



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Prys 20c Price
Oorsee 30c Overseas
POSVRY—POST FREE

Vol. 121]

KAAPSTAD, 23 JULIE 1975

[No. 4797

CAPE TOWN, 23 JULY 1975

DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 1374.

23 Julie 1975.

No. 1374.

23 July 1975.

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

van 1975: Inkomstebelastingwet, 1975.

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

No. 69 of 1975: Income Tax Act, 1975.

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 29 February 1976 and 30 June 1976, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1976; 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 30 June 1975.)

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 29 February 1976 or 30 June 1976; and
- (b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on 31 March 1976,

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

Act No. 69, 1975

INCOME TAX ACT, 1975.

manner prescribed in section 22 (2) (c) of the South-West Africa Affairs Act, 1969 (Act No. 25 of 1969).

(2) The provisions of subsection (1) shall be deemed to have come into operation on 1 April 1975.

Certain portion of the normal tax to be repayable to taxpayers.

3. The portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) of the Schedule to this Act shall be a loan portion of that tax.

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 90 of 1972, section 4 of Act 65 of 1973 and section 4 of Act 85 of 1974.

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

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

“‘assessment’ means the determination by the Secretary, by way of a notice of assessment served in a manner contemplated in section 106 (2)—

- (a) of an amount upon which any tax leviable under this Act is chargeable; or
- (b) of the amount of any such tax; or
- (c) of any loss ranking for set-off,

and for the purposes of Part III of Chapter III includes any determination by the Secretary in respect of any of the abatements referred to in section 5A and any decision of the Secretary which is in terms of this Act subject to objection and appeal;”;

(b) by the insertion after the definition of “date of deep level production” of the following definition:

“‘date of assessment’, in relation to any assessment, means the date specified in the notice of such assessment as the due date or, where a due date is not so specified, the date of such notice;”;

(c) by the substitution for paragraph (a) of the definition of “dividend” of the following paragraph:

“(a) in relation to a company that is being wound up or liquidated, any profits distributed, whether in cash or otherwise, other than those of a capital nature, earned before or during the winding-up or liquidation (any such profits distributed by the liquidator of the company being deemed for the purposes of this definition to have been distributed by the company);”;

(d) by the substitution for paragraphs (c) and (d) of the definition of “dividend” of the following paragraphs:

“(c) in the event of the partial reduction or redemption of the capital of a company, so much of the sum of any cash and the value of any asset given to a shareholder as exceeds the cash equivalent of the amount by which the nominal value of the shares of that shareholder is reduced; and

Act No. 69, 1975

INCOME TAX ACT, 1975.

- (d) in the event of the reconstruction of a company, so much of the sum of any cash and the value of any asset given to a shareholder as exceeds the nominal value of the shares held by him before the reconstruction,";
- (e) by the substitution for paragraphs (f), (g) and (h) of the definition of "dividend" of the following paragraphs:

"(f) subject to the provisions of the second proviso to this definition, any cash and the value of any asset given to a shareholder to the extent to which the cash and the value of the asset represents a reduction of the share premium account of a company; or

(g) so much of the nominal value of any capitalization shares awarded to shareholders on or before 30 June 1975 as part of the equity share capital of a company by a company which during the period of ten years ending the day before the date of such award has made any partial reduction of its paid-up share capital involving a distribution to shareholders of cash or other assets, as exceeds the sum of the amounts which in the opinion of the Secretary were available for distribution to shareholders on each and every date on which the company made a partial reduction of its paid-up share capital during the said period, less the sum of so much of the nominal values of all capitalization shares awarded by such company during that period (excluding any portion of that period occurring prior to 1 July 1957) as constituted dividends for the purposes of this definition or the definition of 'dividend' in section 1 of the Income Tax Act, 1941: Provided that for the purposes of this paragraph the amount available for distribution on any date on which the company made a partial reduction of its paid-up share capital shall, if that amount exceeds the nominal amount of such reduction, be deemed to be an amount equal to such nominal amount; or

(h) the nominal value of any capitalization shares awarded to shareholders as part of the equity share capital of a company, if—

(i) such shares are or were awarded on or before 30 June 1975 and during the period of ten years ending the day before the date of such award the company has not made any partial reduction of its paid-up share capital involving a distribution to shareholders of cash or other assets; or

(ii) such shares are awarded on or after 1 July 1975.";

Act No. 69, 1975

INCOME TAX ACT, 1975.

(f) by the insertion after paragraph (ii) of the second proviso to the definition of "dividend" of the following paragraphs:

"(iiA) where any amount is under the provisions of paragraph (i) of this proviso or that paragraph as applied by paragraph (ii) of this proviso, deemed to be a profit available for distribution to shareholders and any of the shares of any class (hereinafter referred to as the original shares) held by any such shareholders are converted into shares of any other class or the original shares are cancelled and shares of any other class are issued in place of the original shares, the said amount shall, to the extent that it relates to or may have been apportioned to the original shares, be deemed to relate to and to be a profit available for distribution to the shareholders in respect of the shares of such other class and the provisions of this proviso shall, to the extent that the said amount is deemed to consist of a profit as aforesaid, apply in respect of such amount as though it were an amount referred to in paragraph (i) of this proviso, and the shareholders in respect of the shares of such other class shall, regardless of the rights attaching to such shares, be deemed as respects the said amount to be entitled to participate in profits of the same nature as the profit deemed by this paragraph to be available for distribution to the shareholders, whether such profit is of a capital nature or is not of a capital nature;

(iiB) subject to the provisions of paragraphs (iiA) and (iv) of this proviso, where any amount is under the provisions of paragraph (i) of this proviso or that paragraph as applied by paragraph (ii) of this proviso, deemed to be a profit available for distribution to shareholders and any shares issued by the company are cancelled without a return of the share capital or any share premium relating to such shares, such share capital or share premium or any reserve created by reason of the cancellation of such shares shall, to the extent that the said profit may be apportioned to the said shares, be deemed to consist of a profit (of the same nature as the aforesaid profit) available for distribution to shareholders who are or may become interested in such share capital, share premium or reserve, and where any cash is or any assets are given to shareholders by way of a return of or a distribution out of such share capital, share premium or reserve, the sum of the amount of such cash and the value of such assets shall, to the extent that such sum does not exceed the amount deemed by this paragraph to consist of a profit available for distribution to shareholders, be deemed to be a profit (of the same nature as the first-mentioned profit) distributed to the shareholders;"

(g) by the substitution in paragraph (iii) of the second proviso to the definition of "dividend" for the words preceding subparagraph (aa) of that paragraph of the following words:

Act No. 69, 1975

INCOME TAX ACT, 1975.

“(iii) if, in the event of the subsequent partial reduction or redemption of the share capital (including any share premium) of the company or the reconstruction of the company, any cash or any asset is given to shareholders and such cash or asset (or a portion thereof) represents a return of share capital or share premium, the amount of share capital or share premium so returned—”; and

(h) by the deletion of the proviso to paragraph (c) of the definition of “gross income”.

(2) (a) The amendments effected by subsection (1) (a) and (b) shall take effect on the date of promulgation of this Act and shall, in appropriate circumstances, apply in respect of every tax levied under the principal Act, regardless of when such tax is or was assessed and regardless of when it becomes or became payable and in respect of every year of assessment under the principal Act in respect of which the tax in question becomes or became payable: Provided that the amendment effected by subsection (1) (a) shall for the purposes of Part III of Chapter III of the principal Act not apply in respect of any assessment under the principal Act in relation to which the date of the assessment (as defined in the principal Act) is a date before the date of promulgation of this Act.

(b) Save where the context otherwise indicates the amendments effected by paragraphs (c) to (g), inclusive, of subsection (1) shall be deemed to have taken effect on 6 June 1975 and shall in appropriate circumstances apply in respect of amounts accruing to shareholders on or after that date.

Amendment of section 5A of Act 58 of 1962, as inserted by section 6 of Act 88 of 1971 and amended by section 5 of Act 85 of 1974.

5. Section 5A of the principal Act is hereby amended by the substitution for paragraph (g) of subsection (3) of the following paragraph:

“(g) if the taxpayer was or would had he lived have been over the age of sixty years on the last day of the year of assessment, an amount of six hundred rand, if the period assessed is twelve months, or, where the period assessed is less than twelve months, an amount which bears to six hundred rand the same ratio as the period assessed bears to twelve months.”.

Insertion of section 7A in Act 58 of 1962.

6. The following section is hereby inserted in the principal Act after section 7:

“Date of receipt or accrual of antedated salaries or pensions and of certain retirement gratuities.

7A. (1) For the purposes of this section—

‘antedated salary or pension’ means an amount of salary or pension which has become payable to any person under a permanent grant, made with retrospective effect, of a salary or pension or of an increase in a salary or pension, and which in terms of such grant is payable in respect of a period ending on or before the date on which the grant has become effective;

Act No. 69, 1975

INCOME TAX ACT, 1975.

'pension' means an annuity payable under any law or under the rules of a pension fund or provident fund or by an employer to a former employee of that employer or to the widow, child or dependant of a deceased person who was employed by such employer;

'salary' means salary, wages or similar remuneration payable by an employer to an employee, but does not include any bonus or any amount referred to in subsection (4).

(2) Where any antedated salary or pension has been received by or has accrued to any person during any year or period of assessment and the period in respect of which such antedated salary or pension has become payable (hereinafter referred to as the accrual period) commenced before the commencement of the said year or period of assessment, such antedated salary or pension shall at the option of the taxpayer be deemed—

- (a) if the accrual period commenced not more than two years before the commencement of the said year or period of assessment, to have been received by or to have accrued to the said person in part during each of the years or periods of assessment in which any portion of the accrual period falls (the part of the said amount relating to any such year or period of assessment being determined on the basis of a reasonable apportionment of the whole of the said amount between all the said years or periods of assessment); or
- (b) if the accrual period commenced more than two years before the commencement of the first-mentioned year or period of assessment, to have been received by or to have accrued to the said person in three equal annual instalments (the first and second instalments two years and one year respectively before the date on which the said amount accrued to the said person and the third instalment on the said date).

(3) Where any member of the active citizen force or of the commandos has volunteered to serve in such force or the commandos for a continuous period of service of at least eighteen months instead of rendering service as contemplated in section 22 or 44 of the Defence Act, 1957 (Act No. 44 of 1957), the provisions of subsection (2) shall *mutatis mutandis* apply in respect of any bonus which has become payable to him by the State upon and by reason of the completion of such period of service, as though such bonus were antedated salary or pension granted permanently and with retrospective effect, in respect of the said period of service.

(4) Any amount received by or accrued to an employee or the holder of any office by way of bonus, gratuity or compensation upon or because of the termination of his services or because of the

Act No. 69, 1975

INCOME TAX ACT, 1975.

impending termination of his services within five years (or such longer period as the Secretary may approve) from the date of receipt or accrual of such amount (less so much thereof as is exempt from tax under section 10 (1) (x)), shall at the option of the taxpayer be deemed to have been received or to have accrued in three successive equal annual instalments of which the first shall be deemed to have been received or to have accrued on the date of receipt or accrual of such amount and each of the other two on an appropriate anniversary of that date, if—

- (a) the termination or impending termination of the services of such employee or office holder is due to superannuation, ill-health or other infirmity; or
- (b) the Secretary is satisfied that the circumstances of the case warrant this concession.

(5) Any amount which but for the deletion, by section 4 (1) (h) of the Income Tax Act, 1975, of the proviso to paragraph (c) of the definition of 'gross income', would in terms of paragraph (i) of that proviso have been deemed to have been received or to have accrued on any date, shall for the purposes of this Act be deemed to have been received or to have accrued on that date."

Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972 and section 8 of Act 85 of 1974.

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

- (a) by the addition to subsection (2) of the following proviso:

"Provided further that so much of the sum of the amount of any cash and the value of any asset so given to any shareholder of the company as by virtue of the provisions of the definition of 'dividend' in section 1 constitutes a dividend in the hands of such shareholder, shall not be included in the company's taxable income under this subsection."; and

- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

"(a) There shall be included in the taxpayer's income all amounts allowed to be deducted or set off under the provisions of sections 11 to 20, inclusive, of this Act, except section 11 (k), (p) and (q), section 11quin, section 12 (2) or section 12 (2) as applied by section 12 (3), section 12A (3), section 13 (5) or section 13 (5) as applied by section 13 (8), or section 13bis (7), or section 15 (a), or section 15A, or under the corresponding provisions of any previous Income Tax Act, or, in the case of a company, under the said provisions or the provisions of section 11 (2), except paragraph (r) thereof, of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, or section 11 (3) of that Ordinance, or the corres-

Act No. 69, 1975

INCOME TAX ACT, 1975.

pending provisions of any previous Income Tax Ordinance of the territory, whether in the current or any previous year of assessment or any year of assessment under any such Ordinance, which have been recovered or recouped during the current year of assessment.”.

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

- (a) the amendment effected by subsection (1) (a) shall be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 January 1974; and
- (b) the amendment effected by subsection (1) (b) shall be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 27 March 1975.

Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973 and section 10 of Act 85 of 1974.

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

(a) by the substitution for subparagraph (ii) of paragraph (c) of subsection (1) of the following subparagraph:

“(ii) any amount which becomes or became payable on or after 1 March 1973 by way of any pension which is payable or continues to be payable in terms of section 15 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), or section 13 of the Pension Laws Amendment Act, 1971 (Act No. 93 of 1971), or section 8 of the Pension Laws Amendment Act, 1975, to any person who has occupied the office of State President or to the widow of any such person or to the widow of any person who occupied the office of Governor-General;”;

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

“(i) the sole or principal object of the association is to build dwelling houses or other residential accommodation or to purchase newly built dwelling houses or other newly built residential accommodation for occupation by persons who are—

(aa) employees of any employer who is a member of the association or of an employer who is associated with the aforesaid employer; or

(bb) members of the general public, or to assist such persons to build dwelling houses for occupation by the persons building such houses or to purchase newly built dwelling houses or other newly built residential accommodation for occupation by the persons purchasing such houses or accommodation;”;

(c) by the substitution in paragraph (e) of the said subsection for the words “is the exemption” of the words “if the exemption”; and

(d) by the substitution for paragraph (x) of the said subsection of the following paragraph:

“(x) so much of any amount (being a lump sum) referred to in paragraph (d) of the definition of

Act No. 69, 1975

INCOME TAX ACT, 1975.

'gross income' in section 1 or in section 7A (4) or (5) as does not exceed twelve thousand rand less the sum of any other amounts which have been excluded from the taxpayer's income by virtue of the exemption conferred by this paragraph, whether in the current or any previous year of assessment: Provided that the exemption under this paragraph shall not apply in respect of any amount received by or accrued to any person upon or because of the termination or because of the impending termination of the services required to be rendered by him as the holder of any office or employment or in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of his office or employment or in respect of his appointment (or right or claim to be appointed) to any office or employment, unless—

- (i) such person has attained the age of fifty-five years in the case of a male or fifty years in the case of a female; or
- (ii) the Secretary is satisfied that the termination or impending termination of such person's services or the relinquishment, termination, loss, repudiation, cancellation or variation of his office or employment or of his appointment (or right or claim to be appointed) to any office or employment is due to superannuation, ill-health or other infirmity; or
- (iii) in the case of a female, the Secretary is satisfied that she relinquished or terminated her office or services in order to marry;".

(2) The amendments effected by subsection (1) (a) and (b) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 January 1974.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973 and section 12 of Act 85 of 1974.

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 five hundred 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 three thousand rand in the case of the taxpayer or, where the taxpayer is entitled to a deduction under paragraph (k), the amount by

Act No. 69, 1975

INCOME TAX ACT, 1975.

which the amount of the deduction under the said paragraph is less than three thousand rand:”; and

- (c) by the substitution for paragraph (ii) of the proviso to paragraph (i) of the following paragraph:

“(ii) the aggregate of all the allowances made under this paragraph or the corresponding provisions of any previous Income Tax Act in respect of the erection of any one dwelling shall not exceed the sum of two thousand five hundred rand;”.

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, section 9 of Act 90 of 1972, section 10 of Act 65 of 1973 and section 13 of Act 85 of 1974.

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

- (a) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“(4) For the purposes of subsection (3) the marketing expenditure on which the exporters’ allowance is to be calculated shall be the sum of any special discounts granted by the exporter during the year of assessment (as determined under subsection (4E)) and so much of the expenditure incurred by the exporter during such year 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—”;

- (b) by the deletion of paragraph (h) of subsection (4); and

- (c) by the insertion after subsection (4D) of the following subsection:

“(4E) (a) Where the Secretary for Commerce, having regard to the circumstances of the case, is satisfied that an exporter has, in respect of goods exported by him, granted special discounts on the prices of such goods to agents, distributors or purchasers in any export country, and that such discounts have been granted instead of commissions or have been granted at an abnormally high rate in order to penetrate or maintain a market in an export country, the said Secretary shall determine the amounts of such discounts to be included in the exporter’s marketing expenditure under subsection (4).

- (b) Any decision of the Secretary for Commerce in the exercise of his discretion under paragraph (a) shall be final and conclusive: Provided that the said Secretary may, if it appears to him that such decision was based on false or incorrect information or is arithmetically incorrect, withdraw such decision and substitute a fresh decision therefor.”.

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

Amendment of section 12 of Act 58 of 1962, as substituted by section 15 of Act 55 of 1966 and amended by section 12 of Act 52 of 1970, section 11 of Act 88 of 1971,

11. (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 into use by any taxpayer on or after 13 August 1970 but not later than 30 June 1979.”;

Act No. 69, 1975

INCOME TAX ACT, 1975.

section 11 of
Act 90 of 1972,
section 12 of
Act 65 of 1973
and section 15 of
Act 85 of 1974.

- (b) by the substitution for subparagraph (iiA) of paragraph (c) of subsection (2A) of the following subparagraph:

“(iiA) in respect of machinery or plant brought into use on or after 15 August 1974 and on or before 26 March 1975, twenty-five 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”;

- (c) by the insertion after subparagraph (iiA) of paragraph (c) of subsection (2A) of the following subparagraph:

“(iiB) in respect of machinery or plant brought into use on or after 27 March 1975 but not later than 30 June 1979, thirty 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”;

- (d) by the substitution for subparagraph (iii) of paragraph (c) of subsection (2A) of the following subparagraph:

“(iii) in respect of machinery or plant brought into use on or after 1 July 1979, 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”;

- (e) by the substitution for subparagraph (iii) of paragraph (d) of subsection (2A) of the following subparagraph:

“(iii) in respect of machinery or plant brought into use on or after 15 August 1974 but not later than 26 March 1975, twenty-five per cent of such cost; or”;
and

- (f) by the addition to paragraph (d) of subsection (2A) of the following subparagraph:

“(iv) in respect of machinery or plant brought into use on or after 27 March 1975 but not later than 30 June, 1979, thirty per cent of such cost.”.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 27 March 1975.

Amendment of
section 12A of
Act 58 of 1962,
as inserted by
section 16 of
Act 55 of 1966
and amended by
section 13 of
Act 95 of 1967
and section 12 of
Act 88 of 1971.

12. Section 12A of the principal Act is hereby amended by the substitution in subsection (4) for the expression “1967 (Ordinance No. 29 of 1967)” of the expression “1973 (Ordinance No. 20 of 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

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 26 March 1975, 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 26 March 1975,

Act No. 69, 1975

INCOME TAX ACT, 1975.

Act 55 of 1966,
section 13 of
Act 52 of 1970,
section 13 of
Act 88 of 1971,
section 12 of
Act 90 of 1972,
section 13 of
Act 65 of 1973
and section 16 of
Act 85 of 1974.

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 addition to subsection (5) of the following paragraph:

“(e) of any building (other than a building qualifying for the allowance under paragraph (c)) the erection of which was commenced on or after 27 March 1975 but not later than 30 June 1979, and of any improvements (other than repairs and other than improvements qualifying for the allowance under paragraph (c)) commenced on or after 27 March 1975 but not later than 30 June 1979, 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);”;

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

“(ii) the allowance under subsection (5) (d) or (e) shall not be made in respect of any building brought into use or in respect of any improvements completed after 30 June 1980.”;

- (d) by the substitution for subparagraph (ii) of paragraph (a) of subsection (6A) of the following subparagraph:

“(ii) if the erection of such building was commenced on or after 1 April 1973 and on or before 26 March 1975, or such improvements were commenced on or after 1 April 1973 and on or before 26 March 1975, and such building is brought into use or such improvements are completed on or before 30 June 1980, 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”;

- (e) by the insertion after subparagraph (ii) of paragraph (a) of subsection (6A) of the following subparagraph:

“(iiA) if the erection of such building was or is commenced on or after 27 March 1975 but not later than 30 June 1979, or such improvements were or are commenced on or after 27 March 1975 but not later than 30 June 1979, and such building is brought into use or such improvements are completed on or before 30 June 1980, twenty 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”;

Act No. 69, 1975

INCOME TAX ACT, 1975.

(f) by the substitution for subparagraph (iii) of paragraph (a) of subsection (6A) of the following subparagraph:

“(iii) if the provisions of subparagraph (i), (ii) or (iiA) 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;”;

(g) by the deletion of the word “and” at the end of paragraph (aA) of subsection (6A); and

(h) by the insertion after paragraph (aA) of subsection (6A) of the following paragraph:

“(aB) in the case of any building or improvements referred to in subsection (5) (e), twenty per cent of such cost; and”.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 27 March 1975.

Amendment of section 13bis of Act 58 of 1962, as inserted by section 15 of Act 88 of 1965, and amended by section 18 of Act 55 of 1966 and section 14 of Act 95 of 1967.

14. Section 13bis of the principal Act is hereby amended—

(a) by the substitution in paragraph (a) of subsection (9) for the expression “1967 (Ordinance No. 29 of 1967)” of the expression “1973 (Ordinance No. 20 of 1973)”;

(b) by the substitution in subsection (10) for the expression “1967” of the expression “1973”; and

(c) by the substitution in subsection (11) for the expression “1967” of the expression “1973”.

Insertion of section 15A in Act 58 of 1962.

15. (1) The following section is hereby inserted in the principal Act after section 15:

“Beneficiation allowance.

15A. (1) For the purposes of this section—

‘base mineral’ means any base mineral (as defined in the Mining Rights Act, 1967 (Act No. 20 of 1967)), which has been mined in the Republic;

‘beneficiation process’ means—

(a) any process whereby any base mineral is refined or otherwise processed to yield any intermediate product the value of which is substantially higher than the value of the base mineral from which such product is derived; or

(b) any process whereby an intermediate product yielded by a process referred to in paragraph (a) is further refined or processed without such product ceasing to be an intermediate product, or is further refined or processed in order to yield some other intermediate product,

but does not include any process which the Minister of Finance is satisfied is either a simple purification process in consequence of which the base mineral or intermediate product in question remains unchanged except for the removal of impurities or a physical process resulting merely in a change of shape;

‘export trade’ means such trade or branch of any trade as the Secretary is satisfied is carried on by the taxpayer wholly or mainly in order to produce any intermediate product for export;

Act No. 69, 1975

INCOME TAX ACT, 1975.

'intermediate product' means any substance or material which the Minister of Finance is satisfied is produced by the taxpayer concerned in order to be used by any person as a raw material;

'prescribed period' means the period commencing on 27 March 1975 and ending on 30 June 1980.

(2) Subject to the provisions of subsection (3), where any taxpayer brings into use wholly or mainly for the purposes of his export trade—

- (a) any new or unused machinery or plant which is—
- (i) used by the taxpayer directly in a beneficiation process; and
 - (ii) is so brought into use during the prescribed period; or
- (b) any building erected by the taxpayer if—
- (i) the erection of such building was commenced during the prescribed period;
 - (ii) such building is so brought into use by the taxpayer not later than 30 June 1981; and
 - (iii) such building is wholly or mainly used by the taxpayer for the purpose of carrying on therein any beneficiation process; or
- (c) any improvements (other than repairs) effected by the taxpayer to a building, if—
- (i) such improvements were commenced during the prescribed period;
 - (ii) such improvements are completed not later than 30 June 1981; and
 - (iii) such building is wholly or mainly used by the taxpayer for the purpose of carrying on therein any beneficiation process,

there shall, if the Minister of Finance (hereinafter referred to as the Minister), having regard to the circumstances of the case, so directs, be allowed to be deducted from the income of the taxpayer for the year of assessment during which such machinery, plant or building is brought into use as aforesaid or such improvements are completed, as the case may be, an allowance (to be known as the beneficiation allowance) in respect of such machinery, plant, building or improvements, as the case may be, calculated on the cost (as established to the satisfaction of the Secretary) to the taxpayer of such machinery, plant, building or improvements, as the case may be, at such rate, expressed as a percentage of such cost, as the Minister, having regard to the circumstances of the case, may direct, but not exceeding—

- (aa) twenty per cent of the cost of the machinery or plant in respect of which the allowance is granted; and
- (bb) fifteen per cent of the cost of the building or improvements in respect of which the allowance is granted.

(3) The beneficiation allowance shall not be granted in respect of any machinery, plant, building or building improvements used in the course of mining operations or operations which, in the opinion of the Minister, are normally carried on in

Act No. 69, 1975

INCOME TAX ACT, 1975.

the course of mining operations, unless the Minister, having regard to the circumstances of the case, is satisfied that the beneficiation process in question is additional to the processes normally carried on in the course of any of the said operations or that it is introduced as part of a scheme for the creation of extensive extra capacity to be used wholly or mainly for export.

(4) Any application for the beneficiation allowance shall be addressed to the Secretary for Industries."

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 27 March 1975.

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, section 13 of Act 90 of 1972 and section 14 of Act 65 of 1973.

16. Section 18A of the principal Act is hereby amended by the substitution in subsection (1) for the definition of "college" of the following definition:

"'college' means a college for advanced technical education established or deemed to have been established under the Advanced Technical Education Act, 1967 (Act No. 40 of 1967), or any other Act of Parliament, or any other educational institution established by or under any other law if the Secretary, in consultation with the Secretary for National Education or with the Secretary for Bantu Education in the case of an institution established for Bantu persons, is satisfied that such institution is in all material respects similar to any aforesaid college; and"

Amendment of section 20A of Act 58 of 1962, as inserted by section 19 of Act 89 of 1969 and amended by section 16 of Act 52 of 1970, section 15 of Act 90 of 1972 and section 19 of Act 85 of 1974.

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

"(1) There shall, in the determination of the taxable income of any taxpayer in whose income there is under the provisions of section 7 (2) included any earnings of his wife, be allowed as a deduction from his income so much of the total amount of such earnings (whether consisting of the earnings of one wife or of more than one wife) as does not in the year of assessment exceed an amount of seven hundred and fifty rand: Provided that where the period of assessment is less than a full year the amount which shall be deducted under this subsection shall be limited to an amount which bears to seven hundred and fifty rand the same ratio as the period assessed bears to one-year."

Amendment of section 21*bis* of Act 58 of 1962, as inserted by section 7 of Act 6 of 1963 and substituted by section 20 of Act 85 of 1974.

18. Section 21*bis* of the principal Act is hereby amended by the substitution in subsection (5) for the words "transition year" of the words "transition period".

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, section 17 of Act 90 of 1972, section 16 of Act 65 of 1973 and section 21 of Act 85 of 1974.

19. Section 21*ter* of the principal Act is hereby amended by the deletion of paragraph (b) of subsection (5).

Act No. 69, 1975

INCOME TAX ACT, 1975.

Amendment of section 22 of Act 58 of 1962, as amended by section 8 of Act 6 of 1963, section 14 of Act 90 of 1964 and section 21 of Act 89 of 1969.

20. (1) Section 22 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) For the purpose of determining the cost price of any trading stock, any person may, subject to such conditions as the Secretary, having regard to the circumstances of the case, may determine (including any condition resulting in an increase of or decrease in the amount which but for such condition would have been determined under this Act as the taxable income of such person or as a loss ranking for set-off against the income of such person), and if and as long as he maintains records in respect of his trading stock which the Secretary considers to be satisfactory, adopt the basis of trading stock valuation whereunder the last item of any class of trading stock purchased by any person on any date is deemed to be the first item of that class of trading stock sold by such person on or after that date: Provided that any person electing to adopt the aforesaid basis of trading stock valuation shall give the Secretary written notice thereof when he renders his return of income for the first year of assessment in respect of which the said basis is adopted, and any such election shall be binding upon such person and may not be varied by him in respect of any subsequent year of assessment, save with the consent of the Secretary and subject to such conditions (including any aforesaid conditions) as the Secretary, having regard to the circumstances of the case, may determine.”

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 1 January 1975.

Amendment of section 38 of Act 58 of 1962, as amended by section 21 of Act 90 of 1962, section 16 of Act 90 of 1964, section 28 of Act 89 of 1969 and section 31 of Act 85 of 1974.

21. Section 38 of the principal Act is hereby amended by the substitution in the Afrikaans version of subparagraph (v) of paragraph (a) of subsection (4) for the words “gewone aandeel” of the word “ekwiteitsaandeel”.

Amendment of section 42 of Act 58 of 1962, as amended by section 21 of Act 88 of 1965, section 17 of Act 95 of 1967, section 29 of Act 89 of 1969, section 19 of Act 52 of 1970, section 23 of Act 88 of 1971, section 18 of Act 90 of 1972, section 22 of Act 65 of 1973 and section 32 of Act 85 of 1974.

22. Section 42 of the principal Act is hereby amended by the addition of the following subsection:

“(5) For the purposes of this Part, where any cash is given or any assets are given—

- (a) by a company to shareholders of that company otherwise than by way of a formal declaration of a dividend; or
- (b) by the liquidator of a company to the shareholders of that company in the course of the winding-up or liquidation of that company,

and the amount of such cash or the value of such assets, in whole or in part constitutes a dividend in terms of the definition of ‘dividend’ in section 1, such dividend shall be deemed to have been declared by the company concerned on the date on which the shareholders became entitled to such cash or such assets.”

Amendment of section 49 of Act 58 of 1962, as amended by section 22 of

23. (1) Section 49 of the principal Act is hereby amended by the substitution for paragraphs (ii) and (iiA) of the definition of “distributable income” of the following paragraphs:

Act No. 69, 1975

INCOME TAX ACT, 1975.

Act 90 of 1962,
section 9 of
Act 6 of 1963,
section 17 of
Act 90 of 1964,
section 31 of
Act 89 of 1969,
section 24 of
Act 88 of 1971,
section 24 of
Act 65 of 1973
and section 34 of
Act 85 of 1974.

“(ii) an allowance equal to fifty-five per cent of the sum of so much of the adjusted total net profits of the company for the year of assessment as is not attributable to the inclusion therein of any dividends received by or accrued to the company, and any amount accounted for in respect of such year under paragraph (b) of this definition;—

(iiA) in the case of a public company, an allowance equal to thirty-five per cent of so much of the adjusted total net profits of the company for the year of assessment as is attributable to the inclusion therein of any dividends received by or accrued to it;”.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments of undistributed profits tax under the principal Act, be deemed to have taken effect from the commencement of years of assessment ended or ending on or after 27 March 1975.

Amendment of
section 70 of
Act 58 of 1962,
as amended by
section 11 of
Act 6 of 1963,
section 20 of
Act 90 of 1964
and section 43 of
Act 85 of 1974.

24. Section 70 of the principal Act is hereby amended by the substitution for subsection (3A) of the following subsection:

“(3A) Where any cash or any asset (including any asset, interest, benefit or advantage referred to in the third proviso to the definition of ‘dividend’ in section 1) is given to any shareholder of a company in consequence of the winding-up, liquidation or reconstruction of the company or the partial reduction or redemption of its share capital (including any share premium), and the amount of such cash or the value of such asset or a portion of such amount or value constitutes a dividend in terms of the said definition the company shall, before payment to the shareholders is effected or within such period as the Secretary may approve, calculate the amount of such dividend and furnish the Secretary with a written statement setting forth the facts necessary for a determination by the Secretary of the amount of such dividend and giving details of the company’s calculation of that amount.”.

Amendment of
section 77 of
Act 58 of 1962.

25. Section 77 of the principal Act is hereby amended—

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

“(3) Upon recording or filing the particulars of any assessment the Secretary shall give notice of the assessment to the taxpayer assessed.”;

(b) by the deletion of subsection (4); and

(c) by the substitution for subsection (5) of the following subsection:

“(5) The Secretary shall, in the notice of assessment, give notice to the taxpayer that any objection to the assessment made must be sent to him within twenty-one days after the date of the assessment.”.

Amendment of
section 79 of
Act 58 of 1962.

26. (1) Section 79 of the principal Act is hereby amended—

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

“(1) If at any time the Secretary is satisfied—

(a) that any amount which was subject to tax and should have been assessed to tax under this Act has not been assessed to tax; or

(b) that any amount of tax which was chargeable and should have been assessed under this Act has not been assessed; or

Act No. 69, 1975

INCOME TAX ACT, 1975.

- (c) that, as respects any tax which is chargeable and has become payable under this Act otherwise than under an assessment, such tax has not been paid in respect of any amount upon which such tax is chargeable or an amount is owing in respect of such tax,

he shall raise an assessment or assessments in respect of the said amount or amounts, notwithstanding that an assessment or assessments may have been made upon the person concerned in respect of the year or years of assessment in respect of which the amount or amounts in question is or are assessable, and notwithstanding the provisions of sections 81 (5) and 83 (18): Provided that the Secretary shall not raise an assessment under this subsection—

- (i) after the expiration of three years from the date of the assessment (if any) in terms of which any amount which should have been assessed to tax under such assessment was not so assessed or in terms of which the amount of tax assessed was less than the amount of such tax which was properly chargeable, unless the Secretary is satisfied that the fact that the amount which should have been assessed to tax was not so assessed or the fact that the full amount of tax chargeable was not assessed, was due to fraud or misrepresentation or non-disclosure of material facts; or
- (ii) in respect of any tax referred to in paragraph (c), after the expiration of three years from the date of payment of any amount paid in respect of such tax unless the Secretary is satisfied that the fact that such tax was not paid in full was due to fraud or misrepresentation or non-disclosure of material facts; or
- (iii) if the amount which should have been assessed to tax under the assessment referred to in paragraph (i) of this proviso was, in accordance with the practice generally prevailing at the date of the assessment, not assessed to tax, or the full amount of tax which should have been assessed under such assessment was, in accordance with such practice, not assessed; or
- (iv) in respect of any amount, if any previous assessment made on the person concerned has in respect of that amount been amended or reduced pursuant to any order made by a special court for hearing income tax appeals constituted under the provisions of this Act, unless the Secretary is satisfied that the order in question was obtained by fraud or misrepresentation or non-disclosure of material facts:

Provided further that where the Secretary has in respect of any year of assessment made an assessment upon any company for normal tax purposes he shall not after the expiration of three years from the date of the said assessment (or, where more than one such assessment has been made, from the date of the latest of such assessments) make any assessment in respect of any amount of undistributed profits tax payable by the company in respect of the said year, unless the Secretary is satisfied that the fact that an assessment in respect of the said amount was not previously made was due to fraud or misrepresentation or non-disclosure of material facts.

Act No. 69, 1975

INCOME TAX ACT, 1975.

(2) For the purposes of this section any amount referred to in subsection (1) (a) shall include an amount the incorporation of which in an assessment would result in the reduction of any loss ranking for set-off or in only a portion of such amount becoming chargeable with tax.”; and

(b) by the insertion after subsection (2) of the following subsection:

“(2A) For the purposes of paragraph (ii) of the first proviso to subsection (1) the date of payment of any amount referred to in that paragraph shall be deemed to be the date of the official receipt acknowledging the receipt of such amount, and, where more than one such payment was made, the date from which the period of three years referred to in that paragraph shall be reckoned shall be the date of the official receipt acknowledging the latest of such payments.”.

(2) The amendments effected by subsection (1) shall take effect on the date of promulgation of this Act and shall, in appropriate circumstances, apply in respect of every tax levied under the principal Act, regardless of when such tax is or was assessed and regardless of when it becomes or became payable and in respect of every year of assessment under the principal Act in respect of which the tax in question becomes or became payable.

Amendment of section 81 of Act 58 of 1962.

27. Section 81 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Objections to any assessment made under this Act may be made within twenty-one days after the date of the assessment, in the manner and under the terms prescribed by this Act by any taxpayer who is aggrieved by any assessment in which he is interested.”.

Substitution of section 102 of Act 58 of 1962.

28. (1) The following section is hereby substituted for section 102 of the principal Act:

“Refunds. 102. (1) If it is proved to the satisfaction of the Secretary that any amount paid by a taxpayer was in excess of the amount properly chargeable under this Act, the Secretary may authorize a refund to such taxpayer of any tax overpaid: Provided that no amount paid in respect of an assessment accepted by the taxpayer and made in accordance with the practice generally prevailing at the date of that assessment shall be deemed to have been otherwise than properly so chargeable.

(2) The Secretary shall not authorize any refund under this section unless the claim therefor is made within three years after the date of the assessment under which such tax was payable or, where such tax was chargeable and was payable under this Act otherwise than under an assessment, the date of payment of such tax (which date shall for the purposes of this subsection be deemed to be the date of the official receipt acknowledging such payment or, where more than one such payment was made, the date of the official receipt acknowledging the latest of such payments).”.

(2) The amendment effected by subsection (1) shall apply in respect of all claims for refunds made to the Secretary for Inland Revenue under the said section on or after the date of promulgation of this Act.

Act No. 69, 1975

INCOME TAX ACT, 1975.

Substitution of section 106 of Act 58 of 1962, as amended by section 30 of Act 90 of 1962.

29. The following section is hereby substituted for section 106 of the principal Act:

"Authentification and service of documents.

106. (1) Any form, notice, demand or other document issued or given by or on behalf of the Secretary or any other officer under this Act shall be sufficiently authenticated if the name or official designation of the Secretary or officer by whom the same is issued or given is stamped or printed thereon.

(2) Any form, notice, demand, document or other communication required or authorized under this Act to be issued, given or sent to or to be served upon any person shall, except as otherwise provided in this Act, be deemed to have been effectually issued, given, sent or served—

- (a) if delivered to him; or
- (b) if left with some adult person apparently residing at or occupying or employed at his last known abode or office or place of business in the Republic; or
- (c) if despatched by registered or any other kind of post addressed to him at his last known address, which may be any such place or office as is referred to in paragraph (b) or his last known post office box number or that of his employer; and
- (d) in the case of a company—
 - (i) if delivered to the public officer of the company; or
 - (ii) if left with some adult person apparently residing at or occupying or employed at the place appointed by the company under subsection (5) of section 101 or, in the case of any unit portfolio referred to in paragraph (e) of the definition of 'company' in section 1, the public officer of which is the trustee referred to in the said subsection (5), by such trustee, or where no such place has been appointed by the company or trustee, as the case may be, if left with some adult person apparently residing at or occupying or employed at the last known office or place of business of the company or trustee, as the case may be, in the Republic; or
 - (iii) if despatched by registered or any other kind of post addressed to the company or its public officer at its or his last known address, which may be any such office or place as is referred to in subparagraph (ii) or its or his last known post office box number or that of his employer.

(3) Any form, notice, demand, document or other communication referred to in subsection (2) which has been issued, given, sent or served in the manner contemplated in paragraph (c) or (d) (iii) of that subsection shall be deemed to have been received by the person to whom it was addressed at the time when it would, in the ordinary course of post, have arrived at the place to which it was addressed, unless the Secretary is satisfied that it was not so received or was received at some other time.

(4) If the Secretary is satisfied that any form, notice, demand, document or other communication (other than a notice of assessment) issued, given,

Act No. 69, 1975

INCOME TAX ACT, 1975.

sent or served in a manner contemplated in paragraph (b), (c) or (d) (ii) or (iii) of subsection (2), has not been received by the person to whom it was addressed or has been received by such person considerably later than it should have been received by him and that such person has in consequence been placed at a disadvantage, the Secretary may, if he is satisfied that the circumstances warrant such action, direct that such form, notice, demand, document or other communication be withdrawn and be issued, given, sent or served anew."

Amendment of paragraph 15 of First Schedule to Act 58 of 1962, as amended by section 25 of Act 88 of 1965, section 26 of Act 95 of 1967 and section 31 of Act 88 of 1971.

30. (1) Paragraph 15 of the First Schedule to the principal Act is hereby amended by the substitution for subparagraph (3) of the following subparagraph:

"(3) If in any year of assessment the income of any farmer other than a company includes income derived from the disposal of plantations or forest produce and the taxable income derived by him in that year from the disposal of plantations and forest produce (determined as though the income derived by him from that source were his only income) exceeds the annual average taxable income derived by him from that source (as so determined) over the three years of assessment immediately preceding the said year of assessment, the normal tax chargeable in the case of such farmer for the said year of assessment shall, subject to the provisions of section 5 of this Act, be determined in accordance with the provisions of subsection (10) of that section: Provided that—

- (i) the provisions of this subparagraph shall not apply unless the Secretary is satisfied that the disposal of plantations or forest produce forms part of the normal farming operations of the farmer concerned;
- (ii) for the purposes of this subparagraph, where the farmer has in respect of any of the aforesaid years of assessment derived any excess plantation farming profits determined under paragraph 20 (3) (g) such excess plantation farming profits shall—
 - (aa) where such excess plantation farming profits have been derived during the first-mentioned year of assessment, be excluded from the farmer's taxable income derived in that year from the disposal of plantations and forest produce;
 - (bb) where such excess plantation farming profits have been derived during any of the aforesaid three years of assessment, not be taken into account in the determination of the aforesaid average taxable income derived by the farmer over those years;
- (iii) the Secretary's determination as to what portion of a farmer's taxable income is derived from the disposal of plantations and forest produce shall be final;
- (iv) nothing in this paragraph contained shall be construed as relieving any farmer from liability for taxation under this Act upon any portion of his taxable income;
- (v) the provisions of this subparagraph shall not apply if the normal tax chargeable in the case of such farmer in respect of the first-mentioned year of assessment is required to be determined under the provisions of paragraph 19."

(2) The amendment effected by subsection (1) shall, for the purposes of assessments under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1973.

Act No. 69, 1975

INCOME TAX ACT, 1975.

Amendment of paragraph 16 of First Schedule to Act 58 of 1962, as substituted by section 28 of Act 55 of 1966.

31. (1) Paragraph 16 of the First Schedule to the principal Act is hereby amended by the substitution for the words preceding the definitions of the following words:

“16. For the purposes of paragraphs 14, 15 and 20—”.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments in respect of normal tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1973.

Amendment of paragraph 19 of First Schedule to Act 58 of 1962, as added by section 28 of Act 95 of 1967 and amended by section 43 of Act 89 of 1969, section 33 of Act 88 of 1971 and section 22 of Act 90 of 1972.

32. (1) Paragraph 19 of the First Schedule to the principal Act is hereby amended—

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

“(k) ‘J’ represents an amount equal to the amount, if any, by which any gain referred to in paragraph 9 of the Sixth Schedule which has been included in the taxpayer’s taxable income for the relevant period 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 the thirtieth day of 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.”;

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

“(a) where the taxpayer or his wife carried on farming operations before the commencement of the relevant period, such amount as the Secretary may determine as representing the taxpayer’s annual average taxable income (if any) from farming in respect of the periods of assessment—

(aa) for which the taxpayer was assessable under this Act (but excluding in the case of a woman any period assessable under section 77 (6) of this Act) and which fall within the period of five years ending on the last day of the relevant period; and

(bb) during which such farming operations were carried on or farming income was derived by the taxpayer:

Provided that any excess farming profits derived by the taxpayer in any of the said periods of assessment, as determined by the Secretary under paragraph 20 (3) (a), shall not be taken into account in the determination of such annual average taxable income: Provided further that in the case of the estate of a deceased or insolvent person any farming operations carried on by such person prior to his death or insolvency, any income derived by him from such operations and any deductions allowable against such income under this Act shall, so far as such estate is concerned, be deemed for the purposes of this item to be respectively operations, income or deductions of such estate, and the annual average

Act No. 69, 1975

INCOME TAX ACT, 1975.

taxable income derived by such estate from farming shall be determined accordingly, but subject to such adjustments as the Secretary may make; or"; and

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

"(3) Where the taxpayer's assessment for a relevant period has in terms of section 81 (5) of this Act become final and conclusive, the Secretary shall not, merely by reason of the fact that the amount determined under subparagraph (2) (a), as the taxpayer's annual average taxable income from farming in relation to such period is incorrect, be required to make a further assessment upon the taxpayer for such period in terms of section 79 of this Act or to authorize a refund under section 102 of this Act of any tax overpaid in respect of such period, unless it appears that such annual average taxable income from farming should be increased or reduced by at least six hundred rand."

- (2) For the purposes of assessments under the principal Act—

- (a) the amendment effected by subsection (1) (b) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1973; and
- (b) the amendment effected by subsection (1) (c) shall take effect on the date of promulgation of this Act and shall apply in respect of all years of assessment under the principal Act.

Addition of paragraph 20 to First Schedule to Act 58 of 1962.

33. (1) The following paragraph is hereby added to the First Schedule to the principal Act:

"20. (1) If any taxpayer (other than a company) who derives income from farming operations submits an application to the Secretary as provided in subparagraph (6) and proves to the satisfaction of the Secretary—

- (a) that his income was in whole or in part derived from farming operations carried on on any land acquired by the South African Bantu Trust under section 10 of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936);
- (b) that in consequence of the acquisition of such land by the said Trust as aforesaid the farming undertaking on such land (hereinafter referred to as the undertaking) has been or is being wound up; and
- (c) that the taxpayer's income for any year of assessment (being the year of assessment during which the said land was acquired by the said Trust as aforesaid or the first or the second year of assessment succeeding the first-mentioned year of assessment) includes any abnormal farming receipts or accruals referred to in subparagraph (2) which relate to the aforesaid farming operations,

the normal tax chargeable in respect of the taxpayer's taxable income for such year of assessment shall, notwithstanding any other provisions of this Act to the contrary, be determined at an amount equal to the sum of—

- (i) an amount equal to nine per cent (or, in the case of a person who is not a married person, twelve per cent) of so much of the taxpayer's excess farming profits for the year of assessment (as determined in accordance with subparagraph (3) (a)), as remains after deducting any amount allowable by way of abatements under subparagraph (5) (b); and

Act No. 69, 1975

INCOME TAX ACT, 1975.

- (ii) an amount equal to the amount of normal tax which would have been payable by the taxpayer in respect of the year of assessment if his taxable income for that year had been an amount equal to the balance of his taxable income for that year (as determined in accordance with subparagraph (4)).

(2) For the purposes of subparagraph (1) (c), the taxpayer's abnormal farming receipts or accruals for any year of assessment referred to in subparagraph (1) (c) shall be deemed to be such amounts as are proved to the satisfaction of the Secretary to consist of—

- (a) any amounts derived from disposals, in the course of the winding-up of the undertaking, of livestock normally held for the purposes of the undertaking; or
- (b) any amounts derived from the disposal of any plantation together with the land referred to in subparagraph (1) (a) or from the disposal in the course of the winding-up of the undertaking of any plantation on such land or any forest produce from such plantation.
- (3) (a) For the purposes of this paragraph the taxpayer's excess farming profits for any year of assessment referred to in subparagraph (1) (c) shall be deemed to be the sum of the taxpayer's excess livestock profits (if any) for such year, as determined under item (b), and the taxpayer's excess plantation farming profits (if any) for such year, as determined under item (g): Provided that the amount of such excess farming profits shall not be determined at an amount exceeding the amount of the taxpayer's taxable income for such year.
- (b) The taxpayer's excess livestock profits for such year shall be so much of the sum of the amounts referred to in subparagraph (2) (a) which have been derived by the taxpayer during such year as does not exceed the taxpayer's abnormal livestock profits for such year, as determined under item (c).
- (c) The taxpayer's abnormal livestock profits for such year shall be the amount by which his livestock profits for such year, as determined under item (d) or (f), exceed his average livestock profits (as determined under item (e) or (f)) for the years of assessment (but not exceeding five years of assessment) which immediately precede the said year and during which the undertaking was carried on.
- (d) For the purposes of this subparagraph, the taxpayer's livestock profits for any year of assessment shall be the amount by which the sum of the amounts included in his income from farming for such year in respect of disposals of livestock during such year and the value (as determined under this Schedule) of the livestock held and not disposed of by him at the end of such year exceeds the sum of the amounts allowed to be deducted from such income in respect of livestock acquired by him during such year and the value (as determined under this Schedule) of the livestock held and not disposed of by him at the beginning of such year, and the taxpayer's livestock loss for such year shall be determined accordingly.
- (e) The taxpayer's average livestock profits for the years of assessment referred to in item (c) shall be the sum of his livestock profits for the said years, as determined under item (d) (reduced by any livestock loss as

Act No. 69, 1975

INCOME TAX ACT, 1975.

determined under that item in respect of any such years), divided by the number of such years of assessment.

(f) If by reason of disposals of livestock otherwise than in the ordinary course of farming or because of any unusual circumstances the Secretary is of opinion that the taxpayer's livestock profits or loss for any year of assessment cannot be determined in a satisfactory manner under item (d) or that the taxpayer's average livestock profits for the years of assessment referred to in item (c) cannot be determined in a satisfactory manner under item (e), the Secretary shall determine such livestock profits or loss or such average livestock profits in such other manner as he may consider appropriate.

(g) The taxpayer's excess plantation farming profits for any year of assessment referred to in item (a) shall be so much of the sum of the amounts referred to in subparagraph (2) (b) which have been derived by the taxpayer during such year, as does not exceed the amount by which the taxpayer's taxable income (as determined under subparagraph (3) of paragraph 15 before applying paragraph (ii) of the proviso to the said subparagraph) derived during such year from the disposal of plantations and forest produce exceeds the annual average taxable income (as determined under paragraph 15 (3)) derived by him from that source over the three years of assessment immediately preceding the said year of assessment.

(4) For the purposes of this paragraph, the balance of the taxpayer's taxable income for a year of assessment referred to in subparagraph (1) (c) shall be deemed to be the amount remaining after deducting the taxpayer's excess farming profits for that year (as determined under subparagraph (3) (a)) from the full amount of the taxpayer's taxable income for such year, as determined under this Act.

(5) (a) The amount allowable to the taxpayer by way of abatements under the provisions of section 5A of this Act in the determination of the amount calculated under the provisions of subparagraph (1) (ii), shall be the amount which would have been allowable to the taxpayer under the said section if his taxable income for the year of assessment in question had been an amount equal to the balance of his taxable income for that year (as determined under subparagraph (4)).

(b) The amount allowable by way of abatements against the taxpayer's excess farming profits for the said year shall be the amount which would have been allowable under the provisions of section 5A of this Act by way of abatements against the full amount of the taxpayer's taxable income for such year if the provisions of this paragraph had not been applicable, less so much of the amount allowable by way of abatements under item (a) as does not exceed the balance of the taxpayer's taxable income for the said year.

(6) (a) Any taxpayer (other than a company) may, at his option, make written application to the Secretary for the normal tax payable by him to be determined under this paragraph.

Act No. 69, 1975

INCOME TAX ACT, 1975.

- (b) Any such application shall be submitted to the Secretary and shall be accompanied by a certificate by the Secretary for Bantu Administration and Development to the effect that the land in question was acquired as contemplated in subparagraph (1) (a)."

(2) The amendment effected by subsection (1) shall, for the purposes of assessments in respect of normal tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 30 June 1973.

Amendment of paragraph 1 of Second Schedule to Act 58 of 1962, as amended by section 31 of Act 90 of 1962, section 23 of Act 90 of 1964 and section 34 of Act 88 of 1971.

34. Paragraph 1 of the Second Schedule to the principal Act is hereby amended—

- (a) by the substitution in the definition of "formula A" for the words "fifteen thousand" of the words "twenty thousand"; and
- (b) by the substitution in paragraph (b) of the definition of "formula B" for the words "thirty thousand" of the words "forty thousand".

Amendment of paragraph 5 of Second Schedule to Act 58 of 1962, as amended by section 31 of Act 90 of 1962, section 21 of Act 72 of 1963, section 25 of Act 90 of 1964 and section 35 of Act 88 of 1971.

35. Paragraph 5 of the Second Schedule to the principal Act is hereby amended—

- (a) by the substitution in item (a) of subparagraph (2) for the words "six thousand" of the words "eight thousand";
- (b) by the substitution in item (b) of the said subparagraph for the expression "fifteen thousand", wherever it occurs, of the expression "twenty thousand"; and
- (c) by the substitution in item (d) of the said subparagraph for the words "thirty thousand" of the words "forty thousand".

Amendment of paragraph 20 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 25 of Act 72 of 1963, section 29 of Act 88 of 1965, section 47 of Act 89 of 1969, section 44 of Act 88 of 1971 and section 51 of Act 85 of 1974.

36. Paragraph 20 of the Fourth Schedule to the principal Act is hereby amended by the substitution in subparagraph (1) for the expression "item (c)", in both places where it occurs, of the expression "item (b)".

Amendment of paragraph 11 of Sixth Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972 and amended by section 34 of Act 65 of 1973 and section 65 of Act 85 of 1974.

37. (1) Paragraph 11 of the Sixth Schedule to the principal Act is hereby amended by the addition of the following subparagraph:

"(5) An insurance policy shall for the purposes of this Part be deemed to satisfy the requirements prescribed in subparagraph (1) (c), if in terms of the policy, as in force from the commencement date thereof—

- (a) the premiums payable thereunder from time to time are fixed, equal amounts which are not variable except when increased as contemplated in item (b); and
- (b) it is in effect provided that on each of a number of specified or ascertainable dates occurring at regular yearly or longer intervals (the first of such intervals commencing on the commencement date of the policy and the subsequent intervals commencing on the said

Act No. 69, 1975

INCOME TAX ACT, 1975.

dates) each and every premium falling due under the policy on or after such date may (by reason of an increase in the insurance benefits payable under the policy) be increased by a fixed or ascertainable amount in such manner that the total amount of the premiums payable under the policy in any period of twelve months ending after the said date does not exceed an amount equal to one hundred and fifteen per cent of the total amount of the premiums which were payable under the policy during any period of twelve months which ended during the interval which ended on the day before the said date."

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on 1 May 1974.

Commencement
of certain
amendments.

38. Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1976.

Application
of Act in
South West
Africa.

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

Short title.

40. This Act shall be called the Income Tax Act, 1975.

Act No. 69, 1975

INCOME TAX ACT, 1975.

Schedule

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 29 FEBRUARY 1976 AND 30 JUNE 1976, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF TWELVE MONTHS ENDING 31 MARCH 1976.

(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 five 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 the taxable amount;
exceeds R1 000 but does not exceed R2 000	R90 plus 10 per cent of the amount by which the taxable amount exceeds R1 000;
" R2 000 " " " " R3 000	R190 plus 10 per cent of the amount by which the taxable amount exceeds R2 000;
" R3 000 " " " " R4 000	R290 plus 11 per cent of the amount by which the taxable amount exceeds R3 000;
" R4 000 " " " " R5 000	R400 plus 12 per cent of the amount by which the taxable amount exceeds R4 000;
" R5 000 " " " " R6 000	R520 plus 14 per cent of the amount by which the taxable amount exceeds R5 000;
" R6 000 " " " " R7 000	R660 plus 16 per cent of the amount by which the taxable amount exceeds R6 000;
" R7 000 " " " " R8 000	R820 plus 18 per cent of the amount by which the taxable amount exceeds R7 000;
" R8 000 " " " " R9 000	R1 000 plus 20 per cent of the amount by which the taxable amount exceeds R8 000;
" R9 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;

Act No. 69, 1975

INCOME TAX ACT, 1975.

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.

Act No. 69, 1975

INCOME TAX ACT, 1975.

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 the taxable amount;
exceeds R1 000 but does not exceed R2 000	R120 plus 12 per cent of the amount by which the taxable amount exceeds R1 000;
" R2 000 " " " " R3 000	R240 plus 13 per cent of the amount by which the taxable amount exceeds R2 000;
" R3 000 " " " " R4 000	R370 plus 14 per cent of the amount by which the taxable amount exceeds R3 000;
" R4 000 " " " " R5 000	R510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;
" R5 000 " " " " R6 000	R680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;
" R6 000 " " " " R7 000	R880 plus 23 per cent of the amount by which the taxable amount exceeds R6 000;
" R7 000 " " " " R8 000	R1 110 plus 26 per cent of the amount by which the taxable amount exceeds R7 000;
" R8 000 " " " " R9 000	R1 370 plus 28 per cent of the amount by which the taxable amount exceeds R8 000;
" R9 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;

Act No. 69, 1975

INCOME TAX ACT, 1975.

Taxable Amount	Rates of tax in respect of persons who are not married persons
Where the taxable amount— exceeds R19 000 but does not exceed 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;
" R21 000 " " " " 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;

Act No. 69, 1975

INCOME TAX ACT, 1975.

- (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 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, a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d), (f) 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), the proviso to subparagraph (f) and the proviso to subparagraph (g): Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

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

(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from 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 payable in accordance with any of the subparagraphs of paragraph 1 shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

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