

No. 34, 1953.

## ACT

To fix the rates of normal and super income tax in respect of the year of assessment ended the thirtieth day of June, 1953; to provide for the repayment of certain portions of the aforesaid taxes to the taxpayers concerned and to amend the law relating to income tax.

(Afrikaans text signed by the Governor-General.)  
(Assented to 30th September, 1953.)

**BE IT ENACTED** by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Rates of Normal  
and Super Tax.

1. (1) In terms of sub-section (2) of section *five* and sub-section (2) of section *twenty-three* respectively of the Income Tax Act, 1941 (Act No. 31 of 1941), hereinafter referred to as the principal Act, the rates of normal and super tax to be levied for the year of assessment ended the thirtieth day of June, 1953, shall be as follows:

(A) In so far as normal tax is concerned—

(a) in respect of the taxable income (excluding so much as is derived from mining operations carried on in the Union by any company but including so much as the Commissioner determines to be attributable to the inclusion in the gross income derived from mining in the Union for gold of any amount referred to in paragraph (f) of section *seven* of the principal Act)—

(i) in the case of all companies, for each pound of the taxable income, five shillings and six pence;

(ii) in the case of persons other than companies, for each pound of the taxable income not exceeding sixteen thousand pounds, eighteen pence increased by one one-thousandth of a penny for each pound of such taxable income in excess of one pound, and for each pound of the taxable income over and above sixteen thousand pounds, fifty pence: Provided that for a married person the rate for each pound of the taxable income not exceeding sixteen thousand pounds shall be fifteen pence increased by one one-thousandth of a penny for each pound of such taxable income in excess of one pound, and for each pound of the taxable income over and above sixteen thousand pounds, forty-seven pence: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this item (including the foregoing proviso thereto) a sum equal to thirty per centum of the net amount arrived at after deducting the rebates provided for in section *thirteen* of the principal Act from the amount of the tax so calculated;

(b) in respect of so much of the taxable income as has been derived by any company from mining in the Union for gold (but with the exclusion of so much of the taxable income as the Commissioner determines to be attributable to the inclusion in the gross income of any amount referred to in paragraph (f) of section *seven* of the principal Act), on each pound of the taxable income a percentage determined in accordance with the formula:

$$y = 63 - \frac{378}{x}$$

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

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

and if such taxable income exceeds twenty thousand pounds, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by adding to the number 20

in the formula  $y = 20 \left( 1 - \frac{6}{x} \right)$  one for each

completed amount of twelve hundred and fifty pounds by which the said taxable income exceeds twenty thousand pounds;

- (c) in respect of so much of the taxable income as has been derived by any company from mining in the Union for diamonds, for each pound of the taxable income, nine shillings and six pence;
  - (d) in respect of so much of the taxable income as has been derived by any company from mining operations (other than mining for gold or diamonds) carried on by such company in the Union, for each pound of the taxable income, six shillings and six pence;
  - (e) in respect of so much of the taxable income of any company, the sole or principal business of which in the Union is mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, as the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (f) of section *seven* of the principal Act, for each pound so determined to be attributable to the inclusion of any such amount, the amount by which the average rate of normal tax as determined under paragraph (b) of sub-section (2) exceeds the rate prescribed in item (i) of sub-paragraph (a);
  - (f) in respect of every person other than a company whose taxable income exceeds four hundred and five pounds in the case of a married person, or two hundred and seventy-five pounds in the case of a person who is not a married person, six pounds: Provided that from the said amount of six pounds there shall not be deducted any of the rebates provided for in section *thirteen* of the principal Act.
- (B) In so far as super tax is concerned, for each pound of the income subject to super tax not exceeding sixteen thousand pounds, two shillings increased by one four-hundredth of a penny for each pound of such income subject to super tax in excess of one pound, and for each pound of the income subject to super tax over and above sixteen thousand pounds, eight shillings and eight pence: Provided that there shall be added to the amount of the tax calculated in accordance with the preceding provisions of this paragraph a sum equal to thirty per centum of the net amount arrived at after deducting the rebate provided for in section *twenty-nine* of the principal Act from the amount of the tax so calculated.
- (2) (a) For the purposes of paragraph (A) of sub-section (1) income derived from mining in the Union for gold shall include any income derived from silver, osmium, uranium, pyrites or other minerals which may be won in the course of the mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

- (b) For the purposes of sub-paragraph (e) of paragraph (A) of sub-section (1), the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said sub-paragraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from the first day of July, 1916, to the end of the period assessed, by the number of the pounds contained in the said aggregate taxable income.
- (c) The tax determined in accordance with any one of the sub-paragraphs (a) to (f) of paragraph (A) of sub-section (1), shall be payable in addition to the tax determined in accordance with any other of the said sub-paragraphs.

(3) For the purposes of assessing any tax imposed by a provincial council in the exercise of its powers under the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945), on the incomes of persons and companies, the amounts of normal tax and super tax payable under the Income Tax Acts of the Union by any taxpayer in respect of the year of assessment ended the thirtieth day of June, 1953, shall be deemed to be equal to the respective amounts which would have been payable as normal tax and super tax if the provisions of sub-paragraph (f) of paragraph (A) of sub-section (1) and the provisions relating to the addition referred to in the second proviso to item (ii) of sub-paragraph (a) of the said paragraph and in the proviso to paragraph (B) of the said sub-section had not been enacted.

Certain portions of the normal and super tax to be repayable to the taxpayers concerned.

2. (1) Notwithstanding the provisions of sub-section (1) of section five and sub-section (1) of section *twenty-three* respectively of the principal Act, the following portions of the normal and super tax determined in accordance with the provisions of section *one* of this Act in respect of any person for the year of assessment ended the thirtieth day of June, 1953 (hereinafter referred to as the loan portions of the normal and super tax), shall be repayable to such person in the manner and at the time hereinafter provided—

- (a) one-eleventh of the amount of the tax determined in accordance with item (i) of sub-paragraph (a) of paragraph (A) of sub-section (1) of the said section;
- (b) one-third of the amount of the surcharge determined in accordance with the second proviso to item (ii) of the aforesaid sub-paragraph;
- (c) one-nineteenth of the amount of the tax determined in accordance with sub-paragraph (c) of the aforesaid paragraph;
- (d) one-thirteenth of the amount of the tax determined in accordance with sub-paragraph (d) of the aforesaid paragraph;
- (e) the full amount of the tax determined in accordance with sub-paragraph (f) of the aforesaid paragraph; and
- (f) one-third of the amount of the surcharge determined in accordance with the proviso to paragraph (B) of the aforesaid sub-section.

(2) In any case in which separate notices of assessment are issued to spouses in terms of sub-section (6) of section *sixty-seven* of the principal Act, the husband shall be liable for the full amount of the loan portion of the normal tax determined in accordance with sub-paragraph (f) of paragraph (A) of sub-section (1) of section *one* of this Act and no portion thereof shall be payable by the wife.

- (3) (a) The liability for the payment of any unpaid amount of the loan portions of the normal and super tax due by any person shall cease upon the death, insolvency or liquidation (in the case of a company) of that person, and the estate of a deceased or insolvent person or a company in liquidation shall likewise not be liable for the payment of any of the loan portions of the normal and super tax in respect of any income received by or accrued to or in favour of such estate or such company in liquidation: Provided that nothing in this paragraph contained shall be construed as re-

lieving any trust created under the will of a deceased person from liability for the payment of any of the loan portions of the normal and super tax in respect of any income received by or accrued to or in favour of such trust.

- (b) A person to whom the provisions of section *fifteen* of the principal Act apply and who has no recognized agent in the Union other than the master of the ship or the pilot of the aircraft concerned shall not be liable for the payment of any of the loan portions of the normal and super tax in respect of his taxable income determined in accordance with the said provisions.
- (c) The loan portion of the normal tax prescribed in item (i) of sub-paragraph (a) of paragraph (A) of sub-section (1) of section *one* of this Act shall not be payable by any company, the sole or principal business of which in the Union is mining for gold, in respect of so much of its taxable income as the Commissioner determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (f) of section *seven* of the principal Act and for the purpose of sub-paragraph (e) of paragraph (A) of sub-section (1) of section *one* of this Act the rate of tax prescribed in item (i) of the said sub-paragraph (a) shall be deemed to be five shillings for each pound of the taxable income.
- (4) The provisions of section *sixty-five* of the principal Act shall not apply in relation to the loan portions of the normal and super tax.
- (5) There shall from time to time be paid to the credit of the loan account referred to in the General Loans Consolidation and Amendment Act, 1917 (Act No. 22 of 1917), amounts equal to the amounts which the Commissioner determines to have been collected in respect of the loan portions of the normal and super tax.
- (6) (a) The Commissioner shall, at such time as he may decide but not later than the end of the period referred to in paragraph (c), issue to every person who has paid any of the loan portions of the normal and super tax a certificate for the amount so paid by such person.
- (b) If any person has failed to pay the full amount due by him in respect of the normal and super tax or in respect of such tax and any interest payable thereon under sub-section (2) of section *eighty-three* of the principal Act, the Commissioner shall appropriate to those portions of the normal and super tax which are not loan portions and to any interest payable as aforesaid, in such order as he may in any particular case determine, so much of the amount paid by such person as may be necessary to discharge his liability in respect of those portions of the normal and super tax which are not loan portions and of such interest and such person shall be entitled to a certificate under paragraph (a) only in respect of the balance (if any) of the amount paid which has not been so appropriated.
- (c) A certificate issued in terms of paragraph (a) shall, save in such special circumstances and on such conditions as the Governor-General may prescribe, not be redeemable or transferable until the expiry of a period of five years from the date of payment of the amount in respect of which such certificate has been issued: Provided that where such amount has been paid in instalments, the date of payment of the last of such instalments shall, for the purpose of this paragraph and of paragraph (e), be deemed to be the date of payment of that amount.
- (d) After the expiry of the period referred to in paragraph (c), the relevant certificate shall be transferable and may be redeemed forthwith or within such further period as the Governor-General may prescribe.
- (e) Any such certificate shall bear simple interest at the rate of four per centum per annum calculated from the date of payment of the amount in respect of which such certificate has been issued, which interest shall not be payable before the date on which the certificate is redeemed.

(f) The provisions of the General Loans Consolidation and Amendment Act, 1917 (Act No. 22 of 1917), shall in so far as they may be applicable and subject to the provisions of this section, *mutatis mutandis* apply in respect of certificates issued in terms of this sub-section.

(7) The Governor-General may make regulations as to all matters which he considers it necessary or expedient to prescribe in order that the purposes of this section may be achieved, and may in such regulations prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of twenty-five pounds.

(8) The provisions of this section shall be deemed to have come into operation on the first day of July, 1953.

Amendment of section 9 of Act 31 of 1941, as amended by section 3 of Act 26 of 1943, section 4 of Act 39 of 1945, section 5 of Act 55 of 1946 and section 4 of Act 45 of 1949.

3. Section *nine* of the principal Act is hereby amended by the insertion in paragraph (c) of sub-section (1) after the word "Union" where it occurs for the second time of the words "or the South African Tourist Corporation" and by the substitution in the first proviso to the said paragraph for the words "or authority" of the words "authority or Corporation".

Amendment of section 10 of Act 31 of 1941, as amended by section 3 of Act 34 of 1942, section 4 of Act 26 of 1943, section 2 of Act 47 of 1944, section 5 of Act 39 of 1945, section 6 of Act 55 of 1946, section 3 of Act 40 of 1948, section 5 of Act 45 of 1949 and section 4 of Act 56 of 1952.

4. Section *ten* of the principal Act is hereby amended—

(a) by the insertion in paragraph (p) of sub-section (1) in the Afrikaans text only after the words "verrig het" of the words "buite die Unie" and by the insertion in the said paragraph after the word "Union" where it occurs for the fourth time of the words "or the South African Tourist Corporation" and by the substitution in the said paragraph for the words "or the provincial administration or local authority concerned" of the words "the provincial administration or local authority concerned or the said Corporation"; and

(b) by the insertion after paragraph (s) of the said sub-section of the following paragraph:

"(t) any gratuity (other than a leave gratuity) received by or accrued to any person from public funds upon his retirement from any office or employment under the Government of the Union (including the Railway Administration) or any provincial administration which the Treasury declares to be free of tax:".

Amendment of section 11 of Act 31 of 1941, as amended by section 4 of Act 34 of 1942, section 5 of Act 26 of 1943, section 6 of Act 39 of 1945, section 7 of Act 55 of 1946, section 4 of Act 40 of 1948, section 6 of Act 45 of 1949 and section 5 of Act 56 of 1952.

5. Section *eleven* of the principal Act is hereby amended—

(a) by the addition at the end of paragraph (d) of sub-section (2) of the following further proviso:

"Provided further that no allowance shall be made under this paragraph in respect of any ship to which the provisions of paragraph (d)*ter* apply;"

(b) by the insertion after paragraph (d)*bis* of the said sub-section of the following paragraphs:

"(d)*ter* in respect of any ship used for the purposes of his trade during the year of assessment by any person referred to in paragraph (a)*ter* of sub-section (1) of section *nine*, an allowance equal to ten per cent. of the cost to such person of such ship: Provided that—

(i) where an allowance under paragraph (d)*quat* has been made to any person in respect of any ship, no allowance shall be made under this paragraph to such person in respect of that ship for the year of assessment in which the ship is for the first time used by such person for the purposes of his trade; and

(ii) the aggregate of all the allowances made to any person in respect of any ship under this paragraph, paragraph (d) or the corresponding provisions of any previous Income Tax Act, and paragraph (d)*quat* shall not exceed the cost to such person of such ship;



(d) *quat* if during any year of assessment any person referred to in paragraph (a) *ter* of sub-section (1) of section *nine* incurs any expenditure in the building or acquisition of a new ship, or in the acquisition of any ship which is not new and is proved to the satisfaction of the Commissioner of Customs and Excise at all times since its construction to have been maintained in the highest class applicable to a ship of its type, an allowance in respect of that year of assessment equal to forty per cent. of such expenditure if such person satisfies the Commissioner that the ship in question is or will be registered by him in the Union and is or will be used by him for the purposes of his trade as a foreign-going ship (as defined in section *two* of the Merchant Shipping Act, 1951 (Act No. 57 of 1951)): Provided that—

- (i) the provisions of this paragraph shall not apply to any ship the registration of which in the Union in the name of the taxpayer concerned does not or will not constitute its first registration in the Union; and
  - (ii) if in respect of any year of assessment the Commissioner is no longer satisfied that a ship, in respect of which an allowance has been made under this paragraph (whether in the current or any previous year of assessment), will be registered in the Union or will be used by the taxpayer as aforesaid, or if in any year of assessment any such ship which has been registered in the Union or has been used by the taxpayer as aforesaid, ceases to be so registered or used, so much of the amount of the said allowance as is not in terms of the provisions of sub-section (4) required to be included in the taxpayer's income, less such an amount as would, if this paragraph had not been enacted, have been allowed to the taxpayer by way of deductions (in addition to those actually allowed) under paragraphs (d) *ter* or (j), either in the current or any previous year of assessment, shall in terms of this proviso be included in the income of the taxpayer for the current year of assessment;";
- (c) by the substitution in paragraph (j) of the said sub-section for the expression "paragraph (d) *bis*" of the words "paragraphs (d) *bis*, (d) *ter* and (d) *quat*"; and
- (d) by the addition at the end of the said sub-section of the following paragraph:
- "(n) in respect of any expenditure which any person referred to in paragraph (a) *ter* of sub-section (1) of section *nine* satisfies the Commissioner that he is likely to incur within five years from the end of the year of assessment in question on repairs to any ship used by him for the purposes of his trade, such an allowance as, notwithstanding the provisions of paragraph (e) of section *twelve*, the Commissioner, having regard to the estimated costs of such repairs and the date on which they are likely to be incurred, may make each year: Provided that any such allowance in respect of any year of assessment shall be included in the income of the taxpayer for the following year of assessment."

Amendment of section 47 of Act 31 of 1941, as amended by section 11 of Act 34 of 1942 and section 15 of Act 56 of 1952.

6. Section *forty-seven* of the principal Act is hereby amended by the deletion in sub-section (1) of the expression "or (a) *bis*".

Amendment of section 66 of Act 31 of 1941.

7. (1) Section *sixty-six* of the principal Act is hereby amended by the addition at the end of sub-section (1) of the following:

“and notwithstanding the provisions of sub-section (7) of section *seventy-seven* and sub-section (17) of section *seventy-nine*: Provided that, save to correct any error of calculation or unless he is satisfied that the order in question was obtained by fraud or non-disclosure of material facts, the Commissioner shall not raise an assessment under this sub-section in respect of any amount if any previous assessment made on the person concerned for the year of assessment in question has, in respect of that amount, been amended or reduced pursuant to an order made by a court for hearing income tax appeals constituted under the provisions of this Act or any previous Income Tax Act of the Union.”.

(2) Sub-section (1) shall be deemed to have come into operation on the first day of July, 1951.

Amendment of section 85 of Act 31 of 1941, as amended by section 18 of Act 34 of 1942.

8. Section *eighty-five* of the principal Act is hereby amended—

(a) by the deletion in sub-section (1) of all the words after the word “prescribed”;

(b) by the addition to the said sub-section of the following paragraph, the existing sub-section becoming paragraph (a):

“(b) If any person fails to pay any tax when it becomes due or is payable by him, the Commissioner may file with the clerk or registrar of any court of competent jurisdiction a statement certified by him as correct and setting forth the amount of the tax so due or payable by that person and such statement shall thereupon have all the effects of, and any proceedings may be taken thereon as if it were, a civil judgment lawfully given in that court in favour of the Commissioner for a liquid debt of the amount specified in the statement.”;

(c) by the substitution in sub-section (2) for the words “any amount whatsoever due and payable under this Act shall be recoverable by action in” of the words “a statement for any amount whatsoever may be filed in terms of paragraph (b) of sub-section (1) with the clerk of”.

Substitution of section 86 of Act 31 of 1941.

9. The following section is hereby substituted for section *eighty-six* of the principal Act:

“Correctness of assessment cannot be questioned.

86. It shall not be competent for any person in any proceedings in connection with any statement filed in terms of paragraph (b) of sub-section (1) of section *eighty-five* to question the correctness of any assessment on which such statement is based, notwithstanding that objection and appeal may have been lodged thereto.”.

Commencement of certain amendments.

10. The amendments effected by sections *three*, *four* and *five* shall be deemed first to have taken effect in respect of assessments for the year of assessment ended upon the thirtieth day of June, 1953.

Short title.

11. This Act shall be called the Income Tax Act, 1953.