



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1185.

9 June 1989

No. 1185.

9 Junie 1989

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

No. 70 of 1989: Income Tax Act, 1989.

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

No. 70 van 1989: Inkomstebelastingwet, 1989.

Act No. 70, 1989

INCOME TAX ACT, 1989

**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 1990 and 30 June 1990, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1990; to amend the Income Tax Act, 1962; to provide that certain provisions of the said Income Tax Act, 1962, shall not apply to expenditure incurred in connection with certain films; to provide for the payment of a loan levy; to withdraw certain Government Notices; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)  
(Assented to 1 June 1989.)*

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

### Rates of normal tax

1. The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act No. 58 of 1962), hereinafter referred to as the principal Act, in respect of—

(a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1990 or 30 June 1990; and

(b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1990,

shall be as set forth in the Schedule to this Act.

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

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

(a) by the substitution for paragraph (a) of the definition of “married person” of the following paragraph:

“(a) any male person **[(other than a married woman)]** who during any portion of the period in respect of which any assessment is made, was

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married and not living apart from his spouse in circumstances which **[in the opinion of the Commissioner]** indicate that the separation is likely to be permanent, or any person who during any portion of such period was a widower or widow; or”;

- (b) by the insertion after the definition of “married person” of the following definition: 5

“‘married woman’ does not include a married woman who is living apart from her husband in circumstances which indicate that the separation is likely to be permanent nor, where any husband is at any time married to two or more wives, any wife other than the wife of his longest subsisting marriage;” 10

- (c) by the deletion of the definitions of “new deep level gold mine” and “new gold mine”; and

- (d) by the substitution for the definition of “other deep level gold mine” of the following definition: 15

“‘other deep level gold mine’ means any producing gold mine **[(other than a new deep level gold mine)]** in respect of which the Government Mining Engineer has upon application made to him recognized on or before 22 May 1989 that its principal object is the mining of gold bearing ores at vertical depths exceeding **[seven thousand five hundred feet]** 2 286 metres from the surface and in respect of which he is satisfied, at the time the application is lodged with him, that mining at such depths has commenced or will be commenced within a period of five years;” 20

**Amendment of section 4 of Act 58 of 1962, as amended by section 6 of Act 55 of 1966, section 3 of Act 96 of 1981, section 4 of Act 104 of 1979 and section 3 of Act 85 of 1987** 25

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

- (a) by the insertion of the following subsection after subsection (2):

“(2A) No person shall in any manner publish or make known to any other person (not being an officer carrying out his duties under the control, direction or supervision of the Commissioner) the contents or tenor of any instruction or communication given or made by the Commissioner or any such officer in the performance of his or their duties under this Act for or concerning the examination or investigation of the affairs of any taxpayer or class of taxpayers or the fact that such instruction or communication has been given or made, or any information concerning the tax matters of a taxpayer or class of taxpayers: Provided that the provisions of this subsection shall not be construed— 30

(i) as preventing any taxpayer or his representative who is or may be affected by any such examination, investigation or furnishing of information from publishing or making known information concerning his own tax matters; or 35

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

(iii) as preventing any person from publishing or making known anything which has been published or made known by the taxpayer or his representative as contemplated in paragraph (i) or by the Commissioner or any such officer in the exercise of his duties or powers.”; and 45

- (b) by the substitution for subsection (3) of the following subsection:

“(3) **[Every]** Any person who contravenes the provisions of subsection (1), **[or]** (1A) or (2A) shall be guilty of an offence and liable on conviction to a fine not exceeding R5 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.”. 50

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

4. (1) Section 6 of the principal Act is hereby amended— 5
- (a) by the substitution for subsections (1) and (2) of the following subsections, respectively:
- “(1) There shall be deducted from the normal tax payable by any person other than a company [or a married woman who is liable for the payment of such tax solely by reason of the provisions of paragraph (b) of the proviso to section 7 (2)] an amount equal to the sum of the amounts allowed to the taxpayer by way of rebates under subsections (2) and (3). 10
- (2) In the case of a person other than a company, there shall, subject to the provisions of subsection (4), be allowed by way of a primary rebate— 15
- (a) an amount of [R1 100] R1 250, if such person is a married person; or
- (b) an amount of [R750] R850, if such person is not a married person; or
- (c) an amount of R1 075, if such person is a married woman.”;
- (b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
- “(3) In the case of a natural person other than a married woman, the 20 following amounts, where applicable, shall, subject to the provisions of subsection (4), be allowed by way of secondary rebates, namely—;”;
- (c) by the addition to the proviso to paragraph (a) of subsection (3) of the following paragraph:
- “(cc) any child or stepchild of the taxpayer who has become liable for the 25 payment of normal tax in respect of any year of assessment solely by reason of the provisions of section 5 (1A) shall be deemed for the purposes of this paragraph not to have become liable for the payment of normal tax in respect of such year;”;
- (d) by the substitution in paragraph (f) of subsection (3) for the expression 30 “R380”, wherever it occurs, of the expression “R1 330”.
- (2) Subsection (1) (c) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1989.

**Amendment of section 7 of Act 58 of 1962, as amended by section 5 of Act 90 of 1962, section 8 of Act 88 of 1965, section 9 of Act 55 of 1966, section 7 of Act 94 of 1983, 35 section 2 of Act 30 of 1984 and section 5 of Act 90 of 1988**

5. Section 7 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
- “(2) Any income other than net remuneration as defined in paragraph 11B of the Fourth Schedule received by or accrued to a married woman married with 40 or without community of property [and not living apart from her husband in circumstances which, in the opinion of the Commissioner, indicate that the separation is likely to be permanent] shall be deemed for the purposes of this Act to be income accrued to her husband [Provided that—
- (a) where any husband is at any time married to two or more wives, the 45 provisions of this subsection shall apply only to income received by or accrued to or in favour of the wife of his longest subsisting marriage;
- (b) the provisions of this subsection shall not apply to net remuneration (as defined in paragraph 11B of the Fourth Schedule) received by or accrued to 50 such married woman if the employees tax required to be deducted or withheld from all such net remuneration received by or accrued to her

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during the year of assessment consisted solely of amounts of Standard Income Tax on Employees determinable under the said paragraph].”.

**Insertion of section 8E in Act 58 of 1962**

6. The following section is hereby inserted in the principal Act after section 8D:

**“Dividends on certain shares deemed to be interest in relation to the recipient thereof** 5

**8E. (1) For the purposes of this section—**

**‘affected instrument’ means—**

(a) any redeemable preference share which the relevant company is obliged to redeem in whole or in part within a period of three years from the date of issue thereof, or which may at the option of the holder be redeemed in whole or in part within the said period, or in respect of which the holder has a right of acquisition which may be exercised within the said period; or 10 15

(b) any other share, if—

(i) the holder has a right of acquisition in respect of such share which may be exercised within a period of three years from the date of issue thereof; and

(ii) such share does not rank *pari passu* as regards its participation in dividends with all other ordinary shares in the capital of the relevant company or, where the ordinary shares in such company are divided into two or more classes, with the shares of at least one of such classes, or any dividend payable on such share is to be calculated with reference to any specified rate of interest or is otherwise to be calculated having regard to the amount of capital subscribed for such share; 20 25

**‘effective date’ means 23 March 1989;**

**‘right of acquisition’ means a right which the holder of an affected instrument has to require any party—** 30

(a) to acquire such affected instrument from such holder; or

(b) to procure, facilitate or assist with the redemption in whole or in part of such affected instrument or the repayment in whole or in part of the capital subscribed for such affected instrument or the conversion of such affected instrument into any other share which is redeemable in whole or in part within a period of three years from the date of issue thereof. 35

(2) Subject to the provisions of subsections (3) and (4), any dividend declared by a company on an affected instrument shall for the purposes of this Act be deemed in relation to the recipient thereof only to be an amount of interest received by him from a source within the Republic. 40

(3) The provisions of subsection (2) shall apply—

(a) to any dividend declared on an affected instrument issued on or after the effective date; and 45

(b) in the case of any affected instrument issued before the effective date, to any dividend declared after the earliest date (being a date falling on or after the effective date) upon which, having regard to the terms attaching to such instrument as at the effective date or to the terms as at the effective date of any agreement relating to the holding of such instrument (including an agreement which confers a right of acquisition), such instrument— 50

(i) became or would have become redeemable or repayable;

(ii) could at the instance of the holder have been redeemed or repaid; 55

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- (iii) could at the instance of the holder have been acquired by any party by reason of the exercise of a right of acquisition; or
- (iv) being an instrument which may by the exercise of a right of acquisition be converted into any other share, could at the instance of the holder have been so converted and such other share could at the instance of the holder have been redeemed, other than any such dividend which the relevant company was in accordance with the said terms required to declare before the said earliest date. 5
- (4) The provisions of subsection (2) shall not apply— 10
- (a) where the holder of any affected instrument is for the purposes of any agreement concluded under section 108 or 109 between the Government of the Republic and the government of any other state a resident of such other state, if the rate or amount of tax which may be levied under this Act on any dividend accruing to such holder is subject to a limitation imposed under such agreement; and 15
- (b) to any dividend which, if such provisions were to be applied, would not be included in the taxable income of the recipient.”

**Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987 and section 7 of Act 90 of 1988** 20 25

7. (1) Section 10 of the principal Act is hereby amended by the substitution for paragraph (b) of the second proviso to paragraph (h) of subsection (1) of the following paragraph: 30

“(b) a company which is incorporated, registered, managed or controlled in any neighbouring country unless the Commissioner is satisfied that such stock or security was acquired by it before that date and that on both that date and the date of receipt or accrual of such interest one or more natural persons, not ordinarily resident in the Republic, held for their own benefit all the issued shares of such company;” 35

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 November 1987.

**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, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 10 of Act 85 of 1987 and section 8 of Act 90 of 1988** 40 45

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

(a) by the substitution in paragraph (bB) for the words preceding the proviso of the following words: 50

“(bB) any finance charge [(other than any finance charge in respect of which any deduction or allowance has been or may be granted to the taxpayer under this Act in any year of assessment)] incurred by the taxpayer in

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respect of the purchase or contract price owing under an agreement for the acquisition, installation, erection or construction of any machinery, plant, aircraft, implement, utensil, article or livestock used by him for the purposes of his trade, including (but not limited to) mining, shipping or farming, which deduction shall be in lieu of any deduction or allowance in respect of such finance charge which may be allowable under any other provision of this Act.”; and

(b) by the substitution for paragraph (vii) of the proviso to paragraph (n) of the following paragraph:

“(vii) where the taxpayer is a married woman, the amounts of R3 500, R1 750 and R1 800 contemplated in items (B) and (C) of subparagraph (aa) and subparagraph (bb), respectively, shall be construed as a sum equal to one-half of the relevant amount.”.

(2) Subsection (1) (a) shall be deemed to have come into operation on 22 May 1989 and shall apply to any finance charge incurred in respect of any machinery, plant, aircraft, implement, utensil, article or livestock acquired on or after that date.

Amendment of section 11bis 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, section 11 of Act 94 of 1983, section 12 of Act 121 of 1984, section 7 of Act 96 of 1985 and section 9 of Act 90 of 1988

9. Section 11bis of the principal Act is hereby amended by the insertion after subsection (3A) of the following subsection:

“(3B) (a) For the purposes of this subsection, ‘obligatory marketing expenditure’ means marketing expenditure incurred by an exporter in pursuance of an obligation imposed upon him under an agreement formally and finally concluded by every party to the agreement not later than 9 March 1989, if any other party to that agreement would be entitled to claim damages, compensation or similar relief, whether in terms of the agreement or by way of action in a court of law, were the exporter to take steps to prevent the incurral by him of such marketing expenditure.

(b) Notwithstanding the provisions of subsection (3), the marketing allowance determined in relation to marketing expenditure (other than obligatory marketing expenditure) incurred on or after 9 March 1989 shall not exceed 20 per cent of the export turnover which on or after that date has accrued to the exporter during the year of assessment.

(c) Any amount of marketing allowance determined under subsection (3) in relation to any exporter in any year of assessment which has been disallowed under the provisions of paragraph (b) shall be carried forward and be deemed to be an amount of marketing allowance determined under the said subsection in relation to such exporter in the succeeding year of assessment.”.

**Insertion of section 16A in Act 58 of 1962**

10. The following section is hereby inserted in the principal Act after section 16:

**“Deduction of expenses incurred by medical practitioners and dentists on courses or congresses outside the Republic**

**16A.** (1) Notwithstanding the provisions of section 23 (a) and (b), there shall be allowed as a deduction (which deduction shall be in lieu of any deduction of such costs which may be allowable under any other provision of this Act) from the income of any person who is a medical

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practitioner or dentist, so much as the South African Medical and Dental Council with the concurrence of the Commissioner may permit of any expenditure incurred by such person in the circumstances contemplated in paragraph (b), if that Council certifies in such form as the Commissioner may require that such person—

(a) is registered as a medical practitioner or dentist in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974);

(b) has incurred such expenditure during the year of assessment in respect of the attendance by him of any course or congress held in a country other than the Republic or any country the territory of which formerly formed part of the Republic, and that such course or congress—

(i) has been approved by such Council and will serve as a continuous training programme which is aimed at keeping such person abreast of any development with relation to his profession and which does not lead to the obtaining of a recognized academic qualification;

(ii) does not last longer than six consecutive weeks; and

(iii) is directly connected with such person's profession.

(2) The provisions of subsection (1) shall be deemed to have come into operation on 1 March 1989 and shall apply to any expenditure incurred in respect of courses or congresses which commenced on or after that date.”.

**Amendment of section 18 of Act 58 of 1962, as inserted by section 12 of Act 104 of 1980 and amended by section 15 of Act 96 of 1981, section 15 of Act 121 of 1984, section 11 of Act 96 of 1985 and section 14 of Act 90 of 1988**

11. Section 18 of the principal Act is hereby amended by the substitution for the second proviso to subsection (1) of the following proviso:

“Provided further that where **[any] the taxpayer is a married woman [is a taxpayer solely by reason of the provisions of paragraph (b) of the proviso to section 7 (2)]**, any such expenditure paid by such married woman shall be deemed for the purposes of this section to have been paid by her husband.”.

**Substitution of section 23A of Act 58 of 1962, as inserted by section 21 of Act 121 of 1984 and amended by section 13 of Act 96 of 1985 and section 15 of Act 65 of 1986**

12. The following section is hereby substituted for section 23A of the principal Act:

**“Limitation of allowances granted to lessors of certain assets**

**23A. (1) For the purposes of this section—**

- (i) ‘affected asset’ means—
- (a) any machinery, plant or aircraft which has been let and in respect of which the lessor is or was entitled to an allowance under section 12 or 14*bis*, whether in the current or a previous year of assessment, other than any such machinery, plant or aircraft let by him under an agreement of lease formally and finally signed by every party to the agreement before 15 March 1984; or
- (b) any machinery, plant, implement, utensil or article which has been let and in respect of which the lessor is or was entitled to an allowance under section 12B, whether in the current or a previous year of assessment, other than any such machinery, plant, implement, utensil or article let by him under an agreement of lease formally and finally signed by every party to the agreement before 19 November 1988,
- but excluding any such asset let by the lessor under an operating lease or any such asset which was during the year of assessment mainly used by him in the course of any trade carried on by him, other than the letting of any such asset; (ii)



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- (ii) 'operating lease' means a lease of movable property concluded by a lessor in the ordinary course of a business (not being the business of a banker or financier) of letting such property, if—
- (a) such property may be hired by members of the general public for a period of less than one month; 5
  - (b) the cost of maintaining such property and of carrying out repairs thereto required in consequence of normal wear and tear, is borne by the lessor; and
  - (c) subject to any claim that the lessor may have against the lessee by reason of the lessee's failure to take proper care of the property, the risk of destruction or loss of or other disadvantage to such property is not assumed by the lessee; 10
- (i)
- (iii) 'rental income' means income derived by way of rent from the letting of movable property or any machinery or plant in respect of which an allowance has been granted to the lessor under section 12 or 12B, whether in the current or any previous year of assessment. 15
- (iii)
- (2) Notwithstanding the provisions of sections 11 (e) and (o), 12, 12B and 14bis, the sum of the deductions which may be allowed to any taxpayer in any year of assessment under those provisions in respect of any affected assets let by him shall not exceed the taxable income (as determined before making the said deductions) derived by him during such year from rental income. 20
- (3) For the purposes of subsection (2), where the taxpayer is entitled to any deduction which relates to rental income and other income derived by him, an appropriate portion of such deduction shall be taken into account in the determination of the taxable income derived by him from rental income. 25
- (4) Any deduction which is disallowed under the provisions of subsection (2) shall be carried forward to the succeeding year of assessment and shall, subject to the provisions of this section as applicable in relation to that year, be deemed to be a deduction to which the taxpayer is entitled in that year." 30

**Amendment of section 28 of Act 58 of 1962, as amended by section 17 of Act 90 of 1962, section 22 of Act 55 of 1966, section 24 of Act 89 of 1969, section 21 of Act 88 of 1971, section 19 of Act 65 of 1973, section 19 of Act 91 of 1982, section 22 of Act 94 of 1983, section 17 of Act 65 of 1986 and section 23 of Act 90 of 1988** 35

13. (1) Section 28 of the principal Act is hereby amended— 40
- (a) by the substitution in subsection (1) for the words preceding paragraph (b) of the following words:
- “(1) Notwithstanding anything to the contrary contained in this Act the taxable income derived from the carrying on of long-term insurance business by any taxpayer who carries on such business in the Republic (whether on mutual principles or otherwise), shall be **[deemed to be an amount equivalent to 70 per cent of]** the sum of— 45
- (a) an amount determined in accordance with the formula—
- $$T = I - E$$
- in which formula— 50
- (A) 'T' represents the amount of taxable income determinable under this paragraph;
- (B) 'I' represents the gross amounts which the Commissioner is satisfied have been derived by the taxpayer during the year of

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assessment from the investment (including the letting of any property) of so much of his funds as are invested within or outside the Republic in respect of any long-term insurance business carried on by him in the Republic and of so much of his funds as are invested within the Republic in respect of any long-term insurance business carried on by him outside the Republic, but excluding one-third of any such amounts which have been derived by way of dividends and—

- (i) amounts proved to the satisfaction of the Commissioner to have been derived by the taxpayer from the investment of funds attributable to any long-term insurance business carried on by him in the Republic with any pension fund or retirement annuity fund or to any long-term insurance business carried on by the taxpayer in the territory or in any country the territory of which formerly formed part of the Republic with any fund the receipts and accruals of which are exempt from tax under the provisions of section 10 (1) (dA);
- (ii) amounts proved to the satisfaction of the Commissioner to have been derived by the taxpayer from the investment of funds attributable to individual annuity contracts entered into by him in respect of which annuities are being paid and which are not connected with any business carried on by him in the Republic with any fund referred to in **[subparagraph] item (i)**;
- (iii) interest on the loan portion of the normal tax imposed under any Income Tax Act; and
- (iv) amounts proved to the satisfaction of the Commissioner to have been derived by the taxpayer from the investment of funds attributable to any long-term insurance business carried on by the taxpayer in any country the territory of which formerly formed part of the Republic, if—
- (aa) the profit or income derived from carrying on such business, as determined under the taxation law of such country, is subject to a tax on income imposed by such country and is not relieved from such tax under any agreement in force between such country and the Republic for the avoidance of double taxation; and
- (bb) no tax on income is imposed by such country on amounts derived by the taxpayer from the investment of funds relating to long-term insurance business carried on by him in the Republic; and
- (C) 'E' represents an amount equal to 55 per cent of so much of the total of—**
- (i) the annual average of the expenditure proved to the satisfaction of the Commissioner to have been incurred by the taxpayer by way of selling expenses during the current and the four preceding years of assessment; and
- (ii) any other expenditure proved to the satisfaction of the Commissioner to have been incurred by the taxpayer during the year of assessment in the carrying on of such business,
- (other than any such expenditure which relates to amounts contemplated in items (i) to (iv) of subparagraph (B)) as remains after deducting from the said total an amount which bears to the said total the same ratio as so much of any dividends which have been excluded as contemplated in the foregoing provisions of this paragraph bears to the sum of the gross amounts contemplated in this paragraph (before the deduction of the said dividends) and paragraph (b); and”;
- and

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

“(1B) Where, in any year of assessment, the amount represented by symbol ‘E’ in the formula in subsection (1) (a) exceeds the amount represented by symbol ‘I’ in that formula, the provisions of section 20 shall apply to such excess as though it were an assessed loss determined under that section.”

(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 April 1989.

**Amendment of section 36 of Act 58 of 1962, as amended by section 12 of Act 72 of 1963, section 15 of Act 90 of 1964, section 20 of Act 88 of 1965, section 23 of Act 55 of 1966, section 16 of Act 95 of 1967, section 14 of Act 76 of 1968, section 26 of Act 89 of 1969, section 21 of Act 65 of 1973, section 28 of Act 85 of 1974, section 20 of Act 104 of 1980, section 25 of Act 94 of 1983 and section 16 of Act 96 of 1985**

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

(a) by the substitution in subsection (11) for paragraph (a) of the definition of “capital expenditure” of the following paragraph:

“(a) expenditure on shaft sinking and mine equipment (other than expenditure referred to in paragraph (d)) and, in the case of a natural oil mine, the cost of laying pipelines from the mining block to the marine terminal or the local refinery, as the case may be; and”;

(b) by the substitution for paragraph (c) of the said definition of the following paragraph:

“(c) in the case of any post-1973 gold mine **[any post-1966 gold mine, any new gold mine, any new deep level gold mine]**, any other deep level gold mine or any natural oil mine, an amount calculated as nearly as may be in the manner prescribed for the calculation of the capital allowance provided for in section 26 (2) of the Mining Rights Act, 1967 (Act No. 20 of 1967), at the rate of 10 per cent per annum in the case of a post-1973 gold mine or any other deep level gold mine **[or eight per cent per annum in the case of any post-1966 gold mine]** or six per cent per annum in the case of **[any new gold mine or]** any natural oil mine **[or five per cent per annum in the case of any new deep level gold mine]** on the amount of the unredeemed balance of the aggregate of—

(i) the expenditure referred to in paragraphs (a) and (b), excluding any interest and other charges on loans referred to in paragraph (b), if the mine is a post-1973 gold mine **[a post-1966 gold mine, a new gold mine, a new deep level gold mine]** or a natural oil mine, or the expenditure referred to in paragraph (a), if the mine is any other deep level gold mine;

(ii) the amount (if any) allowed to rank as capital expenditure in terms of section 37;

(iii) any expenditure incurred during any period of production on development on any reef on which at the date of such development stoping has not yet commenced; **[and]**

(iv) the amount calculated in terms of this paragraph up to the end of the year of assessment immediately preceding the year of assessment under charge; and

(v) the instalments of expenditure referred to in paragraph (d), if the mine is a post-1973 gold mine **[a post-1966 gold mine, a new gold mine, a new deep level gold mine]** or a natural oil mine, for the period from the end of the month in which the expenditure is actually incurred **[or is in terms of proviso (dd) to this paragraph deemed to be incurred]** up to the end of the year of assessment immediately preceding the first year of assessment in respect of which the determination of the taxable income derived from the working of such mine does not result in an assessed loss or nil, and, if the mine is any other deep level gold mine, for a period of 10 years from the commencement of the year of assessment during which the mine is recognized as any other deep level gold mine: Provided that—

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- (aa) the amount under this paragraph shall not be calculated for any period during which mining operations are not carried on in accordance with the terms of the relevant lease;
- (bb) notwithstanding anything to the contrary in any law contained, the amount under this paragraph shall not be taken into account for the purpose of calculating the capital allowance provided for in section 26 (2) of the Mining Rights Act, 1967, or for the purpose of determining the profits of which a share is payable to the State in terms of any mining lease;
- (cc) the provisions of section 26 (3) and (4) of the Mining Rights Act, 1967, shall, in so far as they can be applied, apply *mutatis mutandis* for the purpose of determining the unredeemed balance of the aggregate of the amounts referred to in subparagraphs (i) to [(iv)] (v), inclusive, of this paragraph;
- [(dd) for the purposes of subsections (3) and (3)bis of this section any amount calculated under this paragraph in respect of any year of assessment shall be deemed to be capital expenditure incurred on the last day of such year of assessment;**
- (ee) the amount under this paragraph in respect of any new gold mine shall not be calculated in respect of any period occurring before 20 March 1963;
- (ff) in the case of any such mine which becomes an assisted gold mine, no amount shall be calculated under this paragraph in respect of any year of assessment during which the mine is an assisted gold mine;]
- (gg) notwithstanding anything to the contrary in this paragraph, the instalment of expenditure which is in terms of paragraph (d) deemed to be payable during a year of assessment shall qualify for the calculation of the amount under this paragraph as from the first day of the year of assessment following the said year of assessment;
- (hh) where a change of ownership of a mining property occurs and the assets passing by such change of ownership include any asset in respect of which the provisions of paragraph (d) are applicable, so much of the effective value as relates to the asset so included shall qualify for the calculation of the amount under this paragraph as from the first day of the year of assessment following the year of assessment during which the change of ownership occurred; and”;
- and
- (c) by the addition to the said definition of the following paragraph:
- “(d) expenditure (excluding the cost of land, surface rights and servitudes) the payment of which has become due on or after 1 July 1989 in respect of the acquisition, erection, construction, improvement or laying out of—
- (i) housing for residential occupation by the taxpayer’s employees (other than housing intended for sale) and furniture for such housing;
- (ii) infrastructure in respect of residential areas developed for sale to the taxpayer’s employees;
- (iii) any hospital, school, shop or similar amenity (including furniture and equipment) owned and operated by the taxpayer mainly for the use of his employees or any garage or carport for any motor vehicle referred to in subparagraph (vi);
- (iv) recreational buildings and facilities owned and operated by the taxpayer mainly for the use of his employees;
- (v) any railway line or system having a similar function for the transport of minerals from the mine to the nearest public transport system or outlet;
- (vi) motor vehicles intended for the private or partly private use of the taxpayer’s employees;

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Provided that—

- (aa) such expenditure shall for the purposes of this definition be deemed to be payable in ten successive equal annual instalments or, where subparagraph (vi) is applicable, five successive equal annual instalments, the first of which shall be deemed to be payable on the date on which payment of the relevant expenditure became due and the succeeding instalments on the appropriate anniversaries of that date, but if any such anniversary falls on a date after the asset to which such expenditure relates has been sold, disposed of or scrapped by the taxpayer, the instalment of such expenditure so deemed to be payable on such anniversary shall be disregarded; 5
- (bb) where it is shown to the satisfaction of the Commissioner that the life of the relevant mine will extend over a period which is shorter than the period during which the said instalments are so deemed to be payable, the Commissioner may reduce the number of instalments relating to the expenditure not yet redeemed and the amount of each such instalment shall be determined by dividing the amount of the expenditure remaining to be redeemed by the number of years in the remainder of the life of the mine; 15
- (cc) where any asset the expenditure in respect of which has qualified as capital expenditure under this paragraph is sold, disposed of or scrapped by the taxpayer during any year of assessment, an allowance shall be made in respect of that asset, equal to the amount by which the full amount of the expenditure incurred by the taxpayer in respect of that asset, as contemplated in this paragraph, exceeds the total amount of all the instalments of such expenditure which are deemed by paragraph (aa) of this proviso to be payable before the asset was sold, disposed of or scrapped, and in such case the amount of the said allowance shall be deemed to be the final instalment of the said expenditure made on the date on which the asset was sold, disposed of or scrapped;” 20 25 30

**Amendment of section 81 of Act 58 of 1962, as amended by section 27 of Act 69 of 1975**

15. Section 81 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words “twenty-one” of the expression “30”; and 35
- (b) by the addition to subsection (2) of the following proviso:  
“Provided that any decision of the Commissioner in the exercise of his discretion under this subsection shall be subject to objection and appeal.”

**Amendment of section 83 of Act 58 of 1962, as amended by section 21 of Act 90 of 1964, section 22 of Act 103 of 1976, section 15 of Act 104 of 1979 and section 19 of Act 96 of 1985**

16. Section 83 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

- “(7) (a) Every notice of appeal shall be in writing and shall be lodged with the Commissioner within a period of 30 days after the date of the notice mentioned in section 81 (4) or, if the Commissioner has in terms of the provisions of section 106 (4) withdrawn the last-mentioned notice and sent it anew, the date of the notice so sent anew [and no such notice of appeal shall be of any force or effect whatsoever unless it is lodged within the said period]. 45 50
- (b) No notice of appeal shall be of any force or effect whatsoever which is not delivered at the Commissioner’s office or posted to him in sufficient time to reach him on or before the last day appointed for lodging appeals, unless the Commissioner is satisfied that reasonable grounds exist for the delay in 55

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lodging the notice of appeal: Provided that any decision of the Commissioner in the exercise of his discretion under this paragraph shall be subject to objection and appeal.

- (c) At any such appeal the person who made the objection shall be limited to the grounds stated in his notice of objection, unless the Commissioner agrees to the amendment of such grounds: Provided that the special court may, on good cause shown at the hearing of the appeal, permit such person to amend his notice of objection within a reasonable period, subject to such conditions with regard to postponement and costs as the court may deem fit.”.

**Substitution of section 88 of Act 58 of 1962, as substituted by section 30 of Act 121 of 1984**

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

“88. The obligation to pay and the right to receive and recover any tax chargeable under this Act shall not, unless the Commissioner so directs, be suspended by any appeal or pending the decision of a court of law under section 86 or 86A, but if any assessment is altered on appeal or in conformity with any such decision or a decision by the Commissioner to concede the appeal to the special court or such court of law 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 calculated from the date proved to the satisfaction of the Commissioner to be the date on which such excess was received and amounts short-paid being recoverable with interest calculated as provided in section 89.”.

(2) Where, prior to the commencement of subsection (1), the Commissioner has in accordance with generally prevailing practice paid any interest to any taxpayer in consequence of an appeal conceded by the Commissioner, such interest shall, notwithstanding anything to the contrary contained in section 88 of the principal Act prior to the amendment thereof by subsection (1), be deemed to have been properly payable under the provisions of that section.

**Amendment of section 89quat of Act 58 of 1962, as inserted by section 34 of Act 121 of 1984 and substituted by section 22 of Act 65 of 1986**

18. (1) Section 89quat of the principal Act is hereby amended by the addition to subsection (4) of the following proviso:

“Provided that where any interest is payable to the taxpayer on any amount in respect of any period in terms of the provisions of section 88, no interest shall be payable to the taxpayer in terms of the provisions of this subsection in respect of the said amount and period.”.

(2) The amendment effected by subsection (1) shall be deemed to have come into operation—

- (a) in relation to any company, with effect from the commencement of years of assessment ended or ending on or after 28 February 1986; and  
 (b) in relation to any person other than a company, with effect from the commencement of years of assessment ended or ending on or after 28 February 1987.

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

19. Section 103 of the principal Act is hereby amended by the addition of the following subsection:

“(5) (a) Where under any transaction, operation or scheme any taxpayer has ceded his right to receive any amount of interest in exchange for any

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amount of dividends, and in consequence of such cession the taxpayer's liability for normal tax, as determined before applying the provisions of this subsection, has been reduced or extinguished, the Commissioner shall determine the liability for normal tax of the taxpayer and any other party to the transaction, operation or scheme as if such cession had not been effected. 5

- (b) Paragraph (a) shall be deemed to have come into operation on 22 December 1988 and shall apply—
- (i) to any transaction, operation or scheme concluded on or after that date; and 10
  - (ii) to any transaction, operation or scheme concluded before that date, if the taxpayer is at liberty to terminate the operation of such transaction, operation or scheme without incurring liability for damages, compensation or similar relief.” 10

**Amendment of paragraph 1 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974 and section 6 of Act 30 of 1984** 15

20. Paragraph 1 of the Fourth Schedule to the principal Act is hereby amended by the substitution for paragraph (vi) of the definition of “remuneration” of the following paragraph: 20

- “(vi) any amount paid or payable to any employee wholly in reimbursement of expenditure actually incurred by such employee in the course of his employment [including such payments made to meet expenditure as are referred to in section *twenty-nine* of this Act];” 25

**Amendment of paragraph 2 of 4th Schedule to Act 58 of 1962, as amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974, section 28 of Act 113 of 1977 and section 40 of Act 90 of 1988**

21. Paragraph 2 of the Fourth Schedule to the principal Act is hereby amended by the deletion of the proviso to subparagraph (4). 30

**Amendment of paragraph 11B of 4th Schedule to Act 58 of 1962, as inserted by section 41 of Act 90 of 1988**

22. Paragraph 11B of the Fourth Schedule to the principal Act is hereby amended—

- (a) by the addition to the definition of “annual equivalent” of the following proviso: 35

“Provided that where the Commissioner has in relation to the employment of any employee issued a directive as contemplated in paragraph (c) of the definition of ‘standard employment’, he may further direct that the annual equivalent of the net remuneration derived by such employee from such standard employment be determined in such manner as the Commissioner may consider reasonable in the circumstances.”; 40

- (b) by the substitution for the definition of “annual tax” of the following definition: 45

“‘annual tax’, in relation to any amount of net remuneration, means [—

- (a) where the employee is a married woman, an amount calculated at the rate of 25 per cent of so much of the annual equivalent of such net remuneration as does not exceed the sum of R20 000, less a deduction of R1 075; or 50

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- (b) **in any other case**] an amount equal to the normal tax payable in accordance with the rates of tax fixed in respect of the relevant year of assessment under section 5 (2) of this Act or, if such rates have not been fixed on the date upon which any amount of annual tax is required to be determined, the rates of tax so fixed in respect of the preceding year of assessment, in respect of a taxable income equal to **[so much of the annual equivalent of]** such net remuneration **[as does not exceed the sum of R12 000]**, less a deduction equal to the sum of the rebates to which the employee would have been entitled under section 6 (2) and (3) had the relevant year of assessment ended on the last day of the relevant tax period;”;
- (c) by the deletion of paragraph (d) of the definition of “net remuneration”;
- (d) by the substitution for paragraph (f) of the definition of “net remuneration” of the following paragraph:
- “(f) any remuneration not derived from standard employment or by way of **[any annuity other than]** an annuity payable by a pension fund or retirement annuity fund;”;
- (e) by the insertion after the definition of “net remuneration” of the following definition:
- “‘standard employment’ means—
- (a) any employment in terms of which an employee is required to render service to any one employer for a period of at least 22 hours in every full week falling within the period of such employment: Provided that for the purposes of this paragraph no regard shall be had to—
- (i) periods of temporary absence of an employee due to leave or exceptional circumstances; or
- (ii) any temporary reduction in working hours imposed by the employer; or
- (b) any employment in terms of which an employee is not permitted by the employer to render service to any other employer; or
- (c) where any employer conducts his business in such manner that employees are regularly or frequently employed for such periods as may be required by the employer, the employment of any such employee if the Commissioner, after consultation with the employer or with any body or association representing any group of employers, so directs.”;
- (f) by the substitution for the definition of “tax period” of the following definition:
- “‘tax period’, in relation to any employee, means any unbroken period in the year of assessment during which the employee was employed in the Republic in standard employment by any one employer or during which **[remuneration]** any annuity was paid or became payable to him by any one employer or, where the Commissioner has in relation to the employment of any employee issued a directive as contemplated in paragraph (c) of the definition of ‘standard employment’, such period as the Commissioner considers appropriate in the circumstances:
- Provided that—
- (a) where on any date—
- [(a)]** (i) a woman marries, a tax period shall in relation to such woman be deemed to have ended on the day preceding that date; and
- [(b)]** (ii) a married woman is widowed or divorced or commences to live apart from her husband in circumstances which indicate that the separation is likely to be permanent, a tax period shall be deemed to have ended on that date;
- (b) where any employer has for the purposes of paragraph 15 applied for separate registration of branches of his undertaking, each such branch shall for the purposes of this definition be deemed to be a separate employer;”;



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- (g) by the substitution for subparagraph (2) of the following subparagraph:  
 “(2) Notwithstanding the provisions of paragraphs 9 and 10, the amount of employees tax required to be deducted or withheld from any net remuneration paid or payable by an employer to any employee during any tax period shall—
- (a) **[to the extent that the annual equivalent of all such net remuneration so paid or payable during the tax period does not exceed R20 000] in the case of a married woman [or R12 000 in any other case]; or**
- (b) in any other case, to the extent that the annual equivalent of all such net remuneration so paid or payable during the tax period does not exceed R20 000, or where such net remuneration includes any annual payment (being an amount of net remuneration which in terms of the employee’s service conditions or in accordance with the employer’s practice is payable to the employee once annually or which is determined without reference to any period) to the extent that the sum of all such annual payments and the annual equivalent of all other net remuneration so paid or payable during the tax period does not exceed R20 000 [in the case of a married woman or R12 000 in any other case],
- be an amount (to be known as Standard Income Tax on Employees) which shall, subject to the provisions of **[subparagraph] subparagraphs (2A) and (4)**, be finally determined by the employer at the end of the tax period under the provisions of subparagraph (3).”;
- (h) by the insertion after subparagraph (2) of the following subparagraph:  
 “(2A) Where at the end of a tax period the total amount of employees tax which has been deducted or withheld by an employer from the net remuneration paid or payable by him to an employee during such tax period exceeds or falls short of the amount of Standard Income Tax on Employees determinable under subparagraph (3) in relation to such net remuneration by an amount not exceeding R5, the said total amount of employees tax shall at the option of the employer be deemed to be the amount of Standard Income Tax on Employees determinable in relation to such net remuneration under the said subparagraph.”;
- (i) by the substitution for item (a) of subparagraph (3) of the following item:  
 “(a) in the case of any net remuneration other than an annual payment referred to in subparagraph (2) [(a)] (b), be an amount equal to the annual tax determined in relation to the annual equivalent of such net remuneration (or, in the case of an employee other than a married woman, so much of such annual equivalent as does not exceed R20 000) divided by the ratio which a full year bears to the tax period; and”;
- (j) by the substitution for subitem (ii) of item (b) of subparagraph (3) of the following subitem:  
 “(ii) ‘T1’ represents the annual tax determined in relation to an amount (not exceeding R20 000 in the case of a person other than a married woman [or R12 000 in any other case]) equal to the sum of all such annual payments and the annual equivalent of all other net remuneration paid or payable by the employer to the employee during the tax period;”;
- (k) by the substitution for item (a) of subparagraph (5) of the following item:  
 “(a) Where at the end of any tax period the [annual equivalent of the] employees tax required to be deducted or withheld from any net remuneration paid or payable by an employer to an employee during the tax period [or, where such net remuneration includes any annual payment referred to in subparagraph (2) (b), the sum of all such annual payments and such annual equivalent, does not exceed R20 000 in the case of a married woman or R12 000 in any other case] consists solely

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of an amount of Standard Income Tax on Employees and the total amount of employees tax actually deducted or withheld by the employer from such net remuneration exceeds [the] such Standard Income Tax on Employees required to be deducted or withheld from such net remuneration, the employer shall repay to the employee the amount of such excess.”; and

(l) by the deletion of subparagraph (9).

**Amendment of paragraph 18 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 28 of Act 90 of 1964, section 42 of Act 88 of 1971, section 49 of Act 85 of 1974, section 19 of Act 104 of 1979, section 26 of Act 65 of 1986 and section 9 of Act 108 of 1986**

23. Paragraph 18 of the Fourth Schedule to the principal Act is hereby amended by the substitution in subitem (i) of item (d) of subparagraph (1) for the expression “R20 000” of the expression “R25 000”.

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

24. (1) Paragraph 1 of the Seventh Schedule to the principal Act is hereby amended by the substitution in the definition of “official rate of interest” for the expression “13 per cent” of the expression “16 per cent”.

(2) Subsection (1) shall come into operation on 1 June 1989.

**Amendment of paragraph 7 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 30 of Act 96 of 1985, section 10 of Act 108 of 1986, section 44 of Act 90 of 1988 and Government Notice No. R.715 of 14 April 1989**

25. (1) Paragraph 7 of the Seventh Schedule to the principal Act is hereby amended by the substitution for item (a) of subparagraph (4) of the following item:  
“(a) as respects each such month, be an amount determined in accordance with the following scale, having regard to the determined value of such vehicle and the engine capacity thereof:

Determined value	Value of private use			
	Engine capacity			
	0-1600cc	1601-2000cc	2001-3000cc	Over 3000cc
0-R 20 000	R 173	R 212	R 252	R 291
R 20 001-R 25 000	199	238	278	317
R 25 001-R 30 000	225	265	305	344
R 30 001-R 35 000	252	291	331	370
R 35 001-R 40 000	278	317	358	397
R 40 001-R 45 000	305	344	384	423
R 45 001-R 50 000	331	370	411	450
R 50 001-R 60 000	384	423	463	503
R 60 001-R 70 000	437	476	516	555
R 70 001-R 80 000	490	529	569	608
R 80 001-R 90 000	543	582	622	661
R 90 001-R100 000	596	635	675	714
R100 001-R110 000	649	688	728	767
R110 001-R120 000	702	740	781	820
R120 001-R130 000	754	794	834	873
R130 001-R140 000	807	846	887	926
R140 001-R150 000	860	899	940	979

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Provided that—

- (i) where the determined value of such vehicle exceeds the sum of R150 000, the value of private use for each such month shall be the amount determined for a vehicle with a determined value of R150 000 plus an amount of R53 for each completed amount of R10 000 by which such determined value exceeds R150 000; and 5
- (ii) where the employee—
- (aa) bears the cost of all fuel used for the purposes of the private use of the vehicle (including travelling between the employee's place of residence and his place of employment), the value of private use for each such month as determined in accordance with the foregoing provisions of this subparagraph shall be reduced by an amount of **[R58]** R67; 10
- (bb) 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 **[R35]** R41; and". 15

(2) Subsection (1) shall come into operation on 1 June 1989.

**Repeal of paragraph 18 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984** 20

26. Paragraph 18 of the Seventh Schedule to the principal Act is hereby repealed with effect from 1 March 1989.

**Substitution of paragraph 19 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984** 25

27. The following paragraph is hereby substituted for paragraph 19 of the Seventh Schedule to the principal Act:

"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 30
- (b) furnishes to the Commissioner a statement referred to in paragraph 18 which is false], 35

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."

**Certain provisions of the principal Act not applicable to expenditure incurred in connection with films**

28. The provisions of sections 11*bis* and 24F of the principal Act shall not apply to expenditure incurred by any taxpayer in connection with any film (as defined in subsection (1) of the said section 24F) if the taxpayer has in respect of such film qualified for any subsidy payable in terms of the A-scheme as set out in the Head: Film Industry's Circular N101/3/1 dated 15 May 1989. 40

**Loan levy on companies**

29. (1) In this section, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act bears the meaning so assigned thereto, and "latest assessment", in relation to any company, means the latest assessment of normal tax payable by such company in respect of its latest year of assessment, which has been issued by the Commissioner and posted to the company not later than 15 July 1989. 50

(2) Subject to the provisions of subsection (4), there shall be paid for the benefit of the State Revenue Fund by every company which has become liable for the payment of normal tax in terms of its latest assessment, a levy (referred to in this section as the loan levy) calculated as provided in subsection (3).

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(3) The loan levy shall be calculated at the rate of 10 per cent of every completed amount of R1 000 of normal tax payable by a company in terms of its latest assessment, but excluding—

(a) so much of any such normal tax as was imposed by way of a surcharge; and

(b) any additional tax imposed under section 76 of the principal Act: 5

Provided that the loan levy shall not be payable by any company if the amount thereof for which such company is liable is less than R5 000.

(4) Where the Commissioner is satisfied that the normal tax payable in terms of the latest assessment of any company is in consequence of an error in such assessment greater than the normal tax properly payable by the company in respect of the relevant year of assessment, or where any company has lodged objection or appeal against its latest assessment and the Commissioner is satisfied that the company has a reasonable prospect of succeeding with such objection or appeal, the Commissioner may direct that the loan levy payable by such company be calculated on the amount which the Commissioner determines to be the normal tax for which such company is liable in respect of such year or will be liable should such objection or appeal succeed. 10 15

(5) There shall be exempt from the payment of the loan levy any company the winding up or liquidation whereof has commenced not later than 31 July 1989: Provided that if at any time after the end of the period of 12 months reckoned from the commencement of the winding up or liquidation the steps necessary for the winding up or liquidation have not actively been taken, the Commissioner, having regard to the circumstances of the case, may notify the company that the exemption under this subsection is withdrawn and in such case the exemption shall for the purposes of this section be deemed to have been withdrawn with effect from 31 July 1989. 20 25

(6) (a) The loan levy shall be repayable not later than 31 July 1994.

(b) Simple interest calculated six-monthly in arrear at the rate of 16 per cent per annum shall be payable on the loan levy in such manner as the Minister may determine. 30

(7) (a) Every company which is liable for the payment of the loan levy shall not later than 31 July 1989 furnish to the Commissioner a declaration in such form as the Commissioner may require.

(b) The loan levy for which any company is liable shall be calculated by that company on the declaration referred to in paragraph (a) and payment thereof shall be made not later than 31 July 1989. 35

(8) If any company fails to pay the loan levy for which it is liable in full on or before 31 July 1989 interest shall be paid by the company on the outstanding amount of such loan levy for the period from 1 August 1989 to the date of payment of such amount at a rate equal to the rate applicable for purposes of the principal Act under paragraph (b) of the definition of "prescribed rate" in section 1 of that Act. 40

(9) Where it appears to the Commissioner that the amount of loan levy due by any company has not been paid in full when required by this section the Commissioner may raise an assessment in respect of the amount due and any interest payable thereon. 45

(10) The loan levy and any interest thereon which is due by any company shall be a debt due to the State and shall be recoverable by the Commissioner in the manner prescribed in the principal Act for the recovery of any tax or interest due under that Act.

(11) No provision of the principal Act conferring an exemption from normal tax in respect of interest derived on the loan portion of any normal tax shall apply to the loan levy. 50

**Withdrawal of Government Notice No. R.714 and Government Notice No. R.715 of 14 April 1989**

30. Government Notices Nos. R.714 and R.715 of 14 April 1989 are hereby withdrawn with effect from 1 June 1989.

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**Act No. 70, 1989****INCOME TAX ACT, 1989****Commencement of certain amendments**

**31.** Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of 5 years of assessment ending on or after 1 January 1990.

**Short title**

**32.** This Act shall be called the Income Tax Act, 1989.

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## INCOME TAX ACT, 1989

## SCHEDULE

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 1990 AND 30 JUNE 1990, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 1990.

(Section 1 of this Act)

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

(a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

## TABLES

Taxable Income	Rates of Tax in respect of Married Persons
Where the taxable income — does not exceed R12 000 .....	14 per cent of each R1 of the taxable income;
exceeds R12 000 but does not exceed R13 000	R1 680 plus 15 per cent of the amount by which the taxable income exceeds R12 000;
" R13 000 .. .. . R14 000	R1 830 plus 17 per cent of the amount by which the taxable income exceeds R13 000;
" R14 000 .. .. . R15 000	R2 000 plus 19 per cent of the amount by which the taxable income exceeds R14 000;
" R15 000 .. .. . R16 000	R2 190 plus 21 per cent of the amount by which the taxable income exceeds R15 000;
" R16 000 .. .. . R18 000	R2 400 plus 23 per cent of the amount by which the taxable income exceeds R16 000;
" R18 000 .. .. . R20 000	R2 860 plus 25 per cent of the amount by which the taxable income exceeds R18 000;
" R20 000 .. .. . R22 000	R3 360 plus 27 per cent of the amount by which the taxable income exceeds R20 000;
" R22 000 .. .. . R24 000	R3 900 plus 29 per cent of the amount by which the taxable income exceeds R22 000;
" R24 000 .. .. . R26 000	R4 480 plus 31 per cent of the amount by which the taxable income exceeds R24 000;
" R26 000 .. .. . R28 000	R5 100 plus 33 per cent of the amount by which the taxable income exceeds R26 000;
" R28 000 .. .. . R30 000	R5 760 plus 35 per cent of the amount by which the taxable income exceeds R28 000;
" R30 000 .. .. . R35 000	R6 460 plus 37 per cent of the amount by which the taxable income exceeds R30 000;
" R35 000 .. .. . R40 000	R8 310 plus 39 per cent of the amount by which the taxable income exceeds R35 000;
" R40 000 .. .. . R50 000	R10 260 plus 41 per cent of the amount by which the taxable income exceeds R40 000;
" R50 000 .. .. . R60 000	R14 360 plus 42 per cent of the amount by which the taxable income exceeds R50 000;
" R60 000 .. .. . R70 000	R18 560 plus 43 per cent of the amount by which the taxable income exceeds R60 000;
" R70 000 .. .. . R80 000	R22 860 plus 44 per cent of the amount by which the taxable income exceeds R70 000;
" R80 000 .....	R27 260 plus 45 per cent of the amount by which the taxable income exceeds R80 000;
Taxable Income	Rates of Tax in respect of Persons who are not Married Persons
Where the taxable income— does not exceed R10 000 .....	14 per cent of each R1 of the taxable income;
exceeds R10 000 but does not exceed R11 000	R1 400 plus 15 per cent of the amount by which the taxable income exceeds R10 000;
" R11 000 .. .. . R12 000	R1 550 plus 17 per cent of the amount by which the taxable income exceeds R11 000;
" R12 000 .. .. . R13 000	R1 720 plus 19 per cent of the amount by which the taxable income exceeds R12 000;
" R13 000 .. .. . R14 000	R1 910 plus 21 per cent of the amount by which the taxable income exceeds R13 000;
" R14 000 .. .. . R15 000	R2 120 plus 23 per cent of the amount by which the taxable income exceeds R14 000;
" R15 000 .. .. . R16 000	R2 350 plus 25 per cent of the amount by which the taxable income exceeds R15 000;
" R16 000 .. .. . R18 000	R2 600 plus 27 per cent of the amount by which the taxable income exceeds R16 000;
" R18 000 .. .. . R20 000	R3 140 plus 29 per cent of the amount by which the taxable income exceeds R18 000;
" R20 000 .. .. . R22 000	R3 720 plus 31 per cent of the amount by which the taxable income exceeds R20 000;

## Act No. 70, 1989

## INCOME TAX ACT, 1989

Taxable Income	Rates of Tax in respect of Persons who are not Married Persons
Where the taxable income —	
exceeds R22 000 but does not exceed R24 000	R4 340 plus 33 per cent of the amount by which the taxable income exceeds R22 000;
„ R24 000 „ „ „ „ R26 000	R5 000 plus 35 per cent of the amount by which the taxable income exceeds R24 000;
„ R26 000 „ „ „ „ R28 000	R5 700 plus 37 per cent of the amount by which the taxable income exceeds R26 000;
„ R28 000 „ „ „ „ R30 000	R6 440 plus 39 per cent of the amount by which the taxable income exceeds R28 000;
„ R30 000 „ „ „ „ R36 000	R7 220 plus 41 per cent of the amount by which the taxable income exceeds R30 000;
„ R36 000 „ „ „ „ R42 000	R9 680 plus 42 per cent of the amount by which the taxable income exceeds R36 000;
„ R42 000 „ „ „ „ R48 000	R12 200 plus 43 per cent of the amount by which the taxable income exceeds R42 000;
„ R48 000 „ „ „ „ R54 000	R14 780 plus 44 per cent of the amount by which the taxable income exceeds R48 000;
„ R54 000 .....	R17 420 plus 45 per cent of the amount by which the taxable income exceeds R54 000;
Taxable Income	Rates of Tax in respect of Married Women
Where the taxable income —	
does not exceed R20 000 .....	25 per cent of each R1 of the taxable income;
exceeds R20 000 but does not exceed R24 000	R5 000 plus 28 per cent of the amount by which the taxable income exceeds R20 000;
„ R24 000 „ „ „ „ R28 000	R6 120 plus 30 per cent of the amount by which the taxable income exceeds R24 000;
„ R28 000 „ „ „ „ R32 000	R7 320 plus 32 per cent of the amount by which the taxable income exceeds R28 000;
„ R32 000 „ „ „ „ R36 000	R8 600 plus 34 per cent of the amount by which the taxable income exceeds R32 000;
„ R36 000 „ „ „ „ R40 000	R9 960 plus 36 per cent of the amount by which the taxable income exceeds R36 000;
„ R40 000 .....	R11 400 plus 38 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 subparagraphs (e) and (g)), 50 cents;
- (c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act), a percentage determined in accordance with the formula:

$$y = 73 - \frac{428}{x}$$

in which formula y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion);

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

$$y = 73 - \frac{558}{x}$$

in which formula y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion);

- (e) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is or has been mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act, a rate equal to the average rate of normal tax or 35 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;
- (f) on each rand of the taxable income derived by any company from mining operations (other than mining for gold), 50 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 12 per cent of such amount; and