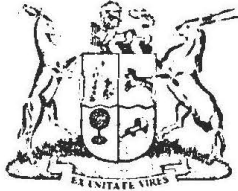


Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# STAATSKOERANT

## VAN DIE REPUBLIEK VAN SUID-AFRIKA

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### REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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CAPE TOWN, 22 AUGUST 1984

KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1782.

22 Augustus 1984

No. 1782.

22 August 1984

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

No. 121 van 1984: Inkomstebelastingwet, 1984.

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

No. 121 of 1984: Income Tax Act, 1984.

## INCOME TAX ACT, 1984

Act No. 121, 1984

## GENERAL EXPLANATORY NOTE:

- [ ] Words in bold type in square brackets indicate omissions from existing enactments.
- \_\_\_\_\_ Words underlined with 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 1985 and 30 June 1985, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1985; to amend the Income Tax Act, 1962; to amend the Finance and Financial Adjustments Acts Consolidation Act, 1977, so as to delete an exemption from income tax in respect of certain housing benefits; to amend the Judges' Remuneration Act, 1978, so as to delete an exemption from income tax in respect of certain allowances; to repeal section 61 of the Income Tax Act, 1983; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)  
(Assented to 12 July 1984.)*

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

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), herein-  
5 after referred to as the principal Act, in respect of—
- (a) the taxable income of any person other than a company for the year of assessment ending 28 February 1985 or 30 June 1985; and
- 10 (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1985,
- shall be as set forth in Schedule 1 to this Act.
2. (1) Section 1 of the principal Act is hereby amended—
- 15 (a) by the insertion after the definition of "child" of the following definition:  
"close corporation means a close corporation within the meaning of the Close Corporations Act, 1984 (Act No. 69 of 1984);";
- 20 (b) by the substitution for paragraph (a) of the definition of "company" of the following paragraph:  
"(a) any association, corporation or company (other than a close corporation) incorporated or deemed to be incorporated by or under any law in force or previously in force in the Republic or in any part thereof, or any body corporate formed or established or deemed to be formed or established by or
- 25 under any such law; or";
- Rates of normal tax.
- 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,

## INCOME TAX ACT, 1984

Act No. 121, 1984

- (c) by the substitution for paragraph (d) of the definition of "company" of the following paragraph:
- "(d) any association (not being an association referred to in paragraph (a) or (f) or an association to which the provisions of [paragraph (e) of subsection (1) of section *ten*] section 10 (1) (e) apply) formed in the Republic to serve a specified purpose, beneficial to the public or a section of the public; or";
- (d) by the addition at the end of subparagraph (ii) of paragraph (e) of the definition of "company" of the word "or", and by the addition to the said definition of the following paragraph:
- "(f) a close corporation;";
- (e) by the insertion after the definition of "domestic company" of the following definition:
- "'entertainment expenditure' means expenditure incurred in providing hospitality of any kind, including, without limiting the scope of this definition, expenditure incurred in providing or supplying—
- (a) food, drink or accommodation; or
- (b) any ticket or voucher entitling any person to admission to any theatre, exhibition or club or to attend any show, display or performance or to use or enjoy any sporting, recreational or other facility; or
- (c) any gift of goods intended for the personal use or enjoyment of any person; or
- (d) any travel facility; or
- (e) any voucher entitling the recipient or any holder thereof to exchange it for food, drink or accommodation or any such ticket, voucher, gift or travel facility,
- and expenditure which is incidental to or is incurred in connection with the provision or supply of any such hospitality, food, drink, accommodation, ticket, voucher, gift or travel facility, but excluding such expenditure in respect of hospitality as is referred to in section 8 (1) (d);";
- (f) by the substitution for paragraph (c) of the definition of "gross income" of the following paragraph:
- "(c) any amount, including any voluntary award, received or accrued in respect of services rendered or to be rendered or any amount (other than an amount referred to in section 8 (1)) received or accrued in respect of or by virtue of any employment or the holding of any office: Provided that—
- (i) the provisions of this paragraph shall not apply in respect of any benefit or advantage in respect of which the provisions of paragraph (i) apply;
- (ii) any amount received by or accrued to or for the benefit of any person in respect of services rendered or to be rendered by any other person shall for the purposes of this definition be deemed to have been received by or to have accrued to the said other person;
- (iii) subject to the provisions of paragraphs (iv) and (vi) of this proviso, any amount received by or accrued to any employee or the holder of any office by way of an allowance or advance granted by his principal (being his employer or the authority, company, body or other organization in relation to which such office is held) in order that such allowance or advance may in whole or in part be utilized for the purpose of defraying entertainment expenditure incurred or to be incurred, shall for the

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 and section 1 of Act 30 of 1984.

## INCOME TAX ACT, 1984

Act No. 121, 1984

purposes of this paragraph be deemed to have been received by or to have accrued to such employee or office holder, as the case may be, in respect of services rendered or to be rendered by him;

- 5
- (iv) paragraph (iii) of this proviso shall not apply in respect of any portion of any allowance or advance referred to in that paragraph as the Commissioner is satisfied does not relate to
- 10 entertainment expenditure;
- (v) any decision of the Commissioner under paragraph (iv) shall be subject to objection and appeal;
- 15 (vi) the provisions of paragraph (iii) of this proviso shall not apply in respect of any amount received by or accrued to any employee or office holder to the extent to which such amount is an advance for, or a reimbursement of, enter-
- 20 tainment expenditure actually incurred or to be incurred during the year of assessment by the employee or office holder on the instruction of his aforesaid principal in entertaining persons on behalf of such principal, provided the employee or office holder has produced
- 25 proof to the said principal that such expenditure was incurred as aforesaid and has accounted to him for such expenditure;”;

(g) by the substitution for paragraph (i) of the said definition of the following paragraph:

- 30 “(i) the cash equivalent, as determined under the provisions of the Seventh Schedule, of the value during the year of assessment [of any quarters or board or residence or] of any [other] benefit or advantage granted in respect of employment or to the holder of any office, being a taxable benefit as defined in the said Schedule, [including] and any amount required to be included in the taxpayer’s income under section 8A;”;
- 35

(h) by the insertion after the definition of “prescribed” of the following definition:

- 40 “‘prescribed rate’, in relation to any interest payable in terms of this Act, means a rate of 15 per cent per annum or such other rate as the Minister of Finance may from time to time fix by notice in the *Gazette*;”;

(i) by the substitution for paragraph (a) of the definition of “retirement-funding employment” of the following paragraph:

- 45 “(a) in relation to any employee or the holder of an office (including a member of a body of persons whether or not established by or in terms of any law), [the employment of such employee or the holding of such office, as the case may be, if] who—
- 50 (i) in the case of such employee, [he] derives in respect of [such] his employment any income constituting remuneration as defined in paragraph 1 of the Fourth Schedule (but leaving out of account the provisions of paragraph (iv) of that definition) and is a member of or, as an employee, contributes to a pension fund or provident fund established for the benefit of employees of the employer from whom such
- 55 income is derived; or
- 60

## INCOME TAX ACT, 1984

Act No. 121, 1984

- (ii) in the case of such holder of an office, [he] derives in respect of his office any income by way of salary, emoluments, fees or other remuneration and is, as respects such office, a member of or contributes to a pension fund or provident fund established—
- 5 (aa) by law or for the benefit of holders of offices; or
- 10 (bb) for the benefit of employees of the person from whom such income is derived, [or] the employment of such employee or the holding of such office, as the case may be, as respects that part of his said income as is taken into account in the determination of the contributions made by him or on his behalf to such pension fund or provident fund; or”; and
- 15 (j) by the addition at the end of paragraph (b) of the definition of “shareholder” of the word “or” and by the addition to that definition of the following paragraph:
- 20 “(c) in relation to any close corporation, means a member of such corporation;”.

(2) The amendment effected by subsection (1) (h) shall take effect on 1 September 1984.

3. Section 5 of the principal Act is hereby amended—
- 25 (a) by the substitution in subsection (10) for the formula

$$“Y = \left( \frac{A - D}{B - C} \times B \right) + D”$$

of the formula

30 “Y =  $\frac{A}{B - C} \times B$ ”;

- (b) by the deletion of paragraph (e) of subsection (10); and
- (c) by the substitution for the provisos to subsection (10) of the following proviso:
- 35 “Provided that in no case shall the amount of normal tax so payable be less than the amount of normal tax which would be chargeable at the relevant rate fixed in terms of subsection (2) in respect of the first rand of taxable income, [less an amount equal to 2 per cent where the taxpayer is a married person or 2,4 per cent where he is not a married person of so much of the taxpayer’s taxable income for the said year as exceeds R6 000] and nothing in this section contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of his taxable income [Provided further that the preceding provisions of this subsection shall not apply if the normal tax chargeable in the case of the taxpayer in respect of the said year has been determined under the provisions of paragraph 19 of the First Schedule].”.
- 40
- 45

Amendment of section 5 of Act 58 of 1962, as substituted by section 2 of Act 6 of 1963 and amended by section 5 of Act 90 of 1964, section 6 of Act 88 of 1965, section 7 of Act 55 of 1966, section 6 of Act 95 of 1967, section 6 of Act 77 of 1968, section 7 of Act 89 of 1969, section 7 of Act 52 of 1970, section 5 of Act 88 of 1971, section 5 of Act 90 of 1972, section 5 of Act 65 of 1973, section 5 of Act 103 of 1976, section 5 of Act 113 of 1977, section 3 of Act 104 of 1980, section 4 of Act 96 of 1981, section 4 of Act 91 of 1982 and section 3 of Act 94 of 1983.

- 50 4. Section 6 of the principal Act is hereby amended—
- (a) by the substitution in paragraph (a) of subsection (2) for the expression “R320” of the expression “R460”; and
- 55 (b) by the substitution in paragraph (b) of subsection (2) for the expression “R240” of the expression “R380”.

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 and section 4 of Act 94 of 1983.

## INCOME TAX ACT, 1984

Act No. 121, 1984

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

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

5 “(1) (a) So much of any amount which has been paid  
by any person as an allowance or advance to a di-  
rector, holder of any office, manager, employee or  
10 other person in respect of the expenses of any tra-  
velling [entertainment] 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 recipi-  
15 ent under the provisions of paragraph (iii) of the  
proviso to paragraph (c) of the definition of ‘gross  
income’ in section 1) as the Commissioner is not  
satisfied was actually expended by the recipient on  
such travelling [or entertainment] or in the per-  
formance of such service, or by reason of the du-  
ties attendant upon his office, shall be deemed to  
be part of the taxable income of the recipient.

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  
and section 8 of  
Act 94 of 1983.

20 (b) For the purposes of paragraph (a)—

(i) any allowance or advance in respect of trans-  
port expenses shall, to the extent to which  
such allowance or advance has been expended  
25 by the recipient on private travelling (includ-  
ing travelling between his place of residence  
and his place of employment or business or  
any other travelling done for his private or  
domestic purposes), be deemed not to have  
been actually expended on travelling on busi-  
30 ness: Provided that—

(aa) the portion of such allowance or advance  
(other than an allowance or advance refer-  
red to in section 10 (1) (nD)) which is  
35 in respect of the year of assessment end-  
ing on 28 February 1986 to be accounted  
for under paragraph (a) shall be 50 per  
cent of the full amount as determined  
under that paragraph, before the applica-  
tion of this proviso;

40 (bb) the provisions of paragraph (aa) of this  
proviso shall not apply in respect of any  
portion of any allowance or advance  
which the Commissioner is satisfied is ex-  
cessive having regard to similar allow-  
45 ances granted by the employer or princi-  
pal concerned to the said recipient or to  
other persons during the years of assess-  
ment ended or ending on or before 28  
February 1985;

50 (ii) subject to the provisions of subparagraph (iii),  
where such allowance or advance has been  
paid to the recipient in order that it may be  
utilized for defraying expenditure in respect of  
55 any motor vehicle used by the recipient, the  
portion of the allowance expended by the re-  
cipient during the year of assessment for busi-  
ness purposes shall, unless an acceptable cal-  
culation based on accurate data is furnished  
60 by the recipient, be deemed to be an amount  
calculated by applying the rate per kilometre  
fixed by the Minister of Finance by notice in  
the *Gazette* for the category of vehicle used,  
on a distance travelled during the said year for  
65 business purposes (other than private travel-  
ling as contemplated in subparagraph (i)):  
Provided that—

## INCOME TAX ACT, 1984

Act No. 121, 1984

- 5 (aa) the recipient shall, unless the contrary appears, be deemed to have used the vehicle during such year for such private travelling over a distance of 10 000 kilometres or such shorter distance as is shown by the taxpayer to have been actually covered during such year as aforesaid;
- 10 (bb) where the vehicle has been used during a period in such year which is less than the full period of such year, the reference in paragraph (aa) of this proviso to a distance of 10 000 kilometres shall be construed as a reference to a distance which bears to 10 000 kilometres the same ratio as the period of use bears to 12 months;
- 15
- 20 (iii) where such allowance or advance is based on the actual distance travelled by the recipient in using a motor vehicle on business (excluding the said private travelling), or such actual distance is proved to the satisfaction of the Commissioner to have been travelled by the recipient, the amount expended by the recipient on such business travelling shall, unless the contrary appears, be deemed to be an amount determined on such actual distance at the rate per kilometre fixed by the Minister of Finance by notice in the *Gazette* for the category of vehicle used.
- 25
- 30 (c) Where any allowance is given to the holder of any office or to any employee for expenses incurred or to be incurred in respect of personal subsistence and incidental costs while such office holder or employee is by reason of the duties of his office or employment obliged to spend at least one night away from his usual place of residence, so much of such allowance as, together with any amounts expended by the employer in respect of any of the said costs (other than the cost of accommodation), does not exceed an amount calculated at the rate of R100 for each day or part of a day in the period during which he is so absent if the allowance is given to him to defray the cost of accommodation (other than accommodation supplied by the employer) as well as meals and other incidental costs, or, in any other case, R50 per day for each day or part of a day in the said period, shall be deemed for the purposes of paragraph (a) to have been actually expended by him in respect of the said expenses: Provided that the provisions of this paragraph shall not apply if such office holder or employee proves that the expenses so incurred by him exceed the amount so calculated.
- 35
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- 50
- 55 (d) Any allowance granted to the holder of any public office contemplated in paragraph (e) to enable him to defray expenditure incurred by him in connection with such office shall for the purposes of paragraph (a) be deemed to have been so expended by him to the extent that expenditure relevant to such allowance has actually been incurred by him for the purposes of his office in respect of—
- 60 (i) secretarial services, duplicating services, stationery, postage, telephone calls, the hire of

## INCOME TAX ACT, 1984

Act No. 121, 1984

- office accommodation and the maintenance of such accommodation;
- 5 (ii) travelling;
- (iii) hospitality extended at any official or civic function which the holder of such office is by reason of the nature of such office normally expected to arrange;
- 10 (iv) hospitality of a casual nature: Provided that the expenditure qualifying under this subparagraph in any year of assessment shall not exceed the lesser of an amount equal to 5 per cent of the sum of the amounts derived by the said holder during the said year by way of such allowance and any remuneration in respect of such office or R2 500;
- 15 (v) subsistence and incidental costs incurred in the circumstances contemplated in paragraph (c).
- 20 (e) For the purposes of paragraph (d) the holder of a public office includes—
- (i) the State President, a Minister or Deputy Minister of the Republic, a member of Parliament, a member of the President's Council, the administrator of a province or any member of the executive committee of a province;
- 25 (ii) any member of any institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); and
- 30 (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 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.”;
- 35
- 40 (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:
- “*(a)* There shall be included in the taxpayer's income all amounts allowed to be deducted or set off under the provisions of sections 11 to 20, inclusive, section 24D and section 27 (2) (b) and (d) of this Act, except section 11 (k), (p) and (q), section 11quin, section 12 (2) or section 12 (2) as applied by section 12 (3), section 12A (3), section 13 (5), or section 13 (5) as applied by section 13 (8), or section 13bis (7), or section 15 (a), or section 15A, or under the corresponding provisions of any previous Income Tax Act, whether in the current or any previous year of assessment which have been recovered or recouped during the current year of assessment.”;
- 45
- 50
- 55 (c) by the substitution for subparagraph (ii) of paragraph (bA) of subsection (5) of the following subparagraph:
- “*(ii)* in the case of a lease entered into on or after 1 September 1983, without the payment of any rental or other consideration or subject to the payment of any consideration which is nominal in relation to the fair market value of the property,”;
- 60
- (d) by the substitution for subparagraph (ii) of paragraph (bB) of subsection (5) of the following subparagraph:
- 65 “*(ii)* the former lessor of the property in question, or the owner thereof, as the case may be, shall, unless and until the contrary is proved, be deemed to have consented to the former lessee using, enjoy-



INCOME TAX ACT, 1984

Act No. 121, 1984

ing or dealing with the property as contemplated in the said paragraph if, at the end of a period of three months reckoned after the date on which the lease in question terminated, the former lessor has not instituted proceedings to compel the former lessee to return the property to the former lessor or to relinquish possession thereof or to dispose thereof in accordance with the terms of the lease: Provided that if such lease terminated on or before 31 December 1983 the said period of three months shall be reckoned from that date;” and

(e) by the addition to paragraph (bB) of subsection (5) of the following subparagraphs:

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

(v) where in the circumstances contemplated in paragraph 3B of Schedule 4 to the Sales Tax Act, 1978, a lease is deemed to be part of a lease which has ceased to exist, the leases shall be deemed to be one lease.”

(2) The amendments effected by subsection (1) (c), (d) and (e) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 September 1983.

6. Section 8B of the principal Act is hereby amended by the addition at the end of paragraph (b) of subsection (3) of the word “or” and by the addition to the said subsection of the following paragraphs:

“(c) in respect of any amount paid or any asset distributed by a company to a shareholder by way of a loan or advance, if—

(i) such shareholder is a full-time employee of the company;

(ii) such loan or advance is made to the shareholder in his capacity as an employee under a housing scheme applying generally to employees of the company who are not shareholders of the company; and

(iii) by reason of the payment of such amount or the distribution of such asset the shareholder has derived any taxable benefit contemplated in the Seventh Schedule and the cash equivalent of such taxable benefit is to be included in his gross income under the provisions of paragraph (i) of the definition of “gross income” in section 1; or

(d) to any amount paid or asset distributed by a close corporation.”

Amendment of section 8B of Act 58 of 1962, as inserted by section 6 of Act 104 of 1980.

## INCOME TAX ACT, 1984

Act No. 121, 1984

7. Section 8C of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

Amendment of section 8C of Act 58 of 1962, as inserted by section 7 of Act 96 of 1981.

5 "Where on or after 2 October 1981 any person (other than a company), hereinafter referred to as the seller, has disposed of any share, or interest in any share, in a private company (other than a member's interest in a close corporation), to any other person for a consideration exceeding in value the cost to the seller of such share or interest (or, if such share or interest was acquired by the seller for no consideration, the market value thereof at the time of acquisition), the said consideration shall, to the extent that the value thereof exceeds the said cost or market value, as the case may be, and to the extent that such excess does not exceed an amount equal to so much of the company's profits and reserves (including any amount deemed in terms of the definition of 'dividend' in section 1 to be a profit available for distribution) as the Commissioner is satisfied could, immediately before the transaction for the disposal of such share or interest by the seller took effect, have been distributed by the company and have accrued to the seller by way of a dividend, be deemed to be a dividend received by or accrued to the seller at the said time, if—"

8. Section 8D of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

Amendment of section 8D of Act 58 of 1962, as inserted by section 7 of Act 96 of 1981.

30 "For the purposes of this Part, where the trading stock held by any person on or after 2 October 1981 includes or consists of any share, or any interest in any share, in a private company (other than a close corporation), there shall be included in the income derived by such person—"

9. Section 9 of the principal Act is hereby amended by the addition in subsection (1) of the following further proviso to paragraph (e):

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 and section 8 of Act 103 of 1976.

35 "Provided further that nothing in this paragraph shall be construed as imposing liability for taxation under this Act upon any payment made to any person who is employed by the Government, including the South African Transport Services, and is stationed outside the Republic, by way of an allowance for the purpose of meeting expenditure incurred by such person in connection with his official duties outside the Republic;"

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

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,

45 (a) by the substitution in paragraph (a) of subsection (1) for the words "railway administration" of the words "South African Transport Services";

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

50 "(i) the salary and emoluments payable to the State President and the Vice State President in respect of the holding of their offices under the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961);"

55 (c) by the substitution in paragraph (h) of subsection (1) for the words following upon subparagraph (ii) and preceding the proviso of the following words:

"from stock or securities (including Treasury Bills) issued by the Government [or any colony included

INCOME TAX ACT, 1984

Act No. 121, 1984

in the Republic] including the South African Transport Services, or any local authority within the Republic or the Electricity Supply Commission or the South African Broadcasting Corporation:";

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 and section 9 of Act 94 of 1983.

5 (d) by the addition to the proviso to subparagraph (i) of paragraph (k) of subsection (1) of the following paragraph:

10 "(ee) to dividends received by or accrued to any company which during any portion of the year of assessment is a close corporation;"

(e) by the insertion after the said paragraph (k) of the following paragraph:

15 "(kA) any dividend distributed by a company during the specified period of that company in relation to a year of assessment during any portion of which the company was a close corporation;"

(f) by the insertion after paragraph (nA) of subsection (1) of the following paragraphs:

20 "(nB) any benefit or advantage accruing to any employee (as defined in paragraph 1 of the Seventh Schedule) by reason of the fact that his employer (as defined in the said paragraph), has, in consequence of the transfer of the employee from one place of employment to another place of employment or the appointment of the employee as an employee of the employer or the termination of the employee's employment; borne the expense—

25 (i) of transporting such employee, members of his household and the personal goods and possessions of himself and the members of his household from his previous place of residence to his new place of residence; or

30 (ii) incurred by the employee in settling in permanent residential accommodation at his new place of residence; or

35 (iii) of hiring residential accommodation in an hotel or elsewhere for the employee or members of his household during the period ending 183 days after his transfer took effect or after he took up his appointment, as the case may be, if such residential accommodation was occupied temporarily pending the obtaining of permanent residential accommodation;

45 (nC) any benefit or advantage accruing to any employee, as so defined, by way of an occasional grant, contribution or other payment made by his employer, as so defined, in respect of the expenses of educating such employee's child or children, if the remuneration derived by such employee from his employer during the year of assessment during which such benefit or advantage accrues to the employee does not exceed the amount contemplated in section 66 (1) (b) (i) and the aggregate of the values (being the amounts which would but for this paragraph be included in the employee's income under this Act) of all such benefits or advantages accruing to the employee during such year does not exceed R750;

60 (nD) 50 per cent of the taxable portion of any allowance or advance (other than any allowance or advance to which the provisions of paragraph (iii) of the proviso to paragraph (c) of the definition of 'gross income' in section 1 apply) which—

## INCOME TAX ACT, 1984

Act No. 121, 1984

- 5 (i) is received by or accrues to any employee, as so defined, or the holder of any office during the year of assessment ending on 28 February 1986 for the purpose of defraying expenditure incurred during that year in connection with the employment of such employee or the holding of such office, as the case may be; and
- 10 (ii) if such allowance or advance had been received or had accrued during the year of assessment ending on 28 February 1985, would, by virtue of the provisions of this Act or any other law, not have been subject to tax, such taxable portion being the amount which but for this paragraph would be includable in the taxable income of such employee or office holder under the provisions of section 8 (1) (a);
- 15
- 20 (nE) any amount (including any taxable benefit determined under the provisions of the Seventh Schedule) received by or accrued to an employee, as so defined, under a share incentive scheme operated for the benefit of employees of the taxpayer's employer, as so defined, which was derived—
- 25 (i) upon the cancellation of a transaction under which the taxpayer purchased shares under such scheme; or
- (ii) upon the repurchase from the taxpayer, at a price not exceeding the selling price to him, of shares purchased by him under such scheme, if in consequence of such cancellation or repurchase the taxpayer has not received or become entitled to receive any compensation or consideration other than the repayment of any portion of the purchase price actually paid by him;”
- 30
- 35 (g) by the substitution for paragraph (qA) of subsection (1) of the following paragraph:
- “(qA) so much of any amount received by or accrued to any person as is proved to the satisfaction of the Commissioner to be a *bona fide* scholarship or bursary granted to enable or assist such person to study at a recognized educational or research institution, but excluding any scholarship or bursary granted by any employer (other than a recognized educational institution) or any associated institution (as defined in paragraph 1 of the Seventh Schedule) in relation to the employer, for the benefit of a relative of any employee of that employer otherwise than under a scholarship or bursary scheme approved by the Commissioner for the purposes of this paragraph: Provided that a scheme shall not be so approved unless—
- 50 (i) the scheme is governed by properly defined rules;
- (ii) the rules of the scheme provide that the Commissioner shall be notified of all amendments to the rules;
- 55 (iii) the Commissioner is satisfied that the scholarships or bursaries under the scheme are awarded on merit or according to need on the recommendation of a representative body of persons acting impartially;
- 60 (iv) the scholarships or bursaries under the scheme are awarded to enable pupils or students to study at educational institutions of a public

## INCOME TAX ACT, 1984

Act No. 121; 1984

character, other than primary schools, and to follow courses of study specified by the said body;

- 5 (v) a scholarship or bursary awarded to a pupil to attend a secondary school does not exceed an amount of R750 per annum;
- 10 (vi) the children of all employees of the employer may, depending upon any objective criterion, qualify for any of the scholarships or bursaries that may be available in terms of the scheme;
- 15 (vii) no bursary awarded under the scheme may be terminated, cancelled or withdrawn merely by reason of the fact that the services of an employee to whom the scholarshipholder or bursar is related have for any reason terminated:

Provided further that where a loan is granted by such employer or such associated institution in relation to the employer the cash equivalent of any taxable benefit falling for inclusion in the employee's gross income by virtue of the provisions of paragraph 2 (f), read with paragraph 11, of the Seventh Schedule, shall for the purposes of this paragraph be deemed to be a bursary;"; and

- 20 (h) by the addition to paragraph (t) of subsection (1) of the following subparagraph:

“(x) of the Development Bank of Southern Africa established on 30 June 1983;”.

- (2) The amendment effected by subsection (1) (h) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1983.

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

- (a) by the insertion after paragraph (bA) of the following paragraph:

35 “(bB) any finance charge incurred by the taxpayer in respect of the purchase or contract price owing under an agreement for the acquisition, installation, erection or construction of any machinery, plant, aircraft, implement, utensil or article acquired by him on or after 15 March 1984 and used by him for the purposes of his trade, which deduction shall be in lieu of any deduction or allowance in respect of such finance charge which may be allowable under any other provision of this Act: Provided that any such finance charge which is calculated or payable in respect of a period of more than 12 months extending beyond the end of the year of assessment shall for the purposes of this paragraph be deemed to have been incurred from day to day during the said period;”;

- 40 (b) by the substitution for paragraph (vi) of the proviso to paragraph (e) of the following paragraph:

45 “(vi) the value of any machinery, implements, utensils or articles used by the taxpayer for the purposes of his trade shall be reduced by the amount of any deduction which may be made under subsection (1) of section 12 or under that subsection as applied by subsection (3) of the said section, or under the corresponding provisions of any previous Income Tax Act or under section 12A (2) or under section 27 (2) (d);”;

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 19 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,

## INCOME TAX ACT, 1984

Act No. 121, 1984

(c) by the addition to the proviso to paragraph (e) of the following paragraph:

section 7 of  
Act 91 of 1982  
and section 10 of  
Act 94 of 1983.

5       “(vii) where the value of any such machinery, imple-  
ments, utensils and articles acquired by the tax-  
payer on or after 15 March 1984 is for the purposes  
of this paragraph to be determined having regard  
to the cost of such machinery, implements, utensils  
and articles, such cost shall be deemed to be the  
10       cost which, in the opinion of the Commissioner, a  
person would, if he had acquired such machinery,  
implements, utensils and articles under a cash  
transaction concluded at arm's length on the date  
on which the transaction for the acquisition of such  
15       machinery, implements, utensils and articles was in  
fact concluded, have incurred in respect of the di-  
rect cost of the acquisition of such machinery,  
implements, utensils and articles, including the di-  
rect cost of the installation or erection thereof;”;

20       (d) by the addition to the proviso to paragraph (f) of the  
following paragraph:

25       “(dd) the provisions of this paragraph shall not apply in  
relation to any such premium or consideration paid  
by the taxpayer which does not for the purposes of  
this Act constitute income of the person to whom  
it is paid, unless such premium or consideration is  
paid under a written agreement formally and final-  
ly signed before 10 April 1984 by every party to  
the agreement;”;

30       (e) by the substitution in paragraph (aa) of the proviso to  
subparagraph (ii) of paragraph (k) for the expression  
“R1 500” of the expression “R1 800”;

      (f) by the substitution in the proviso to paragraph (m) for  
the expression “R2 000” of the expression “R2 500”;

35       (g) by the substitution in subparagraph (bb) of paragraph  
(n) for the expression “R1 500” of the expression  
“R1 800”;

      (h) by the insertion after paragraph (iii) of the proviso to  
paragraph (o) of the following paragraph:

40       “(iiiA) for the purposes of paragraph (iii) of this proviso,  
the actual cost of any machinery, implements,  
utensils or articles acquired by the taxpayer on or  
after 15 March 1984 shall be deemed to be the cost  
of such machinery, implements, utensils or articles  
as determined under the provisions of paragraph  
45       (vii) of the proviso to paragraph (e);”;

      (i) by the substitution for paragraph (u) of the following  
paragraph:

50       “(u) so much of the entertainment expenditure (includ-  
ing club subscriptions) **[but not exceeding three  
hundred rand]** incurred by **[the] any taxpayer who**  
is a natural person during the year of assessment  
**[in respect of entertainment]** as the Commissioner  
is satisfied was so incurred directly in connection  
with **[his] the taxpayer's trade** and which is not  
55       such expenditure as is referred to in paragraph (a):  
Provided that:

      (i) the deduction under this paragraph shall be  
limited to an amount equal to the lesser of—  
(aa) R2 500; or

## INCOME TAX ACT, 1984

Act No. 121, 1984

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- (bb) R300 plus 5 per cent of so much of the taxable income (as determined before any deduction is made under this paragraph) derived by the taxpayer from carrying on during the year of assessment any trade in connection with which such expenditure was incurred, as exceeds R6 000;
- (ii) no deduction shall be made under this paragraph in respect of any such expenditure as is incurred in connection with any employment [profession, calling or occupation if the taxpayer derives from such employment or office or from carrying on such profession, calling or occupation income in the form of a salary or wage or similar remuneration] or office in respect of which the taxpayer derives remuneration as defined in paragraph 1 of the Fourth Schedule or any amount referred to in paragraph (iv) or (vii) of that definition, unless—
- (aa) the Commissioner is satisfied that such employment [profession, calling or occupation] or office is of such a nature that [the performance of] the taxpayer's duties [would be impeded or seriously hampered if such expenditure were not incurred] regularly and necessarily involve incurring such expenditure; and
- (bb) the taxpayer receives in respect of such expenditure a reimbursive allowance which is included in his gross income under the provisions of paragraph (iii) of the proviso to paragraph (c) of the definition of 'gross income' in section 1;
- (iii) where the taxpayer receives a reimbursive allowance referred to in subparagraph (bb) of paragraph (ii) of this proviso in the circumstances contemplated in that paragraph, such deduction shall not exceed the amount of the reimbursive allowance received by the taxpayer in respect of such expenditure;
- (iv) no deduction shall be made under this paragraph in respect of entertainment expenditure defrayed out of any reimbursive allowance relating to any employment or office referred to in paragraph (ii) of this proviso, if such expenditure is incurred during the year ending on 28 February 1986 and such expenditure has in whole or in part been allowed as a deduction from the taxpayer's income under paragraph (uA);"; and
- (j) by the insertion after paragraph (u) of the following paragraph:  
“(uA) so much of the entertainment expenditure (including club subscriptions but excluding expenditure referred to in paragraph (a) or (b)) incurred by an employee or the holder of an office during the year of assessment ending on 28 February 1986 as the Commissioner is satisfied was so incurred directly in connection with the taxpayer's employment or office and was defrayed out of an allowance or advance referred to in paragraph (iii) of the proviso
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## INCOME TAX ACT, 1984

Act No. 121, 1984

to paragraph (c) of the definition of 'gross income' in section 1: Provided that—

5 (i) the deduction under this paragraph shall be limited to an amount equal to 50 per cent of so much of any similar allowance or advance granted to the holder of such employment or office during the year of assessment ended on 28 February 1985 as the Commissioner is satisfied was actually expended on entertainment during that year;

10 (ii) no deduction shall be made under this paragraph if a deduction in respect of the said expenditure is made under paragraph (u);”

15 (2) (a) The amendments effected by subsection (1) (a), (c) and (h) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 15 March 1984.

20 (b) The amendment effected by subsection (1) (d) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 10 April 1984.

12. (1) Section 11*bis* of the principal Act is hereby amended 25 by the substitution for paragraph (b) of subsection (4) in the Afrikaans text of the following paragraph:

30 “(b) in verband met reklame of die verkryging op ander wyse van publisiteit in 'n uitvoerland (behalwe onkoste op of na 1 Januarie 1984 aangegaan by die borg of be-  
vordering van enige sport- of enige ander geleenthede in 'n land behalwe 'n uitvoerland) of in verband met die werf van bestellings in, of deelname aan handels-  
tentoonstellings in uitvoerlande;”

35 (2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1984.

Amendment of section 11*bis* of Act 58 of 1962, as inserted by section 10 of Act 90 of 1962 and amended by section 9 of Act 72 of 1963, section 13 of Act 55 of 1966, section 12 of Act 95 of 1967, section 10 of Act 76 of 1968, section 15 of Act 89 of 1969, section 11 of Act 52 of 1970, section 9 of Act 90 of 1972, section 10 of Act 65 of 1973, section 13 of Act 85 of 1974, section 10 of Act 69 of 1975, section 10 of Act 103 of 1976, section 10 of Act 113 of 1977, section 10 of Act 96 of 1981, section 8 of Act 91 of 1982 and section 11 of Act 94 of 1983.

13. (1) Section 11*sept* of the principal Act is hereby amend-  
ed—

40 (a) by the substitution for subsections (3) and (4) of the following subsections, respectively:

45 “(3) If any taxpayer in the course of any trade (other than mining) carried on by him in the Republic has during any year of assessment incurred training expenses, determined as provided in subsections (5), (6) and (7), in respect of employees employed by him for the purposes of the said trade, there shall be allowed as a deduction from his income for that year of assessment an allowance (to be known as the employees training allowance) the amount of which shall, subject to the provisions of subsection (4), be a sum equal to—

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Amendment of section 11*sept* of Act 58 of 1962, as substituted by section 9 of Act 104 of 1979 and amended by section 11 of Act 96 of 1981 and section 9 of Act 91 of 1982.



## INCOME TAX ACT, 1984

Act No. 121, 1984

- (a) 100 per cent of such training expenses incurred before 1 September 1984; or  
 (b) 50 per cent of such training expenses incurred on or after that date.

5 (4) Where the aforesaid training expenses in whole or in part consist of an amount, determined to the satisfaction of the Commissioner, which represents training expenses incurred in respect of employees employed by the taxpayer for the purposes of any trade carried on by him in an economic development area and in the course of which a process of manufacture, or any other process which in the opinion of the Commissioner is of a similar nature, is carried on, the employees training allowance in respect of the said amount shall, if the Minister of Finance, having regard to the circumstances of the case, so directs, be calculated at [such] the relevant percentage [exceeding one hundred per cent but] referred to in subsection (3) together with such further percentage not exceeding [one hundred and twenty-five] 25 per cent, of the said amount as the said Minister may direct.”; and

20 (b) by the addition to subsection (5) of the following words:

25 “but excluding any such expenditure incurred on or after 1 September 1984 which in the opinion of the Commissioner relates to the training of any such employee whose remuneration (as determined in accordance with the definition of ‘remuneration’ in paragraph 1 of the Fourth Schedule but including any amounts referred to in paragraphs (iv) and (vii) of that definition) exceeded R15 000 during the relevant year of assessment of the taxpayer.”.

30 (2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 September 1984.

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

40 (a) by the substitution in subsection (1) for the words following upon paragraph (d) and preceding the proviso of the following words:

45 “there shall subject to the provisions of subsection (7) be allowed to be deducted from the income of such taxpayer for the year of assessment during which such machinery or plant is so brought into use an allowance, to be known as the ‘machinery initial allowance’;”;

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

50 “Provided further that no further deduction shall be allowed under this subsection in respect of used machinery or plant referred to in paragraph (c) or (d) which is on or after 5 July 1984 brought into use by any person as contemplated in the said paragraph (c) or (d) if such machinery or plant was previously brought into use by him (or, where such person is a company, by any other company if both such companies are managed, controlled or owned by substantially the same persons) and a machinery initial allowance was under this subsection granted to him (or such other company) or to a person from whom such machinery or plant was hired by him (or such other company) whether in the current of any previous year of assessment.”;

65 (c) by the substitution in subsection (2) for the words following upon paragraph (d) and preceding paragraph (i) of the following words:

Amendment of section 12 of Act 58 of 1962, as substituted by section 15 of Act 55 of 1966 and amended by section 12 of Act 52 of 1970, section 11 of Act 88 of 1971, section 11 of Act 90 of 1972, section 12 of Act 65 of 1973, section 15 of Act 85 of 1974, section 11 of Act 69 of 1975, section 13 of Act 113 of 1977, section 6 of Act 101 of 1978, section 10 of Act 104 of 1979, section 9 of Act 104 of 1980, section 12 of Act 96 of 1981 and section 11 of Act 91 of 1982.

## INCOME TAX ACT, 1984

Act No. 121, 1984

5 “there shall subject to the provisions of subsection (6) and (7) further be allowed to be deducted from the income of such taxpayer for the year of assessment during which such machinery or plant is so brought into use an allowance, to be known as the ‘machinery investment allowance’, if—”; and

(d) by the addition of the following subsections:

10 “(6) Where any lessor of machinery or plant has qualified for the deduction of a machinery investment allowance under the provisions of subsection (2) and such machinery or plant was first let by him on or after 15 March 1984 and on or before 30 June 1985, the said allowance may, if the lessor and the lessee make written application to the Commissioner not later than six months after the machinery or plant is brought into use by the lessee or within such further period as the Commissioner may allow, be granted to the lessee, in which event the allowance shall not be granted to the lessor.

15 (7) Where any machinery or plant in respect of which the taxpayer is entitled to any machinery initial allowance or machinery investment allowance is on or after 1 April 1984 and on or before 30 June 1985 brought into use as contemplated in the foregoing provisions of this section, the amount to be deducted from his income for the year of assessment during which such machinery or plant is so brought into use shall be limited to two-thirds of such allowance and the balance of such allowance shall be deducted from his income for the next succeeding year of assessment: Provided that the provisions of this subsection shall not apply if, during the year of assessment in which such machinery or plant is so brought into use, the taxpayer dies or his estate is sequestrated or, where the taxpayer is a company, such company is placed in liquidation.”

20 (2) (a) The amendments effected by subsection (1) (a), (c) and (d) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 15 March 1984.

25 (b) The amendment effected by subsection (1) (b) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 5 July 1984.

45 15. Section 18 of the principal Act is hereby amended by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs:

“(a) where the taxpayer is entitled to a rebate under section 6 (3) (f), such sum; or

50 (b) where the taxpayer is not entitled to such rebate but is entitled to a rebate under section 6 (3) (e), the amount of [R2 000] R3 000 if he is a married person or [R1 500] R2 250 if he is not a married person; or

55 [(b)] (c) where the taxpayer is not entitled to any such rebate, the amount of R1 000 if he is a married person or R750 if he is not a married person.”

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.

16. (1) Section 18A of the principal Act is hereby amended—  
(a) by the deletion in subsection (2) of the word “and” at the end of paragraph (a);

Amendment of section 18A of Act 58 of 1962,

INCOME TAX ACT, 1984

Act No. 121, 1984

- (b) by the addition at the end of paragraph (b) of subsection (2) of the word "and";
- (c) by the insertion after paragraph (b) of subsection (2) of the following paragraph:
 

5       “(c) to the Bible Society of South Africa incorporated under section 2 of the Bible Society of South Africa Act, 1970 (Act No. 15 of 1970),”;
- (d) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
 

10       “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 particulars are given, namely—;
- (e) by the substitution for paragraph (b) of subsection (3) of the following paragraph:
 

20       “(b) the name of the university, college or educational fund which received the a 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;”;
- (f) by the substitution for paragraph (e) of subsection (3) of the following paragraph:
 

30       “(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.”.

as inserted by section 15 of Act 52 of 1970, substituted by section 16 of Act 96 of 1981 and amended by section 14 of Act 91 of 1982 and section 16 of Act 94 of 1983.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 March 1984.

- 40   17. Section 19 of the principal Act is hereby amended by the substitution for subsections (2) and (3) of the following subsections, respectively:
- 45       “(2) In respect of expenditure and losses not of a capital nature incurred by any person **[(other than a company)]** in the production of his income from dividends, the amounts to be deducted under section 11 (a), (b), (i) and (j), as applied by subsection (1) of this section, and the amount to be deducted under subsection (1A) of this section shall in total be an amount which bears to the sum of the expenditure, losses and amount which but for this subsection would have been allowed to be deducted under the said provisions the same ratio as the amount of such dividends as calculated after allowing the deduction under subsection (3) of this section, bears to the amount of such dividends as calculated before allowing such deduction.
  - 50       “(3) In respect of income in the form of dividends (other than any portion of a dividend included in a taxpayer's income under section 8D and any dividends referred to in section 11 (s)) derived by any person **[(other than a company)]**,

Amendment of section 19 of Act 58 of 1962, as amended by section 15 of Act 90 of 1962, section 6 of Act 6 of 1963, section 17 of Act 88 of 1965, section 17 of Act 88 of 1971, section 14 of Act 90 of 1972, section 18 of Act 85 of 1974, section 14 of Act 104 of 1980, section 17 of Act 96 of 1981, section 15 of Act 91 of 1982 and section 17 of Act 94 of 1983.

INCOME TAX ACT, 1984

Act No. 121, 1984

there shall be allowed as a deduction in the determination of the taxable income of [such]—

5 (a) any person other than a company, an amount representing a percentage of such dividends calculated in accordance with the following scale:

<i>Where, but for the provisions of this subsection, subsection (2) and section 20 the taxable income of the taxpayer for the year of assessment in question—</i>	<i>Percentage of aforesaid dividends to be deducted—</i>
10 would not exceed R2 600	100 per cent
Would exceed R2 600 but not R2 800	94 " "
" " R2 800 " " R3 000	88 " "
" " R3 000 " " R3 200	82 " "
" " R3 200 " " R3 400	76 " "
15 " " R3 400 " " R3 600	70 " "
" " R3 600 " " R3 800	64 " "
" " R3 800 " " R4 000	58 " "
" " R4 000 " " R4 200	52 " "
" " R4 200 " " R4 400	46 " "
20 " " R4 400 " " R4 600	40 " "
" " R4 600 .....	33½ " ;;

(b) any close corporation, an amount equal to one-third of such dividends."

18. Section 21<sup>quat</sup> of the principal Act is hereby amended by  
 25 the substitution in subsection (3) for the expression "R2 400" of  
 the expression "R3 000".

Amendment of section 21<sup>quat</sup> of Act 58 of 1962, as inserted by section 17 of Act 65 of 1973 and amended by section 22 of Act 85 of 1974, section 17 of Act 104 of 1980 and section 19 of Act 96 of 1981.

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

(a) by the substitution for subsection (3) of the following  
 subsection:

30 "(3) (a) For the purposes of this section the cost price at any date of any trading stock in relation to any person shall be the cost incurred by such person, whether in the current or any previous year of assessment, in acquiring such trading stock, plus,  
 35 subject to the provisions of paragraph (b), any further costs incurred by him up to and including the said date in getting such trading stock into its then existing condition [or] and location.

(b) The further costs which in terms of paragraph (a)

40 are required to be included in the cost price of any trading stock shall be such costs as in terms of any generally accepted accounting practice approved by the Commissioner should be included in the valuation of such trading stock.

45 (c) Where any person has in respect of trading stock held and not disposed of by him at the beginning and end of years of assessment which ended prior to the first year of assessment of that person ending on or after 1 June 1984 in good faith adopted a basis of valuation under which the full cost of such trading stock as contemplated in paragraphs (a) and (b) has not been accounted for, the value of the trading stock so held and not disposed of shall  
 50 not be varied, but such person shall, as respects

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 20 of Act 69 of 1975, section 15 of Act 103 of 1976 and section 20 of Act 94 of 1983.

## INCOME TAX ACT, 1984

Act No. 121, 1984

any trading stock held and not disposed of by him at the end of the said first year or at the beginning or end of each succeeding year of assessment, value such trading stock in accordance with the provisions of the said paragraphs.

(d) Where the provisions of paragraph (c) are applicable in the case of any person and the value of the trading stock held and not disposed of by him at the end of the first year of assessment referred to in paragraph (c) exceeds the value (as determined to the satisfaction of the Commissioner) at which such trading stock would have been valued on the basis of valuation previously adopted by him (hereinafter referred to as the excess), there shall at the option of such person, be deducted from the value of that trading stock, as determined in accordance with the provisions of paragraphs (a) and (b), and from the value of similar trading stock held and not disposed of by him at the end of each of the four succeeding years of assessment (such succeeding years being hereinafter referred to as the second, third and fourth years, in chronological order) an amount (not exceeding the value of the trading stock held and not disposed of by such person at the end of the year of assessment in question) equal to—

(i) as respects trading stock held and not disposed of at the end of the said first year, four-fifths of the excess;

(ii) as respects trading stock held and not disposed of at the end of the second year, three-fifths of the excess;

(iii) as respects trading stock held and not disposed of at the end of the third year, two-fifths of the excess; and

(iv) as respects trading stock held and not disposed of at the end of the fourth year, one-fifth of the excess:

Provided that no deduction shall be made under this paragraph in respect of trading stock held on any date on which such person has ceased to carry on the trade in relation to which such trading stock was held.”;

(b) by the deletion of subsection (3A);

(c) by the addition to paragraph (a) of subsection (5) of the following proviso:

“Provided that—

(i) no application for the adoption of the said basis of trading stock valuation which is made on or after 1 April 1984 shall be considered by the Commissioner except in respect of trading stock consisting of marketable securities;

(ii) no person shall apply the said basis of trading stock valuation in respect of trading stock (other than trading stock consisting of marketable securities) held and not disposed of by him at the end of the first year of assessment of that person ending on or after 1 April 1984 or at the beginning or end of any succeeding year of assessment, notwithstanding the adoption by that person of the said basis in respect of any earlier year of assessment.”;

## INCOME TAX ACT, 1984

Act No. 121, 1984

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

5           “(b) Where the aforesaid basis of trading stock valuation has been adopted by any person in respect of any year of assessment as contemplated in this subsection, such basis and any conditions determined by the Commissioner under this subsection in relation to the adoption of the said basis shall save in so far as paragraph (ii) of the proviso to paragraph  
10           (a) is applicable, be binding upon such person in respect of the said year of assessment and all subsequent years of assessment, and may not be varied by him save with the consent of the Commissioner and subject to such conditions as the Commissioner, having regard to the circumstances of the case, may determine, which conditions shall be binding upon such person for the year of assessment in respect of which the variation is made and all subsequent years of assessment.”; and

20           (e) by the addition to subsection (5) of the following paragraphs:

25           “(d) Where, at the beginning of the first year of assessment of any person ending on or after 1 April 1984, trading stock (other than trading stock consisting of marketable securities) was held by that person in respect of any trade carried on by him, and such trading stock was valued on the basis of trading stock valuation adopted by him in accordance with paragraph (a), and the value of such trading stock, as determined on the said basis, was less than the cost price of that trading stock, as determined under subsection (3) (a), but without applying paragraph (a) of this subsection, the difference between the said value and the said cost price (such difference hereinafter being referred to as the LIFO reserve) shall be dealt with as provided in paragraph (e).

30           (e) Where the person referred to in paragraph (d) continues to carry on the trade in respect of which the trading stock in question was held and trading stock is held and not disposed of by him in respect of that trade at the end of the first year referred to in the said paragraph or at the end of any succeeding year of assessment, there shall be deducted from the cost price of that trading stock, as determined in accordance with the provisions of subsection (3) (a), so much of the amount of the LIFO reserve as does not exceed the said cost price: Provided that the amount of the LIFO reserve which qualifies for deduction under this paragraph from the value of trading stock held and not disposed of by him at the end of any year of assessment shall not exceed the amount of the LIFO reserve which qualified for deduction under this paragraph from the value of trading stock held by him and not disposed of by him at the end of the preceding year of assessment of that person.

35           (f) Where—

40           (i) prior to the date of promulgation of the Income Tax Act, 1984, any commercial or industrial undertaking has been acquired by one company from another company;

45           (ii) both such companies are managed, controlled or owned by substantially the same persons;

50           (iii) the last-mentioned company has adopted the basis of trading stock valuation referred to in paragraph (a); and  
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INCOME TAX ACT, 1984

Act No. 121, 1984

- (iv) the trading stock relating to such undertaking has been acquired by the first-mentioned company at a valuation made on the said basis and on the understanding that that company would continue to value its trading stock on the said basis,  
 the Commissioner may direct that, subject to such conditions as he may impose, the said two companies shall for the purposes of paragraphs (d) and (e) be regarded as being one company.”
- (2) For the purposes of assessments under the principal Act—  
 (a) the amendment effected by subsection (1) (a) shall be deemed to have applied from the commencement of years of assessment ended or ending on or after 1 June 1984;  
 (b) the amendment effected by subsection (1) (b) shall be deemed to have applied from the commencement of years of assessment ended or ending on or after 1 January 1984; and  
 (c) the amendments effected by subsection (1) (c) to (f), inclusive, shall be deemed to have applied from the commencement of years of assessment ended or ending on or after 1 April 1984.

20. Section 23 of the principal Act is hereby amended—  
 (a) by the substitution for paragraph (d) of the following paragraph:  
 “(d) the taxation levied on incomes and any interest payable in respect of such taxation in terms of the provisions of sections 89, 89bis or 89quat;” and  
 (b) by the addition of the following paragraph:  
 “(i) entertainment expenditure incurred by a taxpayer relating to any employment or office held by him in respect of which he derives remuneration as defined in paragraph 1 of the Fourth Schedule or any amount referred to in paragraph (iv) or (vii) of that definition, except—  
 (i) such entertainment expenditure as may be deducted from the income of such taxpayer under the provisions of section 11 (u) or (uA); or  
 (ii) in the case of an agent or representative whose remuneration is normally derived wholly or mainly in the form of commissions based on sales or turnover, such entertainment expenditure incurred by him as may be deducted in terms of the provisions of section 11 (a) or (b).”

Amendment of section 23 of Act 58 of 1962, as amended by section 18 of Act 65 of 1973.

21. (1) The following section is hereby inserted in the principal Act after section 23:  
 23A. (1) For the purposes of this section—  
 (i) ‘machinery, plant or aircraft rental’ means a rental—  
 (a) which is derived by a lessor from the letting of machinery or plant in respect of which the lessor has in the current or any previous year of assessment qualified for an allowance under section 12, or of any aircraft in respect of which the lessor has in the current or any previous year of assessment qualified for an allowance under section 14bis; and  
 (b) which has become payable under an agreement of lease other than an agreement of lease formally and finally signed by every party to the agreement before 15 March 1984; (iii)

Insertion of section 23A in Act 58 of 1962.

50 “Limitation of allowances granted to lessors of manufacturing machinery or plant or aircraft.  
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## INCOME TAX ACT, 1984

Act No. 121, 1984

- 5 (ii) 'rental income' means income derived by way of rent from the letting, of movable property and includes income derived from the letting under any agreement of machinery or plant in respect of which any allowance has been granted under section 12 to the lessor under such agreement, whether in the current or any previous year of assessment; (ii)
- 10 (iii) 'taxable rental income', in relation to any taxpayer, means an amount equivalent to the taxable income for the year of assessment in question which the Commissioner determines to be attributable to the inclusion in the taxpayer's income of rental income derived by him during such year. (i)
- 15 (2) Any determination by the Commissioner under the definition of 'taxable rental income' in subsection (1) shall be subject to objection and appeal.
- 20 (3) Where the income of any taxpayer for any year of assessment includes any machinery, plant or aircraft rental or rentals, the sum of the deductions to be made from such income by way of deductions or allowances under sections 11 (e) and (o), 12 and 14bis in respect of any machinery, plant and aircraft in respect of which the said rental or rentals were derived, shall not exceed the taxpayer's taxable rental income for such year, as determined before the deduction from his income of the said deductions or allowances: Provided that where the said sum exceeds the taxpayer's taxable rental income, as so determined, the excess shall be carried forward to the next succeeding year of assessment and shall, subject to the provisions of this subsection as applicable in relation to that year, be deemed for the purposes of determining the taxpayer's taxable income for that year, to be an amount qualifying for deduction from the taxpayer's income for that year under the said sections."
- 35 (2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 15 March 1984.

22. Section 24D of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

45 "(b) directly in providing efficient security against loss, damage, disruption or immobilization of any [specified important] place or area [being a place or area] as defined in section 1 of the said Act which, although not declared a National Key Point under the provisions of the said Act, has been evaluated and approved by the Minister of Defence or any person or committee appointed by him as such a place or area in respect of which measures for the efficient security thereof ought to be taken by such taxpayer."

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Amendment of section 24D of Act 58 of 1962, as inserted by section 20 of Act 96 of 1981.

23. Section 29 of the principal Act is hereby repealed.

Repeal of section 29 of Act 58 of 1962, as amended by section 18 of Act 90 of 1962.



## INCOME TAX ACT, 1984

Act No. 121, 1984

24. Section 38 of the principal Act is hereby amended by the substitution in paragraph (b) of subsection (2) for the words preceding subparagraph (i) of the following words:

5 "any other company, not being a private company as defined in section 20 of the Companies Act, 1973 (Act No. 61 of 1973) (as in force on 1 January 1974), nor a close corporation, in respect of which the Commissioner is satisfied—".

Amendment of section 38 of Act 58 of 1962, as amended by section 21 of Act 90 of 1962, section 16 of Act 90 of 1964, section 28 of Act 89 of 1969, section 31 of Act 85 of 1974 and section 27 of Act 94 of 1983.

25. The following section is hereby inserted in Part II of Chapter 10 ter II of the principal Act after section 40:

Insertion of section 40A in Act 58 of 1962.

"Close corporations.

15 40A. (1) Where any company registered under the Companies Act, 1973 (Act No. 61 of 1973), has under the provisions of section 27 of the Close Corporations Act, 1984 (Act No. 69 of 1984), been converted into a close corporation, or any close corporation has under the provisions of section 29C of the Companies Act, 1973, been converted into a company, such company and such close corporation shall for the purposes of this Act be deemed to be and to have been one and the same company.

20 (2) Where on the conversion of any company into a close corporation as contemplated in subsection (1) any amount consisting of undistributed reserves or unappropriated profits, including any amount which in terms of the second proviso to the definition of 'dividend' in section 1 is deemed to be a profit available for distribution to a shareholder, but excluding any such amount included in the taxpayer's income under the provisions of section 8B, was at the end of the latest year of assessment of such company which ended immediately before the said conversion (the date of which shall be deemed to be the date of registration of the corporation in terms of section 27 (4) (a) of the Close Corporations Act, 1984) available for distribution by such company to its shareholders, the company shall be deemed to have distributed the said amount to the corporation on the date of the conversion and the amount so deemed to have been distributed shall be deemed to be taxable income accruing to the corporation on that date.

30 (3) For the purposes of subsection (2) any undistributed reserves or unappropriated profits of the company referred to in that subsection shall be deemed—

45 (a) to have been available for distribution to its shareholders notwithstanding anything to the contrary in the memorandum and articles of association of such company; and

50 (b) not to include any profit or reserve which, if the company had been liquidated on the date of conversion and such profit or reserve had been distributed in the course of the liquidation, would not have constituted a dividend in the hands of the shareholders.

55 (4) Notwithstanding anything to the contrary in this Act—

60 (a) the amount of taxable income which is deemed to accrue to a close corporation in terms of subsection (2) shall be determined separately from the determination of any other taxable income derived by the corporation and any assessed loss incurred by the corporation shall not be available for set-off against the said amount;

## INCOME TAX ACT, 1984

Act No. 121, 1984

- (b) normal tax shall be paid by the corporation in respect of the said amount of taxable income at the rate of 10 per cent of that amount; and
- 5 (c) the said normal tax shall be paid within 30 days after the date of the conversion or within such further period as the Commissioner may allow, and at the time of payment of the tax the corporation shall submit to the Commissioner a declaration in such form as the Commissioner may prescribe together with such accounts as
- 10 may be required for the purpose of determining the amount of taxable income in respect of which the tax is payable.”

26. (1) Section 49 of the principal Act is hereby amended by the substitution in paragraph (ii) of the definition of “distributable income” for the words “fifty-eight per cent” of the expression “50 per cent”.

20 (2) The amendment effected by subsection (1) shall, for the purposes of assessments of undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 April 1984.

Amendment of section 49 of Act 58 of 1962, as amended by section 22 of Act 90 of 1962, section 9 of Act 6 of 1963, section 17 of Act 90 of 1964, section 31 of Act 89 of 1969, section 24 of Act 88 of 1971, section 24 of Act 65 of 1973, section 34 of Act 85 of 1974, section 23 of Act 69 of 1975, section 20 of Act 113 of 1977, section 21 of Act 104 of 1980, section 22 of Act 96 of 1981 and section 30 of Act 94 of 1983.

27. Section 50 of the principal Act is hereby amended by the insertion after paragraph (aB) of the following paragraph:

25 “(aC) any company which was during any portion of the year of assessment a close corporation;”

Amendment of section 50 of Act 58 of 1962, as amended by section 23 of Act 90 of 1962, section 19 of Act 95 of 1967, section 32 of Act 89 of 1969, section 25 of Act 88 of 1971, section 25 of Act 65 of 1973 and section 35 of Act 85 of 1974.

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

30 “(k) as a voluntary award the value of which is required to be included in the gross income of the donee in terms of paragraph (c), [or] (d) or (i) of the definition of ‘gross income’ in section 1;”

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 and section 4 of Act 30 of 1984.

## INCOME TAX ACT, 1984

Act No. 121, 1984

29. Section 64C of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

5       “(a) any interest accruing from the Government (including the [railway administration] South African Transport Services, any provincial administration and the administration of the territory), any local authority, the Electricity Supply Commission, the South African Reserve Bank [or], the South African Broadcasting Corporation or the Development Bank of Southern Africa established on 30 June 1983;”.

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Amendment of section 64C of Act 58 of 1962, as added by section 20 of Act 95 of 1967 and amended by section 15 of Act 76 of 1968, section 36 of Act 89 of 1969, section 21 of Act 52 of 1970, section 26 of Act 88 of 1971, section 20 of Act 90 of 1972, section 42 of Act 85 of 1974, section 22 of Act 113 of 1977, section 14 of Act 104 of 1979, section 22 of Act 104 of 1980, section 24 of Act 96 of 1981, section 21 of Act 91 of 1982 and section 34 of Act 94 of 1983.

30. (1) The following section is hereby substituted for section 88 of the principal Act:

15       “Payment of tax pending appeal. 88. The obligation to pay and the right to receive and recover any tax chargeable under this Act [(including any additional charge levied under section 76 as applied by section 110bis) or any tax on persons or the incomes of persons levied by any provincial council] shall not, unless the Commissioner so directs, be suspended by any appeal or pending the decision of a court of law under section 86 or 86A, but if any assessment is altered on appeal or in conformity with any such decision a due adjustment shall be made, amounts paid in excess being refunded with interest at the prescribed rate (but subject to the provisions of section 89quin), such interest being [of 10 per cent per annum] calculated from the date proved to the satisfaction of the Commissioner to be the date on which such excess was received and amounts short-paid being recoverable with interest calculated as provided in section 89 [Provided that where such date falls before 1 July 1982 the interest payable for the period from such date to 30 June 1982 shall be calculated at the rate of 7,5 per cent per annum].”.

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Amendment of section 88 of Act 58 of 1962, as substituted by section 44 of Act 85 of 1974 and amended by section 25 of Act 103 of 1976 and section 24 of Act 91 of 1982.

(2) The amendment effected by subsection (1) shall take effect 35 on 1 September 1984.

31. (1) Section 89 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

40       “(2) If the taxpayer fails to pay any tax in full within the period for payment notified by the Commissioner in the notice of assessment or any extension of such period which the Commissioner may grant having regard to the circumstances of the case, or within the period for payment prescribed by this Act, as the case may be, interest shall, subject to the provisions of section 89quin, be paid by the taxpayer at the prescribed rate [of 10 per cent per annum] on the outstanding balance of such tax in respect of each completed month (reckoned from the date for payment specified in the notice of assessment or the date on which the tax has become payable in terms of this Act, as the case may be) during which

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Amendment of section 89 of Act 58 of 1962, as substituted by section 13 of Act 6 of 1963 and amended by section 25 of Act 91 of 1982.

## INCOME TAX ACT, 1984

Act No. 121, 1984

any portion of the tax has remained unpaid [Provided that if the date for payment or the date on which the tax has become payable, as the case may be, falls before 1 July 1982 and the said interest is chargeable or is in part chargeable in respect of any completed month commencing before 1 July 1982 the interest payable in respect of such completed month and any earlier completed month or months shall be the amount of interest which would have been payable by the taxpayer in terms of this subsection before its amendment by the Income Tax Act, 1982, if the unpaid amount of such tax had been paid on the date after the end of the only or the latest of such completed months].”

(2) The amendment effected by subsection (1) shall take effect on 1 September 1984.

32. (1) Section 89*bis* of the principal Act is hereby amended—  
(a) by the substitution in subsection (2) for the words preceding the proviso of the following words:

“If any amount of employees tax is not paid in full within the period of 7 days prescribed for payment of such amount by [subparagraph (1) of ] paragraph 2 (1) of the Fourth Schedule, or if any amount of provisional tax is not paid in full within the relevant period prescribed for payment of such amount by paragraph 21, 22, [or] 23, 23A or [by subparagraph (1) of paragraph] 25 (1) of that Schedule, interest shall, unless the Commissioner having regard to the circumstances of the case otherwise directs, be paid by the person liable to pay the amount in question at the prescribed rate (but subject to the provisions of section 89*quin*) [of 10 per cent per annum] on so much of such amount as remains unpaid in respect of the period (reckoned from the end of the relevant period prescribed as aforesaid for payment of such amount) during which the amount underpaid remains unpaid:”;

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

“Provided that [where the period during which the amount underpaid remains unpaid commenced before 1 July 1982 the interest payable in respect of that portion of that period ending on 30 June 1982 shall be calculated at the rate of 7,5 per cent per annum] any provisional tax payable by any company under paragraph 23 or 23A of the said Schedule which has been paid within 15 days after the end of the relevant period prescribed for payment shall be deemed for the purposes of this subsection to have been paid within the said period.”

(2) (a) The amendment effected by subsection (1) (a) shall take effect on 1 September 1984.

(b) The amendment effected by subsection (1) (b) shall apply in respect of provisional tax payments made by companies on or after a date fixed by the Minister of Finance by notice in the *Gazette*.

33. Section 89*ter* of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the expression “section 89 (2)” of the expression “section 89 (2) or 89*quat*”;

Amendment of section 89*bis* of Act 58 of 1962, as inserted by section 14 of Act 6 of 1963 and amended by section 21 of Act 95 of 1967, section 28 of Act 88 of 1971, section 45 of Act 85 of 1974, section 26 of Act 91 of 1982 and section 35 of Act 94 of 1983.

Amendment of section 89*ter* of Act 58 of 1962, as inserted by section 14 of Act 6 of 1963, substituted by section 37 of Act 89 of 1969 and amended by section 36 of Act 94 of 1983.

INCOME TAX ACT, 1984

Act No. 121, 1984

- (b) by the substitution in subsection (2) for the expression "section 89" of the expression "section 89 (2) or 89quat"; and
- (c) by the addition to subsection (3) of the following paragraph:
  - 5 "(d) any normal tax payable by a close corporation in terms of section 40A (4) (b)."

34. (1) The following sections are hereby inserted in the principal Act after section 89ter:

Insertion of sections 89quat and 89quin in Act 58 of 1962.

- 10 "Interest payable where provisional tax has been underpaid by companies.
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- 45 Act.
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- 89quat. (1) If, in the case of any company which is a provisional taxpayer, the sum of—
- (a) the provisional tax paid by such company under the provisions of paragraph 23 of the Fourth Schedule in respect of any year of assessment;
  - (b) any additional provisional tax paid by such company in respect of such year under the provisions of paragraph 23A of that Schedule; and
  - (c) any other amount standing to the credit of such company on the date of assessment of its liability for normal tax for such year and which is available to be set off against such liability under the provisions of paragraph 28 (1) (b) of that Schedule,
- (hereinafter referred to as the sum paid) is less than an amount equal to 90 per cent of the normal tax payable by the company as finally determined for the said year under the provisions of this Act, interest shall, subject to the provisions of section 89quin, be payable by the company at the prescribed rate on the amount by which 90 per cent of such normal tax exceeds the sum paid, such interest being calculated from a date 6 months after the end of the said year of assessment until the date of assessment of such normal tax.
- (2) Where the Commissioner having regard to the circumstances of the case is satisfied that any amount has been included in the company's taxable income and the company has on reasonable grounds contended that such amount should not have been so included, the Commissioner may reduce the interest in such manner as to him appears fair and reasonable.
- 89quin. Where—
- (a) any interest is payable under the provisions of sections 88, 89, 89bis or 89quat or paragraph 22 of the Sixth Schedule;
  - (b) the rate at which such interest is payable has with effect from any date been altered; and
  - (c) such interest is payable in respect of any period or any number of completed months which commenced before the said date,
- the interest to be determined in respect of that portion of such period which ended immediately before the said date or in respect of any such completed months which commenced before the said date shall be calculated as if the said rate had not been so altered."
- (2) Subsection (1) shall—
- (a) in so far as it provides for the insertion of section 89quat in the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1984; and
  - (b) in so far as it provides for the insertion of section 89quin in the principal Act, be deemed to have come into operation on 1 July 1982.

## INCOME TAX ACT, 1984

Act No. 121, 1984

35. Section 90 of the principal Act is hereby amended by the substitution for the expression "section 89" of the expression "section 89 (2) or 89*quat*".
- Amendment of section 90 of Act 58 of 1962, as amended by section 15 of Act 6 of 1963 and section 23 of Act 95 of 1967.
36. Section 91 of the principal Act is hereby amended by the substitution in subsection (1) for the expression "section 89", wherever it occurs, of the expression "section 89 (2) or 89*quat*".
- 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 and section 38 of Act 89 of 1979.
37. Section 103 of the principal Act is hereby amended—
- (a) by the substitution for subsection (2) of the following subsection:
- 10 "2) Whenever the Commissioner is satisfied that any agreement affecting any company or any change in the shareholding in any company or in the members' interests in any company which is a close corporation, as a
- 15 direct or indirect result of which income has been received by or has accrued to that company during any year of assessment, has at any time before or after the commencement of the Income Tax Act, 1946, been entered into or effected by any person solely or mainly for the purpose of utilizing any assessed loss or any balance of assessed loss incurred by the company, in order to avoid liability on the part of that company or any other person for the payment of any tax, duty or levy on income, or to reduce the amount thereof, the set-off of any such assessed loss or balance of assessed loss against any such income shall be disallowed.";
- 20 (b) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:
- 25 "Any decision of the Commissioner under subsection (1), (2) or (3) shall be subject to objection and appeal, and whenever in proceedings relating thereto it is proved that the transaction, operation, scheme, agreement or change in shareholding or members' interests in question would result in the avoidance or the postponement of liability for payment of any tax, duty or levy imposed by this Act or any previous Income Tax Act or any other law administered by the Commissioner, or in the reduction of the amount thereof, it shall be presumed, until the contrary is proved—"; and
- 30 (c) by the substitution for paragraph (b) of subsection (4) of the following paragraph:
- 35 "(b) in the case of any such agreement or change in shareholding or members' interests, that it has been entered into or effected solely or mainly for the purpose of utilizing the assessed loss or balance of assessed loss in question in order to avoid or postpone such liability or to reduce the amount thereof."
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- Amendment of section 103 of Act 58 of 1962, as amended by section 14 of Act 101 of 1978.
- Amendment of paragraph 1 of 4th Schedule to Act 58 of 1962,
38. Paragraph 1 of the Fourth Schedule to the principal Act is hereby amended by the insertion in the definition of "provisional taxpayer" after paragraph (b) of the following paragraph:

## INCOME TAX ACT, 1984

Act No. 121, 1984

“(bA) unless the Commissioner in the particular case otherwise directs, any member of a close corporation if such member is ordinarily resident in the Republic;”

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 and section 6 of Act 30 of 1984.

39. (1) Paragraph 20 of the Fourth Schedule to the principal Act is hereby amended by the substitution in subparagraph (1) for the words preceding item (a) of the following words:

Amendment of paragraph 20 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 25 of Act 72 of 1963, section 29 of Act 88 of 1965, section 47 of Act 89 of 1969, section 44 of Act 88 of 1971, section 51 of Act 85 of 1974, section 36 of Act 69 of 1975 and section 50 of Act 94 of 1983.

5 “If the final or last estimate of his taxable income [made] submitted in terms of paragraph 19 (1) (a) [or (b)] by a provisional taxpayer other than a company, or the estimate of  
 10 his taxable income in respect of the period contemplated in paragraph 23 (b) submitted in terms of paragraph 19 (1) (b) by a company which is a provisional taxpayer, in respect of  
 15 any year of assessment discloses an estimated amount of taxable income which is less than 90 per cent of the amount of the actual taxable income in respect of which the estimate was made, as finally determined for that year under this Act, and which is also less than the basic amount applicable to the estimate in question, as contemplated in  
 20 paragraph 19 (1) (d), the taxpayer shall, subject to the provisions of subparagraphs (2), (3) and (4), be required to pay to the Commissioner, in addition to the normal tax chargeable in respect of his taxable income for such year of assessment, an amount by way of additional tax equal to 20  
 25 per cent of the difference between the amount of normal tax as calculated in respect of the amount of taxable income as so disclosed and the lesser of the following amounts, namely—”

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1984.

40. (1) Paragraph 20A of the Fourth Schedule to the principal Act is hereby amended by the substitution for subparagraph (1) of the following subparagraph:

Amendment of paragraph 20A of 4th Schedule to Act 58 of 1962, as inserted by section 25 of Act 52 of 1970 and amended by section 45 of Act 88 of 1971 and section 52 of Act 85 of 1974.

35 “(1) Subject to the provisions of subparagraphs (2) and (3), where any provisional taxpayer is liable for the payment of normal tax in respect of any amount of taxable income derived by him during any year of assessment and [he has not] the estimate of his taxable income for that year required to be submitted by him under paragraph 19 (1) during the period contemplated in paragraph 21 (1) (b), 22 (1) or 23 (b), as the case may be, was not submitted by him on  
 40 or before the last day of that year or, if the period for the [final or last] payment of provisional tax due by him in respect of such [taxable income] period has under paragraph  
 45 25 (2) been extended to a date later than the end of such year, on or before such date, [submitted to the Commissioner an estimate of such taxable income as required under paragraph 19 (1)] the taxpayer shall, unless the Commissioner has estimated the said taxable income under paragraph 19 (2), be required to pay to the Commissioner, in addition to the normal tax chargeable in respect of such taxable income, an amount by way of additional tax equal to  
 50 20 per cent of the amount by which the normal tax payable by him in respect of such taxable income exceeds the sum of any amounts of provisional tax paid by him in respect of such taxable income within any period allowed for the pay,  
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## INCOME TAX ACT, 1984

Act No. 121, 1984

ment of such provisional tax under this Part or within any extension of such period under paragraph 25 (2) and any amounts of employees tax deducted or withheld from his remuneration by his employer during such year.”

- 5 (2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1984.

41. (1) Paragraph 23 of the Fourth Schedule to the principal Act is hereby amended by the substitution for items (a) and (b) of the following items, respectively:

Amendment of paragraph 23 of 4th Schedule to Act 58 of 1962, as substituted by section 51 of Act 94 of 1983.

- 15 “(a) within the period ending 6 months [of] after the commencement of the year of assessment in question, one half of an amount equal to the total estimated liability of such company (as determined in accordance with paragraph 17) for normal tax in respect of that year; [and]
- 20 (b) [not later than] within the period ending on the last day of [the] that year [of assessment in question], an amount equal to the total estimated liability of such company (as [finally] so determined [in accordance with paragraph 17]) for normal tax in respect of that year less the amount paid in terms of item (a); and
- 25 (c) within the period ending 6 months after the last day of that year, an amount equal to the total estimated liability of such company (as finally so determined) for normal tax in respect of that year less the sum of the amounts paid under items (a) and (b).”

- 30 (2) The amendment effected by subsection (1) shall apply in respect of years of assessment ended or ending on or after 30 June 1984.

42. (1) The following heading and paragraph are hereby inserted in the Fourth Schedule to the principal Act after paragraph 23:

Insertion of paragraph 23A in 4th Schedule to Act 58 of 1962.

- 35 **“ADDITIONAL PROVISIONAL TAX PAYMENTS BY COMPANIES.**

- 40 23A. (1) Any company which is a provisional taxpayer may for the purpose of avoiding or reducing its liability for any interest which may become payable by it in respect of any year of assessment under section 89*quat*, elect to make an additional payment of provisional tax in respect of such year.

- 45 (2) Any additional payment of provisional tax contemplated in subparagraph (1) which is paid after the end of the period referred to in paragraph 23 (c), as applicable in relation to the said year, shall be deemed for the purposes of section 89*bis* (2) to be an amount of provisional tax which was payable within the said period.”

- 50 (2) The amendment effected by subsection (1) shall apply in respect of years of assessment ended or ending on or after 30 June 1984.

43. (1) Paragraph 27 of the Fourth Schedule to the principal Act is hereby amended by the addition of the following subparagraph:

Amendment of paragraph 27 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963.

- 55 “(3) Any amount of provisional tax which has been paid by a company not later than 15 days after the end of the period allowed for payment thereof shall be deemed for the



## INCOME TAX ACT, 1984

Act No. 121, 1984

purposes of subparagraph (1) to have been paid within the said period."

(2) The amendment effected by subsection (1) shall apply in respect of provisional tax payments made by companies on or after a date fixed by the Minister of Finance by notice in the *Gazette*.

44. Paragraph 28 of the Fourth Schedule to the principal Act is hereby amended by the substitution for subparagraph (8) of the following subparagraph:

10       “(8) For the purposes of this paragraph, ‘taxes’ means the normal **[and super taxes] tax** levied under this Act **[or any previous Income Tax Act, and the taxes levied by provincial councils on persons and the incomes of persons]**, but excluding any normal tax payable by a close corporation under  
15       section 40A (4) (b).”

Amendment of paragraph 28 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 29 of Act 90 of 1964, section 30 of Act 95 of 1967, section 48 of Act 89 of 1969, section 48 of Act 88 of 1971, section 23 of Act 90 of 1972, section 55 of Act 85 of 1974 and section 53 of Act 94 of 1983.

45. (1) The following paragraph is hereby substituted for paragraph 22 of the Sixth Schedule to the principal Act:

20       “22. If any amount which an insurer is required to pay to the Commissioner under the provisions of paragraph 17 is not paid in full within the relevant period allowed under those provisions for the payment of such amount, interest shall, unless the Commissioner having regard to the circumstances of the case otherwise directs, be paid by the insurer liable to pay the amount in question at the prescribed rate  
25       (but subject to the provisions of section 89quin) [of 10 per cent per annum] on so much of such amount as remains unpaid in respect of the period (reckoned from the end of the first-mentioned period) during which the amount not paid remains unpaid **[Provided that where the period during**  
30       which the amount not paid remains unpaid commenced before 1 July 1983 the interest payable in respect of that portion of that period ending on 30 June 1983 shall be calculated at the rate of 7,5 per cent per annum].”

Substitution of paragraph 22 of 6th Schedule to Act 58 of 1962, as substituted by section 59 of Act 94 of 1983.

(2) The amendment effected by subsection (1) shall take effect  
35 on 1 September 1984.

46. Schedule 2 to this Act is hereby added to the principal Act as the Seventh Schedule thereto, and shall be deemed to be and shall be construed and applied as one with the principal Act.

Addition of 7th Schedule to Act 58 of 1962.

47. Section 61 of the Income Tax Act, 1983, is hereby repealed.  
40 ed.

Repeal of section 61 of Act 94 of 1983.

48. Section 61 of the Finance and Financial Adjustments Acts Consolidation Act, 1977, is hereby repealed.

Repeal of section 61 of Act 11 of 1977.

49. Section 1 of the Judges' Remuneration Act, 1978, is hereby amended by the deletion of subsection (2).

Amendment of section 1 of Act 91 of 1978, as amended by section 1 of Act 63 of 1979, section 1 of Act 47 of 1980 and section 1 of Act 73 of 1982.

INCOME TAX ACT, 1984

Act No. 121, 1984

50. (1) Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments (other than the amendments referred to in subsection (2)) effected to the principal Act by this Act shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1985.

Commencement of certain amendments.

(2) The amendments effected to the principal Act by sections 2 (1) (e), (f), (g) and (i), 5 (1) (a), 9, 10 (1) (f) and (g), 11 (1) (i) and (j), 20 (b), 23, 28 and 46; and the amendments effected by sections 48 and 49, shall take effect as from the commencement of years of assessment ending on or after 1 March 1985.

51. This Act shall be called the Income Tax Act, 1984.

Short title.

Schedule 1

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 1985 AND 30 JUNE 1985, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF TWELVE MONTHS ENDING 31 MARCH 1985.

(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:—

(a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the table below: Provided that in the case of a person who is not a married person —

(i) there shall be added to the amount of tax calculated in accordance with the said table in respect of so much of the taxable income of such person as does not exceed R28 000 a surcharge equal to 20 per cent of an amount arrived at by deducting from the amount of tax so calculated an amount equal to the sum of the rebates allowed to be deducted under section 6 of the principal Act;

(ii) where the taxable income of such person exceeds R28 000, the amount of tax to be calculated in respect of that portion of his taxable income as remains after the deduction therefrom of the sum of R28 000 shall, in lieu of any calculation of tax in accordance with the said table in respect of the said portion, be calculated at the rate of 50 per cent of the said portion;

Table

Taxable Income	Rates of Tax
Where the taxable income — does not exceed R8 000 .....	12 per cent of each R1 of the taxable income;
exceeds R8 000 but does not exceed R9 000	R960 plus 14 per cent of the amount by which the taxable income exceeds R8 000;
„ R9 000 „ „ „ R10 000	R1 100 plus 16 per cent of the amount by which the taxable income exceeds R9 000;
„ R10 000 „ „ „ R11 000	R1 260 plus 18 per cent of the amount by which the taxable income exceeds R10 000;
„ R11 000 „ „ „ R12 000	R1 440 plus 20 per cent of the amount by which the taxable income exceeds R11 000;
„ R12 000 „ „ „ R13 000	R1 640 plus 22 per cent of the amount by which the taxable income exceeds R12 000;
„ R13 000 „ „ „ R14 000	R1 860 plus 24 per cent of the amount by which the taxable income exceeds R13 000;
„ R14 000 „ „ „ R15 000	R2 100 plus 26 per cent of the amount by which the taxable income exceeds R14 000;
„ R15 000 „ „ „ R16 000	R2 360 plus 28 per cent of the amount by which the taxable income exceeds R15 000;
„ R16 000 „ „ „ R18 000	R2 640 plus 30 per cent of the amount by which the taxable income exceeds R16 000;
„ R18 000 „ „ „ R20 000	R3 240 plus 32 per cent of the amount by which the taxable income exceeds R18 000;
„ R20 000 „ „ „ R22 000	R3 880 plus 34 per cent of the amount by which the taxable income exceeds R20 000;

INCOME TAX ACT, 1984

Act No. 121, 1984

Taxable Income		Rates of Tax
Where the taxable income —		
exceeds R22 000 but does not exceed	R24 000	R4 560 plus 36 per cent of the amount by which the taxable income exceeds R22 000;
„ R24 000 „ „ „	R26 000	R5 280 plus 38 per cent of the amount by which the taxable income exceeds R24 000;
„ R26 000 „ „ „	R28 000	R6 040 plus 40 per cent of the amount by which the taxable income exceeds R26 000;
„ R28 000 „ „ „	R30 000	R6 840 plus 42 per cent of the amount by which the taxable income exceeds R28 000;
„ R30 000 „ „ „	R32 000	R7 680 plus 44 per cent of the amount by which the taxable income exceeds R30 000;
„ R32 000 „ „ „	R34 000	R8 560 plus 46 per cent of the amount by which the taxable income exceeds R32 000;
„ R34 000 „ „ „	R36 000	R9 480 plus 47 per cent of the amount by which the taxable income exceeds R34 000;
„ R36 000 „ „ „	R38 000	R10 420 plus 48 per cent of the amount by which the taxable income exceeds R36 000;
„ R38 000 „ „ „	R40 000	R11 380 plus 49 per cent of the amount by which the taxable income exceeds R38 000;
„ R40 000 .....		R12 360 plus 50 per cent of the amount by which the taxable income exceeds R40 000;

(b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e) ), 50 cents;

(c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act), a percentage determined in accordance with the formula:

$$y = 60 - \frac{360}{x}$$

in which formula (and in the formulae set out in the first and second provisos hereto) *y* represents such percentage and *x* the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

$$y = 20 \left(1 - \frac{6}{x}\right)$$

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined

in accordance with a formula arrived at by increasing the number 20 in the formula  $y = 20 \left(1 - \frac{6}{x}\right)$  by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that where a certificate is given by the Government Mining Engineer to the effect that prescribed conditions have been complied with, the rate of tax in respect of taxable income derived from mining for gold on an assisted gold mine shall not exceed a percentage determined in accordance

with the formula  $y = 68 - \frac{601}{x}$ : Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a surcharge equal to 20 per cent of such amount;

(d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act), a percentage determined in accordance with the formula:

$$y = 60 - \frac{480}{x}$$

in which formula (and in the formulae set out in the first proviso hereto) *y* represents such percentage and *x* the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable in-

## INCOME TAX ACT, 1984

## Act No. 121, 1984

come so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

$$y = 20 \left(1 - \frac{8}{x}\right)$$

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula  $y = 20 \left(1 - \frac{8}{x}\right)$  by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 20 per cent of such amount;

- (e) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is or has been mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act, a rate equal to the average rate of normal tax or 35 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;
- (f) on each rand of the taxable income derived by any company from mining for diamonds, 45 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 20 per cent of such amount;
- (g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds), 50 cents.
2. (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.
- (2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.
3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.

## Schedule 2

(Seventh Schedule to Act 58 of 1962)

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

(Paragraph (i) of the definition of "gross income" in section 1 of this Act)

## Definitions

1. For the purposes of this Schedule, unless the context otherwise indicates—

- (i) "associated institution", in relation to any single employer, means—
- (a) where the employer is a company, any other company which is associated with the employer company by reason of the fact that both companies are managed or controlled directly or indirectly by substantially the same persons; or
- (b) where the employer is not a company, any company which is managed or controlled directly or indirectly by the employer or by any partnership of which the employer is a member; or
- (c) any fund established solely or mainly for providing benefits for employees or former employees of the employer or for employees or former employees of the employer and any company which is in terms of paragraph (a) or (b) an associated institution in relation to the employer, but excluding any fund established by a trade union or industrial council and any fund established for post-graduate research otherwise than out of moneys provided by the employer or by any associated institution in relation to the employer; (vii)
- (ii) "consideration", as respects any reference in this Schedule to any consideration given by an employee, does not include any consideration in the form of services rendered or to be rendered by the employee; (vi)
- (iii) "employee", in relation to any employer, means a person who is an employee in relation to such employer for the purposes of the Fourth Schedule, excluding any person who by reason of superannuation, ill-health or other infirmity has retired from the employ of such employer, but including, in relation to any company, any director of such company and any person who was previously employed by, or was a director of, such company if such person is or was the sole shareholder or one of the controlling shareholders in such company and, for the purposes of paragraphs 2 (h) and 13, including any person who has retired as aforesaid and who, after his retirement is released by his employer from an obligation which arose before the employee's retirement to reimburse the employer for an amount paid by the employer on behalf of the employee or to pay any amount which became owing by the employee to the employer before the employee's retirement; (ix)

## INCOME TAX ACT, 1984

Act No. 121, 1984

- (iv) "employer" means any person who is an employer as defined in paragraph 1 of the Fourth Schedule and includes—
- (a) any company; and
  - (b) for the purpose of paragraph 2 and the determination of the cash equivalent of the value of any taxable benefit granted to any person who derives remuneration as defined in the said paragraph from employment in the public service or any administration or undertaking of the State or who holds office under the Republic, the State; (viii)
- (v) "employment" means any office or employment; (iii)
- (vi) "loan" includes any form of credit and any loan applied directly towards the replacement of any other loan; (iv)
- (vii) "month" means any of the twelve portions into which any calendar year is divided; (v)
- (viii) "official rate of interest" means a rate of interest of 12 per cent per annum; (i)
- (ix) "taxable benefit" means a taxable benefit contemplated in paragraph 2, whether the grant of such benefit is voluntary or otherwise, but excluding—
- (a) any benefit the amount or value of which is exempt from normal tax under the provisions of section 10 of this Act; or
  - (b) any benefit provided by any benefit fund in respect of medical, dental and similar services, hospital services, nursing services and medicines; or
  - (c) any lump sum benefit payable by a benefit fund, pension fund or provident fund, being a benefit referred to in the definition of "benefit fund" in section 1 of this Act or in paragraph (a) of the definition of "pension fund" in that section or in paragraph (a) of the definition of "provident fund" in that section. (ii)

*Taxable benefits*

2. For the purposes of this Schedule and of paragraph (i) of the definition of "gross income" in section 1 of this Act, a taxable benefit shall be deemed to have been granted by an employer to his employee in respect of the employee's employment with the employer, if as a benefit or advantage of or by virtue of such employment or as a reward for services rendered or to be rendered by the employee to the employer—

- (a) any asset consisting of any goods, commodity, marketable security or property of any nature (other than money) has been acquired by the employee from the employer or any associated institution in relation to the employer or from any person by arrangement with the employer, either for no consideration or for a consideration given by the employee which is less than the value of such asset, as determined under paragraph 5 (2): Provided that the provisions of this subparagraph shall not apply in respect of any meal, refreshment, voucher, board, fuel, power or water with which the employee has been provided as contemplated in subparagraph (c) or (d) or in respect of any marketable security acquired by the exercise by the employee, as contemplated in section 8A of this Act, of any right to acquire any marketable security; or
- (b) the employee has been granted the right to use any asset (other than any residential accommodation or household goods supplied with such accommodation) for his private or domestic purposes either free of charge or for a consideration payable by the employee which is less than the value of such use, as determined under paragraph 6 (2) in the case of an asset other than a motor vehicle or under paragraph 7 (4) or (7) in the case of a motor vehicle; or
- (c) the employee has been provided with any meal or refreshment or voucher entitling him to any meal or refreshment (other than any board or meals referred to in item (d)), either free of charge or for a consideration less than the value of such meal, refreshment or voucher, as the case may be, as determined under paragraph 8 (2); or
- (d) the employee has been provided with residential accommodation (whether furnished or unfurnished and with or without board, meals, fuel, power or water) either free of charge or for a rental consideration payable by the employee which is less than the rental value of such accommodation as determined under the applicable provisions of paragraph 9 (3), (4) or (5); or
- (e) any service (other than a service to which the provisions of paragraph 9 (4) (a) apply) has at the expense of the employer been rendered to the employee (whether by the employer or by some other person), such service has been utilized by the employee for his private or domestic purposes and no consideration has been given by the employee to the employer in respect of such service or, if any such consideration has been given, the amount thereof is less than the amount of the lowest fare re-

## INCOME TAX ACT, 1984

Act No. 121, 1984

ferred to in item (a) of subparagraph (1) of paragraph 10, or the cost referred to in item (b) of the said subparagraph, as the case may be; or

- (f) a loan (other than a loan treated as a dividend under the provisions of section 8B of this Act) has been granted to the employee, whether by the employer or by any other person by arrangement with the employer or any associated institution in relation to the employer, and either no interest is payable by the employee on such loan or interest is payable by him thereon at a rate lower than the official rate of interest; or
- (g) the employer has, under any home ownership or housing scheme in which the employee is a participant, paid any subsidy in respect of the amount of interest or capital repayments payable by such employee; or
- (h) the employer has paid any amount owing by the employee to any third person, whether directly or indirectly, without requiring the employee to reimburse the employer for the amount paid or the employer has released the employee from an obligation to pay any amount owing by the employee to the employer: Provided that where any debt owing by the employee to the employer has been extinguished by prescription the employer shall be deemed to have released the employee from his obligation to pay the amount of such debt if the employer could have recovered the amount owing or caused the running of the prescription to be interrupted, unless it is shown to the satisfaction of the Commissioner that the employer's failure to recover the amount owing or to cause the running of the prescription to be interrupted was not due to any intention of the employer to confer a benefit on the employee.

*Determination of cash equivalent of value of taxable benefit*

3. (1) The cash equivalent of the value of a taxable benefit shall, for the purposes of paragraph (i) of the definition of "gross income" in section 1 of this Act, be determined in accordance with the provisions of this Schedule by the employer by whom the taxable benefit has been granted.

(2) The Commissioner may, if such determination appears to him to be incorrect, re-determine such cash equivalent upon the assessment of the liability for normal tax of the employee to whom such taxable benefit has been granted.

(3) If the employee concerned is dissatisfied with any determination or proposed determination by his employer of the cash equivalent of the value of any taxable benefit included in the remuneration of the employee for employees tax purposes, the employee or the employer may refer the matter to the Commissioner and the Commissioner may, if it appears to him that the determination or proposed determination should be adjusted, issue a directive to the employer as to the manner in which such determination should be made and the employer shall be obliged to act upon such directive: Provided that nothing in this subparagraph contained shall be construed as preventing the Commissioner from making a re-determination of such cash equivalent under the provisions of subparagraph (2).

*Taxable benefits granted by associated institutions*

4. Where any associated institution in relation to any employer has given any employee of that employer, by reason of the fact that the employee is in the employment of the employer, or as a benefit or advantage of such employment or as a reward for services rendered or to be rendered by the employee to the employer any benefit or advantage which, if such benefit or advantage had been given to the employee directly by the employer in the circumstances contemplated in paragraph 2, would have constituted a taxable benefit, such benefit or advantage shall for the purposes of this Schedule be deemed to be a taxable benefit granted by the employer to the employee and the cash equivalent of the value of such taxable benefit shall be determined accordingly.

*Acquisition of an asset at less than actual value*

5. (1) Where an asset has been acquired by an employee as contemplated in paragraph 2 (a), the cash equivalent of the value of the taxable benefit shall be so much of the value of such asset (as determined under subparagraph (2) of this paragraph) as exceeds the value of any consideration given by the employee for such asset.

(2) The value to be placed on such asset shall be the market value thereof at the time the asset is acquired by the employee: Provided that where the asset in question is movable property and was acquired by the employer in order to dispose of it to the employee or the asset in question was held by the employer as trading stock, the value to be placed thereon shall be the cost thereof to the employer or, where such asset was held as trading stock and the market value thereof was less than such cost, such market value.

(3) No value shall be placed under this paragraph on—

- (a) any asset presented by an employer to an employee as an award for bravery; or
- (b) any asset given by an employer to an employee by reason of safe working in a dangerous occupation or for long service provided the cost of such asset to the employer does not exceed R2 000; or
- (c) fuel or lubricants supplied by an employer to his employee for use in a motor vehicle where the value of the private use of such vehicle has been determined under paragraph 7.

*Right of use of any asset (other than residential accommodation or any motor vehicle)*

6. (1) Where an employee has been granted the right to use any asset (other than residential accommodation or any motor vehicle) as contemplated in paragraph 2 (b), the cash equivalent of the value of the taxable benefit shall be so much of the value of the private or domestic use of such asset (as determined under subparagraph (2) of this paragraph for the period of use) as exceeds any consideration given by the employee for the use of such asset during such period or any amount expended by the employee on the maintenance or repair of such asset.

## INCOME TAX ACT, 1984

Act No. 121, 1984

- (2) The value to be placed on the private or domestic use of such asset shall be—
- (a) where the asset is held by the employer as the lessee under a lease or hiring agreement, the amount of the rental payable by the employer in respect of the period during which the employee has the use of the asset; or
  - (b) where the asset is owned by the employer, an amount calculated for the period during which the employee has the use of the asset at the rate of 15 per cent per annum on the lesser of the cost of such asset to the employer or the market value thereof at the date of commencement of the period of use.
- (3) For employees tax purposes an appropriate portion of the said cash equivalent shall be apportioned to each period during the year of assessment in respect of which any cash remuneration is paid or becomes payable by the employer to the employee.
- (4) No value shall be placed under this paragraph on the private or domestic use of an asset by an employee, if—
- (a) such use is incidental to the use of the asset for the purposes of the employer's business or the asset is provided by the employer as an amenity to be enjoyed by the employee at his place of work or for recreational purposes at that place or a place of recreation provided by the employer for the use of his employees in general; or
  - (b) the asset consists of any equipment or machine which the employer concerned allows his employees in general to use from time to time for short periods and the Commissioner is satisfied that the value of the private or domestic use of the asset, as determined under subparagraph (2), is negligible; or
  - (c) the asset consists of books, literature, recordings or works of art.

*Right of use of motor vehicle*

7. (1) For the purposes of this paragraph, "determined value," in relation to a motor vehicle, means—
- (a) where such motor vehicle (not being a vehicle in respect of which paragraph (b) (ii) of this definition applies) was acquired by the employer under a *bona fide* agreement of sale or exchange concluded by parties acting at arm's length, the original cost thereof to him (excluding any finance charge, interest or sales tax payable by him in respect of his acquisition thereof); or
  - (b) where such motor vehicle—
    - (i) is held by the employer under a lease; or
    - (ii) was held by the employer under a lease and the ownership thereof was acquired by him on the termination of the lease,

the retail market value thereof at the time the employer first obtained the right of use of the vehicle or, where at such time such lease was a financial lease for the purposes of the Sales Tax Act, 1978 (Act No. 103 of 1978), the cash value thereof as determined under Schedule 4 to that Act; or
  - (c) in any other case, the market value of such motor vehicle at the time when the employer first obtained the vehicle or the right of use thereof:

Provided that where an employee has been granted the right of use of such motor vehicle as contemplated in subparagraph (2) and such vehicle, or the right of use thereof, was acquired by the employer not less than 12 months before the date on which the employee was granted such right of use, there shall be deducted from the amount determined under the foregoing provisions of this subparagraph a depreciation allowance calculated according to the reducing balance method at the rate of 15 per cent for each completed period of 12 months from the date on which the employer first obtained such vehicle or the right of use thereof to the date on which the said employee was first granted the right of use thereof.

- (2) Where an employee has been granted the right to use any motor vehicle as contemplated in paragraph 2 (b), the cash equivalent of the value of the taxable benefit shall be so much of the value of the private use of such vehicle (as determined under this paragraph in respect of the period of use) as exceeds any consideration given by the employee to the employer for the use of such vehicle during such period.
- (3) (a) Where an employer's rights and obligations under a lease in respect of a motor vehicle are transferred to his employee the employer shall for the purposes of this Schedule be deemed to have granted the employee the right to use such vehicle for the remainder of the period of the lease.
- (b) In such case—
  - (i) any rentals becoming payable by the employee under the lease shall be deemed to be a consideration payable by him for the said right; and
  - (ii) the determined value of the vehicle shall be deemed to be an amount determined in accordance with the provisions of subparagraph (1) (b);
- (4) Subject to the provisions of subparagraphs (9) and (10), the value to be placed on the private use of such vehicle shall be determined for each month or part of a month during which the employee was entitled

## INCOME TAX ACT, 1984

Act No. 121, 1984

to use the vehicle for private purposes (including travelling between the employee's place of residence and his place of employment) and the said value shall—

(a) as respects each such month, be an amount determined in accordance with the following scale:

Where the determined value of such vehicle—	Value of private use for each month or part of a month	
	Column A R	Column B R
does not exceed R6 000 .....	101	72
exceeds R6 000 but does not exceed R7 000	111	82
„ R7 000 „ „ R8 000	120	90
„ R8 000 „ „ R9 000	130	100
„ R9 000 „ „ R10 000	139	108
„ R10 000 „ „ R11 000	140	109
„ R11 000 „ „ R12 000	156	124
„ R12 000 „ „ R13 000	166	134
„ R13 000 „ „ R14 000	174	141
„ R14 000 „ „ R15 000	182	148
„ R15 000 „ „ R16 000	192	158
„ R16 000 „ „ R17 000	202	166
„ R17 000 „ „ R18 000	212	176
„ R18 000 „ „ R19 000	219	183
„ R19 000 „ „ R20 000	228	191
„ R20 000 „ „ R21 000	243	206
„ R21 000 „ „ R22 000	248	210
„ R22 000 „ „ R23 000	251	212
„ R23 000 „ „ R24 000	263	224
„ R24 000 „ „ R25 000	275	235
„ R25 000 „ „ R26 000	282	241
„ R26 000 „ „ R27 000	292	252
„ R27 000 „ „ R28 000	302	260
„ R28 000 „ „ R29 000	310	268
„ R29 000 „ „ R30 000	316	273
„ R30 000 „ „ R35 000	350	307
„ R35 000 „ „ R40 000	389	345

in which scale—

- (i) column A applies in all cases where column B does not apply; and
- (ii) column B applies where the employee bears the cost of all fuel used for the purposes of the private use of the vehicle (including travelling between the employee's place of residence and his place of employment):

Provided that—

- (i) where the determined value of such vehicle exceeds the sum of R40 000, the value of private use for each such month shall be the sum of R389 where column A is applicable, or R345 where column B is applicable, plus in either case an amount of R8 for each completed amount of R1 000 by which such determined value exceeds R40 000;
- (ii) if the employee bears the full cost of maintaining the vehicle (including the cost of repairs, servicing, lubrication and tyres), the value of private use for each such month as determined in accordance with the foregoing provisions of this subparagraph shall be reduced by an amount of R28; and



## INCOME TAX ACT, 1984

Act No. 121, 1984

(b) as respects any such part of a month, be an amount which bears to the appropriate amount determined in accordance with item (a) for a month the same ratio as the number of days in such part of a month bears to the number of days in the month in which such part falls.

(5) Subject to the provisions of subparagraph (7), no reduction in the value determined under subparagraph (4) shall be made by reason of the fact that the vehicle in question was during any period for any reason temporarily not used by the employee for private purposes.

(6) Where more than one motor vehicle is made available by an employer to a particular employee at the same time and the Commissioner is satisfied that each such vehicle was used by the employee during the year of assessment primarily for business purposes, the value to be placed on the private use of all the said vehicles shall be deemed to be the value of the private use of the vehicle having the highest determined value or such other vehicle as the Commissioner may direct: Provided that the preceding provisions of this subparagraph shall not apply where the provisions of subparagraph (7) or (8) are applied.

(7) Where it is proved to the satisfaction of the Commissioner that accurate records of distances travelled in such vehicle for private purposes (including travelling between the employee's place of residence and his place of employment) are kept, the Commissioner may upon the assessment of the employee's liability for normal tax reduce the value placed on the private or domestic use of the vehicle to such amount as appears to the Commissioner to be fair and reasonable in the circumstances of the case if the total distance so travelled during the year of assessment was less than 10 000 kilometres or, where the period in that year during which the vehicle was available for the employee's use was less than 12 months, a distance which bears to 10 000 kilometres the same ratio as the said period bears to 12 months.

(8) If—

- (a) the cash equivalent of the value of a taxable benefit in respect of a motor vehicle falls to be included in the income of an employee;
- (b) the employee was required by his employer to bear any portion of the cost of the licence for the vehicle, the insurance thereof, the fuel used therein or the maintenance thereof;
- (c) no compensation in the form of an allowance or reimbursement was payable by the employer to the employee in respect of the expenditure borne by the employee in respect of the said cost; and
- (d) where the cost of fuel for or of maintenance of the vehicle was borne by the employee, the value determined under subparagraph (4) included an amount in respect of fuel or the maintenance thereof, as the case may be,

the said cash equivalent shall, on assessment of the employee's liability for normal tax, be reduced by the amount actually incurred by the employee during the relevant year of assessment in respect of the said cost and any such reduction shall, in so far as the amount thereof includes any amount which would otherwise qualify for deduction from the employee's income, be deemed to be in lieu of such deduction in respect of fuel or maintenance, as the case may be.

(9) Any decision of the Commissioner in the exercise of his discretion under subparagraph (6) or (7) shall be subject to objection and appeal.

(10) For the purposes of this paragraph the private use by an employee of a motor vehicle shall be deemed to have no value, if—

- (a) (i) the vehicle is available to and is in fact used by employees of the employer in general;
- (ii) the private use of the vehicle by the employee concerned is infrequent or is merely incidental to its business use; and
- (iii) the vehicle is not normally kept at or near the residence of the employee concerned when not in use outside of business hours; or
- (b) the nature of the employee's duties are such that he is regularly required to use the vehicle for the performance of such duties outside his normal hours of work, and he is not permitted to use such vehicle for private purposes other than travelling between his place of residence and his place of work.

*Meals, refreshments and meal and refreshment vouchers*

8. (1) Where an employee has been provided with any meal, refreshment or voucher as contemplated in paragraph 2 (c), the cash equivalent of the taxable benefit shall be so much of the value of such meal, refreshment or voucher (as determined under subparagraph (2) of this paragraph) as exceeds any consideration given by the employee in respect of such meal, refreshment or voucher.

(2) The value to be placed on such meal, refreshment or voucher shall be the cost to the employer of such meal, refreshment or voucher.

(3) No value shall be placed under this paragraph on—

- (a) any meal or refreshment supplied by an employer to his employee in any canteen, cafeteria or dining room operated by or on behalf of the employer and patronised wholly or mainly by his employees or on the business premises of the employer;

## INCOME TAX ACT, 1984

Act No. 121, 1984

- (b) any meal or refreshment supplied by an employer to an employee during business hours or extended working hours or on a special occasion; or
- (c) any meal or refreshment enjoyed by an employee in the course of providing a meal or refreshment to any person whom the employee is required to entertain on behalf of the employer.

*Residential accommodation*

## 9. (1) For the purposes of this paragraph—

“remuneration”, in relation to any employee, means the aggregate of the amounts of remuneration (as determined in accordance with the definition of “remuneration” in paragraph 1 of the Fourth Schedule but including any amounts referred to in paragraphs (iv) and (vii) of that definition) which have been derived by him from his employer and any companies and funds which are associated institutions in relation to the employer but excluding—

- (a) the value of any benefit or taxable benefit derived from the private use of any motor vehicle or the occupation of residential accommodation;
- (b) the amount of any remuneration derived by any employee who is not the controlling shareholder or one of the controlling shareholders of the employer company, from an associated institution in relation to the employer if it is shown to the satisfaction of the Commissioner that the employee's employment with the employer is not and was not in any way connected with the employee's employment with such associated institution (any decision of the Commissioner under this paragraph being subject to objection and appeal); and
- (c) any amount referred to in paragraph (iii) of the proviso to paragraph (c) of the definition of “gross income” in section 1 of this Act;

“remuneration factor”, in relation to a year of assessment during which an employee has occupied residential accommodation, means the remuneration derived by him during the year of assessment immediately preceding the firstmentioned year of assessment: Provided that—

- (i) where during a portion of such preceding year the employee was not in the employment of the employer or any associated institution in relation to the employer, the remuneration factor shall as respects that employee be deemed to be an amount which bears to the amount of his remuneration for the portion of such preceding year during which he was in such employment the same ratio as the period of 365 days bears to the number of days in such lastmentioned portion;
- (ii) where during the whole of such preceding year, the employee was not in the employment of the employer or of any associated institution in relation to the employer, the remuneration factor shall as respects that employee be deemed to be an amount which bears to the employee's remuneration during the first month during which he was in the employment of the employer the same ratio as 365 days bears to the number of days during which he was in such employment.

(2) The cash equivalent of the value of the taxable benefit derived from the occupation of residential accommodation as contemplated in paragraph 2 (d) shall be the rental value of such accommodation (as determined under subparagraph (3), (4) or (5) of this paragraph in respect of the year of assessment) less any rental consideration given by the employee for such accommodation in respect of such year, any rental consideration given by him in respect of household goods supplied with such accommodation and any charge made to the employee by the employer in respect of power or fuel provided with the accommodation.

(3) The rental value to be placed on such accommodation (other than accommodation referred to in subparagraph (4)) for any year of assessment shall be an amount determined in accordance with the formula

$$(A - B) \times \frac{C}{100} \times \frac{D}{12}$$

in which formula—

- (a) “A” represents the remuneration factor as determined in relation to the year of assessment;
- (b) “B” represents an abatement equal to an amount of R20 000: Provided that in any case where—
  - (i) the employer is a private company and the employee or his spouse controls the company or is one of the persons controlling the company, whether control is exercised directly as a shareholder in the company or as a shareholder in any other company; or
  - (ii) the accommodation in question is owned by the employee or the spouse or minor child of the employee or the employee, his spouse or minor child has a right of option or pre-emption granted by the employer or by other person by arrangement with the employer or any associated institution in relation to the employer whereby the employee, his spouse or child may become the owner of the accommodation,

the said abatement shall be reduced to zero;

- (c) “C” represents a quantity of 15: Provided that where the accommodation consists of a house, flat or apartment consisting of at least four rooms—
  - (i) “C” represents a quantity of 16 if—
    - (aa) such accommodation is unfurnished and power or fuel is supplied by the employer; or

## INCOME TAX ACT, 1984

Act No. 121, 1984

(bb) such accommodation is furnished but power or fuel are not supplied; or

(ii) "C" represents a quantity of 17 if such accommodation is furnished and power or fuel is supplied by the employer; and

(d) "D" represents the number of months in relation to a year of assessment during which the employee was entitled to occupation of such accommodation.

(4) The rental value to be placed on accommodation occupied temporarily for the purposes of a holiday shall be—

(a) where such accommodation is hired by the employer from a person other than an associated institution in relation to the employer, so much of the rental payable and any amounts chargeable in respect of meals, refreshments or any services relating to such accommodation as have been borne by the employer and are connected with the period during which the accommodation was so occupied; or

(b) in any other case, an amount calculated at the rate of R25 per person per day for each day during which the accommodation was so occupied or at the prevailing rate per day at which such accommodation would normally be let to any person who is not an employee of the employer or of any associated institution in relation to the employer, whichever rate is lower.

(5) Where, by reason of the situation, nature or condition of the accommodation or any other factor, the Commissioner is satisfied that the rental value of such accommodation is less than the rental value thereof determinable under subparagraph (3) or (4), he may determine such rental value at such lower amount as to him appears fair and reasonable.

(6) Where any employee has been provided by his employer with residential accommodation consisting of two or more residential units situated at different places which the employee is entitled to occupy from time to time while performing his duties such units shall for the purposes of this Schedule be deemed to be one residential unit and the cash equivalent of the value of the benefit of such units shall be determined under subparagraph (2) as for one residential unit.

(7) No rental value shall be placed under this paragraph on any accommodation away from an employee's usual place of residence provided by his employer while such employee is absent from his usual place of residence for the purposes of performing the duties of his employment: Provided that the preceding provisions of this subparagraph shall not apply in respect of any residential unit referred to in subparagraph (6).

(8) For employees tax purposes an appropriate portion of the cash equivalent referred to in subparagraph (2) shall be apportioned to each period during the year of assessment in respect of which any cash remuneration is paid or becomes payable by the employer to the employee.

*Free or cheap services*

10. (1) The cash equivalent of the value of any taxable benefit derived from the rendering of a service to any employee as contemplated in paragraph 2 (e) shall be—

(a) in the case of any travel facility granted by any employer who is engaged in the business of conveying passengers for reward by sea or by air to enable any employee or any relative of such employee to travel to any destination outside the Republic for his private or domestic purposes, if the lowest fare payable by a passenger utilizing such facility (had he paid the full fare) at the relevant time in respect of any such journey exceeds R500, an amount equal to such lowest fare, less the amount of any consideration given by the employee or his relative in respect of such facility: Provided that for the purposes hereof a forward journey and a return journey shall be regarded as one journey; or

(b) in the case of the rendering of any other service as contemplated in the said paragraph, the cost to the employer in rendering such service or having such service rendered, less the amount of any consideration given by the employee in respect of such service.

(2) No value shall be placed under this paragraph on—

(a) any travel facility granted by any employer who is engaged in the business of conveying passengers for reward by land, sea or air to enable any employee in his employment or such employee's spouse or minor child to travel—

(i) to any destination in the Republic or to travel overland to any destination outside the Republic; or

(ii) to any destination outside the Republic if such travel was undertaken on a flight or voyage made in the ordinary course of the employer's business and such employee, spouse or minor child was not permitted to make a firm advance reservation of the seat or berth occupied by him, or if the lowest fare in respect of such travel facility, as contemplated in subparagraph (1) (a), did not exceed R500;

(b) any transport service rendered by any employer to his employees in general for the conveyance of such employees from their homes to the place of their employment and *vice versa*;

(c) any services rendered by an employer to his employees at their place of work for the better performance of their duties or as a benefit to be enjoyed by them at that place or for recreational purposes at that place or a place of recreation provided by the employer for the use of his employees in general; or

(d) occasional services (other than a facility or service referred to in item (a), (b) or (c)) rendered by any employer to his employee if the cost to the employer of rendering such services or of having such services rendered does not in the aggregate exceed the sum of R500 during the year of assessment.

## INCOME TAX ACT, 1984

Act No. 121, 1984

*Benefits in respect of interest on loans*

11 (1) Subject to the provisions of paragraph 14 the cash equivalent of the value of the taxable benefit derived in consequence of the grant of a loan to an employee in the circumstances contemplated in paragraph 2 (f) shall be the amount of interest that would have been payable on the amount owing in respect of the loan in respect of the year of assessment if the employee had been obliged to pay interest on such amount during such year at the official rate of interest, less the amount of interest (if any) actually incurred by the employee in respect of the loan in respect of such year.

(2) For employees tax purposes—

(a) a portion of the said cash equivalent shall be deemed to have accrued to the employee—

(i) where interest on the loan in question becomes payable by the employee at regular intervals, on each date during the year of assessment on which interest becomes so payable for a portion of such year;

(ii) where interest on the loan in question becomes payable by the employee at irregular intervals or where interest on the loan is not payable by him, on the last day of each period during the year of assessment in respect of which any cash remuneration becomes payable by the employer to the employee; and

(b) the said portion shall be determined by calculating interest at the official rate of interest for the portion of the year referred to in subparagraph (2) (a) (i) or the period referred to in subparagraph (2) (a) (ii), as the case may be, and deducting therefrom so much of the amount of interest (if any) payable by him on the loan as relates to the said portion of a year or the said period, as the case may be.

(3) With the consent of the Commissioner a different method of calculation of the said cash equivalent or portions thereof may be employed if the Commissioner is satisfied that such method achieves substantially the same result as the methods provided in subparagraphs (1) and (2).

(4) No value shall be placed under this paragraph on the taxable benefit derived in consequence of—

(a) the grant by any employer to his employee of any casual loan or loans if such loan or the aggregate of such loans does not exceed the sum of R3 000 at any relevant time; or

(b) the grant by any employer to his employee of any loan for the purpose of enabling that employee to further his own studies.

(5) Where any amount, being the cash equivalent as determined under the provisions of this paragraph, of the value of a taxable benefit derived by any taxpayer in consequence of a loan granted to him, has been included in such taxpayer's taxable income in any year of assessment, such amount shall for the purposes of section 11 (a) of this Act be deemed to be interest actually incurred by him in that year of assessment in respect of the said loan where such amount, had it been actually incurred as interest, would have been incurred by the taxpayer in the production of his income.

*Subsidies in respect of loan interest under home ownership or housing schemes*

12. Subject to the provisions of paragraph 14 the cash equivalent of the value of the taxable benefit consisting of any subsidy in respect of the amounts of interest or capital repayments referred to in paragraph 2 (g) shall be the amount of such subsidy: Provided that where the rate of interest payable on the loan exceeds the official rate of interest and the subsidy is payable under a home ownership or housing scheme approved by the Commissioner, there shall for the purposes of this paragraph be deducted from the subsidy so much thereof as the Commissioner is satisfied would not have been payable under such scheme had the rate of interest payable on the loan been equal to the official rate of interest.

*Payment of employee's debt or release of employee from obligation to pay a debt*

13. (1) The cash equivalent of the value of the taxable benefit derived by reason of the payment of any amount by an employer in the circumstances contemplated in paragraph 2 (h) shall be an amount equal to such amount and the cash equivalent of the benefit to an employee by reason of his release from the obligation to pay an amount owing, as contemplated in the said paragraph, shall be an amount equal to the amount that was owing.

(2) No value shall be placed under this paragraph on the value of any taxable benefit derived—

(a) by reason of the fact that an employer has borne the cost of a telephone service rendered to his employee at the employee's place of residence, if such service is required to be rendered by the employer because the employee, owing to the nature of his duties, has to be on call during his off-duty hours or the telephone is required for the purpose of services rendered by the employee to his employer at his place of residence; or

(b) by reason of the fact that an employer has paid subscriptions due by his employee to a professional body, if membership of such body is a condition of the employee's employment; or

(c) by reason of the release by an employer of an obligation to pay any amount owing by the employee to the employer, if such release is made after the death of the employee, unless the employer is a private company and the employee was at the time the amount became owing by him or at any time thereafter a shareholder in that company.

## INCOME TAX ACT, 1984

Act No. 121, 1984

*Special deduction in respect of the cash equivalent of certain housing benefits*

14. (1) Subject to the provisions of subparagraph (2), where an employee has under a home ownership or housing scheme approved by the Commissioner for the purposes of this paragraph, derived a taxable benefit in consequence of the granting of a loan or in respect of a subsidy on interest or capital repayments in respect of a loan, and in either case the loan was utilized for the purposes of acquiring, erecting, extending or improving his private residence, the cash equivalent of such benefit, as determined under paragraph 11 or 12, whichever is applicable, shall be reduced—

- (a) by 90 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 28 February 1986; or
- (b) by 75 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 28 February 1987; or
- (c) by 60 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 29 February 1988; or
- (d) by 45 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 28 February 1989; or
- (e) by 30 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 28 February 1990; or
- (f) by 15 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 28 February 1991,

and in such case the amount to be included in the employee's gross income under paragraph (i) of the definition of "gross income" in section 1 of this Act shall be the said cash equivalent as reduced under this paragraph.

(2) The Commissioner shall not approve any home ownership or housing scheme for the purposes of subparagraph (1), unless he is satisfied that the scheme was in operation on 28 March 1984.

*Deduction in respect of the cash equivalent of certain taxable benefits derived during the year of assessment ending on 28 February 1986*

15. (1) Subject to the provisions of subparagraph (2), the cash equivalent determined under paragraph 6, 7, 9 or 11 in respect of any taxable benefit derived by an employee during the year ending on 28 February 1986, shall be reduced by 50 per cent of such cash equivalent and in such case the amount to be included in the employee's gross income under paragraph (i) of the definition of "gross income" in section 1 of this Act shall be the said cash equivalent as reduced under this paragraph.

(2) The provisions of subparagraph (1) shall not apply in respect of—

- (a) the cash equivalent of any taxable benefit referred to in paragraph 14; or
- (b) so much of the cash equivalent of any other taxable benefit derived during the said year as the Commissioner, having regard to the circumstances of the case, is satisfied has been granted to the employee concerned in substitution for remuneration which would normally have been payable to the employee in cash or with the sole or main object of providing the employee with an advantage under this paragraph.

(3) Any decision of the Commissioner on assessment of the liability of the employee concerned for normal tax shall be subject to objection and appeal.

*Benefits granted to relatives of employees and others*

16. (1) For the purposes of this Schedule and of paragraph (i) of the definition of "gross income" in section 1 of this Act, an employee shall be deemed to have been granted a taxable benefit in respect of his employment with an employer if as a benefit or advantage of or by virtue of the employee's employment with the employer or as a reward for services rendered or to be rendered by the employee—

- (a) the employer has granted a benefit or advantage (whether directly or indirectly) to a relative of the employee; or
- (b) anything is done by the employer under any agreement, transaction or arrangement so as to confer any benefit or advantage upon any person other than the employee (whether directly or indirectly),

and such benefit or advantage, if it had been granted directly by the employer to the employee, would have constituted a taxable benefit contemplated in paragraph 2.

(2) The provisions of this Schedule shall apply in relation to the taxable benefit so deemed to have been granted as though the taxable benefit had in fact been granted to the employee.

*Certificates by employers*

17. (1) Every employer shall, within 30 days after the end of any year or period of assessment during which an employee of that employer has enjoyed any taxable benefit granted by the employer, or, in any particular case, within such further period as the Commissioner may approve, deliver to such employee a certificate which shall show the nature of such taxable benefit and the full cash equivalent of the value thereof during such year or period.

(2) The provisions of subparagraph (1) shall also apply in respect of any taxable benefit referred to in paragraph 4 or 16.

(3) Such employer shall within the said period of 30 days or the said further period, deliver to the Commissioner a copy of such certificate.

## INCOME TAX ACT, 1984

Act No. 121, 1984

(4) Any employer who fails to comply with the requirements of this paragraph shall pay to the Commissioner a penalty equal to 10 per cent of the cash equivalent of the value of the taxable benefit in question or where the said cash equivalent has been understated, of the amount by which the cash equivalent was understated: Provided that the Commissioner may, if he is satisfied that such failure was not due to any intention on the part of the employer to evade his obligations under this Act and was not designed to enable the employee concerned to evade such employee's obligations under this Act, remit the whole or any part of the penalty imposed under this subparagraph.

(5) Such penalty shall be assessable upon and recoverable from the employer concerned as though it were a tax chargeable under this Act: Provided that any refusal by the Commissioner to remit any part of such penalty shall be subject to objection and appeal.

(6) The preceding provisions of this paragraph shall not apply where the cash equivalent of such taxable benefit constituted remuneration in the hands of the employee concerned from which employees tax was deducted or withheld by the employer and such cash equivalent has been included in an employees tax certificate delivered to the employee in terms of paragraph 13 of the Fourth Schedule, except to the extent that such cash equivalent was understated in such certificate.

*Annual statements by employers*

18. (1) Every employer shall, not later than 31 May of each year or within such period ending after that date as the Commissioner may approve, furnish to the Commissioner a statement, in such form as the Commissioner may prescribe, as to the taxable benefits enjoyed by the employees of that employer during the period of twelve months ending on the last day of February of that year or certifying that no such benefits were enjoyed during such period.

(2) Every such statement shall, in the case of a company, be certified as correct by a director of such company.

(3) The provisions of this paragraph shall take effect on 1 March 1986.

*Offences*

19. Any person who—

- (a) makes or issues or causes to be made or issued or knowingly possesses or uses or causes to be used any certificate referred to in paragraph 17 (1) which is false; or
- (b) furnishes to the Commissioner a statement referred to in paragraph 18 which is false,

shall be guilty of an offence and liable on conviction to a fine not exceeding R400 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

*Amendments to this Schedule*

20. (1) The Minister of Finance may by notice in the *Gazette* amend—

- (a) the definition of "official rate of interest" in paragraph 1 so as to vary the rate of interest specified therein;
- (b) the provisions of paragraph 5 (3) (b) so as to vary the amount specified therein;
- (c) the provisions of paragraph 7 (4) so as to substitute a different scale for the scale specified therein and so as to vary the amounts specified in the proviso thereto;
- (d) the provisions of paragraph 7 (7) so as to vary the distance in kilometres specified therein;
- (e) the provisions of paragraph 9 (3) (b) so as to vary the amount specified therein;
- (f) the provisions of paragraph 9 (3) (c) so as to vary the quantities specified therein;
- (g) the provisions of paragraph 9 (4) (b) so as to vary the daily amount specified therein;
- (h) the provisions of paragraph 10 (1) (a) so as to vary the amount specified therein;
- (i) the provisions of paragraph 10 (2) (d) so as to vary the amount specified therein; and
- (j) the provisions of paragraph 11 (4) (a) so as to vary the amount specified therein,

in so far as such definition or any such provision may be applicable in respect of a year of assessment commencing after the date of such notice.

(2) Any amendment made in terms of subparagraph (1) which is in force immediately before the date of promulgation of the Act of Parliament fixing rates of normal tax for the said year of assessment shall, unless Parliament otherwise provides, lapse on that date, and in such case it shall as from that date cease to have the force of law.