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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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# STAATSKOERANT

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1523.

12 July 1991

No. 1523.

12 Julie 1991

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 gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 129 of 1991: Income Tax Act, 1991

No. 129 van 1991: Inkomstebelastingwet, 1991

**GENERAL EXPLANATORY NOTE:**

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

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

## ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 29 February 1992 and 30 June 1992, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1992; to amend the Income Tax Act, 1962; to provide for an initial allowance on certain machinery and plant; and to provide for incidental matters.

*(English text signed by the State President.)*  
*(Assented to 27 June 1991.)*

**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— 5

- (a) the taxable income of any person other than a company for the year of assessment ending on 29 February 1992 or 30 June 1992; and
- (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1992, 10

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

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R.780 of 14 April 1989, section 2 of Act 70 of 1989 and section 2 of Act 101 of 1990 15 20

2.(1) Section 1 of the principal Act is hereby amended— 25

- (a) by the substitution in the definition of "gross income" for subparagraph (iii) of paragraph (g) of the following subparagraph:
- “(iii) for the use or right of use of any patent as defined in the Patents Act, [1952 (Act No. 37 of 1952)] 1978 (Act No. 57 of 1978), or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, [1965 (Act No. 63 of 1965)] 1978 (Act No. 98 of 1978), or any model, pattern, plan, formula or process or any other property or right of a similar nature;”;
- (b) by the substitution for the definition of "person" of the following definition:
- “ ‘person’ includes the estate of a deceased person and any trust fund consisting of cash or other assets which are administered and controlled by a person acting in a fiduciary capacity, where such person is appointed under a deed of trust or by agreement or under the will of a deceased person;”;
- (c) by the deletion of the definition of "post-1966 gold mine"; and
- (d) by the substitution for the definition of "trade" of the following definition:
- “ ‘trade’ includes every profession, trade, business, employment, calling, occupation or venture, including the letting of any property and the use of or the grant of permission to use any patent as defined in the Patents Act, [1952 (Act No. 37 of 1952)] 1978 (Act No. 57 of 1978), or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, [1965 (Act No. 63 of 1965)] 1978 (Act No. 98 of 1978), or any other property which [in the opinion of the Commissioner] is of a similar nature;”.
- (2)(a) Subsection (1)(b) shall be deemed to have come into operation as from the commencement of years of assessment which commenced or commence on or after 1 March 1986.
- (b) Subsection (1)(c) shall be deemed to have come into operation as from the commencement of years of assessment ending during the period of 12 months ending on 31 March 1992.

Amendment of section 5 of Act 58 of 1962, as amended by section 2 of Act 6 of 1963, section 5 of Act 90 of 1964, section 6 of Act 88 of 1965, section 7 of Act 55 of 1966, section 6 of Act 95 of 1967, section 6 of Act 76 of 1968, section 7 of Act 89 of 1969, section 7 of Act 52 of 1970, section 5 of Act 88 of 1971, section 5 of Act 90 of 1972, section 5 of Act 65 of 1973, section 5 of Act 103 of 1976, section 5 of Act 113 of 1977, section 3 of Act 104 of 1980, section 4 of Act 96 of 1981, section 4 of Act 91 of 1982, section 3 of Act 94 of 1983, section 3 of Act 121 of 1984, section 3 of Act 65 of 1986 and section 3 of Act 90 of 1988

3. Section 5 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2A) of the following subsection:
- “(2A)(a) In the case of any company which derives taxable income from mining for natural oil, the normal tax payable in respect of such taxable income shall be determined [separately in respect of—
- (i) taxable income which is derived by the company from mining for natural oil (excluding gas); and
- (ii) taxable income which is derived by the company from mining for natural oil in the form of gas.
- (b) In addition to the amount of normal tax payable by any company in respect of taxable income referred to in paragraph (a)(i), as determined] in accordance with the rates referred to in subsection (2) which are in force in respect of the year of assessment in question, and in addition thereto there shall, in respect of such taxable income, be paid by

such company, by way of additional normal tax, an amount equal to 40 per cent of the amount remaining after deducting the said amount of normal tax from such taxable income.

[(c)] (b) The normal tax and the additional normal tax chargeable in respect of taxable income referred to in [subparagraph (i) or (ii) of] paragraph (a) [and the additional normal tax referred to in paragraph (b)], shall be reduced to or by such an amount, and on such conditions, as the Minister of [Mines] Mineral and Energy Affairs [in consultation with the Minister of Finance,] may with the concurrence of the Minister of Finance determine.

[(d)] (c) For the purposes of this subsection where sulphur, salt or any other mineral is won by any company in the course of mining for natural oil [(excluding gas) or natural oil in the form of gas], the income derived from the mining of such sulphur, salt or other mineral shall be deemed to be derived from the mining for natural oil [(excluding gas) or natural oil in the form of gas, as the case may be].”;

and

(b) by the substitution in subsection (10) for subparagraph (iii) of paragraph (d) of the following subparagraph:

“(iii) where the provisions of paragraph 17 of the First Schedule are in the case of the taxpayer applicable in respect of the said year, an amount equal to so much of the taxable income of the taxpayer for such year as [is proved to the satisfaction of the Commissioner to have] has been derived from the disposal of sugar cane as a result of fire in his cane fields and but for such fire would not have been derived by him in that year;”.

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

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

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

“(1) There shall be deducted from the normal tax payable by any natural person [other than a company] an amount equal to the sum of the amounts allowed to the taxpayer by way of rebates under subsections (2) and (3).”;

(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“In the case of a natural person [other than a company] there shall, subject to the provisions of subsection (4), be allowed by way of a primary rebate—”;

(c) by the substitution in subsection (2) for the expression “R2 100” in paragraph (a) of the expression “R2 000”;

(d) by the substitution in subsection (2) for the expression “R1 800” in paragraph (b) of the expression “R1 625”;

(e) by the substitution in subsection (2) for the expression “R700” in paragraph (c) of the expression “R800”;

(f) by the addition in subsection (3) of the following further proviso to paragraph (e):

“Provided further that the rebate under this paragraph shall not be granted if the taxpayer is entitled to a rebate under paragraph (f);”;

(g) by the substitution in subsection (3) for the expression “R1 980”, wherever it occurs in paragraph (f), of the expression “R2 100”; and

(h) by the addition to subsection (3) of the following proviso:

“Provided that the provisions of paragraph (f) shall also apply in the case of a married woman.”.

**Amendment of section 6bis of Act 58 of 1962, as inserted by section 7 of Act 88 of 1965 and substituted by section 6 of Act 85 of 1974**

5. The following section is hereby substituted for section 6bis of the principal Act:

**“Rebate in respect of foreign income taxes on royalties and similar income 5**

**6bis.** There shall be deducted from the normal tax (as calculated before the addition of any sum which in terms of any Income Tax Act is a loan portion which is repayable to the person concerned) payable by any person in whose taxable income there is included any amount received by or accrued to him in respect of the use or right of use in any country other than the Republic or the grant of permission to use in such other country any patent as defined in the Patents Act, [1952 (Act No. 37 of 1952)] 1978 (Act No. 57 of 1978), or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, [1965 (Act No. 63 of 1965)] 1978 (Act No. 98 of 1978), or any model, pattern, plan, formula or process, or any other property or right of a similar nature, or any motion picture film, or any film or video tape or disc for use in connection with television, or any sound recording or advertising matter used or intended to be used in connection with such motion picture film, film, video tape or disc, the sum of any taxes payable on income [proved to the satisfaction of the Commissioner to be payable], without any right of recovery, by such person to the government of any country other than the Republic in respect of the said amount: Provided that the rebate under this [subsection] section shall not exceed so much of the normal tax (calculated as aforesaid) payable by the taxpayer as [the Commissioner determines to be] is attributable to the inclusion in his taxable income of the said amount.” 30

**Repeal of section 6ter of Act 58 of 1962, as inserted by section 8 of Act 95 of 1967 and amended by section 7 of Act 85 of 1974**

6. Section 6ter of the principal Act is hereby repealed.

**Amendment of section 7 of Act 58 of 1962, as amended by section 5 of Act 90 of 1962, section 8 of Act 88 of 1965, section 9 of Act 55 of 1966, section 7 of Act 94 of 1983, section 2 of Act 30 of 1984, section 5 of Act 90 of 1988, section 5 of Act 70 of 1989 and section 4 of Act 101 of 1990 35**

7. Section 7 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Any income received by or accrued to [a married woman] any person married with or without community of property (hereinafter referred to as the recipient) shall be deemed for the purposes of this Act to be income accrued to [her husband] such person’s spouse (hereinafter referred to as the donor) if—

(a) such income was derived by [her otherwise than from any trade] the recipient in consequence of a donation, settlement or other disposition made by the donor on or after 20 March 1991 or of a transaction, operation or scheme entered into or carried out by the donor on or after that date, and the sole or main purpose of such donation, settlement or other disposition or of such transaction, operation or scheme was the reduction, postponement or avoidance 50

- of the donor's liability for any tax, levy or duty which, but for such donation, settlement, other disposition, transaction, operation or scheme, would have become payable by the donor under this Act or any other Act administered by the Commissioner; or
- (b) income was received by or accrued to **[her]** the recipient— 5
- (i) from any trade carried on by **[her]** the recipient in partnership or association with **[her husband]** the donor or which is in any way connected with any trade carried on by **[her husband]** the donor; or
- (ii) from **[her husband]** the donor or any partnership of which **[her husband]** the donor was at the time of such receipt or accrual a member or any private company of which **[her husband]** the donor was at such time the sole or main shareholder or one of the principal shareholders, 10
- and such income represents the whole or any portion of the total income so received by or accrued to **[her]** the recipient which exceeds the amount of income to which **[she]** the recipient would reasonably be entitled having regard to the nature of the relevant trade, the extent of **[her]** the recipient's participation therein, the services rendered by **[her]** the recipient or any other relevant factor; 15
- or
- (c) such recipient is a married **[woman's]** woman and— 20
- (i) her husband has not during the year of assessment derived gross income (including any amounts which would have constituted gross income but for the fact that they were derived from a source outside the Republic) exceeding the amount of R10 000, and such married woman has elected that the provisions of this paragraph shall apply; or 25
- (ii) where such married woman derives remuneration as defined in paragraph 1 of the Fourth Schedule, the Commissioner has, on application made to him by such married woman and having been satisfied that the provisions of subparagraph (i) would apply in any year of assessment, issued to such married woman's employer a directive to the effect that the said provisions shall apply in respect of such year.” 30 35

**Amendment of section 7A of Act 58 of 1962, as inserted by section 6 of Act 69 of 1974 and amended by section 7 of Act 103 of 1976, section 6 of Act 96 of 1981 and section 4 of Act 65 of 1986**

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

- (a) by the deletion of subsection (4); and 40
- (b) by the substitution in subsection (4A) for paragraphs (b) and (c) of the following paragraphs, respectively:
- “(b) **[the Commissioner is satisfied that]** the termination or impending termination of the taxpayer's services is due to superannuation, ill-health or other infirmity; or 45
- (c) in the case of a female, **[the Commissioner is satisfied that]** she terminated her services in order to marry; or”.

(2) Subsection (1)(a) shall come into operation on 1 August 1991 and shall apply in respect of any amount received or accrued on or after that date: Provided that, notwithstanding the deletion of the said subsection (4), any amount received or accrued before 1 August 1991 and which has been dealt with under the provisions of the said subsection (4), shall be deemed to have accrued on the basis elected by the taxpayer prior to the deletion of the said subsection (4). 50

**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 55**

of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of 1986, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988 and section 5 of Act 101 of 1990

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

- (a) by the deletion in subsection (1) of the proviso to subparagraph (i) of paragraph (b); and
- (b) by the substitution in subsection (1) for paragraphs (aa) and (bb) of the proviso to subparagraph (ii) of paragraph (b) of the following paragraphs, respectively:
- “(aa) the recipient shall, unless the contrary appears, be deemed to have used the vehicle during such year for such **[private travelling] business purposes** over a distance equal to the difference between the total number of kilometres travelled by him in such vehicle during such year (but not exceeding 32 000 kilometres) and a distance of [10 000] 12 000 kilometres [or such 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 less than the full period of such year, the reference in paragraph (aa) of this proviso to **[a distance] the distances of 32 000 kilometres and [10 000] 12 000 kilometres** shall be construed as a reference to **[a distance] the distances which [bears] bear to 32 000 kilometres and [10 000] 12 000 kilometres, respectively,** the same ratio as the period of use for business purposes bears to 12 months;”.

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

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

- (a) by the substitution in subsection (1) for subparagraph (i) of paragraph (b) of the following subparagraph:
- “(i) any patent as defined in the Patents Act, **[1952 (Act No. 37 of 1952)] 1978 (Act No. 57 of 1978)**, or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, **[1965 (Act No. 63 of 1965)] 1978 (Act No. 98 of 1978)**, or any model, pattern; plan, formula or process or any other property or right of a similar nature; or”; and
- (b) by the substitution in subsection (1) for paragraph (fA) of the following paragraph:
- “(fA) any services rendered by such person to, or work or labour done by such person for, any other person upon, beneath or above the continental shelf referred to in section 7 of the Territorial Waters Act, 1963 (Act No. 87 of 1963), in the course of any operations connected with operations carried on by [such other] any person under any prospecting or mining lease granted or which may be granted under the Mining Rights Act, 1967 (Act No. 20 of 1967), or under any sublease granted or which may be granted under any such lease, wheresoever payment for such services or work or labour is or is to be made;”.

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**Amendment of section 9B of Act 58 of 1962, as inserted by section 9 of Act 101 of 1990**

11. Section 9B of the principal Act is hereby amended by the deletion of subsection (5).

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975, section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989 and section 10 of Act 101 of 1990

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

(a) by the insertion in subsection (1) after paragraph (cG) of the following paragraph:

“(cH) the receipts and accruals of any company, society or other association of persons or any trust fund, whether or not registered under any law (other than a co-operative formed and incorporated or deemed to be formed and incorporated under the Co-operatives Act, 1981 (Act No. 91 of 1981)), if—

(i) the sole or principal object of such company, society, association or trust fund is to receive, hold and apply moneys contributed to such company, society, association or trust fund in order to discharge any of the following or like obligations imposed upon any person in terms of any law relating to mining operations, namely—

(aa) the rehabilitation of disturbances of the surface of land and the prevention and combating of pollution of the air, land, sea or other water where such disturbances and pollution are connected with mining, prospecting, quarrying or similar operations;

(bb) the protection of the surface of land and water sources and the making safe of undermined ground and of dangerous excavations, tailings, waste dumps and structures, of whatsoever nature, made in the course of mining, prospecting, quarrying or similar operations; and

(cc) the demolition or removal of any building, structure or other thing erected or constructed in connection with mining, prospecting, quarrying or similar operations, the removal of any debris or other objects and the restoration, as far as is practicable, of the surface to its natural state;

(ii) such company, society or association is under its constitution, or such trust fund is under the instrument establishing such fund, 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;

(iii) in terms of the constitution of such company, society or association or the instrument establishing such trust fund



- 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, association or trust fund with objects similar to those of the said company, society, association or trust fund; and 5
- (iv) the Commissioner has approved such company, society, association or trust fund on such conditions as he may deem necessary to ensure that the activities of such company, society, association or trust fund are wholly or mainly directed to the furtherance of its sole or principal object;” 10
- (b) by the substitution in subsection (1) for paragraph (aa) of the proviso to subparagraph (i) of paragraph (k) of the following paragraph: 15
- “(aa) to dividends (other than those distributed out of profits of a capital nature and those received by or accrued to or in favour of any person not ordinarily resident nor carrying on business in the Republic) distributed by a fixed property company as defined in section 1 of the Unit Trusts Control Act, 1981 (Act No. 54 of 1981), on shares included in a unit portfolio comprised in any unit trust scheme in property shares authorized under the said Act; or ”; 20
- (c) by the substitution in subsection (1) for the proviso to paragraph (m) of the following proviso: 25
- “Provided that this exemption shall not apply to any person who is not the first owner of a copyright under the Copyright Act, [1965 (Act No. 63 of 1965)] 1978 (Act No. 98 of 1978), or to a company;”;
- (d) by the deletion in subsection (1) of paragraph (n);
- (e) by the deletion in subsection (1) of paragraph (nC);
- (f) by the deletion in subsection (1) of paragraph (nD);
- (g) by the deletion in subsection (1) of paragraph (nF); 30
- (h) by the addition in subsection (1) of the following proviso to paragraph (nG):
- “Provided that the provisions of this paragraph shall not apply to any benefit or advantage granted to an employee who is re-employed on or after 1 March 1992;”;
- (i) by the deletion in subsection (1) of paragraph (q);
- (j) by the deletion in subsection (1) of paragraph (qA);
- (k) by the addition in subsection (1) to paragraph (t) of the following subparagraph: 40
- “(xii) of KESCOR (Proprietary) Limited, a company registered under the Companies Act, 1973, on 11 May 1990;”;
- (l) by the substitution in subsection (1) for subparagraphs (ii) and (iii) of paragraph (x) of the following subparagraphs, respectively: 45
- “(ii) **[the Commissioner is satisfied that]** the termination or impending termination of such person’s services or the relinquishment, termination, loss, repudiation, cancellation or variation of his office or employment or of his appointment (or right or claim to be appointed) to any office or employment is due to superannuation, ill-health or other infirmity; or
- (iii) in the case of a female, **[the Commissioner is satisfied that]** she relinquished or terminated her office or services in order to marry;”;
- (m) by the substitution in subsection (1) for the words in paragraph (zA) preceding the proviso of the following words: 50
- “any amount **[other than interest] which is on or after 1 April 1990 paid by the State** by way of rebate or other assistance received by or accrued to or in favour of any exporter (as defined in section 11bis(1)) under any 55

scheme for the promotion or financing of exports which is for the purposes of this paragraph approved by the Minister of Trade and Industry and Tourism with the concurrence of the Minister of Finance, as well as any amount (including any interest paid in terms of the General Export Incentive Scheme introduced with effect from 1 April 1990 and which is calculated in respect of any period falling after 1 April 1991) which is paid by the State, on or after 1 April 1990, under any such scheme.” 5

(2)(a) Subsection (1)(b) shall be deemed to have come into operation on 1 March 1990 and shall apply in respect of any dividend received or accruing on or after that date. 10

(b) Subsection (1)(d) shall come into operation on 1 March 1992 and shall apply in respect of any amount received or accruing on or after that date.

(c) Subsection (1)(e) shall come into operation on 1 March 1992 and shall apply in respect of any benefit or advantage accruing on or after that date. 15

(d) Subsection (1)(i) shall come into operation on 1 March 1992 and shall apply in respect of any gratuity received or accruing on or after that date.

(e) Subsection (1)(j) shall come into operation on 1 March 1992 and shall apply in respect of any amount received or accruing on or after that date.

(f) Subsection (1)(m) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 1 April 1990. 20

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989 and section 11 of Act 101 of 1990 25 30

13. Section 11 of the principal Act is hereby amended—

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

“(b) **[so much as the Commissioner may allow of any]** expenditure and losses actually incurred outside the Republic in the production of the income, provided such expenditure and losses are not of a capital nature;” 35

(b) by the substitution for subparagraph (iii) of paragraph (f) of the following subparagraph: 40

“(iii) the right of use of any patent as defined in the Patents Act, **[1952 (Act No. 37 of 1952)] 1978 (Act No. 57 of 1978)**, or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, **[1965 (Act No. 63 of 1965)] 1978 (Act No. 98 of 1978)**, or of any other property which **[in the opinion of the Commissioner]** is of a similar nature, if such patent, design, trade mark, copyright or other property is used for the production of income or income is derived therefrom; or” 45 50

(c) by the substitution for subparagraph (i) of paragraph (gA) of the following subparagraph:

“(i) in devising or developing any invention as defined in the Patents Act, **[1952 (Act No. 37 of 1952)] 1978 (Act No. 57 of 1978)**, or in creating or producing any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, **[1965 (Act No. 63 of 1965)] 1978 (Act No. 98 of 1978)**, or any other property which **[in the opinion of the Commissioner]** is of a similar nature; or” 55 60

- (d) by the substitution for paragraph (gB) of the following paragraph:  
 “(gB) expenditure (other than expenditure which has qualified in whole or part for deduction or allowance under any of the other provisions of this section) actually incurred by the taxpayer during the year of assessment in obtaining the extension of the term of any patent under the Patents Act, [1952 (Act No. 37 of 1952)] 1978 (Act No. 57 of 1978), or the extension of the registration period of any design under the Designs Act, 1967 (Act No. 57 of 1967), or the renewal of the registration of any trade mark under the Trade Marks Act, 1963 (Act No. 62 of 1963), if such patent, design or trade mark is used by the taxpayer in the production of his income or income is derived by him therefrom;”  
 and
- (e) by the insertion after paragraph (h) of the following paragraph:  
 “(hA) so much of any amount paid (other than an amount in respect of which any deduction or allowance has been or will be granted under any other provision of this Act) by a taxpayer engaged in mining, prospecting, quarrying or similar operations to a company, society, association of persons or trust fund referred to in section 10(1)(cH) to be used by such company, society, association or trust fund for the purposes contemplated in such section, as in the special circumstances of the trade of the taxpayer is reasonable;”

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, section 9 of Act 90 of 1988 and section 9 of Act 70 of 1989

14. Section 11bis of the principal Act is hereby amended—

- (a) by the substitution in subsection (3B) for paragraph (b) of the following paragraph:  
 “(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, but not later than 31 March 1993, has accrued to the exporter during the year of assessment.”; and
- (b) by the insertion after subsection (8) of the following subsection:  
 “(9) No deduction shall be allowed under the provisions of this section in respect of marketing expenditure incurred after 31 March 1992.”

Repeal of section 11sept of Act 58 of 1962, as inserted by section 14 of Act 85 of 1974, substituted by section 9 of Act 104 of 1979 and amended by section 11 of Act 96 of 1981, section 9 of Act 91 of 1982, section 13 of Act 121 of 1984, section 8 of Act 96 of 1985 and section 12 of Act 101 of 1990

15. Section 11sept of the principal Act is hereby repealed.

Repeal 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, section 8 of Act 65 of 1986 and section 11 of Act 85 of 1987

16. Section 12 of the principal Act is hereby repealed.

Repeal of section 12A of Act 58 of 1962, as inserted by section 16 of Act 55 of 1966 and amended by section 13 of Act 95 of 1967, section 12 of Act 88 of 1971, section 12 of Act 69 of 1975, section 13 of Act 96 of 1981, section 12 of Act 91 of 1982, section 12 of Act 94 of 1983, section 9 of Act 65 of 1986 and section 10 of Act 90 of 1988

17. Section 12A of the principal Act is hereby repealed.

Amendment of section 15 of Act 58 of 1962, as amended by section 20 of Act 55 of 1966

18. Section 15 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) an amount to be ascertained under the provisions of section 36, in lieu of the allowances in section 11(e), (f), (gA) and (o) [and section 12(1), including section 12(1) as applied by section 12(3)];”

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

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

(a) by the substitution in subsection (1) for the words in paragraph (b) preceding subparagraph (ii) of the following words:

“any amounts (other than amounts recoverable by the taxpayer or his spouse) which [the Commissioner is satisfied] were paid by the taxpayer during the year of assessment to any duly registered—

(i) medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor or orthoptist for professional services rendered or medicines [(other than medicines the cost of which has been deducted from the taxpayer's income under section 21quat)] supplied to; or”;

(b) by the substitution in subsection (1) for the words following upon subparagraph (ii) of paragraph (b) of the following words:

“(iii) pharmacist for medicines [(other than medicines the cost of which has been deducted from the taxpayer's income under section 21quat)] supplied on the prescription of any person mentioned in subparagraph (i) for,

the taxpayer or his [wife] spouse or his children or stepchildren [referred to in section 6(3)(a)] in respect of which the taxpayer or his spouse is entitled to a rebate in terms of section 6(3)(a); and”;

(c) by the substitution in subsection (1) for paragraphs (c) and (d) of the following paragraphs, respectively:

“(c) any amounts (other than amounts recoverable by the taxpayer or his spouse) which [the Commissioner is satisfied] were paid by the taxpayer during the year of assessment in respect of expenditure incurred outside the Republic on services rendered or medicines supplied to the taxpayer or his [wife] spouse or his children or stepchildren [referred to in section 6(3)(a)] in respect of which the taxpayer or his spouse is entitled to a rebate in terms of section 6(3)(a) and which [the Commissioner is satisfied] are substantially similar to the services and medicines in respect of which a deduction may be made under paragraph (b) of this subsection; and

- (d) any expenditure (other than expenditure recoverable by the taxpayer or his spouse) necessarily incurred and paid by the taxpayer [or his wife] in consequence of any physical disability suffered by the taxpayer, his [wife] spouse or child or stepchild [referred to in section 6(3)(a)] in respect of which the taxpayer or his spouse is entitled to a rebate in terms of section 6(3)(a);” and 5
- (d) by the substitution for the proviso to subsection (1) of the following proviso: 10
- “Provided that any amount paid by the estate of a deceased taxpayer [or by the estate of a taxpayer’s deceased wife] which would, if it had been paid by the taxpayer, have been taken into account for a deduction under this section, shall for the purposes of this section be deemed to have been paid by the taxpayer on the day before his [or his wife’s] death [as the case may be].”.

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

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

- (a) by the substitution in subsection (1) for item (aa) of subparagraph (iv) of paragraph (b) of the definition of “educational fund” of the following item: 20
- “(aa) for the promotion of adult education, vocational training or technical education [other than education or training provided in any training centre or under any training scheme referred to in section 11sept]; or”; 25
- (b) by the addition in subsection (1) to the definition of “educational fund” of the following paragraph: 30
- “(d) any trust fund established in the Republic for the sole purpose of receiving donations from companies to be used exclusively for educational or training purposes in respect of primary and secondary education in the Republic or any independent state whose territory formerly formed part of the Republic if— 30
- (i) the Minister of Finance has approved such trust fund; and 35
- (ii) the sum of the donations in respect of which prospective donors have irrevocably committed themselves to donate to such trust fund, is at the time of the approval of such trust fund not less than R1 000 000;”;
- (c) by the substitution in subsection (1) in the definition of “educational or training purposes” for the words preceding paragraph (a) of the following words: 40
- “in relation to any fund referred to in paragraph (b) [or], (c) or (d) of the definition of ‘educational fund’ in this subsection, means—”;
- (d) by the substitution in subsection (1) for the definition of “taxable income” of the following definition: 45
- “‘taxable income’, in relation to any taxpayer, means the taxpayer’s taxable income as calculated before allowing any deductions under this section [and section 21quat] and, in the case of any company carrying on mining operations, before allowing any deduction under section 15(a) and before allowing any set-off of any part of the balance of assessed loss under section 20(1)(a) which [the Commissioner determines to have arisen] arose from any deduction made under the said section 15(a);”;
- and 50
- (e) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words: 55

“In the application of the provisions of this section in so far as they relate to any fund referred to in paragraph (b) [or], (c) or (d) of the definition of ‘educational fund’ in subsection (1), the Commissioner may by notice in writing require any person whom the Commissioner may deem able to furnish information in regard to such fund—”.

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Amendment of section 19 of Act 58 of 1962, as amended by section 15 of Act 90 of 1962, section 6 of Act 6 of 1963, section 17 of Act 88 of 1965, section 17 of Act 88 of 1971, section 14 of Act 90 of 1972, section 18 of Act 85 of 1974, section 14 of Act 104 of 1980, section 17 of Act 96 of 1981, section 15 of Act 91 of 1982, 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, section 4 of Act 108 of 1986, section 13 of Act 85 of 1987 and section 18 of Act 101 of 1990

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21. Section 19 of the principal Act is hereby amended—

(a) by the addition of the following proviso to subsection (3):

“Provided that no deduction shall be allowed in the case of—

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(aa) such income received by or accrued to any person in respect of any investment made on or after 1 March 1990 in a paid-up fixed period share in a mutual building society or a deposit in a building society which, in the opinion of the Registrar of Building Societies, having regard to the terms and conditions on which such deposit is accepted, is equivalent to a paid-up fixed period share in a mutual building society;

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(bb) income received by or accrued to any person on or after 1 March 1995 on any investment referred to in subsection (5A), whenever made; and

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(cc) income received by or accrued to any person in respect of any investment referred to in section 10(4).”; and

(b) by the substitution for paragraph (ii) of the proviso to subsection (4) of the following paragraph:

“(ii) the provisions of this subsection shall not apply in respect of any such income received by or accrued to any person in respect of any investment made before 1 March 1990 in a paid-up fixed period share in a mutual building society or a deposit in a building society which, in the opinion of the Registrar of Building Societies, having regard to the terms and conditions subject to which such deposit is accepted, is equivalent to a paid-up fixed period share in a mutual building society.”.

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

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22. Section 22 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) Where in respect of any year of assessment ending after the commencement date defined in section 1 of the Value-Added Tax Act, 1991, any amount of sales tax referred to in section 23C(2) which was included in the cost price to the taxpayer of any trading stock is deemed by that section to have been recovered or recouped for the purposes of section 8(4)(a), the cost of such trading stock held and not disposed of by the taxpayer at the end of such year shall be deemed to have been reduced by the said amount.”.

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

23. Section 23 of the principal Act is hereby amended by the addition to paragraph (b) of the following proviso:

“Provided that such part shall not be deemed to have been occupied for the purposes of trade, unless such part is specifically equipped for purposes of the taxpayer’s trade and regularly and exclusively used for such purposes;” 5

**Amendment of section 23A of Act 58 of 1962, as inserted by section 21 of Act 121 of 1984, substituted by section 12 of Act 70 of 1989 and amended by section 22 of Act 101 of 1990** 10

24. Section 23A of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Notwithstanding the provisions of sections 11(e) and (o), [12,] 12B, 12C 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.” 15

**Insertion of sections 23B and 23C in Act 58 of 1962**

25. (1) The following sections are hereby inserted in the principal Act after section 23A: 20

**“Prohibition of double deductions**

23B. (1) Where, but for the provisions of this section, an amount qualifies or has qualified for a deduction or an allowance under more than one provision of this Act, a deduction or allowance in respect of such amount, or any portion thereof, shall not be allowed more than once in the determination of the taxable income of any person. 25

(2) The provisions of subsection (1) shall not apply to expenditure in respect of which a deduction or an allowance has been determined, if any section under which such deduction or allowance is allowed, expressly requires such expenditure to be deductible under any other section as a prerequisite for a deduction under such section. 30

**Reduction of cost of certain assets**

23C. (1) Where for the purposes of applying any provision of this Act regard is to be had to the cost to the taxpayer of any asset acquired by him or to the amount of any expenditure incurred by him in respect of any service rendered to him, and— 35

(a) value-added tax has been imposed in terms of the Value-Added Tax Act, 1991, in respect of the supply to or the importation by the taxpayer (being a vendor as defined in section 1 of the last-mentioned Act) of such asset or such service; and 40

(b) the taxpayer is under section 16(3) of that Act entitled to a deduction of input tax in respect of such value-added tax, the amount of such value-added tax shall be excluded from the cost of such asset or the amount of such expenditure. 45

(2) Where a taxpayer (being a vendor as defined in section 1 of the Value-Added Tax Act, 1991) has in respect of any tax period applicable to him under that Act which has ended during his year of

assessment, included in input tax deducted by him under section 16(3) of that Act an amount of sales tax, as permitted by section 78 of that Act so to be included—

- (a) that amount shall, if it was included in capital expenditure taken into account for the purposes of any deduction in respect of any mine under section 15(a) of this Act, be deemed for the purposes of paragraph (j) of the definition of 'gross income' in section 1 of this Act to be an amount received by or accrued to the taxpayer during the said year of assessment in respect of a disposal of assets referred to in the said paragraph; or
- (b) that amount (not being an amount accounted for under paragraph (a)), shall for the purposes of section 8(4)(a) of this Act be deemed to be an amount which has been recovered or recouped by the taxpayer during the said year of assessment."

(2) Section 23C of the principal Act, as inserted by subsection (1), shall apply in respect of years of assessment ending on or after 30 September 1991.

**Amendment of section 24F of Act 58 of 1962, as inserted by section 17 of Act 85 of 1987 and amended by section 19 of Act 90 of 1988 and section 24 of Act 101 of 1990**

26. Section 24F of the principal Act is hereby amended by the substitution in subsection (1) in paragraph (g) of the definition of "production cost" for the words preceding the proviso of the following words:

"any allowance which but for the provisions of this section would be allowed under section 11(e) or (o) or **[12(1)] 12C** in respect of any machinery, implements, utensils or articles used in the production of a film:"

**Insertion of section 25B in Act 58 of 1962**

27. (1) The following section is hereby inserted in the principal Act after section 25A:

**"Income of trust funds and beneficiaries of trust funds**

**25B. (1)** Any income received by or accrued to or in favour of any person in his capacity as the trustee of a trust fund referred to in the definition of 'person' in section 1, shall, subject to the provisions of section 7, to the extent to which such income has been derived for the immediate or future benefit of any ascertained beneficiary with a vested right to such income, be deemed to be income which has accrued to such beneficiary, and to the extent to which such income is not so derived, be deemed to be income which has accrued to such trust fund.

(2) Where a beneficiary has acquired a vested right to any income referred to in subsection (1) in consequence of the exercise by the trustee of a discretion vested in him in terms of the relevant deed of trust, agreement or will of a deceased person, such income shall for the purposes of that subsection be deemed to have been derived for the benefit of such beneficiary.

(3) Any deduction or allowance which may be made under the provisions of this Act in the determination of the taxable income derived by way of any income referred to in subsection (1) shall, to the extent to which such income is under the provisions of that subsection deemed to be income which has accrued to a beneficiary or to the trust fund, be deemed to be a deduction or allowance which may be made in the determination of the taxable income derived by such beneficiary or trust fund, as the case may be."



(2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment which commenced or commence on or after 1 March 1986.

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

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

- (a) by the substitution in subsection (2) for the proviso to paragraph (a) of the following proviso: 10  
 “Provided that the amounts allowed as deductions under this paragraph shall not in the aggregate exceed an amount equal to the taxable income of such agricultural co-operative for the year of assessment, as calculated before allowing any deductions under this paragraph [paragraphs (c), (e) and (f) of this subsection] and sections 11*bis*, 11*ter*, 11*quat*, 11*quin*, 15  
 [11*sept*, 12(2), 12A(3)] 13(5), 13*bis*(7) [15A] and 21*ter* and before setting off any balance of assessed loss brought forward from a previous year of assessment;”;
- (b) by the deletion in subsection (2) of paragraphs (c), (d), (e) and (f);
- (c) by the substitution in subsection (2) for paragraph (h) of the following paragraph: 20  
 “(h) in the case of the vereniging defined in section 1 of the Wine and Spirit Control Act, 1970 (Act No. 47 of 1970), an allowance equal to so much of any amount which the said vereniging has, within the specified period in relation to the year of assessment, 25  
 transferred from its profits for such year to a price stabilization fund for distribution to its members or winegrowers within a period not exceeding five years reckoned from the end of such year of assessment, as does not exceed an amount equal to that portion of the profits derived by such vereniging for that year of assessment [as the Commissioner is satisfied was derived by the vereniging] in the exercise of its functions relating to the control of, and the stabilization of prices in, the wine industry;”;
- (d) by the deletion in subsection (2) of paragraph (i);
- (e) by the deletion of subsection (2A); 35
- (f) by the deletion in subsection (5) of paragraph (b);
- (g) by the substitution in subsection (5) for paragraph (c) of the following paragraph: 30  
 “(c) where an allowance or deduction may be granted or allowed as contemplated in paragraph (a) or (b), the provisions of subsections (2)(b) [and (f)], (3) and (4) shall be applied as though the other co-operative and the new co-operative had at all relevant times been one co-operative.”; and
- (h) by the deletion of subsections (6) and (7).

**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, section 23 of Act 90 of 1988, section 13 of Act 70 of 1989 and section 25 of Act 101 of 1990**

29. Section 28 of the principal Act is hereby amended— 50

- (a) by the substitution in paragraph (c) of subsection (1) for the words following upon subparagraph (ii) of the following words: 55  
 “(other than any such expenditure which relates to amounts contemplated in items (A) to (D) of paragraph (b)(i) and expenditure referred to in subsection (1A)) 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).”;

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

“(1A) There shall be deducted from the taxable income determined in terms of subsection (1) so much of any expenditure incurred by the taxpayer in respect of— 5

(i) any regional services levy and any regional establishment levy payable in terms of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), and the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990); and 10

(ii) any levy payable to the Financial Services Board in terms of section 16 of the Financial Services Board Act, 1990 (Act No. 97 of 1990),

as [is proved to the satisfaction of the Commissioner to have been payable] was payable in relation to any long-term insurance business carried on by the taxpayer and any managerial or secretarial or other services rendered by him, if the gross amounts derived by him from the carrying on of such long-term insurance business or the rendering of such managerial or secretarial or other services are included in the said taxable income.”. 15 20

**Amendment of section 36 of Act 58 of 1962, as amended by section 12 of Act 72 of 1963, section 15 of Act 90 of 1964, section 20 of Act 88 of 1965, section 23 of Act 55 of 1966, section 16 of Act 95 of 1967, section 14 of Act 76 of 1968, section 26 of Act 89 of 1969, section 21 of Act 65 of 1973, section 28 of Act 85 of 1974, section 20 of Act 104 of 1980, section 25 of Act 94 of 1983, section 16 of Act 96 of 1985, section 14 of Act 70 of 1989 and section 26 of Act 101 of 1990** 25

30. Section 36 of the principal Act is hereby amended by the substitution in subsection (11) for paragraph (a) of the definition of “capital expenditure” of the following paragraph: 30

“(a) expenditure (other than interest or finance charges) 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”. 35

**Amendment of section 42 of Act 58 of 1962, as amended by section 21 of Act 88 of 1965, section 17 of Act 95 of 1967, section 29 of Act 89 of 1969, section 19 of Act 52 of 1970, section 23 of Act 88 of 1971, section 18 of Act 90 of 1972, section 22 of Act 65 of 1973, section 32 of Act 85 of 1974, section 22 of Act 69 of 1975, section 18 of Act 103 of 1976, section 19 of Act 113 of 1977, section 20 of Act 91 of 1982 and section 28 of Act 94 of 1983** 40

31. (1) Section 42 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (ii) of the following paragraph:

“(ii) [a deceased estate referred to in sub-paragraph (iii) of paragraph (k) of sub-section (1) of section *ten* and such dividend is in terms of that sub-paragraph exempt from normal tax] the deceased estate of any person who at the date of his death was not ordinarily resident nor carrying on business in the Republic; or”. 45

(2) Subsection (1) shall be deemed to have come into operation on 1 March 1990 and shall apply in respect of all dividends received or accrued on or after that date. 50

**Repeal of section 67 of Act 58 of 1962, as amended by section 16 of Act 76 of 1968, section 37 of Act 90 of 1988 and section 38 of Act 101 of 1990**

32. Section 67 of the principal Act is hereby repealed with effect from the commencement of years of assessment commencing on or after 1 July 1991. 55

**Amendment of section 68 of Act 58 of 1962, as amended by section 26 of Act 90 of 1962, section 23 of Act 88 of 1965 and section 39 of Act 101 of 1990**

33. Section 68 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) Any income received by or accrued to or in favour of **[a married woman]** any person married with or without community of property which in terms of section 7(2) is deemed to be income received by or accrued to **[her husband]** such person’s spouse, shall be included by **[him]** such spouse in returns of income required to be rendered by **[him]** that spouse under this Act **[Provided that—**

(i) if either spouse makes written application therefor to the Commissioner, and the Commissioner considers it desirable; or

(ii) if in any other case the Commissioner considers it desirable, returns of income shall be required to be rendered by both spouses separately].

(2) In the event of the death of **[the husband]** any person during any year in respect of which such income is chargeable, the income of **[the wife]** such person’s spouse for the period elapsing between the date of such death and the last day of the year of assessment shall be returned as the separate income of such **[wife]** spouse.”

**Amendment of section 75 of Act 58 of 1962, as amended by section 40 of Act 101 of 1990**

34. Section 75 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words following upon paragraph (g) of the following words:

“shall be guilty of an offence and liable on conviction to a fine not exceeding **[R300]** R2 000 or to imprisonment for a period not exceeding **[three]** 12 months or to both such fine and such imprisonment.”; and

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

“(3) Any person who has been convicted under subsection (1) of failing to furnish any return, information or reply, shall, if he fails within any period deemed by the Commissioner to be reasonable and of which notice has been given to him by the Commissioner, to furnish the return, information or reply in respect of which the offence was committed, be guilty of an offence and liable on conviction to a fine of **[ten rand]** R50 for each day during which such default continues or to imprisonment without the option of a fine for a period not exceeding **[three]** 12 months.”

**Amendment of section 77 of Act 58 of 1962, as amended by section 25 of Act 69 of 1975 and section 41 of Act 101 of 1990**

35. Section 77 of the principal Act is hereby amended by the deletion of subsection (6).

**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, section 19 of Act 96 of 1985 and section 16 of Act 70 of 1989**

36. Section 83 of the principal Act is hereby amended—

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) Any person entitled to make an objection who is dissatisfied with any decision of the Commissioner as notified to him in terms of section 81(4) may, subject to the provisions of section 83A, appeal

therefrom to a special court for hearing income tax appeals, constituted in accordance with the provisions of this section.

(2) Every court so constituted shall consist of a judge or an acting judge of the Supreme Court, who shall be the President of the court, an accountant of not less than 10 years' standing, and a representative of the commercial community: Provided that in all cases relating to the business of mining such third member shall, if the President, the Commissioner or the appellant so desires, be a qualified mining engineer."; and

(b) by the substitution for subsection (17) of the following subsection: "(17) The court shall not make any order as to costs save when the claim of the Commissioner is held to be unreasonable or the grounds of appeal therefrom to be frivolous or where the decision of the Board referred to in section 83A is substantially confirmed."

#### Insertion of section 83A in Act 58 of 1962

37. The following section is hereby inserted in the principal Act after section 83:

#### "Appeals to specially constituted board

**83A. (1)** Any appeal referred to in section 83(1) of this Act shall in the first instance be heard by the Board referred to in subsection (2) of this section, where—

- (a) the amount of the tax in dispute does not exceed R20 000 (or any other amount which the Minister of Finance may from time to time fix by notice in the *Gazette*) or, having regard to any assessed loss which may be carried forward, will probably not in total exceed the relevant amount; or
- (b) the Commissioner and the appellant agree thereto; or
- (c) no objection to the jurisdiction of the Board to hear the appeal is made at or before the commencement of the hearing of the appeal:

Provided that where the Commissioner, at any time prior to the hearing of such appeal, or the Chairman of the Board, at any time prior to or during the hearing of such appeal, is of the opinion that on the ground of the disputes or legal principles arising or that may arise out of such appeal, such appeal should rather be heard by the special court, such appeal shall be set down for hearing *de novo* before the special court referred to in section 83.

(2) A special board (hereinafter referred to as the Board) is hereby established for the hearing of an appeal referred to in subsection (1).

(3) The Board shall consist of an advocate or attorney referred to in subsection (4), who shall be the Chairman of the Board, and, if the Chairman considers it necessary, an accountant or a representative of the commercial community referred to in section 83(2).

(4)(a) The Minister of Finance shall in consultation with the Judge-President of the Provincial Division within whose area of jurisdiction the Board is to sit, appoint, by notice in the *Gazette*, advocates and attorneys to a panel, from which a Chairman of the Board shall be nominated from time to time or as required, and such persons shall hold office for five years from the date of the relevant notice: Provided that the appointment of such a person may at any time be terminated by the said Minister for any reason which he considers good and sufficient.

(b) A person so appointed shall be eligible for reappointment for such further period or periods as the said Minister may think fit.

(5) The Commissioner shall appoint a clerk of the Board.

(6) The Commissioner shall determine the places for the hearing of appeals by the Board, and the Board shall hear an appeal at whichever

place is closest to the appellant's residence: Provided that the appellant and the Commissioner may agree that the appeal be heard at another place.

(7) The clerk shall—

- (a) act as convenor of the Board; 5
- (b) within 30 days before the date of hearing of the appeal, furnish the members of the Board and the appellant with a written notice of the time and place of the hearing of the appeal and copies of—
  - (i) the assessment against which the appeal has been lodged; 10
  - (ii) the notice of objection and appeal;
  - (iii) the relevant return of income; and
  - (iv) any correspondence between the Commissioner and the appellant as well as any other documents which are, in the opinion of the Commissioner, relevant to the appeal. 15

(8) The Commissioner shall designate an officer from his office to appear in support of the assessment at the hearing of the appeal. 15

(9) The appellant shall—

- (a) in the case of a natural person who has the capacity to act, appear in person; or
- (b) in any other case, be represented by his representative taxpayer, at the hearing of the appeal: Provided that— 20
  - (i) the appellant or his representative taxpayer may, together with his notice of appeal under section 83(7)(a) or within such further period as the Chairman may allow, request permission to present his case otherwise than as contemplated in this subsection; 25
  - (ii) the Chairman may as he deems fit permit the appellant to present his case in such manner as the Chairman sees fit;
  - (iii) where the appellant's return of income for the relevant year of assessment was prepared by any other person, such other person may appear on the appellant's behalf. 30

(10)(a) During the hearing of the appeal the Chairman shall determine the procedures as he sees fit, subject to each party having the opportunity to put his case to the Board in a reasonable manner.

(b) The Board shall not be required to record its proceedings, but the decision of the Board shall be recorded in writing by the Chairman, with a short statement of the facts of the case as found by the Board and the reasons for its decision. 35

(c) The hearing of an appeal may be adjourned by the Chairman to any time and place that may seem convenient.

(d) The clerk shall by notice in writing furnish the Commissioner and the appellant with a copy of the Board's decision. 40

(e)(i) If neither the appellant nor anyone authorized to appear on his behalf appears before the Board at the time and place appointed for the purpose, the Board may, at the request of the Commissioner's representative and on proof that the prescribed notice of the sitting of the Board had been submitted to the appellant, confirm the assessment in respect of which the appeal has been lodged, and thereafter such appellant shall not be entitled to request that the appeal be referred to the special court in terms of subsection (13)(a). 45

(ii) If the Commissioner's representative fails to appear before the Board at the time and place appointed for the purpose the Board may, at the request of the appellant, allow the appellant's appeal and thereafter the Commissioner shall not be entitled to refer the appeal to the special court in terms of subsection (13)(b). 50

(f) The provisions of paragraph (e) shall not apply where the Chairman is satisfied that sound reasons exist for the non-appearance and such reasons are advanced by the appellant or the Commissioner (as the case may be) within seven days after the date on which the appeal was set down for hearing. 55

(g) If the appellant has failed to state the grounds of his objection 60

and appeal in definite terms, the Board may, upon the opening of the proceedings, decide what shall be considered to constitute the grounds of the objection and appeal.

(11) For the purposes of this section the provisions of sections 82, 83(7), (8), (11), (13) and (15), 87 and 88 shall *mutatis mutandis* apply.

(12) Subject to the provisions of subsection (13), any decision of the Board in terms of this section, shall be final and conclusive.

(13)(a) Where an appellant is not satisfied with the decision of the Board, he may, within 30 days (or within such further period as the Chairman may on good cause shown allow) after the date of the notice referred to in subsection (10)(d), require that the appeal be referred to the special court for hearing.

(b) Where the Commissioner is not satisfied with the decision of the Board, he may decide to refer the appeal to the special court for hearing and he shall notify the appellant thereof within 30 days (or within such further period as the Chairman may on good cause shown allow) after the date of the notice referred to in subsection (10)(d).

(14) An appeal which has been heard by the Board and has been referred to the special court by virtue of subsection (13)(a) or (b), shall be heard *de novo* by the special court.”

**Amendment of section 90 of Act 58 of 1962, as amended by section 15 of Act 6 of 1963, section 23 of Act 95 of 1967, section 35 of Act 121 of 1984 and section 20 of Act 96 of 1985**

38. Section 90 of the principal Act is hereby amended by the deletion of paragraph (b).

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

39. Section 91 of the principal Act is hereby amended by the deletion of subsection (3).

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

40. Section 101 of the principal Act is hereby amended by the substitution in subsection (8) for the expression “two rand” of the expression “R10”.

**Amendment of paragraph 17 of 1st Schedule to Act 58 of 1962, as substituted by section 32 of Act 88 of 1971**

41. Paragraph 17 of the First Schedule to the principal Act is hereby amended by the substitution for the words preceding the proviso of the following words:

“Where the sugar cane fields of any farmer other than a company have been damaged by fire and **[it is proved to the satisfaction of the Commissioner that]** the taxable income of such farmer for any year of assessment includes taxable income derived from the disposal of sugar cane as a result of such fire which but for such fire would not have been derived by him in such year, the normal tax chargeable in the case of such farmer in respect of such year shall, subject to the provisions of section 5 of this Act, be determined in accordance with the provisions of subsection (10) of that section, but nothing in this paragraph contained shall be construed as relieving such farmer from liability for taxation under this Act upon any portion of his taxable income:”

Amendment of paragraph 19 of 1st Schedule to Act 58 of 1962, as added by section 28 of Act 95 of 1967 and amended by section 43 of Act 89 of 1969, section 33 of Act 88 of 1971, section 22 of Act 90 of 1972, section 32 of Act 69 of 1975, section 30 of Act 103 of 1976, section 16 of Act 104 of 1979, section 25 of Act 104 of 1980, section 29 of Act 91 of 1982 and section 45 of Act 94 of 1983 5

42. Paragraph 19 of the First Schedule to the principal Act is hereby amended by the substitution for subparagraph (4) of the following subparagraph:

“(4) In determining under this paragraph any amount of normal tax which is or would be chargeable no regard shall be had to the deductions provided for in section 6 or *6bis* [or *6ter*] of this Act, and nothing in this paragraph contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of his taxable income.” 10

Amendment of paragraph 20 of 1st Schedule to Act 58 of 1962, as added by section 33 of Act 69 of 1975 and amended by section 31 of Act 103 of 1976, section 25 of Act 113 of 1977, section 26 of Act 104 of 1980 and section 30 of Act 91 of 1982 15

43. Paragraph 20 of the First Schedule to the principal Act is hereby amended by the substitution for item (i) of subparagraph (1) of the following item:

“(i) an amount equal to [nine per cent (or, in the case of a person who is not a married person, twelve per cent) of] the taxpayer's excess farming profits for the year of assessment (as determined in accordance with subparagraph (3)(a)) multiplied by the relevant rate of tax fixed for the year of assessment in terms of section 5(2) in respect of the first rand of taxable income; and” 20

Amendment of paragraph 1 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989 and section 44 of Act 101 of 1990 25

44. (1) Paragraph 1 of the Fourth Schedule to the principal Act is hereby amended— 30

(a) by the substitution for paragraphs (c) and (d) of the definition of “provisional taxpayer” of the following paragraphs, respectively:

“(c) any company [which does not derive income from mining for gold]; and

(d) any person (other than a person referred to in paragraph 18(1)(c) [or a company which derives income from mining for gold]) who is notified by the Commissioner that he is a provisional taxpayer;” 35

(b) by the insertion after paragraph (b) of the definition of “remuneration” of the following paragraph: 40

“(c) 25 per cent of the amount of any allowance or advance in respect of transport expenses referred to in section 8(1)(b), other than any such allowance or advance referred to in section 8(1)(b)(iii).”

(2)(a) Subsection (1)(a) shall come into operation as from the commencement of years of assessment commencing on or after 1 July 1991. 45

(b) Subsection (1)(b) shall come into operation on 1 August 1991.

Amendment of paragraph 2 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and 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, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989 and section 45 of Act 101 of 1990 50

45. Paragraph 2 of the Fourth Schedule to the principal Act is hereby amended—

(a) by the substitution for subparagraph (1) of the following subparagraph: 55

- “(1) Every employer (whether or not registered as an employer under paragraph 15) who pays or becomes liable to pay any amount by way of remuneration to any employee shall, unless the Commissioner has granted authority to the contrary, deduct or withhold from that amount by way of employees’ tax an amount which shall be determined as provided in paragraph 9, 10, 11 or 12, whichever is applicable, in respect of the liability for normal tax of that employee, or, if such remuneration is paid or payable to an employee who is **[a married woman] married** and such remuneration is under the provisions of section 7(2) of this Act deemed to be income of **[her husband and she is not separately assessed from her husband in terms of section 77(6) of this Act] the employee’s spouse**, in respect of such liability of **[her husband] that spouse**, and shall pay the amount so deducted or withheld to the Commissioner within seven days after the end of the month during which the amount was deducted or withheld, or in the case of a person who ceases to be an employer before the end of such month, within seven days after the day on which he ceased to be an employer, or in either case within such further period as the Commissioner may approve.”; and
- (b) by the addition to subparagraph (4) of the following words: “and, in the case of any employee who is entitled to a rebate under section 6(3)(f), after deducting any contribution by the employee to a medical scheme contemplated in section 18(1)(a).”

**Amendment in 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963, of paragraph 11B as inserted by section 41 of Act 90 of 1988 and amended by section 22 of Act 70 of 1989 and section 47 of Act 101 of 1990**

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

- (a) by the substitution in subparagraph (1) for paragraph (c) of the definition of “net remuneration” of the following paragraph: “(c) any remuneration derived by **[a married woman] any person** which is under the provisions of section 7(2) deemed to be income accrued to **[her husband] such person’s spouse**.”;
- (b) by the substitution in subparagraph (1) 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 an annuity payable by a pension fund, **[or] retirement annuity fund, provident fund or benefit fund**.”;
- (c) by the addition in subparagraph (1) to the definition of “net remuneration” of the following paragraphs: “(g) any remuneration paid or payable to any director of any company in respect of services rendered or to be rendered by such director to such company;
- (h) the amount of any allowance or advance contemplated in paragraph (c) of the definition of ‘remuneration’ in paragraph 1;
- (i) remuneration derived by the taxpayer during any year of assessment in respect of which he is entitled to set off an assessed loss under section 20(1);”;
- (d) by the substitution in subparagraphs (2) and (3) for the expression “R40 000”, wherever it occurs, of the expression “R50 000”; and
- (e) by the substitution in item (c) of subparagraph (7) for the expression “5 per cent” of the expression “2 per cent”.

**Amendment of paragraph 12 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 42 of Act 90 of 1988 and section 48 of Act 101 of 1990**

47. Paragraph 12 of the Fourth Schedule to the principal Act is hereby amended by the deletion of subparagraph (4).



**Amendment of paragraph 26 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963**

48. Paragraph 26 of the Fourth Schedule to the principal Act is hereby amended by the deletion of subparagraph (b).

**Amendment of paragraph 1 of 7th Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 26 of Act 96 of 1985, Government Notice No. R.2706 of 29 November 1985, section 33 of Act 65 of 1986, Government Notice No. R.2683 of 19 December 1986, section 28 of Act 85 of 1987, Government Notice No. R.714 of 14 April 1989, section 24 of Act 70 of 1989, Government Notice No. R.763 of 29 March 1990 and section 55 of Act 101 of 1990** 5  
10

49. Paragraph 1 of the Seventh Schedule to the principal Act is hereby amended by the substitution for the definition of "employee" of the following definition: 15  
 "employee", in relation to any employer, means a person who is an employee in relation to such employer for the purposes of the Fourth Schedule, excluding any person who prior to 1 March 1992 by reason of superannuation, ill-health or other infirmity [has] retired from the employ of such employer, but including, in relation to any company, any director of such company and any person who was previously employed by, or was a director of, such company if such person is or was the sole shareholder or one of the controlling shareholders in such company and, for the purposes of paragraphs 2(h) and 13, including any person who has retired as aforesaid and who, after his retirement, is released by his employer from an obligation which arose before the employee's retirement to reimburse the employer for an amount paid by the employer on behalf of the employee or to pay any amount which became owing by the employee to the employer before the employee's retirement;" 20  
25

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

50.(1) Paragraph 7 of the Seventh Schedule to the principal Act is hereby amended—

- (a) by the substitution in subparagraph (1) for item (a) of the following item: 35  
 "(a) where such motor vehicle (not being a vehicle in respect of which paragraph (b)(ii) of this definition applies) was acquired by the employer under a *bona fide* agreement of sale or exchange concluded by parties acting at arm's length, the original cost thereof to him (excluding any finance charge, interest or sales tax payable by him, or value-added tax borne by him, in respect of his acquisition thereof); or"; 40
- (b) by the substitution in subparagraph (1) for the words following upon subitem (ii) of item (b) of the following words: 45  
 "the retail market value thereof at the time the employer first obtained the right of use of the vehicle or, where at such time such lease was a financial lease for the purposes of the Sales Tax Act, 1978 (Act No. 103 of 1978), the cash value thereof as determined under Schedule 4 to that Act or, where at such time the lease was a lease contemplated in paragraph (b) of the definition of 'instalment credit agreement' in section 1 of the Value-Added 50

Tax Act, 1991, the cash value thereof as contemplated in the definition of 'cash value' in the said section; or;" and  
(c) by the substitution for item (a) of subparagraph (4) of the following item:

"(a) as respects each such month, be an amount equal to 1,2 per cent of the determined value of such motor vehicle: Provided that where the employee—  
(i) 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 R120;  
(ii) 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 R85; and".

(2) Subsection (1) shall come into operation on 1 August 1991.

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

51.(1) Paragraph 13 of the Seventh Schedule to the principal Act is hereby amended—

(a) by the deletion of item (a) of subparagraph (2); and

(b) by the deletion of item (c) of subparagraph (2).

(2) Subsection (1) shall come into operation on 1 March 1992 and apply in respect of any taxable benefit derived on or after that date.

#### **Initial allowance on certain machinery and plant**

52. (1) There shall, subject to the provisions of this section, be allowed to be deducted in the determination of the taxable income of any taxpayer under the provisions of the principal Act, an allowance, to be known as the initial allowance, equal to 15 per cent of the cost to the taxpayer of any machinery, plant, implement, utensil, article, ship or aircraft (hereinafter referred to as an asset) in respect of which the taxpayer is entitled to a deduction or allowance under the provisions of section 11(e), 12B, 12C, 14 or 14bis of the principal Act.

(2) For the purposes of this section the cost to a taxpayer of any asset shall be deemed to be the cost of such an asset as contemplated in section 12C(2) of the principal Act.

(3) The initial allowance shall be granted in respect of any asset acquired by the taxpayer on or after 1 April 1991, if in respect of the taxpayer's acquisition of such asset sales tax became payable under the provisions of the Sales Tax Act, 1978 (Act No. 103 of 1978), and shall be allowed in the year of assessment in which the asset was for the first time brought into use by the taxpayer for the purposes of his trade.

(4) The initial allowance shall not be granted—

(a) in respect of any motor car as defined in section 1 of the Value-Added Tax Act, 1991, in respect of which a deduction of input tax would under the provisions of section 17(2)(c) of that Act not have been allowed had the acquisition of such motor car been subject to the imposition of value-added tax; and

(b) in respect of any asset acquired by the taxpayer for the purpose of being let in the course of a "rental enterprise" carried on by him within the meaning of the Sales Tax Act, 1978 (Act No. 103 of 1978).

(5) Where an initial allowance has been granted in respect of any asset and a deduction or allowance in respect of such asset may also be granted under—

- (a) paragraph (e) of section 11 of the principal Act, the value of such asset shall for the purposes of the allowance under that paragraph be reduced by the amount of the initial allowance granted;
- (b) paragraph (o) of section 11 of the principal Act, the amount of the allowance determined under that paragraph shall be reduced by the amount of the initial allowance granted; 5
- (c) section 12B of the principal Act, the deduction under subsection (2)(c) of that section shall be reduced to 5 per cent of the cost of such asset;
- (d) section 12C of the principal Act, the deduction allowable under subsection (1) of that section in the fourth year following the year in which such asset is brought into use shall be reduced to 5 per cent of the cost of such asset; 10
- (e) section 14 of the principal Act, the cost or adjustable cost of such asset, as the case may be, shall for the purposes of the limitation of allowances imposed under paragraph (ii) of the proviso to subsection (1)(a) of that section, be reduced by the amount of the initial allowance granted; or 15
- (f) section 14bis of the principal Act, the cost or adjustable cost of such asset, as the case may be, shall for the purposes of the limitation of allowances imposed under paragraph (ii) of the proviso to subsection (1)(a) of that section, be reduced by the amount of the initial allowance granted. 20
- (6) The provisions of section 8(4)(a) of the principal Act shall apply to any amount allowed to be deducted under this section, whether in the current or any previous year of assessment, which has been recovered or recouped during the current year of assessment. 25

#### Commencement of certain amendments

53. (1) Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1992. 30
- (2) The amendments effected by sections 36 and 37 shall come into operation on a date fixed by the Minister of Finance by notice in the *Gazette* and shall apply in respect of any appeal lodged before, on or after that date.

#### Short title

54. This Act shall be called the Income Tax Act, 1991. 35

## Schedule

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 29 FEBRUARY 1992 AND 30 JUNE 1992, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 1992.

(Section 1 of this Act)

1. The rates of normal tax referred to in section 1 of this Act are as follows:—  
 (a) In respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below:

## Tables

Taxable Income		Rates of Tax in respect of Married Persons
Where the taxable income—		
does not exceed R 5 000.....		15 per cent of each R1 of the taxable income;
exceeds R 5 000 but does not exceed R10 000		R750 plus 17 per cent of the amount by which the taxable income exceeds R 5 000;
" R10 000 " " " " R15 000	R1 600 plus 19 per cent of the amount by which the taxable income exceeds R10 000;	
" R15 000 " " " " R20 000	R2 550 plus 21 per cent of the amount by which the taxable income exceeds R15 000;	
" R20 000 " " " " R25 000	R3 600 plus 23 per cent of the amount by which the taxable income exceeds R20 000;	
" R25 000 " " " " R30 000	R4 750 plus 26 per cent of the amount by which the taxable income exceeds R25 000;	
" R30 000 " " " " R35 000	R6 050 plus 29 per cent of the amount by which the taxable income exceeds R30 000;	
" R35 000 " " " " R40 000	R7 500 plus 32 per cent of the amount by which the taxable income exceeds R35 000;	
" R40 000 " " " " R45 000	R9 100 plus 35 per cent of the amount by which the taxable income exceeds R40 000;	
" R45 000 " " " " R50 000	R10 850 plus 38 per cent of the amount by which the taxable income exceeds R45 000;	
" R50 000 " " " " R55 000	R12 750 plus 39 per cent of the amount by which the taxable income exceeds R50 000;	
" R55 000 " " " " R60 000	R14 700 plus 40 per cent of the amount by which the taxable income exceeds R55 000;	
" R60 000 " " " " R70 000	R16 700 plus 41 per cent of the amount by which the taxable income exceeds R60 000;	
" R70 000 " " " " R80 000	R20 800 plus 42 per cent of the amount by which the taxable income exceeds R70 000;	
" R80 000 .....	R25 000 plus 43 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 R 5 000.....		14 per cent of each R1 of the taxable income;
exceeds R 5 000 but does not exceed R10 000		R700 plus 17 per cent of the amount by which the taxable income exceeds R5 000;
" R10 000 " " " " R15 000	R1 550 plus 21 per cent of the amount by which the taxable income exceeds R10 000;	
" R15 000 " " " " R20 000	R2 600 plus 25 per cent of the amount by which the taxable income exceeds R15 000;	
" R20 000 " " " " R25 000	R3 850 plus 29 per cent of the amount by which the taxable income exceeds R20 000;	
" R25 000 " " " " R30 000	R5 300 plus 33 per cent of the amount by which the taxable income exceeds R25 000;	

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Taxable Income	Rates of Tax in respect of Persons who are not Married Persons
Where the taxable income—	
" R30 000 " " " " R35 000	R6 950 plus 36 per cent of the amount by which the taxable income exceeds R30 000;
" R35 000 " " " " R40 000	R8 750 plus 39 per cent of the amount by which the taxable income exceeds R35 000;
" R40 000 " " " " R45 000	R10 700 plus 40 per cent of the amount by which the taxable income exceeds R40 000;
" R45 000 " " " " R50 000	R12 700 plus 41 per cent of the amount by which the taxable income exceeds R45 000;
" R50 000 " " " " R56 000	R14 750 plus 42 per cent of the amount by which the taxable income exceeds R50 000;
" R56 000 .....	R17 270 plus 43 per cent of the amount by which the taxable income exceeds R56 000;

Taxable Income	Rates of Tax in respect of Married Women
Where the taxable income—	
does not exceed R 4 000 .....	15 per cent of each R1 of the taxable income;
exceeds R 4 000 but does not exceed R 8 000	R600 plus 18 per cent of the amount by which the taxable income exceeds R4 000;
" R 8 000 " " " " R12 000	R1 320 plus 21 per cent of the amount by which the taxable income exceeds R 8 000;
" R12 000 " " " " R16 000	R2 160 plus 24 per cent of the amount by which the taxable income exceeds R12 000;
" R16 000 " " " " R20 000	R3 120 plus 27 per cent of the amount by which the taxable income exceeds R16 000;
" R20 000 " " " " R24 000	R4 200 plus 30 per cent of the amount by which the taxable income exceeds R20 000;
" R24 000 " " " " R28 000	R5 400 plus 32 per cent of the amount by which the taxable income exceeds R24 000;
" R28 000 " " " " R32 000	R6 680 plus 34 per cent of the amount by which the taxable income exceeds R28 000;
" R32 000 " " " " R36 000	R8 040 plus 36 per cent of the amount by which the taxable income exceeds R32 000;
" R36 000 " " " " R40 000	R9 480 plus 37 per cent of the amount by which the taxable income exceeds R36 000;
" R40 000 .....	R10 960 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 (d) and (f)), 48 cents;
- (c) on each rand of the taxable income derived by any company from mining for gold on any gold mine (with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act, but after the set-off of any assessed loss in terms of section 20(1) of the principal Act), a percentage determined in accordance with the formula:

$$y = 61 - \frac{305}{x}$$

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

- (d) on each rand of the taxable income of any company the sole or principal business of which in the Republic is or has been mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in

section 1 of the principal Act, a rate equal to the average rate of normal tax or 35 cents, whichever is higher: Provided that for the purposes of this subparagraph, the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

- (e) on each rand of the taxable income derived by any company from mining operations (other than mining for gold), 48 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 6 per cent of such amount; and
- (f) on each rand of the taxable income derived by any company from the carrying on of long-term insurance business, 43 cents.

2.(1) For the purposes of paragraph 1 income derived from mining for gold shall include any income derived from silver, osmiridium, uranium, pyrites or other minerals which may be won in the course of mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

(2) The tax payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

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