

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

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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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KAAPSTAD, 27 JUNIE 1973.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1117. 27th June, 1973.

No. 1117. 27 Junie 1973.

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

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

No. 65 of 1973: Income Tax Act, 1973.

No. 65 van 1973: Inkomstebelastingwet, 1973.

Act No. 65, 1973

INCOME TAX ACT, 1973.

## ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1974 and 30 June 1974, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1974; to provide for the payment of a portion of the normal tax payable by certain companies into the Revenue Fund of the territory of South West Africa; to provide for the repayment to the taxpayers concerned of a certain portion of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962; and to provide for incidental matters.

(Afrikaans text signed by the State President.)  
(Assented to 19th June, 1973.)

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

Rates of normal tax.

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

- (a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1974 or 30 June 1974; and
- (b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on 31 March 1974,

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

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

2. (1) Notwithstanding the provisions of section 5 (1) of the principal Act, a portion equal to one-seventh of any amount of tax determined in accordance with item (i) of subparagraph (b) of paragraph 1 of the Schedule to this Act, before the addition of the sum referred to in the proviso to the said subparagraph, 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).

(2) The provisions of this section shall be deemed to have come into operation on 1 April 1973.

Certain portion of the normal tax to be repayable to the taxpayer concerned.

3. The portion of the normal tax determined in accordance with the provisions of paragraph 1 (b) of the Schedule 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.

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Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971 and section 4 of Act 90 of 1972.

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

- (a) by the substitution for paragraph (eA) of the definition of “gross income” of the following paragraph:

“(eA) the amount of any gain determined in accordance with the provisions of the Sixth Schedule in respect of any amount received or accrued by way of an insurance benefit under any insurance policy or by way of consideration in respect of any cession in whole or in part by the owner of an insurance policy of his rights under the policy;”;

- (b) by the substitution for paragraph (g) of the definition of “gross income” of the following paragraph:

“(g) any amount received or accrued from another person, as premium or like consideration—

- (i) for the use or occupation or the right of use or occupation of land or buildings; or  
(ii) for the use or the right of use of plant or machinery; or

(ii)*bis* for the use or the right of use of any motion picture film or any film or video tape or disc for use in connection with television or any sound recording or advertising matter connected with such motion picture film, film or video tape or disc; or

(iii) for the use or the right of use of any patent as defined in the Patents Act, 1952 (Act No. 37 of 1952), or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, 1965 (Act No. 63 of 1965), or any model, pattern, plan, formula or process or any other property or right of a similar nature;”;

- (c) by the insertion after paragraph (g) of the definition of “gross income” of the following paragraph:

“(gA) any amount received or accrued from another person as consideration (or payment of like nature) for the imparting of or the undertaking to impart any scientific, technical, industrial or commercial knowledge or information for use in the Republic, or for the rendering of or the undertaking to render any assistance or service in connection with the application or utilization of such knowledge or information;”;

- (d) by the substitution for paragraph (j) of the definition of “gross income” of the following paragraph:

“(j) so much of the sum of any amounts received or accrued during any year of assessment in respect of disposals of assets the cost of which has in whole or in part been included in capital expenditure taken into account (whether under this Act or any previous Income Tax Act or any Income Tax Ordinance of the territory) for the purposes of any deduction in respect of any mine under section 15 (a) of this Act or the corresponding provisions of any previous Income Tax Act or, in the case of a company, under the said section or section 11 (2) (i) of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of

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the territory, or the corresponding provisions of any previous Income Tax Ordinance of the territory, as exceeds the sum of so much of any capital expenditure redeemable in the manner provided in section 36 (7D) as in the case of such mine is unredeemed at the commencement of the said year of assessment and the capital expenditure incurred during that year as contemplated in section 36 (7C);”.

- (2) (a) The amendment effected by subsection (1) (a) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.
- (b) The amendments effected by subsection (1) (b) and (c) shall in the appropriate circumstances apply in respect of amounts accruing to any person on or after 28 March 1973 and shall, for the purposes of assessments and determinations of tax under the principal Act, apply in respect of years of assessment ending on or after that date.

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 77 of 1968, section 7 of Act 89 of 1969, section 7 of Act 52 of 1970, section 5 of Act 88 of 1971 and section 5 of Act 90 of 1972.

5. (1) Section 5 of the principal Act is hereby amended—
- (a) by the deletion of subsections (3) to (8), inclusive;
- (b) by the substitution in subsection (10) for the words preceding paragraph (a) of the following words:

“(10) Where any taxpayer’s income for the year of assessment ending on 29 February 1972, or any succeeding year of assessment, includes any special remuneration, or where the provisions of paragraph 15 (3) or 17 of the First Schedule or paragraph 7 of the Second Schedule or paragraph 9 of the Sixth Schedule are applicable in the case of the taxpayer in respect of such year, the normal tax payable by the taxpayer in respect of such year shall be determined in accordance with the formula—

$$Y = \frac{A}{(B - C) - D} \times (B - E),$$

in which formula—”; and

- (c) by the substitution for subparagraph (v) of paragraph (d) of subsection (10) of the following subparagraph:

“(v) where the provisions of paragraph 9 of the Sixth Schedule are in the case of the taxpayer applicable in respect of the said year, the amount (if any) by which the gain referred to in that paragraph exceeds an amount obtained by dividing the gain by the number of full years in the period reckoned from the commencement date of the insurance policy in question (as contemplated in the definition of ‘commencement date’ in paragraph 1 of the said Schedule) or 30 March 1972, or the date on which the owner of the policy became the owner thereof (as contemplated in the definition of ‘owner’ in paragraph 1 of the said Schedule), whichever date is the latest, to the date of the receipt or accrual (as determined in accordance with the said Schedule) of the insurance benefit or the consideration in respect of which the said gain is determined;”.

- (2) The amendments effected by subsection (1) (b) and (c) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect from the commencement of years of assessment ending on or after 30 March 1972.

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Amendment of section 9 of Act 58 of 1962, as amended by section 7 of Act 90 of 1962, section 6 of Act 72 of 1963, section 7 of Act 90 of 1964, section 9 of Act 95 of 1967 and section 12 of Act 89 of 1969.

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

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

“(b) the use or right of use in the Republic of, or the grant of permission to use in the Republic—

(i) any patent as defined in the Patents Act, 1952 (Act No. 37 of 1952), or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, 1965 (Act No. 63 of 1965), or any model, pattern, plan, formula or process or any other property or right of a similar nature; or

(ii) any motion picture film, or any film or video tape or disc for use in connection with television, or any sound recording or advertising matter used or intended to be used in connection with such motion picture film, film or video tape or disc,

wheresoever such patent, design, trade mark, copyright, model, pattern, plan, formula, process, property, right, motion picture film, film, video tape or disc, sound recording or advertising matter has been produced or made or such right of use or permission has been granted or payment for such use, right of use or grant of permission has been made or is to be made, and whether such payment has been made or is to be made by a person resident in or out of the Republic: Provided that the provisions of this paragraph shall not apply in respect of any amount which on or after 1 July 1962 is received by or accrues to any person (other than a company) who is not ordinarily resident in the Republic, or any company which is not registered, managed or controlled in the Republic, in respect of the use (otherwise than for advertising purposes in connection with any motion picture film or otherwise than in connection with television) in any printed publication of any copyright as aforesaid;” and

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

“(bA) the imparting of or the undertaking to impart any scientific, technical, industrial or commercial knowledge or information for use in the Republic, or the rendering of or the undertaking to render, any assistance or service in connection with the application or utilisation of such knowledge or information, wheresoever such knowledge or information has been obtained or such knowledge or information has been imparted or is to be imparted or such assistance or service has been rendered or is to be rendered or any such undertaking has been given, and whether payment for such knowledge, information, assistance, service or undertaking has been made or is to be made by a person resident in or out of the Republic;”.

(2) The amendments effected by subsection (1) shall in the appropriate circumstances apply in respect of amounts accruing to any person on or after 28 March 1973 and shall, for the

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purposes of assessments and determinations of tax under the principal Act, apply in respect of years of assessment ending on or after that date.

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971 and section 7 of Act 90 of 1972.

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

(a) by the deletion of subparagraphs (vii), (viii), (ix) and (x) of paragraph (i) of subsection (1);

(b) by the insertion after subparagraph (xiA) of paragraph (i) of the said subsection of the following subparagraph:

“(xiB) so much of the interest on Six per cent Treasury Bonds (Conversion Issue) as in the case of any taxpayer does not in the year of assessment exceed the sum of two thousand four hundred rand;”;

(c) by the deletion of paragraph (o) of the said subsection; and

(d) by the addition to the said subsection of the following paragraph:

“(zB) fifty per cent of any amount received by or accrued to any employer from a fund which has under an industrial council agreement been established as contemplated in section 48 (1) (d) of the Industrial Conciliation Act, 1956 (Act No. 28 of 1956), for the training of employees for skilled work, if such employer has undertaken such training in respect of his employees and the amount so received or accrued has become payable to him on or after 29 March 1973 in respect of the training so undertaken.”.

(2) For the purposes of assessments and determinations of tax under the principal Act—

(a) the amendment effected by subsection (1) (b) shall be deemed to have taken effect from the commencement of years of assessment ending on or after 1 January 1973;

(b) the amendment effected by subsection (1) (c) shall take effect as from the commencement of years of assessment ending on or after 1 January 1975; and

(c) the amendment effected by subsection (1) (d) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after 29 March 1973.

Insertion of section 10A in Act 58 of 1962.

8. (1) The following section is hereby inserted in the principal Act after section 10:

“Exemption of capital element of purchased annuities.

10A. (1) For the purposes of this section—  
‘annuity amount’ means an amount payable by way of annuity under an annuity contract;  
‘annuity contract’ means an agreement concluded between an insurer in the course of his insurance business and a natural person (hereinafter referred to as the purchaser), in terms of which—

(a) the insurer agrees to pay to the purchaser or the purchaser’s spouse or surviving spouse an annuity or annuities (whether to one such person or to each of them) until the death of the annuitant or the expiry of a specified term;

(b) the purchaser agrees to pay to the insurer a lump sum cash consideration for such annuity or annuities; and

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- (c) no amounts are or will be payable by the insurer to the purchaser or any other person other than amounts payable by way of such annuity or annuities or, where an annuity is payable for a minimum term and such annuity is in the event of the death of the annuitant before the end of such term to continue to be payable to some third person for the balance of that term, amounts which may be so payable to such third person by way of such annuity,

but does not include any agreement for the payment by any insurer of any annuity which is under the rules of a pension fund or of a retirement annuity fund payable to a member of such fund or to the widow of such member or to any other person;

'commencement', in relation to an annuity, means the date on which the first annuity amount in respect of such annuity becomes payable;

'expected return', in relation to an annuity under an annuity contract, means an amount determined in a manner contemplated in this section as representing the sum of all the annuity amounts which may, as at the commencement of the annuity, be expected to become payable by way of the annuity from the commencement thereof;

'valuator', in relation to an insurer, means the valuator of the insurer contemplated in section 10 of the Insurance Act, 1943 (Act No. 27 of 1943).

(2) There shall be exempt from normal tax so much of any annuity amount payable to a purchaser or his spouse or surviving spouse (as contemplated in paragraph (a) of the definition of 'annuity contract' in subsection (1)) as is determined in accordance with subsection (3) to represent the capital element of such amount.

(3) The capital element of an annuity amount shall be—

- (a) a sum determined in accordance with the formula

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

in which formula—

- (i) 'Y' represents the sum to be determined;
  - (ii) 'A' represents the amount of the total cash consideration given by the purchaser under the annuity contract in question as contemplated in paragraph (b) of the definition of 'annuity contract' in subsection (1);
  - (iii) 'B' represents the total expected returns of all the annuities provided for in the annuity contract in question; and
  - (iv) 'C' represents the aforesaid annuity amount; or
- (b) where, by reason of any unpredictable contingency (other than the death or survival of any person), any amount payable by way of any annuity under the annuity contract in question is uncertain at the date on which the first payment by way of an annuity becomes due under that contract, such sum as may on the basis of a fair and reasonable calculation be taken to be

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the capital element of the aforesaid annuity amount: Provided that the said sum shall be determined in such manner that the capital element of all the annuity amounts becoming due during any year of assessment in respect of all the annuities under the said contract does not in total exceed an amount determined in accordance with the formula

$$Z = \frac{1}{N} \times A,$$

in which formula—

- (i) 'Z' represents the amount to be determined;
- (ii) 'N' represents the probable number of years during which annuity amounts will be payable under the said annuity contract from the date on which the first of such amounts becomes due, due regard being had to the manner in which and the frequency with which such amounts are payable; and
- (iii) 'A' represents the amount of the total cash consideration given by the purchaser under the said annuity contract as contemplated in paragraph (b) of the definition of 'annuity contract' in subsection (1).

(4) The valuator of an insurer who is a party to an annuity contract shall, before payment of the first annuity amount is made under such contract, or, where such payment was made before the date on which this section comes into operation, within one month after that date, or in either case within such period as the Secretary may allow, make a calculation (with due regard to the provisions of subsection (5)) in the manner prescribed in paragraph (a) of subsection (3) or, if the provisions of paragraph (b) of that subsection are applicable, in accordance with that paragraph, of the capital element of all the annuity amounts to be paid under the said contract: Provided that—

- (i) where the capital element is calculated under the said paragraph (a), it shall be sufficient if the capital element is calculated as a percentage to be applied to each of the said annuity amounts; or
- (ii) where the capital element is calculated under the said paragraph (b), it shall be sufficient if a calculation is made of the amount to be determined in accordance with the formula in the proviso to that paragraph.

(5) A valuator who makes any calculation as provided in subsection (4) or any recalculation as provided in subsection (6) (b), shall do so in accordance with generally accepted actuarial principles or practice, and where a determination has to be made of the life expectancy of any person for the purpose of a calculation of the expected return of any annuity or the probable number of years during which annuity amounts will be paid under an annuity con-



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tract, the mortality tables to be used for such determination shall be the 'a (55) Tables for Annuitants' referred to in paragraph 4 of the Second Schedule to the Insurance Act, 1943, and the age of the person concerned shall for the purposes of such determination be taken to be his age on his birthday immediately preceding the commencement of the annuity in question.

- (6) (a) Where any annuity contract is varied so that it no longer conforms with the requirements prescribed in the definition of 'annuity contract' in subsection (1), the exemption conferred by subsection (2) in respect of the capital element of annuity amounts under that contract shall not apply in respect of such amounts under that contract which become due on or after the date of such variation.
- (b) Subject to the provisions of paragraph (a), where any annuity contract is varied as to the payment of any annuity or consideration payable thereunder, the capital element of annuity amounts becoming due thereunder after such variation is effected shall, with due regard to the provisions of subsection (5), be re-calculated by the valuator of the insurer concerned.
- (7) (a) Where the capital element of annuity amounts has been calculated as provided in subsection (4) or has been re-calculated as provided in subsection (6) (b), the insurer concerned shall furnish each annuitant under the annuity contract in question, within one month after the date on which the calculation or re-calculation is made, as the case may be, or within such further period as the Secretary may allow, with two copies of such calculation.
- (b) An annuitant who has received the two copies referred to in paragraph (a) shall submit one of them to the Secretary as and when required by the Secretary.
- (8) The Secretary shall, when making an assessment upon the taxpayer concerned for the year of assessment during which there has become payable the first annuity amount affected by a calculation referred to in subsection (4) or a re-calculation referred to in subsection (6) (b), determine the capital element of annuity amounts received or accrued during such year and affected by such calculation or re-calculation, as the case may be, in accordance with such calculation or re-calculation or, if the Secretary is dissatisfied with such calculation or re-calculation or is in doubt as to the correctness thereof, or if no such calculation or re-calculation has been made, he may, having regard to any calculation or re-calculation of the capital element made by a practising actuary at his request or at the request of the taxpayer, calculate or re-calculate the capital element and determine the capital element of the said annuity amounts accordingly.
- (9) Any decision of the Secretary in the exercise of his discretion under the provisions of subsection

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(8) shall, in respect of a year of assessment referred to in that subsection, be subject to objection and appeal.

(10) Subject to the provisions of section 79, the final calculation or re-calculation of the capital element as made in relation to the year of assessment referred to in subsection (8) shall, subject to the provisions of subsection (6) (b), be final and conclusive and shall apply in respect of all relevant annuity amounts which become due to any person under the annuity contract in question in any succeeding years of assessment.”.

(2) The provisions of subsection (1) shall come into operation on 1 October 1973, and the amendment effected by that subsection shall, for the purposes of assessments and determinations of normal tax under the principal Act, apply in respect of any relevant annuity amounts which become due or have become due on or after 1 March 1973.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971 and section 8 of Act 90 of 1972.

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

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

“(k) any sum contributed during the year of assessment by way of current contribution to any pension fund by any person holding any office or employment, where the making of such a contribution is a condition of the holding of such office or employment: Provided that the deduction to be allowed in respect of contributions to a pension fund not established by law or for the benefit of employees of any local authority shall not exceed the sum of one thousand two hundred and fifty rand;”;

(b) by the substitution in paragraph (n) for the words preceding the provisos of the following words:

“(n) so much of the current contributions to any retirement annuity fund made by any person as a member of such fund during a year of assessment during which such person has carried on any trade as does not exceed two thousand five hundred rand in the case of the taxpayer or, where the taxpayer is entitled to a deduction under paragraph (k), the amount by which the amount of the deduction under the said paragraph is less than two thousand five hundred rand.”; and

(c) by the deletion of paragraph (v).

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, section 10 of Act 76 of 1968, section 11 of Act 52 of 1970 and section 9 of Act 90 of 1972.

10. (1) Section 11 *bis* of the principal Act is hereby amended—

(a) by the substitution in the definition of “adjusted basic export turnover” in subsection (1) for the expression “taxpayer’s” of the expression “exporter’s”;

(b) by the deletion in subsection (1) of the definition of “associated companies”;

(c) by the substitution in the definition of “basic export turnover” in subsection (1) for the expression “taxpayer’s”, wherever it occurs, of the expression “exporter’s”;

(d) by the substitution in the definition of “basic period” in subsection (1) for the word “taxpayer” of the word “exporter”;

(e) by the substitution in the definition of “current export turnover” in subsection (1) for the word “taxpayer” of the word “exporter”;

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- (f) by the insertion in subsection (1) after the definition of "current export turnover" of the following definition:  
" 'export country' means any country other than the Republic, the territory (including the Eastern Caprivi Zipfel), Botswana, Lesotho and Swaziland;";
- (g) by the substitution in subsection (1) for the definition of "exported" of the following definition:  
" 'exported' means sold and consigned or sold and delivered to any purchaser at any address in any export country, or delivered to the owner or charterer of any ship or aircraft for use in such ship or aircraft outside the Republic, the territory (including the Eastern Caprivi Zipfel), Botswana, Lesotho and Swaziland;";
- (h) by the insertion in subsection (1) after the definition of "exported" of the following definition:  
" 'exporter' means—  
(a) any person who carries on an export trade of the nature referred to in paragraph (a) of the definition of 'export trade' and who is registered as an exporter by the Secretary for Commerce; or  
(b) any person who conducts an export service industry referred to in subsection (4B) and who is registered as an exporter by the said Secretary; or  
(c) any producer of pastoral, agricultural or other farming produce who carries on an export trade;";
- (i) by the substitution in the definition of "export period" in subsection (1) for the word "taxpayer" of the word "exporter";
- (j) by the substitution in subsection (1) for the definition of "export trade" of the following definition:  
" 'export trade' means—  
(a) any trade carried on by any person in the course of which goods are exported or are produced or manufactured for export or in the course of which orders for goods are actively solicited in any export country; or  
(b) any trade recognized by the Minister of Finance under subsection (4B) as an export service industry;";
- (k) by the substitution in subsection (1) for the definition of "export turnover" of the following definition:  
" 'export turnover' means—  
(a) in the case of an exporter referred to in paragraph (a) or (c) of the definition of 'exporter', the sum of—  
(i) the income derived by the exporter from the disposal of goods which have been exported by him in the course of any trade carried on by him in the Republic and from the disposal of pastoral, agricultural or other farming produce produced by him in the Republic which has been exported, less so much of such income as the Secretary is satisfied has under any agreement, scheme or arrangement been passed on in any form to any other person in such manner that the exporter has not derived or will not derive any substantial benefit from the amount so passed on; and

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- (ii) the amounts for which the exporter has on behalf of other persons in the course of any trade carried on by him in the Republic disposed of goods which have been exported by such persons or by the exporter on their behalf, less any portion of any such amount in respect of which no income has been received by or has accrued to the exporter in the form of commission or other remuneration at the prevailing rate for the goods in question, or, in respect of which such income has been so received by or has so accrued to the exporter but has been passed on in any form to any other person in such manner that the exporter has not derived or will not derive any substantial benefit from the amount so passed on; or
- (b) in the case of an exporter referred to in paragraph (b) of the said definition, the amounts which are proved to the satisfaction of the Secretary to have been derived by such exporter by way of income of the nature referred to in subsection (4B) (a);”;
- (1) by the substitution for subsections (2), (3), (4) and (4A) of the following subsections respectively:

“(2) If any exporter has during any year of assessment incurred marketing expenditure, determined as provided in subsection (4), there shall be allowed to be deducted from his income for that year an exporters’ allowance the amount of which shall be determined as provided in subsection (3).

(3) The exporters’ allowance shall be—

- (a) an amount equal to seventy-five per cent of the marketing expenditure (determined as provided in subsection (4)) incurred by the exporter during the year of assessment; or
- (b) where in relation to the year of assessment an exporter referred to in paragraph (a) or (c) of the definition of ‘exporter’ in subsection (1) or an exporter conducting an export service industry falling within a category referred to in subsection (4B) (b), has a current export turnover and a basic export turnover and such current export turnover exceeds the exporter’s adjusted basic export turnover in relation to the year of assessment by more than ten per cent of such adjusted basic export turnover, an amount equal to one hundred per cent of such marketing expenditure.

(4) For the purposes of subsection (3) the marketing expenditure on which the exporters’ allowance is to be calculated shall be the sum of so much of the expenditure incurred by the exporter and allowed to be deducted from his income under sections 11 and 17 as is proved to the satisfaction of the Secretary to have been incurred directly—

- (a) in research into or obtaining information (including the remuneration of consultants, agents or representatives) in regard to the marketing of goods in any export country provided the exporter has not received or become entitled to the payment of any cash grant by the State in respect of the expenditure in question;

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- (b) in advertising or otherwise securing publicity in an export country, soliciting orders therein or participating in trade fairs in export countries;
- (c) in providing without charge samples or technical information to prospective customers in any export country;
- (d) in bringing prospective buyers from any export country to the Republic;
- (e) in connection with the preparation or submission of tenders or quotations in respect of goods to be exported to any export country;
- (f) in respect of commission or other remuneration in respect of the sale of goods exported to any export country and the appointment of agents in any such country;
- (g) by way of premiums under an insurance policy approved by the Secretary, whereby commercial, political or similar risks attendant upon an export trade are insured against;
- (h) by way of discounts in respect of exported goods granted to agents or distributors in any export country, to the extent that the Secretary is satisfied that such discounts have been granted instead of commissions or that such discounts have been granted at an abnormally high rate in order to penetrate or maintain a market in an export country;
- (i) by way of certification fees charged by the South African Bureau of Standards in respect of goods which have been exported;
- (j) by way of salaries and wages and expenditure on stationery, printing, telephone calls, cable messages and postages (excluding so much thereof as has been allowed under any of the other paragraphs of this subsection) in conducting a marketing operation in the Republic in respect of sales both in export countries and in the South African market, if the Secretary is satisfied that at least ten per cent of the time of the persons engaged in such operation is devoted to exports to export countries: Provided that the amount to be allowed under this paragraph shall be restricted to that portion of the expenditure in question as (according to a determination of the Secretary) relates to exports;
- (k) by way of expenditure (including search and application fees) incurred in obtaining in any export country the registration of any patent or the restoration of any patent or the registration of any design or trade mark or the extension of the term or registration period of, or the renewal of the registration of, any patent, design or trade mark;
- (l) in connection with the design of any special label or packaging used for exported goods, if the Secretary is satisfied that the requirements as to the labelling or packaging of such goods differ materially from, or are additional to, the requirements of the South African market;
- (m) in packaging exported goods, to the extent that the Secretary is satisfied that such packaging

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expenditure exceeds the expenditure normally incurred in packaging similar goods for the South African market;

- (n) by way of membership fees of any institution or body which—
  - (i) is actively engaged in export promotion;
  - (ii) does not receive financial support from the State; and
  - (iii) is approved by the Secretary for Commerce;
- (o) in maintaining any depot or warehouse in any export country which is used for the purpose of storing exported goods or goods intended to be exported, provided the exporter has not received or become entitled to the payment of any cash grant by the State in respect of the expenditure in question.

(4A) Where it is proved to the satisfaction of the Secretary that any expenditure of the nature referred to in subsection (4) in connection with the export of pastoral, agricultural or other farming produce and that such expenditure was incurred or controlled by the South African Sugar Association, or any control board established under the Marketing Act, 1968 (Act No. 59 of 1968), or any co-operative agricultural society or company or farmers' special co-operative company as defined in the Co-operative Societies Act, 1939 (Act No. 29 of 1939), or the South African Wool Board established under the Wool Act, 1946 (Act No. 19 of 1946), so much of such expenditure as the Secretary is satisfied was in effect borne by any producer of any pastoral, agricultural or other farming produce exported by the said Association or by such board, society or company or by some other person under marketing arrangements controlled by the said Association or by such board, society or company, shall for the purposes of this section be deemed to be marketing expenditure incurred by such producer, provided such expenditure, had it been incurred directly by such producer, would have ranked for deduction from his income under section 11 or 17.”; and

- (m) by the insertion after subsection (4A) of the following subsections:

“(4B) The Minister of Finance may by notice in the *Gazette*—

- (a) define or recognize as an export service industry any trade carried on in the Republic (other than the trade of a banker or financier) if he is satisfied that in the course of that trade income of a nature defined in such notice is derived (otherwise than from the sale or disposal of goods) in a manner calculated to result directly in an inflow into the Republic of foreign currency; and
- (b) direct that persons conducting any export service industry which has been so recognized and which falls within a category of export service industries designated by the said Minister, may in the appropriate circumstances qualify for the enhanced exporters' allowance provided for in subsection (3) (b).

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(4C) The Secretary for Commerce may, for the purposes of this section—

- (a) register any person as an exporter, if he is satisfied that such person is carrying on an export trade in the course of which goods are continuously being exported or in the course of which goods may be expected to be continuously exported; or
- (b) register any person as an exporter, if he is satisfied that such person conducts an export service industry referred to in paragraph (a) of subsection (4B) in the course of which such person continuously derives income of the nature referred to in that paragraph or in the course of which such person may be expected to derive such income continuously; or
- (c) if he is no longer satisfied in regard to any matter in regard to which he is required to be satisfied under paragraph (a) or (b), notify the person concerned that he is no longer registered as an exporter, in which event such person shall for the purposes of this section be deemed to have ceased to be registered as an exporter with effect from the commencement of the first year of assessment of that person which commences after the date of the notification under this paragraph.

(4D) Any person who during any year of assessment ending on or before 31 December 1973 carries on an export trade but who, by virtue of the fact that he is not registered by the Secretary for Commerce as an exporter, is not an exporter in terms of the definition of 'exporter' in subsection (1), shall for the purposes of this section be deemed to be an exporter in respect of such year of assessment, but in such case the exporters' allowance in respect of such year of assessment shall be confined to such items of expenditure incurred by such person as are referred to in paragraphs (a) to (f), inclusive, of subsection (4)."

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 28 March 1973.

Amendment of section 11 *sex* of Act 58 of 1962, as inserted by section 10 of Act 90 of 1972.

11. (1) Section 11 *sex* of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

"(a) such railway line was constructed under or in pursuance of a written agreement with the said Administration in terms of which the Administration undertook to operate the railway line;"

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1973.

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

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

(a) by the substitution for paragraph (iv) of subsection (2) of the following paragraph:

"(iv) such machinery or plant, not being machinery or plant qualifying for the allowance under the provisions of paragraph (ii) or (iii), is brought

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section 12 of  
Act 52 of 1970,  
section 11 of  
Act 88 of 1971  
and section 11 of  
Act 90 of 1972.

into use by any taxpayer on or after 13 August 1970 but not later than 30 June 1977.”; and

(b) by the substitution for paragraphs (c) and (d) of subsection (2A) of the following paragraphs respectively:

“(c) where the provisions of subsection (2) (iii) are applicable—

(i) in respect of machinery or plant brought into use on or before 31 March 1973, fifteen per cent of such cost plus such further percentage, not exceeding thirty-five per cent, of such cost as the said Minister, having regard to the circumstances of the case, may direct; or

(ii) in respect of machinery or plant brought into use on or after 1 April 1973 and on or before 30 June 1977, twenty per cent of such cost, plus such further percentage, not exceeding thirty-five per cent, of such cost as the said Minister, having regard to the circumstances of the case, may direct; or

(iii) in respect of machinery or plant brought into use on or after 1 July 1977, such percentage, not exceeding thirty-five per cent, of such cost as the said Minister, having regard to the circumstances of the case, may direct; or

(d) where the provisions of subsection (2) (iv) are applicable—

(i) in respect of machinery or plant brought into use on or before 31 March 1973, fifteen per cent of such cost; or

(ii) in respect of machinery or plant brought into use on or after 1 April 1973, twenty per cent of such cost.”.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 April 1973.

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,  
section 17 of  
Act 55 of 1966,  
section 13 of  
Act 52 of 1970,  
section 13 of  
Act 88 of 1971  
and section 12 of  
Act 90 of 1972.

13. (1) Section 13 of the principal Act is hereby amended—

(a) by the substitution for paragraph (d) of subsection (5) of the following paragraph:

“(d) of any building (other than a building qualifying for the allowance under paragraph (c)) the erection of which was commenced on or after 13 August 1970 but not later than 30 June 1977, and of any improvements (other than repairs and other than improvements qualifying for the allowance under paragraph (c)) commenced on or after 13 August 1970 but not later than 30 June 1977, 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);”;

(b) by the substitution for paragraph (ii) of the proviso to subsection (6) of the following paragraph:



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- “(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 30 June 1978.”;
- (c) by the substitution for paragraph (a) of subsection (6A) of the following paragraph:
- “(a) in the case of any building or improvements referred to in subsection (5) (c)—
- (i) if the erection of such building was commenced on or before 31 March 1973, or such improvements were commenced on or before that date, and such building is brought into use or such improvements are completed on or before 30 June 1978, ten per cent of such cost, plus such further 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; or
  - (ii) if the erection of such building is commenced on or after 1 April 1973 and on or before 30 June 1977, or such improvements are commenced on or after 1 April 1973 and on or before 30 June 1977, and such building is brought into use or such improvements are completed on or before 30 June 1978, fifteen per cent of such cost, plus such further percentage (not exceeding twenty-five per cent) of such cost as the said Minister, having regard to the circumstances of the case, may direct; or
  - (iii) if the provisions of subparagraph (i) or (ii) are not applicable, such percentage (not exceeding twenty-five per cent) of such cost as the said Minister, having regard to the circumstances of the case, may direct;”;
- (d) by the insertion after paragraph (a) of subsection (6A) of the following paragraph:
- “(aA) in the case of any building or improvements referred to in subsection (5) (d)—
- (i) if the erection of such building was commenced on or before 31 March 1973, or such improvements were commenced on or before that date, ten per cent of such cost; or
  - (ii) if the erection of such building is commenced on or after 1 April 1973, or such improvements are commenced on or after that date, fifteen per cent of such cost; and”.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 April 1973.

Amendment of section 18A of Act 58 of 1962, as inserted by section 15 of Act 52 of 1970 and amended by section 16 of Act 88 of 1971 and section 13 of Act 90 of 1972.

14. Section 18A of the principal Act is hereby amended by the substitution in subsection (1) for the definition of “taxable income” of the following definition:

“‘taxable income’, in relation to any taxpayer, means the taxpayer’s taxable income as calculated before allowing any deductions under this section and section 21<sup>quat</sup> and, in the case of any company carrying on mining

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operations, before allowing any deduction under section 15 (a) and before allowing any set-off of any part of the balance of assessed loss under section 20 (1) (a) which the Secretary determines to have arisen from any deduction made under the said section 15 (a).”.

Amendment of section 20 of Act 58 of 1962, as amended by section 13 of Act 90 of 1964, section 18 of Act 88 of 1965, section 13 of Act 76 of 1968 and section 18 of Act 89 of 1969.

15. (1) Section 20 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsection:

“(2A) In the case of any taxpayer other than a company—

- (a) the provisions of subsections (1) and (2) shall *mutatis mutandis* apply for the purpose of determining the taxable income derived by such taxpayer otherwise than from carrying on any trade, the reference in subsection (1) to ‘taxable income derived by any person from carrying on any trade in the Republic’ and the reference in that subsection to ‘the income so derived’ being respectively construed as including a reference to taxable income derived by the taxpayer otherwise than from carrying on any trade and a reference to income so derived; and
- (b) the said taxpayer shall, subject to the provisos to subsection (1), not be prevented from carrying forward a balance of assessed loss merely by reason of the fact that he has not derived any income during any year of assessment.”.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1973.

Amendment of section 21*ter* of Act 58 of 1962, as inserted by section 20 of Act 89 of 1969 and amended by section 17 of Act 52 of 1970, section 18 of Act 88 of 1971 and section 17 of Act 90 of 1972.

16. (1) Section 21*ter* of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the definition of “industrial undertaking” of the following definition:

“‘industrial undertaking’ means any undertaking (other than a farming undertaking) in the course of which there is carried on a process of manufacture or a process which in the opinion of the Secretary is of a similar nature.”; and

- (b) by the addition to subsection (5) of the following paragraph:

“(c) The Minister, having regard to the nature of the industrial development desired for economic development areas in general or for any particular economic development area, any programme or plan for such development, and such other factors as he may deem fit, may authorize the granting of the development allowance in respect of any category of industrial undertakings determined by him to be eligible for such allowance, whether in all or only in some of the said areas, or refuse to authorize the granting of such allowance in respect of any category of industrial undertakings determined by him to be ineligible for such allowance, whether in all or only in some of the said areas.”.

(2) The amendments effected by subsection (1) shall be deemed to have taken effect on 1 July 1972 and shall apply for the purposes of assessments and determinations of tax under the principal Act in respect of years of assessment ending on or after the said date.

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Insertion of section 21*quat* in Act 58 of 1962.

17. The following section is hereby inserted in the principal Act after section 21*ter*:

“Deduction in respect of expenditure incurred by physically disabled persons.

**21*quat*** (1) Notwithstanding the provisions of section 23 (*a*) and (*b*), where the taxpayer suffers from any physical disability or, if he is a married person, his wife suffers from any physical disability, there shall be allowed to be deducted from his taxable income an allowance in respect of so much of the expenditure incurred during the year of assessment by the taxpayer or his wife (not being such expenditure as is referred to in section 11 or fees in respect of medical, dental, nursing or hospital services) as the Secretary is satisfied was necessarily incurred by him or her in consequence of his or her physical disability, as the case may be.

(2) The said allowance shall be an amount equal to the qualifying expenditure (as defined in subsection (3)) of the taxpayer for the year of assessment in question, less one rand for every completed ten rand by which the taxable income of the taxpayer for such year (as calculated before deducting the said allowance and before allowing any deduction under the provisions of section 18A) exceeds four thousand rand if one of the spouses suffers from any such disability, or five thousand rand if both spouses suffer from any such disabilities.

(3) For the purposes of subsection (2) ‘qualifying expenditure’, in relation to any taxpayer, means so much of the expenditure of the nature referred to in subsection (1), which is incurred by the taxpayer and the expenditure of that nature which is incurred by his wife, in the circumstances contemplated in subsection (1), as does not during the year of assessment in question exceed in total an amount of six hundred rand.”

Amendment of section 23 of Act 58 of 1962.

18. Section 23 of the principal Act is hereby amended by the deletion of paragraph (*i*).

Amendment of section 28 of Act 58 of 1962, as amended by section 17 of Act 90 of 1962, section 22 of Act 55 of 1966, section 24 of Act 89 of 1969 and section 21 of Act 88 of 1971.

19. (1) Section 28 of the principal Act is hereby amended by the substitution in subsection (4) for the definition of “long-term insurance business” of the following definition:

“‘long-term insurance business’ means long-term insurance business as defined in the Insurance Act, 1943 (Act No. 27 of 1943), and includes any business which is for the purposes of the said Act dealt with by the Registrar of Insurance as long-term insurance business and any business which in the opinion of the Secretary is medical aid insurance business conducted on a non-cancellable basis;”

(2) The amendment effected by subsection (1) shall for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1973.

Amendment of section 35 of Act 58 of 1962, as amended by section 20 of Act 90 of 1962.

20. (1) Section 35 of the principal Act is hereby amended—  
(a) by the substitution for subsection (1) of the following subsection:

“(1) Any person (not being a person who is ordinarily resident in the Republic or a company which is registered, managed or controlled in the Republic) to whom any amount referred to in paragraph (*b*) or (*bA*) of subsection (1) of section 9 is deemed to accrue from a source within the Republic, shall (apart from taxable income derived by him from other sources) be

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deemed to have derived from that amount a taxable income equal to thirty per cent of that amount.”; and

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

“(a) Any person who incurs a liability to pay to any other person (not being a person who is ordinarily resident in the Republic or a company which is registered, managed or controlled in the Republic) any amount referred to in paragraph (b) or (bA) of subsection (1) of section 9, or who receives payment of any such amount on behalf of such other person, shall within fourteen days after the end of the month during which the said liability is incurred or the said payment is received, as the case may be, or within such further period as the Secretary may approve, make a payment (which shall be deemed to be an advance payment made on behalf of such other person) to the Secretary in respect of such other person’s obligation to pay normal tax for the year of assessment during which the said amount accrues to or is received by such other person, calculated on a sum equal to thirty per cent of the said amount at the rate of tax (excluding any loan portion) applicable to the taxable income (other than taxable income derived within the territory or from mining operations) of companies, and shall submit to the Secretary at the time of such tax payment a declaration in such form as the Secretary may prescribe:”.

- (2) (a) The amendment effected by subsection (1) (a) shall in the appropriate circumstances apply in respect of amounts accruing to any person on or after 28 March 1973, and shall, for the purposes of assessments and determinations of tax under the principal Act, apply in respect of years of assessment ending on or after that date.

- (b) The amendment effected by subsection (1) (b) shall in the appropriate circumstances apply in respect of amounts which any person becomes liable to pay to any other person on or after 28 March 1973, and shall be deemed to have taken effect on that date: Provided that, notwithstanding the provisions of section 35 (2) (a) of the principal Act, any amount of tax which in consequence of the said amendment became payable in terms of the said provisions within a period ending on or before the date of promulgation of this Act, shall be payable within fourteen days after that date or within such further period as the Secretary for Inland Revenue may approve.

Amendment of section 36 of Act 58 of 1962, as amended by section 12 of Act 72 of 1963, section 15 of Act 90 of 1964, section 20 of Act 88 of 1965, section 23 of Act 55 of 1966, section 16 of Act 95 of 1967, section 14 of Act 76 of 1968 and section 26 of Act 89 of 1969.

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

- (a) by the insertion after subsection (7A) of the following subsections:

“(7B) The preceding provisions of this section shall not apply in respect of any year of assessment ending after 31 December 1973.

(7C) The amounts to be deducted under section 15 (a) from income derived during the first year of assessment of the taxpayer ending after 31 December 1973 (hereinafter referred to as the transition year) and succeeding years of assessment from the working of any mine shall be—

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- (a) where such mine commences production during any such year of assessment, the amount of capital expenditure incurred up to the close of that year of assessment, and thereafter in respect of each succeeding year of assessment, the capital expenditure incurred during such succeeding year of assessment; or
- (b) where such mine commenced production before the commencement of the transition year—
  - (i) the capital expenditure incurred during the year of assessment in question; and
  - (ii) where there is in respect of such mine a balance of capital expenditure unredeemed at the commencement of the transition year, such amount as may be determined under the provisions of subsection (7D) in respect of the year of assessment in question.

(7D) Where there is, in respect of any mine to which subsection (7C) (b) applies, a balance of capital expenditure unredeemed at the commencement of the transition year, the amount to be deducted from mining income under the provisions of subsection (7C) (b) (ii) shall be so much of such unredeemed balance as does not exceed an amount determined for the year of assessment in question by subtracting from the unredeemed balance at the commencement of the transition year—

- (a) so much of such unredeemed balance as has been allowed to be deducted from income in previous years of assessment; and
- (b) the sum of any amounts received or accrued during the transition year and succeeding years of assessment from disposals of any assets the cost of which has been included in capital expenditure taken into account (whether under this Act or any previous Income Tax Act or any Income Tax Ordinance of the territory) for the purposes of any deduction in respect of the said mine under section 15 (a) of this Act or the corresponding provisions of any previous Income Tax Act, or, in the case of a company, under the said section or section 11 (2) (i) of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, or the corresponding provisions of any previous Income Tax Ordinance of the territory (but excluding so much of the said amounts as has been taken into account, as provided in the definition of 'capital expenditure incurred' in subsection (11), in the determination of capital expenditure deducted from income under subsection (7C) (b) (i)),

and by dividing the excess (if any) of such unredeemed balance over the amounts so subtracted therefrom by the estimated number of years (hereinafter referred to as the life of the mine) during which mining operations may be expected to continue on such mine.”;

- (b) by the substitution for subsections (8) and (9) of the following subsections respectively:

“(8) The life of a mine shall be determined by the Government Mining Engineer, but such determination shall be subject to objection and appeal to the special court constituted under Chapter III as if it were a decision of the Secretary, and where the life of a mine, estimated and determined as aforesaid, exceeds thirty years or, in the case of a gold mine, four years,

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the allowance calculated under subsection (7D) shall, so long as the estimate exceeds such period of thirty years or four years, as the case may be, be calculated on a period of thirty years or, in the case of a gold mine, four years.

- (9) (a) The life of a mine shall be subject to revision at the instance of the person liable to the tax or of the Secretary, whenever any material alteration takes place in any circumstances relating to the mine or its working which affects the life of the mine, and in any such revision the same provisions shall apply as in the original determination of the life of the mine.
- (b) No such revision shall affect any assessment determined or any allowance made or presumed to have been made under this Act or any previous law for the taxation of the profits of mining.”;
- (c) by the insertion in subsection (11) after the definition of “capital expenditure” of the following definition:

“‘capital expenditure incurred’, for the purpose of determining the amount of capital expenditure incurred during any period in respect of any mine, means the amount (if any) by which the expenditure that is incurred during such period in respect of such mine and is capital expenditure, exceeds the sum of the amounts received or accrued during the said period from disposals of assets the cost of which has in whole or in part been included in capital expenditure taken into account (whether under this Act or any previous Income Tax Act or any Income Tax Ordinance of the territory) for the purposes of any deduction in respect of such mine under section 15 (a) of this Act or the corresponding provisions of any previous Income Tax Act, or, in the case of a company, under the said section or section 11 (2) (i) of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, or the corresponding provisions of any previous Income Tax Ordinance of the territory;”;

- (d) by the substitution in subsection (11) for the definition of “expenditure” of the following definition:

“‘expenditure’ means net expenditure after taking into account any rebates or returns from expenditure, regardless of when such last-mentioned expenditure was incurred.”.

Amendment of section 42 of Act 58 of 1962, as amended by section 21 of Act 88 of 1965, section 17 of Act 95 of 1967, section 29 of Act 89 of 1969, section 19 of Act 52 of 1970, section 23 of Act 88 of 1971 and section 18 of Act 90 of 1972.

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

“(c) dividends received from companies referred to in paragraphs (d), (f) and (h) of subsection (2) of section 38;”.

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on 28 March 1973 and shall in the appropriate circumstances apply in respect of dividends (excluding any portion of a dividend as consists of an interim dividend) declared by any company on or after the said date,

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and interim dividends the payment of which is approved on or after that date in the manner contemplated in section 42 (1) (b) of the principal Act.

Amendment of section 48 of Act 58 of 1962, as substituted by section 30 of Act 89 of 1969.

23. (1) Section 48 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) Where the Secretary is satisfied that a dividend distributed by a company shortly before the commencement of the specified period has been distributed out of profits made by the company during the year of assessment, the Secretary may, in his discretion and on the application of the company, treat such dividend as having been distributed on a date falling within the specified period, and in such case the dividend shall for the purposes of this Part be deemed to have been distributed on such date.”

(2) The amendment effected by subsection (1) shall, for the purposes of assessments in respect of, and determinations of, undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1970.

Amendment of section 49 of Act 58 of 1962, as amended by section 22 of Act 90 of 1962, section 9 of Act 6 of 1963, section 17 of Act 90 of 1964, section 31 of Act 89 of 1969 and section 24 of Act 88 of 1971.

24. (1) Section 49 of the principal Act is hereby amended by the insertion after paragraph (aa) of the proviso to paragraph (iii) of the definition of “distributable income” of the following paragraph:

“(aaA) the allowances under this paragraph in respect of any year of assessment ending on or after 29 March 1973 shall, in the case of any company, be limited to an amount sufficient to reduce the distributable income of such company in respect of the year of assessment in question to an amount equal to the amount of the dividends distributed by it during the specified period in respect of such year of assessment, and so much of the cost price or cost of machinery or plant which would have been allowed to be deducted under this paragraph in respect of such year of assessment but which, by virtue of the provisions of this paragraph of this proviso has not been so allowed to be deducted, shall be carried forward to the next succeeding year of assessment and, provided the company has during such succeeding year of assessment continued to carry on the trade for the purposes of which the machinery or plant is to be or is brought into use, the amount so carried forward shall be deemed to be an amount ranking for an allowance under this paragraph in respect of such succeeding year of assessment;”

(2) The amendment effected by subsection (1) shall, for the purposes of assessments in respect of, and determinations of, undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 29 March 1973.

Amendment of section 50 of Act 58 of 1962, as amended by section 23 of Act 90 of 1962, section 19 of Act 95 of 1967, section 32 of Act 89 of 1969 and section 25 of Act 88 of 1971.

25. Section 50 of the principal Act is hereby amended by the substitution for subparagraph (i) of paragraph (f) of the following subparagraph:

“(i) fifty thousand rand; or”.

Amendment of section 107 of Act 58 of 1962.

26. (1) Section 107 of the principal Act is hereby amended by the insertion after paragraph (d) of subsection (1) of the following paragraph:

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“(dA) prescribing the method of valuation of any annuity to which the provisions of paragraph 8 (5) and (6) of the Sixth Schedule apply;”.

(2) Any regulation made by the State President under section 107 (1) (dA) of the principal Act may be made so as to apply with effect from years of assessment under the principal Act ending on or after 30 March 1972.

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

27. (1) Paragraph 1 of the Sixth Schedule to the principal Act is hereby amended—

(a) by the substitution for the definition of “owner” of the following definition:

“‘owner’, in relation to an insurance policy, means the insured party to the contract of insurance to which the policy relates, or any person (other than a mere beneficiary) to whom the insured party’s rights under the policy have passed, whether in whole or in part, any reference in this Schedule to an owner of an insurance policy being construed as including a reference to a part-owner thereof;”;

and

(b) by the addition at the end thereof of the following definition:

“‘waiver of premium benefit’ means a provision in an insurance policy whereby the insurer undertakes that—

(a) in the event of the death of a person specified in the policy, the policy will continue, but that the payment of future premiums will be waived, either wholly or partially, and that the policy will be kept fully in force as if the premiums that are being waived are being paid in full, such waiver of premiums continuing for a fixed period specified in the policy, or until a date specified in the policy, or until the earlier death of another person specified in the policy; or

(b) in the event of the total or partial disablement, after the commencement date of the policy, of a person specified in the policy, the policy will continue, but that the payment of future premiums will be waived, either wholly or partially, and that the policy will be kept fully in force as if the premiums that are being waived are being paid in full, such waiver of premiums continuing during the duration of such disablement for a fixed period specified in the policy, or until a date specified in the policy, or until the earlier death of the specified person.”.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Amendment of paragraph 2 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

28. (1) Paragraph 2 of the Sixth Schedule to the principal Act is hereby amended—

(a) by the addition to item (a) of the following subitem:

“(iv) any insurance benefit, to the extent to which any person (other than a company) who is ordinarily resident in the territory at the time of receipt or accrual thereof, is beneficially interested therein; or”;



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- (b) by the substitution for item (b) of the following item:
- “(b) consideration in respect of the cession in whole or in part by the owner of an insurance policy of his rights under the policy, other than—
- (i) any consideration in respect of a cession of any such rights by the taxpayer to his wife or *vice versa*, if at the time of the cession the spouses are not living apart in the circumstances contemplated in section 7 (2) of this Act; or
  - (ii) any consideration in respect of a cession of any such rights effected at a time when the policy is a standard policy as contemplated in Part III; or
  - (iii) any cession consideration the amount whereof falls to be included in the gross income of any person under any provision of this Act except the said paragraph; or
  - (iv) any consideration in respect of a cession, to the extent that any person (other than a company) who is ordinarily resident in the territory at the time of such cession, is beneficially interested in such consideration.”.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Substitution of paragraph 3 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

29. (1) The following paragraph is hereby substituted for paragraph 3 of the Sixth Schedule to the principal Act:

*“Assessment of certain gains in hands of owner of insurance policy: Right to recover tax.*

3. (1) Where an insurance benefit under an insurance policy is received by or accrues to or in favour of any person upon or by reason of the death of a person whose life is insured under that policy or the maturity of that policy, such insurance benefit shall for the purpose of determining under this Schedule the amounts of any gains relating to such policy, be deemed to have been received by or to have accrued to or in favour of the person who was the owner of the policy immediately before such death or maturity, whether or not the said owner was beneficially interested in the said policy.

(2) Where an insurance benefit (other than an insurance benefit referred to in subparagraph (1)) is received by or accrues to or in favour of any person under or in respect of an insurance policy or where any consideration in respect of the cession of any rights under an insurance policy is received by or accrues to or in favour of any person, such insurance benefit or cession consideration, as the case may be, shall for the purpose of determining under this Schedule the amounts of any gains relating to such policy, be deemed to have been received by or to have accrued to or in favour of the person who was the owner of the policy immediately before the receipt or accrual of such benefit or cession consideration, as the case may be, whether or not the said owner was beneficially interested in the said policy.

(3) Where an insurance policy has more than one owner, any amount deemed by subparagraph (1) or (2) to have been received by or to have accrued to or in favour of the owner of the policy shall, in the case of any part-owner of the policy, be restricted to such portion of the insurance benefit or cession consideration in question.

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(determined, if necessary, on the basis of a fair apportionment) as relates to the part-owner's ownership of the policy.

(4) Any gain determined in the hands of the owner or a part-owner of an insurance policy as contemplated in subparagraph (1), (2) or (3) shall, subject to the provisions of subparagraph (5), be deemed to be an amount which is required to be included in the gross income of such owner or part-owner, as the case may be, under the provisions of paragraph (eA) of the definition of 'gross income' in section 1 of this Act.

(5) Subject to the provisions of this Act whereby income derived by anybody is deemed to be, or is required to be included in, the income of anybody else, where any person other than the owner of an insurance policy is beneficially interested in the policy (otherwise than by virtue of his mere nomination by the owner of the policy as a beneficiary under the policy), any gain determined in the hands of an owner or a part-owner as contemplated in subparagraph (1), (2) or (3) shall, to the extent that the said person is beneficially interested in the insurance benefit or cession consideration in respect of which such gain is determined, not be included in the gross income of the owner or part-owner under paragraph (eA) of the definition of 'gross income' in section 1 of this Act but shall be included in the gross income of the said person under the said paragraph.

(6) So much of any tax payable by any person as is attributable to the inclusion in his income of a gain determined under this Schedule in respect of an insurance benefit which is received by or has accrued to or in favour of some other person shall (except to the extent that tax has been deducted or withheld from such insurance benefit as provided in paragraph 17) be recoverable from such other person."

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Substitution of paragraph 5 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

30. (1) The following paragraph is hereby substituted for paragraph 5 of the Sixth Schedule to the principal Act:

*"Insurance policy acquired from spouse.*

5. For the purposes of this Schedule, where any person has acquired an insurance policy or any rights under an insurance policy by cession from his wife or, if such person is a woman, from her husband, at a time when the spouses were not living apart in the circumstances contemplated in section 7 (2) of this Act, such person shall be deemed to have acquired the policy or such rights at the time when and in the same manner as the policy or such rights, as the case may be, was or were acquired by the wife or husband, as the case may be, and any gain made by the said person in respect of any insurance benefit under the policy or any consideration in respect of a cession of the policy or such rights as determined under this Schedule, shall as far as possible be determined as though the policy or such rights had been owned by one person, but without taking into account any consideration which may have been payable in respect of such first-mentioned cession."

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

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Amendment of paragraph 6 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

31. (1) Paragraph 6 of the Sixth Schedule to the principal Act is hereby amended—

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

“(a) at the time of the receipt or accrual of such insurance benefit or consideration the taxpayer (not being a company) is ordinarily resident in the Republic, or where the taxpayer is a company, the company is registered, managed or controlled in the Republic; or”;

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

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Amendment of paragraph 7 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

32. (1) Paragraph 7 of the Sixth Schedule to the principal Act is hereby amended by the substitution for subparagraph (2) of the following subparagraph:

“(2) Any insurance benefit paid under any insurance policy on or after 30 March 1972 shall for the purposes of this paragraph be deemed to be a bonus or share of profits so payable if—

(a) it has become payable by virtue of a right conferred by the policy upon any person to receive bonuses or to participate in the profits of the insurer; or

(b) the payment of such insurance benefit, regardless of the nature thereof, does not result in a reduction of the principal sum assured (being a lump sum payable on death or maturity, excluding bonuses, shares of profits and similar accretions and any other additions to such sum the payment of which is uncertain): Provided that if the Secretary, having regard to the special circumstances of the case, is satisfied that the treatment of the full amount of the said insurance benefit as a gain under this paragraph will probably result in the calculation of a loss under paragraph 8 in respect of insurance benefits which may become payable under the policy upon or by reason of the death of a person whose life is insured under the policy or the maturity of the policy, the Secretary may direct that the gain in respect of the said amount be determined under paragraph 8 instead of this paragraph.”

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Substitution of paragraph 8 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

33. (1) The following paragraph is hereby substituted for paragraph 8 of the Sixth Schedule to the principal Act:

“Gains in respect of benefits upon death, maturity or surrender, and other benefits, and gains in respect of cession considerations in connection with policy.

8. (1) Where any insurance benefit (other than an insurance benefit in respect of which a gain is required to be determined under paragraph 7) has been received by or has accrued to or in favour of any person under or in respect of an insurance policy upon or by reason of—

(a) the death of any person whose life was insured under the policy; or

(b) the maturity of the policy; or

(c) the surrender in whole or in part of the rights conferred by the policy; or

(d) the fulfilment of any other conditions for the payment of the insurance benefit,

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or where any consideration has been received by or has accrued to or in favour of any person in respect of the cession in whole or in part by him of the rights conferred on him by an insurance policy, the gain in respect of such insurance benefit or consideration shall be determined as provided in subparagraph (2).

(2) The gain which has to be determined as contemplated in subparagraph (1) in respect of any insurance benefit under or in respect of any insurance policy or in respect of any consideration in respect of the cession in whole or in part of a person's rights under any insurance policy shall, subject to the succeeding provisions of this paragraph, be deemed to be the amount (if any) by which the sum of—

(a) the gross amount or value of such insurance benefit or such consideration, as the case may be;

(b) where—

(i) the insurance benefits payable upon or by reason of the death on or after 28 March 1973 of any person whose life was insured under the insurance policy in question or the maturity of the policy, or the surrender in whole or in part of the rights conferred by the policy, or the fulfilment of any other conditions, include an insurance benefit referred to in paragraph 2 (a) (i), (ii) or (iv) in addition to any other insurance benefit the amount or value of which is accounted for under item (a) of this subparagraph; or

(ii) the consideration payable in respect of the cession in whole or in part of a person's rights under the insurance policy in question includes any consideration referred to in paragraph 2 (b) (i), (iii) or (iv), in addition to consideration the amount or value of which is accounted for under item (a) of this subparagraph,

the gross amount or value of the insurance benefit or the consideration so referred to, as the case may be: Provided that where the gain is determined in the hands of a part-owner of an insurance policy, the amount to be accounted for under this item in respect of any such benefit or consideration shall be such portion of such benefit or consideration (determined, if necessary, on the basis of a fair apportionment) as relates to the part-owner's ownership of the policy;

(c) the gross amounts or values of all the insurance benefits (including insurance benefits referred to in paragraph 2 (a) (i), (ii), (iii) and (iv) and insurance benefits the gains in respect of which have been determined under paragraph 7, but excluding any insurance benefit accounted for under item (a) or item (b) of this subparagraph) which have become payable under the insurance policy in question since the owner of the policy became the owner thereof (whether such benefits became payable before, on or after 30 March 1972): Provided that where such owner is a part-owner of such policy the amount to be accounted for under this item in respect of any such benefit shall be such portion of such benefit (determined, if necessary, on the basis of a fair apportionment) as relates to his ownership of the policy; and

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(d) the gross amount or value of all considerations which became payable to any person or persons in respect of partial cessions by the owner of the insurance policy in question of his rights under the policy since he became the owner of the policy (whether such considerations were received or accrued before, on or after 30 March 1972), including any cession considerations referred to in paragraph 2 (b) (i), (ii), (iii) and (iv) but excluding any cession consideration which is accounted for under item (a) or (b) of this subparagraph: Provided that where no consideration was payable in respect of any such partial cession or a consideration was payable in respect of such partial cession which was less than the surrender value of the ceded rights at the time of the cession, the rights so ceded shall for the purposes of this item and items (iii) and (iv) be deemed to have been ceded for a consideration equal to such surrender value and payable on the date of such cession, and in such case the said surrender value shall be accounted for under this item and any consideration actually payable shall be disregarded,

exceeds the sum of—

(i) the amounts (hereinafter referred to as expenses) payable by the owner of the insurance policy in question in respect of—

(aa) any premiums due under the policy from the time he became the owner thereof until the happening of the event or the fulfilment of the conditions upon or by reason of which the insurance benefit referred to in item (a) became payable or until the date of the cession in respect of which the consideration referred to in item (a) became payable; and

(bb) where the owner of the policy acquired his rights under the policy by cession, the cost (if any) of the acquisition by him of such rights, as determined in accordance with subparagraph (3):

Provided that where the insurance benefit accounted for under item (a) has become payable upon or by reason of a partial surrender of the owner's rights under the policy or the consideration accounted for under item (a) has become payable in respect of a partial cession of the owner's rights under the policy, the amount to be accounted for under this item shall be determined in accordance with the formula—

$$Y = A \times \frac{(B + C)}{(C + D)},$$

in which formula—

- (I) 'Y' represents the amount to be accounted for under this item;
- (II) 'A' represents the said expenses;
- (III) 'B' represents an amount equal to the sum of the amounts accounted for under items (a) and (b);
- (IV) 'C' represents an amount equal to the sum of the amounts accounted for under items (c) and (d); and
- (V) 'D' represents the surrender value of all the owner's rights under the policy immediately before such partial surrender or partial cession, as the case may be;

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- (ii) the amounts of any gains included in any person's gross income under this Schedule in respect of insurance benefits accounted for under item (c) and considerations accounted for under item (d);
- (iii) where the commencement date of the insurance policy in question fell in the period ending on 29 March 1972 and the owner of the policy was the owner thereof at the end of that period, an amount equal to the sum of—
  - (aa) the amounts which would have been determined under this Schedule as gains in the hands of the owner in respect of insurance benefits and considerations in respect of partial cessions which became payable on or before 29 March 1972 and which are accounted for under item (c) or (d), assuming this Schedule to have been applicable but ignoring the exemptions conferred by paragraph 2 (a) (i), (ii), (iii) and (iv) and paragraph 2 (b) (i), (ii), (iii) and (iv);
  - (bb) the amounts which would have been determined under this Schedule as gains in the hands of the owner in respect of amounts which are deemed by the proviso to item (d) to be payable on or before 30 March 1972 as considerations in respect of partial cessions of the policy and are accounted for under the said item, assuming that such considerations were in fact payable and that the provisions of this Schedule had been applicable, but ignoring the exemptions conferred by paragraph 2 (b) (i), (ii), (iii) and (iv); and
  - (cc) the amount which would have been determined under this Schedule as a gain in the hands of the owner if at the end of the said period he had surrendered his rights under the policy and an amount equal to the surrender value of such rights had accrued to him in respect of such rights, assuming this Schedule to have been applicable but ignoring the exemptions conferred by paragraph 2 (a) (i), (ii), (iii) and (iv):

Provided that where the insurance benefit accounted for under item (a) has become payable upon or by reason of a partial surrender of the owner's rights under the policy or the consideration accounted for under item (a) has become payable in respect of a partial cession of the owner's rights under the policy, the amount to be accounted for under this item shall be determined in accordance with the formula in the proviso to item (i), except that for the purposes of this item the symbol 'Y' in the said formula represents the amount to be accounted for under this item and the symbol 'A' in the formula represents the sum of the amounts referred to in subitems (aa), (bb) and (cc) of this item; and
- (iv) where the amounts accounted for under items (b), (c) and (d) of this subparagraph include—
  - (aa) any insurance benefit referred to in subitem (i), (ii), (iii) or (iv) of item (a) of paragraph 2 and which became payable on or after 30 March 1972; or
  - (bb) any cession consideration referred to in subitem (i), (ii), (iii) or (iv) of item (b) of paragraph 2 and which became payable on or after the said date; or

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(cc) any amount which is deemed by the proviso to item (d) of this subparagraph to be a cession consideration payable on or after the said date and which would, if it had actually been payable, have been a cession consideration to which the provisions of subitem (i), (ii), (iii) or (iv) of item (b) of paragraph 2 would apply,

the sum of the amounts which would be determined under this Schedule as gains in respect of such insurance benefits and cession considerations, assuming this Schedule to have been applicable but ignoring the exemptions conferred by the said subitems: Provided that where any such insurance benefit consists of a disablement benefit referred to in paragraph 2 (a) (ii), the gain in respect of such benefit shall for the purposes of this item be deemed to be the amount of such benefit.

(3) For the purposes of subparagraph (2) (i) (bb), the cost of acquisition by the owner of his rights under an insurance policy acquired by him by cession shall be deemed to be—

(a) the amount or value of any consideration given by him in respect of such cession; or

(b) where the value of the said rights at the time of such cession was required to be included in the owner's gross income under the provisions of this Act, an amount equal to such value; or

(c) where no consideration was given by the owner in respect of such cession and the provisions of item (b) are not applicable, the amount by which the surrender value (if any) of the owner's rights on the date of such cession exceeds the gain (if any) which would have been determined under this paragraph in the hands of the cedent if a consideration equal to such surrender value had been received by or had accrued to the cedent in respect of such cession, assuming this Schedule to have been applicable, but ignoring the exemptions conferred by paragraph 2 (b) (ii), (iii) and (iv) and regardless of the date of such cession.

(4) The amount determined under subparagraph (2) as a gain in respect of any insurance benefit or cession consideration shall not exceed the gross amount of such insurance benefit or cession consideration, as the case may be.

(5) Where an insurance benefit or cession consideration consists of or includes a right to an annuity and the amount or value of such insurance benefit or cession consideration has to be accounted for under subparagraph (2) (b), (c) or (d), the capitalised value of such annuity (determined as provided in subparagraph (6)) shall be included in the value of such insurance benefit.

(6) The capitalised value of an annuity referred to in subparagraph (5) shall be determined by capitalising at six per cent the annual value of the annuity over the life expectancy of the person who has become entitled to the annuity or, if the annuity is to be paid for a lesser period than the life of the annuitant or for a fixed period, over such lesser or fixed period, as the case may be.

(7) No deduction or allowance shall, in the determination under this paragraph of any gain in respect of any

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insurance benefit, be made against the gross amount or value of that insurance benefit, other than an amount allowed under this paragraph to be accounted for as a deduction from such insurance benefit, notwithstanding the fact that the insurer may, when paying such insurance benefit, have deducted the amount in question from or have set it off against such insurance benefit.

(8) In this paragraph 'owner', in relation to an insurance policy, means the owner in whose hands the gain in respect of an insurance benefit or cession consideration is determined as contemplated in paragraph 3 (1), (2) or (3)."

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Amendment of paragraph 11 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

34. (1) Paragraph 11 of the Sixth Schedule to the principal Act is hereby amended—

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

“(c) the total amount of the premiums which are so payable under any policy referred to in item (a) or (b) shall not in any period of twelve months exceed twice the total amount of the premiums so payable thereunder in any other period of twelve months during which premiums are payable to the insurer at the lowest rate provided in the policy; and”;

(b) by the substitution for subparagraph (2) of the following subparagraphs:

“(2) For the purpose of determining whether or not any insurance policy satisfies the requirements prescribed in subparagraph (1)—

(a) no account shall be taken of any provision therein for a waiver of premium benefit; and

(b) any premium in respect of the policy paid before the commencement date of the policy shall be deemed to have been paid on that date.

(2A) For the purposes of this Part, any premium (other than a premium referred to in subparagraph (2) (b)) payable under the policy shall be deemed to have been paid on the date on which such premium is due in terms of the policy, if—

(i) it has been paid within a period commencing three months before and ending three months after the due date thereof; or

(ii) it has not been paid within the days of grace allowed by the insurer, but the insurer has kept the policy in force by advancing against the non-forfeiture value of the policy, an amount equal to the unpaid premium, applying the advance in payment of the premium and charging interest on the advance at a rate not less than the highest rate of interest charged by the insurer at the relevant time on non-forfeiture advances on the major classes of standard non-linked policies issued by the insurer; or

(iii) the policy has, in consequence of the non-payment of the premium, lapsed or become paid-up, but the premium has subsequently been paid and the policy re-instated within a period which the Secretary, having regard to the circumstances of the case, regards as reasonable; or



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- (iv) the payment of the premium has been waived under a provision in the policy for a waiver of premium benefit.”;
  - (c) by the deletion of subparagraph (3); and
  - (d) by the addition of the following subparagraph:
    - “(4) An insurance policy shall for the purposes of this Part be deemed to satisfy the requirements prescribed in subparagraph (1) (c), if—
    - (a) the policy, as in force from the commencement date thereof, secures the payment of insurance benefits falling within distinct categories and provides for the payment, as from a common date, of separate premiums in respect of the benefits falling within each such category; and
    - (b) the Secretary, having regard to the terms of the policy, is satisfied that the policy is divisible into two or more separate policies and that each such separate policy satisfies the said requirements.”.
- (2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Substitution of paragraph 12 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

35. (1) The following paragraph is hereby substituted for paragraph 12 of the Sixth Schedule to the principal Act:

“*Conditions as to insurance benefits.*”

12. In order to qualify as a standard policy under paragraph 10, an insurance policy shall not provide for the payment of any insurance benefit before the expiry of a period of at least ten years commencing not earlier than three months before the commencement date of the policy, except—

- (a) a benefit which becomes payable upon or by reason of the death of a person whose life is insured under the policy or upon or by reason of the disablement of such person occurring after the commencement date of the policy; or
- (b) a benefit consisting of a bonus or share of profits payable out of the insurer's profits under a distribution to all policy holders who are entitled to participate in the insurer's profits, or payable under an apportionment of the insurer's profits or of a specified or defined portion thereof in terms of the policy conditions, if the amount to be paid by way of such bonus or share of profits remains uncertain until it is determined or is apportioned in terms of the policy conditions by the insurer and the right to the payment of such bonus or share of profits is entirely conditional upon the availability of such profits at the time of such distribution or apportionment; or
- (bA) interim benefits which become payable not earlier than the fifth anniversary of the date of commencement of the said period of ten years, if the death or maturity benefits under the policy consist of or include the payment of a specified lump sum and the amount or value of such interim benefits during the said period does not exceed the lesser of—
  - (i) a sum equal to fifteen per cent of such lump sum (excluding bonuses, shares of profits and other accretions and additions to such lump sum); or
  - (ii) a sum of one thousand five hundred rand; or

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- (c) any benefit by way of a waiver of premium benefit; or
- (d) any benefit payable in respect of the surrender of the policy.”

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Amendment of paragraph 13 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

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

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

“(1) For the purposes of this Schedule, an insurance policy shall, notwithstanding the foregoing provisions but subject to the following provisions of this Part, be deemed to be a standard policy, if—

- (a) in terms of the policy, as originally and at all times thereafter in force, the only insurance benefit payable thereunder (disregarding any benefit payable upon or by reason of a surrender of the policy and any benefit by way of a waiver of premium benefit) is a benefit in the event of the death or the death or earlier disablement (occurring after the commencement date of the policy) of a person whose life is insured under the policy and, except where the proposal for the policy was made and accepted in writing before the date of promulgation of the Income Tax Act, 1973, the policy conforms with the requirements of subparagraph (1C) as to premiums; or
- (b) in terms of the policy, as originally and at all times thereafter in force no insurance benefit (disregarding any benefit payable upon or by reason of the surrender of the policy and any benefit by way of a waiver of premium benefit) is to be payable thereunder until the expiry of a period of at least ten years commencing not earlier than three months before the commencement date of the policy except in the event of the earlier death or disablement (occurring after the commencement date of the policy) of a person whose life is insured under the policy, and, except where the proposal for the policy was made and accepted in writing before the date of promulgation of the Income Tax Act, 1973, the policy conforms with the requirements of subparagraph (1C) as to premiums; or
- (bA) in terms of the policy, as originally and at all times thereafter in force, the only insurance benefit payable thereunder is an annuity; or
- (c) the commencement date of the policy is a date falling before 30 March 1972 unless the policy provides for the payment to the insurer on or after 1 January 1968 of only one premium or consideration or for the payment within a period of twelve months ending on or after the last-mentioned date of all the premiums or considerations payable to the insurer under the policy.

(1A) For the purposes of this Schedule, if an insurance policy the proposal for which was made and accepted in writing before the date of promulgation of the Income Tax Act, 1972 (Act No. 90 of 1972), does not qualify as a standard policy under the provisions

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of paragraphs 10, 11 and 12 or under any of the provisions of subparagraph (1) of this paragraph or has ceased to qualify as a standard policy, and such policy is on or before 31 December 1973 varied so that—

- (a) the only insurance benefit payable under the policy after the variation is effected (disregarding any benefit payable upon or by reason of a surrender of the policy and any benefit by way of a waiver of premium benefit) is a benefit in the event of the death or the death or earlier disablement (occurring after the date of the variation) of a person whose life is insured under the policy; or
- (b) after the variation is effected no insurance benefit (disregarding any benefit payable upon or by reason of a surrender of the policy and any benefit by way of a waiver of premium benefit) is to be payable thereunder until the expiry of a period of at least ten years (commencing on a date not earlier than three months before the commencement date of the policy or, if any insurance benefit has been paid under the policy prior to the variation thereof, on the date of payment of such insurance benefit, whichever date is later) except in the event of the earlier death or disablement (occurring after the date of the variation) of a person whose life is insured under the policy, the said policy shall, subject to the following provisions of this Part, be deemed to have become a standard policy from the time the policy is varied as aforesaid.

(1B) For the purposes of subparagraph (1) (a) or (b) and subparagraph (1A), an insurance policy shall be deemed to secure the payment of an insurance benefit in the event of death or disablement or the expiry of a relevant period, notwithstanding that the amount payable may vary with the event.

(1C) Except in the case of an insurance policy the proposal for which was made and accepted in writing before the date of promulgation of the Income Tax Act, 1973, an insurance policy shall not be recognized as a standard policy under the provisions of subparagraph (1) (a) or (b) unless the premiums and any other considerations payable to the insurer under the policy are payable—

- (i) in such manner that no premium or other consideration is payable to the insurer after the end of the period of twelve months reckoned from the commencement date of the policy; or
- (ii) at regular yearly or shorter intervals as from a date not earlier than three months before the commencement date of the policy, in such manner that—
  - (aa) the total amount of the premiums and other considerations payable to the insurer under the policy does not in any period of twelve months ending during the period of ten years reckoned from the date on which the first premium or consideration becomes payable to the insurer under the policy, exceed twice the total amount (hereinafter referred to as the basic amount) of the premiums and other

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considerations payable to the insurer under the policy in any other period of twelve months during which premiums or considerations are payable to the insurer at the lowest rate provided in the policy; and

(bb) the total amount of the premiums and other considerations payable to the insurer under the policy does not in any period of twelve months ending after the close of the said period of ten years, exceed four times the said basic amount.”; and

(b) by the insertion after item (b) of subparagraph (2) of the following item:

“(bA) no amount was owing in respect of any loan or advance made by the insurer before the commencement of the said period under or on the security or strength of the policy, unless interest was at all times payable on such loan or advance at a rate not less than the highest rate of interest charged by the insurer, at the time the loan or advance was made, in respect of loans or advances granted in respect of standard policies issued by the insurer;”.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Amendment of paragraph 14 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

37. (1) Paragraph 14 of the Sixth Schedule to the principal Act is hereby amended—

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

“(1) For the purposes of this Schedule, an insurance policy which has under the provisions of this Part qualified as a standard policy shall be deemed to have ceased to be a standard policy, if—

(a) in the case of any policy (other than a policy which has qualified as a standard policy under the provisions of paragraph 13 (2)), the conditions of the policy as to the insurance benefits payable thereunder are on or after 30 March 1972 varied, unless—

(i) in the case of a policy which qualified as a standard policy under the provisions of paragraphs 10, 11 and 12, the varied conditions of the policy as to the insurance benefits payable thereunder conform with the requirements of paragraphs 10 and 12; or

(ii) in the case of a policy which qualified as a standard policy under the provisions of item (a), (b) or (bA) of subparagraph (1) of paragraph 13, the varied conditions of the policy as to the insurance benefits payable thereunder conform with the requirements of the said item (a), (b) or (bA); or

(iii) in the case of a policy which qualified as a standard policy under the provisions of paragraph 13 (1) (c), the varied conditions of the policy as to the insurance benefits payable thereunder conform with the re-

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requirements of paragraphs 10 and 12 or the requirements of paragraph 13 (1) (bA); or

- (iv) in the case of a policy which qualified as a standard policy under the provisions of subparagraph (1A) of paragraph 13, the varied conditions of the policy as to the insurance benefits payable thereunder conform with the requirements of the said subparagraph; or
- (b) in the case of a policy which qualified as a standard policy under the provisions of paragraphs 10, 11 and 12 and does not qualify as a standard policy under any provision of this Part other than the said paragraphs, the conditions of the policy are varied so that any premium or other consideration payable to the insurer during the period of five years, reckoned from the commencement date of the policy, is reduced or ceases to be payable, and the policy as so varied no longer satisfies the conditions as to premiums prescribed in paragraph 11; or
- (c) during a period of five years and one month, reckoned from the commencement date of the policy, a period of thirteen months elapses during which premiums become payable under the policy but are not paid: Provided that the foregoing provisions of this item shall not apply in the case of a policy which qualifies as a standard policy under the provisions of paragraph 13 or if the sum of all the premiums and any other considerations payable by the owner of the policy to the insurer in respect of such policy and any other insurance policies during the year of assessment of the insurer during which the first of the said premiums became payable, and during each of the four preceding years of assessment of the insurer, did not exceed two thousand rand; or
- (d) the policy (other than a policy which qualifies as a standard policy under the provisions of paragraph 13 (1) (bA)) is on or after 30 March 1972 varied so as to provide for the payment to the insurer, at any time while the policy is in force, of any amount or amounts by way of further or additional premium or consideration in respect of the policy: Provided that an insurance policy shall, notwithstanding the fact that it is so varied, not, by virtue of the provisions of this item, be deemed to have ceased to be a standard policy if the policy conformed with the provisions of paragraph 11 or 13 (1C) (ii) as to premiums and—
- (i) the premiums and any other considerations payable to the insurer under the policy, as so varied, in any period of twelve months do not in total exceed twice the total premiums and any other considerations payable to the insurer under the policy in any other period of twelve months falling within the period of five years, reckoned from the commencement date of the policy, and during which premiums or other considerations are payable to

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- the insurer at the lowest rate originally provided in the policy; or
- (ii) the total premiums and other considerations payable by the owner of the policy to the insurer under the policy and any other insurance policies during the year of assessment of the insurer during which the further or additional premium or consideration first becomes payable and during each of the four preceding years of assessment of the insurer, do not exceed two thousand rand; or
- (e) the policy (other than a policy which qualifies as a standard policy under the provisions of paragraph 13 (1) (c)) is surrendered in whole or in part within a period of ten years reckoned from the commencement date of the policy or in the case of a policy which qualified as a standard policy under the provisions of subparagraph (1A) of paragraph 13, from the date on which the policy was varied as contemplated in that subparagraph: Provided that an insurance policy shall, notwithstanding the fact that it is surrendered in whole or in part, not, by virtue of the provisions of this item, be deemed to have ceased to be a standard policy, if—
- (i) the policy conformed with the provisions of paragraph 11 as to premiums and the sum of all the premiums and any other considerations payable by the owner of the policy to the insurer in respect of such policy and any other insurance policies during the year of assessment of the insurer during which the policy is so surrendered, and during each of the four preceding years of assessment of the insurer, did not exceed two thousand rand; or
- (ii) the policy (other than a policy referred to in paragraph (i) of this proviso) conformed with the provisions of paragraph 13 (1C) (ii) as to premiums and the sum of all the premiums and any other considerations payable by the owner of the policy to the insurer in respect of such policy and any other insurance policies during any year of assessment of the insurer during which any premium or other consideration was payable to the insurer under such policy, did not exceed two thousand rand; or
- (iii) the policy qualifies as a standard policy under the provisions of paragraphs 10, 11 and 12 and the only right surrendered is a right to the payment of a bonus or share of profits of the same nature as a bonus or share of profits referred to in paragraph 12 (b); or
- (iv) the policy qualifies as a standard policy under the provisions of paragraphs 10, 11 and 12, the total amount of the premiums and other considerations payable to the insurer thereunder in any period of twelve months did not exceed one thousand rand and, in terms of the policy, as in force immediately prior to

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the surrender or part surrender thereof, the benefits payable thereunder in the event of the death, at any time while the policy was in force, of a person whose life was insured under the policy consisted of or included a lump sum assured the amount of which (excluding bonuses, shares of profits and similar accretions and any other additions to the lump sum assured the amounts of which are uncertain) is not less than fifteen times the total amount payable to the insurer under the policy by way of premiums and other considerations in any period of twelve months during which such premiums or considerations were or would have been payable at the highest rate provided in the policy; or

- (f) in the case of a policy which qualified as a standard policy under the provisions of paragraphs 10, 11 and 12, and does not qualify as a standard policy under any provision of this Part other than the said paragraphs, it is converted into a paid-up policy within a period of five years reckoned from the commencement date of the policy and has not been re-instated as contemplated in paragraph 11 (2A) (iii), unless the sum of all the premiums and other considerations payable by the owner of the policy to the insurer in respect of such policy and any other insurance policies during the year of assessment of the insurer during which the policy is so converted into a paid-up policy, and during each of the four preceding years of assessment of the insurer, did not exceed two thousand rand; or
- (g) in the case of a policy which qualified as a standard policy under the provisions of paragraph 13 (1) (a) or (b) or paragraph 13 (1A), a loan or advance is on or after 30 March 1972 made by the insurer under or on the security or strength of the policy, unless interest is payable on such loan or advance at a rate not less than the highest rate of interest charged by the insurer at the time the loan or advance was granted in respect of loans or advances granted on standard policies issued by the insurer: Provided that an insurance policy shall not, by virtue of the provisions of this item, be deemed to have ceased to be a standard policy if, at the time the loan or advance was granted, the policy, besides having qualified as a standard policy as aforesaid, also qualified as a standard policy under the provisions of paragraphs 10, 11 and 12 or the provisions of paragraph 13 (1) (c), but in such case the policy shall for the purposes of this paragraph be deemed, with effect from the date on which such loan or advance is granted, to qualify as a standard policy solely under the provisions of paragraphs 10, 11 and 12 or the provisions of paragraph 13 (1) (c), as the case may be.”;

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(b) by the substitution for item (b) of subparagraph (2) of the following item:

“(b) as from the end of the period of thirteen months referred to in item (c) of the said subparagraph; or”; and

(c) by the substitution in item (d) of subparagraph (2) for the expression “(h)” of the expression “(g)”.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Insertion of paragraph 14A in 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

38. (1) The following paragraph is hereby inserted in the Sixth Schedule to the principal Act after paragraph 14:

“*Surrender of policy.*”

14A. For the purposes of paragraphs 12 and 13 a provision in an insurance policy shall be deemed to be a provision for the surrender of the policy, whether in whole or in part, if in terms of such provision—

(a) any right conferred by the policy may be surrendered in whole or in part and any insurance benefit is to become payable to any person upon or by reason of such surrender; or

(b) any insurance benefit may become payable by the insurer under the policy otherwise than upon or by reason of the maturity of the policy or the death or disablement of a person whose life is insured under the policy and, in consequence of the payment of such insurance benefit, any amount which would be payable under the policy upon or by reason of the maturity of the policy or the death or disablement of a person whose life is insured under the policy, is or is to be reduced,

and, where any such insurance benefit becomes payable as aforesaid, the policy shall, for the purposes of paragraph 14, be deemed to have been surrendered, whether in whole or in part.”

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972.

Substitution of paragraph 16 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

39. (1) The following paragraph is hereby substituted for paragraph 16 of the Sixth Schedule to the principal Act:

“*Notifications as to non-standard policies, and as to non-standard policies which become standard policies.*”

16. (1) Every insurer who has issued an insurance policy which in his opinion is not a standard policy as contemplated in this Part, shall—

(a) not later than three months after issuing the policy, if the policy is issued after the date of promulgation of the Income Tax Act, 1972; or

(b) not later than six months after the said date, if the policy was issued before that date,

or in either case, within such further period as the Secretary may approve, notify the policy holder that the policy is, in the opinion of the insurer, not a standard policy.

(2) Where any insurance policy which, in the opinion of the insurer, was a standard policy, ceases to be a standard policy as contemplated in paragraph 14, the insurer shall, not later than three months after the date on which the policy is in terms of subparagraph (2) of the said paragraph deemed to have ceased to be a standard policy, or within



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such further period as the Secretary may approve, notify the policy holder that the policy has ceased to be a standard policy as contemplated in this Part: Provided that where the policy ceased to be a standard policy as aforesaid before the date of promulgation of the Income Tax Act, 1972, the notification under this subparagraph may be issued within six months after that date: Provided further that where an insurance policy has under the provisions of paragraph 14 (1) (e) ceased to be a standard policy by reason of the surrender of the policy in whole the insurer shall not be required to furnish a notification under this subparagraph in respect of such policy, provided it is clear that there is no gain to be determined under this Schedule in respect of the surrender benefits.

(3) Where any insurance policy has, in the opinion of the insurer, become a standard policy, the insurer shall, not later than three months after the date on which the policy became a standard policy, or within such further period as the Secretary may approve, notify the policy holder that the policy has become a standard policy: Provided that where the policy became a standard policy as aforesaid before the date of promulgation of the Income Tax Act, 1973, the notification under this subparagraph may be issued within six months after that date.

(4) Every insurer who issues a notification as provided in subparagraph (1), (2) or (3) shall at the same time furnish the Secretary with a copy of such notification."

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the date of promulgation of the Income Tax Act, 1972 (Act No. 90 of 1972).

Amendment of paragraph 17 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

40. (1) Paragraph 17 of the Sixth Schedule to the principal Act is hereby amended—

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

"(1) Any insurer who in the course of an insurance business carried on by him in the Republic pays or becomes liable to pay to any person any insurance benefit (other than an insurance benefit referred to in paragraph 2 (a) (i), (ii), (iii) or (iv)) shall deduct or withhold from such insurance benefit an amount (which shall be determined as hereinafter provided) and pay such amount to the Secretary within fourteen days after the end of the month during which the insurer pays such insurance benefit, or where the insurer has not paid the insurance benefit, within three months after the end of the month during which he became liable to pay such insurance benefit, or, in either case, within such further period as the Secretary may approve."; and

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

"(3) The holder of any insurance policy under which an insurance benefit has or may become payable, shall, at the request of the insurer, furnish to the insurer his income tax reference number and such other information as the insurer may require for the determination of the amount of any gain which is under this Schedule required to be included in the gross income of the holder or any other person."

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(2) The amendments effected by subsection (1) shall be deemed to have taken effect on the date of promulgation of the Income Tax Act, 1972 (Act No. 90 of 1972).

Amendment of paragraph 18 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

41. (1) Paragraph 18 of the Sixth Schedule to the principal Act is hereby amended by the substitution for subparagraph (2) of the following subparagraph:

“(2) Where, in making any calculation under paragraph 17 (4), an insurer has calculated that there is no gain in respect of an insurance benefit, he shall, within fourteen days after the end of the month during which the insurer paid the insurance benefit, or where the insurer has not paid the insurance benefit, within three months after the end of the month during which he became liable to pay the insurance benefit, or, in either case, within such further period as the Secretary may approve, furnish the Secretary with a certificate, in the form of the certificate referred to in subparagraph (1), giving such information as the Secretary may require: Provided that where an insurance policy has under the provisions of paragraph 14 (1) (e) ceased to be a standard policy by reason of the surrender of such policy in whole and the said insurance benefit has become payable in respect of such surrender, the insurer shall not be required to furnish a certificate under this subparagraph in respect of such insurance benefit unless the Secretary requests the insurer to furnish such certificate.”

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on the date of promulgation of the Income Tax Act, 1972 (Act No. 90 of 1972).

Commencement of certain amendments.

42. 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, in so far as the assessment, determination, payment, collection and recovery of normal tax, undistributed profits tax, employees tax and provisional tax are thereby affected, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1974.

Application of Act in South West Africa.

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

Short title.

44. This Act shall be called the Income Tax Act, 1973.

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## Schedule

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 1974 AND 30 JUNE 1974, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF TWELVE MONTHS ENDING 31 MARCH 1974.

(Section 1 of this Act.)

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

- (a) in respect of the taxable income of any person other than a company, an amount of tax calculated in accordance with the tables below on the taxable amount of such person: Provided that—
- (i) where, in the case of any person (other than a natural person who is over the age of sixty years on the last day of the year of assessment and whose taxable income for that year of assessment does not exceed five thousand rand), the amount of tax calculated in accordance with the said tables is not less than one hundred and fifty rand, there shall be added to the amount of tax so calculated a sum equal to ten per cent of that amount;
- (ii) any fraction of a rand of the sum calculated under paragraph (i) of this proviso shall be disregarded:

## TABLES

Taxable Amount	Rates of tax in respect of married persons
Where the taxable amount— does not exceed R1 000 . . . . .	9 per cent of each R1 of taxable amount;
exceeds R 1 000 but does not exceed R 2 000	R90 plus 10 per cent of the amount by which the taxable amount exceeds R1 000;
„ R 2 000 „ „ „ „ R 3 000	R190 plus 10 per cent of the amount by which the taxable amount exceeds R2 000;
„ R 3 000 „ „ „ „ R 4 000	R290 plus 11 per cent of the amount by which the taxable amount exceeds R3 000;
„ R 4 000 „ „ „ „ R 5 000	R400 plus 12 per cent of the amount by which the taxable amount exceeds R4 000;
„ R 5 000 „ „ „ „ R 6 000	R520 plus 14 per cent of the amount by which the taxable amount exceeds R5 000;
„ R 6 000 „ „ „ „ R 7 000	R660 plus 16 per cent of the amount by which the taxable amount exceeds R6 000;
„ R 7 000 „ „ „ „ R 8 000	R820 plus 18 per cent of the amount by which the taxable amount exceeds R 7 000;
„ R 8 000 „ „ „ „ R 9 000	R1 000 plus 20 per cent of the amount by which the taxable amount exceeds R8 000;
„ R 9 000 „ „ „ „ R10 000	R1 200 plus 22 per cent of the amount by which the taxable amount exceeds R9 000;
„ R10 000 „ „ „ „ R11 000	R1 420 plus 24 per cent of the amount by which the taxable amount exceeds R10 000;
„ R11 000 „ „ „ „ R12 000	R1 660 plus 26 per cent of the amount by which the taxable amount exceeds R11 000;
„ R12 000 „ „ „ „ R13 000	R1 920 plus 28 per cent of the amount by which the taxable amount exceeds R12 000;
„ R13 000 „ „ „ „ R14 000	R2 200 plus 30 per cent of the amount by which the taxable amount exceeds R13 000;

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Taxable Amount	Rates of tax in respect of married persons
Where the taxable amount— exceeds R14 000 but does not exceed R15 000	R2 500 plus 32 per cent of the amount by which the taxable amount exceeds R14 000;
„ R15 000 „ „ „ „ R16 000	R2 820 plus 34 per cent of the amount by which the taxable amount exceeds R15 000;
„ R16 000 „ „ „ „ R17 000	R3 160 plus 36 per cent of the amount by which the taxable amount exceeds R16 000;
„ R17 000 „ „ „ „ R18 000	R3 520 plus 38 per cent of the amount by which the taxable amount exceeds R17 000;
„ R18 000 „ „ „ „ R19 000	R3 900 plus 40 per cent of the amount by which the taxable amount exceeds R18 000;
„ R19 000 „ „ „ „ R20 000	R4 300 plus 42 per cent of the amount by which the taxable amount exceeds R19 000;
„ R20 000 „ „ „ „ R21 000	R4 720 plus 44 per cent of the amount by which the taxable amount exceeds R20 000;
„ R21 000 „ „ „ „ R22 000	R5 160 plus 46 per cent of the amount by which the taxable amount exceeds R21 000;
„ R22 000 „ „ „ „ R23 000	R5 620 plus 48 per cent of the amount by which the taxable amount exceeds R22 000;
„ R23 000 „ „ „ „ R24 000	R6 100 plus 50 per cent of the amount by which the taxable amount exceeds R23 000;
„ R24 000 „ „ „ „ R25 000	R6 600 plus 52 per cent of the amount by which the taxable amount exceeds R24 000;
„ R25 000 „ „ „ „ R26 000	R7 120 plus 54 per cent of the amount by which the taxable amount exceeds R25 000;
„ R26 000 „ „ „ „ R27 000	R7 660 plus 56 per cent of the amount by which the taxable amount exceeds R26 000;
„ R27 000 „ „ „ „ R28 000	R8 220 plus 58 per cent of the amount by which the taxable amount exceeds R27 000;
„ R28 000 . . . . .	R8 800 plus 60 per cent of the amount by which the taxable amount exceeds R28 000;

Taxable Amount	Rates of tax in respect of persons who are not married persons
Where the taxable amount— does not exceed R1 000 . . . . .	12 per cent of each R1 of taxable amount;
exceeds R 1 000 but does not exceed R 2 000	R120 plus 12 per cent of the amount by which the taxable amount exceeds R1 000;

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Taxable Amount	Rates of tax in respect of persons who are not married persons
Where the taxable amount— exceeds R 2 000 but does not exceed R 3 000	R240 plus 13 per cent of the amount by which the taxable amount exceeds R2 000;
„ R 3 000 „ „ „ „ R 4 000	R370 plus 14 per cent of the amount by which the taxable amount exceeds R3 000;
„ R 4 000 „ „ „ „ R 5 000	R510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;
„ R 5 000 „ „ „ „ R 6 000	R680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;
„ R 6 000 „ „ „ „ R 7 000	R880 plus 23 per cent of the amount by which the taxable amount exceeds R6 000;
„ R 7 000 „ „ „ „ R 8 000	R1 110 plus 26 per cent of the amount by which the taxable amount exceeds R7 000;
„ R 8 000 „ „ „ „ R 9 000	R1 370 plus 28 per cent of the amount by which the taxable amount exceeds R8 000;
„ R 9 000 „ „ „ „ R10 000	R1 650 plus 30 per cent of the amount by which the taxable amount exceeds R9 000;
„ R10 000 „ „ „ „ R11 000	R1 950 plus 32 per cent of the amount by which the taxable amount exceeds R10 000;
„ R11 000 „ „ „ „ R12 000	R2 270 plus 34 per cent of the amount by which the taxable amount exceeds R11 000;
„ R12 000 „ „ „ „ R13 000	R2 610 plus 36 per cent of the amount by which the taxable amount exceeds R12 000;
„ R13 000 „ „ „ „ R14 000	R2 970 plus 38 per cent of the amount by which the taxable amount exceeds R13 000;
„ R14 000 „ „ „ „ R15 000	R3 350 plus 40 per cent of the amount by which the taxable amount exceeds R14 000;
„ R15 000 „ „ „ „ R16 000	R3 750 plus 42 per cent of the amount by which the taxable amount exceeds R15 000;
„ R16 000 „ „ „ „ R17 000	R4 170 plus 44 per cent of the amount by which the taxable amount exceeds R16 000;
„ R17 000 „ „ „ „ R18 000	R4 610 plus 46 per cent of the amount by which the taxable amount exceeds R17 000;
„ R18 000 „ „ „ „ R19 000	R5 070 plus 48 per cent of the amount by which the taxable amount exceeds R18 000;
„ R19 000 „ „ „ „ R20 000	R5 550 plus 50 per cent of the amount by which the taxable amount exceeds R19 000;
„ R20 000 „ „ „ „ R21 000	R6 050 plus 52 per cent of the amount by which the taxable amount exceeds R20 000;

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Taxable Amount	Rates of tax in respect of persons who are not married persons
Where the taxable amount— exceeds R21 000 but does not exceed R22 000	R6 570 plus 54 per cent of the amount by which the taxable amount exceeds R21 000;
" R22 000 " " " " R23 000	R7 110 plus 56 per cent of the amount by which the taxable amount exceeds R22 000;
" R23 000 " " " " R24 000	R7 670 plus 58 per cent of the amount by which the taxable amount exceeds R23 000;
" R24 000 . . . . .	R8 250 plus 60 per cent of the amount by which the taxable amount exceeds R24 000;

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

- (i) within the territory of South West Africa, thirty-five cents;
- (ii) elsewhere than within the said territory, forty 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 two and a half per cent of such amount;

(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 under the provisions of 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:

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

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

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

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 under the provisions of paragraph (j) of the definition of "gross income" in

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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 under the provisions of paragraph (j) of the definition of "gross income" in section 1 of the principal Act, a rate equal to the average rate of normal tax or 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-five cents;
  - (ii) elsewhere than within the said territory, forty 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 two and a half per cent of such amount;
- (h) in respect of the taxable income of any company—
- (i) a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d) and (g), before the addition of the sums referred to in the proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d) and the proviso to subparagraph (g); and
  - (ii) 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:
- 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 1 July 1916 to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

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

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