

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



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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DEPARTEMENT VAN DIE EERSTE MINISTER.

DEPARTMENT OF THE PRIME MINISTER.

No. 1559. 23 September 1970.

No. 1559. 23rd September, 1970.

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

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

No. 52 van 1970: Inkomstebelastingwet, 1970.

No. 52 of 1970: Income Tax Act, 1970.

INCOME TAX ACT, 1970.

Act No. 52, 1970

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 the twenty-eighth day of February, 1971, and the thirtieth day of June, 1971, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on the thirty-first day of March, 1971; to provide for the payment of certain portions of the normal tax payable by certain companies into provincial revenue funds and the Revenue Fund of the territory of South-West Africa; to provide for the basis of calculation of any tax levied by a provincial council on the incomes of persons other than companies; to provide for the repayment to the taxpayers concerned of certain portions of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962, and the Income Tax Act, 1969; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 15th September, 1970.)

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

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

(a) the taxable income of any person other than a company for the year of assessment ending the twenty-eighth day of February, 1971, or the thirtieth day of June, 1971; and

(b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on the thirty-first day of March, 1971,

shall be as set forth in Schedule 1 to this Act.

2. (1) Notwithstanding the provisions of section 5 (1) of the principal Act but subject to the provisions of any law providing for the payment of moneys into the Transkeian Revenue Fund, a portion equal to twelve and a half per cent of any amount of tax determined in accordance with paragraph 1 (b) (ii) of Schedule 1 to this Act, shall accrue for the benefit of the respective provincial revenue funds in the proportion set forth in Proclamation No. 310 of 1957, but subject to such modifications as may be determined by the State President by proclamation in the *Gazette*, and shall in the said proportions be paid into the said provincial revenue funds in accordance with the laws relating to the collection, banking and custody of provincial revenues as though it were a tax imposed by the provincial councils of the said provinces on the incomes of companies.

Portions of normal tax payable by certain companies to be paid into provincial revenue funds.

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(2) The provisions of this section shall be deemed to have come into operation on the first day of April, 1970.

3. (1) Notwithstanding the provisions of section 5 (1) of the principal Act, a portion equal to fifteen per cent of any amount of tax determined in accordance with paragraph 1 (b) (i) of Schedule 1 to this Act shall accrue for the benefit of the Revenue Fund of the territory of South-West Africa and shall be paid into the said fund in the manner prescribed in section 22 (2) (c) of the South-West Africa Affairs Act, 1969 (Act No. 25 of 1969).

Portion of normal tax payable by certain companies to be paid into the Revenue Fund of the territory of South-West Africa.

(2) The provisions of this section shall be deemed to have come into operation on the first day of April, 1970.

4. 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, the amount of normal tax payable under this Act by any person other than a company for the year of assessment ending the twenty-eighth day of February, 1971, or the thirtieth day of June, 1971, whichever is applicable, shall, notwithstanding the provisions of the first-mentioned Act, be deemed to be equal to the amount payable as normal tax in terms of paragraph 1 (a) of Schedule 1 to this Act, after the deduction of the rebates provided for in sections 6 and 6bis of the principal Act but before the addition of the sum referred to in the proviso to the said paragraph 1 (a).

Calculation of provincial income taxes in respect of year of assessment ending 28th February, 1971, or 30th June, 1971.

5. The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) or (i) of Schedule 1 to this Act shall be a loan portion of that tax, and where such loan portion has been paid by the person concerned it shall be repayable to such person in accordance with the provisions of section 5 (2B) of the principal Act and the Fifth Schedule to that Act.

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

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

(a) by the substitution for paragraph (i) of the definition of "gross income" of the following paragraph:

"(i) the value during the year of assessment of any quarters or board or residence or of any other benefit or advantage granted in respect of employment or to the holder of any office, including any amount required to be included in the taxpayer's income under section 8A;" and

(b) by the substitution for the definition of "Republic" of the following definition:

"'Republic' means the Republic of South Africa: Provided that—

(i) for the purposes of the definitions of 'company' and 'representative taxpayer' in this section and the provisions of sections 98, 101, 103, 106 and 108; and

(ii) for the purposes of the definition of 'gross income' in this section and the provisions of Parts I, II and IV of Chapter II and the First and Fifth Schedules, in so far as such definition and such provisions apply in relation to the taxation of any company or to any matter affecting the liability or non-liability of any company for tax,

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968 and section 6 of Act 89 of 1969.

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the territory shall be deemed to form part of the Republic;”.

7. Section 5 of the principal Act is hereby amended by the insertion after subsection (2A) of the following subsection:

- “(2B) (a) Notwithstanding the provisions of subsection (1), any portion of the normal tax which in terms of paragraph (b) of this subsection, the Income Tax Act, 1970, or any subsequent Income Tax Act is a loan portion of such tax and has been paid by the person concerned, shall be repayable to such person in the manner and at the time provided in the Fifth Schedule.
- (b) The portions of the normal tax determined in accordance with the provisions of paragraph 1 (g) or (h) of the Schedule to the Income Tax Act, 1965 (Act No. 88 of 1965), paragraph 1 (g) or (h) of the Schedule to the Income Tax Act, 1966 (Act No. 55 of 1966), paragraph 1 (h) or (i) of the Schedule to the Income Tax Act, 1967 (Act No. 95 of 1967), paragraph 1 (h) or (i) of the Schedule to the Income Tax Act, 1968 (Act No. 76 of 1968), and paragraph 2 (h) or (i) of the Schedule to the Income Tax Act, 1969 (Act No. 89 of 1969), shall be loan portions of the normal tax.”.

Amendment of section 5 of Act 58 of 1962, as substituted by section 2 of Act 6 of 1963 and amended by section 5 of Act 90 of 1964, section 6 of Act 88 of 1965, section 7 of Act 55 of 1966, section 6 of Act 95 of 1967, section 6 of Act 76 of 1968 and section 7 of Act 89 of 1969.

8. (1) Section 8A of the principal Act is hereby amended by the substitution for subsection (8) of the following subsection:

- “(8) Where any gain is made after the first day of June, 1969, by the exercise, cession or release of a right to acquire any marketable security granted to any person on or before that date, the amount required to be included in income under this section in respect of such gain shall be reduced by an amount which bears to the amount of the gain, as determined under the preceding provisions of this section, the same ratio as the exemption period, as determined under subsection (9) in relation to the said gain, bears to the accrual period, as so determined.”.

Amendment of section 8A of Act 58 of 1962, as inserted by section 11 of Act 89 of 1969.

(2) The amendment effected by subsection (1) shall apply in respect of any gain made after the first day of June, 1969.

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

- (a) by the substitution for subparagraph (xi) of paragraph (i) of subsection (1) of the following subparagraph:

“(xi) so much of the interest on Six per cent Treasury Bonds, Five and a half per cent Jubilee Bonds and Five and three-quarter per cent Bonus Bonds as in the case of any taxpayer does not in the year of assessment exceed the sum of four thousand six hundred and fifty rand in the aggregate;”;

- (b) by the substitution for subparagraph (xiii) of paragraph (i) of the said subsection of the following subparagraph:

“(xiii) in the case of a taxpayer who is a natural person, so much of the aggregate of the amounts received or accrued as dividends on Special Tax-Free Indefinite Period shares in building societies as does not exceed six hundred and fifty rand in any year of assessment: Provided that this exemption shall not apply—

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 and section 13 of Act 89 of 1969.

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- (aa) in respect of any such dividend the rate of which exceeds six and a half per cent per annum; or
- (bb) in respect of any such dividend which becomes payable by a building society after the expiration of a period of five years reckoned from the date of the application to the building society concerned for the shares on which such dividend is payable; or
- (cc) in respect of any dividend on any such shares for which application is made to a building society on or after a date notified by the Minister of Finance in the *Gazette*;"
- (c) by the substitution for subparagraph (ii) of paragraph (a) of subsection (4) of the following subparagraph:
- "(ii) who on the last day of the year of assessment was or would had he lived have been over the age of sixty years and whose taxable income in such year of assessment does not exceed one thousand three hundred and fifty rand or, where the period of assessment is less than a full year, an amount which bears to one thousand three hundred and fifty rand the same ratio as the period assessed bears to one year; and"; and
- (d) by the substitution for subparagraph (ii) of paragraph (b) of the said subsection of the following subparagraph:
- "(ii) who on the last day of the year of assessment was or would had he lived have been over the age of sixty years and whose taxable income in such year of assessment does not exceed nine hundred and twenty-five rand or, where the period of assessment is less than a full year, an amount which bears to nine hundred and twenty-five rand the same ratio as the period assessed bears to one year.".
- (2) The amendments effected by subsection 1 (a) and (b) shall be deemed to have first taken effect in respect of assessments for the year of assessment ended the twenty-eighth day of February, 1970.
10. Section 11 of the principal Act is hereby amended—
- (a) by the deletion of paragraph (r): Provided that any donation which would have qualified for deduction under item (i) in respect of the year of assessment commencing on the first day of March, 1970, but for the deletion of the said item, shall be deemed to be a donation qualifying for deduction by the company concerned under section 18A (2) (a); and
- (b) by the substitution for paragraph (w) of the following paragraph:
- "(w) an allowance in respect of any premium which was actually paid by the taxpayer under any policy of insurance taken out upon the life of an employee of the taxpayer or, in the case of a company, upon the life of a director or an employee of that company, the amount of such allowance to be as follows, namely—
- 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 and section 14 of Act 89 of 1969.

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- (i) where the life of the employee or director is insured for a period of not more than one year or where the only premiums payable under the said policy are premiums of equal amount payable at regular intervals of not more than one year until benefits (other than interim or temporary benefits) become payable or commence to become payable under that policy, an amount equal to the amount of the premium which became payable under such policy during the year of assessment; or
- (ii) in any other case, an amount equal to such portion of the premium paid under the said policy as, in the opinion of the Secretary (having regard *inter alia* to the terms of the policy and, in the appropriate circumstances, to the expectation of life of the employee or director) should be regarded as relating to the year of assessment; or
- (iii) if, during the year of assessment, any sum (being a lump sum included in the taxpayer's gross income under paragraph (m) of the definition of 'gross income' in section 1) has been received by or has accrued to the taxpayer under or upon the surrender or disposal of the said policy, an amount (not exceeding such lump sum) equal to so much of the premiums paid by the taxpayer under the said policy as has not qualified for deduction (whether by way of an allowance under this paragraph or otherwise) from the taxpayer's income in the said year of assessment and preceding years of assessment under this Act and any previous Income Tax Act:

Provided that—

- (aa) no allowance shall be made under this paragraph in respect of any premium under any policy which was at the time of the payment of such premium the property of any person other than the taxpayer;
- (bb) no allowance in respect of any premium under any policy of insurance shall be made under this paragraph (except, in the appropriate circumstances, an allowance under subparagraph (iii)) in respect of any year of assessment—
 - (A) if during such year any person other than the taxpayer was entitled, or would have been entitled, to any benefits that were or could have become payable under the said policy; or
 - (B) if a pledge or cession by the taxpayer of the said policy was in force or of effect during the said year, unless the Secretary is satisfied that such pledge or cession was effected for the purpose of providing security to obtain funds required by the taxpayer for the purposes of his trade in consequence of the employee's or director's ill-health, infirmity, incapacity,

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retirement or cessation of services occurring after the said policy was acquired by the taxpayer; or

(C) if the said premium fell due before the commencement of the year of assessment ending the twenty-eighth day of February, 1971;

(cc) the sum of the allowances made under this paragraph in respect of any insurance premium shall not exceed the amount of such premium;”.

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

(a) by the substitution for the definitions of “basic export turnover” and “current export turnover” of the following definitions:

“‘basic export turnover,’ in relation to any year of assesment, means the amount determined in accordance with the formula:

$$x = \frac{12}{a} \times b$$

in which formula “x” represents the basic export turnover which has to be determined, “a” represents the number of months contained in the export periods for the immediately preceding period of not exceeding thirty-six months and “b” represents the aggregate of the export turnovers for the said period not exceeding thirty-six months;

“‘current export turnover,’ in relation to any year of assessment, means the export turnover of the taxpayer for that year: Provided that if the export period falling within any year of assessment is longer or shorter than twelve months the current export turnover shall for the purposes of the allowance to be made under subsection (3) be deemed to be an amount determined in accordance with the formula:

$$y = \frac{12}{c} \times d$$

in which formula “y” represents the current export turnover which has to be determined, “c” represents the number of months contained in the export period for that year and “d” represents the actual current export turnover for that export period;” and

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

“(3) The exporters’ allowance shall be an amount equal to fifty per cent of the market development expenditure (determined as provided in subsection (4)) incurred by the taxpayer during the year of assessment or, where in relation to the year of assessment the taxpayer has a current export turnover and a basic export turnover and such current export turnover exceeds such basic export turnover by more than 10 per cent of such basic export turnover, an amount equal to—

Amendment of section 11*bis* of Act 58 of 1962, as inserted by section 10 of Act 90 of 1962 and amended by section 9 of Act 72 of 1963, section 13 of Act 55 of 1966, section 12 of Act 95 of 1967 and section 10 of Act 76 of 1968.

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- (a) seventy-five per cent of such market development expenditure if such current export turnover exceeds such basic export turnover by more than ten per cent but not more than twenty-five per cent of that basic export turnover; or
- (b) one hundred per cent of such market development expenditure if such current export turnover exceeds such basic export turnover by more than twenty-five per cent of that basic export turnover:

Provided that for the purposes of this subsection the current export turnover of an associated company in relation to any year of assessment shall be deemed to be the sum of the current export turnovers in relation to that year of all the associated companies of which that company is one, and the basic export turnover of that company in relation to that year shall be deemed to be the sum of the basic export turnovers of all the said associated companies in relation to that year."

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

- (a) by the addition at the end of paragraph (iii) of subsection (2) of the word "or" and by the addition to the said subsection of the following paragraph:

Amendment of section 12 of Act 58 of 1962, as substituted by section 15 of Act 55 of 1966.

"(iv) such machinery or plant, not being machinery or plant qualifying for the allowance under the provisions of paragraph (ii) or (iii) is brought into use by any taxpayer on or after the thirteenth day of August, 1970, but not later than the thirtieth day of June, 1973."; and

- (b) by the addition at the end of paragraph (c) of subsection (2A) of the word "or" and by the addition to that subsection of the following paragraph:

"(d) where the provisions of subsection (2) (iv) are applicable, fifteen per cent of such cost."

(2) The amendments effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the thirteenth day of August, 1970.

13. (1) Section 13 of the principal Act is hereby amended by the substitution for subsections (5), (6) and (6A) of the following subsections:

"(5) In addition to the deductions provided for in subsections (1) to (4), inclusive, there shall be allowed to be deducted from the income of any taxpayer an allowance to be known as the building investment allowance, in respect of the cost to the taxpayer—

- (a) of any building the erection of which was commenced on or after the second day of March, 1960, but not later than the fourteenth day of March, 1961, and of any improvements (other than repairs) commenced on or after the second day of March, 1960, but not later than the fourteenth day of March, 1961, to such building or to any building the erection of which was commenced before the second day of March, 1960, if the building in question was wholly or mainly used by him for the purpose of carrying on therein any process of manufacture in the course of his trade (other than mining or farming);

Amendment of section 13 of Act 58 of 1962, as amended by section 12 of Act 90 of 1962, section 5 of Act 6 of 1963, section 11 of Act 72 of 1963, section 12 of Act 90 of 1964, section 14 of Act 88 of 1965 and section 17 of Act 55 of 1966.

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- (b) of any building the erection of which was commenced on or after the fifteenth day of March, 1961, but not later than the thirtieth day of June, 1966, and of any improvements (other than repairs) commenced on or after the fifteenth day of March, 1961, but not later than the thirtieth day of June, 1966, to any such building or to any building the erection of which was commenced before the fifteenth day of March, 1961, if the building in question was wholly or mainly used by him for the purpose of carrying on therein in the course of his trade (other than mining or farming) any process of manufacture or any other process which in the opinion of the Secretary is of a similar nature, or if such building was let by him and was wholly or mainly used for the purpose of carrying on therein any process as aforesaid in the course of any trade (other than mining or farming);
- (c) of any building the erection of which was commenced after the thirtieth day of June, 1966, and which is situated in an economic development area, and of any improvements (other than repairs) commenced after the thirtieth day of June, 1966, to any such building or to any other building situated in an economic development area, if—
- (i) the building in question was wholly or mainly used by him for the purpose of carrying on therein in the course of his trade (other than mining or farming) any process of manufacture or any other process which in the opinion of the Secretary is of a similar nature, or if such building was let by him and was wholly or mainly used for the purpose of carrying on therein any process as aforesaid in the course of any trade (other than mining or farming); and
- (ii) the Minister of Finance, having regard to the circumstances of the case, directs that the allowance be granted;
- (d) of any building (other than a building qualifying for the allowance under paragraph (c)) the erection of which was commenced on or after the thirteenth day of August, 1970, but not later than the thirtieth day of June, 1973, and of any improvements (other than repairs and other than improvements qualifying for the allowance under paragraph (c)) commenced on or after the thirteenth day of August, 1970, but not later than the thirtieth day of June, 1973, to any building, if the building in question was wholly or mainly used by him for the purpose of carrying on therein in the course of his trade (other than mining or farming) any process of manufacture or any other process which in the opinion of the Secretary is of a similar nature, or if such building was let by him and was wholly or mainly used for the purpose of carrying on therein any process as aforesaid in the course of any trade (other than mining or farming):

Provided that no allowance shall be made under this subsection in respect of any building or improvements on any premises not owned by the taxpayer unless the taxpayer at the date on which the erection of such building or the introduction of such improvements is commenced is

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entitled to the occupation of such premises for a period ending not less than ten years after such date.

(6) The building investment allowance shall be made for the year of assessment during which—

(a) in the case of the cost of erection of a building used by the taxpayer or the lessee, the building was first so used;

(b) in the case of the cost of any improvements to a building, the improvements were completed:

Provided that—

(i) the allowance under subsection (5) (a) or (b) shall not be made in respect of any year of assessment ending later than that which ended on the twenty-eighth day of February, 1967;

(ii) the allowance under subsection (5) (d) shall not be made in respect of any building brought into use or in respect of any improvements completed after the thirtieth day of June, 1973.

(6A) The building investment allowance shall be calculated on the cost to the taxpayer of the relevant building or improvements and the rate of such allowance shall be—

(a) in the case of any building or improvements referred to in subsection (5) (c), such percentage (not exceeding twenty-five per cent) of such cost as the Minister of Finance, having regard to the circumstances of the case, may direct; and

(b) in any other case, ten per cent of such cost: Provided that the said Minister may, having regard to the circumstances of the case, direct that the allowance in respect of any building referred to in subsection (5) (b) which has been used as contemplated in that paragraph in an economic development area, or in respect of improvements to such building, shall be increased to a sum not exceeding—

(i) twenty per cent of such cost if the erection of such building was, or such improvements were, commenced before the first day of May, 1964; or

(ii) twenty-five per cent of such cost if the erection of such building was, or such improvements were, commenced on or after that date.”

(2) The amendments effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the thirteenth day of August, 1970.

14. (1) The following section is hereby substituted for section 18 of the principal Act:

“Deduction in respect of medical and dental expenses.

18. Notwithstanding the provisions of section 23 (a), (b) and (g) there shall be allowed to be deducted from the income of any taxpayer who is a natural person an allowance of one hundred and fifty rand if the taxpayer is a married person, or seventy-five rand if the taxpayer is not a married person, in respect of medical and dental expenses, irrespective of whether or not any such expenses were incurred and regardless of the amount of any such expenses: Provided that the allowance under this section in the case of a taxpayer who is not a married person shall be increased to one hundred and fifty rand if the taxpayer is in respect of the year of assessment entitled to a deduction under paragraph (cc) of the proviso to paragraph (c) of section 6 (1) in respect of one or more children born to him or if it is proved to the satisfaction of the Secretary that the taxpayer was during the year of assessment the sole support

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of a dependant: Provided further that the allowance under this section in respect of any year of assessment during which one or more children are born to the taxpayer shall be increased by an amount of one hundred rand."

(2) The amendment effected by subsection (1) shall be deemed to have first taken effect in respect of assessments for the year of assessment ended the twenty-eighth day of February, 1970.

15. The following section is hereby inserted in the principal Act after section 18:

Insertion of section 18A in Act 58 of 1962

"Deduction of donations to universities, colleges or to the National Study Loans and Bursaries Fund.

18A. (1) For the purposes of this section—
 'university' means a university established by an Act of Parliament and a university college established under the Extension of University Education Act, 1959 (Act No. 45 of 1959);
 'college' means a college for advanced technical education established or deemed to have been established under the Advanced Technical Education Act, 1967 (Act No. 40 of 1967); and

'taxable income' in relation to any company carrying on mining operations means the taxable income of such company as calculated 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 Secretary determines to have arisen from any deduction made under the said section 15 (a).

(2) Notwithstanding anything to the contrary in this Act, there shall be allowed to be deducted from the taxable income of the taxpayer so much of the sum of any donations made by the taxpayer during the year of assessment—

- (a) to any university;
- (b) to any college; and
- (c) to the fund established under the National Study Loans and Bursaries Act, 1964 (Act No. 89 of 1964), for the purpose of granting study loans or bursaries or both study loans and bursaries to students in need of financial assistance to enable them to continue or complete their studies at universities, declared institutions or schools in the Republic,

as does not exceed—

- (aa) in the case of a person other than a company, five hundred rand or two per cent of his taxable income as calculated before allowing any deduction under this section, whichever is the greater; or
- (bb) in the case of a company, five per cent of its taxable income as calculated before allowing any deduction under this section.

(3) Any claim for a deduction under subsection (2) (a) or (b) shall not be allowed unless supported by a receipt issued by the university or college concerned in such form as the Secretary may prescribe."

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16. (1) Section 20A of the principal Act is hereby amended by the substitution for subparagraph (iii) of paragraph (b) of subsection (2) of the following subparagraph:

Amendment of section 20A of Act 58 of 1962, as inserted by section 19 of Act 89 of 1969.

“(iii) any amount received by or accrued to such woman from her husband or any partnership of which her husband was at the time of such receipt or accrual a member or any private company of which her husband was at such time a director or any private company of which her husband was at such time the sole or main shareholder or one of the principal shareholders.”

(2) The amendment effected by subsection (1) shall be deemed to have first taken effect in respect of assessments for the year of assessment ended the twenty-eighth day of February, 1970.

17. Section 21*ter* of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (5) of the following paragraph:

Amendment of section 21*ter* of Act 58 of 1962, as inserted by section 20 of Act 89 of 1969.

“(b) The development allowance shall not be authorized in respect of any application received after the thirtieth day of September, 1972.”

18. (1) Section 37A of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

Amendment of section 37A of Act 58 of 1962, as inserted by section 27 of Act 89 of 1969.

“(5) Subject to the provisions of section 20 (4) and (5) there shall, in any determination made under subsection (1) (a) in respect of any year of assessment, be excluded from any taxable income derived or assessed loss incurred during such year within the territory so much of such taxable income or assessed loss, as the case may be, as is assessable under the provisions of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, in respect of the year of assessment under that Ordinance which ended on the thirtieth day of June, 1968: Provided that the preceding provisions of this subsection shall not be construed as permitting the exclusion from the taxable income derived or the assessed loss incurred by any company of any portion of such taxable income which is derived or of such assessed loss which is incurred after the date to which a return of income has been or is required to be made up by such company under the provisions of the said Ordinance in respect of the year of assessment under that Ordinance which ended on the thirtieth day of June, 1968.”

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the date of promulgation of the Income Tax Act, 1969, and shall apply in respect of assessments for years of assessment ending after the thirtieth day of June, 1968.

19. Section 42 of the principal Act is hereby amended by the substitution for paragraph (e) of subsection (2) of the following paragraph:

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 and section 29 of Act 89 of 1969.

“(e) so much of the amount of any dividend declared by any company as is proved to the satisfaction of the Secretary to have been distributed—

(i) out of taxable income derived by such company from mining for natural oil under any lease granted under the Mining Rights Act, 1967 (Act No. 20 of 1967); or

(ii) out of dividends received by such company (hereinafter referred to as the holding company) from any other company (hereinafter referred to as the oil-mining company), to the extent that such dividends are proved to the satisfaction of the Secretary to have been distributed by the

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oil-mining company out of taxable income derived by it from mining for natural oil under any such lease, if—

- (aa) all the issued shares of the oil-mining company are held for its own benefit by the holding company; or
- (bb) the Secretary is satisfied that at all times since the date of commencement of oil-mining operations by the oil-mining company the indirect interests in that company of the shareholders of the holding company who are persons, deceased estates or companies as described in paragraph (i), (ii) or (iii) of subsection (1), have been in the aggregate and in effect equivalent to a beneficial holding by such shareholders of more than fifty per cent of the issued share capital and of the issued equity share capital of the oil-mining company;”.

20. (1) Section 64B of the principal Act is hereby amended—

- (a) by the substitution for paragraph (d) of the following paragraph:

“(d) where the debtor in respect of any amount of interest referred to in section 64A (a) is a company, such company shall be deemed to be ordinarily resident in the Republic if it is registered, managed or controlled in the Republic;”;

Amendment of section 64B of Act 58 of 1962, as substituted by section 35 of Act 89 of 1969.

- (b) by the insertion after paragraph (d) of the following paragraph:

“(dA) where the debtor in respect of any amount of interest referred to in section 64A (b) is a company, such company shall be deemed to be ordinarily resident in the Republic if—
 (i) it is managed or controlled in the Republic; or
 (ii) it is registered in the Republic and is not managed nor controlled in the territory;”.

(2) The amendments effected by subsection (1) shall be deemed to have taken effect from the commencement of the Companies Amendment Act, 1969 (Act No. 90 of 1969).

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

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

“(bA) any interest accruing to a person who is ordinarily resident in the territory;”;

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

“(fA) any amount accruing to any natural person as a dividend on Special Tax-Free Indefinite Period shares in any building society: Provided that this exemption shall not apply—

Amendment of section 64C of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967 and amended by section 15 of Act 76 of 1968 and section 36 of Act 89 of 1969.

- (i) in respect of any such dividend the rate of which exceeds six and a half per cent per annum; or
- (ii) in respect of any such dividend which becomes payable by a building society after the expiration of a period of five years reckoned from the date of the application to the building society concerned for the shares on which such dividend is payable; or
- (iii) in respect of any dividend on any such share for which application is made to a

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building society on or after a date notified by the Minister of Finance in the *Gazette*;"

(2) The amendments effected by subsection (1) (b) shall be deemed to have taken effect on the fifth day of August, 1969.

22. Section 101 of the principal Act is hereby amended by the addition of the following subsection: Amendment of section 101 of Act 58 of 1962, as amended by section 29 of Act 90 of 1962.

"(14) Any person who immediately prior to the date of promulgation of the Income Tax Act, 1969 (Act No. 89 of 1969), held office under the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, as public officer of any company not then represented by any other person under this Act, shall, if he has not ceased to act on behalf of that company and no other public officer of such company has been appointed under this Act, be deemed to be a public officer of such company appointed under this Act: Provided that if the Secretary raises an objection to the said person's continuance in office some other person shall be appointed in his stead."

23. Paragraph 5 of the First Schedule to the principal Act is hereby amended by the substitution for subparagraph (2) of the following subparagraph: Amendment of paragraph 5 of 1st Schedule to Act 58 of 1962, as substituted by section 18 of Act 72 of 1963.

"(2) The value to be placed on livestock held and not disposed of by any farmer referred to in subparagraph (1) at the end of the period of assessment terminating at the date of his insolvency shall be the price which in the opinion of the Secretary is the current market price of the livestock."

24. Paragraph 1 of the Fourth Schedule to the principal Act is hereby amended by the substitution for paragraph (v) of the definition of "remuneration" of the following paragraph: 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 and section 44 of Act 89 of 1969.

"(v) any amount paid or payable to any Bantu person in respect of services rendered or to be rendered by such Bantu person;"

25. The Fourth Schedule to the principal Act is hereby amended by the insertion after paragraph 20 of the following paragraph: Insertion of paragraph 20A in 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963.

"ADDITIONAL TAX IN THE EVENT OF FAILURE TO SUBMIT AN ESTIMATE OF TAXABLE INCOME TIMEOUSLY.

20A. (1) Subject to the provisions of subparagraphs (2) and (3), where any provisional taxpayer has not on or before the last day of any year of assessment during which he has derived any income or, if the period for the final or last payment of provisional tax by him in respect of that year has under paragraph 25 (2) been extended to a date later than the end of such year, on or before such date, submitted to the Secretary an estimate of taxable income in respect of the said year as required under paragraph 19 (1), the taxpayer shall, unless the Secretary has estimated the said taxable income under paragraph 19 (2), be required to pay to the Secretary, in addition to the normal and provincial taxes chargeable in respect of his taxable income for the said year, an amount by way of additional tax equal to twenty per cent of the amount by which the normal

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and provincial taxes payable by him in respect of his taxable income for such year or, in the case of a company, the normal and provincial taxes payable by the company in respect of the company's taxable income for such year derived elsewhere than within the territory, exceeds the sum of any amounts of provisional tax paid by him in respect of such year within any period allowed for the payment of such provisional tax under this Part or within any extension of such period under paragraph 25 (2) and any amounts of employees tax deducted or withheld from his remuneration by his employer during such year.

(2) The Secretary may, if he is satisfied that the provisional taxpayer's failure to submit such an estimate timeously was not due to an intent to evade or postpone the payment of provisional tax or normal tax, remit the whole or any part of the additional tax imposed under subparagraph (1).

(3) Any decision of the Secretary in the exercise of his discretion under subparagraph (2) shall be subject to objection and appeal."

26. (1) Schedule 2 to this Act is hereby added to the principal Act as the Fifth Schedule thereto, and shall be deemed to be and shall be construed and applied as one with the principal Act.

Addition of 5th Schedule to Act 58 of 1962.

(2) The provisions of the said Schedule shall be deemed to have come into operation on the first day of March, 1965.

27. Section 4 of the Income Tax Act, 1965 (Act No. 88 of 1965), sections 4 and 31 of the Income Tax Act, 1966 (Act No. 55 of 1966), section 4 of the Income Tax Act, 1967 (Act No. 95 of 1967), section 4 of the Income Tax Act, 1968 (Act No. 76 of 1968), and section 5 of the Income Tax Act, 1969 (Act No. 89 of 1969), are hereby repealed: Provided that anything done under any provision so repealed shall be deemed to have been done under the corresponding provision of the Fifth Schedule to the principal Act.

Repeal of several provisions relating to loan portions of normal tax levied under certain Income Tax Acts.

28. The following section is hereby substituted for section 50 of the Income Tax Act, 1969, with effect from the date of promulgation of that Act:

Substitution of section 50 of Act 89 of 1969.

"Commencement of certain amendments.

50. 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 first take effect or be deemed to have first taken effect—
(a) for the purposes of assessments in respect of the normal and undistributed profits taxes levied under the principal Act from the commencement of the year of assessment ended the twenty-eighth day of February, 1969, or, in the case of a company referred to in paragraph (d) of the definition of 'financial year' in section 1 of the principal Act, from the commencement of the period referred to in subparagraph (i) of the said paragraph, or, in the case of any other company which has carried on any trade or derived any amount in the territory of South-West Africa, from the commencement of the first financial year of such company under the principal Act which ended after the thirtieth day of June, 1968; and

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(b) for the other purposes of the principal Act, on the date of promulgation of this Act.”.

29. 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 first take effect in respect of assessments for the year of assessment ending the twenty-eighth day of February, 1971.

Commencement
of certain
amendments.

30. This Act shall apply also in the territory of South-West Africa.

Application of Act
in South-West
Africa.

31. This Act shall be called the Income Tax Act, 1970.

Short title.

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Schedule 1.

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING THE TWENTY-EIGHTH DAY OF FEBRUARY, 1971, AND THE THIRTIETH DAY OF JUNE, 1971, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF TWELVE MONTHS ENDING THE THIRTY-FIRST DAY OF MARCH, 1971.

(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, as prescribed in the tables below: Provided that—

- (i) there shall be added to the amount of tax calculated in accordance with the said tables a sum equal to five per cent of the net amount arrived at after deducting the rebates provided for in section 6 of the principal Act, from the amount of tax so calculated;
- (ii) any fraction of a rand of the sum calculated under paragraph (i) of this proviso shall be disregarded;
- (iii) the sum referred to in paragraph (i) of this proviso shall not be payable by any taxpayer whose liability for such sum would, but for this paragraph, be less than five rand:

TABLES.

Taxable Income.	Rates of tax in respect of married persons.
Where the taxable income— does not exceed R1,000	5 per cent of each R1 of taxable income;
exceeds R1,000, but does not exceed R2,000	R50 plus 6 per cent of the amount by which the taxable income exceeds R1,000;
" R2,000, " " R3,000	R110 plus 7 per cent of the amount by which the taxable income exceeds R2,000;
" R3,000, " " R4,000	R180 plus 8 per cent of the amount by which the taxable income exceeds R3,000;
" R4,000, " " R5,000	R260 plus 9 per cent of the amount by which the taxable income exceeds R4,000;
" R5,000, " " R6,000	R350 plus 10½ per cent of the amount by which the taxable income exceeds R5,000;
" R6,000, " " R7,000	R455 plus 12 per cent of the amount by which the taxable income exceeds R6,000;
" R7,000, " " R8,000	R575 plus 13½ per cent of the amount by which the taxable income exceeds R7,000;
" R8,000, " " R9,000	R710 plus 15 per cent of the amount by which the taxable income exceeds R8,000;
" R9,000, " " R10,000	R860 plus 16½ per cent of the amount by which the taxable income exceeds R9,000;
" R10,000, " " R11,000	R1,025 plus 18 per cent of the amount by which the taxable income exceeds R10,000;
" R11,000, " " R12,000	R1,205 plus 19½ per cent of the amount by which the taxable income exceeds R11,000;
" R12,000, " " R13,000	R1,400 plus 21 per cent of the amount by which the taxable income exceeds R12,000;
" R13,000, " " R14,000	R1,610 plus 22½ per cent of the amount by which the taxable income exceeds R13,000;
" R14,000, " " R15,000	R1,835 plus 24 per cent of the amount by which the taxable income exceeds R14,000;
" R15,000, " " R16,000	R2,075 plus 25½ per cent of the amount by which the taxable income exceeds R15,000;
" R16,000, " " R17,000	R2,330 plus 27 per cent of the amount by which the taxable income exceeds R16,000;

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Taxable Income.	Rates of tax in respect of married persons.
Where the taxable income— exceeds R17,000, but does not exceed R18,000	R2,600 plus 28½ per cent of the amount by which the taxable income exceeds R17,000;
" R18,000, " " R19,000	R2,885 plus 30 per cent of the amount by which the taxable income exceeds R18,000;
" R19,000, " " R20,000	R3,185 plus 31½ per cent of the amount by which the taxable income exceeds R19,000;
" R20,000, " " R21,000	R3,500 plus 33 per cent of the amount by which the taxable income exceeds R20,000;
" R21,000, " " R22,000	R3,830 plus 34½ per cent of the amount by which the taxable income exceeds R21,000;
" R22,000, " " R23,000	R4,175 plus 36 per cent of the amount by which the taxable income exceeds R22,000;
" R23,000, " " R24,000	R4,535 plus 37½ per cent of the amount by which the taxable income exceeds R23,000;
" R24,000, " " R25,000	R4,910 plus 39 per cent of the amount by which the taxable income exceeds R24,000;
" R25,000, " " R26,000	R5,300 plus 40½ per cent of the amount by which the taxable income exceeds R25,000;
" R26,000, " " R27,000	R5,705 plus 42 per cent of the amount by which the taxable income exceeds R26,000;
" R27,000, " " R28,000	R6,125 plus 43½ per cent of the amount by which the taxable income exceeds R27,000;
" R28,000, " " "	R6,560 plus 45 per cent of the amount by which the taxable income exceeds R28,000.

Taxable Income.	Rates of tax in respect of persons who are not married persons.
Where the taxable income— does not exceed R500	6 per cent of each R1 of taxable income;
exceeds R500, but does not exceed R1,000	R30 plus 7 per cent of the amount by which the taxable income exceeds R500;
" R1,000, " " R2,000	R65 plus 8 per cent of the amount by which the taxable income exceeds R1,000;
" R2,000, " " R3,000	R145 plus 9 per cent of the amount by which the taxable income exceeds R2,000;
" R3,000, " " R4,000	R235 plus 10 per cent of the amount by which the taxable income exceeds R3,000;
" R4,000, " " R5,000	R335 plus 12½ per cent of the amount by which the taxable income exceeds R4,000;
" R5,000, " " R6,000	R460 plus 15 per cent of the amount by which the taxable income exceeds R5,000;
" R6,000, " " R7,000	R610 plus 17½ per cent of the amount by which the taxable income exceeds R6,000;
" R7,000, " " R8,000	R785 plus 19½ per cent of the amount by which the taxable income exceeds R7,000;
" R8,000, " " R9,000	R980 plus 21 per cent of the amount by which the taxable income exceeds R8,000;
" R9,000, " " R10,000	R1,190 plus 22½ per cent of the amount by which the taxable income exceeds R9,000;

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Taxable Income.	Rates of tax in respect of persons who are not married persons.
Where the taxable income—	
exceeds R10,000, but does not exceed R11,000	R1,415 plus 24 per cent of the amount by which the taxable income exceeds R10,000;
" R11,000, " " R12,000	R1,655 plus 25½ per cent of the amount by which the taxable income exceeds R11,000;
" R12,000, " " R13,000	R1,910 plus 27 per cent of the amount by which the taxable income exceeds R12,000;
" R13,000, " " R14,000	R2,180 plus 28½ per cent of the amount by which the taxable income exceeds R13,000;
" R14,000, " " R15,000	R2,465 plus 30 per cent of the amount by which the taxable income exceeds R14,000;
" R15,000, " " R16,000	R2,765 plus 31½ per cent of the amount by which the taxable income exceeds R15,000;
" R16,000, " " R17,000	R3,080 plus 33 per cent of the amount by which the taxable income exceeds R16,000;
" R17,000, " " R18,000	R3,410 plus 34½ per cent of the amount by which the taxable income exceeds R17,000;
" R18,000, " " R19,000	R3,755 plus 36 per cent of the amount by which the taxable income exceeds R18,000;
" R19,000, " " R20,000	R4,115 plus 37½ per cent of the amount by which the taxable income exceeds R19,000;
" R20,000, " " R21,000	R4,490 plus 39 per cent of the amount by which the taxable income exceeds R20,000;
" R21,000, " " R22,000	R4,880 plus 40½ per cent of the amount by which the taxable income exceeds R21,000;
" R22,000, " " R23,000	R5,285 plus 42 per cent of the amount by which the taxable income exceeds R22,000;
" R23,000, " " R24,000	R5,705 plus 43½ per cent of the amount by which the taxable income exceeds R23,000;
" R24,000	R6,140 plus 45 per cent of the amount by which the taxable income exceeds R24,000.

(b) on each rand of the taxable income of any company (excluding so much as is derived from mining operations and, in the case of any company referred to in subparagraph (e), so much as the Secretary 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) which is determined under the principal Act to be derived—

- (i) within the territory of South-West Africa, thirty-three and one-third cents;
- (ii) elsewhere than within the said territory, forty cents;

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

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

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

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

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and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

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

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that where a certificate is given by the Government Mining Engineer to the effect that the conditions in respect of an assisted gold mine imposed by the Minister of Mines under section 2 (2) of the Gold Mines Assistance Act, 1968 (Act No. 82 of 1968), have been complied with by the company concerned during the year of assessment, the rate of tax in respect of taxable income derived by the company from mining for gold on such mine shall not exceed a percentage determined in accordance with the formula

$$y = 68 - \frac{601}{x}$$

Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph, excluding the second proviso, a sum equal to five per cent of such amount;

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

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

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

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

and if such taxable income exceeds forty thousand rand, the rate of tax shall not exceed a percentage determined in accordance with a formula arrived at by increasing the number 20 in the formula

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

by one for each completed amount of two thousand five hundred rand by which the said taxable income exceeds forty thousand rand: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to five per cent of such amount;

- (e) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is or has been mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Secretary 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, the average rate of normal tax or thirty-five cents, whichever is the higher;
- (f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to ten per cent of such amount;
- (g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold, diamonds or natural oil)—
- (i) within the territory of South-West Africa, thirty-three and one-third cents;
 - (ii) elsewhere than within the said territory, forty cents;
- (h) in respect of the taxable income of any person other than a company, a sum equal to ten per cent of the amount of tax determined in accordance with subparagraph (a) after the deduction of the rebates provided for in section 6 of the principal Act, but before the addition of the sum referred to in the proviso to the said subparagraph: Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any taxpayer whose liability under this subparagraph would, but for this proviso, be less than ten rand;
- (i) in respect of the taxable income of any company—

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- (i) a sum equal to ten per cent of the amount of tax determined under subparagraph (f) before the addition of the sum referred to in the proviso to that subparagraph;
 - (ii) a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (c) and (d) before the addition of the sum referred to in the third proviso to subparagraph (c) and the sum referred to in the second proviso to subparagraph (d); and
 - (iii) a sum equal to two and one-half per cent of the aggregate of the amounts of tax determined under subparagraphs (b) and (g):
- Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

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 the mining for gold, and any income which, in the opinion of the Secretary results directly from mining for gold.

(2) For the purposes of subparagraph (e) of paragraph 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 subparagraph 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 rand contained in the said aggregate taxable income.

(3) The tax payable in accordance with any of the subparagraphs (a) to (i), inclusive, of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

Schedule 2.

(Fifth Schedule to Act No. 58 of 1962).

LOAN PORTIONS OF THE NORMAL TAX.

(Section 5 (2B) of this Act).

1. For the purposes of this Schedule "loan portion" means the portion of the normal tax in respect of any year of assessment which is a loan portion of such tax as contemplated in section 5 (2B) of this Act, and the provisions of this Schedule shall where relevant apply in respect of such loan portion.

2. (1) The liability for the payment of any unpaid amount of any loan portion due by any person shall cease—

- (a) upon the death, insolvency or liquidation (in the case of a company) of that person; or
- (b) if such person departs from the Republic or ceases to carry on business in the Republic in circumstances which, in the opinion of the Secretary, indicate that such person will not be ordinarily resident nor be carrying on business in the Republic; or
- (c) in the case of a woman who marries, in respect of any period of assessment ending before her marriage,

and the estate of a deceased or insolvent person or a company in liquidation shall not be liable for the payment of any loan portion 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 relieving any trust created under the will of a deceased person from liability for the payment of any loan portion in respect of any income received by or accrued to or in favour of such trust.

(2) A person to whom the provisions of section 33 of this Act apply and who has no recognized agent in the Republic other than the master of the ship concerned or the pilot of the aircraft concerned, shall not be liable for the payment of any loan portion of the normal tax in respect of his taxable income determined in accordance with the said provisions.

(3) No person (other than a company) not ordinarily resident nor carrying on business in the Republic and no company not registered nor carrying on business in the Republic, shall be liable for the payment of any loan portion: Provided that any person (other than a company) who proves to the satisfaction of the Secretary that his business operations in the Republic are of a temporary nature shall for the purposes of this paragraph not be deemed to be carrying on business in the Republic.

3. The provisions of section 76 of this Act and paragraphs 20 and 20A of the Fourth Schedule to this Act shall not apply in relation to any loan portion.

4. (1) There shall from time to time be paid to the credit of the loan account referred to in the General Loans Act, 1961 (Act No. 16 of 1961), amounts equal to the amounts which the Secretary determines to have been collected in respect of loan portions, whether by way of employees tax, provisional tax or otherwise.

(2) The amounts accruing from time to time under any law to the Consolidated Revenue Fund or the Transkeian Revenue Fund in respect of normal, provincial income or personal taxes shall, notwithstanding the provisions of such law, be reduced by so much of such amounts as the Secretary determines to be payable to the credit of the said loan account, and any amounts

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(other than amounts repayable under the provisions of paragraph 6) refunded by the Secretary in respect of the loan portion of the normal tax shall be paid as a drawback from amounts accruing to the said loan account.

(3) The amounts repayable under the provisions of paragraph 6 shall be charged to the said loan account.

5. (1) The Secretary shall, at such time as he may decide, but not later than the date referred to in paragraph 6, issue to every person who has paid any loan portion, a statement of the amount so paid by such person: Provided that such statement need not be issued if such loan portion has been repaid before such date.

(2) A statement issued in terms of subparagraph (1) shall not be redeemable or transferable.

6. The Minister of Finance shall in respect of each relevant year of assessment determine a date, not being later than the last day of February in the seventh calendar year commencing after the end of such year of assessment, after which the loan portion in respect of such year of assessment shall be repaid to the person by whom it was paid: Provided that if in the opinion of the Secretary the circumstances of the case warrant such action, he may, subject to such conditions as he may impose, make such repayment to a person other than the person by whom such loan portion was paid: Provided further that in the event of the death, insolvency or liquidation (in the case of a company) of the person concerned before the date so determined, the Secretary may, before such date, repay to the estate of such person or to the company in liquidation the amount paid by the person concerned in respect of such loan portion, together with simple interest determined as hereinafter provided.

7. Where any loan portion is repaid as provided in paragraph 6, simple interest at the rate of five per cent per annum shall be paid for the period from the date on which such loan portion is paid to the date determined by the Minister of Finance under paragraph 6 or, if repayment is made under the second proviso to that subsection, the date of repayment, but such interest shall not be payable until such time as the loan portion is repaid to the person concerned.

8. (1) The Secretary may appropriate to the loan portion for which any person is liable in respect of any year of assessment so much of—

- (a) any employees tax deducted or withheld from such person's remuneration and set off in whole or in part against his liability for normal and provincial taxes in respect of the said year under the provisions of paragraph 28 of the Fourth Schedule to this Act; and
- (b) any payments made by such person by way of provisional tax in respect of such year and set off in whole or in part against his said liability under the provisions of the said paragraph; and
- (c) any other payments made by such person in respect of normal, provincial income or personal tax, whether for the said year or any other year of assessment, to the extent that the Secretary deems it necessary to appropriate such other payments in order to discharge in whole or in part the said person's liability for the said loan portion,

as does not exceed such loan portion: Provided that the Secretary may adjust any appropriation made by him under this paragraph if the said person's liability for such loan portion is increased or reduced on assessment of such liability by the Secretary or in order to rectify any calculation or accounting error.

(2) A person shall for the purposes of this Schedule be deemed to have paid the amounts finally appropriated to the loan portion for which he is liable in respect of any year of assessment—

- (a) if employees tax has during such year of assessment been deducted or withheld from his remuneration as required by the Fourth Schedule to this Act and he either is not required under that Schedule to pay provisional tax in respect of such year of assessment or has made arrangements to the satisfaction of the Secretary for increased deductions by way of employees tax to cover his liability for provisional tax in respect of such year, on the first day of September during such year; or
- (b) if during such year of assessment he has paid directly by way of provisional tax in respect of such year of assessment the amount payable by him in terms of paragraph 21 (1) (a), 22 (1) or 23 (a) of the Fourth Schedule to this Act, on the first day of the month during which he paid such amount; or
- (c) if the provisions of item (a) or (b) do not apply, on such date as the Secretary, having regard to the payments made by the said person, may determine.

9. The State President may make regulations as to all matters which he considers it necessary or expedient to prescribe in order that the objects of this Schedule may be achieved, and may in such regulations prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of fifty rand.

10. The State President may by proclamation in the *Gazette* determine a date after which assessments for the payment of the loan portion in respect of any year of assessment shall not be issued by the Secretary.