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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 2298.

14 October 1987

No. 2298.

14 Oktober 1987

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

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

No. 85 of 1987: Income Tax Act, 1987.

No. 85 van 1987: Inkomstebelastingwet, 1987.

Act No. 85, 1987

INCOME TAX ACT, 1987

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 29 February 1988 and 30 June 1988, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1988; to amend the Income Tax Act, 1962; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 6 October 1987.)

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

Rates of
normal tax.

1. The rates of normal tax to be levied in terms of section 5 (2) of the Income Tax Act, 1962 (Act No. 58 of 1962), hereinafter referred to as the principal Act, in respect of—
- (a) the taxable income of any person other than a company for the year of assessment ending on 29 February 1988 or 30 June 1988; and
 - (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1988,
- shall be as set forth in the Schedule to this Act.

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,

2. (1) Section 1 of the principal Act is hereby amended—
- (a) by the insertion after the definition of "natural oil" of the following definition:

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“‘neighbouring country’ means the territory (including the Eastern Caprivi Zipfel), Botswana, Lesotho, Swaziland and any country the territory of which formerly formed part of the Republic;”;
 - (b) by the substitution for the definition of “prescribed 20 rate” of the following definition:

“‘prescribed rate’, in relation to any interest payable in terms of this Act, means—

 - (a) in the case of interest payable to any taxpayer under the provisions of section 89quat (4), a 25 rate of 12 per cent per annum; or
 - (b) in any other case, a rate of 15 per cent per annum,

or, in either case, such other rate as the Minister of Finance may from time to time fix by notice in 30 the *Gazette*.”

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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 and section 1 of Act 108 of 1986.

- (2) (a) The amendment effected by subsection (1) (a) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 21 September 1987.
- (b) The amendment effected by subsection (1) (b) shall come into operation on 1 October 1987.

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

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

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

“(a) any information obtained by the Commissioner in 10 the performance of his duties under the provisions of this Act or any previous Income Tax Act may be used by him for the purposes of the provisions of any other fiscal law administered by him or he may, if he is satisfied that any such information is 15 required for the purpose of preventing or combating evasion of any tax, duty or levy imposed under any fiscal law administered by the Commissioner for Customs and Excise, supply such information to the last-mentioned Commissioner;” 20

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

“(1A) The Commissioner for Customs and Excise and every person employed in carrying out the provisions of any fiscal law administered by the said Commissioner shall preserve and aid in preserving secrecy as respects any information supplied to that Commissioner under paragraph (a) of the proviso to subsection (1), and shall not communicate such information to any person whomsoever except as may be necessary for carrying out the said provisions or by order of a competent court.”; and 25 30

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

“(3) Every person who contravenes the provisions of subsection (1) or (1A) 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.”. 35

Amendment of section 6 of Act 58 of 1962, as inserted by section 5 of Act 104 of 1980

4. Section 6 of the principal Act is hereby amended— 40

- (a) by the substitution in paragraph (a) of subsection (2) for the expression “R880” of the expression “R920”; and
- (b) by the substitution in paragraph (b) of the said subsection

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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 and section 3 of Act 96 of 1985.

tion for the expression "R620" of the expression "R650".

Insertion of section 6quat in Act 58 of 1962.

5. The following section is hereby inserted in the principal Act after section 6ter:

"Rebate in respect of foreign taxes on income.

6quat. (1) Subject to the provisions of subsection 5
 (2), there shall be deducted from the normal tax payable by any resident of the Republic in whose taxable income there is included any income derived by such resident from a source in any country other than the Republic, a rebate equal to the sum of any taxes on income proved to be payable, without any right of recovery, by such resident of the Republic to the government of such other country in respect of the amount of income so included in that resident's taxable income: Provided that the rebate under this subsection shall not exceed so much of the normal tax payable by such resident as is attributable to the inclusion in his taxable income of the amount of income so included therein. 10
 (2) The rebate under subsection (1) shall not be granted in addition to any relief to which the resident of the Republic is entitled under any agreement between the governments of the Republic and the said other country for the prevention of or relief from double taxation, but may be granted in substitution for the relief to which the resident of the Republic would be so entitled. 15
 (3) For the purposes of this section 'resident of the Republic' means a person (other than a company) who is ordinarily resident in the Republic or a domestic company." 20
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Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985 and section 5 of Act 65 of 1986.

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

- (a) by the substitution for subparagraph (ii) of paragraph (b) of subsection (1) of the following subparagraph: 35
 "(ii) subject to the provisions of subparagraph (iii), where such allowance or advance has been paid to the recipient in order that it may be utilized for defraying expenditure in respect of any motor vehicle used by the recipient, the portion of the allowance expended by the recipient during the year of assessment for business purposes shall, unless an acceptable calculation based on accurate data is furnished by the recipient, be deemed to be an amount calculated by applying the rate per kilometre [fixed] determined in the manner prescribed 40
 by the Minister of Finance by notice in the *Gazette* for the category of vehicle used, on a distance travelled during the said year for business purposes (other than private travelling as contemplated in subparagraph (i)): Provided that— 45
 (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 50

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shorter distance as is shown by the taxpayer to have been actually covered during such year as aforesaid;

(bb) where the vehicle has been used for business purposes during a period in such year which is 5
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 for business purposes bears to 12 months;

(cc) where the recipient has during the whole or any portion of the year of assessment interchangeably used more than one vehicle for 15
business purposes and one or more of such vehicles were not used primarily for business purposes, the provisions of paragraphs (aa) and (bb) of this proviso shall be applied separately to each vehicle which was not used primarily for business purposes;”;

(b) by the substitution in subparagraph (i) of paragraph (c) of the said subsection for the expression “R100” of the expression “R130”;

(c) by the substitution in subparagraph (iii) of paragraph (c) of the said subsection for the expression “R50” of the expression “R65”;

(d) by the substitution in paragraph (d) of the said subsection for the words preceding subparagraph (i) of the following words: 30

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

(e) by the substitution for subparagraph (i) of paragraph (e) of the said subsection of the following subparagraph: 40

“(i) a Minister [or], Deputy Minister or Ministerial Representative of the Republic, a member of Parliament, a member of the President’s Council or 45
the administrator of a province [or any member of a provincial council];”;

(f) by the substitution for paragraph (a) of subsection (4) of the following paragraph: 50

“(a) There shall be included in the taxpayer’s income 50
all amounts allowed to be deducted or set off under the provisions of sections 11 to 20, inclusive, section 24D, section 24F 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.”. 60

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

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

- (a) by the substitution for the proviso to paragraph (b) of subsection (1) of the following proviso:

“Provided that the provisions of this paragraph shall not apply in respect of any amount which on or after [1 July 1962] 1 October 1987 is received by or accrues to any person (other than a company) who is not ordinarily resident in the Republic or a neighbouring country, or to any external company (not being a company which is registered, managed or controlled in a neighbouring country), in respect of the use (otherwise than for advertising purposes in connection with any motion picture film or otherwise than in connection with television) in any printed publication of any copyright as aforesaid;” and

- (b) by the addition of the following subsections:

“(4) Any interest which accrues from a source within any neighbouring country to any person (other than a company) who is ordinarily resident in the Republic or any domestic company in respect of any loan, advance, deposit, interest-bearing security or debt-claim shall be deemed to be derived from a source within the Republic: Provided that this subsection shall not apply in respect of interest which is effectively connected with a business carried on by such person or company through a permanent establishment in the neighbouring country as contemplated in any agreement between such neighbouring country and the Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

(5) Any gain made by any person (other than a company) who is ordinarily resident in the Republic or by any domestic company in respect of any banker's acceptance or similar instrument upon maturity or disposal thereof, shall be deemed to be derived from a source within the Republic if such banker's acceptance or similar instrument was issued in the Republic or in any neighbouring country.”

- (2) Subsection (1) (b) shall apply in respect of interest accruing or gains made on or after 21 September 1987.

Insertion of section 9A in Act 58 of 1962.

8. (1) The following section is hereby inserted in the principal Act after section 9:

“Investment income of foreign investment companies.

9A. (1) In this section—

- (i) ‘foreign investment company’ means a company which is incorporated, registered, managed or controlled in a neighbouring country and is at any time during the relevant financial year of such company directly or indirectly controlled by a resident or residents of the Republic as contemplated in subsection (8) (b), if the profits of such company (as contemplated in subsection (8) (c)) are normally derived or will normally be derived wholly or mainly by way of investment income; (iv)
- (ii) ‘investment income’ means any amount derived from any source outside or within the Republic

- in the form of interest, dividends, rents (other than rents in respect of immovable property situated outside the Republic), any gains made on the redemption or disposal of any banker's acceptance or similar instrument or any amount which is of a similar nature, or any gain made on the disposal of any marketable security or any right to acquire marketable securities, or the amount of any gain referred to in paragraph (eA) of the definition of 'gross income' in section 1 where such gain would if it had been made by a resident of the Republic have been included in his gross income; (i) 5
- (iii) 'resident of the Republic' means a person (other than a company) who is ordinarily resident in the Republic or a domestic company and includes a person, wherever he is resident, who acts in a fiduciary capacity in respect of any direct or indirect interest of any beneficiary in any foreign investment company if such beneficiary is a resident of the Republic; (ii) 10 15
- (iv) 'untaxed profit' means so much of the profit (as determined in terms of subsection (8) (c)) derived by a foreign investment company during any financial year as is attributable to any investment income which— 20
- (a) would have been subject to normal tax had it been received by or had it accrued to such company from a source within the Republic; and 25 30
- (b) was received by or accrued to such company from a source within a neighbouring country and was not subject to a tax which is materially similar to normal tax: Provided that a tax shall not be deemed to be materially similar to normal tax unless it is levied upon an amount determined in a manner which is materially similar to the manner in which taxable income is determined and it is calculated at a rate which is not less than 40 per cent of such amount. (iii) 35 40
- (2) Where any resident of the Republic is or was a shareholder in a foreign investment company which has during any financial year of the company derived any untaxed profit, such untaxed profit shall, to the extent determined under subsection (3), be deemed to have accrued to the resident from a source within the Republic on the last day of that financial year. 45
- (3) The amount of untaxed profit which shall be deemed for the purposes of subsection (2) to have accrued to a resident shall be— 50
- (a) where such resident was a shareholder in the company during the whole of the relevant financial year and his right to a participation in any distribution of profit by such company, whether such right arises from his shareholding in the company or is conferred upon him by virtue of any rights attaching to his shares or under any agreement or arrangement, has remained unchanged throughout the financial year, that portion of the untaxed profit which could, disregarding any prohibition in the memorandum or articles of association of the company against a distribution of any amount to shareholders of the company, have been distributed to the resident by way of a dividend; or 55 60
- (b) where the resident was a shareholder during any portion of the financial year or where his right to 65

- a participation as contemplated in paragraph (a) has been varied during the financial year, such portion of the untaxed profit as the Commissioner, having regard to the period during which the resident was a shareholder or to the variation of his right of participation or to any other relevant factor, considers reasonable. 5
- (4) Any decision of the Commissioner in the exercise of his discretion under subsection (3) (b) shall be subject to objection and appeal. 10
- (5) (a) Every resident of the Republic who at any time during any year of assessment was a shareholder in a foreign investment company which has derived any untaxed profit shall disclose such fact to the Commissioner in writing when submitting his return of income for such year and at the same time furnish such information as may be required by the Commissioner for the purposes of this section. 15
- (b) In the absence of such full, adequate and accurate information as may be required by the Commissioner for the purposes of this section, the Commissioner may estimate the amount which is deemed to have accrued to a resident of the Republic in terms of subsection (2). 20
- (c) Any estimate made in terms of paragraph (b) shall be subject to objection and appeal. 25
- (d) Failure by a resident of the Republic to disclose to the Commissioner the fact that he was a shareholder in a foreign investment company, as required by paragraph (a), shall for the purposes of this Act be deemed to constitute the omission by him from his return of income of an amount of income equal to the amount deemed by subsection (2) to have accrued to him during the relevant year of assessment. 30
- (6) Where any amount of untaxed profit has been included in the income of any taxpayer in terms of the provisions of subsection (2) of this section, there shall be deducted from the normal tax payable by him a rebate equal to so much of any taxation levied on such amount in terms of section 64A or by any neighbouring country: Provided that the rebate in terms of this subsection shall not exceed so much of the normal tax as is attributable to the inclusion of the said amount in the taxpayer's taxable income. 35
- (7) Where by reason or in consequence of any donation, settlement or other disposition made by a resident of the Republic, investment income is received by or accrues to or in favour of any resident of the Republic or any person acting in a fiduciary capacity for the benefit of one or more beneficiaries who are residents of the Republic, wherever the said person is resident, such income shall be deemed to be derived from a source within the Republic if under or in connection with such donation, settlement or other disposition any cash or asset is sent or transferred, whether directly or indirectly, to any person in a neighbouring country or to any person acting as an agent or in a fiduciary capacity in respect of any investment made or held in such neighbouring country. 40
- (8) (a) A resident of the Republic shall be deemed to be a shareholder in a foreign investment company if he is a shareholder in relation to that 45
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company as contemplated in the definition of 'shareholder' in section 1, or if the Commissioner is satisfied that he is indirectly interested in that company by virtue of his shareholding in any external company in such manner that he has a direct or indirect interest in any profit that may be distributed by the foreign investment company, whether through the instrumentality of any trustee or under any transaction, operation or scheme, whether entered into or carried out before or after the commencement of this section. 5

(b) A company shall be deemed to be controlled by a resident or residents of the Republic if such resident or residents are directly or indirectly interested in more than 50 per cent of the issued share capital or members' contributions of such company or, by virtue of any rights attaching to any shares or under any agreement or arrangement, such resident or residents would, on a distribution of any profit of such company, be entitled to more than 50 per cent of such profit. 15

(c) The profit of a foreign investment company shall *mutatis mutandis* be determined in the manner prescribed by this Act for the determination of taxable income: Provided that such profit shall include amounts derived from sources outside the Republic. 20

(9) Any amount of director's fee or managerial or secretarial remuneration derived from a foreign investment company by a resident of the Republic who is a director or shareholder in such company as contemplated in subsection (8) (a) shall, to the extent that it does not exceed the untaxed profit derived by the company during the relevant financial year, as determined before the deduction of the said amount, be deemed to be derived by him from a source within the Republic." 25

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 21 September 1987. 30

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, 35

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

(a) by the substitution for subparagraph (v) of paragraph (cC) of subsection (1) of the following subparagraph: 45

"(v) in the case of an association to which the provisions of item (bb) of subparagraph (i) apply, the directors of the association are independent persons who do not derive any remuneration for their services to the association (or, if such remuneration is in fact derived by any such director, it does not in any one year exceed an amount notified to the association by the Commissioner as being reasonable in the circumstances) and at least one of those directors is a person nominated by a Minister responsible for housing matters;" 50

(b) by the insertion after paragraph (cE) of the said subsection of the following paragraph: 55

"(cF) the receipts and accruals of any company, society or other association of persons, whether or not registered under any law (other than a co-operative formed and incorporated or deemed to be 60

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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
and section 3 of
Act 108 of 1986.

formed and incorporated under the Co-operatives Act, 1981 (Act No. 91 of 1981)), if—

- (i) the sole or principal object of such company, society or association is the provision of residential accommodation under a sale or a lease or otherwise to aged or retired persons (being persons who have attained the age of at least 60 years or have retired by reason of ill-health or infirmity) in a building, housing complex or village the residential units in which, apart from residential accommodation occupied by essential staff, are or are to be occupied exclusively by such aged or retired persons or their spouses or minor children or dependants;
- (ii) at least one meal per day and nursing services are provided in addition to the accommodation;
- (iii) the activities of such company, society or association are wholly or mainly directed to the furtherance of its sole or principal object;
- (iv) the Commissioner is satisfied that the profits of the company, society or association derived from transactions with the said persons are, having regard to the future needs of the company, society or association, kept to a minimum;
- (v) the company, society or association does not carry on any business other than business which, in the opinion of the Commissioner, is directly connected with the said sole or principal object;
- (vi) the company, society or association is under its memorandum, articles of association or constitution not permitted to distribute any of its profits or gains to any person and is required to utilize its funds solely for investment or the objects for which it has been established;
- (vii) the Commissioner is satisfied that the remuneration of employees of the company, society or association is not excessive having regard to services performed by such employees and their working conditions; and
- (viii) under the memorandum, articles of association or constitution of the company, society or association it will upon its winding-up or liquidation be obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some other company, society or association with objects similar to those of the aforesaid company, society or association and which is also exempt from tax;”;
- (c) by the insertion after paragraph (cF) of the said subsection of the following paragraph:
- “(cG) the receipts and accruals of any person (other than a company) who is ordinarily resident in any country other than the Republic or of an external company which is managed and controlled in any such country, which are derived by such person or company from carrying on business as the owner or charterer of any ship, if a similar exemption or equivalent relief is granted by the said country to

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any person (other than a company) ordinarily resident in the Republic or to any domestic company in respect of any tax imposed in that country on income which may be derived by such person or company from carrying on in such country any business as owner or charterer of any ship;”;

- (d) by the addition to paragraph (h) of the said subsection of the following further proviso:
 “Provided further that the exemption under this paragraph shall not apply in respect of interest which on or after 1 November 1987 is received by or accrues to a person (other than a company) who is ordinarily resident in a neighbouring country or a company which is incorporated, registered, managed or controlled in any neighbouring country;”;
- (e) by the substitution in subparagraph (xv) of paragraph (i) of the said subsection for the expression “R500” of the expression “R1 000”; and
- (f) by the substitution in subparagraph (xvi) of paragraph (i) of the said subsection for the expression “R500” of the expression “R1 000”.

(2) Subsection (1) (b) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 28 February 1981.

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 and section 11 of Act 121 of 1984.

10. Section 11 of the principal Act is hereby amended by the substitution in paragraph (o) for the words preceding the proviso of the following words:

“save as provided in paragraph 12 (2) of the First Schedule, an allowance in respect of any building (or portion thereof) referred to in section 13 (1) or (4) or section 13bis (1) or section 27 (2) (b) or of any improvements (or portion thereof) to such building or of any shipbuilding structure referred to in section 13 (8) or of any improvements to such shipbuilding structure or of any residential unit referred to in section 13ter or of any machinery, implements, utensils or articles used by the taxpayer for the purposes of his trade which have been scrapped by such taxpayer during the year of assessment, such allowance to be the excess of the original cost to such taxpayer of such building (or portion thereof) or such improvements (or portion thereof) or such building or such shipbuilding structure or such improvements to such shipbuilding structure or such residential unit or such machinery, implements, utensils or articles over the total amount arrived at by adding all the allowances made in respect thereof under the provisions of paragraph (e) of this section, or section 12 (1), or section 12 (1) as applied by section 12 (3), or section 12A (2), or section 13 (1), or section 13 (1) as applied by section 13 (4) or (8), or section 13bis (1), (2) or (3), or section 13ter (2) or (3), or section 14 (1) (a) or (b), or the corresponding provisions of any previous Income Tax Act, or section 14bis (1) (a) or (b), or section 24F, or section 27 (2) (b) or (d), to any amount or the value of any advantage accruing to the taxpayer in respect of the sale or other disposal of such building, shipbuilding structure, improvements, residential unit, machinery, implements, utensils or articles.”

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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, section 11 of Act 91 of 1982, section 14 of Act 121 of 1984, section 9 of Act 96 of 1985 and section 8 of Act 65 of 1986.

11. Section 12 of the principal Act is hereby amended by the substitution in subsection (1) for the expression "1986" of the expression "1988".

Amendment of section 13 of Act 58 of 1962, as amended by section 12 of Act 90 of 1962, section 15 of Act 6 of 1963, section 11 of Act 72 of 1963, section 12 of Act 90 of 1964, section 14 of Act 88 of 1965, section 17 of Act 55 of 1966, section 13 of Act 52 of 1970, section 13 of Act 88 of 1971, section 12 of Act 90 of 1972, section 13 of Act 65 of 1973, section 16 of Act 85 of 1974, section 13 of Act 69 of 1975, section 7 of Act 101 of 1978, section 10 of Act 104 of 1980, section 14 of Act 96 of 1981 and section 10 of Act 96 of 1985.

12. Section 13 of the principal Act is hereby amended by the substitution in subsection (7) for the expression "1986" of the expression "1988" and for the expression "1987" of the expression "1989". 5

Amendment of section 19 of Act 58 of 1962, as amended by

13. Section 19 of the principal Act is hereby amended by the

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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, section 17 of Act 94 of 1983, section 17 of Act 121 of 1984, section 12 of Act 96 of 1985, section 12 of Act 65 of 1986 and section 4 of Act 108 of 1986.

substitution in subsection (1A) for the expression "R500" of the expression "R1 000".

Amendment of section 20A of Act 58 of 1962, as inserted by section 19 of Act 89 of 1969 and amended by section 16 of Act 52 of 1970, section 15 of Act 90 of 1972, section 19 of Act 85 of 1974, section 17 of Act 69 of 1975, section 15 of Act 113 of 1977, section 12 of Act 104 of 1979, section 15 of Act 104 of 1980, section 18 of Act 96 of 1981, section 17 of Act 91 of 1982 and section 13 of Act 65 of 1986.

14. Section 20A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) There shall, in the determination of the taxable income of any taxpayer in whose income there is under the provisions of section 7 (2) included any earnings of his wife, be allowed as a deduction from his income so much of the total amount of the net earnings of his wife (whether consisting of the earnings of one wife or of more than one wife) as does not in the year of assessment exceed an amount equal to the greater of [R1 800 or 20] R2 250 or 22,5 per cent of the said net earnings."

Amendment of section 24A of Act 58 of 1962, as substituted by section 20 of Act 88 of 1971 and amended by section 24 of Act 85 of 1974.

15. (1) Section 24A of the principal Act is hereby amended by the addition to subsection (3) of the following proviso:

"Provided that the provisions of this subsection shall not be construed so as to prevent the provisions of subsection (1) being applied in respect of such amount."

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 31 December 1987.

Amendment of section 24D of Act 58 of 1962, as inserted by section 20 of Act 96 of 1981 and amended by section 22 of Act 121 of 1984.

16. (1) Section 24D of the principal Act is hereby amended by the addition of the following subsection:

"(3) Where an amount has been paid by the State to a taxpayer in respect of expenditure incurred by him prior to 1 July 1983 which has qualified for deduction from his income under subsection (1) and the Minister, person or committee referred to in subsection (2) confirms that such amount was paid as a supplement to the benefit which the

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taxpayer has enjoyed or will enjoy by way of the said deduction, the provisions of section 8 (4) (a) shall not apply in respect of the said amount.”.

(2) The amendment effected by subsection (1) shall be deemed to have applied with effect from the commencement of 5 years of assessment ended or ending on or after 1 January 1985.

Insertion of section 24F in Act 58 of 1962.

17. (1) The following section is hereby inserted in the principal Act after section 24E:

“Taxable income of film owners.

24F. (1) In this section—

- | | |
|--|-----------|
| (i) ‘completion date’, in relation to a film, means the date on which the cut master negative and conforming sound track of the film are married in an answer print or, where such film is not a cinematographic film, the date on which the film is completed to an equivalent production stage; | 10
15 |
| (ii) ‘film’ means a recording of moving visual images and sound by means of cinematographic film, video tape, video disc or otherwise, including any copy of the film and any right therein; | 20 |
| (iii) ‘film manufacturer’ means any person who manufactures films and whose income is derived wholly or mainly from the production, processing, distribution or exhibition of films in the Republic; | 25 |
| (iv) ‘film owner’ means any person who owns, whether solely or jointly, a film; | (vii) |
| (v) ‘post-production cost’, in relation to a film, means any expenditure of the nature referred to in the definition of ‘production cost’ which is incurred after the completion date, but excluding any print cost in relation to such film; | 30 |
| (vi) ‘print cost’, in relation to a film, means any expenditure incurred by the film owner in the making of copies of the film; | (i)
35 |
| (vii) ‘production cost’, in relation to a film, means the total expenditure incurred by a film owner in respect of the acquisition or production of such film, excluding expenditure incurred in the erection, construction or acquisition of any buildings or other structures or works of a permanent nature, but including, without in any way limiting the scope of this definition— | 40 |
| (a) any remuneration, salary, legal, accounting or other fee, commission or other amount paid or payable to any person for the purposes of or in connection with the production of the film; | 45 |
| (b) the cost of acquiring the story rights, script, screenplay, copyright or other rights in relation to the film; | 50 |
| (c) insurance premiums in respect of insurance against injury to or death of persons, or loss of or damage to property employed or used, as the case may be, in the production of the film; | 55 |
| (d) premiums or commission payable in order to secure a guarantee that the cost of the film will not exceed a specified amount; | |

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- (e) interest, finance charges and raising fees incurred for the purposes of or in connection with the production of the film;
- (f) the cost of acquiring or creating music, sound and other effects which will form part of the film; 5
- (g) any allowance which but for the provisions of this section would be allowed under section 11 (e) or (o) or 12 (1) in respect of any machinery, implements, utensils or articles used in the production of a film: Provided that— 10
- (i) any such allowance shall be deemed to be an amount of expenditure incurred;
- (ii) an amount equal to the total amount of any such allowance which may be granted in respect of any year of assessment divided by the number of days in that year shall be deemed to have been incurred on each day of that year; 15 20
- (iii) such expenditure shall be deemed to have been incurred in the country in which the asset in respect of which the allowance may be granted was acquired; and 25
- (iv) no deduction or allowance shall be granted in respect of the cost of acquisition of any such machinery, implements, utensils or articles otherwise than as provided in this paragraph or paragraph (h); and 30
- (h) expenditure incurred in respect of—
- (i) the purchase, hire or construction of sets; and
- (ii) the hire of any machinery, implements, utensils or articles used in the production of the film, 35
- but excluding any such expenditure incurred after the completion date and any expenditure incurred in the marketing or promotion of, or soliciting of orders for, the film; (v) 40
- (viii) 'South African export film' means a film in respect of which—
- (a) at least 75 per cent of—
- (i) the total amount of production cost and post-production cost (excluding amounts paid or payable to persons nominated under subparagraph (ii)) is incurred and is paid or payable in the Republic; and 45 50
- (ii) the total amount paid or payable, whether by the film owner or any other person, in respect of services rendered by persons employed directly in connection with the production of the film (other than a maximum of four such persons nominated by the film owner for the purposes of this definition) is paid or payable to persons ordinarily resident in the Republic: Provided that where any person so nominated is replaced by another person who assumes responsibility for such firstmentioned 55 60

person's duties, the amounts paid or payable to both such persons shall be deemed to have been paid or to be payable to one person; and

(b) at least 50 per cent of— 5

(i) the production cost and post-production cost; and

(ii) any expenditure similar to production cost or post-production cost which is incurred in connection with the film by any person other than the film owner, is incurred and is paid or payable in the Republic; (ix) 10

(ix) 'write-off period', in relation to a film, means a period of 24 months commencing on the day after the completion date of the film. (ii) 15

(2) (a) There shall be allowed to be deducted from the income of any film owner an allowance, to be known as the film allowance, determined in terms of subsection (3) in respect of the production cost and post-production cost incurred by him in respect of any film used by him in the production of his income or from which any income is received by or accrues to him. 20

(b) The film allowance which may be granted in respect of any film shall not in the aggregate exceed the production cost and post-production cost thereof and shall be in lieu of any deduction or allowance in respect of such production cost or post-production cost which may otherwise be allowable in terms of the provisions of this Act. 25 30

(3) Subject to the provisions of subsections (4) and (5), the amount of the film allowance which may be granted in respect of any one film shall be the sum of— 35

(a) the greater of—

(i) one twenty-fourth of the production cost of such film for each month in the write-off period commencing in the year of assessment, together with any amount determined under subsection (6) in respect of the post-production cost of such film; or 40

(ii) the amount of income derived by the film owner during the year of assessment from the exploitation of the film or, if the film owner is a film manufacturer, from the exploitation of any films owned by him; 45

(b) the amount of any post-production cost incurred during the year of assessment after the end of the write-off period; and 50

(c) the amount of any film allowance disallowed in the preceding year of assessment under the provisions of subsection (4).

(4) The film allowance which may be granted in respect of any one film in any year of assessment shall, together with the total film allowances granted in respect of that film in any preceding years of assessment, not exceed the sum of— 55

(a) the amounts of production cost and post-production cost in respect of the film which have been paid by the film owner: Provided that where any 60

loan or credit has been used by him for the payment or financing of the whole or any portion of such production cost or post-production cost, the amount which may be taken into account under this paragraph shall be reduced by any portion of such loan or credit for which the film owner is not under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment; and

(b) the amounts of any production cost and post-production cost which have not been paid by the film owner and for which he is under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment.

(5) Where, in the case of any film, the film owner certifies, and the Commissioner is satisfied, that not less than 75 per cent of the total production cost and post-production cost of the film will be incurred and paid in the Republic, the amount to be determined under subsection (3) (a) (i) shall be—

(a) in the year of assessment in which the completion date of the film falls and in the following year of assessment, 50 per cent of the production cost of the film together with an amount determined under subsection (6) in respect of the post-production cost of the film; and

(b) in any years of assessment following the years of assessment contemplated in paragraph (a), an amount determined under subsection (6) in respect of the post-production cost of the film:

Provided that where the provisions of paragraph (a) have been applied in any year of assessment and it subsequently appears that less than 75 per cent of the total production cost and post-production cost of the film was or will be incurred and paid in the Republic, the provisions of the said paragraph shall be deemed not to have been applicable in such lastmentioned year of assessment and the Commissioner shall, notwithstanding anything to the contrary contained in this Act, make a revised assessment—

(i) for such lastmentioned year of assessment on the basis that the provisions of this subsection are not applicable; and

(ii) for any subsequent year of assessment to the extent that the determination of the film owner's taxable income for such subsequent year is affected by the revised assessment made for the said lastmentioned year of assessment.

(6) The amount which may be allowed in any year of assessment under the provisions of subsections (3) (a) (i) or (5) in respect of the post-production cost of any film shall be an amount determined in accordance with the formula—

$$Y = A \times \frac{B}{C}$$

in which formula—

(a) 'Y' is the amount of such post-production cost to be determined;

(b) 'A' is the total amount of post-production cost incurred before the end of the write-off period, less the sum of the amounts (if any) determined

under this subsection in respect of any preceding years of assessment;

(c) 'B' is the number of months contemplated in subsection (3) (a) (i); and

(d) 'C' is the number of months in the write-off period which have not commenced before the commencement of the year of assessment. 5

(7) The amount of any print cost or any marketing expenditure contemplated in section 11*bis* which may be allowed under the provisions of sections 11 and 17 shall not in the aggregate exceed the total of— 10

(a) the amount of such print cost or marketing expenditure which has been paid by the film owner: Provided that where any loan or credit has been used by him for the payment or financing of such print cost or marketing expenditure, the amount to be allowed under this paragraph shall be reduced by any portion of such loan or credit for which the film owner is not under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment; and 15 20

(b) the amount of any print cost or marketing expenditure which has not been paid by the film owner and for which he is under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment: 25

Provided that where—

(a) any such loan or credit for which the film owner is not deemed to be at risk has been used by him for the payment or financing of print cost and marketing expenditure; or 30

(b) he is in respect of the sum of any unpaid amount of print cost and marketing expenditure not deemed to be at risk,

he shall for the purposes of this subsection be deemed not to be at risk for so much of such loan or credit or so much of such sum, as the case may be, as does not exceed the amount of such marketing expenditure for which such loan or credit was used or which is unpaid. 35 40

(8) For the purposes of subsections (4) and (7), a film owner shall be deemed to be at risk to the extent that the payment of the production cost, post-production cost, print cost or marketing expenditure (as contemplated in section 11*bis*) incurred by him, or the repayment of any loan or credit used by him for the payment or financing of any such production cost, post-production cost, print cost or marketing expenditure, would (having regard to any transaction, agreement, arrangement, understanding or scheme entered into before or after such production cost, post-production cost, print cost or marketing expenditure is incurred) result in an economic loss to him were no income to be received by or accrue to him in future years from the exploitation by him of the film. 45 50 55

(9) Notwithstanding the provisions of section 11*bis*—

(a) no allowance shall be granted under the provisions of that section in respect of marketing expenditure incurred in respect of a film which is 60

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in relation to the year of assessment not a South African export film; and

- (b) the amount of any commission, fee or other remuneration paid or payable by a film owner to any person or persons by way of marketing expenditure contemplated in subsection (4) of the said section which may be taken into account in the calculation of the marketing allowance under the said section shall be limited to 30 per cent of the income received by or accrued to the film owner during the year of assessment from the exploitation of the film: Provided that the provisions of this paragraph shall not apply to so much of such commission, fee or other remuneration as has been disbursed by such person or persons by way of any such marketing expenditure incurred on behalf of or as agent for the film owner.

(10) Where—

- (a) a film has in relation to any year of assessment qualified as a South African export film;
- (b) an allowance has been granted in that year of assessment under section 11*bis* in respect of marketing expenditure incurred in relation to such film; and
- (c) the film has in relation to any subsequent year of assessment no longer qualified as a South African export film,

the film shall be deemed not to have qualified as a South African export film in relation to such first-mentioned year of assessment, and the Commissioner shall, notwithstanding anything to the contrary contained in this Act, make a revised assessment—

- (i) for such firstmentioned year of assessment on the basis that the relevant film is not a South African export film; and
- (ii) for any subsequent year of assessment to the extent that the determination of the film owner's taxable income for such subsequent year is affected by the revised assessment made for the said firstmentioned year of assessment.”

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 7 April 1987 and shall apply in respect of any film acquired by a film owner otherwise than under a written agreement formally and finally signed by every party thereto before that date.

Amendment of section 27 of Act 58 of 1962, as amended by section 17 of Act 113 of 1977, section 11 of Act 101 of 1978, section 19 of Act 104 of 1980, section 21 of Act 96 of 1981 and section 15 of Act 96 of 1985.

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

- (a) by the substitution in subparagraph (i) of paragraph (d) of subsection (2) for the expression “1986” of the expression “1988”;
- (b) by the substitution for paragraph (iii) of the proviso to paragraph (f) of the said subsection of the following paragraph:
- “(iii) no deduction shall be allowed under this paragraph except in respect of the first year of assessment of such agricultural co-operative commencing on or after 1 April 1977 or any of the nine succeeding years of assessment of such co-operative or, where the ninth of such succeeding years commenced not later than 31 March 1987, the year of assessment of such co-operative immediately succeeding such ninth year;” and

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- (c) by the substitution in subparagraphs (i) and (ii) of paragraph (i) of the said subsection for the expression "1986" of the expression "1988", and by the substitution in paragraph (c) of the proviso to the said paragraph for the expression "1987" of the expression "1989". 5

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, section 30 of Act 94 of 1983 and section 26 of Act 121 of 1984.

19. Section 49 of the principal Act is hereby amended by the substitution for the proviso to the definition of "total net profits" of the following proviso:

"Provided that [the provisions of section 19 (4) and (5) shall not be applied in the determination of the total net profits of any company which derived any dividends] any amount included in the income of any company under the provisions of section 9A (2) shall not be included in the total net profits of such company." 15

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, section 35 of Act 85 of 1974 and section 27 of Act 121 of 1984.

20. (1) Section 50 of the principal Act is hereby amended—

- (a) by the substitution in paragraph (d) for the words preceding the first proviso of the following words:

"any company which satisfies the Commissioner that shares representing not less than 50 per cent of its equity share capital were throughout the specified period held— 20

(i) by one or more persons (other than companies) not ordinarily resident nor carrying on business in the Republic; or 25

(ii) by one or more companies which are not South African companies and derive the greater portion of their profits for the year of assessment in question from sources not within or deemed to be within the Republic; or 30

(iii) directly or indirectly by one or more external companies which are public companies as contemplated in section 38 (2) (a) and derive the greater portion of their profits for the year of assessment in question from sources not within or deemed to be within the Republic; or 35

(iv) by one or more such persons (other than companies) and one or more such companies; and

- (b) by the substitution for paragraph (h) of the following paragraph: 40

"(h) the South African Reserve Bank, the National Finance Corporation of South Africa, any building society or mutual building society and any company registered as a banking institution under the Banking Act, 1942 (Act No. 38 of 1942) Banks Act, 1965 (Act No. 23 of 1965);" 45

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- (2) (a) Subsection (1) (a) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1983.
- (b) Subsection (1) (b) shall be deemed to have come into operation on 29 August 1986.

5

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

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

“(h) by or to any person (including any government) referred to in paragraph (a), (b), (cA), (cB), (cC), (cD), (cE), (cF), (d) or (e) of subsection (1) of section 10;”.

10

Amendment of section 64C of Act 58 of 1962, as inserted 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, section 34 of Act 94 of 1983, section 29 of Act 121 of 1984, section 18 of Act 65 of 1986, and section 8 of Act 108 of 1986.

22. (1) Section 64C of the principal Act is hereby amended—

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

15

“Provided that the exemption in terms of this paragraph shall not apply in respect of any interest accruing to a person (other than a company) who is ordinarily resident in a neighbouring country or to a company which is incorporated or managed in any neighbouring country, in respect of stock or securities (including Treasury Bills);”.

20

- (b) by the deletion of paragraph (bA);

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

25

“Provided that the said Minister may approve an exemption under this paragraph after the loan in question was obtained, if—

(aa) the interest on such loan was by reason of the provisions of an agreement between the Government of the Republic and the government of any other country or territory for the prevention of or relief from double taxation, previously exempt from the non-residents tax on interest but by reason of the termination of such agreement the exemption has ceased to apply; and

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(bb) the said Minister is satisfied that if application for exemption under this paragraph had been made prior to the obtaining of the loan he would have approved the exemption;”.

35

- (d) by the addition of the following paragraph:

“(n) interest accruing to any person from a source outside the Republic if—

(i) the loan or credit in respect of which such interest is payable is subject to the provisions of the regulations published by Government Notice No. R.603 of 27 March 1986 under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933); and

45

(ii) such interest was prior to 1 July 1987 exempt from the payment of non-residents tax on in-

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terest under the provisions of an agreement contemplated in section 108 for the prevention of, or relief from, double taxation.”.

- (2) (a) Subsection (1) (a) and (b) shall come into operation on 1 November 1987. 5
 (b) Subsection (1) (c) and (d) shall be deemed to have come into operation on 1 July 1987.

Amendment of section 66 of Act 58 of 1962, as amended by section 10 of Act 6 of 1963, section 19 of Act 90 of 1964, section 27 of Act 88 of 1971, section 22 of Act 91 of 1982 and section 19 of Act 65 of 1986.

23. Section 66 of the principal Act is hereby amended by the substitution in paragraph (b) (ii) (aa) of subsection (1) for the expression “R500” of the expression “R1 000”. 10

Amendment of paragraph 13A of 1st Schedule to Act 58 of 1962, as inserted by section 44 of Act 94 of 1983.

24. Paragraph 13A of the First Schedule to the principal Act is hereby amended by the substitution in item (a) of subparagraph (3) for the expression “4 years” of the expression “6 years”.

Amendment of paragraph 7 of 2nd Schedule to Act 58 of 1962, as substituted by section 36 of Act 88 of 1971.

25. Paragraph 7 of the Second Schedule to the principal Act is hereby amended by the deletion of the proviso. 15

Amendment of paragraph 1 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972 and amended by section 27 of Act 65 of 1973.

26. Paragraph 1 of the Sixth Schedule to the principal Act is hereby amended—
 (a) by the addition to paragraph (b) of the definition of “insurance policy” of the word “and”; and
 (b) by the insertion after the said paragraph (b) of the following paragraph: 20
 “(c) any policy which is materially similar to a policy contemplated in paragraph (a) or (b) and which has been issued by an insurer registered, incorporated, formed or established in a neighbouring country.” 25

Insertion of paragraph 1A in 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

27. The following paragraph is hereby inserted in Part I of the Sixth Schedule to the principal Act after paragraph 1:

“Certain amounts deemed to be insurance benefits

1A. (1) Any amount which has been received by or accrued to a person other than a company who is ordinarily resident in the Republic or which has been received by or accrued to a domestic company, and which in the opinion of the Commissioner was directly or indirectly funded out of an insurance benefit in relation to any policy contemplated in paragraph (c) of the definition of ‘insurance policy’ in paragraph 1 or out of any amount received or accrued in respect of the cession of any such policy, shall for the purposes of this Schedule be deemed to be an insurance benefit which has been received by or accrued to such person or domestic company from a source within the Republic. 30 35 40

(2) The provisions of paragraphs 7 and 8 shall *mutatis mutandis* apply for the purpose of determining the amount of any gain made in respect of an insurance benefit referred to in subparagraph (1). 45

(3) The provisions of this paragraph shall not apply to any amount which falls to be included in the gross income of the taxpayer otherwise than under the provisions of paragraph

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(eA) of the definition of 'gross income' in section 1 of this Act.

(4) Where any gain made in respect of an insurance benefit contemplated in subparagraph (1) has been included in the taxable income of any taxpayer, there shall be deducted from so much of the normal tax payable in respect of such taxable income as the Commissioner determines to be attributable to the inclusion therein of such gain, any tax which is proved to the satisfaction of the Commissioner to have been directly or indirectly payable on such insurance benefit to the government of any country other than the Republic.

(5) Any decision of the Commissioner in the exercise of his discretion under this paragraph shall be subject to objection and appeal."

Amendment of paragraph 1 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1964 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 and Government Notice No. R.2683 of 19 December 1986.

28. 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 "15 per cent" of the expression "13 per cent".

Amendment of paragraph 9 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1964 and amended by section 31 of Act 96 of 1985 and section 34 of Act 65 of 1986.

29. Paragraph 9 of the Seventh Schedule to the principal Act is hereby amended—

(a) by the substitution for subitem (ii) of item (b) of subparagraph (3) of the following subitem:

"(ii) the employee, his spouse or minor child has a right of option or pre-emption granted by the employer or by any other person by arrangement with the employer or any associated institution in relation to the employer whereby the employee, his spouse or minor child may become the owner of the accommodation, whether directly or indirectly by virtue of a controlling interest in a company or otherwise,"; and

(b) by the substitution for subparagraph (9) of the following subparagraph:

"(9) Where the accommodation in question is owned by the employee, his spouse or minor child, whether directly or indirectly by virtue of a controlling interest in a company or otherwise, and has been let by him, his spouse or minor child or by such company to the employer or any associated institution in relation to the employer, the rental value of the accommodation shall be deemed to be the rental payable therefor by the employer or associated institution, and in such case the said rental shall for the purposes of this Act (excluding this subparagraph) be deemed not to have been received by or not to have accrued to the employee, his spouse or minor child or such company."

Amendment of paragraph 14 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1964 and amended by

30. Paragraph 14 of the Seventh Schedule to the principal Act is hereby amended by the addition of the following subparagraph:

"(3) (a) The provisions of subparagraph (1) shall not apply in respect of so much of the cash equivalent of a taxable benefit referred to in the said subparagraph as the Commissioner, having regard to the circumstances

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section 37 of
Act 96 of 1985
and section 36 of
Act 65 of 1986.

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 the said subparagraph. 5

(b) Any decision of the Commissioner under item (a) on assessment of the liability of the employee concerned for normal tax shall be subject to objection and appeal." 10

Withdrawal of
Government Notice
No. R.2683 of
19 December 1986.

31. Government Notice No. R.2683 of 19 December 1986 is hereby withdrawn.

Commencement
of certain
amendments.

32. Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1988. 15

Short title.

33. This Act shall be called the Income Tax Act, 1987. 20

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Schedule

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 29 FEBRUARY 1988 AND 30 JUNE 1988, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 1988.

(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	15 per cent of each R1 of the taxable income;
exceeds R12 000 but does not exceed R13 000	R1 800 plus 16 per cent of the amount by which the taxable income exceeds R12 000;
„ R13 000 „ „ R14 000	R1 960 plus 18 per cent of the amount by which the taxable income exceeds R13 000;
„ R14 000 „ „ R15 000	R2 140 plus 20 per cent of the amount by which the taxable income exceeds R14 000;
„ R15 000 „ „ R16 000	R2 340 plus 22 per cent of the amount by which the taxable income exceeds R15 000;
„ R16 000 „ „ R18 000	R2 560 plus 24 per cent of the amount by which the taxable income exceeds R16 000;
„ R18 000 „ „ R20 000	R3 040 plus 26 per cent of the amount by which the taxable income exceeds R18 000;
„ R20 000 „ „ R22 000	R3 560 plus 28 per cent of the amount by which the taxable income exceeds R20 000;
„ R22 000 „ „ R24 000	R4 120 plus 30 per cent of the amount by which the taxable income exceeds R22 000;
„ R24 000 „ „ R26 000	R4 720 plus 32 per cent of the amount by which the taxable income exceeds R24 000;
„ R26 000 „ „ R28 000	R5 360 plus 34 per cent of the amount by which the taxable income exceeds R26 000;
„ R28 000 „ „ R30 000	R6 040 plus 36 per cent of the amount by which the taxable income exceeds R28 000;
„ R30 000 „ „ R35 000	R6 760 plus 38 per cent of the amount by which the taxable income exceeds R30 000;
„ R35 000 „ „ R40 000	R8 660 plus 40 per cent of the amount by which the taxable income exceeds R35 000;
„ R40 000 „ „ R45 000	R10 660 plus 42 per cent of the amount by which the taxable income exceeds R40 000;
„ R45 000 „ „ R50 000	R12 760 plus 43 per cent of the amount by which the taxable income exceeds R45 000;
„ R50 000 „ „ R60 000	R14 910 plus 44 per cent of the amount by which the taxable income exceeds R50 000;
„ R60 000	R19 310 plus 45 per cent of the amount by which the taxable income exceeds R60 000.

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Taxable Income	Rates of Tax in respect of Persons who are not Married Persons
Where the taxable income— does not exceed R10 000	15 per cent of each R1 of the taxable income;
exceeds R10 000 but does not exceed R11 000	R1 500 plus 16 per cent of the amount by which the taxable income exceeds R10 000;
„ R11 000 „ „ R12 000	R1 660 plus 18 per cent of the amount by which the taxable income exceeds R11 000;
„ R12 000 „ „ R13 000	R1 840 plus 20 per cent of the amount by which the taxable income exceeds R12 000;
„ R13 000 „ „ R14 000	R2 040 plus 22 per cent of the amount by which the taxable income exceeds R13 000;
„ R14 000 „ „ R15 000	R2 260 plus 24 per cent of the amount by which the taxable income exceeds R14 000;
„ R15 000 „ „ R16 000	R2 500 plus 26 per cent of the amount by which the taxable income exceeds R15 000;
„ R16 000 „ „ R18 000	R2 760 plus 28 per cent of the amount by which the taxable income exceeds R16 000;
„ R18 000 „ „ R20 000	R3 320 plus 30 per cent of the amount by which the taxable income exceeds R18 000;
„ R20 000 „ „ R22 000	R3 920 plus 32 per cent of the amount by which the taxable income exceeds R20 000;
„ R22 000 „ „ R24 000	R4 560 plus 34 per cent of the amount by which the taxable income exceeds R22 000;
„ R24 000 „ „ R26 000	R5 240 plus 36 per cent of the amount by which the taxable income exceeds R24 000;
„ R26 000 „ „ R28 000	R5 960 plus 38 per cent of the amount by which the taxable income exceeds R26 000;
„ R28 000 „ „ R30 000	R6 720 plus 40 per cent of the amount by which the taxable income exceeds R28 000;
„ R30 000 „ „ R34 000	R7 520 plus 42 per cent of the amount by which the taxable income exceeds R30 000;
„ R34 000 „ „ R38 000	R9 200 plus 43 per cent of the amount by which the taxable income exceeds R34 000;
„ R38 000 „ „ R42 000	R10 920 plus 44 per cent of the amount by which the taxable income exceeds R38 000;
„ R42 000	R12 680 plus 45 per cent of the amount by which the taxable income exceeds R42 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 proviso hereto) y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion) bears to the income so derived (with the said exclusion): Provided that if the taxable income so derived (with the said exclusion) does not exceed R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

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

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

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one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 per cent of such amount;

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

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

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

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

and if such taxable income exceeds R40 000, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula $y = 20 \left(1 - \frac{8}{x}\right)$ by

one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 per cent of such amount;

- (e) on each rand of the taxable income of any company the sole or principal business of which in the Republic is or has been mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss which the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act, a rate equal to the average rate of normal tax or 35 cents, whichever is higher: Provided that for the purposes of this subparagraph the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;
- (f) on each rand of the taxable income derived by any company from mining for diamonds, 45 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 cent of such amount;
- (g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold or diamonds), 50 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 15 per cent of such amount.
2. (1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.
- (2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.
3. In this Schedule, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the principal Act, bears the meaning so assigned thereto.