



**REPUBLIC OF SOUTH AFRICA**

# **GOVERNMENT GAZETTE**

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# **STAATSKOERANT**

**VAN DIE REPUBLIEK VAN SUID-AFRIKA**

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**PRESIDENT'S OFFICE**

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**KANTOOR VAN DIE PRESIDENT**

No. 1101.

3 July 1996

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

**36 of 1996: Income Tax Act, 1996.**

No. 1101.

3 Julie 1996

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

**No. 36 van 1996: Inkomstebelastingwet, 1996.**

**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 1997 and 30 June 1997, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1997; to amend the Income Tax Act, 1962; to amend the Income Tax Act, 1994; to withdraw a Government Notice; to repeal certain laws; and to provide for incidental matters.

*(English text signed by the President.)*  
*(Assented to 27 June 1996.)*

**B**E IT ENACTED by 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— 5
- (a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1997 or 30 June 1997; and
  - (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1997,
- shall be as set forth in the Schedule to this Act. 10

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 20

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, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993, section 2 of Act 21 of 1994 and section 2 of Act 21 of 1995

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

- (a) by the insertion after the definition of “capitalisation shares” of the following definition:

“ ‘Chief Executive Officer’ means the Director-General: South African Revenue Service;”;

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- (b) by the substitution for the definition of “hotel keeper” of the following definition:

“ ‘hotel keeper’ means any person carrying on the business of hotel keeper or boarding or lodging house keeper where meals and sleeping accommodation are supplied to others for money or its equivalent; [if the gross receipts from that business during the year of assessment were in excess of two thousand rand, and includes any person carrying on such business the gross receipts from which during the year of assessment were not in excess of two thousand rand by reason of the fact that the building in which the business is carried on has been in the course of erection or extensively renovated or because of circumstances beyond such person’s control, if the Commissioner is satisfied that during the immediately succeeding year of assessment or such further period as he may for good reason allow, the gross receipts from that business will be or could be expected to be in excess of two thousand rand per annum]”;

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- (c) by the substitution for the definition of “neighbouring country” of the following definition:

“ ‘neighbouring country’ means [the territory] Botswana, Lesotho, Namibia and Swaziland; [and any country the territory of which formerly formed part of the Republic]”; and

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- (d) by the substitution for the definition of “South African company” of the following definition:

“ ‘South African company’ means any association, corporation, company or body corporate referred to in paragraph (a) or (f) of the definition of ‘company’ in this section or any association referred to in paragraph (d) of that definition or any unit portfolio referred to in paragraph (e) of that definition; [but does not include any company whose registered office is in a country which formerly formed part of the Republic nor any company formed, established or incorporated under the law of such country after it obtained its independence from the Republic]”.

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Amendment of section 4 of Act 58 of 1962, as amended by section 6 of Act 55 of 1966, section 4 of Act 104 of 1979, section 32 of Act 104 of 1980, section 3 of Act 96 of 1981, section 3 of Act 85 of 1987, section 3 of Act 70 of 1989 and section 4 of Act 21 of 1994

3. Section 4 of the principal Act is hereby amended—

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

“(c) the Chief Executive Officer shall in the performance of his duties as Chief Executive Officer, have access to information and documents in the possession or custody of the Commissioner.”;

- (b) by the insertion after subsection (1A) of the following subsection:

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“(1B) The Chief Executive Officer shall preserve and aid in preserving secrecy with regard to all matters that may come to his knowledge in the performance of his duties as Chief Executive Officer, and shall not communicate any such matter to any person whatsoever other than the taxpayer concerned or his lawful representative nor suffer or permit any such person to have access to any records in the possession or custody of the

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Commissioner, except in the performance of his duties as Chief Executive Officer or by order of a competent court.”;

- (c) by the substitution for paragraph (a) of subsection (2) of the following paragraph:  
 “(a) Every person so employed and the Chief Executive Officer shall, before acting under this Act, take and subscribe before a magistrate or justice of the peace or an officer of the [Directorate: Inland Revenue, Department of Finance] South African Revenue Service who is a commissioner of oaths, such oath or solemn declaration, as the case may be, of fidelity or secrecy as may be prescribed.”;
- (d) by the substitution for subsection (3) of the following subsection:  
 “(3) Any person who contravenes the provisions of subsection (1), (1A), (1B) or (2A) shall be guilty of an offence and liable on conviction to a fine not exceeding R5 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.”; and
- (e) by the substitution for subsection (4) of the following subsection:  
 “(4) Any person who acts in the execution of his office before he has taken the prescribed oath or solemn declaration shall be guilty of an offence and liable on conviction to a fine not exceeding R50.”.

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, section 4 of Act 129 of 1991, section 4 of Act 141 of 1992 and section 5 of Act 21 of 1995

4. Section 6 of the principal Act is hereby amended by the substitution for the expression “R2 625” in paragraph (a) of subsection (2) of the expression “R2 660”.

Amendment of section 7A of Act 58 of 1962, as inserted by section 6 of Act 69 of 1975 and amended by section 7 of Act 103 of 1976, section 6 of Act 96 of 1981, section 4 of Act 65 of 1986, section 8 of Act 129 of 1991, section 3 of Act 113 of 1993 and section 7 of Act 21 of 1995

5. Section 7A of the principal Act is hereby amended by the deletion of subsection (5).

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 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, section 9 of Act 129 of 1991, section 6 of Act 141 of 1992, section 4 of Act 113 of 1993, section 6 of Act 21 of 1994 and section 8 of Act 21 of 1995

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

- (a) by the insertion after paragraph (dA) of subsection (4) of the following paragraph:  
 “(dB) For the purposes of paragraph (a), where any company which is or was a parent company contemplated in paragraph (b) of the definition of ‘South African ship’ in section 14(2) has—
- (i) exercised the election in terms of section 14(1D) in relation to any other company which is or was a subsidiary company contemplated in the last-mentioned paragraph; and
- (ii) sold or disposed of in any other manner any shares held in such other company during any year of assessment, such company shall be deemed to have recovered or recouped during such year of assessment an amount equal to the lesser of—
- (aa) the total of all amounts allowed to be deducted or set off under the provisions of sections 11(o), 12C and 14, whether in such or any previous year of assessment, in the determination of such company’s taxable income in respect of any ship owned by such other company, at the date of sale or disposal of such shares; and

(bb) the market value of such ship as at the date of sale or disposal of such shares.”; and

(b) by the addition to subsection (4) of the following paragraph:

“(1) For the purposes of paragraph (a), where—

- (i) any person was entitled to a deduction in respect of any interest or related finance charges (including a discount or premium), which was incurred or deemed to have been incurred by such person in relation to any financial arrangement during any year of assessment and such interest or related finance charges were allowed as a deduction in terms of the provisions of this Act during such year of assessment in the hands of such person;
  - (ii) such person has transferred such financial arrangement during any year of assessment to any other person; and
  - (iii) any obligation or part thereof in respect of such interest or related finance charges which such person is legally liable to pay has, as a result of such transfer, been transferred to such other person,
- such person shall be deemed to have recovered or recouped an amount equal to the amount of such obligation or part thereof so transferred during the year of assessment in which such obligation or part thereof has been so transferred.”.

(2)(a) Subsection (1)(a) shall be deemed to have come into operation on 1 June 1996 and shall apply to any shares sold or disposed of on or after that date.

(b) Subsection (1)(b) shall apply in respect of all financial arrangements transferred on or after the date of promulgation of this Act.

**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, section 9 of Act 141 of 1992 and section 6 of Act 113 of 1993**

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

- (a) by the deletion of the word “and” at the end of subparagraph (ii) of paragraph (b) of subsection (1);
- (b) by the addition of the word “and” at the end of paragraph (d) of subsection (1); and
- (c) by the addition to subsection (1) of the following paragraph:

“(e) where—

- (i) any share has been lent by a lender to a borrower as contemplated in the definition of ‘lending arrangement’ in section 23(1) of the Stamp Duties Act, 1968 (Act No. 77 of 1968), such share shall for the purposes of the lender be deemed not to have been disposed of by the lender; and
- (ii) any other share of the same kind and of the same or equivalent quantity and quality has been returned by the borrower to the lender, such share and such other share shall be deemed to be one and the same share in the hands of the lender.”.

(2) Subsection (1) shall come into operation on 1 August 1996 and shall apply to any share lent in terms of a lending arrangement entered into on or after that date.

**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, 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, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993, section 9 of Act 21 of 1994 and section 10 of Act 21 of 1995

8. (1) Section 10 of the principal Act is hereby amended— 5
- (a) by the substitution for item (ff) of subparagraph (i) of paragraph (cB) of subsection (1) of the following item: 5
- “(ff) to promote the common interests of persons (being members of such company, society or association) carrying on any particular kind of business, profession or occupation by means other than— 10
- (A) the carrying on by such company, society or association of any trading or other profit-making activities; [or] 10
- (B) the participation by such company, society or association in any business, profession or occupation carried on by any of its members; or 15
- (C) the provision to any of its members of financial assistance or of any premises or continuous services or facilities required by its members for the purpose of carrying on any business, profession or occupation.”; 15
- (b) by the substitution for item (aa) of subparagraph (i) of paragraph (cI) of subsection (1) of the following item: 20
- “(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] with a view to enabling any community in the Republic, [or such country] of which at least 75 per cent of the adult members are persons who earn less than R1 500 per month, to acquire such land, or right thereto, so as to occupy that land wholly or mainly for residential purposes.”; 25
- (c) by the substitution for subparagraph (i) of paragraph (cK) of subsection (1) of the following subparagraph: 30
- “(i) the sole object of such company is to supply electricity, whether as principal or as agent, to the electricity consumers of any [self-governing territory as defined in section 38(1) of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971)] province referred to in section 124 of the Constitution, or of any local authority as defined in section 1 of the Electricity Act, 1987 (Act No. 41 of 1987).”; 35
- (d) by the substitution for items (aa) and (dd) of subparagraph (vi) of paragraph (cK) of subsection (1) of the following items, respectively: 40
- “(aa) the provincial government of such [self-governing territory] province.”; and 40
- “(dd) a trust acting as nominee for such [self-governing territory] province, local authority, regional services council or joint services board.”; 40
- (e) by the deletion of paragraph (cL) of subsection (1); 45
- (f) by the substitution for the words preceding subparagraph (i) of paragraph (fA) of subsection (1) and the said subparagraph (i) of the following words and subparagraph: 45
- “the receipts and accruals of any fund the sole object of which is to provide funds for any body, such body being a company, society, association of persons or trust contemplated in paragraph (cF) or any religious, charitable or educational institution contemplated in paragraph (f), if such fund— 50
- (i) has been approved by the Commissioner subject to such conditions as he may deem necessary to ensure that no benefits are allocated by the fund for purposes other than the provision of funds for such a [religious, charitable or educational institution contemplated in paragraph (f)] 55
- body.”; 55

- (g) by the substitution for items (aa), (cc) and (dd) of subparagraph (ii) of paragraph (fA) of subsection (1) of the following items, respectively:
- “(aa) not permitted to distribute any of its funds to any person other than [an **institution contemplated in paragraph (f)] such a body;”;**
- “(cc) required to distribute, unless the Commissioner otherwise directs, at least 75 per cent of its net revenue (being the gross income of such fund less the costs of its administration) to any [religious, charitable or educational institution contemplated in paragraph (f)] such body within a period of 12 months from the end of the financial year during which such net revenue was derived;” and
- “(dd) required on dissolution to transfer its assets to any [religious, charitable or educational institution which is exempt from tax under paragraph (f)] such body;”;
- (h) by the substitution for item (hh) of subparagraph (ii) of paragraph (fA) of subsection (1) of the following item:
- “(hh) required to apply its net revenue, unless the Minister of Finance otherwise directs, for the furtherance of its sole object in the Republic: [or in any country the territory of which formerly formed part of the Republic]”;
- (i) by the substitution for paragraph (b) of the proviso to paragraph (fA) of subsection (1) of the following paragraph:
- “(b) where the Commissioner has withdrawn his approval of such fund, it shall, within two months from the date of such withdrawal, transfer, or take reasonable steps to transfer, its remaining assets to any [religious, charitable or educational institution] such body which is exempt from tax under paragraph (cF) or (f);”;
- (j) by the substitution for paragraph (gB) of subsection (1) of the following paragraph:
- “(gB) any [disability pension] compensation paid [under section 39(1)(c) or (d)] in terms of the Workmen’s Compensation Act, 1941 (Act No. 30 of 1941), or the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);”;
- (k) by the deletion of the word “and” at the end of paragraph (iii) of the proviso to paragraph (hA) of subsection (1);
- (l) by the addition of the word “and” at the end of paragraph (iv) of the proviso to paragraph (hA) of subsection (1);
- (m) by the addition to the proviso to paragraph (hA) of subsection (1) of the following paragraph:
- “(v) the exemption under this paragraph shall not apply to any interest received by or accrued to a company which is managed and controlled outside the Republic, if such interest is effectively connected with the business carried on by that company in the Republic;”;
- (n) by the deletion of the words preceding subparagraph (i) of paragraph (i) of subsection (1) and subparagraphs (i), (ii), (vi), (xii), (xiiA), (xiii) and (xiv) of the said paragraph (i);
- (o) by the deletion of subparagraph (xiv) of paragraph (t) of subsection (1); and
- (p) by the deletion of subsection (4).
- (2)(a) Subsection (1)(a) shall come into operation as from the commencement of years of assessment commencing on or after 1 August 1996.
- (b) Subsection (1)(j) shall come into operation on the date on which section 12 of the Compensation for Occupational Injuries and Diseases Amendment Act, 1996, comes into operation.
- (c) Subsection (1)(m) shall be deemed to have come into operation on 1 April 1996 and shall apply to any interest received or accrued on or after that date.

**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, 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, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993, section 10 of Act 21 of 1994 and section 12 of Act 21 of 1995

9. (1) Section 11 of the principal Act is hereby amended by the substitution for the expression "two hundred rand" in paragraph (aa) of the proviso to paragraph (gA) of the expression "R3 000". 10

(2) Subsection (1) shall come into operation on 1 August 1996 and shall apply to any expenditure incurred on or after that date.

**Amendment of section 16A of Act 58 of 1962, as inserted by section 10 of Act 70 of 1989** 15

10. Section 16A of the principal Act is hereby amended by the substitution for the words preceding subparagraph (i) of paragraph (b) of subsection (1) of the following words:

"has incurred such expenditure during the year of assessment in respect of the attendance by him of any course or congress held in a country other than the Republic [or any country the territory of which formerly formed part of the Republic] and that such course or congress—". 20

**Amendment of section 18A of Act 58 of 1962, as inserted by section 15 of Act 52 of 1970 and substituted by section 16 of Act 96 of 1981 and amended by section 14 of Act 91 of 1982, section 16 of Act 94 of 1983, section 16 of Act 121 of 1984, section 15 of Act 90 of 1988, section 17 of Act 101 of 1990 and section 20 of Act 129 of 1991** 25

11. (1) Section 18A of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraphs (a) and (b) of the definition of "college" of the following paragraphs, respectively:

"(a) a technikon established or deemed to have been established or declared to be such under the [Advanced Technical Education Act, 1967 (Act No. 40 of 1967)] Technikons Act, 1993 (Act No. 125 of 1993), or any other Act of Parliament; [or established as such under any law of and situated in, an independent State whose territory formerly formed part of the Republic] or 30

(b) any other educational institution established by or under any other law of the Republic, [or established under any law of, and situated in, any such independent State] if the Commissioner, in consultation with the officer in the public service of the Republic, [or, as the case may be, of the independent State in question] upon or to whom powers, duties or functions are or may be conferred, imposed or assigned in terms of the law in question, is satisfied that such institution is in all material respects similar to any technikon referred to in paragraph (a);" 35

(b) by the substitution in subsection (1) for subparagraph (i) of paragraph (c) of the definition of "educational fund" of the following subparagraph: 40

"(i) for educational or training purposes for the benefit of the pupils, students or trainees of any school or institution referred to in paragraph (b) which is situated in the Republic, [or any similar school or institution in any independent State whose territory formerly formed part of the Republic] where such fund is administered and controlled by the trustee of any educational trust approved by the Minister of Finance which has been created under a written deed of trust with the object of serving such purposes; or" 45 50



- (c) by the substitution in subsection (1) for the words preceding subparagraph (i) of paragraph (d) of the definition of "educational fund" of the following words:  
 "any trust fund established in the Republic for the sole purpose of receiving donations from companies to be used exclusively for educational or training purposes in respect of primary and secondary education in the Republic [or any independent state whose territory formerly formed part of the Republic] if—";
- (d) by the substitution in subsection (1) for the definition of "university" of the following definition:  
 " 'university' means a university established by an Act of Parliament [or established by any law of and situated in, any independent State whose territory formerly formed part of the Republic] and a university college established under the [Extension of University Education Act, 1959 (Act No. 45 of 1959)] Tertiary Education Act, 1988 (Act No. 66 of 1988).";
- (e) by the addition of the word "and" at the end of paragraph (a) of subsection (2);
- (f) by the deletion of the word "and" at the end of paragraph (b) of subsection (2);
- (g) by the deletion of paragraph (c) of subsection (2);
- (h) by the substitution for the words preceding paragraph (a) of subsection (3) of the following words:  
 "Any claim for a deduction in respect of any donation under subsection (2) shall not be allowed unless supported by a receipt issued [(as respects a donation contemplated in paragraph (a) or (b) of that subsection)] by the university, college or person in control of the educational fund concerned, [or (as respects a donation contemplated in paragraph (c) of that subsection) by the said Bible Society of South Africa] on which the following details are given, namely—";
- (i) by the substitution for paragraph (b) of subsection (3) of the following paragraph:  
 "(b) the name of the university, college or educational fund which received [a] the donation, [contemplated in paragraph (a) of subsection (2) or, as respects a donation contemplated in paragraph (c) of that subsection, the name of the said Bible Society] together with an address to which enquiries may be directed in connection therewith;";
- (j) by the substitution for paragraph (e) of subsection (3) of the following paragraph:  
 "(e) a certification to the effect that the receipt is issued for the purposes of section 18A of the Income Tax Act, 1962, and that the donation has been or will be used exclusively for the purposes of the university, college or educational fund concerned [or the said Bible Society]."
- (2) Subsection (1)(e) to (j), inclusive, shall come into operation on 1 October 1996 and shall apply in respect of any donation made on or after that date.

Amendment of section 22 of Act 58 of 1962, as amended by section 8 of Act 6 of 1963, section 14 of Act 90 of 1964, section 21 of Act 89 of 1969, section 23 of Act 85 of 1974, section 20 of Act 69 of 1975, section 15 of Act 103 of 1976, section 20 of Act 94 of 1983, section 19 of Act 121 of 1984, section 14 of Act 65 of 1986, section 5 of Act 108 of 1986, section 21 of Act 101 of 1990, section 22 of Act 129 of 1991, section 17 of Act 113 of 1993, section 1 of Act 168 of 1993 and section 19 of Act 21 of 1995

12. (1) Section 22 of the principal Act is hereby amended—

(a) by the insertion after subsection (4) of the following subsection:

"(4A) For the purposes of subsection (4), where—

(a) any marketable security has been lent by a lender to a borrower in terms of a 'lending arrangement' as defined in section 23(1) of the Stamp Duties Act, 1968 (Act No. 77 of 1968), such marketable security shall be deemed not to have been acquired by such borrower; or

(b) another marketable security of the same kind and of the same or equivalent quantity and quality has been returned by such borrower to such lender, such other marketable security shall be deemed not to have been acquired by such lender.”;

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

“(8) If during any year of assessment—

(a) any taxpayer has applied trading stock to his private or domestic use or consumption; or

**[for the purpose of making any donation of trading stock (other than livestock or produce in respect of which the provisions of paragraph 11 of the First Schedule are applicable) or]** 10

(b) any—

(i) taxpayer has applied trading stock for the purpose of making any donation thereof;

(ii) taxpayer has disposed of trading stock, other than in the ordinary course of his trade, for a consideration less than the market value thereof; 15

(iii) trading stock of any company has on or after 21 June 1993 been distributed *in specie* (whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital (including any share premium) or a redemption of redeemable preference shares) to any shareholder of that company; or 20

(iv) taxpayer has applied any trading stock for any other purpose other than the disposal thereof in the ordinary course of his trade and under circumstances other than those contemplated in paragraph (a) or subparagraph (i), (ii) or (iii) of this paragraph, 25

and the cost price of such trading stock has been taken into account in the determination of the taxable income of the taxpayer for any year of assessment, the taxpayer shall be deemed to have recovered or recouped— 30

(A) where such trading stock has been applied in a manner contemplated in paragraph (a), an amount equal to the cost price to him of such trading stock (less any sum which has been deducted therefrom under the provisions of subsection (1)) or where the cost price cannot be readily determined, the market value of such trading stock; or 35

(B) where such trading stock has been applied, disposed of or distributed in a manner contemplated in paragraph (b), an amount equal to the market value of such trading stock,

and such amount shall be included in the income of the taxpayer for the year of assessment during which such trading stock was so applied, disposed of or distributed: Provided that where— 40

(a) an asset consisting of trading stock so applied is used or consumed by the taxpayer in carrying on his trade, the amount included in his income under this subsection shall for the purposes of this Act be deemed to be expenditure incurred in respect of the acquisition by him of such asset; 45

**[Provided further that where any trading stock (other than livestock or produce) of any company has on or after 21 June 1993 been distributed *in specie* (whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital (including any share premium) or a redemption of redeemable preference shares) to any shareholder of that company, there shall be included in the income of such company during the year of assessment in which such trading stock was distributed an amount equal to the market value of such trading stock]** 50

(b) the provisions of paragraph (b)(ii) apply and any consideration contemplated in that paragraph has been received by or accrued to the taxpayer, the amount included in his income in terms of this subsection shall be reduced by such consideration; or 55

- (c) such trading stock consists of livestock or produce in respect of which the provisions of paragraph 11 of the First Schedule are applicable, the provisions of this subsection shall not apply.”; and
- (c) by the addition of the following subsection:
- “(9) Where—
- (a) (i) the trading stock of any person during any year of assessment includes any marketable security;
- (ii) such person has, during such year of assessment, lent such marketable security to a borrower in terms of a ‘lending arrangement’ as defined in section 23(1) of the Stamp Duties Act, 1968 (Act No. 77 of 1968); and
- (iii) a marketable security of the same kind and of the same or equivalent quantity and quality has not been returned by the borrower to such person at the end of such year of assessment,
- such marketable security shall, for the purposes of this section, be deemed to be trading stock held and not disposed of by such person at the end of such year of assessment; or
- (b) (i) the trading stock of any other person during any year of assessment includes any marketable security;
- (ii) such other person has, during such year of assessment, borrowed such marketable security from a lender in terms of a ‘lending arrangement’ as defined in section 23(1) of the Stamp Duties Act, 1968 (Act No. 77 of 1968); and
- (iii) a marketable security of the same kind and of the same or equivalent quantity and quality has not been returned by such other person to such lender at the end of such year of assessment,
- such marketable security shall, for the purposes of this section, be deemed not to be trading stock held and not disposed of, by such other person at the end of such year of assessment.”.
- (2)(a) Subsection (1)(a) and (c) shall come into operation on 1 August 1996 and shall apply to any marketable security lent on or after that date.
- (b) Subsection (1)(b) shall come into operation on the date of promulgation of this Act and shall apply to any trading stock applied, disposed of or distributed on or after that date.

**Amendment of section 24I of Act 58 of 1962, as inserted by section 21 of Act 113 of 1993 and amended by section 11 of Act 140 of 1993 and section 18 of Act 21 of 1994**

13. (1) Section 24I of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the definition of “affected forward exchange contract” of the following definition:
- “ ‘affected forward exchange contract’ means any forward exchange contract which has been entered into by any person during any year of assessment, to serve as a hedge in respect of
- [(a)] a loan, advance or debt, where—
- [(i)] (a) such loan or advance has not yet been obtained or granted, as the case may be, by such person, or such debt has not yet been incurred by, or the amount payable in respect of such debt has not yet accrued to such person, as the case may be, during such year of assessment; and
- [(ii)] (b) such loan, advance or debt—
- (i) is to be utilised [as contemplated in subsection (7)(a) in terms of an agreement entered into] by such person to acquire any asset or to finance any expense; or
- (ii) will arise from the sale of any asset or the supply of any services,
- in the ordinary course of his trade in terms of an agreement entered into by such person prior to the end of such year of assessment; [for the acquisition, installation, construction, devise, development,

creation, production or restoration of any asset (whether corporeal or incorporeal) as contemplated in that subsection; or  
 (b) interest to be incurred in respect of a loan or advance obtained or to be obtained or a debt incurred or to be incurred as contemplated in subsection (7)(a)”; and

(b) by the addition to subsection (7) of the following proviso:

“Provided that where the Commissioner is satisfied that during any year of assessment subsequent to the year of assessment during which such exchange difference arose or such premium or other consideration was paid or became payable—

(a) the loan, advance or debt to be obtained or incurred, as the case may be, as contemplated in paragraph (b) or (c) of this subsection will no longer be so obtained or incurred;

(b) such loan, advance or debt has not been utilised as contemplated in paragraph (a); or

(c) any such asset, property or knowledge will no longer be brought into use for the purpose of such person’s trade, such exchange difference or premium or other consideration shall no longer be carried forward, but shall be taken into account in the determination of such person’s taxable income in such subsequent year of assessment.”.

(2) Subsection (1) shall come into operation in respect of years of assessment ending on or after the date of promulgation of this Act.

**Amendment of section 24J of Act 58 of 1962, as inserted by section 21 of Act 21 of 1995**

14. (1) Section 24J of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the definition of “adjusted gain on transfer or redemption of an instrument” of the following definition:

“ ‘adjusted gain on transfer or redemption of an instrument’ means—

(a) in relation to the holder of any income instrument, where—

(i) an alternative method has not been applied, the amount by which the sum of the transfer price or redemption payment of such income instrument in relation to such holder and any payments received by such holder in terms of such income instrument during the accrual period in which such income instrument is transferred or redeemed, exceeds the sum of the adjusted initial amount in relation to such income instrument and the accrual amount in relation to such accrual period and any payments made by such holder in terms of such income instrument during such accrual period; or

(ii) an alternative method has been applied, the amount by which the sum of the transfer price or redemption payment of such income instrument in relation to such holder and any payments received by such holder in terms of such income instrument during the period from acquisition until transfer or redemption of such income instrument by such holder, exceeds the sum of the initial amount and all amounts determined in accordance with such alternative method and any other payments made by such holder in terms of such income instrument during the period from acquisition until transfer or redemption of such income instrument by such holder; or

(b) in relation to the issuer of any instrument, where—

(i) an alternative method has not been applied, the amount by which the sum of the adjusted initial amount in relation to such instrument and the accrual amount in relation to the accrual period during

- which such instrument is transferred or redeemed and any payments received by such issuer in terms of such instrument during the accrual period, exceeds the sum of the transfer price or redemption payment in relation to such instrument in relation to such issuer and any payments made by such issuer in terms of such instrument during such accrual period; or 5
- (ii) an alternative method has been applied, the amount by which the sum of the initial amount and all amounts determined in accordance with such alternative method and any other payments received by such issuer in terms of such instrument during the period from issue or acquisition until transfer or redemption of such instrument by such issuer, exceeds the sum of the transfer price or redemption payment in relation to such instrument in relation to such issuer and any payments made by such issuer in terms of such instrument during the period from issue or acquisition until transfer or redemption of such instrument by such issuer;” 10 15
- (b) by the substitution in subsection (1) for the definition of “adjusted loss on transfer or redemption of an instrument” of the following definition: “adjusted loss on transfer or redemption of an instrument” means— 20
- (a) in relation to the holder of any income instrument, where— 20
- (i) an alternative method has not been applied, the amount by which the sum of the adjusted initial amount in relation to such income instrument and the accrual amount in relation to the accrual period during which such income instrument is transferred or redeemed and any payments made by such holder in terms of such income instrument during such accrual period, exceeds the sum of the transfer price or redemption payment in relation to such income instrument in relation to such holder and any payments received by such holder in terms of such income instrument during such accrual period; or 25 30
- (ii) an alternative method has been applied, the amount by which the sum of the initial amount and all amounts determined in accordance with such alternative method and any other payments made by such holder in terms of such income instrument during the period from acquisition until transfer or redemption of such income instrument by such holder, exceeds the sum of the transfer price or redemption payment in relation to such income instrument in relation to such holder and any payments received by such holder in terms of such income instrument during the period from acquisition until transfer or redemption of such income instrument by such holder; or 35 40
- (b) in relation to the issuer of any instrument, where—
- (i) an alternative method has not been applied, the amount by which the sum of the transfer price or redemption payment of such instrument in relation to such issuer and any payments made by such issuer in terms of such instrument during the accrual period during which such instrument is transferred or redeemed, exceeds the sum of the adjusted initial amount in relation to such instrument and the accrual amount in relation to such accrual period and any payments received by such issuer in terms of such instrument during such accrual period; or 45 50
- (ii) an alternative method has been applied, the amount by which the sum of the transfer price or redemption payment of such instrument in relation to such issuer and any payments made by such issuer in terms of such instrument during the period from issue or acquisition until transfer or redemption of such instrument by such issuer, 55

- exceeds the sum of the initial amount and all amounts determined in accordance with such alternative method and any other payments received by such issuer in terms of such instrument during the period from issue or acquisition until transfer or redemption of such instrument by such issuer;”;
- (c) by the substitution in subsection (1) for the definition of “income instrument” of the following definition:  
 “‘income instrument’ means—  
 (a) in the case of any person other than a company, any instrument—  
 [(a)] (i) the term of which will, or is reasonably likely to, exceed one year; and  
 [(b)] (ii) which is issued or acquired at a discount or premium or bears deferred interest; and  
 (b) in the case of any company, any instrument;”;
- (d) by the substitution in subsection (1) for the words following upon paragraph (e) of the definition of “instrument” of the following words:  
 “which was—  
 (i) issued or deemed to have been issued after 15 March 1995; [or]  
 (ii) issued on or before 15 March 1995 and transferred on or after [the date of promulgation of the Income Tax Act, 1995] 19 July 1995; or  
 (iii) in so far as it relates to the holder thereof, issued on or before 15 March 1995 and was unredeemed on 14 March 1996 (excluding any arrangement contemplated in subparagraphs (i) and (ii)),  
 but excluding—  
 [(i)] (A) any lease agreement; and  
 [(ii)] (B) any agreement qualifying for an allowance contemplated in section 24(2) to the extent that such section is applicable to the holder of such agreement;”;
- (e) by the insertion after subsection (3) of the following subsection:  
 “(3A) Where any person is the holder of an income instrument which is an instrument as contemplated in paragraph (iii) of the definition of ‘instrument’, the amount by which the sum of all accrual amounts in relation to all accrual periods falling within the period from the date of acquisition (whether by way of issue or transfer, as the case may be) of such income instrument by such person until 13 March 1996, exceeds the sum of all interest received by or accrued to such person during such period had the provisions of this section not been applicable during such period in respect of such income instrument, shall for the purposes of this Act be deemed to have accrued to such person in the year of assessment during which such income instrument is transferred by such holder or redeemed (whichever is the earlier): Provided that the provisions of this subsection shall not apply in so far as any interest in relation to such income instrument was assessed to tax in the hands of such person under an assessment raised with a date of assessment before the date of promulgation of this Act.”;
- (f) by the insertion after subsection (4) of the following subsection:  
 “(4A) Where in the case of any—  
 (a) holder of an income instrument any adjusted loss on transfer or redemption of such income instrument which has been deemed to have been incurred by such holder in terms of subsection (4)(b) during any year of assessment, includes an amount in relation to such income instrument representing an—  
 (i) accrual amount; or  
 (ii) amount determined in accordance with an alternative method, which amount has been included in the income of the holder during such year of assessment or any previous year of assessment, such amount shall be allowed as a deduction from the income of such holder during such year of assessment; or  
 (b) issuer of an instrument any adjusted gain on transfer or redemption which has been deemed to have been accrued to such issuer in terms of subsection (4)(a) during any year of assessment, includes

an amount in relation to such instrument representing an—

- (i) accrual amount; or
- (ii) amount determined in accordance with an alternative method, which amount has been allowed as a deduction from the income of such issuer during such year of assessment or any previous year of assessment, such amount shall be included in the income of such issuer during such year of assessment.”; and

(g) by the insertion after subsection (5) of the following subsection:

“(5A) Any amount which has been deemed to have been incurred by or accrued to a person, as the case may be, in respect of an instrument in terms of the provisions of this section, shall for the purposes of this Act not be deducted from or included in, as the case may be, the income of such person more than once by reason of the application of this section.”.

(2)(a) Subsection (1)(a), (b), (f) and (g) shall be deemed to have come into operation on 16 March 1995 and shall apply to all instruments which are subject to the provisions of section 24J of the principal Act.

(b) Subsection (1)(c) shall come into operation on the date of promulgation of this Act and shall apply to all instruments issued or transferred on or after that date.

(c) Subsection (1)(d) and (e) shall in so far as it relates to any instrument issued on or before 15 March 1995 and which was unredeemed on 14 March 1996 (excluding any arrangement contemplated in paragraphs (i) and (ii) of the definition of “instrument” in section 24J(1) of the principal Act) be deemed to have come into operation from the date of issue or transfer, as the case may be, of such instrument to a person who was the holder thereof on 14 March 1996 and shall apply to the holder of such an instrument from such date of issue or transfer.

**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, section 28 of Act 129 of 1991, section 23 of Act 141 of 1992 and section 23 of Act 113 of 1993**

15. 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 which bears to the taxable income of such agricultural co-operative for the year of assessment (as calculated before allowing any deductions under this paragraph and sections 11bis [13bis(7)] and 21ter and before setting off any balance of assessed loss brought forward from a previous year of assessment) the same ratio as the aggregate value of the business conducted by such agricultural co-operative with its members during such year bears to the aggregate value of all business conducted by it during such year;”.

**Amendment of section 29 of Act 58 of 1962, as inserted by section 25 of Act 113 of 1993 and amended by section 22 of Act 21 of 1995**

16. Section 29 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the definition of “prescribed value” of the following definition:

“ ‘prescribed value’, in relation to the assets required to be held at any time by an insurer in a policyholder fund, means an amount equal to the net liabilities of the insurer in respect of the business conducted by it in the fund concerned in the Republic [or in any country the territory of which formerly formed part of the Republic] determined in the manner as contemplated in section 1(2)(a) of the Insurance Act, but subject to such modifications as may from time to time be determined for the purposes of this section by the Chief Actuary of the Financial Services Board.”;

(b) by the substitution for paragraph (d) of subsection (4) of the following paragraph:

“(d) a fund, to be known as the corporate fund, in which shall be placed all the assets (if any) held by the insurer, and all liabilities owed by it, other than those contemplated in paragraphs (a), (b) and (c) and those relating to business conducted by it elsewhere than in the Republic. [or any country the territory of which formerly formed part of the Republic]”; and

(c) by the substitution for paragraph (b) of subsection (14) of the following paragraph:

“(b) any amount received or accrued from a source outside the Republic in respect of business conducted by the insurer in the Republic, [or in any country the territory of which formerly formed part of the Republic] shall be deemed to have been received or accrued from a source within the Republic;”.

**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, section 30 of Act 129 of 1991, section 24 of Act 141 of 1992 and section 29 of Act 113 of 1993**

17. Section 36 of the principal Act is hereby amended by the substitution in subsection (11) for the definition of “capital expenditure incurred” of the following definition:

“ ‘capital expenditure incurred’, for the purpose of determining the amount of capital expenditure incurred during any period in respect of any mine, means the amount (if any) by which the expenditure that is incurred during such period in respect of such mine and is capital expenditure, exceeds the sum of the amounts received or accrued during the said period from disposals of assets the cost of which has in whole or in part been included in capital expenditure taken into account (whether under this Act or any previous Income Tax Act [or any Income Tax Ordinance of the territory]) for the purposes of any deduction in respect of such mine under section 15(a) of this Act or the corresponding provisions of any previous Income Tax Act; [or, in the case of a company, under the said section or section 11(2)(i) of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, or the corresponding provisions of any previous Income Tax Ordinance of the territory]”.

**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, section 26 of Act 90 of 1988, section 28 of Act 141 of 1992 and section 32 of Act 113 of 1993**

18. (1) Section 56 of the principal Act is hereby amended—

(a) by the deletion of paragraph (p) of subsection (1); and

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

“(b) so much of the sum of the values of all property disposed of under donations by a donor who is a natural person [under donations taking effect on or after 16 March 1988] as does not during any year of assessment exceed [R20 000: Provided that the donations tax payable in respect of property disposed of by a donor under a donation to or for the benefit of his children which took effect on or before 24 June 1988 shall not exceed the donations tax which would have been payable in respect of such donation under the provisions of this Part before the amendment of those provisions by the Income Tax Act, 1988] R25 000;”.



(2)(a) Subsection (1)(a) shall come into operation on the date of promulgation of this Act and shall apply to any property disposed of under a donation which takes place on or after that date.

(b) Subsection (1)(b) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 28 February 1997. 5

**Amendment of section 64 of Act 58 of 1962, as substituted by section 30 of Act 90 of 1988**

19. (1) Section 64 of the principal Act is hereby amended by the substitution for the expression "15 per cent" of the expression "25 per cent".

(2) Subsection (1) shall be deemed to have come into operation on 14 March 1996 10 and shall apply to the value of any property disposed of under a donation which takes effect on or after that date.

**Amendment of section 64A of Act 58 of 1962, as inserted by section 4 of Act 136 of 1991 and substituted by section 29 of Act 141 of 1992 and amended by section 33 of Act 113 of 1993 and section 28 of Act 21 of 1995** 15

20. (1) Section 64A of the principal Act is hereby amended—

(a) by the deletion in subsection (1) of the definition of "leviable amount";

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

"(2) There shall be levied and paid for the benefit of the [State] National Revenue Fund a levy, to be known as the levy on financial services, which is 20 calculated at the rate of 0,75 per cent of

[(a) in the case of a bank or a branch of a foreign institution within the meaning of the Banks Act, 1990 (Act No. 94 of 1990), or a mutual bank registered in terms of the Mutual Banks Act, 1993 (Act No. 124 of 1993), the leviable amount as determined in relation to every 25 calendar quarter commencing on or after 1 October 1991; and

(b) in the case of any other person liable under subsection (3)] the interest which accrued to [such] any person liable under subsection (3), 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." 30

(c) by the substitution for the words preceding paragraph (a) of subsection (3) of the following words:

"Persons liable for the levy in terms of subsection (2)[(b)] shall be—"; 35

(d) by the addition of the word "and" at the end of paragraph (b) of subsection (3);

(e) by the deletion of the word "and" at the end of paragraph (c) of subsection (3); and

(f) by the deletion of paragraph (d) of subsection (3). 40

(2) Subsection (1) shall come into operation on 1 October 1996.

**Amendment of section 64B of Act 58 of 1962, as inserted by section 34 of Act 113 of 1993 and amended by section 12 of Act 140 of 1993, section 24 of Act 21 of 1994 and section 29 of Act 21 of 1995**

21. (1) Section 64B of the principal Act is hereby amended— 45

(a) by the substitution in subsection (1) for the words preceding the definition of "declared" of the following words:

"For the purposes of this [section] Part—";

(b) by the insertion in subsection (1) before the definition of "declared" of the following definition: 50

"'affected company' means the other company contemplated in the definition of 'holding company'";";

- (c) by the addition to subsection (1) of the following definitions:
- “‘holding company’ means any company which holds for its own benefit whether directly, or indirectly through one or more intermediate companies, together with shares held in terms of a share incentive scheme, all the equity share capital of any other company;
- 5  
‘intermediate company’ means any company all of whose equity share capital is, together with shares held in terms of a share incentive scheme, held by—
- (a) the first-mentioned company in the definition of ‘holding company’; or
- (b) (i) one or more companies which are intermediate companies in terms of paragraph (a); or
- 10  
(ii) a ‘holding company’ and one or more companies referred to in subparagraph (i);
- ‘share incentive scheme’ means a scheme in terms of which not more than 10 per cent of the equity share capital of a company is—
- (a) held by the full-time employees of such company in terms of a share incentive scheme carried on for their own benefit;
- 15  
(b) held by a trustee for the benefit of such employees, under a scheme referred to in section 38(2)(b) of the Companies Act, 1973 (Act No. 61 of 1973); or
- (c) collectively held by both such full-time employees and such a trustee.”;
- 20  
(d) by the substitution for subsection (2) of the following subsection:
- “(2) There shall be levied and paid for the benefit of the [State] National Revenue Fund a tax, to be known as the secondary tax on companies, which is calculated at the rate of [25 per cent] 12,5 per cent of the net amount, as determined in terms of subsection (3), of any dividend declared by any
- 25  
company on or after [22 June 1994] 14 March 1996.”;
- (e) by the substitution for paragraph (f) of subsection (5) of the following paragraph:
- “(f) any dividend declared by any affected company to [any other] a holding company or intermediate company (other than a holding company or an
- 30  
intermediate company which is a company referred to in paragraph (a)), if—
- (i) such [other] holding company or intermediate company, as the case may be, was, on the date of such declaration and throughout the period of 12 months ending on the date of such declaration [held
- 35  
for its own benefit all the equity share capital of such company] a holding company or intermediate company, as the case may be, in relation to such affected company;
- (ii) such [other company is a] holding company [which] or intermediate company, as the case may be, has its place of effective
- 40  
management in the Republic and at least 90 per cent of its profits (excluding profits derived by way of dividends) [are] during the three years of assessment immediately preceding the date of such declaration, were derived [solely] from a source within the
- 45  
Republic;
- (iiA) such dividend was declared solely out of profits earned by such affected company during any period in which [all its equity share capital was so held by such other company for its own benefit] it was an affected company in relation to such holding company or
- 50  
intermediate company, as the case may be; and
- (iii) such affected company has by notice in writing furnished to the Commissioner by not later than the last day on which secondary tax on companies would, but for this exemption, have been payable in respect of the declaration of such dividend or such later date as the Commissioner may approve, elected that such dividend be exempt
- 55

from the payment of secondary tax on companies in terms of this paragraph; [and]”;

- (f) by the substitution for paragraph (g) of subsection (5) of the following paragraph: 5  
 “(g) any dividend [**distributed**] **declared** by a company which carries on long-term insurance business out of profits derived during any year of assessment commencing prior to 1 July 1993;”;
- (g) by the addition of the word “and” at the end of paragraph (g) of subsection (5); and
- (h) by the addition to subsection (5) of the following paragraph: 10  
 “(h) in the case of any company which has its place of effective management outside the Republic and which carries on a trade through a branch or an agency within the Republic, any dividend declared by such company out of profits (excluding profits derived from the mining for gold and from carrying on long-term insurance business) derived through such branch or agency.” 15

(2)(a) Subsection (1)(a), (b), (c) and (e) shall come into operation on 1 August 1996 and shall apply to any dividend declared on or after that date.

(b) Subsection (1)(h) shall apply in respect of any dividend declared during any year of assessment ending on or after 1 April 1996. 20

**Amendment of section 64C of Act 58 of 1962, as inserted by section 34 of Act 113 of 1993 and amended by section 13 of Act 140 of 1993, section 25 of Act 21 of 1994 and section 30 of Act 21 of 1995**

22. (1) Section 64C of the principal Act is hereby amended by the substitution for paragraph (g) of subsection (4) of the following paragraphs: 25

- “(g) to a loan made by any company to any other company, if such loan is utilised by such other company in the Republic and the equity share capital of 25  
 [(i) one of such companies is held by the other such company; or  
 (ii)] both such companies is held by the same person or persons;
- (h) to a loan made by any affected company to— 30  
 (i) a holding company, in relation to such affected company; or  
 (ii) any other affected company, where both such affected companies are directly or indirectly held by the same holding company, 35  
 if such loan is utilised by such holding company or other affected company, as the case may be, in the Republic; and”.

(2) Subsection (1) shall come into operation on 1 August 1996 and shall apply to any loan made on or after that date.

**Amendment of section 79 of Act 58 of 1962, as amended by section 26 of Act 69 of 1975, section 23 of Act 91 of 1982 and section 32 of Act 21 of 1995**

23. (1) Section 79 of the principal Act is hereby amended by the substitution in 40  
 subsection (1) for the second proviso of the following proviso:

“Provided further that where the Commissioner has in respect of any year of assessment made an assessment upon any company for normal tax purposes he shall not after the expiration of three years from the date of the said assessment (or, where more than one such assessment has been made, from the date of the latest of 45  
 such assessments) make any assessment in respect of any amount of undistributed profits tax or secondary tax on companies payable by the company in respect of the said year, unless the Commissioner is satisfied that the fact that an assessment in respect of the said amount was not previously made was due to fraud or misrepresentation or non-disclosure of material facts.” 50

(2) Subsection (1) shall be deemed to have come into operation on 17 March 1993.

**Amendment of section 89quat of Act 58 of 1962, as inserted by section 34 of Act 121 of 1984 and substituted by section 22 of Act 65 of 1986 and amended by section 18 of Act 70 of 1989, section 42 of Act 113 of 1993, section 15 of Act 140 of 1993 and section 33 of Act 21 of 1995**

24. (1) Section 89quat of the principal Act is hereby amended by the substitution for subsections (3) and (3A) of the following subsections, respectively: 5

“(3) Where the Commissioner having regard to the circumstances of the case is satisfied that any amount has been included in the taxpayer’s taxable income or that any deduction or allowance claimed by the taxpayer has not been allowed, and the taxpayer has on reasonable grounds contended that such amount should not have been so included or that such deduction or allowance should have been allowed, the Commissioner may, subject to the provisions of section 103(6), direct that interest shall not be paid by the taxpayer on so much of the said normal tax as is attributable to the inclusion of such amount or the disallowance of such deduction or allowance. 10 15

(3A) Where any natural person has, in respect of the year of assessment during which he for the first time became a provisional taxpayer, become liable for the payment of interest under subsection (2), the Commissioner may, subject to the provisions of section 103(6), if he is satisfied that the circumstances warrant such action, direct that interest shall not be paid by such person in respect of such year of assessment.” 20

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any interest attributable to any tax arising from the application of the provisions of section 103(1) of the principal Act to any transaction, operation or scheme entered into or carried out on or after that date. 25

**Amendment of section 89quin of Act 58 of 1962, as inserted by section 34 of Act 121 of 1984**

25. Section 89quin of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) any interest is payable under the provisions of section 88, 89, 89bis or 89quat; [or paragraph 22 of the Sixth Schedule]”. 30

**Amendment of section 91 of Act 58 of 1962, as amended by section 16 of Act 6 of 1963, section 26 of Act 55 of 1966, section 38 of Act 89 of 1969, section 36 of Act 121 of 1984 and section 39 of Act 129 of 1991**

26. Section 91 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 35

“(2) Notwithstanding anything contained in the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), [or the Magistrates’ Courts Ordinance, 1963 (Ordinance No. 29 of 1963), of the territory] a statement for any amount whatsoever may be filed in terms of subsection (1)(b) with the clerk of the court of the magistrate having jurisdiction in respect of the person by whom such amount is payable in accordance with the provisions of this Act.”. 40

**Amendment of section 101 of Act 58 of 1962, as amended by section 29 of Act 90 of 1962, section 22 of Act 52 of 1970, section 39 of Act 94 of 1983 and section 40 of Act 129 of 1991** 45

27. (1) Section 101 of the principal Act is hereby amended by the substitution for the expression “R10” in subsection (8) of the expression “R25”.

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any failure or default to act on or after that date.

**Amendment of section 102A of Act 58 of 1962, as inserted by section 40 of Act 94 of 1983** 50

28. (1) Section 102A of the principal Act is hereby amended by the substitution for the expression “R10” of the expression “R25”.

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any excess arising on or after that date.

**Amendment of section 103 of Act 58 of 1962, as amended by section 14 of Act 101 of 1978, section 37 of Act 121 of 1984 and section 19 of Act 70 of 1989**

29. Section 103 of the principal Act is hereby amended— 5

(a) by the substitution for subparagraph (i) of paragraph (b) of subsection (1) of the following subparagraph:

“(i) was entered into or carried out—

(aa) in the case of a transaction, operation or scheme in the context of business, in a manner which would not normally be employed for *bona fide* business purposes, other than the obtaining of a tax benefit; and 10

(bb) in the case of any other transaction, operation or scheme, being a transaction, operation or scheme not falling within the provisions of item (aa), by means or in a manner which would not normally be employed in the entering into or carrying out of a transaction, operation or scheme of the nature of the transaction, operation or scheme in question; or”;

(b) by the substitution for paragraph (c) of subsection (1) of the following paragraph: 20

“(c) was entered into or carried out solely or mainly for the purposes of [the avoidance or the postponement of liability for the payment of any tax, duty or levy (whether imposed by this Act or any previous Income Tax Act or any other law administered by the Commissioner) or the reduction of the amount of such liability] obtaining a tax benefit,”; and 25

(c) by the addition of the following subsections:

“(6) Where the Commissioner has applied the provisions of this section in the determination of any taxpayer’s liability for any tax, duty or levy imposed in terms of this Act, the Commissioner shall not exercise his discretion in terms of the provisions of section 89<sup>quat</sup>(3) or (3A) so as to direct that interest shall not be payable in respect of that portion of any tax which is attributable to the application of this section. 30

(7) For the purposes of subsection (1) ‘tax benefit’ includes any avoidance, postponement or reduction of liability for payment of any tax, duty or levy imposed by this Act or by any other law administered by the Commissioner.”. 35

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any transaction, operation or scheme entered into or carried out on or after that date: Provided that the provisions of section 103 of the principal Act shall, in relation to any transaction, operation or scheme entered into or carried out before that date, continue to apply as if subsection (1) had not been enacted. 40

**Amendment of paragraph 4 of First Schedule to Act 58 of 1962, as amended by section 17 of Act 72 of 1963, section 41 of Act 89 of 1969, section 42 of Act 94 of 1983 and section 43 of Act 113 of 1993**

30. Paragraph 4 of the First Schedule to the principal Act is hereby amended by the deletion of subparagraph (2). 45

**Amendment of paragraph 5 of First Schedule to Act 58 of 1962, as substituted by section 18 of Act 72 of 1963 and amended by section 23 of Act 52 of 1970, section 30 of Act 88 of 1971, section 28 of Act 103 of 1976, section 23 of Act 104 of 1980 and section 26 of Act 96 of 1981** 50

31. Paragraph 5 of the First Schedule to the principal Act is hereby amended—

(a) by the substitution for subparagraph (1) of the following subparagraph:

“(1) The value to be placed upon livestock for the purposes of this Schedule shall, subject to the provisions of paragraph 4(1) and subparagraph (2) of this paragraph

**[(a) as respects livestock held and not disposed of at the end of the year of assessment ending on 28 February 1982—** 5

**(i) in respect of purchased breeding stock, as defined in subparagraph (1A), which was acquired by the farmer during the year of assessment ended on 28 February 1981 or ending on 28 February 1982, be the purchase price incurred by the farmer in respect of such stock, less an amount equal to—** 10

**(aa) seventy-five per cent of such purchase price, if such stock was acquired by the farmer during the year of assessment ended on 28 February 1981; or**

**(bb) fifty per cent of such purchase price, if such stock was acquired by the farmer during the year of assessment ending on 28 February 1982; and** 15

**(ii) in respect of livestock other than livestock referred to in subitem (i), be the standard value applicable to the livestock; and**

**(b)] as respects livestock held and not disposed of at the end of the year of assessment, [ending on 28 February 1983 or any succeeding year of assessment] be the standard value applicable to the livestock.”; and** 20

**(b) by the deletion of subparagraph (1A).**

**Amendment of paragraph 11 of First Schedule to Act 58 of 1962, as substituted by section 44 of Act 113 of 1993** 25

32. The following paragraph is hereby substituted for paragraph 11 of the First Schedule to the principal Act:

“11. If during any year of assessment livestock or produce—

**[has been donated by any farmer or]**

**(a) has been applied by the farmer for his private or domestic use or consumption;** 30

**(b) has, for purposes other than that of the production to [him] the farmer of income from sources within the Republic, been removed by him from the Republic; or**

**(c) (i) has been donated by the farmer;**

**(ii) has been disposed of by the farmer, other than in the ordinary course of his farming operations, for a consideration less than the market value thereof;** 35

**(iii) where the farmer is a company, [and any livestock or produce] has on or after 21 June 1993 been distributed *in specie* (whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital (including any share premium) or a redemption of redeemable preference shares) to a shareholder of such company; or** 40

**(iv) has been applied by the farmer for any other purpose other than the disposal thereof in the ordinary course of his farming operations and under circumstances other than those contemplated in subparagraph (a) or (b) or item (i), (ii) or (iii) of this subparagraph,** 45

**there shall be included in the income of such farmer for that year of assessment—**

**(A) where such livestock or produce has been applied in a manner contemplated in subparagraph (a), an amount equal to the cost price to him of such livestock or produce, or where the cost price cannot be readily determined, the market value of such livestock or produce; or** 50

**(B) where such livestock or produce has been applied, disposed of or distributed in a manner contemplated in subparagraph (b) or (c), an amount equal to the [current] market value of such livestock or produce:** 55

Provided that where—

- (a) any livestock or produce so applied, is used or consumed by the farmer in the ordinary course of his farming operations, the amount included in his income under this paragraph shall for the purposes of this Act be deemed to be expenditure incurred in respect of the acquisition by him of such livestock or produce; or 5
- (b) the provisions of subparagraph (c)(ii) are applicable and an amount of consideration as contemplated in such subparagraph has been received by or accrued to the farmer, the amount included in his income in terms of this paragraph shall be reduced by such consideration.”. 10

### Deletion of paragraph 18 of First Schedule to Act 58 of 1962

33. Paragraph 18 of the First Schedule to the principal Act is hereby deleted.

Amendment of paragraph 1 of Fourth 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, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of Act 113 of 1993, section 16 of Act 140 of 1993 and section 37 of Act 21 of 1995 15

34. Paragraph 1 of the Fourth Schedule to the principal Act is hereby amended by the deletion of paragraph (i) of the definition of “remuneration”. 20

Amendment of paragraph 11B of Fourth 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, section 46 of Act 129 of 1991, section 34 of Act 141 of 1992, section 3 of Act 168 of 1993 and section 40 of Act 21 of 1995 25

35. Paragraph 11B of the Fourth Schedule to the principal Act is hereby amended—
- (a) by the addition in subparagraph (1) to the definition of “tax period” of the following proviso:  
 “Provided that where any employer has for the purposes of paragraph 15 applied for separate registration of branches of his undertaking, each such branch shall for the purposes of this definition be deemed at the option of the employer to be a separate employer;” and 30
- (b) by the addition to subparagraph (4A) of the following proviso:  
 “Provided that the provisions of this subparagraph shall not apply in respect of any application for amendment of the determination of the amount of Standard Income Tax on Employees received by the Commissioner on or after 1 December 1996.”. 35

Amendment of paragraph 15 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 7 of Act 30 of 1984 and section 43 of Act 21 of 1995 40

36. Paragraph 15 of the Fourth Schedule to the principal Act is hereby amended by the substitution for subparagraph (1) of the following subparagraph:

- “(1) Every person who is an employer shall apply to the Commissioner in such form as the Commissioner may prescribe for registration as an employer
- [(a) in the case of a person who is an employer on the first day of March, 1963, not later than the thirty-first day of March, 1963; and 45
- (b) in the case of a person who becomes an employer after the first day of March, 1963] within 14 days after becoming an employer, or [in either such

case] within such further period as the Commissioner may approve: Provided that where no one of such employer's employees is liable for normal tax, the provisions of this paragraph shall not apply to such employer."

**Amendment of paragraph 18 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 28 of Act 90 of 1964, section 42 of Act 88 of 1971, section 49 of Act 85 of 1974, section 19 of Act 104 of 1979, section 26 of Act 65 of 1986, section 9 of Act 108 of 1986, section 23 of Act 70 of 1989 and section 50 of Act 113 of 1993** 5

37. (1) Paragraph 18 of the Fourth Schedule to the principal Act is hereby amended by the substitution for the expression "R35 000" in subitem (i) of item (d) of subparagraph (1) of the expression "R50 000". 10

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1997.

**Deletion of heading preceding paragraph 29 of Fourth Schedule to Act 58 of 1962**

38. The Fourth Schedule to the principal Act is hereby amended by the deletion of the heading preceding paragraph 29. 15

**Deletion of headings following paragraph 32 of the Fourth Schedule to Act 58 of 1962**

39. The Fourth Schedule to the principal Act is hereby amended by the deletion of the headings following paragraph 32. 20

**Amendment of paragraph 1 of Seventh 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, Government Notice No. R.763 of 29 March 1990, section 55 of Act 101 of 1990, section 35 of Act 141 of 1992, section 52 of Act 113 of 1993 and section 30 of Act 21 of 1994** 25

40. (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 "14 per cent" of the expression "16 per cent". 30

(2) Subsection (1) shall be deemed to have come into operation on 1 September 1995.

**Amendment of expression in principal Act**

41. The principal Act is hereby amended by the substitution for the expression "State Revenue Fund", wherever it occurs, of the expression "National Revenue Fund". 35

**Amendment of section 9 of Act 21 of 1994**

42. Section 9 of the Income Tax Act, 1994, is hereby amended by the substitution for the expression "1 April 1994" in paragraph (b) of subsection (2) of the expression "1 April 1992".

**Withdrawal of Government Notice No. 1154 of 4 August 1995** 40

43. (1) Government Notice No. 1154 of 4 August 1995 is hereby withdrawn.

(2) Subsection (1) shall be deemed to have come into operation on 4 August 1995.

**Repeal of laws, and saving**

44. (1) The Income Tax Amendment Act, 1987 (Act No. 13 of 1987), of the former Republic of Ciskei and the Income Tax Amendment Decree, 1993 (Decree No. 2 of 1993), of the former Republic of Ciskei are hereby repealed. 45



(2) Any tax or levy which has become payable under a law repealed by subsection (1) before or on the date of the repeal of such a law, but which has not at the said date been paid, shall be recovered in accordance with and subject to the provisions of the law concerned as if that law had not been so repealed.

(3) Subsections (1) and (2) shall be deemed to have come into operation on 5  
1 October 1995.

#### **Commencement of certain amendments**

45. Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall for the purposes of assessments in respect of normal tax under the principal Act, be deemed to have come 10  
into operation as from the commencement of years of assessment ending on or after 1 January 1997.

#### **Short title**

46. This Act shall be called the Income Tax Act, 1996.

## SCHEDULE

**RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 1997 AND 30 JUNE 1997, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 1997**

## (SECTION 1)

1. The rates of normal tax referred to in section 1 of this Act in respect of persons other than companies are as follows:—

(a) In respect of the taxable income of any natural person, an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax in respect of Natural Persons
Where the taxable income— does not exceed R15 000 .....	17 per cent of each R1 of the taxable income;
exceeds R15 000 but does not exceed R20 000	R2 550 plus 19 per cent of the amount by which the taxable income exceeds R15 000;
“ R20 000 “ “ “ “ R30 000	R3 500 plus 21 per cent of the amount by which the taxable income exceeds R20 000;
“ R30 000 “ “ “ “ R40 000	R5 600 plus 30 per cent of the amount by which the taxable income exceeds R30 000;
“ R40 000 “ “ “ “ R60 000	R8 600 plus 41 per cent of the amount by which the taxable income exceeds R40 000;
“ R60 000 “ “ “ “ R80 000	R16 800 plus 43 per cent of the amount by which the taxable income exceeds R60 000;
“ R80 000 “ “ “ “ R100 000	R25 400 plus 44 per cent of the amount by which the taxable income exceeds R80 000;
“ R100 000 .....	R34 200 plus 45 per cent of the amount by which the taxable income exceeds R100 000;

(b) in respect of the taxable income of any person other than a natural person, an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax in respect of Persons other than Natural Persons
Where the taxable income— does not exceed R5 000 .....	17 per cent of each R1 of the taxable income;
exceeds R5 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 “ “ “ “ R60 000	R14 550 plus 42 per cent of the amount by which the taxable income exceeds R50 000;
“ R60 000 “ “ “ “ R70 000	R18 750 plus 43 per cent of the amount by which the taxable income exceeds R60 000;
“ R70 000 “ “ “ “ R100 000	R23 050 plus 44 per cent of the amount by which the taxable income exceeds R70 000;
“ R100 000 .....	R36 250 plus 45 per cent of the amount by which the taxable income exceeds R100 000.

2. The rates of normal tax referred to in section 1 of this Act in respect of companies are, subject to the provisions of paragraph 4, as follows:—

- (a) On each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c), (d) and (e)), 35 cents, or, in the case of a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 42 cents;
- (b) on each rand of the taxable income derived by any company from mining for gold on any gold mine (with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of “gross income” in section 1 of the principal Act, but after the set-off of any assessed loss in terms of section 20(1) of the principal Act), a percentage determined in accordance with the formula:

$$y = 43 - \frac{215}{x}$$

or, in the case of a company which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, in accordance with the formula:

$$y = 51 - \frac{255}{x}$$

in which formulae y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion, but before the set-off of any assessed loss or deduction which is not attributable to the mining for gold from the said mine) bears to the income so derived (with the said exclusion);

- (c) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is, or has been, mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of “gross income” in section 1 of the principal Act, a rate equal to the average rate of normal tax or 35 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;
- (d) on each rand of the taxable income derived by any company from carrying on long-term insurance business—
- (i) where such taxable income has been determined in terms of the provisions of section 28 of the principal Act, 45 cents; or
- (ii) where such taxable income has been determined in terms of the provisions of section 29 of the principal Act—
- (aa) in respect of its individual policyholder fund, 30 cents; and
- (bb) in respect of its company policyholder fund and corporate fund, 35 cents;
- (e) on each rand of the taxable income (excluding taxable income referred to in subparagraphs (b), (c) and (d)) derived by a company which has its place of effective management outside the Republic and which carries on a trade through a branch or agency within the Republic, 40 cents:

Provided that the tax determined in accordance with any of subparagraphs (a) to (e), inclusive, shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. That the rates set forth in paragraphs 1 and 2 shall be the rates required to be fixed by Parliament in accordance with the provisions of section 5(2) of the principal Act, in respect of taxable incomes derived from sources within or deemed to be within the Republic.

4. Any company which qualifies for exemption under the provisions of section 2 of the Company Tax Amendment Decree, 1994 (Decree No. 2 of 1994 of Ciskei), shall be exempt from normal tax on so much of its taxable income as is derived from a source within the territory of the former Republic of Ciskei.

5. For the purposes of paragraph 2 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any other income which results directly from mining for gold.

6. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned.