

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain odd numbered pages as the other language is printed on uneven numbered pages.



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THE PRESIDENCY

No. 1928

15 July 1992

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

No. 141 of 1992: Income Tax, 1992.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

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.

*(English text signed by the State President.)
(Assented to 2 July 1992.)*

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

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 No. 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.

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R.780 of 14 April 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990 and section 2 of Act 129 of 1991

2. Section 1 of the principal Act is hereby amended—

INCOME TAX ACT, 1992

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- (a) by the deletion of the definition of "assisted gold mine";
- (b) by the substitution in the definition of "gross income" for paragraph (j) of the following paragraph:
- 5 " (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 **[redeemable in the manner provided in section 36(7D)]** 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);";
- 10 (c) by the deletion of paragraph (IA) of the definition of "gross income";
- (d) by the substitution for the definition of "local authority" of the following definition:
- 20 " 'local authority' means—
- (a) any **[divisional council]** rural council, municipal council, town council, village council, town board, local board, village management board, health committee or school board or any district council **[or any local or general council established or deemed to have been established under the provisions of the Black Affairs Act, 1959 (Act No. 55 of 1959), and includes];**
- 25 (b) the Rand Water Board, **[the Evaton Black Township Liaison Committee constituted under Part II of Schedule B to Proclamation No. 54 of 1959 and]** 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 No. 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
- 30 (c) any regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), or any joint services board established under section 4 of the Kwa-Zulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990);";
- 35 (e) by the substitution for the definition of "neighbouring country" of the following definition:
- 40 " 'neighbouring country' means the territory **[(including the Eastern Caprivi Zipfel)]**, Botswana, Lesotho, Swaziland and any country the territory of which formerly formed part of the Republic;";
- 45 (f) by the substitution for the definition of "person" of the following definition:
- 50 " 'person' includes the estate of a deceased person and 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];**";
- (g) by the substitution in the definition of "post-1990 gold mine" for the expression "Government Mining Engineer" of the expression "Director-General: Mineral and Energy Affairs";
- 55 (h) by the substitution for the definition of "territory" of the following definition:
- 60 " 'territory' means the territory **[of South-West Africa (excluding the Eastern Caprivi Zipfel)]** Namibia;"; and
- (i) by the insertion after the definition of "trading stock" of the following definition:
- " '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;”.

Amendment of section 3 of Act 58 of 1962

3. (1) Section 3 of the principal Act is hereby amended by the substitution in the proviso to subsection (2) for the expression “two years” of the expression “three 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.

10 **Amendment of section 6 of Act 58 of 1962, as inserted by section 5 of Act 104 of 1980 and amended by section 5 of Act 96 of 1981, section 5 of Act 91 of 1982, section 4 of Act 94 of 1983, section 4 of Act 121 of 1984, section 3 of Act 96 of 1985, section 4 of Act 85 of 1987, section 4 of Act 90 of 1988, section 4 of Act 70 of 1989, section 3 of Act 101 of 1990 and section 4 of Act 129 of 1991**

15 4. Section 6 of the principal Act is hereby amended—

(a) by the substitution in paragraph (a) of subsection (2) for the expression “R2 000” of the expression “R2 225”;

(b) by the substitution in paragraph (b) of subsection (2) for the expression “R1 625” of the expression “R1 950”;

20 (c) by the substitution in paragraph (c) of subsection (2) for the expression “R800” of the expression “R900”; and

(d) by the substitution in paragraph (f) of subsection (3) for the expression “R2 100”, wherever it occurs, of the expression “R2 500”.

25 **Amendment of section 7 of Act 58 of 1962, as amended by section 5 of Act 90 of 1962, section 8 of Act 88 of 1965, section 9 of Act 55 of 1966, section 7 of Act 94 of 1983, section 2 of Act 30 of 1984, section 5 of Act 90 of 1988, section 5 of Act 70 of 1989, section 4 of Act 101 of 1990 and section 7 of Act 129 of 1991**

5. (1) Section 7 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsections:

30 “(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—

35 (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

40 (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.

50 (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 referred 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.

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

- 5 (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 or retirement annuity fund shall be deemed to be income derived by such spouse from a trade carried on by him;
- 10 (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) where any spouse is the—
- 15 (i) registered holder of a patent as defined in the Patents Act, 1978 (Act No. 57 of 1978), or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963);
- 20 (ii) author of a work on which copyright has been conferred in terms of the Copyright Act, 1978 (Act No. 98 of 1978), or the owner of such a copyright by reason of assignment, testamentary disposition or operation of law; or
- 25 (iii) 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.”.

(2) Subsection (1) shall—

- 30 (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;
- 35 (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.

40 **Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section**

45 **5 of Act 65 of 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act 101 of 1990 and section 9 of Act 129 of 1991**

6. Section 8 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- 50 “(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
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income' in section 1) as **[the Commissioner is not satisfied]** 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.”;

(b) by the substitution for subparagraph (iii) of paragraph (e) of subsection (1) of the following subparagraph:

“(iii) a person occupying the office of president, chairman or chief executive officer of any non-profitmaking organization **[shown to the satisfaction of the Commissioner to be]** 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.”;

(c) by the deletion of subsections (2) and (3); and

(d) by the addition in subsection (4) of the following proviso to paragraph (g):

“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.”.

Amendment of section 9 of Act 58 of 1962, as amended by section 7 of Act 90 of 1962, section 6 of Act 72 of 1963, section 7 of Act 90 of 1964, section 9 of Act 95 of 1967, section 12 of Act 89 of 1969, section 6 of Act 65 of 1973, section 9 of Act 85 of 1974, section 8 of Act 103 of 1976, section 9 of Act 121 of 1984, section 5 of Act 96 of 1985, section 6 of Act 65 of 1986, section 2 of Act 108 of 1986, section 7 of Act 85 of 1987 and section 10 of Act 129 of 1991

7. Section 9 of the principal Act is hereby amended—

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

“(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 **[lease]** authorization granted under the **[Mining Rights Act, 1967 (Act No. 20 of 1967)]** Minerals Act, 1991 (Act No. 50 of 1991), wheresoever such contract was made or such mining operations were carried on;” and

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

“(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 No. 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 No. 50 of 1991), or any prospecting or mining lease granted [or which may be granted] under the Mining Rights Act, 1967 (Act No. 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;”.

Amendment of section 9A of Act 58 of 1962, as inserted by section 8 of Act 85 of 1987

8. (1) Section 9A of the principal Act is hereby amended—

(a) by the substitution in subsection (6) for the words preceding the proviso of the following words:

“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 **[in terms of section 64A or]** by any neighbouring country:"; and

- 5 (b) by the substitution for paragraph (a) of subsection (8) of the following paragraph:

“(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 **[the Commissioner is satisfied that]** he is indirectly interested in that company by virtue of his shareholding in any external company in such a 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.”

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16 (2) Subsection (1)(a) shall be deemed to have come into operation on 16 March 1988.

20 **Amendment of section 9B of Act 58 of 1962, as inserted by section 9 of Act 101 of 1990 and amended by section 11 of Act 129 of 1991**

9. (1) Section 9B of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the expression “10 years” of the expression “five years”;

- 25 (b) by the addition to the proviso to subsection (1) of the following paragraph:

“(d) where the taxpayer is a registered insurer in terms of the Insurance Act, 1943 (Act No. 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

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

“(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.

- 40 (b) The provisions of subsections (2), (3) and (4) shall *mutatis mutandis* apply to a new election made under paragraph (a).”

(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.

- 45 (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.

50 **Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979,**
55 **section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85**

of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990 and section 12 of Act 129 of 1991

10. (1) Section 10 of the principal Act is hereby amended—

- 5 (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
“(a) the revenues of the Government, **[the administration of the territory, and]** any provincial administration or of any other state;”;
- 10 (b) by the substitution for subparagraph (iii) of paragraph (c) of subsection (1) of the following subparagraph:
“(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 **[or the Administration of the territory]**, provided such person is stationed in the Republic for that purpose and is not ordinarily resident in the Republic;”;
- 15 (c) by the substitution for subparagraph (ii) of paragraph (cA) of subsection (1) of the following subparagraph:
“(ii) any South African company all the shares of which are held by any such institution, board or body, if **[the Commissioner is satisfied that]** the operations of such company are ancillary or complementary to the objects of such institution, board or body;”;
- 20 (d) by the substitution in subsection (1) for the words preceding subparagraph (i) of paragraph (cB) of the following words:
“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 No. 91 of 1981)), if—”;
- 25 (e) by the substitution for subparagraphs (iii) and (iv) of paragraph (cC) of subsection (1) of the following subparagraphs, respectively:
“(iii) **[the Commissioner is satisfied that]** 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;
35 (iv) the association does not carry on any business other than business which **[in the opinion of the Commissioner]** is directly connected with the said sole or principal object; and”;
- 40 (f) by the substitution in subsection (1) for the words preceding subparagraph (i) of paragraph (cF) of the following words:
“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 No. 91 of 1981)), if—”;
- 45 (g) by the substitution for subparagraphs (iv) and (v) of paragraph (cF) of subsection (1) of the following subparagraphs, respectively:
“(iv) **[the Commissioner is satisfied that]** 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;
50 (v) the company, society or association does not carry on any business other than business which **[in the opinion of the Commissioner]** is directly connected with the said sole or principal object;”;
- 55 (h) by the substitution for subparagraph (vii) of paragraph (cF) of subsection (1) of the following subparagraph:
“(vii) **[the Commissioner is satisfied that]** 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”;
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- (i) by the substitution for paragraph (cG) of subsection (1) of the following paragraph:

5 “(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;”;

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15 (j) by the substitution in paragraph (cH) of subsection (1) for the expression “trust fund”, wherever it occurs, of the expression “trust”;

- (k) by the insertion in subsection (1) after paragraph (cH) of the following paragraphs:

20 “(cl) the receipts and accruals of any company formed and incorporated under section 21 of the Companies Act, 1973 (Act No. 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—

- 25 (i) the sole object of the company, association or trust is—

30 (aa) to acquire, hold, develop or improve land or any right to land in the Republic or in any country the territory of which formerly formed part of the Republic and with a view to enabling any community, in the Republic or such country, of which all the members or the majority of the members are persons who earn less than R1 000 per month, to acquire such land, or right thereto, so as to occupy that land wholly or mainly for residential purposes;

35 (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;

40 (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

45 (dd) in the case of a company which is for the purposes of the Companies Act, 1973 (Act No. 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;

- 50 (ii) such sole object is actively pursued;

55 (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;
- 5 (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—
- 10 (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
- 15 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 responsible for housing matters, or, in any case where the Administrator of a
- 20 province is, to the exclusion of such a Minister, charged with the administration of any applicable law relating to housing, by such Administrator;
- (vi) in terms of the memorandum, articles of association, constitution or deed of trust of the company, association or
- 25 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
- 30 (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
- 35 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 No. 39 of 1984);
- 40 (bb) in securities listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);
- (cc) in financial instruments as defined in section 1 of the Financial Markets Control Act, 1989 (Act No. 55 of
- 45 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 No. 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;
- 50 (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—
- 55 (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—
- 60 (A) donations;
- (B) any loan entered into with any person who is

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- exempt from tax, any government, any external company or any public company;
- 5 (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 No. 39 of 1984); or
- 10 (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) or (cI);
- 15 (cc) to lend money or to provide other financial assistance to persons who are members of any community referred to in paragraph (cI)(i)(aa) in the furtherance of the object mentioned in paragraph (cI)(i); or
- 20 (dd) to provide funds or guarantees to a deposit-taking institution registered in terms of the Deposit-taking Institutions Act, 1990 (Act No. 94 of 1990), a mutual building society registered under the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), an insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943), a pension fund organization registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956), or the Development Bank of Southern Africa, if such funds or guarantees are provided on condition that such deposit-taking institution, 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);
- 25 (ee) to provide funds or guarantees to an insurer registered or approved in terms of the Insurance Act, 1943 (Act No. 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—
- 30 (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 No. 73 of 1968), to a money lender as defined in that Act; and
- 35 (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);
- 40 (ii) such sole or principal object is actively pursued;
- 45 (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;
- 50 (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—
- 55 (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 No. 39 of 1984);
- 5 (bb) in securities listed on a licensed stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);
- (cc) in financial instruments as defined in section 1 of the Financial Markets Control Act, 1989 (Act No. 55 of 1989);
- 10 (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 No. 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;
- 15 (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), (cI) or (f);
- 20 (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), (cI) or (f);
- 25 (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
- 30 (bb) one of those directors, members or trustees is a person nominated by the Minister of Finance;
- (l) by the substitution for paragraph (d) of subsection (1) of the following paragraph:
- 40 “(d) the receipts and accruals of any terminating building society, pension fund, provident fund, retirement annuity fund, **[or]** benefit fund, **[or of any institution which in the opinion of the Commissioner is a]** mutual savings bank, **[a]** mutual loan association, **[a]** fidelity or indemnity fund, **[a]** trade union, **[a]** chamber of commerce or industries (or an association of such chambers), **[a]** local publicity association or **[a]** non-proprietary stock exchange;”;
- 45 (m) by the substitution for subparagraph (i) of paragraph (dA) of subsection (1) of the following subparagraph:
- 50 “(i) **[the Commissioner is satisfied that]** 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”;
- 55 (n) by the insertion in subsection (1) after paragraph (h) of the following paragraph:
- 60 “(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; and
- (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 No. 9 of 1933), been included in the common monetary area;"
- (o) by the substitution in subsection (1) for paragraph (nA) of the following paragraph:
- "(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 **[the Commissioner considers]** is reasonable;"
- (p) by the insertion in subsection (1) after paragraph (p) of the following paragraph:
- "(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 R36 000; and
- (iii) to so much of any scholarship or bursary contemplated in paragraph (ii) as in the case of any such relative exceeds R1 200 during the year of assessment;"
- (q) by the substitution for subparagraph (vi) of paragraph (t) of subsection (1) of the following subparagraph:
- "(vi) 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 Commissioner is satisfied that]** the operations of such company are conducted in pursuance of, or are ancillary or complementary to, the objects of the said Corporation;"
- (r) by the addition to paragraph (t) of subsection (1) of the following subparagraphs:
- "(xiii) of SABINET, being the South African Bibliographic and Information Network, a company registered under the Companies Act, 1973 (Act No. 61 of 1973), on 31 March 1983;
- (xiv) of Gezicor (Proprietary) Limited, a company registered under the Companies Act, 1973, on 11 February 1991;"
- (s) by the deletion of paragraphs (v) and (vA) of subsection (1);
- (t) by the substitution for paragraph (w) of subsection (1) of the following paragraph:
- "(w) interest received by or accrued to any person (other than a company) who is ordinarily resident in the Republic, or any domestic company, in respect of any loan to or deposit in any **[banking]** deposit-taking institution registered under the **[Banks Act, 1965 (Act No. 23 of 1965)]** Deposit-taking Institutions Act,

1990 (Act No. 94 of 1990), or any similar institution, wheresoever it is incorporated, formed or established and wheresoever it carries on business, if **[it is proved to the satisfaction of the Commissioner]**—

- 5 (i) **[that]** such loan or deposit has been made through and retained in a branch of such institution outside the Republic; and
- 10 (ii) **[that]** such loan or deposit has been made for the purposes of any business carried on by such person or company outside the Republic or that such loan or deposit was made by such person before he became ordinarily resident in the Republic for the first time, out of funds which **[the Commissioner is satisfied]** were derived by such person entirely from sources outside the Republic; and
- 15 (iii) **[that]** the said interest is subject to the payment of income tax by such person or company under the laws of the country within which such loan or deposit is retained;”;

(u) by the substitution in subsection (1) for the words in paragraph (x) preceding the proviso of the following words:

20 “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(4) 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:”;

25 (v) by the addition to subsection (1) of the following paragraph:

“(zH) any amount received by or accrued to or in favour of any person from the State in terms of the Regional Industrial Development Programme which came into operation on 1 May 1991.”

30 (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.

35 (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.

(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 40 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.

45 **Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977,**

50 **section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990 and section 13 of Act 129 of 1991**

55 **11.** (1) Section 11 of the principal Act is hereby amended by the addition to the proviso to paragraph (n) of the following paragraph:

60 “(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;".

(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 5 29 February 1992.

Repeal of section 11ter of Act 58 of 1962, as inserted by section 10 of Act 90 of 1964 and substituted by section 12 of Act 88 of 1965 and section 14 of Act 55 of 1966

12. Section 11ter of the principal Act is hereby repealed.

Repeal of section 11quat of Act 58 of 1962, as inserted by section 10 of Act 90 of 1964 and substituted by section 12 of Act 88 of 1965

13. Section 11quat of the principal Act is hereby repealed.

Repeal of section 11quin of Act 58 of 1962, as inserted by section 10 of Act 90 of 1964 and substituted by section 12 of Act 88 of 1965 and amended by section 11 of Act 113 of 1977

15 14. Section 11quin of the principal Act is hereby repealed.

Amendment of section 14bis of Act 58 of 1962, as inserted by section 16 of Act 88 of 1965

15. Section 14bis of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the expression "paragraph (b)", wherever it occurs in paragraphs (i) and (ii) of the proviso to paragraph (a), of the expression "paragraph (b) or (c)";

(b) by the addition in subsection (1) to the proviso to paragraph (b) of the following paragraph:

25 "(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;";

(c) by the addition to subsection (1) of the following paragraph:

30 "(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
 35 (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
 40 of the adjustable cost to him of such aircraft;" and

(d) by the addition of the following subsections:

45 "(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—

50 (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.

(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.

(5) Where any person is entitled to an allowance under this section in respect of any aircraft acquired by him from a connected person (as defined in section 12C(6)), 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 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."

(2) Subsection (1) shall come into operation on 1 August 1992.

Amendment of section 15 of Act 58 of 1962, as amended by section 20 of Act 55 of 1966 and section 18 of Act 129 of 1991

16. Section 15 of the principal Act is hereby amended by the substitution in paragraph (b) for the words preceding the proviso to the said paragraph of the following words:

"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 **[in respect of which a mining lease has not been granted by the State]** together with any other expenditure which **[in the opinion of the Commissioner]** is incidental to such operations:"

Amendment of section 17A of Act 58 of 1962, as inserted by section 11 of Act 76 of 1968 and amended by section 13 of Act 103 of 1976

17. Section 17A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(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 **[Secretary for Agricultural Technical Services] Executive Officer** designated under section 4 of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983), or his assignee is produced to the effect that such works have been approved under the provisions of the **[Soil Conservation Act, 1969 (Act No. 76 of 1969)]** said Act."

Amendment of section 18 of Act 58 of 1962, as inserted by section 12 of Act 104 of 1980 and amended by section 15 of Act 96 of 1981, section 15 of Act 121 of 1984, section 11 of Act 96 of 1985, section 14 of Act 90 of 1988, section 11 of Act 70 of 1989, section 16 of Act 101 of 1990 and section 19 of Act 129 of 1991

18. Section 18 of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of subsection (2) of the following paragraphs:

5 “(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(3)(f), so much of the sum of the amounts referred to in subsection (1) as exceeds R500; or

10 (c) **[where the taxpayer is not entitled to such rebate]** 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;”;

and

(b) by the addition of the following subsection:

15 “(3) For the purposes of this section ‘handicapped person’ means—

(a) a blind person as contemplated in the Blind Persons Act, 1968 (Act No. 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;

20 (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; or

(d) a person who requires an artificial limb.”.

Amendment of section 18B of Act 58 of 1962, as inserted by section 11 of Act 65 of 1986

25 19. Section 18B of the principal Act is hereby amended by the substitution in subsection (1) for the words following upon paragraph (c) of the definition of “international event” of the following words:

“and which has been approved by the Minister of Finance on or before 14 February 1992 for the purposes of this section.”.

30 Amendment of section 23 of Act 58 of 1962, as amended by section 18 of Act 65 of 1973, section 20 of Act 121 of 1984 and section 23 of Act 129 of 1991

20. Section 23 of the principal Act is hereby amended—

(a) by the substitution for paragraph (d) of the following paragraph:

35 “(d) **[the taxation levied on incomes]** 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 No. 89 of 1991), and any interest or penalty payable in **[respect]** consequence of **[such taxation in terms of the provisions of section 89, 89bis or 89quat]** the late payment of any tax, duty or levy payable under any Act administered by the Commissioner, the Regional Services Councils Act, 1985 (Act No. 109 of 1985), and the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990);”;

(b) by the substitution for paragraph (g) of the following paragraph:

45 “(g) any moneys, claimed as a deduction from income derived from trade, **[which are not wholly or exclusively]** to the extent to which **such moneys were not** laid out or expended for the purposes of trade;” and

(c) by the addition of the following paragraph:

50 “(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

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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.”.

Amendment of section 23C of Act 58 of 1962, as inserted by section 25 of Act 129 of 1991

21. Section 23C of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(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 **[in respect of any service rendered to him]**, and—

(a) **[value-added tax has been imposed in terms of the Value-Added Tax Act, 1991, in respect of the supply to or the importation by the taxpayer (being) the taxpayer is a vendor as defined in section 1 of the [last-mentioned Act] Value-Added Tax Act, 1991 (Act No. 89 of 1991) [of such asset or such service];** and

(b) the taxpayer is or was in any previous year of assessment entitled under section 16(3) of **[that] the last-mentioned Act [entitled]** to a deduction of input tax **[in respect of such value-added tax]** as defined in section 1 of that Act,

the amount of such **[value-added]** 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.”.

(2) Subsection (1) shall be deemed to have come into operation on 30 September 1991.

Amendment of section 25B of Act 58 of 1962, as inserted by section 27 of Act 129 of 1991

22. Section 25B of the principal Act is hereby amended by the substitution for the expression “trust fund”, wherever it occurs, of the expression “trust”.

Amendment of section 27 of Act 58 of 1962, as amended by section 17 of Act 113 of 1977, section 11 of Act 101 of 1978, section 19 of Act 104 of 1980, section 21 of Act 96 of 1981, section 15 of Act 96 of 1985, section 18 of Act 85 of 1987, section 22 of Act 90 of 1988 and section 28 of Act 129 of 1991

23. Section 27 of the principal Act is hereby amended by the substitution in subsection (2) for the proviso to paragraph (a) of the following proviso:

“Provided that the amounts allowed as deductions under this paragraph shall not in the aggregate exceed an amount equal 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** **[11ter, 11quat, 11quin]**, 13(5), 13**bis**(7) and 21**ter** and before setting off any balance of assessed loss brought forward from a previous year of assessment;”.

Amendment of section 36 of Act 58 of 1962, as amended by section 12 of Act 72 of 1963, section 15 of Act 90 of 1964, section 20 of Act 88 of 1965, section 23 of Act 55 of 1966, section 16 of Act 95 of 1967, section 14 of Act 76 of 1968, section 26 of Act 89 of 1969, section 21 of Act 65 of 1973, section 28 of Act 85 of 1974, section 20 of Act 104 of 1980, section 25 of Act 94 of 1983, section 16 of Act 96 of

1985, section 14 of Act 70 of 1989, section 26 of Act 101 of 1990 and section 30 of Act 129 of 1991

24. Section 36 of the principal Act is hereby amended—

- 5 (a) by the deletion of subsections (1), (2), (2)*bis*, (3), (3)*bis*, (3)*ter*, (4), (5), (6), (7), (7A) and (7B);
- (b) by the substitution for subsection (7C) of the following subsection:
10 “(7C) Subject to the provisions of subsections **[(7D)]** (7E), (7F) and (7G), the amounts to be deducted under section 15(a) from income derived **[during the first year of assessment of the taxpayer ending after 31 December 1973 (hereinafter referred to as the transition year) and succeeding years of assessment]** from the working of any mine shall be **[(a) where such mine commences production during any such year of assessment]** the amount of capital expenditure incurred **[up to the close of that year of assessment, and thereafter in respect of each succeeding year of assessment, the capital expenditure incurred during such succeeding year of assessment; or**
- 15 (b) **where such mine commenced production before the commencement of the transition year—**
- (i) **the capital expenditure incurred during the year of assessment in question; and**
- 20 (ii) **where there is in respect of such mine a balance of capital expenditure unredeemed at the commencement of the transition year, such amount as may be determined under the provisions of subsection (7D) in respect of the year of assessment in question].”;**
- (c) by the deletion of subsections (7D), (8) and (9);
- (d) by the substitution for subsection (10) of the following subsection:
25 “(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 **[according to the estimated life of each such mine].”;**
- 30 (e) by the substitution in subsection (11) for the words preceding subparagraph (i) of paragraph (c) of the definition of “capital expenditure” of the following words:
35 “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, **[an amount] a capital allowance** calculated **[as nearly as may be in the manner prescribed for the calculation of the capital allowance provided for in section 26(2) of the Mining Rights Act, 1967 (Act No. 20 of 1967)]** 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 **[6 per cent per annum in the case of]** any natural oil mine on the amount of the **[unredeemed balance of the]** aggregate of—”;
- 40 (f) by the substitution for subparagraphs (iv) and (v) of paragraph (c) of the definition of “capital expenditure” in subsection (11) of the following subparagraphs, respectively:
45 “(iv) **the [amount calculated in terms of this paragraph up to the end of the year of assessment immediately preceding the year of assessment under charge] instalments of expenditure referred to in paragraph (d); and**
- 50 (v) **the [instalments of expenditure referred to in paragraph (d)] 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.”;**
- 55 (g) by the substitution for paragraphs (aa), (bb) and (cc) of the proviso to paragraph (c) of the definition of “capital expenditure” in subsection (11) of the following paragraphs:
60 “(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 **[lease] mining authorization** issued under the Minerals Act, 1991 (Act No. 50 of 1991);

- 5 (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 **[lease] authorization** issued under the Minerals Act, 1991 (Act No. 50 of 1991);
- 10 (cc) **[the provisions of section 26(3) and (4) of the Mining Rights Act, 1967, shall, in so far as they can be applied, apply mutatis mutandis for the purpose of determining]** 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—
- 15 (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
- 20 (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;
- 25 (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';".
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35 **Amendment of section 37 of Act 58 of 1962, as amended by section 29 of Act 85 of 1974**

25. Section 37 of the principal Act is hereby amended by the substitution in subsection (4) for the expression "Government Mining Engineer" of the expression "Director-General: Mineral and Energy Affairs".

40 **Amendment of section 37E of Act 58 of 1962, as inserted by section 3 of Act 136 of 1991**

26.(1) Section 37E of the principal Act is hereby amended—

- (a) by the substitution for the definition of "beneficiation process" in subsection (1) of the following definition:
- 45 " 'beneficiation process' means any process approved by the committee whereby any **[base mineral which has been mined in a local country] raw material** or any intermediate product **[which in the opinion of the committee was wholly or mainly produced in a local country]** is processed to yield any intermediate product or final product, if in the opinion of the committee **[such process]**—
- 50 (a) **[adds substantial value]** such process will add at least 35 per cent to the value of the **[base mineral] raw material** or intermediate product processed, such added value being determined in accordance with the formula—

$$55 \quad \frac{A - (B + C)}{A} \times \frac{100}{1}$$

in which formula—

- (i) 'A' represents the ex-factory price of the intermediate product or final product produced by the taxpayer;

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- (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) **[is]** such process will be carried on on a scale which makes it internationally competitive; **[and]**
- (c) **[is carried on by the taxpayer with the intention of exporting at least 60 per cent (or such lesser percentage as the committee in any case determines) by value of]** the intermediate product or final product produced by such process will to the extent of at least 60 per cent of the value thereof be exported directly or indirectly to a country other than a local country; and
- (d) 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 **[base mineral]** 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;";
- (b) by the substitution in subsection (1) for the definition of "commencement date" of the following definition:
" 'commencement date' means **[the commencement date as defined in section 1 of the Value-Added Tax Act, 1991 (Act No. 89 of 1991)] 12 September 1991;**";
- (c) by the substitution for the definition of "intermediate product" in subsection (1) of the following definition:
" 'intermediate product' means any substance or material which is produced by **[the taxpayer concerned]** any person in order to be subjected to further processing by any other person;";
- (d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
"The Minister of Finance shall with the concurrence of the Minister of Trade and Industry **[and Tourism]** appoint a committee which shall have power to—";
- (e) by the insertion after subsection (2) of the following subsection:
"**(2A)** In deciding whether a process is to be approved as a beneficiation 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.";
- (f) by the substitution for paragraph (b) of subsection (4) of the following paragraph:
"**(b)** constitutes the whole or a portion of the cost to the taxpayer of any machinery or plant referred to in subsection (3)(a), the deduction under section 12C shall be **[calculated on an amount equal to the sum of such expenditure increased by such percentage as the committee in any case determines, and shall be]** allowed in the year of assessment in which such expenditure is incurred and in each of the four **[(or such lesser number as the committee in any case directs)]** succeeding years of assessment; or"; and
- (g) by the deletion of subsection (5).
- (2) Subsection (1) shall be deemed to have come into operation on 18 March 1992.

Amendment of section 42 of Act 58 of 1962, as amended by section 21 of Act 88 of 1965, section 17 of Act 95 of 1967, section 29 of Act 89 of 1969, section 19 of Act 52 of 1970, section 23 of Act 88 of 1971, section 18 of Act 90 of 1972, section 22 of Act 65 of 1973, section 32 of Act 85 of 1974, section 22 of Act 69 of 1975,
5 section 18 of Act 103 of 1976, section 19 of Act 113 of 1977, section 20 of Act 91 of 1982, section 28 of Act 94 of 1983 and section 31 of Act 129 of 1991

27. Section 42 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (iii) of subsection (1) of the following paragraph:
10 “(iii) a company which **[is not a South African company]** has its place of effective management outside the Republic; or”;
- (b) by the deletion of paragraph (iiiA) of subsection (1);
- (c) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
15 “(a) so much of the amount of any dividend declared by a company which was, in respect of the year of assessment ended on 30 June 1960, exempt from undistributed profits tax in terms of section 51(d), (e) or (i) of the Income Tax Act, 1941 (hereinafter referred to as the distributing company), to a company which **[is not a South African company]** has its place of effective management outside the Republic and is not carrying on business in the Republic (hereinafter referred to as the shareholder company), as is **[proved to the satisfaction of the Commissioner to have been]** distributed by way of an award of capitalization shares out of income which was derived by the distributing company during
20 any year of assessment which ended not later than 30 June 1960;”;
- (d) by the substitution in subsection (2) for the words preceding item (aa) of subparagraph (ii) of paragraph (e) of the following words:
25 “so much of the amount of any dividend declared by any company as **[is proved to the satisfaction of the Commissioner to have been]** was distributed—
30 (i) out of taxable income derived by such company from mining for natural oil under any **[lease] mining authorization** granted under the **[Mining Rights Act, 1967 (Act No. 20 of 1967)] Minerals Act, 1991 (Act No. 50 of 1991)**; or
35 (ii) out of dividends received by such company (hereinafter referred to as the holding company) from any other company (hereinafter referred to as the oil-mining company), to the extent that such dividends **[are proved to the satisfaction of the Commissioner to have been]** were distributed by the oil-mining company out of taxable income derived by it from mining for natural oil under such **[lease] mining authorization**, if—”;
- (e) by the substitution for item (bb) of subparagraph (ii) of paragraph (e) of subsection (2) of the following item:
40 “(bb) **[the Commissioner is satisfied that]** at all times since the date of commencement of oil-mining operations by the oil-mining company the indirect interests in that company of the shareholders of the holding company who are persons, deceased estates or companies as described in paragraph (i), (ii) or (iii) of subsection (1), have been in the aggregate and in effect equivalent to a beneficial holding by such shareholders of more than 50 per cent of the issued share capital and of the issued equity share capital of the oil-mining company;”;
- (f) by the substitution in subsection (2) for the words preceding subparagraph (i) of paragraph (i) of the following words:
45 “any dividend declared on or after 31 March 1976 and accruing to any company (**[not being a South African company and]** not being a mutual insurer as defined in the Insurance Act, 1943 (Act No. 27 of 1943)),
50
55

hereinafter referred to as the insurance company, in respect of shares included in the assets of the insurance company, relating to any insurance business carried on by it in the Republic, if—"; and

5 (g) by the substitution in subsection (2) for the words preceding subparagraph (i) of paragraph (j) of the following words:

10 "any dividend declared on or after 31 March 1976 and accruing to any company **[(other than a South African company)]** which is a mutual insurer as defined in the Insurance Act, 1943, in respect of shares included in the assets of such company relating to any insurance business carried on by it in the Republic, if such company has become a domestic insurer in terms of section 3quat of the said Act, and the Commissioner is satisfied—".

15 **Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964, section 25 of Act 55 of 1966, section 33 of Act 89 of 1969, section 38 of Act 85 of 1974, section 21 of Act 113 of 1977, section 13 of Act 101 of 1978, section 23 of Act 96 of 1981, section 31 of Act 94 of 1983, section 4 of Act 30 of 1984, section 28 of Act 121 of 1984, section 18 of Act 96 of 1985, section 21 of Act 85 of 1987 and section 26 of Act 90 of 1988**

20 28. Section 56 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (h) of the following paragraph:

"(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), (d) or (e);".

25 **Amendment of section 64A of Act 58 of 1962, as inserted by section 4 of Act 136 of 1991**

29. (1) The following section is hereby substituted for section 64A of the principal Act:

30 "64A. (1) For the purposes of this section—

'financial asset' means any marketable security, bill of exchange, interest-bearing instrument or other instrument ordinarily purchased and sold or otherwise traded in by any person contemplated in subsection (3), excluding any company share and any unit in a unit trust within the meaning of the Unit Trusts Control Act, 1981 (Act No. 54 of 1981);

35 'interest' includes—

(a) the gross amount of any interest, finance charge or similar amount payable under any credit agreement as defined in section 1 of the Credit Agreements Act, 1980 (Act No. 75 of 1980), excluding any amount derived in respect of any rental agreement as defined in the Value-Added Tax Act, 1991 (Act No. 89 of 1991);

40 (b) the gross amount of interest payable on any funds invested;

(c) any amount which is deemed to be interest under section 8E of this Act;

45 (d) in relation to the purchase and sale of financial futures in respect of financial assets, the total amount of all gross profits derived during any calendar quarter, less the total amount of all gross losses suffered during such quarter;

(e) in relation to financial options in respect of financial assets, the total amount of all net premiums received during any calendar quarter, less the total amount of all net premiums paid during such quarter in connection therewith;

50 (f) in relation to investment or dealing in financial assets, the total amount of all gross profits derived during any calendar quarter, less the total amount of all gross losses suffered during such quarter, as determined by excluding interest accrued or payable;

55

(g) any commissions or fees received in respect of guarantees, acceptances or endorsements of financial instruments, or any similar commissions which have the effect of guaranteeing the financial obligations of a debtor to a creditor;

5 'levy' means the levy payable under this section;

'leviable amount' means—

10 (a) in relation to a deposit-taking institution as defined in section 1(1) of the Deposit-taking Institutions Act, 1990 (Act No. 94 of 1990), an amount equal to 50 per cent of the minimum share capital and unimpaired reserve funds required to be maintained by the deposit-taking institution and determined, in respect of each calendar quarter, in accordance with the provisions of section 70(2)(b) of the said Act: Provided that for the purposes of such determination the prescribed percentage first-mentioned in the said section 70(2)(b) shall be taken at 8 per cent; and

15 (b) in relation to a permanent society as defined in section 1(1) of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), an amount equal to 50 per cent of the minimum amount required to be maintained by such society and determined, in respect of each calendar quarter, in accordance with the provisions of section 30(1)(b) of the said Act.

(2) There shall be levied and paid for the benefit of the State Revenue Fund a levy, to be known as the levy on financial services, which is calculated at the rate of 0,75 per cent of—

25 (a) in the case of a deposit-taking institution within the meaning of the Deposit-taking Institutions Act, 1990 (Act No. 94 of 1990), or a permanent society registered in terms of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), the leviable amount as determined in relation to every calendar quarter commencing on or after 1 October 1991; and

30 (b) in the case of any other person liable under subsection (3), the interest which accrued to such person during every calendar quarter commencing on or after 1 October 1991, determined in accordance with any generally accepted accounting practice adopted by such person, as applied on the last day of the relevant calendar quarter.

(3) Persons liable for the levy in terms of subsection (2)(b) shall be—

35 (a) an insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943), in respect of his long-term insurance business;

40 (b) a pension fund organization registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956);

(c) a friendly society registered in terms of the Friendly Societies Act, 1956 (Act No. 25 of 1956); and

45 (d) a unit trust scheme as defined in the Unit Trusts Control Act, 1981 (Act No. 54 of 1981).

(4) There shall be exempt from the levy—

50 (a) the Government Service Pension Fund, the Post Office Pension Fund, the Telkom Pension Fund, the Transnet Pension Fund and the Associated Institutions Pension Fund;

(b) the stabilization account of the South African Defence Force Group Life Assurance Scheme;

55 (c) any pension fund organization referred to in subsection (3)(b) or any friendly society referred to in subsection (3)(c) in respect of any quarter during which the total amount of interest accrued to such organization or society does not exceed R125 000; and

(d) any interest derived by any pension fund organization contemplated in subsection (3)(b) from any other pension fund organization contemplated in the said subsection, any insurer contem-

plated in subsection (3)(a) or any unit trust scheme contemplated in subsection (3)(d).

5 (5) Every payment of levy shall be accompanied by a return in such form as the Commissioner may require and shall be paid within a period of 21 days after the end of each calendar quarter.

(6) If any taxpayer fails to pay in full any levy for which he is liable within the period prescribed by subsection (5), interest shall, unless the Commissioner having regard to the circumstances of the case otherwise directs, be paid by him on the balance of the levy outstanding at the prescribed rate reckoned from the end of the said quarter.”

10 (2) Subsection (1) shall be deemed to have come into operation on 30 September 1991.

Amendment of section 75 of Act 58 of 1962, as amended by section 40 of Act 101 of 1990 and section 34 of Act 129 of 1991

15 30. Section 75 of the principal Act is hereby amended by the substitution for paragraph (f) of subsection (1) of the following paragraph:

“(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 **[for a period of five years from the date of the last entry therein]** 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 **[or any previous Income Tax Act]** were prepared, for a period of five years from the date upon which the return relevant to the last entry in any such record was received by the Commissioner; or”.

Repeal of section 109 of Act 58 of 1962, as amended by section 13 of Act 72 of 1963

31. Section 109 of the principal Act is hereby repealed.

30 **Amendment of paragraph 6 of 2nd Schedule to Act 58 of 1962, as substituted by section 26 of Act 90 of 1964 and amended by section 18 of Act 104 of 1979 and section 5 of Act 30 of 1984**

32. Paragraph 6 of the Second Schedule to the principal Act is hereby amended by the insertion after paragraph (c) of the following paragraph:

35 “(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;”.

40 **Amendment of paragraph 1 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990 and section 44 of Act 129 of 1991**

33. Paragraph 1 of the Fourth Schedule to the principal Act is hereby amended—

45 (a) by the substitution in the definition of “remuneration” for the words preceding paragraph (a) of the following words:

“means **[any advance paid or payable to any director of any company in respect of services rendered or to be rendered by such director to such company, and]** 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—”;
- (b) by the substitution for paragraph (c) of the definition of “remuneration” of the following paragraph:
- 5 “(c) 25 per cent of 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 **[referred to]** 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
- 10 which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under the said item,”; and
- (c) by the substitution for paragraph (vii) of the definition of “remuneration” of the following paragraph:
- 15 “(vii) any **[such advance]** 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, **[if]** unless the Commissioner in the particular case **[so]** otherwise directs;”.

20 **Amendment of paragraph 11B of 4th Schedule to Act 58 of 1962, as inserted by section 41 of Act 90 of 1988 and amended by section 22 of Act 70 of 1989, section 47 of Act 101 of 1990 and section 46 of Act 129 of 1991**

34. (1) Paragraph 11B of the Fourth Schedule to the principal Act is hereby amended by the substitution in subparagraph (1) for paragraph (f) of the definition of “net remuneration” of the following paragraph:

- 25 “(f) any remuneration not derived—
- (i) from standard employment; or
- (ii) by way of an annuity payable by a pension fund, **[retirement annuity fund]** provident fund or benefit fund;”.

(2) Subsection (1) shall apply as from the commencement of years of assessment commencing on or after 1 March 1993.

30 **Amendment of paragraph 1 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 26 of Act 96 of 1985, Government Notice No. R.2706 of 29 November 1985, section 33 of Act 65 of 1986, Government Notice No. R.2683 of 19 December 1986, section 28 of Act 85 of 1987, Government Notice No. R.714 of 14 April 1989, section 24 of Act 70 of 1989,**

35 **Government Notice No. R.763 of 29 March 1990 and section 55 of Act 101 of 1990**

35. (1) Paragraph 1 of the Seventh Schedule to the principal Act is hereby amended by the substitution in the definition of “official rate of interest” for the expression “19 per cent” of the expression “17 per cent”.

(2) Subsection (1) shall come into operation on 1 August 1992.

40 **Amendment of paragraph 7 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 30 of Act 96 of 1985, section 10 of Act 108 of 1986, Government Notice No. 956 of 11 May 1988, section 44 of Act 90 of 1988, Government Notice No. R.715 of 14 April 1989, section 25 of Act 70 of 1989, Government Notice No. R.764 of 29 March 1990, section 58 of Act 101 of**

45 **1990 and section 50 of Act 129 of 1991**

36. (1) Paragraph 7 of the Seventh Schedule to the principal Act is hereby amended by the substitution in subparagraph (1) for the words following upon subitem (ii) of item (b) of the following words:

- 50 “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 No. 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 No. 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".

(2) Subsection (1) shall be deemed to have come into operation on 30 September 1991.

Amendment of paragraph 13 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 35 of Act 96 of 1985

37.(1) Paragraph 13 of the Seventh Schedule to the principal Act is hereby amended by the addition of the following subparagraph:

"(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)."

(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.

Withdrawal of Government Notice No. 2497 of 15 October 1991

38. Government Notice No. 2497 of 15 October 1991 is hereby withdrawn.

Commencement of certain amendments

39. 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.

Short title

40. This Act shall be called the Income Tax Act, 1992.

SCHEDULE

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 1993 AND 30 JUNE 1993, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 1993

(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

Taxable Income	Rates of Tax in respect of Married Persons
Where the taxable income— does not exceed R 5 000.....	17 per cent of each R1 of the taxable income;
exceeds R 5 000 but does not exceed R10 000	R850 plus 18 per cent of the amount by which the taxable income exceeds R5 000;
„ R10 000 „ „ „ „ R15 000	R1 750 plus 19 per cent of the amount by which the taxable income exceeds R10 000;
„ R15 000 „ „ „ „ R20 000	R2 700 plus 20 per cent of the amount by which the taxable income exceeds R15 000;
„ R20 000 „ „ „ „ R30 000	R3 700 plus 21 per cent of the amount by which the taxable income exceeds R20 000;
„ R30 000 „ „ „ „ R40 000	R5 800 plus 28 per cent of the amount by which the taxable income exceeds R30 000;
„ R40 000 „ „ „ „ R50 000	R8 600 plus 36 per cent of the amount by which the taxable income exceeds R40 000;
„ R50 000 „ „ „ „ R60 000	R12 200 plus 41 per cent of the amount by which the taxable income exceeds R50 000;
„ R60 000 „ „ „ „ R80 000	R16 300 plus 42 per cent of the amount by which the taxable income exceeds R60 000;
„ R80 000	R24 700 plus 43 per cent of the amount by which the taxable income exceeds R80 000;

INCOME TAX ACT, 1992

Act No. 141, 1992

Taxable Income	Rates of Tax in respect of Persons who are not Married Persons
Where the taxable income—	
does not exceed R 5 000	17 per cent of each R1 of the taxable income;
exceeds R 5 000 but does not exceed R10 000	R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;
.. R10 000 R15 000	R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;
.. R15 000 R20 000	R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;
.. R20 000 R30 000	R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;
.. R30 000 R40 000	R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;
.. R40 000 R50 000	R10 450 plus 41 per cent of the amount by which the taxable income exceeds R40 000;
.. R50 000 R56 000	R14 550 plus 42 per cent of the amount by which the taxable income exceeds R50 000;
.. R56 000	R17 070 plus 43 per cent of the amount by which the taxable income exceeds R56 000;

Taxable Income	Rates of Tax in respect of Married Women
Where the taxable income—	
does not exceed R 5 000	17 per cent of each R1 of the taxable income;
exceeds R 5 000 but does not exceed R10 000	R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;
.. R10 000 R15 000	R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;
.. R15 000 R20 000	R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;
.. R20 000 R30 000	R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;
.. R30 000 R40 000	R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;
.. R40 000 R50 000	R10 450 plus 38 per cent of the amount by which the taxable income exceeds R40 000;
.. R50 000	R14 250 plus 40 per cent of the amount by which the taxable income exceeds R50 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 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:

$$y = 58 - \frac{290}{x}$$

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, 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.