot; R14 000</td>
</tr>
<tr>
<td>&quot; R14 000 &quot; &quot; &quot; &quot; R15 000</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R16 000</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R18 000</td>
</tr>
<tr>
<td>&quot; R18 000 &quot; &quot; &quot; &quot; R20 000</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R22 000</td>
</tr>
<tr>
<td>&quot; R22 000 &quot; &quot; &quot; &quot; R24 000</td>
</tr>
<tr>
<td>&quot; R24 000 &quot; &quot; &quot; &quot; R26 000</td>
</tr>
<tr>
<td>&quot; R26 000 &quot; &quot; &quot; &quot; R28 000</td>
</tr>
<tr>
<td>&quot; R28 000 &quot; &quot; &quot; &quot; R30 000</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R36 000</td>
</tr>
<tr>
<td>&quot; R36 000 &quot; &quot; &quot; &quot; R42 000</td>
</tr>
<tr>
<td>&quot; R42 000 &quot; &quot; &quot; &quot; R48 000</td>
</tr>
</tbody>
</table>

- R22 000 R3 900 plus 29 per cent of the amount by which the taxable income exceeds R22 000;
- R24 000 R4 480 plus 31 per cent of the amount by which the taxable income exceeds R24 000;
- R26 000 R5 100 plus 33 per cent of the amount by which the taxable income exceeds R26 000;
- R28 000 R5 760 plus 35 per cent of the amount by which the taxable income exceeds R28 000;
- R30 000 R6 460 plus 37 per cent of the amount by which the taxable income exceeds R30 000;
- R35 000 R7 810 plus 39 per cent of the amount by which the taxable income exceeds R35 000;
- R40 000 R10 260 plus 41 per cent of the amount by which the taxable income exceeds R40 000;
- R50 000 R14 360 plus 42 per cent of the amount by which the taxable income exceeds R50 000;
- R60 000 R18 560 plus 43 per cent of the amount by which the taxable income exceeds R60 000;
- R70 000 R22 860 plus 44 per cent of the amount by which the taxable income exceeds R70 000;
- R80 000 plus 45 per cent of the amount by which the taxable income exceeds R80 000;
Taxable Income | Rates of Tax in respect of Married Women
---|---
Where the taxable income—does not exceed R20 000 | 25 per cent of each R1 of the taxable income;
" R20 000 " " " " R24 000 | R5 000 plus 28 per cent of the amount by which the taxable income exceeds R20 000;
" R24 000 " " " " R28 000 | R6 120 plus 30 per cent of the amount by which the taxable income exceeds R24 000;
" R28 000 " " " " R32 000 | R7 320 plus 32 per cent of the amount by which the taxable income exceeds R28 000;
" R32 000 " " " " R36 000 | R8 600 plus 34 per cent of the amount by which the taxable income exceeds R32 000;
" R36 000 " " " " R40 000 | R9 960 plus 36 per cent of the amount by which the taxable income exceeds R36 000;
" R40 000 " " " " R54 000 | R14 870 plus 44 per cent of the amount by which the taxable income exceeds R48 000;
" R54 000 " " " " R14 780 plus 44 per cent of the amount by which the taxable income exceeds R54 000;

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e) and (g)), 50 cents;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:

\[ y = 73 - \frac{428}{x} \]

in which formula \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion);

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 principal Act), a percentage determined in accordance with the formula:
\[ y = 73 - \frac{\text{---}}{x} \]

in which formula \( y \) represents such percentage and \( x \) the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion);

(e) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(f) on each rand of the taxable income derived by any company from mining operations (other than for gold), 50 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 12 per cent of such amount; and

(g) on each rand of the taxable income derived by any company from the carrying on of long-term insurance business, 45 cents.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3 In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.
INCOME TAX ACT 101 OF 1990

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1991 and 30 June 1991, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1991; to amend the Income Tax Act, 1962; to withdraw certain Government Notices; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1991 or 30 June 1991; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1991,

shall be as set forth in the Schedule to this Act.

2 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the provisos to the definition of ‘gross income’; paragraph (b) substitutes paragraph (ii) (dd) of the proviso to paragraph (c) of the definition of ‘pension fund’; paragraph (c) inserts the definition of ‘post-1990 gold mine’; paragraph (d) substitutes paragraph (b) (ii) of the proviso to the definition of ‘retirement annuity fund’; and paragraph (e) substitutes the definition of ‘trading stock’.

(2) Subsection (1) (a) shall be deemed to have come into operation on 1 July 1962 and shall apply in respect of all amounts accrued on or after that date.

3 Amends section 6 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (2) (a) the expression ‘R2 100’ for the expression ‘R1 250’; paragraph (b) substitutes in subsection (2) (b) the expression ‘R1 800’ for the expression ‘R850’; paragraph (c) substitutes in
subsection (2) (c) the expression 'R700' for the expression 'R1 075'; paragraph (d) adds the proviso to subsection (3) (e); and paragraph (e) substitutes in subsection (3) (f) the expression 'R1 980' for the expression 'R1 330', wherever it occurs.


5 (1) Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds subsection (1) (b) (iv); paragraph (b) substitutes in subsection (1) (c) (i) the expression 'R150' for the expression 'R130'; and paragraph (c) substitutes in subsection (4) (e) the words preceding subparagraph (i).

(2) Subsection (1) (c) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending after 15 December 1989.


(2) Subsection (1) shall be deemed to have come into operation on 1 March 1990 and shall apply in respect of advances, loans or payments made on or after that date.


(2) Subsection (1) shall be deemed to have come into operation on 1 March 1990 and shall apply in respect of dividends received or accrued on or after that date.


10 (1) Amends section 10 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (dA); paragraph (b) adds the further proviso to subsection (1) (h); paragraph (c) inserts in subsection (1) (i) the words before subparagraph (i); paragraph (d) deletes subsection (1) (i) (iv); paragraph (e) inserts subsection (1) (i) (vi); paragraph (f) deletes subsection (1) (i) (xiA), (xiC), (xiD), (xiDA), (xiDB), (xiDC) and (xiE); paragraph (g) substitutes subsection (1) (i) (xiiA); paragraph (h) substitutes in subsection (1) (i) (xv) the expression 'R2 000' for the expression 'R1 000'; paragraph (i) substitutes in subsection (1) (i) (xvi) the expression 'R2 000' for the expression 'R1 000'; paragraph (j) substitutes subsection (1) (k) (i); paragraph (k) deletes subsection (1) (k) (ii), (iii) and (v); paragraph (l) deletes subsection (1) (kA); paragraph (m) deletes
subsection (1) (l); paragraph (n) inserts subsection (1) (nH); paragraph (o) adds the further proviso to subsection (1) (x); paragraph (p) deletes subsection (1) (y); paragraph (q) substitutes subsection (1) (zA); paragraph (r) adds subsection (1) (zG); and paragraph (s) adds subsection (4).

(2) (a) Subsection (1) (a) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 April 1989.

(b) Subsection (1) (b) shall be deemed to have come into operation on a date fixed by the Minister of Finance by notice in the Gazette and shall apply in respect of all interest received or accrued on or after that date.

(c) Subsection (1) (g) shall be deemed to have come into operation on 1 August 1989 and shall apply in respect of all interest received or accrued on or after that date.

(d) Subsection (1) (j), (k), (l) and (m) shall be deemed to have come into operation on 1 March 1990 and shall apply in respect of all dividends received or accrued on or after that date.

(e) Subsection (1) (q) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 April 1990.

(f) Subsection (1) (r) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 15 May 1989.

11 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (e) the words preceding the proviso; paragraph (b) substitutes paragraph (n) (aa) (A); paragraph (c) substitutes in the Afrikaans text paragraph (vii) of the proviso to paragraph (n); paragraph (d) adds paragraph (viii) to the proviso to paragraph (n); and paragraph (e) substitutes in paragraph (o) the words preceding the proviso.

(2) (a) Subsection (1) (a) and (e) shall be deemed to have come into operation on 15 December 1989.

(b) Subsection (1) (d) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 28 February 1989.

12 Amends section 11 sept (3) of the Income Tax Act 58 of 1962 by adding the proviso.
13 (1) Amends section 12B of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds subsection (4)(e); and paragraph (b) inserts subsection (4A).

(2) Subsection (1) shall be deemed to have come into operation on 15 December 1989.


(2) Subsection (1) shall be deemed to have come into operation on 15 December 1989.


16 Amends section 18 of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes the second proviso to subsection (1); and paragraph (b) substitutes subsection (2)(b).

17 Amends section 18A (2) of the Income Tax Act 58 of 1962 by substituting paragraph (aa).

18 (1) Amends section 19 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1A) the expression 'R2000' for the expression 'R1000'; paragraph (b) substitutes in subsection (3) the words preceding paragraph (a); and paragraph (c) inserts subsection (4).

(2) Subsection (1) (b) shall be deemed to have come into operation on 1 March 1990.

19 Amends section 20 of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds paragraph (iii) to the proviso to subsection (1) (a); and paragraph (b) deletes subsection (3).


21 Amends section 22 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subsection (2A); paragraph (b) inserts subsections (3A) and (3B); paragraph (c) adds the further proviso to subsection (5) (e); and paragraph (d) adds the further proviso to subsection (8).

22 (1) Amends section 23A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) paragraph (b) of the definition of 'affected asset'; paragraph (b) substitutes in subsection (1) the definition of 'rental income'; and paragraph (c) substitutes subsection (2).
(2) Subsection (1) shall be deemed to have come into operation on 15 December 1989.

23 Amends section 24 of the Income Tax Act 58 of 1962 by adding subsections (5) and (6).

24 (1) Amends section 24F of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes in subsection (1) the definition of 'write-off period'; paragraph (b) substitutes subsection (3); paragraph (c) deletes subsections (5) and (6); and paragraph (d) substitutes subsection (9) (a).

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 15 May 1989 and shall apply in respect of any film the production of which is commenced on or after that date.

25 (1) Amends section 28 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes in subsection (1B) the expression 'subsection (1)' for the expression 'subsection (1) (a)'; and paragraph (c) substitutes in subsection (3) the expression 'subsection (1)' for the expression 'subsection (1) (a)'.

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1989.

26 Amends section 36 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (7C) the words preceding paragraph (a); paragraph (b) substitutes subsection (7E); paragraph (c) substitutes in subsection (7F) the words preceding the proviso; paragraph (d) inserts subsection (7G); and paragraph (e) substitutes in subsection (11) the words preceding the proviso in paragraph (c) of the definition of 'capital expenditure'.


28 (1) Amends section 40A of the Income Tax Act 58 of 1962 by deleting subsections (2), (3) and (4).

(2) Subsection (1) shall be deemed to have come into operation on 1 March 1990 and is applicable in respect of any conversion as referred to in subsection (1) of the said section 40A which occurs on or after that date.


(2) Notwithstanding the provisions of subsection (1), the exemption from
non-resident shareholders’ tax provided for in section 40B (3) (d) of the principal Act, shall continue to apply to any dividend declared by a company not later than 30 September 1990, if the winding up or deregistration of such company was commenced on or before the date of promulgation of this Act.


(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 March 1990.


(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 March 1990.


(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 March 1990.


(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 March 1990.


(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 March 1990.


(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 March 1990.


37 Amends section 66 (1) (b) (ii) (aa) of the Income Tax Act 58 of 1962 by substituting the expression 'R2 000' for the expression 'R1 000'.
38 Amends section 67 of the Income Tax Act 58 of 1962 by deleting subsection (5).

39 Amends section 68 (1) of the Income Tax Act 58 of 1962 by substituting the words preceding the proviso.

40 Amends section 75 (1) of the Income Tax Act 58 of 1962 by substituting the expression 'R300' for the expression 'one hundred rand'.

41 Amends section 77 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (5) the expression '30' for the expression 'twenty-one'; and paragraph (b) adds subsection (8).


43 Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962 by adding the proviso to the definition of 'formula B'.

44 (1) Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the definition of 'employee' (date of commencement: 11 December 1992); paragraph (b) substitutes the definition of 'employer' (date of commencement: 11 December 1992); paragraph (c) inserts the definition of 'labour broker' (date of commencement: 11 December 1992); paragraph (d) substitutes in the definition of 'remuneration' the words preceding paragraph (a); paragraph (e) substitutes in paragraph (ii) of the definition of 'remuneration' the words preceding the proviso (date of commencement: 11 December 1992); paragraph (f) deletes paragraph (iv) of the definition of 'remuneration'; and paragraph (g) substitutes paragraph (vii) of the definition of 'remuneration'.

(2) Subsection (1) (d), (f) and (g) shall come into operation on 1 March 1991.

45 Amends paragraph 2 of the Fourth Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (5).

[Date of commencement of s. 45: 11 December 1992.]

46 Amends paragraph 9 (1) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'section 6' for the expression 'section 6 (2) and 3 (a)'.

47 Amends paragraph 11B of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subparagraph (1) the definition
of 'annual tax'; paragraph (b) substitutes in subparagraph (1) paragraphs (b) and (c) of the definition of 'net remuneration'; paragraph (c) deletes in subparagraph (1) paragraph (e) of the definition of 'net remuneration'; paragraph (d) substitutes in subparagraph (1) paragraph (b) of the definition of 'standard employment'; paragraph (e) substitutes in subparagraph (1) paragraph (b) of the proviso to the definition of 'tax period'; paragraph (f) substitutes subparagraph (2) (a) and (b); paragraph (g) substitutes subparagraph (3) (a) and (b); paragraph (h) substitutes in subparagraph (4) the words preceding item (a); and paragraph (i) adds subparagraph (9).

48 Amends paragraph 12 of the Fourth Schedule to the Income Tax Act 58 of 1962 by inserting subparagraph (1A).

49 Amends paragraph 13 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); paragraph (b) inserts subparagraph (1A); and paragraph (c) substitutes in subparagraph (2) (a) the expression '60 days' for the expression 'fourteen days'.

50 Amends paragraph 14 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (3).

51 Amends paragraph 17 of the Fourth Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (8).

52 (1) Amends paragraph 19 (1) of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) adds item (d) (iii); and paragraph (b) adds the proviso to item (e) (ii).

(2) Subsection (1) (a) shall apply to the payment of provisional tax required to be made under paragraph 21 (1) (b) of the Fourth Schedule to the Income Tax Act 58 of 1962 in respect of the year of assessment ending on 28 February 1991 and to any payment of provisional tax required to be made in respect of any subsequent year of assessment.

53 Amends paragraph 23 of the Fourth Schedule to the Income Tax Act 58 of 1962 by adding the words after subparagraph (b).

[Date of commencement of s. 53: 11 December 1992.]


55 (1) Amends paragraph 1 of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting in the definition of 'official rate of interest' the expression '19 per cent' for the expression '16 per cent'.
(2) Subsection (1) shall be deemed to have come into operation on 1 May 1990.

56 Amends paragraph 2 of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (f).

57 (1) Amends paragraph 5 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the proviso to subparagraph (2); and paragraph (b) substitutes subparagraph (3) (a) and (b).

(2) Subsection (1) shall be deemed to have come into operation on the date of commencement of this Act and shall apply in respect of any asset acquired by an employee on or after that date.

58 (1) Amends paragraph 7 (4) of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting item (a).

(2) Subsection (1) shall be deemed to have come into operation on 1 May 1990.

59 Amends paragraph 9 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subparagraph (4) (b) the expression 'R35' for the expression 'R25'; paragraph (b) substitutes subparagraph (9); and paragraph (c) adds subparagraph (10).

60 (1) Amends paragraph 10A of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (2).

(2) Subsection (1) shall be deemed to have come into operation on 14 March 1990 and shall apply in respect of all agreements entered into on or after that date.


63 Withdrawal of Government Notice R763 and Government Notice R764 of 29 March 1990

Government Notices R763 and R764 of 29 March 1990 are hereby withdrawn with effect from 1 May 1990.

64 Commencement of certain amendments
(1) Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act (other than the amendments referred to in subsection (2)) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1991.

(2) The amendments effected by sections 44 (1) (a), (b), (c) and (e), 45 and 53 shall come into operation on a date fixed by the Minister of Finance by notice in the Gazette and shall apply to any remuneration which is paid or becomes payable by an employer to an employee on or after a date determined by the said Minister in the said notice.

65 Short title

This Act shall be called the Income Tax Act, 1990.

Schedule


(Section 1 of this Act)

1 The rates of normal tax referred to in section 1 of this Act are as follows:-

(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income does not exceed R5 000</td>
<td>16 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R800 plus 18 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 700 plus 20 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R2 700 plus 22 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R25 000</td>
<td>R3 800 plus 24 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R25 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R5 000 plus 27 per cent of the amount by which the taxable income exceeds R25 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R35 000</td>
<td>R6 350 plus 30 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>Rates of Tax in respect of Persons who are not Married Persons</td>
</tr>
<tr>
<td>----------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>Where the taxable income-</td>
<td>R15 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>does not exceed R4 000</td>
<td></td>
</tr>
<tr>
<td>exceeds R4 000 but does not exceed R8 000</td>
<td>R600 plus 18 per cent of the amount by which the taxable income exceeds R4 000;</td>
</tr>
<tr>
<td>&quot; R8 000 &quot; &quot; &quot; &quot; R12 000</td>
<td>R1 320 plus 21 per cent of the amount by which the taxable income exceeds R8 000;</td>
</tr>
<tr>
<td>&quot; R12 000 &quot; &quot; &quot; &quot; R16 000</td>
<td>R2 160 plus 24 per cent of the amount by which the taxable income exceeds R12 000;</td>
</tr>
<tr>
<td>&quot; R16 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R3 120 plus 27 per cent of the amount by which the taxable income exceeds R16 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R24 000</td>
<td>R4 200 plus 30 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R24 000 &quot; &quot; &quot; &quot; R28 000</td>
<td>R5 400 plus 33 per cent of the amount by which the taxable income exceeds R24 000;</td>
</tr>
<tr>
<td>&quot; R28 000 &quot; &quot; &quot; &quot; R32 000</td>
<td>R6 720 plus 36 per cent of the amount by which the taxable income exceeds R28 000;</td>
</tr>
<tr>
<td>&quot; R32 000 &quot; &quot; &quot; &quot; R36 000</td>
<td>R8 160 plus 39 per cent of the amount by which the taxable income exceeds R32 000;</td>
</tr>
<tr>
<td>&quot; R36 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R9 720 plus 40 per cent of the amount by which the taxable income exceeds R36 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; R44 000</td>
<td>R11 400 plus 41 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R44 000 &quot; &quot; &quot; &quot; R48 000</td>
<td>R12 960 plus 42 per cent of the amount by which the taxable income exceeds R44 000;</td>
</tr>
<tr>
<td>&quot; R48 000 &quot; &quot; &quot; &quot; R56 000</td>
<td>R14 640 plus 43 per cent of the amount by which the taxable income exceeds R48 000;</td>
</tr>
<tr>
<td>&quot; R56 000 .......................</td>
<td>R18 080 plus 44 per cent of the amount by which the taxable income exceeds R56 000;</td>
</tr>
</tbody>
</table>
(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in sub-paragraphs (e) and (g)), 50 cents;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (with the exclusion of so much of the taxable income as the Commissioner 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 principal Act, but after the set-off of any assessed loss in terms of section 20 (1) of the principal Act), a percentage determined in accordance with the formula:

\[
y = 71 - \frac{409}{x}
\]

in which formula \( y \) 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);

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (with the exclusion of so much of the taxable income as the Commissioner 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 principal Act, but after the set-off of any assessed loss in terms of section 20 (1) of the principal Act), a percentage determined in accordance with the formula:

\[
y = 71 - \frac{516}{x}
\]
in which formula \( y \) 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);

\((e)\) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

\((f)\) on each rand of the taxable income derived by any company from mining operations (other than mining for gold), 50 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 9 per cent of such amount; and

\((g)\) on each rand of the taxable income derived by any company from the carrying on of long-term insurance business, 45 cents.

2 (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

(3) In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.
INCOME TAX ACT 129 OF 1991

[ASSENTED TO 27 JUNE 1991]  [DATE OF COMMENCEMENT: 12 JULY 1991]
(Unless otherwise indicated)

(English text signed by the State President)

as amended by

Income Tax Act 113 of 1993

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 29 February 1992 and 30 June 1992, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1992; to amend the Income Tax Act, 1962; to provide for an initial allowance on certain machinery and plant; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962) (hereinafter referred to as the principal Act), in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 29 February 1992 or 30 June 1992; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1992,

shall be as set forth in the Schedule to this Act.

2 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes paragraph (g) (iii) of the definition of ‘gross income’;
paragraph (b) substitutes the definition of ‘person’;
paragraph (c) deletes the definition of ‘post-1966 gold mine’; and paragraph (d) substitutes the definition of ‘trade’.

(2) (a) Subsection (1) (b) shall be deemed to have come into operation as from the commencement of years of assessment which commenced or commence on or after 1 March 1986.

(b) Subsection (1) (c) shall be deemed to have come into operation as
from the commencement of years of assessment ending during the period of 12 months ending on 31 March 1992.

3 Amends section 5 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2A); and paragraph (b) substitutes subsection (10) (d) (iii).

4 Amends section 6 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes in subsection (2) the words preceding paragraph (a); paragraph (c) substitutes in subsection (2) (a) the expression 'R2 000' for the expression 'R2 100'; paragraph (d) substitutes in subsection (2) (b) the expression 'R1 625' for the expression 'R1 800'; paragraph (e) substitutes in subsection (2) (c) the expression 'R800' for the expression 'R700'; paragraph (f) adds the further proviso to subsection (3) (e); paragraph (g) substitutes in subsection (3) (f) the expression 'R2 100' for the expression 'R1980', wherever it occurs; and paragraph (h) adds the proviso to subsection (3).


8 (1) Amends section 7A of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes subsection (4); and paragraph (b) substitutes subsection (4A) (b) and (c).

(2) Subsection (1) (a) shall come into operation on 1 August 1991 and shall apply in respect of any amount received or accrued on or after that date: Provided that, notwithstanding the deletion of the said subsection (4), any amount received or accrued before 1 August 1991 and which has been dealt with under the provisions of the said subsection (4), shall be deemed to have accrued on the basis elected by the taxpayer prior to the deletion of the said subsection (4).

9 Amends section 8 (1) (b) of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes the proviso to subparagraph (i); and paragraph (b) substitutes paragraphs (aa) and (bb) of the proviso to subparagraph (ii).

10 Amends section 9 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (b) (i); and paragraph (b) substitutes paragraph (fA).

11 Amends section 9B of the Income Tax Act 58 of 1962 by deleting
subsection (5).

12 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts paragraph (cH); paragraph (b) substitutes paragraph (aa) of the proviso to paragraph (k) (i); paragraph (c) substitutes the proviso to paragraph (m); paragraph (d) deletes paragraph (n) (date of commencement: 1 March 1992); paragraph (e) deletes paragraph (nC) (date of commencement: 1 March 1992); paragraph (f) deletes paragraph (nD); paragraph (g) deletes paragraph (nF); paragraph (h) adds the proviso to paragraph (nG); paragraph (i) deletes paragraph (q) (date of commencement: 1 March 1992); paragraph (j) deletes paragraph (qA) (date of commencement: 1 March 1992); paragraph (k) adds paragraph (t) (xii); paragraph (l) substitutes paragraph (x) (ii) and (iii); and paragraph (m) substitutes in paragraph (zA) the words preceding the proviso.

(2) (a) Subsection (1) (b) shall be deemed to have come into operation on 1 March 1990 and shall apply in respect of any dividend received or accruing on or after that date.

(b) Subsection (1) (d) shall come into operation on 1 March 1992 and shall apply in respect of any amount received or accruing on or after that date.

(c) Subsection (1) (e) shall come into operation on 1 March 1992 and shall apply in respect of any benefit or advantage accruing on or after that date.

(d) Subsection (1) (i) shall come into operation on 1 March 1992 and shall apply in respect of any gratuity received or accruing on or after that date.

(e) Subsection (1) (j) shall come into operation on 1 March 1992 and shall apply in respect of any amount received or accruing on or after that date.

(f) Subsection (1) (m) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 April 1990.

13 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (b); paragraph (b) substitutes paragraph (f) (iii); paragraph (c) substitutes paragraph (gA) (i); paragraph (d) substitutes paragraph (gB); and paragraph (e) inserts paragraph (hA).

14 Amends section 11bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (3B) (b); and paragraph (b) adds subsection (9).


19 Amends section 18 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (b) the words preceding subparagraph (i), and subparagraph (i); paragraph (b) substitutes in paragraph (b) subparagraph (iii) and the words following thereupon; paragraph (c) substitutes paragraphs (c) and (d); and paragraph (d) substitutes the proviso.

20 Amends section 18A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) paragraph (b) (iv) (aa) of the definition of 'educational fund'; paragraph (b) adds in subsection (1) paragraph (d) to the definition of 'educational fund'; paragraph (c) substitutes in subsection (1) in the definition of 'educational or training purposes' the words preceding paragraph (a); paragraph (d) substitutes in subsection (1) the definition of 'taxable income'; and paragraph (e) substitutes in subsection (6) the words preceding paragraph (a).

21 Amends section 19 of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the proviso to subsection (3); and paragraph (b) substitutes paragraph (ii) of the proviso to subsection (4).

22 Amends section 22 of the Income Tax Act 58 of 1962 by inserting subsection (1A).

23 Amends section 23 (b) of the Income Tax Act 58 of 1962 by adding the proviso.


(2) Section 23C of the principal Act, as inserted by subsection (1), shall apply in respect of years of assessment ending on or after 30 September 1991.

(3) Section 23B of the principal Act, as inserted by subsection (1), shall be deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 July 1962.

[Sub-s. (3) added by s. 57 of Act 113 of 1993.]

26 Amends section 24F (1) of the Income Tax Act 58 of 1962 by substituting in paragraph (g) of the definition of 'production cost' the words preceding the proviso.

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment which commenced or commence on or after 1 March 1986.

28 Amends section 27 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes the proviso to subsection (2) (a); paragraph (b) deletes subsection (2) (c), (d), (e) and (f); paragraph (c) substitutes subsection (2) (h); paragraph (d) deletes subsection (2) (i); paragraph (e) deletes subsection (2A); paragraph (f) deletes subsection (5) (b); paragraph (g) substitutes subsection (5) (c); and paragraph (h) deletes subsections (6) and (7).

29 Amends section 28 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in subsection (1) (c) the words following upon subparagraph (ii); and paragraph (b) substitutes subsection (1A).

30 Amends section 36 (11) of the Income Tax Act 58 of 1962 by substituting paragraph (a) of the definition of ‘capital expenditure’.

31 (1) Amends section 42 (1) of the Income Tax Act 58 of 1962 by substituting paragraph (ii).

(2) Subsection (1) shall be deemed to have come into operation on 1 March 1990 and shall apply in respect of all dividends received or accrued on or after that date.


33 Amends section 68 of the Income Tax Act 58 of 1962 by substituting subsections (1) and (2).

34 Amends section 75 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in subsection (1) the words following upon paragraph (g); and paragraph (b) substitutes subsection (3).


36 Amends section 83 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes subsections (1) and (2); and paragraph (b) substitutes subsection (17).

[Date of commencement of s. 36: 1 July 1992.]

38 Amends section 90 of the Income Tax Act 58 of 1962 by deleting paragraph (b).


40 Amends section 101 (8) of the Income Tax Act 58 of 1962 by substituting the expression 'R10' for the expression 'two rand'.

41 Amends paragraph 17 of the First Schedule to the Income Tax Act 58 of 1962 by substituting the words preceding the proviso.


43 Amends paragraph 20 (1) of the First Schedule to the Income Tax Act 58 of 1962 by substituting item (i).

44 (1) Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraphs (c) and (d) of the definition of 'provisional taxpayer'; and paragraph (b) inserts paragraph (c) of the definition of 'remuneration'.

(b) Subsection (1) (a) shall come into operation as from the commencement of years of assessment commencing on or after 1 July 1991.

(b) Subsection (1) (b) shall come into operation on 1 August 1991.

45 Amends paragraph 2 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); and paragraph (b) adds to subparagraph (4) the following words: 'and, in the case of any employee who is entitled to a rebate under section 6 (3) (f), after deducting any contribution by the employee to a medical scheme contemplated in section 18 (1) (a)'.

46 Amends paragraph 11B of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subparagraph (1) paragraph (c) of the definition of 'net remuneration'; paragraph (b) substitutes in subparagraph (1) paragraph (f) of the definition of 'net remuneration'; paragraph (c) adds in subparagraph (1) paragraphs (g), (h) and (i) to the definition of 'net remuneration'; paragraph (d) substitutes in subparagraphs (2) and (3) the expression 'R50 000' for the expression 'R40 000', wherever it occurs; and paragraph (e) substitutes in subparagraph (7) (c) the expression '2 per cent' for the expression '5 per cent'.

[Date of commencement of s. 37: 1 July 1992.]
47 Amends paragraph 12 of the Fourth Schedule to the Income Tax Act 58 of 1962 by deleting subparagraph (4).

48 Amends paragraph 26 of the Fourth Schedule to the Income Tax Act 58 of 1962 by deleting subparagraph (b).

49 Amends paragraph 1 of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting the definition of 'employee'.

50 (1) Amends paragraph 7 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1) (a); paragraph (b) substitutes in subparagraph (1) the words following upon item (b) (ii); and paragraph (c) substitutes subparagraph (4) (a).

   (2) Subsection (1) shall come into operation on 1 August 1991.

51 (1) Amends paragraph 13 (2) of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes item (a); and paragraph (b) deletes item (c).

   (2) Subsection (1) shall come into operation on 1 March 1992 and apply in respect of any taxable benefit derived on or after that date.

52 Initial allowance on certain machinery and plant

   (1) There shall, subject to the provisions of this section, be allowed to be deducted in the determination of the taxable income of any taxpayer under the provisions of the principal Act, an allowance, to be known as the initial allowance, equal to 15 per cent of the cost to the taxpayer of any machinery, plant, implement, utensil, article, ship or aircraft (hereinafter referred to as an asset) in respect of which the taxpayer is entitled to a deduction or allowance under the provisions of section 11 (e), 12B, 12C, 14 or 14bis of the principal Act.

   (2) For the purposes of this section the cost to a taxpayer of any asset shall be deemed to be the cost of such an asset as contemplated in section 12C (2) of the principal Act.

   (3) The initial allowance shall be granted in respect of any asset acquired by the taxpayer on or after 1 April 1991, if in respect of the taxpayer's acquisition of such asset sales tax became payable under the provisions of the Sales Tax Act, 1978 (Act 103 of 1978), and shall be allowed in the year of assessment in which the asset was for the first time brought into use by the taxpayer for the purposes of his trade.

   (4) The initial allowance shall not be granted-
(a) in respect of any motor car as defined in section 1 of the Value-Added Tax Act, 1991, in respect of which a deduction of input tax would under the provisions of section 17 (2) (c) of that Act not have been allowed had the acquisition of such motor car been subject to the imposition of value-added tax; and

(b) in respect of any asset acquired by the taxpayer for the purpose of being let in the course of a ‘rental enterprise’ carried on by him within the meaning of the Sales Tax Act, 1978 (Act 103 of 1978).

(5) Where an initial allowance has been granted in respect of any asset and a deduction or allowance in respect of such asset may also be granted under-

(a) paragraph (e) of section 11 of the principal Act, the value of such asset shall for the purposes of the allowance under that paragraph be reduced by the amount of the initial allowance granted;

(b) paragraph (o) of section 11 of the principal Act, the amount of the allowance determined under that paragraph shall be reduced by the amount of the initial allowance granted;

(c) section 12B of the principal Act, the deduction under subsection (2) (c) of that section shall be reduced to 5 per cent of the cost of such asset;

(d) section 12C of the principal Act, the deduction allowable under subsection (1) of that section in the fourth year following the year in which such asset is brought into use shall be reduced to 5 per cent of the cost of such asset;

(e) section 14 of the principal Act, the cost or adjustable cost of such asset, as the case may be, shall for the purposes of the limitation of allowances imposed under paragraph (ii) of the proviso to subsection (1) (a) of that section, be reduced by the amount of the initial allowance granted; or

(f) section 14bis of the principal Act, the cost or adjustable cost of such asset, as the case may be, shall for the purposes of the limitation of allowances imposed under paragraph (ii) of the proviso to subsection (1) (a) of that section, be reduced by the amount of the initial allowance granted.

(6) The provisions of section 8 (4) (a) of the principal Act shall apply to any amount allowed to be deducted under this section, whether in the current or any
previous year of assessment, which has been recovered or recouped during the current year of assessment.

53 **Commencement of certain amendments**

(1) Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1992.

(2) The amendments effected by sections 36 and 37 shall come into operation on a date fixed by the Minister of Finance by notice in the *Gazette* and shall apply in respect of any appeal lodged before, on or after that date.

54 **Short title**

This Act shall be called the Income Tax Act, 1991.

### Schedule


(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:

   *(a)* In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

   **TABLES**

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income- does not exceed R5 000</td>
<td>15 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R750 plus 17 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 600 plus 19 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R2 550 plus 21 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R25 000</td>
<td>R3 600 plus 23 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R25 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R4 750 plus 26 per cent of the amount by which the taxable income exceeds R25 000;</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>Rates of Tax in respect of Married Women</td>
</tr>
<tr>
<td>----------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>does not exceed R4 000 but does not exceed R8 000</td>
<td>15 per cent of each R1 of the taxable income; R600 plus 18 per cent of the amount by which the taxable income exceeds R4 000;</td>
</tr>
<tr>
<td>R 8 000</td>
<td>R 12 000</td>
</tr>
<tr>
<td>R 12 000</td>
<td>R 16 000</td>
</tr>
<tr>
<td>R 16 000</td>
<td>R 20 000</td>
</tr>
<tr>
<td>R 20 000</td>
<td>R 24 000</td>
</tr>
<tr>
<td>R 24 000</td>
<td>R 28 000</td>
</tr>
<tr>
<td>R 28 000</td>
<td>R 32 000</td>
</tr>
<tr>
<td>R 32 000</td>
<td>R 36 000</td>
</tr>
<tr>
<td>R 36 000</td>
<td>R 40 000</td>
</tr>
<tr>
<td>R 40 000</td>
<td></td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraphs (d) and (f)), 48 cents;

(c) on each rand 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 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 principal Act, but after the set-off of any assessed loss in terms of section 20 (1) of the principal Act), a percentage determined in accordance with the formula:
\[ y = 61 - \frac{305}{x} \]

in which formula \( y \) 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);

\( (d) \) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

\( (e) \) on each rand of the taxable income derived by any company from mining operations (other than mining for gold), 48 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 6 per cent of such amount; and

\( (f) \) on each rand of the taxable income derived by any company from the carrying on of long-term insurance business, 43 cents.

2.(1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or
expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 141 OF 1992

[ASSENTED TO 2 JULY 1992] [DATE OF COMMENCEMENT: 15 JULY 1992]
(Unless otherwise indicated)

(English text signed by the State President)

as amended by

Income Tax Act 113 of 1993

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1993 and 30 June 1993, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1993; to amend the Income Tax Act, 1962; to withdraw a Government Notice; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5(2) of the Income Tax Act, 1962 (Act 58 of 1962) (hereinafter referred to as the principal Act), in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1993 or 30 June 1993; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1993,

shall be as set forth in the Schedule to this Act.

2 Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes the definition of 'assisted gold mine'; paragraph (b) substitutes paragraph (j) of the definition of 'gross income'; paragraph (c) deletes paragraph (IA) of the definition of 'gross income'; paragraph (d) substitutes the definition of 'local authority'; paragraph (e) substitutes the definition of 'neighbouring country'; paragraph (f) substitutes the definition of 'person'; paragraph (g) substitutes in the definition of 'post-1990 gold mine' the expression 'Director-General: Mineral and Energy Affairs' for the expression 'Government Mining Engineer'; paragraph (h) substitutes the definition of 'territory'; and
paragraph (i) inserts the definition of ‘trust’.

3 (1) Amends section 3 (2) of the Income Tax Act 58 of 1962 by substituting in the proviso the expression 'three years' for the expression 'two years'.

(2) Subsection (1) shall come into operation on the date of commencement of this Act and shall apply to any decision contemplated in section 3 (2) of the principal Act made on or after that date.

4 Amends section 6 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (2) (a) the expression 'R2 225' for the expression 'R2 000'; paragraph (b) substitutes in subsection (2) (b) the expression 'R1 950' for the expression 'R1 625'; paragraph (c) substitutes in subsection (2) (c) the expression 'R900' for the expression 'R800'; and paragraph (d) substitutes in subsection (3) (f) the expression 'R2 500' for the expression 'R2 100', wherever it occurs.

5 (1) Amends section 7 of the Income Tax Act 58 of 1962 by inserting subsections (2A), (2B) and (2C).

(2) Subsection (1) shall-

(a) in so far as it relates to income derived from the carrying on of a trade, be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 28 February 1991: Provided that where the Commissioner has prior to the date of commencement of this Act issued an assessment in respect of the year of assessment ended on 28 February 1991 in which income derived from the letting of fixed property has been included in the income of one spouse, the Commissioner shall not be required to amend such assessment, unless both spouses make written application therefor not later than 31 December 1992;

(b) in so far as such income was derived otherwise than from a trade, be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 29 February 1992.

6 Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (a); paragraph (b) substitutes subsection (1) (e) (iii); paragraph (c) deletes subsections (2) and (3); and paragraph (d) adds the proviso to subsection (4) (g).

7 Amends section 9 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (cA); and paragraph (b) substitutes
8 (1) Amends section 9A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (6) the words preceding the proviso; and paragraph (b) substitutes subsection (8) (a).

(2) Subsection (1) (a) shall be deemed to have come into operation on 16 March 1988.

9 (1) Amends section 9B of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the expression 'five years' for the expression '10 years'; paragraph (b) adds paragraph (d) to the proviso to subsection (1); and paragraph (c) inserts subsection (3A).

(2) (a) Subsection (1) (a) and (c) shall be deemed to have come into operation on 18 March 1992, and shall apply in respect of any affected share disposed of on or after that date.

(b) Subsection (1) (b) shall be deemed to have come into operation on 14 March 1990, and shall apply in respect of any affected share disposed of on or after the said date.

10 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (a); paragraph (b) substitutes paragraph (c) (iii); paragraph (c) substitutes paragraph (cA) (ii); paragraph (d) substitutes in paragraph (cB) the words preceding subparagraph (i); paragraph (e) substitutes paragraph (cC) (iii) and (iv); paragraph (f) substitutes in paragraph (cF) the words preceding subparagraph (i); paragraph (g) substitutes paragraph (cF) (iv) and (v); paragraph (h) substitutes paragraph (cG); paragraph (j) substitutes in paragraph (cH) the expression 'trust' for the expression 'trust fund', wherever it occurs; paragraph (k) inserts paragraphs (cl) and (cJ); paragraph (l) substitutes paragraph (d); paragraph (m) substitutes paragraph (dA) (i); paragraph (n) substitutes paragraph (hA); paragraph (o) substitutes paragraph (nA); paragraph (p) substitutes paragraph (q); paragraph (q) substitutes paragraph (t) (vi); paragraph (r) adds paragraph (t) (xiii) and (xiv); paragraph (s) deletes paragraphs (v) and (vA); paragraph (t) substitutes paragraph (w); paragraph (u) substitutes in paragraph (x) the words preceding the proviso; and paragraph (v) adds paragraph (zH).

(2) (a) Subsection 1 (i) shall be deemed to have come into operation on 1 November 1991.

(b) Subsection 1 (k) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 28 February 1991.
(c) Subsection 1 (n) shall be deemed to have come into operation on 3 June 1992 and shall apply in respect of any interest accruing on or after that date: Provided that any interest received or accrued before that date shall be exempt from tax, unless an assessment was raised with a date of assessment before that date and such interest was assessed to tax under such assessment.

[Para. (c) amended by s. 58 of Act 113 of 1993.]

(d) Subsection 1 (r) shall as far as it relates to SABINET be deemed to have come into operation as from the commencement of years of assessment ending on or after 31 March 1983, and as far as it relates to Gezicor (Proprietary) Limited, as from the commencement of years of assessment ending on or after 11 February 1991.

(e) Subsection 1 (v) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 May 1991.

11 (1) Amends section 11 (n) of the Income Tax Act 58 of 1962 by adding paragraph (ix) to the proviso.

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 29 February 1992.


15 (1) Amends section 14bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraphs (i) and (ii) of the proviso to subsection (1) (a) the expression 'paragraph (b) or (c)' for the expression 'paragraph (b)', wherever it occurs; paragraph (b) adds in subsection (1) (b) paragraph (iv) to the proviso; paragraph (c) adds subsection (1) (c); and paragraph (d) adds subsections (3), (4) and (5).

(2) Subsection (1) shall come into operation on 1 August 1992.

16 Amends section 15 (b) of the Income Tax Act 58 of 1962 by substituting the words preceding the proviso.


18 Amends section 18 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (2) (b) and (c) for subsection (2) (b); and paragraph (b) adds subsection (3).
19 Amends section 18B (1) of the Income Tax Act 58 of 1962 by substituting in the definition of 'international event' the words following upon paragraph (c).

20 Amends section 23 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (d); paragraph (b) substitutes paragraph (g); and paragraph (c) adds paragraph (j).


(2) Subsection (1) shall be deemed to have come into operation on 30 September 1991.

22 Amends section 25B of the Income Tax Act 58 of 1962 by substituting the expression 'trust' for the expression 'trust fund', wherever it occurs.

23 Amends section 27 (2) (a) of the Income Tax Act 58 of 1962 by substituting the proviso.

24 Amends section 36 of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes subsections (1), (2), (2)bis, (3), (3)bis, (3)ter, (4), (5), (6), (7), (7A) and (7B); paragraph (b) substitutes subsection (7C); paragraph (c) deletes subsections (7D), (8) and (9); paragraph (d) substitutes subsection (10); paragraph (e) substitutes in subsection (11) in paragraph (c) of the definition of 'capital expenditure' the words preceding subparagraph (i); paragraph (f) substitutes in subsection (11) in paragraph (c) of the definition of 'capital expenditure' subparagraphs (iv) and (v); and paragraph (g) substitutes in subsection (11) in the proviso to paragraph (c) of the definition of 'capital expenditure' paragraphs (aa), (bb), (cc) and (dd) for paragraphs (aa), (bb) and (cc).

25 Amends section 37 (4) of the Income Tax Act 58 of 1962 by substituting the expression 'Director-General: Mineral and Energy Affairs' for the expression 'Government Mining Engineer'.

26 (1) Amends section 37E of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the definition of 'beneficiation process'; paragraph (b) substitutes in subsection (1) the definition of 'commencement date'; paragraph (c) substitutes in subsection (1) the definition 'intermediate product'; paragraph (d) substitutes in subsection (2) the words preceding paragraph (a); paragraph (e) inserts subsection (2A); paragraph (f) substitutes subsection (4) (b); and paragraph (g) deletes subsection (5).

(2) Subsection (1) shall be deemed to have come into operation on 18 March 1992.
27 Amends section 42 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (iii); paragraph (b) deletes subsection (1) (iiiA); paragraph (c) substitutes subsection (2) (a); paragraph (d) substitutes in subsection (2) (e) (ii) the words preceding item (aa); paragraph (e) substitutes subsection (2) (e) (ii) (bb); paragraph (f) substitutes in subsection (2) (l) the words preceding subparagraph (i); and paragraph (g) substitutes in subsection (2) (j) the words preceding subparagraph (i).

[Date of commencement of s. 27: 15 July 1992 (s. 59 of Act 113 of 1993).]

28 Amends section 56 (1) of the Income Tax Act 58 of 1962 by substituting paragraph (h).


(2) Subsection (1) shall be deemed to have come into operation in 30 September 1991.

30 Amends section 75 (1) of the Income Tax Act 58 of 1962 by substituting paragraph (f).


32 Amends paragraph 6 of the Second Schedule to the Income Tax Act 58 of 1962 by inserting paragraph (cA).

33 Amends the definition of 'remuneration' in paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the words preceding paragraph (a); paragraph (b) substitutes paragraph (c); and paragraph (c) substitutes paragraph (vii).

34 (1) Amends paragraph 11B (1) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting paragraph (f) of the definition of 'net remuneration'.

(2) Subsection (1) shall apply as from the commencement of years of assessment commencing on or after 1 March 1993.

35 (1) Amends paragraph 1 of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting in the definition of 'official rate of interest' the expression '17 per cent' for the expression '19 per cent'.

(2) Subsection (1) shall come into operation on 1 August 1992.

36 (1) Amends paragraph 7 (1) (b) of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting the words following upon subitem (ii).
(2) Subsection (1) shall be deemed to have come into operation on 30 September 1991.

37 (1) Amends paragraph 13 of the Seventh Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (3).

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 28 February 1991.

38 Withdrawal of Government Notice 2497 of 15 October 1991

Government Notice 2497 of 15 October 1991 is hereby withdrawn.

39 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1993.

40 Short title

This Act shall be called the Income Tax Act, 1992.

Schedule


(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:-

(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
</tbody>
</table>
### Taxable Income Rates of Tax in respect of Persons who are not Married Persons

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Persons who are not Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income -</td>
<td></td>
</tr>
<tr>
<td>does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 18 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 750 plus 19 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R2 700 plus 20 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R3 700 plus 21 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R5 800 plus 28 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; R50 000</td>
<td>R8 600 plus 36 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R50 000 &quot; &quot; &quot; &quot; R60 000</td>
<td>R12 200 plus 41 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>&quot; R60 000 &quot; &quot; &quot; &quot; R80 000</td>
<td>R16 300 plus 42 per cent of the amount by which the taxable income exceeds R60 000;</td>
</tr>
<tr>
<td>&quot; R80 000 &quot; &quot; &quot; &quot; &quot;</td>
<td>R24 700 plus 43 per cent of the amount by which the taxable income exceeds R80 000;</td>
</tr>
</tbody>
</table>

### Taxable Income Rates of Tax in respect of Married Women

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income -</td>
<td></td>
</tr>
<tr>
<td>does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 18 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; R50 000</td>
<td>R10 450 plus 41 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R50 000 &quot; &quot; &quot; &quot; R56 000</td>
<td>R14 250 plus 40 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>&quot; R56 000 &quot; &quot; &quot; &quot; &quot;</td>
<td>R17 070 plus 43 per cent of the amount by which the taxable income exceeds R56 000;</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding
taxable income derived from mining operations and taxable income referred to in subparagraphs (d) and (f), 48 cents;

(c) on each rand 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 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 principal Act\(^5\), but after the set-off of any assessed loss in terms of section 20 (1) of the principal Act\(^6\), a percentage determined in accordance with the formula:

\[
y = 58 - \frac{290}{x}
\]

in which formula \(y\) 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);

(d) on each rand 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 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 principal Act\(^7\), a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(e) on each rand of the taxable income derived by any company from mining operations (other than mining for gold), 48 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 3 per cent of such amount; and

(f) on each rand of the taxable income derived by any company from the carrying on of long-term insurance business, 43 cents.
2.(1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

INCOME TAX ACT 113 OF 1993

[ASSENTED TO 9 JULY 1993] [DATE OF COMMENCEMENT: 20 JULY 1993]
(Unless otherwise indicated)
(English text signed by the State President)

as amended by

Revenue Laws Amendment Act 140 of 1993
Income Tax Amendment Act 168 of 1993
Taxation Laws Amendment Act 20 of 1994
Taxation Laws Amendment Act 37 of 1995
Taxation Laws Amendment Act 37 of 1996
Taxation Laws Amendment Act 27 of 1997
Long-term Insurance Act 52 of 1998

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1994 and 30 June 1994, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1994; to amend the Income Tax Act, 1962; to withdraw a Government Notice; to provide for special provisions with regard to unbundling transactions; to provide for agreements for the settlement of certain disputes; to provide that the Commissioner for Inland Revenue shall refrain from taking steps for the assessment of certain additional taxes; to amend the Insurance Act, 1943, to impose restrictions on certain policies issued by insurers who carry on long-term insurance business, to amend the restrictions on sinking fund business and to provide for matters connected therewith; and to provide for incidental matters.
1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962) (hereinafter referred to as the principal Act), in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1994 or 30 June 1994; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1994,

shall be as set forth in the Schedule to this Act.

2 (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) inserts the definition of 'business day'; paragraph (b) inserts the definition of 'connected person' (date of commencement: 21 June 1993);
paragraph (c) substitutes in the definition of 'dividend' the words preceding the proviso to paragraph (g); paragraph (d) substitutes the fourth proviso to the definition of 'dividend'; paragraph (e) substitutes paragraph (a) of the definition of 'gross income' (date of commencement: 1 March 1993); paragraph (f) deletes paragraph (eA) of the definition of 'gross income' (date of commencement: 1 March 1993);
paragraph (g) substitutes in the definition of 'gross income'; paragraph (h) substitutes paragraph (l) of the definition of 'gross income'; paragraph (i) substitutes in the definition of 'pension fund', in paragraph (ii) (dd) of the proviso to paragraph (c), the expression 'R1 800' for the expression 'R600'; paragraph (j) substitutes in paragraph (a) of the definition of 'prescribed rate' the expression '12 per cent' for the expression '14 per cent' (date of commencement: 1 July 1993); paragraph (k) substitutes in paragraph (b) (ii) of the definition of 'retirement annuity fund' the expression 'R1 800' for the expression 'R600'; paragraph (l) substitutes paragraph (a) (i) of the definition of 'retirement-funding employment'; and paragraph (m) substitutes the definition of 'trading stock'.

(2) (a) Subsection (1) (b) shall be deemed to have come into operation on 21 June 1993.

(b) Subsection (1) (e) and (f) shall be deemed to have come into operation on 1 March 1993 and shall apply to any amount received or accrued on or after that date.

(c) Subsection (1) (j) shall be deemed to have come into operation on 1 July 1993.
3 Amends section 7A (4A) (d) of the Income Tax Act 58 of 1962 by substituting subparagraph (i).


   (2) Subsection 1 shall be deemed to have come into operation on 21 June 1993 and shall apply to any asset donated or distributed as a dividend on or after that date.

5 Amends section 9 (1) (f) of the Income Tax Act 58 of 1962 by adding the proviso.


7 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (cC) (v); paragraph (b) substitutes paragraph (cD); paragraph (c) substitutes paragraph (cl) (i) (aa); paragraph (d) substitutes paragraph (cJ) (i) (bb); paragraph (e) substitutes paragraph (cJ) (i) (dd); paragraph (f) substitutes in the Afrikaans text paragraph (cJ) (i) (ee) (B); paragraph (g) inserts paragraphs (cK) and (cL); paragraph (h) substitutes paragraph (f); paragraph (i) inserts paragraph (fA); paragraph (j) deletes in the proviso to paragraph (hA) the word 'and' at the end of paragraph (i) (date of commencement: 3 June 1992); paragraph (k) adds in the proviso to paragraph (hA) the word 'and' at the end of paragraph (ii) (3 June 1992); paragraph (l) adds paragraph (iii) to the proviso to paragraph (hA) (date of commencement: 3 June 1992); paragraph (m) substitutes in paragraph (k) paragraph (bb) of the proviso to subparagraph (i); paragraph (n) adds paragraph (t) (xv) (date of commencement: 20 July 1993); paragraph (o) substitutes paragraph (w) (ii); paragraph (p) adds in the first proviso to paragraph (x) the word 'or' at the end of paragraph (iii) (date of commencement: 1 March 1992); and paragraph (q) adds paragraph (iv) to the first proviso to paragraph (x) (date of commencement: 1 March 1992).

   (2) (a) Subsection (1) (j), (k) and (l) shall be deemed to have come into operation on 3 June 1992 and shall apply to any amount received or accrued on or after that date.

   (b) Subsection (1) (n) shall come into operation on the date on which section 2 of the Provision of Special Funds for Tertiary Training and Education Act, 1993, comes into operation.

   (c) Subsection (1) (p) and (q) shall be deemed to have come into operation on 1 March 1992 and shall apply to any amount received or accrued on or after that date.
8 Amends section 10A of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in subsection (1) the definition of 'annuity amount';
paragraph (b) adds in subsection (3) the word 'or' at the end of paragraph (b);
and paragraph (c) adds subsection (3) (c).

9 (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) adds paragraph (viii) to the proviso to paragraph (e) (date of
commencement: 21 June 1993); paragraph (b) substitutes paragraph (gA) (iii);
paragraph (c) substitutes in paragraph (gA) the words preceding paragraph (cc)
(A) of the proviso (date of commencement: 1 July 1993); paragraph (d) adds
paragraph (dd) to the proviso to paragraph (gA) (date of commencement: 1 July
1993); paragraph (e) substitutes paragraph (i); paragraph (f) substitutes
paragraph (m) (ii); paragraph (g) substitutes paragraph (n) (aa) (A); paragraph
(h) substitutes paragraph (ii) of the proviso to paragraph (n); paragraph (i)
substitutes in paragraph (q) the words preceding the proviso; and paragraph (j)
substitutes in paragraph (ii) of the proviso to paragraph (u) the words preceding
subparagraph (aa).

(2) (a) Subsection (1) (a) shall be deemed to have come into operation on
21 June 1993.

(b) Subsection (1) (c) and (d) shall be deemed to have come into
operation on 1 July 1993.

10 (1) Amends section 12B (4A) of the Income Tax Act 58 of 1962 by
substituting paragraph (b).

(2) Subsection (1) shall be deemed to have come into operation on 21
June 1993 and shall apply to any asset acquired on or after that date.

11 (1) Amends section 12C of the Income Tax Act 58 of 1962 by deleting
subsection (6).

(2) Subsection (1) shall be deemed to have come into operation on 21
June 1993 and shall apply to any asset acquired on or after that date.

12 Amends section 13 of the Income Tax Act 58 of 1962 by deleting
subsections (4), (4)bis, (5), (6), (6A), (7) and (7A).

13 (1) Amends section 13bis (1) of the Income Tax Act 58 of 1962, as
follows: paragraph (a) substitutes in paragraph (d) the words preceding
subparagraph (aa); paragraph (b) substitutes paragraph (e); and paragraph (c)
adds the further proviso.

(2) Subsection (1) (c) shall be deemed to have come into operation as
from the commencement of years of assessment ending on or after 17 March 1993.


(2) Subsection (1) shall be deemed to have come into operation on 21 June 1993.


(2) Subsection (1) shall be deemed to have come into operation on 21 June 1993 and shall apply to any aircraft acquired on or after that date.


17 (1) Amends section 22 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (3) (a); paragraph (b) deletes subsection (3) (c) and (d); paragraph (c) substitutes in subsection (4) the words preceding the first proviso; and paragraph (d) substitutes the second proviso to subsection (8).

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 21 June 1993 and shall apply to any trading stock distributed on or after that date.

18 (1) Amends section 23 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the proviso to paragraph (b); and paragraph (b) substitutes in paragraph (i) the words preceding subparagraph (i).

(2) Subsection (1) (a) shall come into operation as from the commencement of years of assessment commencing on or after 1 March 1994.


(2) Section 23E of the principal Act, as inserted by subsection (1), shall come into operation on the date of commencement of this Act.


23 Amends section 27 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the proviso to subsection (2) (a); paragraph (b) substitutes subsection (5) (a); and paragraph (c) substitutes in subsection (9) the definition of 'primary process'.

24 Amends section 28 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (b) (i) (A); and paragraph (b) inserts subsection (1C).


(2) Subsection (1) shall be deemed to have come into operation on 17 March 1993.


(2) Subsection (1) shall be deemed to have come into operation on 12 September 1992.

31 Amends Part II of Chapter II of the Income Tax Act 58 of 1962 by inserting section 40B.

32 (1) Amends section 56 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes paragraph (f); and paragraph (b) substitutes paragraph (h).

(2) Subsection (1) (a) shall be deemed to have come into operation on 21 June 1993 and shall apply to any insurance policy ceded on or after that date.

33 Amends section 64A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) in the definition of 'leviable amount' the words preceding the proviso to paragraph (a); and paragraph (b) substitutes subsection (2) (a).

34 (1) Amends Chapter II of the Income Tax Act 58 of 1962 by adding Part
VII ('Secondary Tax on Companies' - sections 64B and 64C).

(2) Subsection (1) shall be deemed to have come into operation on 17 March 1993.

35 Amends section 75 (1) (f) of the Income Tax Act 58 of 1962 by substituting the expression 'four years' for the expression 'five years'.

36 Amends section 83 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (9); and paragraph (b) substitutes subsection (18).

37 Amends section 83A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (3); and paragraph (b) substitutes in subsection (7) (b) the expression '21 business days' for the expression '30 days'.


39 Amends section 86A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) deletes subsection (20) (c).


41 Amends section 89 ter of the Income Tax Act 58 of 1962 by inserting subsections (1A) and (1B).

42 (1) Amends section 89 quat of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes in subsection (1), in the definition of 'credit amount', the word 'or' at the end of paragraph (c); paragraph (b) deletes in subsection (1) paragraph (d) of the definition of 'credit amount'; paragraph (c) adds in subsection (1) the definition of 'normal tax'; paragraph (d) inserts subsection (3A); paragraph (e) substitutes in subsection (4) the words preceding the proviso; and paragraph (f) adds subsection (5).

(b) Subsection (1) (d) and (f) shall be deemed to have come into operation from the commencement of years of assessment ending on or after 28 February 1991.

(b) Subsection (1) (e) shall come into operation on 1 September 1993 and shall apply to any assessment bearing a date of assessment falling on or after that date.

43 Amends paragraph 4 (1) of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes item (a) (ii); and paragraph (b) substitutes item (b) (ii).

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 21 June 1993 and shall apply to any livestock or produce distributed on or after that date.

Amends paragraph 12 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes subparagraph (1) (j); paragraph (b) deletes subparagraph (1A); paragraph (c) deletes subparagraph (1B) (c); and paragraph (d) substitutes subparagraph (1C).

(1) Amends paragraph 13A of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); paragraph (b) substitutes subparagraph (3) (a); and paragraph (c) deletes subparagraph (4).

(2) Subsection (1) shall come into operation on 21 June 1993 and shall apply in respect of any amount received on or after that date.

Amends paragraph 15 (3) of the First Schedule to the Income Tax Act 58 of 1962 by substituting paragraph (i) of the proviso.

(1) Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting in paragraph (c) of the definition of 'remuneration' the expression '35 per cent' for the expression '25 per cent'.

(2) Subsection (1) shall be deemed to have come into operation on 1 July 1993.


Amends paragraph 18 (1) (d) (i) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'R35 000' for the expression 'R25 000'.

(1) Repeals the Sixth Schedule to the Income Tax Act 58 of 1962.

(2) Subsection (1) shall be deemed to have come into operation on 1 March 1993.

(1) Amends paragraph 1 of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting in the definition of 'official rate of interest' the expression '15 per cent' for the expression '17 per cent'.


(2) Subsection (1) shall be deemed to have come into operation on 1 January 1993.

53 Amends paragraph 9 (1) of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting, in the definition of 'remuneration', the words preceding paragraph (a).

54 Amends paragraph 13A (1) of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting the definition of 'remuneration'.

55 Withdrawal of Government Notice R3353 of 11 December 1992

(1) Government Notice R3353 of 11 December 1992 is hereby withdrawn.

(2) Subsection (1) shall be deemed to have come into operation on 11 December 1992.

56 Date of commencement of section 23 of Act 90 of 1988

Section 23 of the Income Tax Act, 1988, shall be deemed to have come into operation from the commencement of years of assessment ending on or after 1 April 1988.


58 Amends section 10 (2) (c) of the Income Tax Act 141 of 1992 by adding the proviso.

59 Date of commencement of section 27 of Act 141 of 1992

Section 27 of the Income Tax Act, 1992, shall be deemed to have come into operation on 15 July 1992 and shall apply to any dividends declared on or after that date.

60 Special provisions in relation to unbundling transactions

(1) In this section, any word or expression to which a meaning has been assigned in the Income Tax Act, 1962 (Act 58 of 1962), or the Stamp Duties Act, 1968 (Act 77 of 1968), bears (having regard to the context within which such word or expression is used) the meaning so assigned, and-

'distributable shares' means-

(a) any shares in one or more listed companies held by an unbundling company (hereinafter referred to as the holder) on the date of the
approval of the proposed transaction in terms of subsection (2) for its own benefit, whether directly or indirectly through one or more intermediate companies, if-

(i) that holder's interest, on such date in at least one of such listed companies constitutes at least 10 per cent of the equity share capital of such listed company; or

(ii) such shares so held on such date represent at least 70 per cent of the market value of the assets of such holder; and

[Para. (a) substituted by s. 34 (b) of Act 20 of 1994 and amended by s. 6 of Act 37 of 1995 and by s. 34 (a) of Act 37 of 1996.]

[Date of commencement of para. (a): 30 April 1997.]

(b) any shares in an unlisted company held on such date by an unbundling company for its own benefit if-

(i) such unbundling company's interest in such unlisted company on such date constitutes at least 30 per cent of the equity share capital of such unlisted company; or

(ii) such shares so held on that date represent at least 70 per cent of the market value of the assets of such unbundling company,

[Para. (b) amended by s. 34 (c) of Act 20 of 1994.]

(c) ......

[Para. (c) added by s. 4 (1) (b) of Act 168 of 1993, substituted by s. 34 (d) of Act 20 of 1994 and amended by s. 6 of Act 37 of 1995 and by s. 34 (b) of Act 37 of 1996.]

[Date of commencement of para. (c): 30 April 1997.]

and such shares are, in pursuance of a distribution in specie thereof in the course of an unbundling transaction, to be listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985), within six months of such distribution in specie, or within such further period as the Commissioner, having regard to the circumstances of the case, may approve;

[Definition of 'distributable shares' amended by s. 55 (1) of Act 27 of 1997.]
'distribution in specie', in relation to an unbundling transaction, means a distribution by an unbundling company or intermediate company of distributable shares in the course of an unbundling transaction whether such distribution occurs by means of a dividend (including a liquidation dividend), a total or partial reduction of capital (including any share premium) or a redemption of redeemable preference shares;

[Definition of 'distribution in specie' substituted by s. 34 (e) of Act 20 of 1994.]

'intermediate company' means a listed or an unlisted company-

(a) more than 50 per cent of the equity share capital of which is held by an unbundling company; or

[Para. (a) substituted by s. 34 (f) of Act 20 of 1994.]

(b) more than 50 per cent of the equity share capital of which is held by-

(i) a company which is an intermediate company in terms of paragraph (a) of this definition; or

(ii) an unbundling company and one or more companies referred to in subparagraph (i) of this definition;

[Para. (b) substituted by s. 34 (f) of Act 20 of 1994.]

'listed company' means a company the equity share capital of which is listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act 1 of 1985);

'qualifying shareholder' means any person who by reason of being the registered shareholder of an unbundling company or an intermediate company or by reason of being the owner of a share in an unbundling company or an intermediate company, as the case may be, is entitled to receive distributable shares by way of a distribution in specie in the course of an unbundling transaction;

'share', in relation to a company, means a share in the equity share capital of such company;

[Definition of 'share' inserted by s. 34 (g) of Act 20 of 1994.]

'stamp duty' means the stamp duty leviable in terms of Item 15 (3) of Schedule 1 to the Stamp Duties Act, 1968 (Act 77 of 1968), in respect of any
share;

'unbundling company' means the listed company referred to in the definition of 'unbundling transaction';

'unbundling transaction' means any transaction approved by the Commissioner under the provisions of subsection (2) which is to be carried out with the sole or main purpose of enabling the shareholders of a listed company to acquire directly by way of a distribution in specie all the distributable shares (or such portion thereof as the Commissioner, having regard to the circumstances of the case, may approve) held by such listed company, or where such distributable shares are held by an intermediate company, such portion thereof as will in the course of such transaction be distributed to the listed company, in such manner as will ensure that the effective interest of such shareholders in such distributable shares will not be materially changed by such transaction;

'unlisted company' means any company which is not a listed company.

[Sub-s. (1) amended by s. 34 (a) of Act 20 of 1994.]

(2) The Commissioner may, subject to such conditions as he may deem necessary, approve any proposed transaction as an unbundling transaction for the purposes of this section, if a written application containing such details of the transaction as the Commissioner may require is submitted to him by an unbundling company before the commencement of the implementation of such transaction.

[Sub-s. (2) substituted by s. 34 (h) of Act 20 of 1994.]

(3) The registration of transfer of any distributable shares into the name of any qualifying shareholder in accordance with a distribution in specie of such distributable shares in the course of an unbundling transaction shall be exempt from stamp duty.

(4) No transfer of any distributable shares shall be made or permitted by any company or corporate body in its register (whether the register be kept within or outside the Republic) or by any person responsible for the registration of transfer, unless stamp duty was duly paid in respect of such registration of transfer or the Commissioner has issued a certificate to the effect that the registration of transfer of such distributable shares is exempt from stamp duty under this section.

(5) For the purposes of the principal Act and notwithstanding anything to the contrary contained in that Act-

(a) the distribution in specie of any distributable shares shall be
deemed-

(i) not to be a dividend for the purposes of Parts III and VII of Chapter II of that Act; and

(ii) not to be an amount derived from the investment of funds as contemplated in section 28 (1) (b) of that Act;

(b) where any person who held as trading stock shares (hereinafter referred to as old shares) in an unbundling company or an intermediate company has pursuant to an unbundling transaction acquired distributable shares (hereinafter referred to as new shares)-

(i) he shall, for the purposes of section 22 (1) of that Act, be deemed to have acquired such old shares and such new shares at a cost equal to the cost to him of such old shares or where such person is not a company, the lesser of such cost to him or the diminished value of such old shares as contemplated in that section;

(ii) a portion of such cost shall be apportioned to such new shares, which portion shall be deemed to be an amount which bears to such cost the same ratio as the market value of such new shares bears to the market value of such old shares, such market values being determined on the date on which the qualifying shareholders become entitled to acquire distributable shares by way of a distribution in specie;

(iii) the provisions of section 22 (4) of that Act shall be deemed not to apply to such new shares; and

(iv) such old shares and such new shares shall for the purposes of sections 9B and 24A be deemed to be the same shares;

(c) where any person who held shares (hereinafter referred to as old shares) in an unbundling company or an intermediate company as a result of a right contemplated in section 8A (1) of the principal Act which has been exercised by him and distributable shares (hereinafter referred to as new shares) are distributed to such person in accordance with an unbundling transaction, any portion of any gain made by such person in the exercise of such right to acquire such old shares, shall be included in such person's income-

(i) in the year of assessment during which he becomes entitled to dispose of such new shares, which portion shall be an
amount which bears to such gain the same ratio as the market value of such new shares on the date on which such person became entitled to such new shares by way of a distribution *in specie* bears to the market value of such old shares on that date; and

(ii) in the year of assessment during which he becomes entitled to dispose of such old shares, which portion shall be calculated by reducing such gain by the amount which has been determined or is to be determined in terms of subparagraph (i):

[Para. (c) added by s. 20 (1) of Act 140 of 1993.]

Provided that for the purposes of paragraphs (b) and (c) the market value of such old shares on the date on which the qualifying shareholders became entitled to acquire such new shares by way of a distribution *in specie*, shall be determined without having regard to the fact that such new shares are to be issued to such shareholders.

[Sub-s. (5) amended by s. 20 (1) of Act 140 of 1993.]

(6) Any exemption under subsection (3) shall lapse and be deemed to have been withdrawn as from the date on which the certificate referred to in subsection (4) has been issued and the provisions of subsection (5) (a) shall be deemed not to have applied, if the registration of transfer of the distributable shares concerned in the name of the shareholders of the unbundling company or intermediate company concerned is not effected within six months after such date or within such further period as the Commissioner, having regard to the circumstances of the case, may approve.

(7) Where the Commissioner is satisfied that-

(a) the approval of an unbundling transaction granted by him under subsection (2) or a certificate issued by him under subsection (4) was obtained by fraud or in consequence of any misrepresentation or failure to disclose any material fact by the unbundling company or any other person concerned; or

[Para. (a) substituted by s. 34 (i) of Act 20 of 1994.]

(b) the unbundling company or any other person concerned failed to comply with the provisions of this section or any conditions imposed by the Commissioner under this section,

he shall, if he is satisfied that in the light of the full facts the approval should not
have been granted, or the certificate should not have been issued, or that such
provisions and conditions have not been complied with, withdraw such approval
or certificate, as the case may be, and-

(i) the exemption from stamp duty authorized by such certificate shall
be deemed to have been withdrawn as from the date of issue of
such certificate; and

(ii) the provisions of subsection (5) (a) shall be deemed not to have
applied.

(8) Any decision of the Commissioner in the exercise of his discretion
under subsection (7) shall be subject to objection and appeal.

[S. 60 amended by s. 6 of Act 37 of 1995.]

61 Agreements for settlement of certain disputes

(1) The Minister of Finance may if he considers it to be in the best interest
of the State that disputes with taxpayers regarding the application of any
provision of the principal Act to certain tax avoidance schemes be settled, make
regulations authorising the Commissioner for Inland Revenue (hereinafter
referred to as the Commissioner) to enter into an agreement with any taxpayer
for the settlement of any such dispute: Provided that no such agreement shall be
so entered into by the Commissioner after 28 February 1994.

(2) An agreement entered into between the Commissioner and a taxpayer
under any regulation under the provisions of subsection (1) shall be binding upon
the State and upon the taxpayer concerned, and any assessment issued by the
Commissioner in accordance with any such agreement shall, notwithstanding
anything to the contrary in the principal Act contained, be final and conclusive in
so far as it gives effect to the terms of such agreement.

(3) A regulation made under subsection (1) may-

(a) determine the nature of any tax avoidance scheme which may be
dealt with under the provisions of this section;

(b) specify the terms and conditions under which the Commissioner
may enter into an agreement with any taxpayer;

(c) provide that in the determination of the taxpayer's taxable income,
any income, expenditure or allowance be taken into account
otherwise than as provided in the principal Act;

(d) provide for the payment or non-payment of interest by or to a
taxpayer otherwise than as provided in the principal Act; and

(e) make such other provision as the Minister of Finance deems necessary to give effect to the provisions of subsection (1).

(4) The provisions of this section may be applied-

(a) in respect of years of assessment ended or ending before, on or after the date of commencement of this Act; and

(b) notwithstanding the fact that an appeal against the assessment concerned may have been heard under the provisions of section 83 or 83A of the principal Act, or that an appeal against a decision of the special court in relation to that assessment may have been lodged under the provisions of section 86A of the principal Act.

62 No steps by Commissioner for Inland Revenue in certain circumstances

Notwithstanding anything to the contrary contained in the principal Act, where, on or before 31 August 1993, any person renders a return of his income for any year of assessment after the date on which he was required to render such return in terms of such Act, the Commissioner shall not impose any additional tax in terms of the provisions of section 76 (1) (a) in respect of that year of assessment: Provided that the provisions of this section shall not apply where the Commissioner has issued in respect of such year of assessment a notice of assessment with a date of issue prior to 2 April 1993.

63 to 66 inclusive ...... [Ss. 63 to 66 inclusive repealed by s. 73 of Act 52 of 1998.]

67 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1994.

68 Short title

This Act shall be called the Income Tax Act, 1993.

Schedule

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28
1. The rates of normal tax referred to in section 1 of this Act are as follows:-

(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

### TABLES

**Rates of Tax in respect of Married Persons**

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 18 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 750 plus 19 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R2 700 plus 20 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R3 700 plus 21 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R5 800 plus 28 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; R50 000</td>
<td>R8 600 plus 36 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R50 000 &quot; &quot; &quot; &quot; R60 000</td>
<td>R12 200 plus 41 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>&quot; R60 000 &quot; &quot; &quot; &quot; R80 000</td>
<td>R16 300 plus 42 per cent of the amount by which the taxable income exceeds R60 000;</td>
</tr>
<tr>
<td>&quot; R80 000.....................</td>
<td>R24 700 plus 43 per cent of the amount by which the taxable income exceeds R80 000;</td>
</tr>
</tbody>
</table>

**Rates of Tax in respect of Persons who are not Married Persons**

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Persons who are not Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; R50 000</td>
<td>R10 450 plus 41 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R50 000 &quot; &quot; &quot; &quot; R56 000</td>
<td>R14 450 plus 42 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
</tbody>
</table>
R56 000 ......................... R17 070 plus 43 per cent of the amount by which the taxable income exceeds R56 000;

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>does not exceed R5 000</td>
<td></td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; R15 000</td>
<td>R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; R20 000</td>
<td>R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; R30 000</td>
<td>R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; R40 000</td>
<td>R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; R50 000</td>
<td>R10 450 plus 38 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R50 000 .........................</td>
<td>R14 250 plus 40 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (c), (d) and (e)), 40 cents, or, in the case of 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, 48 cents;

(c) on each rand 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 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 principal Act, but after the set-off of any assessed loss in terms of section 20 (1) of the principal Act), a percentage determined in accordance with the formula:

\[ y = 49 - \frac{245}{x} \]

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:

\[ y = 58 - \frac{290}{x} \]

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);

(d) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(e) on each rand of the taxable income derived by any company from carrying on long-term insurance business-

(i) where such taxable income has been determined in terms of the provisions of section 28 of the principal Act, 43 cents; or

(ii) where such taxable income has been determined in terms of the provisions of section 29 of the principal Act-

(aa) in respect of its individual policyholder fund, 30 cents; and

(bb) in respect of its company policyholder fund and corporate fund, 40 cents.

2. (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax determined in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the
meaning so assigned.

INCOME TAX AMENDMENT ACT 168 OF 1993

[ASSENTED TO 8 DECEMBER 1993] [DATE OF COMMENCEMENT: 15 DECEMBER 1993]
(Unless otherwise indicated)

(Afrikaans text signed by the Acting State President)

ACT

To amend the Income Tax Act, 1962, so as to provide for the transfer of certain amounts between companies within the same group of companies; and to further provide for the refund of Standard Income Tax on Employees (SITE) under certain circumstances; to amend the Income Tax Act, 1993, so as to make further provision with regard to unbundling transactions; and to provide for matters connected therewith.

1 (1) Amends section 22 of the Income Tax Act 58 van 1962, as follows: paragraph (a) deletes subsection (5) (f); and paragraph (b) inserts subsection (5A).

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1994.


(2) Subsection (1) shall be deemed to have come into operation on 20 July 1993.


4 (1) Amends section 60 (1) of the Income Tax Act 113 of 1993, as follows: paragraph (a) adds the word 'and' at the end of paragraph (b) of the definition of 'distributable shares'; and paragraph (b) adds paragraph (c) to the definition of 'distributable shares'.

(2) Subsection (1) shall be deemed to have come into operation on 22 November 1993.

5 Short title

This Act shall be called the Income Tax Amendment Act, 1993.

INCOME TAX ACT 21 OF 1994
ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1995 and 30 June 1995, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1995; to amend the Income Tax Act, 1962; to withdraw a Government Notice; to provide for special provisions with regard to the transition levy payable by certain companies; to provide for the administration by the Commissioner for Inland Revenue of certain laws; to provide for the imposition of a transition levy in the former Republics of Transkei, Bophuthatswana and Ciskei; to extend the application of the Income Tax Act, 1962; to provide for special provisions for the determination of taxable income derived by persons previously assessable under certain other laws; to provide for the retention of certain phasing-in provisions in respect of persons previously taxed in terms of the laws of the former Republic of Venda; to amend the Income Tax Act, 1962 (Act 52 of 1962), of the former Republic of Venda; to amend the Ciskei Income Tax Act, 1984 (Act 44 of 1984); to repeal certain laws; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962) (hereinafter referred to as the principal Act), and in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Venda, in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1995 or 30 June 1995; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1995,
shall be as set forth in the Schedule to this Act.

2  (1) Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (d) (iv) and (v) of the definition of 'connected person'; and paragraph (b) substitutes paragraph (a) (i) of the definition of 'retirement-funding employment'.

   (2) Subsection (1) (a) shall come into operation on the date of promulgation of this Act.


   (2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any decision communicated to the taxpayer or person concerned on or after that date.

4  Amends section 4 (1) of the Income Tax Act 58 of 1962 by substituting paragraph (b) of the proviso.

5  Amends section 5 (10) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the words preceding the formula; paragraph (b) substitutes paragraph (b); and paragraph (c) deletes paragraph (d) (v).

6  (1) Amends section 8 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (e) (i); and paragraph (b) adds paragraphs (f) and (g).

   (2) Subsection (1) shall be deemed to have come into operation on 27 April 1994.

7  (1) Amends section 9 of the Income Tax Act 58 of 1962 by inserting subsection (1A).

   (2) Subsection (1) shall come into operation on 1 January 1995 and shall apply to any services performed on or after that date.

8  Amends section 9A (1) of the Income Tax Act 58 of 1962 by substituting the definition of 'investment income'.

9  (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes paragraph (c) (i) (date of commencement: 10 May 1994); paragraph (b) adds the proviso to paragraph (c) (ii) (date of commencement: 10 May 1994); paragraph (c) substitutes paragraph (cC) (v); paragraph (d) substitutes paragraph (c) (v) (bb); paragraph (e) inserts paragraph (cM); paragraph (f) deletes paragraph (t) (xiii) (date of commencement: 1 April 1994);
and paragraph (g) substitutes paragraph (zA) (date of commencement: 1 March 1995).

(2) (a) Subsection (1) (a) and (b) shall be deemed to have come into operation on 10 May 1994 and shall apply to any amount paid or payable to any person on or after that date.

(b) Subsection (1) (f) shall be deemed to have come into operation on 1 April 1992 and shall apply to years of assessment commencing on or after that date.

[Para. (b) amended by s. 42 of Act 36 of 1996.]

(c) Subsection (1) (g) shall come into operation on 1 March 1995 and shall apply to-

(i) any amount determined in terms of the General Export Incentive Scheme in respect of export sales (as contemplated in the guidelines for the General Export Incentive Scheme) which take place on or after that date; and

(ii) any amount received by or accrued to or in favour of any person on or after the date under any other scheme.

10 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (iii) of the proviso to paragraph (e); paragraph (b) substitutes the words preceding the proviso to paragraph (o); and paragraph (c) deletes paragraph (uA).


12 Amends section 13bis of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (e); paragraph (b) deletes subsections (7), (7A), (7B) and (8); and paragraph (c) substitutes in subsection (9) the words preceding paragraph (a).


15 Amends section 23 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (b) (i) and (ii); and paragraph (b) substitutes paragraph (i) (i).

16 (1) Amends section 23B of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) adds subsection (3).
(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1990.


18 (1) Amends section 24I of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts in subsection (1) the definition of 'affected forward exchange contract'; paragraph (b) substitutes in subsection (1) paragraph (b) of the definition of 'exchange item'; paragraph (c) substitutes in subsection (1) paragraph (b) (ii) of the definition of 'ruling exchange rate'; paragraph (d) adds in subsection (1) the proviso to the definition of 'ruling exchange rate'; paragraph (e) substitutes subsections (4) and (5); paragraph (f) substitutes in subsection (7) the words following upon paragraph (c); and paragraph (g) inserts subsection (7A).

(2) Subsection (1) shall be deemed to have come into operation in respect of years of assessment ending on or after 1 January 1994.

19 (1) Amends section 28 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds paragraph (b) (i) (E); and paragraph (b) substitutes the words following upon paragraph (c).

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 July 1993.


(2) Subsection (1) shall come into operation as from the commencement of years of assessment commencing on or after 1 January 1995.

21 (1) Amends section 35 (2) (a) of the Income Tax Act 58 of 1962 by substituting the words preceding the proviso.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1994 and shall apply to any payments made on or after that date.


(2) Subsection (1) shall be deemed to have come into operation as from years of assessment commencing on or after 1 March 1994.

23 Amends section 42 (2) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (d) the expression 'religious' for the expression 'ecclesiastical'; and paragraph (b) adds paragraph (l).

24 (1) Amends section 64B of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes in subsection (1) in paragraph (a) of the definition of 'dividend cycle' the words preceding subparagraph (i) (date of commencement: 17 March 1993); paragraph (b) deletes in subsection (1) the word 'and' at the end of paragraph (a) of the definition of 'dividend cycle' (date of commencement: 17 March 1993); paragraph (c) inserts in subsection (1) paragraph (aA) of the definition of 'dividend cycle' (date of commencement: 17 March 1993); paragraph (d) substitutes subsection (2) (date of commencement: 22 June 1994); paragraph (e) substitutes in subsection (3) the words preceding the proviso (date of commencement: 17 March 1993); paragraph (f) deletes in subsection (5) the word 'and' at the end of paragraph (c) (date of commencement: 17 March 1993); paragraph (g) adds subsection (5), (f) and (g) (date of commencement: 17 March 1993); and paragraph (h) adds subsections (15), (16) and (17) (date of commencement: 17 March 1993).

(2) (a) Subsection (1) (a), (b), (c), (e), (f) and (h) shall be deemed to have come into operation on 17 March 1993.

[Para. (a) substituted by s. 53 (a) of Act 21 of 1995.]

(b) Subsection (1) (d) shall be deemed to have come into operation on 22 June 1994.

(c) Subsection (1) (g) shall in so far as it-

(i) adds paragraphs (e) and (g) to subsection (5) of section 64B of the principal Act, be deemed to have come into operation on 17 March 1993; and

(ii) adds paragraph (f) to subsection (5) of section 64B of the principal Act, be deemed to have come into operation on 25 November 1994 and that paragraph shall apply to any dividend declared on or after that date.

[Para. (c) substituted by s. 53 (b) of Act 21 of 1995.]

25 (1) Amends section 64C of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (4) (f) the expression 'recipient' for the expression 'shareholder', wherever it occurs; paragraph (b) deletes in subsection (4) the word 'and' at the end of paragraph (g); paragraph (c) adds in subsection (4) the word 'and' at the end of paragraph (h); paragraph (d) adds subsection (4) (i); and paragraph (e) substitutes in subsection (5) the expression 'recipient' for the expression 'shareholder', wherever it occurs.

(2) Subsection (1) shall be deemed to have come into operation on 17 March 1993.

Amends section 75 of the Income Tax Act 58 of 1962 by substituting subsection (2).

(1) Amends section 89ter (3) of the Income Tax Act 58 of 1962 by substituting the words preceding paragraph (c).

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1994 and shall apply to any payments made on or after that date.

Amends section 107 (1) of the Income Tax Act 58 of 1962 by deleting paragraph (dA).

(1) Amends paragraph 1 of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting in the definition of 'official rate of interest' the expression '14 per cent' for the expression '15 per cent'.

(2) Subsection (1) shall be deemed to have come into operation on 1 February 1994.

Amends paragraph 5 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the further proviso to subparagraph (2); paragraph (b) substitutes subparagraph (3); and paragraph (c) substitutes subparagraph (4).

Amends paragraph 7 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes the proviso to subparagraph (1); and paragraph (b) inserts subparagraph (1A).

Amends paragraph 9 (1) of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting in the definition of 'remuneration' the words preceding paragraph (a).

Amends paragraph 20 (1) of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting item (b).

Withdrawal of Government Notice 57 of 14 January 1994

(1) Government Notice 57 of 14 January 1994 is hereby withdrawn.

(2) Subsection (1) shall be deemed to have come into operation on 14 January 1994.

Transition levy for companies who have had change in financial year
Where, in consequence of a change in its financial year, any company has two years of assessment which end during the period of 12 months ending on 31 March 1995, the transition levy payable under the provisions of sections 38, 39 and 40 of this Act and paragraph 1 (g) of the Schedule to this Act, shall be payable only in respect of the first of such years of assessment.

37 Administration by Commissioner of certain laws of former state

Notwithstanding anything to the contrary contained in any law, the Minister of Finance may by notice in the Gazette provide that the Commissioner for Inland Revenue, appointed in terms of section 2 of the principal Act, shall from a date specified in such notice be responsible for carrying out the provisions of any law of a former state specified in such notice and which continues to be in force in terms of section 229 of the Constitution and imposes any tax, duty or levy which is similar to any tax, duty or levy levied in terms of any law which is at present administered by the said Commissioner.

38 Transition levy payable by persons deriving income from source within former Republic of Transkei

Subject to the provisions of the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Transkei, and the Transkei Taxation Act, 1969 (Act 8 of 1969), of the former Republic of Transkei, in this section referred to as the Transkei Act, there shall in addition to the tax imposed at the rates prescribed in terms of-

(a) section 6 of the Transkei Act, be paid by every person (other than a company) in respect of the year of assessment ending on 28 February 1995, a transition levy which is calculated at the rate of 3,33 per cent of the amount by which the taxable income of such person exceeds R50 000: Provided that for the purposes of this paragraph, the taxable income of a person shall be determined without the inclusion of any amount contemplated in section 7A (4A) of the principal Act and paragraph 7 of the Second Schedule to the said Act; and

(b) Schedule 2 to the Income Tax Amendment Act, 1982 (Act 19 of 1982), of the former Republic of Transkei, be paid by every company in respect of any year of assessment ending during the period of 12 months ending on 31 March 1995, a transition levy which is calculated at the rate of 5 per cent of the amount by which the taxable income of such company exceeds R50 000: Provided that for the purposes of this paragraph, the taxable income of the company shall be determined without the set-off of any balance of assessed loss incurred by the company in any previous year of
assessment.

39 Transition levy payable by persons deriving income from source within former Republic of Bophuthatswana

Subject to the provisions of the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Bophuthatswana, and the Bophuthatswana Taxation Act, 1978 (Act 26 of 1978), of the former Republic of Bophuthatswana, in this section referred to as the Bophuthatswana Act, there shall, in addition to the tax imposed at the rates prescribed in terms of-

(a) section 6 of the Bophuthatswana Act, be paid by every person (other than a company) in respect of the year of assessment ending on 28 February 1995, a transition levy which is calculated at the rate of 3,33 per cent of the amount by which the taxable income of such person exceeds R50 000: Provided that for the purposes of this paragraph, the taxable income of a person shall be determined without the inclusion of any amount contemplated in section 7A (4A) of the principal Act and paragraph 7 of the Second Schedule to the said Act; and

(b) the Schedule to the Bophuthatswana Act, be paid by every company in respect of any year of assessment ending during the period of 12 months ending on 31 March 1995, a transition levy which is calculated at the rate of 5 per cent of the amount by which the taxable income of such company exceeds R50 000: Provided that for the purposes of this paragraph, the taxable income of the company shall be determined without the set-off of any balance of assessed loss incurred by the company in any previous year of assessment.

40 Transition levy payable by persons deriving income from source within former Republic of Ciskei

Subject to the provisions of the Income Tax Act, 1984 (Act 44 of 1984), of the former Republic of Ciskei, in this section referred to as the Income Tax Act, there shall, in addition to the tax imposed in terms of section 5 of the Income Tax Act, be paid a transition levy on chargeable income (excluding dividends contemplated in section 6 (c) of the Income Tax Act)-

(a) by every person (other than a company) in respect of the year of assessment ending on 28 February 1995, which is calculated at the rate of 3,33 per cent of the amount by which the chargeable income of such person exceeds R50 000: Provided that for the purposes of this paragraph, the chargeable income of a person shall be determined without the inclusion of any amount contemplated in
section 7A (4A) of the principal Act; and

(b) by every company (including a company which has been granted tax-free status in terms of the Company Tax Amendment Act, 1984 (Act 16 of 1984 of Ciskei), or the Company Tax Amendment Decree, 1994 (Decree 2 of 1994 of Ciskei)), in respect of any year of assessment ending during the period of 12 months ending on 31 March 1995 which is calculated at the rate of 5 per cent of the amount by which the chargeable income of such company exceeds R50 000: Provided that for the purposes of this paragraph, the chargeable income of the company shall be determined without the set-off of any balance of assessed loss incurred by the company in any previous year of assessment.

41 Application of the principal Act

(1) The principal Act, as well as any regulation, Proclamation or Government Notice issued in terms of the provisions thereof, shall, subject to the provisions of subsections (2), (3) and (4), be applicable-

(a) to former citizens of any former territory;

(b) to income derived from a source within the territory of a former state in respect of a trade which any person (other than a natural person) commenced carrying on for the first time or recommenced carrying on in such former state on or after 22 June 1994; and

(c) to the territory of the former Republic of Venda.

[Para. (c) substituted by s. 54 (a) of Act 21 of 1995.]

(2) Insofar as the principal Act is applicable in terms of subsection (1), the laws of a former state or of a former territory which impose a similar tax, shall not be applicable.

(3) Any law referred to in the principal Act which is not yet applicable in a former territory or in the territory of the former Republic of Venda, shall for the purposes of the principal Act be deemed to be applicable in the said territory.

(4) (a) Subsection (1) (a) shall be deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 March 1994.

(b) Subsection (1) (b) shall be deemed to have come into operation on 22 June 1994.
(c) Subsection (1) (c) shall be deemed to have come into operation-

(i) in so far as Parts III and VII of Chapter II of the principal Act are applicable, in respect of any dividend declared by a company during a year of assessment commencing after 1 April 1994;

(ii) in so far as Part VI of Chapter II of the principal Act is applicable, from any calendar quarter ending on or after 30 September 1995;

(iii) in so far as any other provision of the principal Act or any provision of any such regulation, Proclamation or Government Notice relates to a year of assessment-

(aa) of a person, other than a company, from the commencement of years of assessment ending on or after 29 February 1996; or

(bb) of a company, from the commencement of years of assessment commencing on or after 1 April 1994; or

(iv) in any other case, from 1 March 1995.

[Para. (c) substituted by s. 54 (b) of Act 21 of 1995.]

42 ..... 

[S. 42 repealed by s. 55 of Act 21 of 1995.]

43 Determination of value in respect of fringe benefits granted to persons who derive remuneration from source within former Republic of Venda

(1) In the determination of the cash equivalent for purposes of paragraph (i) of the definition of ‘gross income’ in section 1 of the principal Act of any person who derives remuneration from a source within the territory of the former Republic of Venda, the provisions of paragraphs (14) and (15) of the First Schedule to the Income Tax Act Amendment Proclamation, 1993 (Proclamation 18 of 1993), of the said former Republic, shall, notwithstanding the repeal of the said Proclamation, continue to apply as though they are contained in the Seventh Schedule to the principal Act.

(2) Subsection (1) shall come into operation from years of assessment commencing on or after 1 March 1995.

44 Amendment of Income Tax Act, 1962, of former Republic of Venda
Any provision in this Act which amends the principal Act shall be deemed to have amended the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Venda *mutatis mutandis*.

45 Amendment of paragraph 12 of First Schedule to Income Tax Act, 1984, of former Republic of Ciskei

Paragraph 12 of the First Schedule to the Income Tax Act, 1984 (Act 44 of 1984), of the former Republic of Ciskei, is hereby amended by the deletion of subparagraph (a).

46 Repeal of laws, and savings

(1) The following laws are hereby repealed:

(a) Laws of the former territories:

(i) The KwaZulu Income Tax Harmonization Act, 1984 (Act 4 of 1984);

(ii) the Gazankulu Income Tax Harmonization Act, 1984 (Act 5 of 1984);

(iii) the Lebowa Tax Harmonization Act, 1984 (Act 6 of 1984);

(iv) the Qwaqwa Income Tax Harmonization Act, 1984 (Act 7 of 1984);

(v) the KwaNdebele Income Tax Harmonization Act, 1984 (Act 9 of 1984); and

(vi) the KaNgwane Income Tax Harmonization Act, 1989 (Act 8 of 1989); and

(b) Laws of the former Republic of Venda:

(i) Income Tax Act, 1962 (Act 58 of 1962);

(ii) Income Tax Amendment Act, 1984 (Act 7 of 1984);

(iii) Income Tax Amendment Act, 1986 (Act 11 of 1986);

(iv) Income Tax Amendment Act, 1987 (Act 15 of 1987);

(v) Income Tax Second Amendment Act, 1987 (Act 32 of 1987);
(vi) Income Tax Amendment Act, 1988 (Act 8 of 1988);
(vii) Income Tax Second Amendment Act, 1988 (Act 25 of 1988);
(viii) Income Tax Amendment Act, 1989 (Act 31 of 1989);
(ix) Income Tax Amendment Proclamation, 1990 (Proclamation 32 of 1990);
(x) Income Tax Amendment Proclamation, 1991 (Proclamation 31 of 1991);
(xi) Income Tax Amendment Proclamation, 1992 (Proclamation 22 of 1992);
(xii) Income Tax Proclamation, 1993 (Proclamation 18 of 1993); and

(2) Any tax or levy which has become payable under a law repealed in terms of subsection (1) before or on the date of repeal of such a law, but which has not at the said date been paid, shall be recovered in accordance with and subject to the provisions of the law concerned as if that law had not been repealed in terms of subsection (1).

(3) Anything done under a law repealed in terms of subsection (1) and which is capable of being done under a provision of the principal Act, shall, from the date of repeal of the said law, be deemed to have been done under such provision of the principal Act.

(4) (a) Subsection (1) (a) shall be deemed to have come into operation as from the commencement of years of assessment commencing on or after 1 March 1994.

(b) Subsection (1) (b) shall come into operation-

(i) in respect of any person (other than a company) from years of assessment commencing on or after 1 March 1995; and

(ii) in respect of any company from the commencement of years of assessment commencing on or after 1 April 1994.

47 Definitions

For the purposes of this Act-
‘former state’ means the former Republics of Transkei, Bophuthatswana, Venda and Ciskei; and


48 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall for the purposes of assessments in respect of normal tax under the principal Act, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1995.

49 Short title

This Act shall be called the Income Tax Act, 1994.

Schedule


(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:-

(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 18 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 750 plus 19 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R2 700 plus 20 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R3 700 plus 21 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R5 800 plus 28 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
</tbody>
</table>
### Taxable Income Rates of Tax in respect of Persons who are not Married Persons

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Persons who are not Married Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td></td>
</tr>
<tr>
<td>does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; R50 000</td>
<td>R10 450 plus 41 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R50 000 &quot; &quot; &quot; &quot; R56 000</td>
<td>R14 550 plus 42 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>&quot; R56 000 &quot; &quot; &quot; &quot; R80 000</td>
<td>R17 070 plus 43 per cent of the amount by which the taxable income exceeds R56 000;</td>
</tr>
</tbody>
</table>

### Taxable Income Rates of Tax in respect of Married Women

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Married Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td></td>
</tr>
<tr>
<td>does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot; R15 000</td>
<td>R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot; R20 000</td>
<td>R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; R50 000</td>
<td>R10 450 plus 41 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R50 000 &quot; &quot; &quot; &quot; R56 000</td>
<td>R14 550 plus 42 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>&quot; R56 000 &quot; &quot; &quot; &quot; R80 000</td>
<td>R17 070 plus 43 per cent of the amount by which the taxable income exceeds R56 000;</td>
</tr>
</tbody>
</table>

(b) on each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (c), (d) and (e)), 35 cents, or, in the case of 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, 48 cents;

(c) on each rand 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 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 principal Act, but after the set-off of any assessed loss in terms of section 20 (1) of the principal Act), a percentage determined in accordance with the formula:

\[ y = \frac{43 - 215}{x} \]

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:

\[ y = \frac{58 - 290}{x} \]

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);

(d) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(e) on each rand of the taxable income derived by any company from carrying on long-term insurance business-

(i) where such taxable income has been determined in terms of the provisions of section 28 of the principal Act, 43 cents; or

(ii) where such taxable income has been determined in terms of the provisions of section 29 of the principal Act-
(aa) in respect of its individual policyholder fund, 30 cents; and

(bb) in respect of its company policyholder fund and corporate fund, 35 cents;

(f) on each rand of so much of the taxable income of any person (other than a company) as exceeds R50 000 in the case of a person other than a married woman or R175 000 in the case of a married woman, 3.33 cents: Provided that for the purposes of this subparagraph, the taxable income of a person shall be determined without the inclusion of any amount contemplated in section 7A (4A) of the principal Act and paragraph 7 of the Second Schedule to the said Act;

(g) on each rand of so much of the taxable income of any company as exceeds R50 000, 5 cents: Provided that for the purposes of this subparagraph, the taxable income of the company shall be determined without the set-off of any balance of assessed loss incurred by the company in any previous year of assessment.

2. (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax determined in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. For the purposes of the principal Act, any amount determined in accordance with paragraph 1 (f) or (g) shall be known as the transition levy.

4. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned.
To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 29 February 1996 and 30 June 1996, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1996; to amend the Income Tax Act, 1962; to amend the Income Tax Act, 1994; to provide for special provisions with regard to benefit funds, pension funds, provident funds or retirement annuity funds established or approved by or under the laws of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, respectively; to extend the application of the Income Tax Act, 1962; to repeal certain laws; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962) (hereinafter referred to as the principal Act), in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 29 February 1996 or 30 June 1996; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1996, shall be as set forth in Schedule 1 to this Act.

2 Amends section 1 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes paragraph (c) of the definition of 'benefit fund'; paragraph (b) deletes the definition of 'married person'; paragraph (c) substitutes paragraph (a) of the definition of 'pension fund'; paragraph (d) substitutes in the definition of 'pension fund' paragraph (i) of the proviso to paragraph (c); paragraph (e) substitutes in paragraph (c) of the definition of 'pension fund' paragraph (ii) (gg) of the proviso; paragraph (f) substitutes in the definition of 'provident fund' paragraph (a) of the proviso; paragraph (g) substitutes in the definition of 'retirement annuity fund' paragraph (a) of the proviso; paragraph (h) substitutes in the definition of 'retirement annuity fund' paragraph (b) (iii) of the proviso; and paragraph (i) substitutes in the definition of 'retirement annuity fund' paragraph (b) (vi) and (vii) of the proviso.


(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any decision communicated to the taxpayer or person
concerned on or after that date.

4 Amends section 5 (10) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the formula; paragraph (b) substitutes in paragraph (b) the expression 'B + D - (C + L)' for the expression 'B - C'; paragraph (c) substitutes paragraph (d) (iA); paragraph (d) adds the word 'and' at the end of paragraph (d) (iiiA); paragraph (e) substitutes paragraph (d) (iv); paragraph (f) adds paragraphs (e), (f) and (g); and paragraph (g) adds a further proviso.

5 Amends section 6 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsections (1) and (2); paragraph (b) deletes subsection (3); and paragraph (c) substitutes subsection (4).

6 Amends section 7 (2) of the Income Tax Act 58 of 1962 by deleting paragraph (c).

7 (1) Amends section 7A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the definition of 'pension'; paragraph (b) substitutes in subsection (4A) the words preceding paragraph (a); paragraph (c) substitutes subsection (4A) (a) (date of commencement: 1 March 2000); and paragraph (d) deletes subsection (4A) (c).

(2) Subsection (1) (c) shall come into operation on a date fixed by the Minister of Finance by notice in the Gazette.

8 (1) Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) (b) (ii) the words preceding paragraph (aa) of the proviso (date of commencement: 1 September 1995); paragraph (b) adds the proviso to subsection (4) (b) (date of commencement: 1 April 1995); paragraph (c) substitutes the words preceding the proviso to subsection (4) (e) (date of commencement: 1 April 1995); and paragraph (d) substitutes subsection (4) (f) (date of commencement: 1 April 1995).

(2) (a) Subsection (1) (a) shall come into operation on 1 September 1995.

(b) Subsection (1) (b), (c) and (d) shall be deemed to have come into operation on 1 April 1995 and shall apply to any amount which has been recovered or recouped as a result of any such loss, sale or disposal which takes place on or after that date.

9 Amends section 9 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (e); and paragraph (b) adds a further proviso to paragraph (g) (iii).

10 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds a further proviso to paragraph (h) (date of commencement: 1
April 1995); paragraph (b) deletes the word 'and' at the end of paragraph (ii) of the proviso to paragraph (hA) (date of commencement: 1 April 1995); paragraph (c) adds the word 'and' at the end of paragraph (iii) of the proviso to paragraph (hA) (date of commencement: 1 April 1995); paragraph (d) adds paragraph (iv) to the proviso to paragraph (hA) (date of commencement: 1 April 1995); paragraph (e) substitutes paragraph (i) of the first proviso to paragraph (x) (date of commencement: 1 March 2000); and paragraph (f) deletes paragraph (iii) of the first proviso to paragraph (x).

(2) (a) Subsection (1) (a), (b), (c) and (d) shall be deemed to have come into operation on 1 April 1995 and shall apply to any interest received or accrued on or after that date.

(b) Subsection (1) (e) shall come into operation on a date fixed by the Minister of Finance by notice in the Gazette.

11 (1) Amends section 10A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) in the definition of 'annuity contract' the words following upon paragraph (c); and paragraph (b) substitutes subsection (2) (date of commencement: 1 March 1993).

(2) Subsection (1) (b) shall be deemed to have come into operation on 1 March 1993.

12 (1) Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes the proviso to paragraph (bB) (date of commencement: 16 March 1995); paragraph (b) deletes paragraph (vii) of the proviso to paragraph (n); and paragraph (c) substitutes paragraph (viii) of the proviso to paragraph (n).

(2) Subsection (1) (a) shall be deemed to have come into operation on 16 March 1995 and shall apply to any agreement entered into on or after that date.

13 (1) Amends section 12C of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the word 'or' at the end of subsection (1) (e); paragraph (b) adds subsection (1) (f) and (g); paragraph (c) substitutes the words following upon subsection (1) (e); and paragraph (d) substitutes subsection (4) (c).

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1995 and shall apply to any ship or aircraft acquired on or after that date.

14 Amends section 14 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the proviso to paragraph (c); paragraph (b) substitutes in subsection (1A) the words preceding the proviso; paragraph (c) substitutes subsection (1B); and paragraph (d) adds subsection (5).

16 Amends section 18 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) (b) the words following upon subparagraph (iii); paragraph (b) substitutes subsection (1) (c) and (d); paragraph (c) substitutes in subsection (2) the expression 'section 6 (2) (b)' for the expression 'section 6 (3) (f)', wherever it occurs; paragraph (d) deletes in subsection (3) the word 'or' at the end of paragraph (c); paragraph (e) adds in subsection (3) the word 'or' at the end of paragraph (d); paragraph (f) adds subsection (3) (e); and paragraph (g) adds subsection (4).

17 Amends section 20 (1) of the Income Tax Act 58 of 1962 by deleting paragraph (iii) of the proviso to paragraph (a).


19 (1) Amends section 22 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (date of commencement: 16 March 1995); paragraph (b) adds subsection (5) (f) and (g) (date of commencement: 1 April 1995); and paragraph (c) substitutes the second proviso to subsection (8).

(2) (a) Subsection (1) (a) shall be deemed to have come into operation on 16 March 1995.

(b) Subsection (1) (b) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 April 1995.

(c) Subsection (1) (c) shall come into operation on the date of promulgation of this Act and shall apply to any trading stock distributed on or after that date.

20 (1) Amends section 23D of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subsection (1) (aA); paragraph (b) substitutes subsection (2); and paragraph (c) adds subsection (3).

(2) Subsection (1) shall come into operation on 1 July 1995.


(2) Subsection (1) shall, in so far as it relates to-

(a) any instrument issued after 15 March 1995, be deemed to have come into operation on 16 March 1995 and shall apply in respect of
any instrument issued on or after that date;

(b) any instrument issued on or before 15 March 1995 of which the term is extended after that date or of which the terms and conditions are materially varied after that date, be deemed to have come into operation from the date of such extension or material variation, as the case may be; or

(c) the transfer of any instrument issued on or before 15 March 1995, come into operation on the date of promulgation of this Act and shall apply to any such instrument on or after that date as from the date of transfer of such last-mentioned instrument.

22 Amends section 29 (18) of the Income Tax Act 58 of 1962 by substituting the expression 'natural person' for the expression 'married person'.


(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any goods or services supplied or acquired on or after that date.


(2) Subsection (1) shall in relation to the insertion of section 37F in the principal Act be deemed to have come into operation-

(a) in respect of a person (other than a company), from the commencement of years of assessment commencing on or after 1 March 1995; and

(b) in respect of any company, from the commencement of years of assessment ending on or after 1 April 1995.


(2) Subsection (1) shall come into operation on 1 October 1995 and shall apply to-

(a) any dividend (excluding such portion thereof as consists of an interim dividend) which has been declared by any company on or after that date; and

(b) any interim dividend the payment of which has been approved after that date by the directors of any company or by some other person under authority conferred by the memorandum and articles of
association of such company.


28 (1) Amends section 64A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) in the definition of 'leviable amount' the words preceding the proviso to paragraph (a); and paragraph (b) substitutes subsection (2) (a).

   (2) Subsection (1) shall come into operation from any calendar quarter ending on or after 30 September 1995.

29 (1) Amends section 64B of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (3) paragraph (b) of the proviso; paragraph (b) substitutes subsection (5) (c); and paragraph (c) substitutes in subsection (5) (f) the words preceding subparagraph (iii).

   (2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any dividend declared on or after that date.

30 Amends section 64C of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes the word 'or' at the end of subsection (3) (c); paragraph (b) adds the word 'or' at the end of subsection (3) (d); paragraph (c) adds subsection (3) (e); and paragraph (d) deletes subsection (4) (h).

31 Amends section 77 of the Income Tax Act 58 of 1962 by deleting subsection (8).

32 Amends section 79 (1) of the Income Tax Act 58 of 1962 by substituting item (B) of paragraph (v) of the first proviso.

33 (1) Amends section 89quat (1) of the Income Tax Act 58 of 1962 by substituting the definition of 'effective date'.

   (2) Subsection (1) shall be deemed to have come into operation from the commencement of years of assessment ending on or after 28 February 1995.

34 Amends paragraph 19 of the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subparagraph (1); paragraph (b) substitutes in subparagraph (2) (a) the words preceding subitem (bb); paragraph (c) substitutes in subparagraph (2) (b) the words preceding subitem (ii); paragraph (d) substitutes subparagraph (5) (a); and paragraph (e) substitutes the proviso to subparagraph (5).
35  (1) Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962 by substituting in the definition of 'retire' the proviso to paragraph (b).

  [Date of commencement of sub-s. (1): 1 March 2000.]

  (2) Subsection (1) shall come into operation on a date fixed by the Minister of Finance by notice in the Gazette.

36  (1) Amends paragraph 4 of the Second Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (3).

  [Date of commencement of sub-s. (1): 1 March 2000.]

  (2) Subsection (1) shall come into operation on a date fixed by the Minister of Finance by notice in the Gazette.

37  (1) Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting paragraph (c) of the definition of 'remuneration'.

  (2) Subsection (1) shall come into operation as from the commencement of years of assessment commencing on or after 1 March 1996.

38  Amends paragraph 2 (4) (b) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'section 6 (2) (b)' for the expression 'section 6 (3) (f)'.


40  Amends paragraph 11B of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subparagraph (1) paragraph (b) of the definition of 'standard employment'; paragraph (b) deletes in subparagraph (1) the proviso to the definition of 'tax period'; and paragraph (c) substitutes subparagraph (6).


43  Amends paragraph 15 of the Fourth Schedule to the Income Tax Act 58 of 1962 by deleting subparagraph (1A).

44  Amends paragraph 19 (1) (d) of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the word 'or' at the end of subitem
(i); paragraph (b) deletes the word 'or' at the end of subitem (ii); and paragraph (c) deletes subitem (iii).

45 Amends paragraph 30 (1) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting item (e).

46 Amends paragraph 5 (2) of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting the first proviso.

47 (1) Amends paragraph 7 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) adds a proviso to subparagraph (1); paragraph (b) deletes subparagraph (1A); paragraph (c) adds a proviso to subparagraph (2) (date of commencement: 1 September 1995); and paragraph (d) substitutes in subparagraph (4) (a) the words preceding paragraph (i) of the proviso (date of commencement: 1 May 1995).

(2) (a) Subsection (1) (c) shall come into operation on 1 September 1995.

(b) Subsection (1) (d) shall be deemed to have come into operation on 1 May 1995.

48 Amends paragraph 11 of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (1).


50 to 52 inclusive Delete respectively paragraphs 13A, 14 and 15, and the headings thereto, of the Seventh Schedule to the Income Tax Act 58 of 1962.

53 Amends section 24 (2) of the Income Tax Act 21 of 1994, as follows: paragraph (a) substitutes paragraph (a); and paragraph (b) adds paragraph (c).

54 Amends section 41 of the Income Tax Act 21 of 1994, as follows: paragraph (a) substitutes subsection (1) (c); and paragraph (b) substitutes subsection (4) (c).


56 Special provisions to apply to former Republics of Transkei, Bophuthatswana, Venda and Ciskei in respect of certain provisions of principal Act

(1) Any fund which prior to the date of promulgation of this Act was approved as a benefit fund, pension fund, provident fund or retirement annuity fund for the purposes of the Income Tax Act, 1962 (Act 58 of 1962), of the former
Republic of Transkei, the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Bophuthatswana, the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Venda or the Income Tax Act, 1984 (Act 44 of 1984), of the former Republic of Ciskei, but not for purposes of the principal Act, shall for the purposes of the principal Act be deemed to have been approved as a benefit fund, pension fund, provident fund or retirement annuity fund, as the case may be, in respect of years of assessment ending on or before 28 February 1997, if the rules of such fund are submitted to the Commissioner for Inland Revenue by 29 February 1996: Provided that the said Commissioner may, if he is satisfied that any such fund should not be so approved in respect of any such year, determine that the provisions of this section shall not apply to such fund in respect of such year, any such determination of the said Commissioner being subject to objection and appeal.

(2) For the purposes of the principal Act any superannuation, pension, provident or dependants' fund or pension scheme established by a law of the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei or any such fund so established for the benefit of the employees of any local authority of the territories of the said former Republics shall be deemed to have been established by law in the Republic.

57 Application of the principal Act

(1) The provisions of the principal Act, excluding Part III of Chapter II, as well as any regulation, Proclamation or Government Notice made or issued under the provisions thereof, shall, subject to the provisions of subsections (2) and (3), be applicable in the territories of the former Republics of Transkei, Bophuthatswana and Ciskei-

(a) in so far as Part VI of Chapter II of such Act is so applicable, from any calendar quarter ending on or after 30 September 1995;

(b) in so far as Part VII of Chapter II of such Act is so applicable, to any dividend declared during a year of assessment commencing after 1 April 1995;

(c) in so far as any other provision of such Act or any provision of any such regulation, Proclamation or Government Notice so applicable, relates to a year of assessment-

(i) of a person other than a company, from the commencement of years of assessment ending on or after 29 February 1996; or

(ii) of a company, from the commencement of years of assessment ending on or after 1 April 1995; or
(d) in any other case, from 1 March 1995.

(2) (a) In so far as the principal Act is applicable in terms of subsection (1), the laws of the territories of any of the former Republics of Transkei, Bophuthatswana and Ciskei, which impose a tax similar to a tax imposed in terms of the principal Act, shall not be applicable.

(b) In so far as the laws of any of the former Republics of Transkei, Bophuthatswana and Ciskei impose a tax which is not similar to a tax imposed in terms of the principal Act, such laws shall no longer be applicable in respect of the territory of-

(i) the former Republic of Transkei, to-

(aa) any undistributed profits tax payable in terms of section 48 of the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Transkei, in respect of years of assessment ending after 1 April 1995;

(bb) any non-residents tax on interest payable in terms of section 64A of the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Transkei, in respect of interest accrued during years of assessment ending after 1 April 1995;

(cc) any special tax payable in terms of section 6B, any local tax payable in terms of section 7, any general stock tax payable in terms of section 7A or any general levy payable in terms of section 7B of the Transkei Taxation Act, 1969 (Act 8 of 1969), of the former Republic of Transkei, in respect of years of assessment ending after 1 April 1995; and

(dd) any tax on investment income payable in terms of section 6C of the Transkei Taxation Act, 1969 (Act 8 of 1969), of the former Republic of Transkei, in respect of interest paid or dividends declared during years of assessment ending after 1 April 1995;

(ii) the former Republic of Bophuthatswana, to-

(aa) any non-residents tax on rentals payable in terms of section 48 of the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Bophuthatswana, in respect of any rental received or accrued during years of assessment ending after 1 April 1995;
any management fees tax payable in terms of section 64G of the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Bophuthatswana, in respect of any management fees derived during years of assessment ending after 1 April 1995;

any non-resident partnership profits tax payable in terms of section 64I of the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Bophuthatswana, in respect of any profits accrued during years of assessment ending after 1 April 1995; and

any withholding tax on fees paid to non-residents payable in terms of section 64J of the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Bophuthatswana, in respect of any fees derived during years of assessment ending after 1 April 1995; and

the former Republic of Ciskei, to any withholding tax payable in terms of section 13 (c), (d), (e) or (f) of the Income Tax Act, 1984 (Act 44 of 1984), of the former Republic of Ciskei, in respect of any amount paid or payable during years of assessment ending after 1 April 1995.

(3) Any law referred to in the principal Act which is not yet applicable in the territories of the former Republics of Transkei, Bophuthatswana and Ciskei, shall for the purposes of the principal Act be deemed to be applicable in such territories.

58 Repeal of laws, and saving

(1) Subject to the provisions of subsections (2) and (3), the laws mentioned in the second column of Schedule 2 are hereby repealed to the extent as set out in the third column thereof.

(2) Any tax or levy which has become payable under a law repealed by subsection (1) before or on the date of the repeal of such a law, but which has not at the said date been paid, shall be recovered in accordance with and subject to the provisions of the law concerned as if that law had not been so repealed.

(3) Subsections (1) and (2) shall come into operation on 1 October 1995.

59 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall for the
purposes of assessments in respect of normal tax under the principal Act, be
deemed to have come into operation as from the commencement of years of
assessment ending on or after 1 January 1996.

60 Short title

This Act shall be called the Income Tax Act, 1995.

Schedule 1

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN
COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING
29 FEBRUARY 1996 AND 30 JUNE 1996, AND BY COMPANIES IN RESPECT
OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12
MONTHS ENDING 31 MARCH 1996

(Section 1)

1. The rates of normal tax referred to in section 1 of this Act in respect of persons
other than companies are as follows:-

(a) In respect of the taxable income of any natural person, an amount
of tax calculated in accordance with the table below:

<table>
<thead>
<tr>
<th>Taxable Income Where the taxable income—</th>
<th>Rates of Tax in respect of Natural Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 18 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>“   “   “   “   “   “   “   R15 000</td>
<td>R1 750 plus 19 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>“   “   “   “   “   “   “   R20 000</td>
<td>R2 700 plus 20 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>“   “   “   “   “   “   “   R30 000</td>
<td>R3 700 plus 21 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>“   “   “   “   “   “   “   R40 000</td>
<td>R5 800 plus 31 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>“   “   “   “   “   “   “   R50 000</td>
<td>R8 900 plus 42 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>“   “   “   “   “   “   “   R70 000</td>
<td>R13 100 plus 43 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>“   “   “   “   “   “   “   R80 000</td>
<td>R21 700 plus 44 per cent of the amount by which the taxable income exceeds R60 000;</td>
</tr>
<tr>
<td>“   “   “   “   “   “   “   R80 000</td>
<td>R26 100 plus 45 per cent of the amount by which the taxable income exceeds R80 000;</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Taxable Income Where the taxable income—</th>
<th>Rates of Tax in respect of Persons other than Natural Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>“   “   “   “   “   “   “   R15 000</td>
<td>R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
</tbody>
</table>
(b) in respect of the taxable income of any person other than a natural person, an amount of tax calculated in accordance with the table below:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Tax Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>R15 000</td>
<td>R2 850 plus 24% of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>R20 000</td>
<td>R4 050 plus 28% of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>R30 000</td>
<td>R6 850 plus 36% of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>R40 000</td>
<td>R10 450 plus 41% of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>R50 000</td>
<td>R14 550 plus 42% of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>R56 000</td>
<td>R17 070 plus 43% of the amount by which the taxable income exceeds R56 000;</td>
</tr>
<tr>
<td>R70 000</td>
<td>R23 090 plus 44% of the amount by which the taxable income exceeds R70 000;</td>
</tr>
<tr>
<td>R80 000</td>
<td>R27 490 plus 45% of the amount by which the taxable income exceeds R80 000;</td>
</tr>
</tbody>
</table>

(c) on each rand of so much of the taxable income as exceeds R50 000, 1.67 cents, in addition to the tax determined under subparagraph (a) or (b): Provided that for the purposes of this subparagraph, the taxable income of a person shall be determined without the inclusion of any amount contemplated in section 7A (4A) and paragraph 7 of the Second Schedule to the principal Act.

2. The rates of normal tax referred to in section 1 of this Act in respect of companies are, subject to the provisions of paragraphs 4 and 5, as follows:

(a) On each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c) and (d)), 35 cents, or, in the case of 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, 48 cents;

(b) on each rand 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 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 principal Act, but after the set-off of any assessed loss in terms of section 20 (1) of the principal Act), a percentage determined in accordance with the formula:

\[ y = \frac{215}{43} - \frac{y}{x} \]
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:

\[
y = 58 - \frac{290}{x}
\]

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) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(d) on each rand of the taxable income derived by any company from carrying on long-term insurance business-

(i) where such taxable income has been determined in terms of the provisions of section 28 of the principal Act, 45 cents; or

(ii) where such taxable income has been determined in terms of the provisions of section 29 of the principal Act-

\((aa)\) in respect of its individual policyholder fund, 30 cents; and

\((bb)\) in respect of its company policyholder fund and corporate fund, 35 cents:

Provided that the tax determined in accordance with any of
subparagraphs (a) to (d), inclusive, shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. The rates set forth in paragraphs 1 and 2 shall be the rates required to be fixed by Parliament in accordance with the provisions of section 5 (2) of the principal Act, in respect of taxable incomes derived from sources within or deemed to be within the Republic.

4. Where the normal tax payable by any company in respect of taxable income derived from a source within the territories of the former Republics of Transkei, Bophuthatswana and Ciskei as determined under paragraph 2 (a), (b), (c) and (d), exceeds the tax which, but for the provisions of section 57 (2) of this Act, would have been payable in respect of such taxable income as determined under the provisions of-


   (b) the Income Tax Act, 1962 (Act 58 of 1962), of the former Republic of Bophuthatswana and the Bophuthatswana Taxation Act, 1978 (Act 26 of 1978), of the former Republic of Bophuthatswana; or

   (c) the Income Tax Act, 1984 (Act 44 of 1984), of the former Republic of Ciskei,

as the case may be, there shall be deducted from such normal tax an amount equal to 50 per cent of the amount by which such normal tax exceeds the tax which, but for the provisions of section 57 (2) of this Act, would have been payable under any such Act.

5. Any company which qualifies for exemption under the provisions of section 2 of the Company Tax Amendment Decree, 1994 (Decree 2 of 1994 of Ciskei), shall be exempt from normal tax on so much of its taxable income as is derived from a source within the territory of the former Republic of Ciskei.

6. For the purposes of paragraph 2 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

7. For the purposes of the principal Act any amount determined in accordance with paragraph 1 (c) shall be known as the transition levy.
8. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned.

**Schedule 2**

**LAWS REPEALED**

(Section 58)

(a) **Laws of the former Republic of Transkei**

<table>
<thead>
<tr>
<th>Number and year of law</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act 8 of 1969</td>
<td>Transkei Taxation Act, 1969</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 2 of 1970</td>
<td>Transkeian Finance Act, 1970</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 5 of 1972</td>
<td>Transkeian General Law Amendment Act, 1972</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 27 of 1976</td>
<td>Taxation Adjustment Act, 1976</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 10 of 1977</td>
<td>Taxation Amendment Act, 1977</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 17 of 1978</td>
<td>Taxation Amendment Act, 1978</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 25 of 1980</td>
<td>Taxation Amendment Act, 1980</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 23 of 1981</td>
<td>Taxation Amendment Act, 1981</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 19 of 1982</td>
<td>Income Tax Amendment Act, 1982</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 3 of 1983</td>
<td>Taxation Amendment Act, 1983</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 19 of 1983</td>
<td>Income Tax Amendment Act, 1983</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 10 of 1984</td>
<td>Income Tax Amendment Act, 1984</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 22 of 1985</td>
<td>General Law Amendment Act, 1985</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 16 of 1986</td>
<td>Taxation Amendment Act, 1986</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 4 of 1987</td>
<td>Taxation Amendment Act, 1987</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 19 of 1987</td>
<td>Revenue Laws Amendment Act, 1987</td>
<td>The whole</td>
</tr>
<tr>
<td>Decree 13 of 1988</td>
<td>Decree 13 (General Law Amendment) of 1988</td>
<td>Sections 6 and 7</td>
</tr>
<tr>
<td>Decree 17 of 1989</td>
<td>Decree 17 (Revenue Laws Amendment) of 1989</td>
<td>Section 4</td>
</tr>
</tbody>
</table>

(b) **Laws of the former Republic of Bophuthatswana**

<table>
<thead>
<tr>
<th>Number and year of law</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act 26 of 1978</td>
<td>Bophuthatswana Taxation Act, 1978</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 4 of 1980</td>
<td>Bophuthatswana Taxation Amendment Act, 1980</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 26 of 1980</td>
<td>Bophuthatswana Taxation Second Amendment Act, 1980</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 27 of 1980</td>
<td>Bophuthatswana Taxation Third Amendment Act, 1980</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 30 of 1980</td>
<td>Bophuthatswana Taxation Fourth Amendment Act, 1980</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 7 of 1982</td>
<td>Bophuthatswana Taxation Amendment Act, 1982</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 34 of 1982</td>
<td>Bophuthatswana Taxation Second Amendment Act, 1982</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 15 of 1983</td>
<td>Bophuthatswana Taxation Amendment Act, 1983</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 31 of 1984</td>
<td>Bophuthatswana Taxation Amendment Act, 1984</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 32 of 1984</td>
<td>Bophuthatswana Second Taxation Amendment Act, 1984</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 23 of 1985</td>
<td>Bophuthatswana Taxation Amendment Act, 1985</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 24 of 1985</td>
<td>Second Bophuthatswana Taxation Amendment Act, 1985</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 28 of 1986</td>
<td>Bophuthatswana Taxation Amendment Act, 1986</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 33 of 1986</td>
<td>Bophuthatswana Taxation Second Amendment Act, 1986</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 4 of 1988</td>
<td>Bophuthatswana Taxation Amendment Act, 1988</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 10 of 1989</td>
<td>Bophuthatswana Taxation Amendment Act, 1989</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 4 of 1991</td>
<td>Bophuthatswana Taxation Amendment Act, 1991</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 34 of 1992</td>
<td>Taxation Laws Amendment Act, 1992</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 64 of 1992</td>
<td>Bophuthatswana Taxation Laws Amendment Act, 1992</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 35 of 1993</td>
<td>Taxation Laws Amendment Act, 1993</td>
<td>The whole</td>
</tr>
</tbody>
</table>
Laws of the former Republic of Venda

<table>
<thead>
<tr>
<th>Number and year of law</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act 36 of 1987</td>
<td>Taxation Laws Amendment Act, 1987</td>
<td>The whole</td>
</tr>
</tbody>
</table>

Laws of the former Republic of Ciskei

<table>
<thead>
<tr>
<th>Number and year of law</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act 16 of 1984</td>
<td>Company Tax Amendment Act, 1984</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 44 of 1984</td>
<td>Income Tax Act, 1984</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 7 of 1988</td>
<td>Income Tax Amendment Act, 1988</td>
<td>The whole</td>
</tr>
<tr>
<td>Act 11 of 1989</td>
<td>Reinsurance of Material Damage and Loss Act, 1989</td>
<td>The Schedule</td>
</tr>
<tr>
<td>Decree 16 of 1991</td>
<td>Income Tax Amendment Decree of 1991</td>
<td>The whole</td>
</tr>
<tr>
<td>Decree 20 of 1992</td>
<td>Income Tax Amendment Decree of 1992</td>
<td>The whole</td>
</tr>
<tr>
<td>Decree 21 of 1992</td>
<td>Taxation Amendment Decree of 1992</td>
<td>The whole</td>
</tr>
<tr>
<td>Decree 24 of 1993</td>
<td>Taxation Amendment Decree of 1993</td>
<td>The whole</td>
</tr>
<tr>
<td>Decree 7 of 1994</td>
<td>Income Tax Amendment Decree of 1994</td>
<td>The whole</td>
</tr>
</tbody>
</table>

INCOME TAX ACT 36 OF 1996

[ASSENTED TO 27 JUNE 1996] [DATE OF COMMENCEMENT: 3 JULY 1996] (Unless otherwise indicated)

(English text signed by the President)

as amended by

Revenue Laws Amendment Act 46 of 1996
Income Tax Act 28 of 1997
Taxation Laws Amendment Act 30 of 1998

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1997 and 30 June 1997, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1997; to amend the Income Tax Act, 1962; to amend the Income Tax Act, 1994; to withdraw a Government Notice; to repeal certain laws; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962) (hereinafter referred to as the principal Act), in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1997 or 30 June 1997;
and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1997, shall be as set forth in the Schedule to this Act.

2 Amends section 1 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts the definition of 'Chief Executive Officer'; paragraph (b) substitutes the definition of 'hotel keeper'; paragraph (c) substitutes the definition of 'neighbouring country'; and paragraph (d) substitutes the definition of 'South African company'.

3 Amends section 4 of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds subsection (1) (c); paragraph (b) inserts subsection (1B); paragraph (c) substitutes subsection (2) (a); paragraph (d) substitutes subsection (3); and paragraph (e) substitutes subsection (4).

4 Amends section 6 (2) (a) of the Income Tax Act 58 of 1962 by substituting the expression 'R2 660' for the expression 'R2 625'.


6 (1) Amends section 8 (4) of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts paragraph (dB); and paragraph (b) adds paragraph (l).

(2) (a) Subsection (1) (a) shall be deemed to have come into operation on 1 June 1996 and shall apply to any shares sold or disposed of on or after that date.

(b) Subsection (1) (b) shall apply in respect of all financial arrangements transferred on or after the date of promulgation of this Act.

7 (1) Amends section 9B (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes the word 'and' at the end of paragraph (b) (ii); paragraph (b) adds the word 'and' at the end of paragraph (d); and paragraph (c) adds paragraph (e).

(2) Subsection (1) shall come into operation on 1 August 1996 and shall apply to any share lent in terms of a lending arrangement entered into on or after that date.

8 (1) Amends section 10 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (cB) (i) (ff); paragraph (b) substitutes subsection (1) (cl) (i) (aa); paragraph (c) substitutes subsection (1) (cK) (i);
paragraph (d) substitutes subsection (1) (ck) (vi) (aa) and (dd); paragraph (e) deletes subsection (1) (cl); paragraph (f) substitutes in subsection (1) (fA) the words preceding subparagraph (i), and subparagraph (i); paragraph (g) substitutes subsection (1) (fa) (ii) (aa), (cc) and (dd); paragraph (h) substitutes subsection (1) (fa) (ii) (hh); paragraph (i) substitutes in subsection (1) (fa) paragraph (b) of the proviso; paragraph (j) substitutes subsection (1) (gb) (date of commencement of para. (j): 1 March 1998); paragraph (k) deletes the word 'and' at the end of subsection (1) (hA) (iii); paragraph (l) adds the word 'and' at the end of subsection (1) (hA) (iv); paragraph (m) adds subsection (1) (hA) (v); paragraph (n) deletes in subsection (1) (i) the words preceding subparagraph (i), and subparagraphs (i), (ii), (vi), (xii), (xiiA), (xiii) and (xiv); paragraph (o) deletes subsection (1) (t) (xiv); and paragraph (p) deletes subsection (4).

(2) (a) Subsection (1) (a) shall come into operation as from the commencement of years of assessment commencing on or after 1 August 1996.

(b) Subsection (1) (j) shall come into operation on the date on which section 12 of the Compensation for Occupational Injuries and Diseases Amendment Act, 1997, comes into operation.

[Para. (b) substituted by s. 52 of Act 28 of 1997 and amended by s. 106 (1) of Act 30 of 1998.]

(c) Subsection (1) (m) shall be deemed to have come into operation on 1 April 1996 and shall apply to any interest received or accrued on or after that date.

9 (1) Amends section 11 (ga) (aa) of the Income Tax Act 58 of 1962 by substituting the expression 'R3 000' for the expression 'two hundred rand'.

(2) Subsection (1) shall come into operation on 1 August 1996 and shall apply to any expenditure incurred on or after that date.

10 Amends section 16A (1) (b) of the Income Tax Act 58 of 1962 by substituting the words preceding subparagraph (i).

11 (1) Amends section 18A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in section (1) paragraphs (a) and (b) of the definition of 'college'; paragraph (b) substitutes in subsection (1) paragraph (c) (i) of the definition of 'educational fund'; paragraph (c) substitutes in subsection (1) in paragraph (d) of the definition of 'educational fund' the words preceding subparagraph (i); paragraph (d) substitutes in subsection (1) the definition of 'university'; paragraph (e) adds the word 'and' at the end of subsection (2) (a); paragraph (f) deletes the word 'and' at the end of subsection (2) (b); paragraph (g) deletes subsection (2) (c); paragraph (h) substitutes in subsection (3) the words preceding paragraph (a); paragraph (i) substitutes subsection (3) (b); and
paragraph (j) substitutes subsection (3) (e).

(2) Subsection (1) (e) to (j), inclusive, shall come into operation on 1 October 1996 and shall apply in respect of any donation made on or after that date.

12 (1) Amends section 22 of the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts subsection (4A); paragraph (b) substitutes subsection (8); and paragraph (c) adds subsection (9).

(2) (a) Subsection (1) (a) and (c) shall come into operation on 1 August 1996 and shall apply to any marketable security lent on or after that date.

(b) Subsection (1) (b) shall come into operation on the date of promulgation of this Act and shall apply to any trading stock applied, disposed of or distributed on or after that date.

13 (1) Amends section 24I of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the definition of 'affected forward exchange contract'; and paragraph (b) adds the proviso to subsection (7).

(2) Subsection (1) shall come into operation in respect of years of assessment ending on or after the date of promulgation of this Act.

14 (1) Amends section 24J of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the definition of 'adjusted gain on transfer or redemption of an instrument'; paragraph (b) substitutes in subsection (1) the definition of 'adjusted loss on transfer or redemption of an instrument'; paragraph (c) substitutes in subsection (1) the definition of 'income instrument'; paragraph (d) substitutes in subsection (1) the words following upon paragraph (e) of the definition of 'instrument'; paragraph (e) inserts subsection (3A); paragraph (f) inserts subsection (4A); and paragraph (g) inserts subsection (5A).

(2) (a) Subsection (1) (a), (b), (f) and (g) shall be deemed to have come into operation on 16 March 1995 and shall apply to all instruments which are subject to the provisions of section 24J of the principal Act.

(b) Subsection (1) (c) shall come into operation on the date of promulgation of this Act and shall apply to all instruments issued or transferred on or after that date.

(c) Subsection (1) (d) and (e) shall in so far as it relates to any instrument issued on or before 15 March 1995 and which was unredeemed on 14 March 1996 (excluding any arrangement contemplated in paragraphs (i) and (ii) of the definition of 'instrument' in section 24J (1) of the principal Act) be deemed to have come into operation from the date of issue or transfer, as the case may be,
of such instrument to a person who was the holder thereof on 14 March 1996 and shall apply to the holder of such an instrument from such date of issue or transfer.

15 Amends section 27 (2) (a) of the Income Tax Act 58 of 1962 by substituting the proviso.

16 Amends section 29 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the definition of 'prescribed value'; paragraph (b) substitutes subsection (4) (d); and paragraph (c) substitutes subsection (14) (b).

17 Amends section 36 (11) of the Income Tax Act 58 of 1962 by substituting the definition of 'capital expenditure incurred'.

18 (1) Amends section 56 of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes subsection (1) (p); and paragraph (b) substitutes subsection (2) (b).

   (2) (a) Subsection (1) (a) shall come into operation on the date of promulgation of this Act and shall apply to any property disposed of under a donation which takes place on or after that date.

   (b) Subsection (1) (b) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 28 February 1997.

19 (1) Amends section 64 of the Income Tax Act 58 of 1962 by substituting the expression '25 per cent' for the expression '15 per cent'.

   (2) Subsection (1) shall be deemed to have come into operation on 14 March 1996 and shall apply to the value of any property disposed of under a donation which takes effect on or after that date.

20 (1) Amends section 64A of the Income Tax Act 58 of 1962, as follows: paragraph (a) deletes in subsection (1) the definition of 'leviable amount'; paragraph (b) substitutes subsection (2); paragraph (c) substitutes in subsection (3) the words preceding paragraph (a); paragraph (d) adds the word 'and' at the end of subsection (3) (b); paragraph (e) deletes the word 'and' at the end of subsection (3) (c); and paragraph (f) deletes subsection (3) (d).

   (2) Subsection (1) shall come into operation on 1 October 1996.

21 (1) Amends section 64B of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the words preceding the definition of 'declared'; paragraph (b) inserts in subsection (1) the definition of 'affected
company'; paragraph (c) adds the definitions of 'holding company', 'intermediate company' and 'share incentive scheme' to subsection (1); paragraph (d) substitutes subsection (2); paragraph (e) substitutes subsection (5) (f); paragraph (f) substitutes subsection (5) (g); paragraph (g) adds the word 'and' at the end of subsection (5) (g); and paragraph (h) adds subsection (5) (h).

(2) (a) Subsection (1) (a), (b), (c) and (e) shall come into operation on 1 August 1996 and shall apply to any dividend declared on or after that date.

(b) Subsection (1) (h) shall apply in respect of any dividend declared during any year of assessment ending on or after 1 April 1996.

22 (1) Amends section 64C (4) of the Income Tax Act 58 of 1962 by substituting paragraphs (g) and (h) for paragraph (g).

(2) Subsection (1) shall come into operation on 1 August 1996 and shall apply to any loan made on or after that date.

23 (1) Amends section 79 (1) of the Income Tax Act 58 of 1962 by substituting the second proviso.

(2) Subsection (1) shall be deemed to have come into operation on 17 March 1993.

24 (1) Amends section 89quat of the Income Tax Act 58 of 1962 by substituting subsections (3) and (3A).

(2) Subsection (1) shall come into operation on 3 July 1996 and shall apply to any interest attributable to any tax arising from the application of the provisions of section 103 of the principal Act to any transaction, operation or scheme entered into or carried out, or any agreement entered into or effected on or after that date.

[Sub-s. (2) substituted by s. 29 (1) of Act 46 of 1996.]


27 (1) Amends section 101 (8) of the Income Tax Act 58 of 1962 by substituting the expression 'R25' for the expression 'R10'.

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any failure or default to act on or after that date.
28  (1) Amends section 102A of the Income Tax Act 58 of 1962 by substituting the expression 'R25' for the expression 'R10'.

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any excess arising on or after that date.

29  (1) Amends section 103 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1) (b) (i); paragraph (b) substitutes subsection (1) (c); and paragraph (c) adds subsections (6) and (7).

(2) Subsection (1) shall come into operation on 3 July 1996 and shall apply to any transaction, operation or scheme entered into or carried out, or any agreement entered into or effected on or after that date: Provided that the provisions of section 103 of the principal Act shall, in relation to any transaction, operation or scheme entered into or carried out, or any agreement entered into or effected before that date, continue to apply as if subsection (1) had not been enacted.

[Sub-s. (2) substituted by s. 30 (1) of Act 46 of 1996.]

30  Amends the First Schedule to the Income Tax Act 58 of 1962 by substituting paragraph 4 (2).

31  Amends the First Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph 5 (1); and paragraph (b) deletes paragraph 5 (1A).

32  Amends the First Schedule to the Income Tax Act 58 of 1962 by substituting paragraph 11.

33  Amends the First Schedule to the Income Tax Act 58 of 1962 by deleting paragraph 18.

34  Amends the Fourth Schedule to the Income Tax Act 58 of 1962 by deleting in paragraph 1 paragraph (i) of the definition of 'remuneration'.

35  Amends the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) adds in paragraph 11B (1) the proviso to the definition of 'tax period'; and paragraph (b) adds in paragraph 11B the proviso to subparagraph (4A).

36  Amends the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting paragraph 15 (1).

37  (1) Amends the Fourth Schedule to the Income Tax Act 58 of 1962 by
substituting in paragraph 18 (1) (d) (i) the expression 'R50 000' for the expression 'R35 000'.

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1997.

38 Amends the Fourth Schedule to the Income Tax Act 58 of 1962 by deleting the heading preceding paragraph 29.

39 Amends the Fourth Schedule to the Income Tax Act 58 of 1962 by deleting the headings following paragraph 32.

40 (1) Amends the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting in the definition of 'official rate of interest' the expression '16 per cent' for the expression '14 per cent'.

(2) Subsection (1) shall be deemed to have come into operation on 1 September 1995.

41 Amends the Income Tax Act 58 of 1962 by substituting the expression 'National Revenue Fund' for the expression 'State Revenue Fund', wherever it occurs.

42 Amends section 9 (2) (b) of the Income Tax Act 21 of 1994 by substituting the expression '1 April 1992' for the expression '1 April 1994'.

43 Withdrawal of Government Notice 1154 of 4 August 1995

(1) Government Notice 1154 of 4 August 1995 is hereby withdrawn.

(2) Subsection (1) shall be deemed to have come into operation on 4 August 1995.

44 Repeal of laws, and saving


(2) Any tax or levy which has become payable under a law repealed by subsection (1) before or on the date of the repeal of such a law, but which has not at the said date been paid, shall be recovered in accordance with and subject to the provisions of the law concerned as if that law had not been so repealed.

(3) Subsections (1) and (2) shall be deemed to have come into operation on 1 October 1995.
45 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall for the purposes of assessments in respect of normal tax under the principal Act, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1997.

46 Short title

This Act shall be called the Income Tax Act, 1996.

Schedule


(Section 1)

1. The rates of normal tax referred to in section 1 of this Act in respect of persons other than companies are as follows:-

(a) In respect of the taxable income of any natural person, an amount of tax calculated in accordance with the table below:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Natural Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income- does not exceed R15 000 ..... exceeds R15 000 but does not exceed R20 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot; R30 000</td>
<td>R2 550 plus 19 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot; R40 000</td>
<td>R3 500 plus 21 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot; R60 000</td>
<td>R5 600 plus 30 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R60 000 &quot; &quot; &quot; &quot; R80 000</td>
<td>R8 600 plus 41 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R80 000 &quot; &quot; &quot; &quot; R100 000</td>
<td>R16 800 plus 43 per cent of the amount by which the taxable income exceeds R60 000;</td>
</tr>
<tr>
<td>&quot; R100 000 .....................</td>
<td>R25 400 plus 44 per cent of the amount by which the taxable income exceeds R80 000;</td>
</tr>
<tr>
<td>.........................</td>
<td>R34 200 plus 45 per cent of the amount by which the taxable income exceeds R100 000;</td>
</tr>
</tbody>
</table>

(b) In respect of the taxable income of any person other than a natural person, an amount of tax calculated in accordance with the table below:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Persons other than Natural Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>R2 550 plus 19 per cent of the amount by which the taxable income exceeds R15 000;</td>
<td></td>
</tr>
<tr>
<td>R3 500 plus 21 per cent of the amount by which the taxable income exceeds R20 000;</td>
<td></td>
</tr>
<tr>
<td>R5 600 plus 30 per cent of the amount by which the taxable income exceeds R30 000;</td>
<td></td>
</tr>
<tr>
<td>R8 600 plus 41 per cent of the amount by which the taxable income exceeds R40 000;</td>
<td></td>
</tr>
<tr>
<td>R16 800 plus 43 per cent of the amount by which the taxable income exceeds R60 000;</td>
<td></td>
</tr>
<tr>
<td>R25 400 plus 44 per cent of the amount by which the taxable income exceeds R80 000;</td>
<td></td>
</tr>
<tr>
<td>R34 200 plus 45 per cent of the amount by which the taxable income exceeds R100 000;</td>
<td></td>
</tr>
</tbody>
</table>
Where the taxable income—
does not exceed R5 000 .............................................
exceeds R5 000 but does not exceed R10 000

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Tax Rate</th>
<th>Total Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>R10 000</td>
<td>17%</td>
<td>R15 000</td>
</tr>
<tr>
<td>R15 000</td>
<td>19%</td>
<td>R20 000</td>
</tr>
<tr>
<td>R20 000</td>
<td>21%</td>
<td>R30 000</td>
</tr>
<tr>
<td>R30 000</td>
<td>23%</td>
<td>R40 000</td>
</tr>
<tr>
<td>R40 000</td>
<td>25%</td>
<td>R50 000</td>
</tr>
<tr>
<td>R50 000</td>
<td>27%</td>
<td>R60 000</td>
</tr>
<tr>
<td>R60 000</td>
<td>29%</td>
<td>R70 000</td>
</tr>
<tr>
<td>R70 000</td>
<td>31%</td>
<td>R100 000</td>
</tr>
<tr>
<td>R100 000</td>
<td>33%</td>
<td>R145 000</td>
</tr>
</tbody>
</table>

2. The rates of normal tax referred to in section 1 of this Act in respect of companies are, subject to the provisions of paragraph 4, as follows:-

(a) On each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d) and (e)), 35 cents, or, in the case of 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, 42 cents;

(b) on each rand 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 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 principal Act, but after the set-off of any assessed loss in terms of section 20 (1) of the principal Act), a percentage determined in accordance with the formula:

\[
y = \frac{215}{43} - x
\]

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:

\[
y = \frac{255}{51} - x
\]

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) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(d) on each rand of the taxable income derived by any company from carrying on long-term insurance business-

(i) where such taxable income has been determined in terms of the provisions of section 28 of the principal Act, 45 cents; or

(ii) where such taxable income has been determined in terms of the provisions of section 29 of the principal Act-

(aa) in respect of its individual policyholder fund, 30 cents; and

(bb) in respect of its company policyholder fund and corporate fund, 35 cents;

(e) on each rand of the taxable income (excluding taxable income referred to in subparagraphs (b), (c) and (d)) derived by a company which has its place of effective management outside the Republic and which carries on a trade through a branch or agency within the Republic, 40 cents:

Provided that the tax determined in accordance with any of subparagraphs (a) to (e), inclusive, shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.
3. That the rates set forth in paragraphs 1 and 2 shall be the rates required to be fixed by Parliament in accordance with the provisions of section 5 (2) of the principal Act, in respect of taxable incomes derived from sources within or deemed to be within the Republic.

4. Any company which qualifies for exemption under the provisions of section 2 of the Company Tax Amendment Decree, 1994 (Decree 2 of 1994 of Ciskei), shall be exempt from normal tax on so much of its taxable income as is derived from a source within the territory of the former Republic of Ciskei.

5. For the purposes of paragraph 2 income derived from mining for gold shall include 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.

6. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned.

INCOME TAX ACT 28 OF 1997

[ASSENTED TO 26 JUNE 1997]  [DATE OF COMMENCEMENT: 4 JULY 1997]
(Unless otherwise indicated)

(Afrikaans text signed by the President)

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1998 and 30 June 1998, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1998; to amend the Income Tax Act, 1962; to amend the Income Tax Act, 1996; and to provide for incidental matters.

1 Rates of normal tax

The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act 58 of 1962) (hereinafter referred to as the principal Act), in respect of-

(a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1998 or 30 June 1998; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1998,
shall be as set forth in the Schedule to this Act.

2 (1) Amends section 1 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in paragraph (e) of the definition of 'company' the words preceding subparagraph (i); paragraph (b) substitutes paragraph (d) (iv) of the definition of 'connected person'; paragraph (c) deletes the word 'and' at the end of paragraph (d) (v) of the definition of 'connected person'; paragraph (d) inserts paragraph (d) (vA) in the definition of 'connected person'; paragraph (e) substitutes paragraph (d) (vi) (cc) of the definition of 'connected person'; paragraph (f) substitutes the definition of 'executor'; paragraph (g) substitutes in paragraph (e) of the definition of 'gross income' the words preceding the proviso (date of commencement: 1 March 1998); paragraph (h) inserts paragraph (eA) in the definition of 'gross income' (date of commencement: 12 March 1997); paragraph (i) inserts the definition of 'insolvent estate'; paragraph (j) substitutes the definition of 'pension fund'; paragraph (k) substitutes the definition of 'person'; and paragraph (l) adds paragraph (f) to the definition of 'representative taxpayer'.

(2) (a) Subsection (1) (g) shall come into operation on 1 March 1998 and shall apply to any lump sum benefits received by or accrued to any person on or after that date.

(b) Subsection (1) (h) shall be deemed to have come into operation on 12 March 1997 and shall apply to all amounts transferred or amounts representing the amounts converted for the benefit of any person on or after that date.

(c) Subsection (1) (i), (k) and (l) shall come into operation on the date of promulgation of this Act and shall apply to any estate voluntarily or compulsorily sequestrated on or after that date.

3 Amends section 6 (2) (a) of the Income Tax Act 58 of 1962 by substituting the expression 'R3 215' for the expression 'R2 660'.


5 Amends section 6quat of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes subsection (3).

6 (1) Amends section 8 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) (b) (ii) (aa) and (bb) the expression '14 000 kilometres' for the expression '12 000 kilometres' (date of commencement: 1 March 1997); and paragraph (b) adds subsection (4) (m).

(2) (a) Subsection (1) (a) shall be deemed to have come into operation on
1 March 1997.

(b) Subsection (1) (b) shall come into operation on the date of promulgation of this Act and shall apply to any cancellation, termination or variation of an agreement or prescription, waiver or release of any claim on or after that date.

7 Amends section 9 of the Income Tax Act 58 of 1962 by deleting subsections (2), (3) and (4).


(2) Subsection (1) shall be deemed to have come into operation on 1 July 1997 and shall apply in respect of any investment income received or accrued on or after that date.

10 (1) Amends section 10 (1) of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (cA); paragraph (b) substitutes in paragraph (cH) (i) the words preceding item (aa), and item (aa); paragraph (c) substitutes paragraph (cH) (ii), (iii) and (iv); paragraph (d) substitutes in paragraph (cl) (i) (aa) the expression 'R1 800' for the expression 'R1 500'; paragraph (e) deletes paragraph (mA) (date of commencement: 1 January 1997); paragraph (f) substitutes in paragraph (q) (ii) and (iii) the expressions 'R50 000' and 'R1 660', respectively, for the expressions 'R36 000' and 'R1 200'; paragraph (g) deletes paragraph (t) (iv) and (vii) (date of commencement: 1 July 1998); and paragraph (h) substitutes paragraph (zh) (date of commencement in so far as it inserts paragraph (zh) (ii): 1 October 1993 and date of commencement in so far as it inserts paragraph (zh) (iii) and (iv): 1 October 1996).

(2) (a) Subsection (1) (a) shall come into operation on the date of promulgation of this Act: Provided that any institution, board, body or company whose receipts and accruals were exempt from tax in terms of the provisions of section 10 (1) (cA) of the principal Act prior to the amendment thereof by this section, and which institution, board, body or company applies for approval by the Commissioner on or before 30 September 1997, shall continue to enjoy such exemption until written notification by the Commissioner of his decision in the exercise of his discretion in terms of such section 10 (1) (cA) of the principal Act.

(b) Subsection (1) (b) and (c) shall come into operation on the date of promulgation of this Act.

(c) Subsection (1) (e) shall be deemed to have come into operation on 1 January 1997.
(d) Subsection (1) (g) shall come into operation on 1 July 1998.

(e) Subsection (1) (h) shall-

(i) in so far as it inserts subparagraph (ii) in section 10 (1) (zH) of the principal Act, be deemed to have come into operation on 1 October 1993; and

(ii) in so far as it inserts subparagraphs (iii) and (iv) in section 10 (1) (zH) of the principal Act, be deemed to have come into operation on 1 October 1996.

11 (1) Amends section 10A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the definition of ‘valuator’ (date of commencement: 1 July 1997); paragraph (b) substitutes subsection (2); and paragraph (c) substitutes in subsection (4) the words preceding the proviso (date of commencement: 1 July 1997).

(2) (a) Subsection (1) (a) and (c) shall be deemed to come into operation on 1 July 1997 and shall apply in respect of any investment income received or accrued on or after that date.

(b) Subsection (1) (b) shall come into operation on the date of promulgation of this Act and shall apply in respect of the estate of any person who dies or whose estate is voluntarily or compulsorily sequestrated on or after that date.

12 Amends section 11 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (hA); and paragraph (b) substitutes paragraph (s).


15 Amends section 20 (1) (a) of the Income Tax Act 58 of 1962 by substituting subparagraph (i).


(2) The provisions of subsection (1) shall be deemed to have come into operation on 5 June 1997 and shall apply in respect of any such agreement entered into on or after that date.

(2) Subsection (1) shall come into operation on 1 January 1998 and shall apply in respect of any instrument issued or transferred on or after that date.

18 Amends section 24I (5) (b) of the Income Tax Act 58 of 1962, as follows: paragraph (a) adds the word 'or' at the end of subparagraph (iv); and paragraph (b) inserts subparagraph (v).

19 (1) Amends section 24J of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the definition of 'interest'; paragraph (b) inserts in subsection (1) the definition of 'interest rate agreement'; paragraph (c) substitutes in subsection (1) exclusions (A) and (B) to the definition of 'instrument' (date of commencement in so far as item (A) is amended: 5 June 1997 and date of commencement in so far as item (B) is deleted: 1 January 1998); paragraph (d) substitutes subsection (9) (a); paragraph (e) substitutes subsection (9) (b) (ii); paragraph (f) substitutes subsection (9) (b) (iii) (A) and (B); paragraph (g) substitutes subsection (9) (b) (iv); paragraph (h) substitutes subsection (9) (c) and (d); and paragraph (i) substitutes in subsection (9) (f) (ii) the words preceding the proviso.

(2) (a) Subsection (1) (a) shall-

(i) in so far as it relates to paragraph (b) of the definition of 'interest' in section 24J of the principal Act, for the purposes of the principal Act, come into operation on the date of promulgation of this Act and shall apply in respect of amounts payable after that date;

(ii) in so far as it relates to paragraph (b) of the definition of 'interest' in section 24J of the principal Act, for the purposes of the Tax on Retirement Funds Act, 1996 (Act 38 of 1996), be deemed to have come into operation on 1 March 1997 and shall apply in respect of amounts payable on or after that date;

(iii) in so far as it inserts paragraph (c) of the definition of 'interest' in section 24J of the principal Act, be deemed to have come into operation on 5 June 1997.

(b) Subsection (1) (b), (d), (e), (f), (g), (h) and (i) shall come into operation on the date of promulgation of this Act and shall apply in respect of any interest rate agreement entered into on or after that date.

(c) Subsection (1) (c) shall-
(i) in so far as it amends item (A) of the definition of 'instrument' in section 24J of the principal Act, be deemed to have come into operation on 5 June 1997;

(ii) in so far as it relates to the deletion of item (B) of the definition of 'instrument' in section 24J of the principal Act, come into operation on 1 January 1998 and shall apply in respect of any instrument issued or transferred on or after that date.


(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply in respect of any interest rate agreement entered into on or after that date.


22 Amends section 55 (2) (d) of the Income Tax Act 58 of 1962 by substituting the words 'High Court' for the words 'Supreme Court'.

23 (1) Amends section 62 (2) of the Income Tax Act 58 of 1962 by substituting paragraph (a).

(2) Section[sic] (1) shall come into operation on the date of promulgation of this Act and shall apply to any property disposed of under a donation which takes effect on or after that date.

24 (1) Repeals Part VI (section 64A) of Chapter II of the Income Tax Act 58 of 1962.

(2) Subsection (1) shall come into operation on 1 January 1998.

25 (1) Amends section 64B of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (1) the definition of 'share incentive scheme'; and paragraph (b) substitutes subsection (6) (a).

(2) (a) Subsection (1) (a) shall come into operation on the date of promulgation of this Act.

(b) Subsection (1) (b) shall come into operation on 1 July 1997.


27 Amends section 74 (1) of the Income Tax Act 58 of 1962 by substituting the definition of 'judge'.

29 Amends section 74D (1) of the Income Tax Act 58 of 1962 by substituting the words preceding paragraph (a).

30 Amends section 83 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsections (2) and (6) the words 'High Court' for the words 'Supreme Court'; paragraph (b) substitutes the proviso to subsection (2); and paragraph (c) substitutes in subsections (3) and (5) (a) and (b) the words 'President of the Republic' for the words 'State President'.

31 Amends section 86A of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subsection (2) (a) the words 'High Court' for the words 'Supreme Court'; paragraph (b) substitutes in subsection (2) (b) the words 'Supreme Court of Appeal' for the words 'Appellate Division of the Supreme Court'; paragraph (c) substitutes in subsection (4) (a) the words 'High Court' for the words 'Supreme Court'; paragraph (d) substitutes in subsection (4) (b) the words 'Supreme Court of Appeal' for the words 'Appellate Division of the Supreme Court'; paragraph (e) substitutes in subsection (5) the words 'Supreme Court of Appeal' and 'said Court', respectively, for the words 'Appellate Division of the Supreme Court' and 'said Division'; paragraph (f) substitutes in subsection (6) the words 'High Court' for the words 'Supreme Court'; paragraph (g) substitutes in subsection (7) (a) the words 'Supreme Court of Appeal' and 'said Court', respectively, for the words 'Appellate Division of the Supreme Court' and 'said Division'; paragraph (h) substitutes in subsection (7) (b) the words 'High Court' for the words 'Supreme Court'; and paragraph (i) substitutes in subsection (19) the words 'High Court' for the words 'Supreme Court'.

32 Amends section 87 of the Income Tax Act 58 of 1962 by substituting the words 'High Court' for the words 'Supreme Court'.


34 (1) Amends section 93 of the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (2) (b) and the words following upon subsection (2) (b); and paragraph (c) substitutes subsections (3) and (4).

(2) Subsection (1) shall be deemed to have come into operation on 1 May 1997.

35 Amends section 95 of the Income Tax Act 58 of 1962 by substituting subsection (1)bis.

37 Amends section 107 (2) of the Income Tax Act 58 of 1962 by substituting the expression 'R1 000' for the expression 'fifty rand'.

38 (1) Amends section 108 of the Income Tax Act 58 of 1962, as follows:
paragraph (a) substitutes subsections (1) and (2); paragraph (b) deletes subsections (3) and (4); and paragraph (c) substitutes subsection (5).

(2) Subsection (1) shall be deemed to have come into operation on 1 May 1997.


40 Amends the First Schedule to the Income Tax Act 58 of 1962 by substituting in paragraph 19 (2) (b) the expressions 'R5 000' and 'R7 500', respectively, for the expressions 'three thousand rand' and 'four thousand five hundred rand', wherever they occur.

41 (1) Amends paragraph 1 of the Second Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) inserts the definition of 'formula C'; paragraph (b) substitutes the definition of 'pension fund'; and paragraph (c) substitutes the definition of 'provident fund'.

(2) Subsection (1) shall come into operation on 1 March 1998.


43 (1) Amends the Second Schedule to the Income Tax Act 58 of 1962 by inserting paragraph 2A.

(2) Subsection (1) shall come into operation on 1 March 1998.

44 (1) Amends paragraph 1 of the Fourth Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes paragraph (a) of the definition of 'remuneration' (date of commencement of para. (a): 12 March 1997); and paragraph (b) substitutes in paragraph (c) of the definition of 'remuneration' the expression '40 per cent' for the expression '35 per cent' (date of commencement of para. (b): 1 July 1997).

(2) (a) Subsection (1) (a) shall be deemed to have come into operation on 12 March 1997 and shall apply in respect of all amounts transferred or amounts representing amounts converted for the benefit of any person on or after that date.
(b) Subsection (1) (b) shall be deemed to have come into operation on 1 July 1997.

45   (1) Amends paragraph 2 of the Fourth Schedule to the Income Tax Act 58 of 1962 by adding subparagraph (6).
(2) Subsection (1) shall be deemed to have come into operation on 12 March 1997 and shall apply in respect of all amounts transferred or amounts representing amounts converted for the benefit of any person on or after that date.

(2) Subsection (1) shall be deemed to have come into operation on 12 March 1997 and shall apply in respect of all amounts transferred or amounts representing amounts converted for the benefit of any person on or after that date.

47   Amends paragraph 11A (7) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'R2 000' for the expression 'two hundred rand'.

48   Amends paragraph 11B (2) and (3) of the Fourth Schedule to the Income Tax Act 58 of 1962 by substituting the expression 'R60 000' for the expression 'R50 000', wherever it occurs.

49   Amends paragraph 2 of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting subparagraph (d).

50   (1) Amends paragraph 7 (4) (a) of the Seventh Schedule to the Income Tax Act 58 of 1962 by substituting the words preceding the second proviso.
(2) Subsection (1) shall be deemed to have come into operation on 1 July 1997.

51   (1) Amends paragraph 9 of the Seventh Schedule to the Income Tax Act 58 of 1962, as follows: paragraph (a) substitutes in subparagraph (3) (c) the expressions '16', '17' and '18', respectively, for the expressions '15', '16' and '17' (date of commencement of para. (a): 1 March 1998); paragraph (b) substitutes in subparagraph (4) (b) the expression 'R100' for the expression 'R35' (date of commencement of para. (b): 1 March 1997); paragraph (c) substitutes subparagraph (6) (date of commencement of para. (c): 1 March 1997); and paragraph (d) substitutes subparagraphs (9) and (10) (date of commencement of para. (d): 1 March 1997).
(2) (a) Subsection (1) (a) shall come into operation on 1 March 1998.

(b) Subsection (1) (b), (c) and (d) shall be deemed to have come into operation on 1 March 1997.

52 Amends section 8 (2) of the Income Tax Act 36 of 1996 by substituting paragraph (b).

53 Commencement of certain amendments

Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall for the purposes of assessments in respect of normal tax under the principal Act, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1998.

54 Short title

This Act shall be called the Income Tax Act, 1997.

Schedule


(Section 1)

1. The rates of normal tax referred to in section 1 of this Act in respect of persons other than companies are as follows:-

(a) In respect of the taxable income of any natural person, an amount of tax calculated in accordance with the table below:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Natural Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the taxable income-</td>
<td>19 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>does not exceed R30 000</td>
<td></td>
</tr>
<tr>
<td>exceeds R30 000 but does not exceed R35 000</td>
<td>R5 700 plus 30 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R35 000 &quot; &quot; &quot; &quot; R45 000</td>
<td>R7 200 plus 32 per cent of the amount by which the taxable income exceeds R35 000;</td>
</tr>
<tr>
<td>&quot; R45 000 &quot; &quot; &quot; &quot; R60 000</td>
<td>R10 400 plus 41 per cent of the amount by which the taxable income exceeds R45 000;</td>
</tr>
<tr>
<td>&quot; R60 000 &quot; &quot; &quot; &quot; R70 000</td>
<td>R16 550 plus 43 per cent of the amount by which the taxable income exceeds R60 000;</td>
</tr>
<tr>
<td>&quot; R70 000 &quot; &quot; &quot; &quot; R100 000</td>
<td>R20 850 plus 44 per cent of the amount by which the taxable income exceeds R70 000;</td>
</tr>
</tbody>
</table>
(b) in respect of the taxable income of any person other than a natural person, an amount of tax calculated in accordance with the table below:

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax in respect of Persons other than Natural Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>does not exceed R5 000</td>
<td>17 per cent of each R1 of the taxable income;</td>
</tr>
<tr>
<td>exceeds R5 000 but does not exceed R10 000</td>
<td>R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;</td>
</tr>
<tr>
<td>&quot; R10 000 &quot; &quot; &quot; &quot;</td>
<td>R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;</td>
</tr>
<tr>
<td>&quot; R15 000 &quot; &quot; &quot; &quot;</td>
<td>R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;</td>
</tr>
<tr>
<td>&quot; R20 000 &quot; &quot; &quot; &quot;</td>
<td>R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;</td>
</tr>
<tr>
<td>&quot; R30 000 &quot; &quot; &quot; &quot;</td>
<td>R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;</td>
</tr>
<tr>
<td>&quot; R40 000 &quot; &quot; &quot; &quot;</td>
<td>R10 450 plus 41 per cent of the amount by which the taxable income exceeds R40 000;</td>
</tr>
<tr>
<td>&quot; R50 000 &quot; &quot; &quot; &quot;</td>
<td>R14 550 plus 42 per cent of the amount by which the taxable income exceeds R50 000;</td>
</tr>
<tr>
<td>&quot; R60 000 &quot; &quot; &quot; &quot;</td>
<td>R18 750 plus 43 per cent of the amount by which the taxable income exceeds R60 000;</td>
</tr>
<tr>
<td>&quot; R70 000 &quot; &quot; &quot; &quot;</td>
<td>R23 050 plus 44 per cent of the amount by which the taxable income exceeds R70 000;</td>
</tr>
<tr>
<td>exceeds R100 000 ......................</td>
<td>R36 250 plus 45 per cent of the amount by which the taxable income exceeds R100 000;</td>
</tr>
</tbody>
</table>

2. The rates of normal tax referred to in section 1 of this Act in respect of companies are, subject to the provisions of paragraph 4, as follows:-

(a) On each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d), (e) and (f)), 35 cents, or, in the case of 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, 42 cents;

(b) on each rand 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 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 principal Act, but after the set-off of any assessed loss in terms of section 20 (1) of the principal Act), a percentage determined in accordance with the formula:
\[ y = 43 - \frac{43}{x} \]

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:

\[ y = 51 - \frac{255}{x} \]

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) on each rand 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 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 principal Act, a rate equal to the average rate of normal tax or 35 cents, 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 gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

(d) on each rand of the taxable income derived by any company from carrying on long-term insurance business-

(i) where such taxable income has been determined in terms of the provisions of section 28 of the principal Act, 45 cents; or

(ii) where such taxable income has been determined in terms of the provisions of section 29 of the principal Act-

(aa) in respect of its individual policyholder fund, 30 cents; and

(bb) in respect of its company policyholder fund and
corporate fund, 35 cents;

(e) on each rand of the taxable income (excluding taxable income referred to in subparagraphs (b), (c), (d) and (f)) derived by a company which has its place of effective management outside the Republic and which carries on a trade through a branch or agency within the Republic, 40 cents;

(f) on each rand of the taxable income derived by a qualifying company contemplated in section 37H of the principal Act, subject to the provisions of that section, zero cents:

Provided that the tax determined in accordance with any of subparagraphs (a) to (f), inclusive, shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. That the rates set forth in paragraphs 1 and 2 shall be the rates required to be fixed by Parliament in accordance with the provisions of section 5 (2) of the principal Act, in respect of taxable incomes derived from sources within or deemed to be within the Republic.

4. Any company which qualifies for exemption under the provisions of section 2 of the Company Tax Amendment Decree, 1994 (Decree No. 2 of 1994 of Ciskei), shall be exempt from normal tax on so much of its taxable income as is derived from a source within the territory of the former Republic of Ciskei.

5. For the purposes of paragraph 2 income derived from mining for gold shall include 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.

6. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned.

1 See also s. 56 of the Income Tax Act 113 of 1993.
2 Income Tax Act 58 of 1962
3 Income Tax Act 58 of 1962
4 Income Tax Act 58 of 1962
5 Income Tax Act 58 of 1962
6 Income Tax Act 58 of 1962
7 Income Tax Act 58 of 1962
8 Income Tax Act 58 of 1962