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GOVERNMENT GAZETTE

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 2229. 29 November 1974.

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

No. 85 of 1974: Income Tax Act, 1974.

No. 2229. 29 November 1974.

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

No. 85 van 1974: Inkomstebelastingwet, 1974.

INCOME TAX ACT, 1974

Act No. 85, 1974

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1975 and 30 June 1975, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on 31 March 1975; 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; to amend section 99 of the Insolvency Act, 1936; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 11 November 1974.)

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

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

- (a) the taxable income of any person other than a company for the year of assessment ending 28 February 1975 or 30 June 1975; and
- (b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on 31 March 1975,

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

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

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

(2) The provisions of this section shall be deemed to have come into operation on 1 April 1974.

3. The portion of the normal tax determined in accordance with the provisions of paragraph 1 (b) of the Schedule to this Act shall be a loan portion of that tax, and where such loan portion has been paid by the person concerned it shall be repayable to such person.

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

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4. (1) Section 1 of the principal Act is hereby amended—
- (a) by the insertion after the definition of “benefit fund” of the following definition:
- “‘bonus debentures or securities’ means debentures or securities issued by a company, whether by way of a bonus award or otherwise, in such manner that the company’s reserves or unappropriated profits are in whole or in part applied in paying up such debentures or securities;”;
- (b) by the insertion after the said definition of “bonus debentures or securities” of the following definition:
- “‘capitalization shares’ means shares issued by a company, whether by way of a bonus award or otherwise, in such manner that the company’s reserves (including any share premium account) or unappropriated profits are in whole or in part applied in paying up such shares;”;
- (c) by the substitution for paragraphs (a), (b) and (c) of the definition of “company” of the following paragraphs:
- “(a) any association, corporation or company incorporated or deemed to be incorporated by or under any law in force or previously in force in the Republic or in any part thereof, or any body corporate formed or established or deemed to be formed or established by or under any such law; or
- (b) any association, corporation or company incorporated under the law of any country other than the Republic or any body corporate formed or established under such law, if such association, corporation, company or body, as the case may be, carries on business or has an office or place of business in the Republic or derives income from any source within or deemed to be within the Republic or in which any person ordinarily resident or carrying on business in the Republic is interested as a shareholder or member; or
- (c) any association, corporation or company incorporated under the law of any country other than the Republic or any body corporate formed or established under such law, if such association, corporation, company or body, as the case may be, is a shareholder in or member of any company as defined in paragraph (a) or (b), either directly, or indirectly by reason of the fact that it is a shareholder in or member of any other company; or”;
- (d) by the substitution for the definition of “dependant” of the following definition:
- “‘dependant’, in relation to any taxpayer, means—
- (a) any person (other than any child or stepchild of such taxpayer in respect of whom he is for the year of assessment entitled to an abatement in terms of section 5A (3) (a)) incapacitated by old age, infirmity or any other reason satisfactory to the Secretary from maintaining himself; and
- (b) any child (other than a child or stepchild of such taxpayer) under the age of eighteen years on the last day of the year of assessment,

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 and section 4 of Act 65 of 1973.

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towards whose maintenance the taxpayer has expended in cash or otherwise during the year of assessment not less than one hundred rand or, if the period assessed is less than twelve months, an amount which bears to one hundred rand the same ratio as the period assessed bears to twelve months;”;

- (e) by the substitution for the definition of “dividend” of the following definition:

“‘dividend’ means any amount distributed by a company (not being a permanent building society or an association or institution to which section 10 (1) (d) applies) to its shareholders or any amount distributed out of the assets pertaining to any unit portfolio referred to in paragraph (e) of the definition of ‘company’ in this section to shareholders in relation to such unit portfolio, and in this definition the expression ‘amount distributed’ includes—

- (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;
- (b) in relation to a company that is not being wound up or liquidated, any profits distributed, whether in cash or otherwise, and whether of a capital nature or not, including an amount equal to the nominal value, at the time of issue thereof, of any capitalization shares awarded to shareholders and the nominal value of any bonus debentures or securities awarded to shareholders;
- (c) in the event of the partial reduction of the capital of a company, any cash and the value of any asset which is given to a shareholder in excess of the cash equivalent of the amount by which the nominal value of the shares of that shareholder is reduced; and
- (d) in the event of the reconstruction of a company, any cash and the value of any asset which is given to a shareholder in excess of—
 - (i) the nominal value of the shares held by him before the reconstruction; or
 - (ii) where the second proviso to this definition is applicable in relation to the shares so held, the said nominal value less so much of the sum of the amounts deemed by the said proviso to be profits available for distribution to shareholders as relates to the said shares,

but does not include—

- (e) the nominal value of any capitalization shares awarded to a shareholder to the extent to which such shares have been paid up by means of the application of the whole or any portion of the share premium account of a company; or

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- (f) 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 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 by a company which during the period of ten years ending the day before the date of such award has not made any partial reduction of its paid-up share capital involving a distribution to shareholders of cash or other assets:

Provided that the provisions of paragraphs (g) and (h) shall not apply in respect of the nominal value (or any portion thereof) of any capitalization shares awarded before 1 January 1974 by any company which is recognized as a private company in terms of section 38: Provided further that, for the purposes of this definition—

- (i) where a company has on or after 1 January 1974 transferred any amount from reserves (excluding any share premium account) or undistributed profits to the share capital or the share premium account of the company without applying the amount in paying up capitalization shares or has applied the amount in paying up capitalization shares the

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nominal value of which did not in whole or in part constitute an amount distributed as contemplated in the foregoing provisions of this definition, the amount so transferred (reduced by so much thereof as constitutes such an amount distributed) shall be deemed—

(aa) to the extent that such amount (as so reduced) is shown to consist of profits of a capital nature, to be a profit of a capital nature available for distribution by the company to shareholders who, in the event of a distribution by the company at any time (whether before or during the winding-up or liquidation of the company) of profits of a capital nature would be entitled to participate in such a distribution; and

(bb) to the extent that subparagraph (aa) does not apply, to be a profit which is not of a capital nature and is available for distribution by the company to shareholders who, in the event of a distribution by the company at any time (whether before or during the winding-up or liquidation of the company) of profits which are not of a capital nature would be entitled to participate in such a distribution,

regardless of whether in either case the company in fact has or has not any profits available for distribution;

(ii) where the share capital of the company consists of different classes of share capital, any amount deemed by paragraph (i) of this proviso to be available for distribution to shareholders shall, in applying that paragraph, be apportioned between such classes of share capital in accordance with the rights of the holders of the corresponding classes of shares to participate in distributions of profits of a capital nature or profits which are not of a capital nature, as the case may be, and the amount deemed by the said paragraph to be available for distribution to the shareholders in respect of any such class of shares shall be the amount allocated to the share capital of that class under such apportionment;

(iii) in the event of the subsequent partial reduction of the share capital (including any share premium) of the company, any amount of such share capital returned—

(aa) to shareholders entitled to participate in distributions of profits which are not of a capital nature and in respect of whom any amount is deemed under paragraph (i) (bb) of this proviso to be such a profit available for distribution to such shareholders, shall (to the extent that the amount returned to such shareholders does not exceed the aggregate

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of the amounts of the profits so deemed to be available for distribution to such shareholders) be deemed to be a profit, not of a capital nature, distributed to such shareholders, and the amounts so deemed to be available for distribution shall be deemed to have been reduced accordingly; or

- (bb) to shareholders entitled to participate in distributions of profits of a capital nature and in respect of whom any amount is deemed under paragraph (i) (aa) of this proviso to be such a profit available for distribution to such shareholders, shall (to the extent that the amount returned to such shareholders (less so much thereof as is deemed under subparagraph (aa) of this paragraph to be a profit, not of a capital nature, distributed to such shareholders) does not exceed the aggregate of the amounts of the profits deemed under the said paragraph (i) (aa) to be available for distribution to such shareholders) be deemed to be a profit of a capital nature distributed to such shareholders and the amounts so available for distribution shall be deemed to have been reduced accordingly;
- (iv) where the company has lost some of its paid-up share capital (including any share premium) as a result of losses actually incurred by it and such share capital is in consequence partially reduced to take account of such losses, any amounts which in terms of this proviso are at the date of such partial reduction of such share capital deemed to be profits available for distribution to shareholders shall be deemed to have been reduced to the extent that such losses are so accounted for and in such manner that, as far as possible and on the basis, where necessary, of an apportionment between different classes of share capital in accordance with the rights of shareholders—
- (aa) any such profits which are of a capital nature and relate to shareholders entitled to participate in profits of that nature, are reduced by so much of the amount by which the said share capital is reduced as is attributable to losses of a capital nature; and
- (bb) any such profits which are not of a capital nature and relate to shareholders entitled to participate in profits which are not of a capital nature, are reduced by so much of the amount by which the said share capital is reduced as is attributable to losses which are not of a capital nature;

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(v) in the event of the winding-up or liquidation of the company—

(aa) any profits which in terms of the preceding provisions of this proviso are, at the commencement of the winding-up or liquidation, deemed to be available for distribution to shareholders shall, if the company has lost some of its paid-up share capital (including any share premium) as a result of losses actually incurred by it, be deemed to have been reduced in such manner that, as far as possible and on the basis, where necessary, of an apportionment between different classes of share capital in accordance with the rights of shareholders—

(A) any such profits which are of a capital nature and relate to shareholders entitled to participate in profits of that nature, are reduced by so much of the loss of the said share capital as is attributable to losses of a capital nature; and

(B) any such profits which are not of a capital nature and relate to shareholders entitled to participate in profits which are not of a capital nature, are reduced by so much of the loss of the said share capital as is attributable to losses which are not of a capital nature; and

(bb) the aggregate of any cash and the value of any assets given to shareholders entitled to participate in profits not of a capital nature shall, to the extent that such aggregate exceeds so much of the sum of the share capital and any share premium contributed by such shareholders (less so much of such share capital and share premium as has been lost) as remains after deducting therefrom an amount equal to so much of any profits, not of a capital nature, which are deemed by this proviso (after applying subparagraph (aa) of this paragraph) to be available for distribution to such shareholders at the commencement of the winding-up or liquidation, as relates to the said share capital, be deemed to be a profit, not of a capital nature, distributed to such shareholders, but the amount of that profit shall not be determined at an amount which exceeds the aforesaid amount:

Provided further that for the purposes of this definition an asset shall be deemed to have been given to a shareholder of a company if any asset or any interest, benefit or advantage measurable in terms of money is given or transferred to such shareholder or if the shareholder is relieved of any obligation measurable in terms of money;”;

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- (f) by the insertion after the definition of "dividend" of the following definition:
"domestic company' means a South African company or a company which is managed and controlled in the Republic;"
- (g) by the insertion in the Afrikaans version after the definition of „eksekuteur” of the following definition:
"ekwiteitsaandelekapitaal', met betrekking tot 'n maatskappy, sy uitgereikte aandelekapitaal, met uitsluiting van enige gedeelte daarvan wat nóg wat dividende betref nóg wat kapitaal betref 'n reg verleen om bo 'n vasgestelde bedrag in 'n verdeling te deel, en word die uitdrukking „ekwiteitsaandele' dienooreenkomstig uitgelê;"
- (h) by the deletion in the Afrikaans version of the definition of „kapitaal aan gewone aandele";
- (i) by the insertion after the definition of "executor" of the following definition:
"external company' means any company other than a domestic company;"
- (j) by the substitution for paragraph (j) of the definition of "gross income" of the following paragraph:
"(j) so much of the sum of any amounts received or accrued during any year of assessment in respect of disposals of assets the cost of which has in whole or in part been included in capital expenditure taken into account (whether under this Act or any previous Income Tax Act or any Income Tax Ordinance of the territory) for the purposes of any deduction in respect of any mine under section 15 (a) of this Act or the corresponding provisions of any previous Income Tax Act or, in the case of a company, under the said section or section 11 (2) (i) of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, or the corresponding provisions of any previous Income Tax Ordinance of the territory, as exceeds the sum of so much of any capital expenditure redeemable in the manner provided in section 36 (7D) as in the case of such mine is unredeemed at the commencement of the said year of assessment and the capital expenditure that is incurred during that year in respect of such mine, as determined before applying the definition of 'capital expenditure incurred' in section 36 (11);"
- (k) by the insertion after the definition of "new gold mine" of the following definition:
"nominal value' means—
(a) in relation to shares issued by a company—
(i) if the shares have a par value, such par value; or
(ii) if the shares do not have a par value, an amount equal to the amount at which the par value of those shares would be determined if the company were to convert the shares into shares having a par value:
Provided that in the case of capitalization shares the nominal value thereof at the time of the issue thereof shall be deemed to be the

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amount of the company's reserves (including any share premium account) and unappropriated profits applied in paying up such shares as contemplated in the definition of 'capitalization shares' in this section and the amount of such reserves applied in paying up any share premium in respect of the said shares; or

- (b) in relation to bonus debentures or securities issued by a company, the amount of the company's reserves or unappropriated profits applied in paying up such debentures or securities as contemplated in the definition of 'bonus debentures or securities' in this section;";
- (l) by the insertion after the definition of "post-1966 gold mine" of the following definition:
- "'post-1973 gold mine' means an independent workable proposition in respect of which the State President or the Minister of Mines has, after 1 January 1974, on the recommendation of the Mining Leases Board signified in writing his decision to grant a lease of the right to mine for gold, and includes any other gold mine which, in the opinion of the Government Mining Engineer, is an independent workable proposition which was established as such after the said date;";
- (m) by the substitution for paragraph (i) of the proviso to the definition of "Republic" of the following paragraph:
- "(i) for the purposes of the definitions of 'company', 'domestic company' and 'representative taxpayer' in this section and the provisions of sections 98, 101, 103, 106 and 108; and"; and
- (n) by the insertion after the definition of "shareholder" of the following definition:
- "'South African company' means any association, corporation, company or body corporate referred to in paragraph (a) of the definition of 'company' in this section or any association referred to in paragraph (d) of that definition or any unit portfolio referred to in paragraph (e) of that definition;";

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

5. (1) Section 5A of the principal Act is hereby amended—
- (a) by the substitution for subsection (2) of the following subsection:

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

"(2) In the case of a person other than a company, there shall, subject to the provisions of subsection (4), be allowed by way of a primary abatement—

- (a) an amount of one thousand two hundred rand, if such person is a married person; or

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- (b) an amount of seven hundred rand, if such person is not a married person.”;
- (b) by the substitution for paragraph (a) of subsection (3) of the following paragraph:
- “(a) an amount of five hundred rand in respect of each child or stepchild of the taxpayer who was alive during any portion of the year of assessment, and who—
- (i) on the last day of the year of assessment was unmarried and was not or would not had he lived have been over the age of eighteen years, or, if he was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year, over the age of twenty-one years, or, if he was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year and the Secretary is satisfied that he was a full-time student at an educational institution of a public character, over the age of twenty-six years; or
 - (ii) in the case of any other child or stepchild, was incapacitated by physical or mental infirmity from maintaining himself and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of the year of assessment:

Provided that—

- (aa) where the taxpayer is in terms of this paragraph entitled to abatements in respect of more than two children, the abatement to be allowed in respect of each child in excess of two shall be six hundred rand;
- (bb) where the taxpayer is entitled to an abatement in respect of a child born to him during the year of assessment, that abatement shall be increased by two hundred rand;
- (cc) a parent who has been divorced or separated under an order of divorce or judicial separation granted in consequence of proceedings instituted not later than 21 March 1962, or separated under a written agreement of separation entered into not later than that date, shall not be allowed the abatement in respect of any child born of the marriage which has been dissolved by the order of divorce or to which the order or agreement of separation relates, unless he has maintained such child during the period assessed and the cost of such maintenance has not in terms of section 21 been deducted from his taxable income;
- (dd) where the taxpayer is not a married person, and is entitled to an abatement in terms of this paragraph in respect of any one or more children born to him who are proved to the satisfaction of the Secretary to have been

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wholly or mainly dependent for their maintenance upon the taxpayer during the period assessed from resources of the taxpayer derived otherwise than by way of any alimony or allowance or maintenance received by the taxpayer from the other parent of any such child, and who are not children in respect of whose maintenance the taxpayer's taxable income has been reduced in terms of section 21, a further abatement of five hundred rand shall be allowed irrespective of the number of such children;"

(c) by the deletion of paragraphs (b) and (c) of the said subsection (3); and

(d) by the substitution for paragraphs (d), (e), (f) and (g) of the said subsection of the following paragraphs:

"(d) an amount equal to the aggregate of—

(i) premiums paid by the taxpayer during the year of assessment upon policies under which he or his wife or any children or stepchildren referred to in paragraph (a) is or are insured against death, accident or sickness;

(ii) fees, subscriptions or contributions paid by him during that year to any provident fund or benefit fund;

(iii) contributions made by him during that year as an employee to any fund established under any law in force in the Republic relating to unemployment insurance; and

(iv) any amounts (other than amounts recoverable by the taxpayer) which the Secretary is satisfied were paid by the taxpayer during the year of assessment to—

(aa) any dentist or medical practitioner for dental and medical services rendered to; or

(bb) any duly registered nursing home or hospital or any duly registered or enrolled nurse, midwife or nursing assistant (or to any nursing agency in respect of the services of such a nurse, midwife or nursing assistant) in respect of the illness or confinement of; or

(cc) any duly registered pharmacist for medicines (other than medicines the cost of which has been deducted from the taxpayer's income under section 21) supplied on the prescription of any dentist or medical practitioner for,

the taxpayer or his wife or his children or stepchildren referred to in paragraph (a),

but subject to a maximum abatement under this paragraph of seven hundred rand where the taxpayer is a married person or is entitled to the further abatement referred to in paragraph (dd) of the proviso to paragraph (a) or an abatement under paragraph (f), or six hundred rand in any other case: Provided that no abatement shall be allowed in respect of insurance under a policy of motor insurance, nor under any other policy if

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the amount paid as premium for such other policy has been allowed as a deduction from the income of the taxpayer under the provisions of section 11;

- (e) an amount of one hundred rand in respect of each person who was during the year of assessment a dependant of the taxpayer, but excluding any dependant in respect of whom an abatement is allowable to the taxpayer under paragraph (f);
- (f) an amount of two hundred and fifty rand in respect of each person who was during the year of assessment a dependant of the taxpayer, if the total amount expended in cash or otherwise by the taxpayer in maintaining such dependant during such year was not less than two hundred and fifty rand, or, where the period assessed is less than twelve months, the total amount so expended during that period is not less than an amount which bears to two hundred and fifty rand the same ratio as the period assessed bears to twelve months;
- (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 four hundred rand, if the period assessed is twelve months, or, where the period assessed is less than twelve months, an amount which bears to four hundred rand the same ratio as the period assessed bears to twelve months."

(2) The amendments effected by subsection (1) shall, for the purpose of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of the year of assessment ending on 28 February 1975.

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

"Rebate in respect of foreign income taxes on royalties and similar income.

6*bis*. There shall be deducted from the normal tax (as calculated before the addition of any sum which in terms of any Income Tax Act is a loan portion which is repayable to the person concerned) payable by any person, in whose taxable income there is included any amount received by or accrued to him in respect of the use or right of use in any country other than the Republic or the grant of permission to use in such other country any patent as defined in the Patents Act, 1952 (Act No. 37 of 1952) or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, 1965 (Act No. 63 of 1965), or any model, pattern, plan, formula or process, or any other property or right of a similar nature, or any motion picture film, or any film or video tape or disc for use in connection with television, or any sound recording or advertising matter used or intended to be used in connection with such motion picture film, film, video tape or disc, the sum of any taxes on income proved to the satisfaction of the Secretary to be payable, without any right of recovery, by such person to the govern-

Substitution of section 6*bis* of Act 85 of 1974, as inserted by section 7 of Act 88 of 1965.

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ment of any country other than the Republic in respect of the said amount: Provided that the rebate under this subsection shall not exceed so much of the normal tax (calculated as aforesaid) payable by the taxpayer as the Secretary determines to be attributable to the inclusion in his taxable income of the said amount.”.

7. Section 6ter of the principal Act is hereby amended by the deletion of the words “after deducting the rebates provided for in section 6 and”.

Amendment of section 6ter of Act 58 of 1962, as inserted by section 8 of Act 95 of 1967.

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

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 and section 6 of Act 90 of 1972.

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

“(2) If, prior to 1 January 1974 any company awarded any capitalization shares the nominal value of which in terms of paragraph (g) or (h) of the definition of ‘dividend’ in section 1 did not wholly rank as a dividend, and, within the period of ten years from the date of such award, any cash or any asset is given to any shareholder of that company in consequence of the liquidation or reconstruction of the company or the partial reduction of its share capital, there shall, subject to the provisions of subsection (3), be included in the taxable income of the company—

(a) in the case of the reconstruction of the company or the partial reduction of its share capital, an amount equal to the sum of the amount of any such cash and the value of any such asset; and

(b) in the case of the liquidation of the company—

(i) if the Secretary is satisfied that such liquidation is *bona fide* and was not brought about solely or mainly for the purpose of avoiding liability for tax under this subsection, the amount by which the sum of all the amounts of any such cash and the value of all such assets so given to shareholders exceeds the sum of the paid-up capital of the company and the amount (if any) standing to the credit of the share premium account of the company immediately prior to the commencement of the liquidation of the company; or

(ii) if the Secretary is not so satisfied, an amount determined as provided in paragraph (a):

Provided that the amounts included in the company’s taxable income under this subsection shall not in total exceed so much of the nominal value of such capitalization shares as did not rank as a dividend as aforesaid, less any amount paid up on such shares by the application of the company’s share premium account.”;

(b) by the substitution in subparagraph (ii) of paragraph (a) of subsection (3) for the word “bonus” of the word “capitalization”;

(c) by the substitution in paragraph (b) of subsection (3) for the word “bonus” of the word “capitalization”;

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- (d) 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 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 corresponding 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.”; and

- (e) by the substitution for subparagraph (bb) of paragraph (b) of subsection (4) of the following subparagraph:

“(bb) if it was recovered or recouped on or after 17 August 1966, not be included in the income of that person for the aforesaid year of assessment except to the extent that such amount is not, in terms of the definition of ‘adjustable cost’ or ‘adjustable cost price’ in section 14 (2), deductible from the cost or estimated cost price of such further ship.”.

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

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

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

- (i) any patent as defined in the Patents Act, 1952 (Act No. 37 of 1952), or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, 1965 (Act No. 63 of 1965), or any model, pattern, plan, formula or process or any other property or right of a similar nature; or
- (ii) any motion picture film, or any film or video tape or disc for use in connection with television, or any sound recording or advertising matter used or intended to be used in connection with such motion picture film, film or video tape or disc,

Amendment of section 9 of Act 58 of 1962, as amended by section 7 of Act 90 of 1962, section 6 of Act 72 of 1963, section 7 of Act 90 of 1964, section 9 of Act 95 of 1967, section 12 of Act 89 of 1969 and section 6 of Act 65 of 1973.

wheresoever such patent, design, trade mark, copyright, model, pattern, plan, formula, process, property, right, motion picture film, film, video tape or disc, sound recording or advertising matter has been produced or made or such right of use or permission has been granted or payment for such use, right of use or grant of permission has been made or is to be made, and whether such payment has been made or is to be made by a person resident in or outside the Republic:

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Provided that the provisions of this paragraph shall not apply in respect of any amount which on or after 1 July 1962 is received by or accrues to any person (other than a company) who is not ordinarily resident in the Republic, or to any external company, in respect of the use (otherwise than for advertising purposes in connection with any motion picture film or otherwise than in connection with television) in any printed publication of any copyright as aforesaid;”;

- (b) by the substitution for paragraph (c) of the said subsection of the following paragraph:

“(c) any business carried on by any such person who is ordinarily resident in the Republic or in the case of a company is a domestic company, as owner or charterer of any ship or aircraft, or the disposal by such person of any commodity acquired in connection with the operation of such ship or aircraft, wheresoever such ship or aircraft may be operated or such disposal of the commodity may be effected;”;

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

“(3) Any interest which has been received by or has accrued to any person (other than a company) who is ordinarily resident in the Republic or has been received by or has accrued to any domestic company, in respect of any loan to or deposit in any banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965), or any similar institution, wheresoever it is incorporated, formed or established and wheresoever it carries on business, shall be deemed to have been derived from a source within the Republic, wheresoever such loan or deposit is made or held or such interest is payable.”.

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

- (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
- “(c) (i) the salary and emoluments payable to the State President; 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 and section 7 of Act 65 of 1973.
- (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), 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; 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 and section 7 of Act 65 of 1973.
- (iii) the salary and emoluments payable to any person who holds office in the Republic as an official of any government, other than the Government of the Republic or the Administration of the territory, provided such person is stationed in the Republic for that purpose and is not ordinarily resident in the Republic; section 9 of Act 52 of 1970, section 9 of Act 88 of 1971, section 7 of Act 90 of 1972 and section 7 of Act 65 of 1973.
- (iv) any salary and emoluments payable to any domestic or private servant of any person referred to in subparagraph (iii) in respect of domestic or private services rendered or to be rendered by such servant to such person if such servant is not a South African citizen and is not ordinarily resident in the Republic;

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- (v) any salary and emoluments payable to any subject of a foreign state who is temporarily employed in the Republic, provided the exemption of such salary and emoluments is authorized by an agreement entered into by the governments of such foreign state and the Republic;”;
- (b) by the substitution for paragraph (cA) of the said subsection of the following paragraph:
- “(cA) the receipts and accruals of—
- (i) any institution, board or body (other than a company registered or deemed to be registered under the Companies Act, 1973 (Act No. 61 of 1973), or under any law repealed by that Act and any co-operative society or company registered under the Co-operative Societies Act, 1939 (Act No. 29 of 1939), or the Co-operative Societies Ordinance, 1946 (Ordinance No. 15 of 1946), of the territory) established by or under any law and which, in the furtherance of its sole object or one of its principal objects, conducts scientific, technical or industrial research or provides necessary or useful commodities, amenities or services to the State (including the railway administration, the administration of the territory and any provincial administration) or members of the general public or carries on activities (including the rendering of financial assistance by way of loans or otherwise) designed to promote commerce, industry or agriculture or any branch thereof, provided such institution, board or body is by law or under its constitution not permitted to distribute any of its profits or gains to any person and is required to utilize its funds solely for investment or the objects for which it has been established;
- (ii) any South African company all the shares of which are held by any such institution, board or body, if the Secretary is satisfied that the operations of such company are ancillary or complementary to the objects of such institution, board or body;”;
- (c) by the insertion after paragraph (cA) of the said subsection of the following paragraphs:
- “(cB) the receipts or accruals of any company, society or other association of persons, whether or not registered under any law (other than a co-operative society or company registered under the Co-operative Societies Act, 1939 (Act No. 29 of 1939), or the Co-operative Societies Ordinance, 1946 (Ordinance No. 15 of 1946), of the territory), if—
- (i) the sole or principal object of such company, society or association is as follows, namely—
- (aa) to conduct or promote scientific, technical or industrial research; or
- (bb) to provide medical, dental, blood transfusion, hospital or nursing services; or

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- (cc) to engage in or promote nature conservation or animal protection activities; or
 - (dd) to engage in or promote activities which the Secretary is satisfied are of a cultural nature; or
 - (ee) to provide social or recreational amenities or facilities for the members of such company, society or association; or
 - (ff) to promote the common interests of persons carrying on any particular kind of business, profession or occupation by means other than the carrying on by such company, society or association of any trading or other profit-making activities, or the participation by such company, society or association in any business, profession or occupation carried on by any of its members, or the provision to any of its members of financial assistance or of any premises or continuous services or facilities required by its members for the purpose of carrying on any business, profession or occupation;
 - (ii) the activities of such company, society or association are wholly or mainly directed to the furtherance of its sole or principal object;
 - (iii) such company, society or association is under its constitution not permitted to distribute any of its profits or gains to any person and is required to utilize its funds solely for investment or the objects for which it has been established; and
 - (iv) under the constitution of such company, society or association it will upon its winding-up or liquidation be obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some other company, society or association with objects similar to those of the aforesaid company, society or association;
- (cC) the receipts and accruals of any association formed and incorporated under section 21 of the Companies Act, 1973, or deemed by that section to be so formed and incorporated, if—
- (i) the sole or principal object of the association is to build dwelling houses 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 or to purchase newly built dwelling houses or other newly built residential accommodation;
 - (ii) such sole or principal object is actively pursued;

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- (iii) the Secretary is satisfied that the profits of the association derived from transactions with the said persons are, having regard to the future needs of the association, kept to a minimum;
 - (iv) the association does not carry on any business other than business which, in the opinion of the Secretary, is directly connected with the said sole or principal object; and
 - (v) in the case of an association to which the provisions of item (bb) of subparagraph (i) apply, the directors of the association are independent persons who do not derive any remuneration for their services to the association and at least one of those directors is a person nominated by the Minister of Community Development;
- (cD) the receipts and accruals of any association which in the opinion of the Secretary is an amateur sporting association;”;
- (d) by the substitution for paragraph (d) of the said subsection of the following paragraph:
- “(d) the receipts and accruals of any terminating building society, pension fund, provident fund, retirement annuity fund or benefit fund or of any institution which in the opinion of the Secretary is a mutual savings bank, a mutual loan association, a fidelity or indemnity fund, a trade union, a chamber of commerce or industries (or an association of such chambers), a local publicity association or a non-proprietary stock exchange;”;
- (e) by the substitution for paragraph (e) of the said subsection of the following paragraph:
- “(e) the receipts and accruals of any company, society or other association of persons, whether or not registered under any law (other than a co-operative society or company registered under the Co-operative Societies Act, 1939 (Act No. 29 of 1939), or the Co-operative Societies Ordinance, 1946 (Ordinance No. 15 of 1946), of the territory), the profits or gains of which, other than profits or gains from investments (including the letting of property), are derived solely from transactions with or on behalf of its individual members, and the constitution of which does not admit of the distribution of its profits or gains to any persons other than the members with whom or on whose behalf the transactions took place, and does not confer upon any person any benefit other than benefits accruing to that person from transactions with or on behalf of that person, except as regards any receipts or accruals from investments (including the letting of property to non-members) by any such company, society or association: Provided that the provisions of this paragraph shall not be construed as requiring the taxable income of such company, society or association from investments (including the letting of property to non-members) to be determined at an amount greater than an amount determined to the satisfaction of the Secretary as representing the taxable income on which such company, society or

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association would have been taxable under this Act is the exemption conferred by this paragraph had not been applicable;”;

- (f) by the substitution for subparagraph (ii) of paragraph (i) of the said subsection of the following subparagraph:
- “(ii) so much of the interest on Post Office Savings Bank Certificates held by any one person as does not exceed the sum of five hundred and fifty rand;”;
- (g) by the insertion after subparagraph (xiB) of the said paragraph (i) of the said subsection of the following subparagraph:
- “(xiC) so much of the interest on Republic of South Africa Second Series Premium Bonds issued by the Treasury as in the case of any taxpayer does not in the year of assessment exceed the sum of one thousand five hundred rand and so much of any premium on such Bonds as in the case of any taxpayer does not in the year of assessment exceed the sum of eight hundred rand;”;
- (h) by the substitution for subparagraph (xiii) of the said paragraph (i) of the said subsection of the following subparagraph:
- “(xiii) in the case of a taxpayer who is a natural person, so much of the aggregate of the amounts received or accrued as dividends on Special Tax-Free Indefinite Period shares in building societies as does not exceed seven hundred and fifty rand in any year of assessment: Provided that this exemption shall not apply—
- (aa) in respect of any such dividend the rate of which exceeds seven and a half per cent per annum; or
- (bb) in respect of any such dividend which becomes payable by a building society after the expiration of a period of five years reckoned from the date of the application to the building society concerned for the shares on which such dividend is payable; or
- (cc) in respect of any dividend on any such shares for which application is made to a building society on or after a date notified by the Minister of Finance in the *Gazette*;”;
- (i) by the substitution in subparagraph (v) of paragraph (k) of the said subsection for the words preceding item (aa) of that subparagraph of the following words:
- “(v) dividends received by or accrued to any person (other than a company) ordinarily resident in the Republic from any company which is not a South African company in respect of shares acquired by such person—”;
- (j) by the substitution in item (dd) of the said subparagraph (v) of the said paragraph (k) for the word “bonus” of the word “capitalization”;
- (k) by the addition to paragraph (t) of the said subsection (1) of the following subparagraph:
- “(vii) of the S.W.A. Water and Electricity Corporation (Proprietary) Limited registered under the Companies Ordinance, 1928 (Ordinance No. 19 of 1928), of the territory, on 9 December 1964;”;

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- (l) by the further addition to the said paragraph (t) of the said subsection of the following subparagraph:
“(viii) of SAFTO, a company registered under the Companies Act, 1926, on 7 May 1963;”;
- (m) by the substitution in paragraph (w) of the said subsection for the words preceding subparagraph (i) of that paragraph of the following words:
“(w) interest received by or accrued to any person (other than a company) who is ordinarily resident in the Republic, or any domestic company, in respect of any loan to or deposit in any banking institution registered under the Banks Act, 1965 (Act No. 23 of 1965), or any similar institution, wheresoever it is incorporated, formed or established and wheresoever it carries on business, if it is proved to the satisfaction of the Secretary—”;
- (n) by the substitution for paragraph (zA) of the said subsection of the following paragraph:
“(zA) any amount by way of a rebate or other assistance received by or accrued to or in favour of any exporter (as defined in section 11*bis* (1)) under any scheme for the promotion or financing of exports which is for the purposes of this paragraph approved by the Minister of Economic Affairs in consultation with the Minister of Finance;” and
- (o) by the substitution for paragraph (zB) of the said subsection of the following paragraph:
“(zB) where any amount has been received by or has accrued to any employer from a fund which has under an industrial council agreement been established as contemplated in section 48 (1) (d) or 48A (1) of the Industrial Conciliation Act, 1956 (Act No. 28 of 1956), for the training of employees for skilled work and such employer has undertaken such training in respect of his employees, a sum equal to—
(i) fifty per cent of the amount so received or accrued if it has become payable to him on or after 29 March 1973 and on or before 14 August 1974 in respect of the training so undertaken; or
(ii) the full amount so received or accrued if it has become payable to him on or after 15 August 1974 in respect of the training so undertaken.”.

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

- (a) the amendments effected by subsection (1) (c), (d), (e), (f), (g), (h) and (l) shall be deemed to have taken effect from the commencement of years of assessment ending on or after 1 January 1975;
- (b) the amendment effected by subsection (1) (k) shall be deemed to have taken effect from the commencement of years of assessment ending on or after 1 January 1972;
- (c) the amendment effected by subsection (1) (n) shall be deemed to have taken effect from the commencement of years of assessment ending on or after 28 March 1973; and
- (d) the amendment effected by subsection (1) (o) shall be deemed to have taken effect from the commencement of years of assessment ending on or after 29 March 1973.

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11. (1) Section 10A of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the definition of “annuity contract” of the following definition: Amendment of section 10A of Act 58 of 1962, as inserted by section 8 of Act 65 of 1973.
- “‘annuity contract’ means an agreement concluded between an insurer in the course of his insurance business and a natural person (hereinafter referred to as the purchaser), in terms of which—
- (a) the insurer agrees to pay to the purchaser or the purchaser’s spouse or surviving spouse an annuity or annuities (whether to one such person or to each of them) until the death of the annuitant or the expiry of a specified term;
 - (b) the purchaser agrees to pay to the insurer a lump sum cash consideration for such annuity or annuities; and
 - (c) no amounts are or will be payable by the insurer to the purchaser or any other person other than amounts payable by way of such annuity or annuities or, where an annuity is payable for a minimum term and such annuity is in the event of the death of the annuitant before the end of such term to continue to be payable to some third person for the balance of that term, amounts which may be so payable to such third person by way of such annuity,
- but does not include any agreement for the payment by any insurer of any annuity which is under the rules of a pension fund or of a provident fund or of a retirement annuity fund payable to a member of such fund or to the widow of such member or to any other person;”;
- (b) by the substitution in the said subsection for the definition of “commencement” of the following definition:
- “‘commencement’, in relation to an annuity contract, means the date on which the annuity contract is concluded;”;
- (c) by the substitution in the said subsection for the definition of “expected return” of the following definition:
- “‘expected return’, in relation to an annuity under an annuity contract, means an amount determined in a manner contemplated in this section as representing the sum of all the annuity amounts which may, as at the commencement of the annuity contract, be expected to become payable by way of the annuity from the said commencement;”;
- (d) by the substitution for subsection (5) of the following subsection:
- “(5) A valuator who makes any calculation as provided in subsection (4) or any recalculation as provided in subsection (6) (b), shall do so in accordance with generally accepted actuarial principles or practice, and where a determination has to be made of the life expectancy of any person for the purpose of a calculation of the expected return of any annuity or the probable number of years during which annuity amounts will be paid under an annuity contract, the mortality tables to be used for such determination shall be the select tables in the volume of tables published in 1953 at the University Press, Cambridge, for the Institute of Actuaries and the Faculty of Actuaries, entitled ‘The a (55) Tables for Annuitants’, and the

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age of the person concerned shall for the purposes of such determination be taken to be his age on his birthday immediately preceding the commencement of the annuity contract in question.”; and

- (e) by the substitution for paragraph (a) of subsection (7) of the following paragraph:

“(a) Where the capital element of annuity amounts has been calculated as provided in subsection (4) or has been recalculated as provided in subsection (6) (b), the insurer concerned shall furnish each annuitant under the annuity contract in question, within one month after the date on which the calculation or recalculation is made, as the case may be, or within such further period as the Secretary may allow, with two copies of such calculation or recalculation, as the case may be.”.

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

12. (1) Section 11 of the principal Act is hereby amended—

- (a) by the insertion after paragraph (ii) of the proviso to paragraph (e) of the following paragraph:

“(iiA) where any machinery, implement, utensil or article qualifying for an allowance under this paragraph is mounted on or affixed to any concrete or other foundation or supporting structure and the Secretary is satisfied—

(aa) that the foundation or supporting structure is designed for such machinery, implement, utensil or article and constructed in such manner that it is or should be regarded as being integrated with the machinery, implement, utensil or article;

(bb) that the useful life of the foundation or supporting structure is or will be limited to the useful life of the machinery, implement, utensil or article mounted thereon or affixed thereto,

the said foundation or supporting structure shall for the purposes of this paragraph not be deemed to be a structure or work of a permanent nature but shall for the purposes of this Act be deemed to be a part of the machinery, implement, utensil or article mounted thereon or affixed thereto;”;

- (b) by the substitution for paragraph (v) of the proviso to paragraph (o) of the following paragraph:

“(v) for the purposes of this paragraph the cost of any ship in respect of which any allowance has been made to the taxpayer under the provisions of section 14 shall be deemed to be the actual cost less any amount (not being an amount which has been included in the income of the taxpayer for any year of assessment in terms of section 8 (4) (d)) by which the cost or estimated cost price of such ship has in the calculation of such allowance been reduced in terms of the definition of ‘adjustable cost’ or ‘adjustable cost price’ in section 14 (2);” and

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 and section 9 of Act 65 of 1973.

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(c) by the substitution in paragraph (t) for the words preceding the proviso of the following words:

“(t) in the case of any taxpayer (excluding any taxpayer who derives income from the sale of immovable property to persons who are not employed by him) who during any year of assessment incurs expenditure in connection with the erection of any dwelling or who, for the purpose of financing in whole or in part the erection by any person during the said period of any dwelling, advances or donates to any person any amount during any such year of assessment, and who satisfies the Secretary that that dwelling will be occupied exclusively by persons or the households of persons who are his employees and are employed by him for the purposes of his trade (other than mining or farming), an allowance in respect of the said year of assessment equal to twenty-five per cent of the expenditure so incurred or of the amount so advanced or donated;”.

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

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

- (a) by the insertion in subsection (4A) after the expression “subsection (4)” of the words “has been incurred”; and
- (b) by the substitution in the Afrikaans version of the said subsection (4A) for the words “landbouvereniging of 'n -maatskappy” of the words “landbouvereniging of -maatskappy”.

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 and section 10 of Act 65 of 1973.

14. (1) The following section is hereby inserted in the principal Act after section 11*sex*;

“Bantu workers training allowance.

11*sept.* (1) For the purposes of this section—
‘training premises’ means any building or other premises used wholly or mainly for the purposes of any training scheme;

‘training scheme’ means a scheme for the training of Bantu workers which—

- (a) is registered under section 9 of the Bantu Education Act, 1953 (Act No. 47 of 1953);
- (b) is approved by the Secretary for Bantu Education for the purposes of this section; and
- (c) has not as concerns the taxpayer ceased to be such a scheme, as contemplated in subsection (2).

(2) For the purposes of this section, where the Secretary for Bantu Education has, by way of a written notification addressed to the administrator, manager or controller of a training scheme or to the employer concerned, notified such person that

Insertion of section 11*sept* in Act 58 of 1962.

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the scheme is no longer registered or approved as contemplated in the definition of 'training scheme' in subsection (1), the scheme shall, as it concerns any taxpayer, be deemed to have ceased to be a training scheme as from the beginning of the first year of assessment of the taxpayer succeeding the year of assessment of the taxpayer during which the said notification was issued.

(3) If any taxpayer in the course of any trade (other than mining) carried on by him in the Republic has during any year of assessment incurred training expenses, determined as provided in subsections (5), (6) and (7), in respect of Bantu workers employed by him for the purposes of the said trade, there shall be allowed as a deduction from his income for that year of assessment an allowance (to be known as the Bantu workers training allowance) the amount of which shall, subject to the provisions of subsection (4), be a sum equal to one hundred per cent of such training expenses.

(4) Where the aforesaid training expenses in whole or in part consist of an amount, determined to the satisfaction of the Secretary, which represents training expenses incurred in respect of Bantu workers employed by the taxpayer for the purposes of any trade carried on by him in an economic development area and in the course of which a process of manufacture, or any other process which in the opinion of the Secretary is of a similar nature, is carried on, the Bantu workers training allowance in respect of the said amount shall, if the Minister of Finance, having regard to the circumstances of the case, so directs, be calculated at such percentage exceeding one hundred per cent, but not exceeding one hundred and twenty-five per cent, of the said amount as the said Minister may direct.

(5) For the purposes of this section the training expenses incurred by a taxpayer in the course of any trade (other than mining) shall, subject to the provisions of subsections (6) and (7), be determined as the sum of so much of the amounts which have been allowed under section 11 to be deducted from the income derived by him from carrying on that trade during the relevant year of assessment as the Secretary is satisfied relates to the training of Bantu workers employed by the taxpayer for the purposes of such trade and consist of—

- (a) the remuneration of instructional, supervisory and clerical personnel in respect of the services of such personnel which are directly connected with the operation of a training scheme, including so much of the contributions made by the taxpayer to any benefit fund, pension fund or provident fund, as relate to such personnel and would, if treated as remuneration, relate to the said services;
- (b) the remuneration of Bantu trainees in respect of training periods under a training scheme, less so much of such remuneration as may, on the basis of a fair and reasonable apportionment, be regarded as having been incurred in respect

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- of productive work done by such trainees during the training periods in question;
- (c) expenditure in respect of training premises or equipment used wholly or mainly for the purposes of a training scheme, including—
 - (i) rent for such premises or equipment;
 - (ii) maintenance costs and the cost of repairs;
 - (iii) property rates levied by a municipality or a similar authority;
 - (iv) insurance of such premises or equipment;
 - (v) interest on any loan incurred in order to finance the cost of acquisition, erection, construction of or of any extension or addition to such premises or equipment;
 - (d) any allowance granted under section 11(e) in respect of equipment wholly or mainly used for the purposes of a training scheme;
 - (e) the cost of materials, fuel or power consumed for the purposes of a training scheme, less so much of such cost as may, on the basis of a fair and reasonable apportionment, be regarded as having been incurred in respect of materials, fuel or power consumed in respect of productive work done by the trainees under such scheme;
 - (f) travelling expenses incurred in the operation of a training scheme;
 - (g) fees paid in respect of the training of Bantu trainees under a training scheme not operated by the taxpayer or the tuition of instructors employed for the purposes of a training scheme;
 - (h) expenditure of any other nature directly incurred in the operation of a training scheme.

(6) Where any amounts which have been included in training expenses incurred by any taxpayer (as determined under subsection (5) in respect of the current or any previous year of assessment) are recovered or recouped by the taxpayer, the training expenses incurred by the taxpayer (as determined under the said subsection) during the year of assessment of the taxpayer during which the said amounts are so recovered or recouped shall be reduced by so much of those amounts as does not exceed such last-mentioned training expenses, and the amount of such reduction shall not be included in the taxpayer's income under the provisions of section 8 (4) as a recovery or recoupment of an amount allowed as a deduction under this section: Provided that where any subsidy is payable to the taxpayer in respect of remuneration referred to in paragraph (a) of subsection (5), such subsidy shall for the purposes of this section be deemed to be an amount recovered or recouped by the taxpayer during the year of assessment of the taxpayer in respect of which the said remuneration was taken into account under the said paragraph.

(7) The training expenses determined under subsection (5) shall be restricted to such expenditure as is incurred on or after 1 April 1974 and to so much of any allowance referred to in paragraph (d) of the

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said subsection as relates to any period commencing on or after the said date.

(8) Any decision of the Secretary in the exercise of any discretionary power conferred on him by this section shall be subject to objection and appeal.”

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect on 1 April 1974 and shall apply in respect of years of assessment ending on or after that date.

15. (1) Section 12 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- “ (1) In respect of new or unused machinery or plant—
- (a) which is brought into use by any taxpayer for the purposes of his trade (other than mining) and is used by him directly in a process of manufacture or any other process which in the opinion of the Secretary is of a similar nature; or
- (b) which is first let by any taxpayer on or after 17 August 1966 and is brought into use by the lessee for the purposes of the lessee’s trade (other than mining) and is used by the lessee directly in a process of manufacture or any other process which in the opinion of the Secretary is of a similar nature,

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

there shall be allowed to be deducted from the income of such taxpayer for the year of assessment during which such machinery or plant is so brought into use an allowance, to be known as the machinery initial allowance.”;

- (b) by the insertion after subsection (1) of the following subsections:

“(1A) The machinery initial allowance under subsection (1) shall be calculated on the cost (as determined in accordance with the provisions of subsection (1B)) to the taxpayer concerned of the machinery or plant which qualifies for the allowance and the rate of the allowance shall be—

- (i) in respect of machinery or plant brought into use on or before 14 August 1974, fifteen per cent of such cost: Provided that if such machinery or plant has been brought into use in an economic development area, the Minister of Finance may, having due regard to the circumstances of the case, direct that the allowance be increased to a sum not exceeding thirty per cent of such cost; or
- (ii) in respect of machinery or plant brought into use on or after 15 August 1974, twenty-five per cent of such cost: Provided that if such machinery or plant has been brought into use in an economic development area, the Minister of Finance may, having due regard to the circumstances of the case, direct that the allowance be increased to a sum not exceeding forty per cent of such cost.

(1B) For the purposes of subsection (1A) the cost to a taxpayer of machinery or plant qualifying for the machinery initial allowance shall be deemed to

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be the cost thereof as established to the satisfaction of the Secretary or, where the machinery or plant has been acquired to replace machinery or plant which was damaged or destroyed, the cost so established less any amount which has been recovered or recouped in respect of the damaged or destroyed machinery or plant and has been excluded from the taxpayer's income in terms of section 8 (4) (e), whether in the current or any previous year of assessment.”;

- (c) by the substitution in subsection (2) for the words preceding paragraph (i) of the following words:

“(2) Where any new or unused machinery or plant—

- (a) is brought into use by any taxpayer for the purposes of his trade (other than mining) and is used by him directly in a process of manufacture or any other process which in the opinion of the Secretary is of a similar nature; or
- (b) is first let by any taxpayer on or after 17 August 1966 and is brought into use by the lessee for the purposes of the lessee's trade (other than mining) and is used by the lessee directly in a process of manufacture or any other process which in the opinion of the Secretary is of a similar nature,

there shall further be allowed to be deducted from the income of such taxpayer for the year of assessment during which such machinery or plant is so brought into use an allowance, to be known as a machinery investment allowance, if—”;

- (d) 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 1978.”;

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

“(ii) in respect of machinery or plant brought into use on or after 1 April 1973 and on or before 14 August 1974, twenty per cent of such cost, plus such further percentage, not exceeding thirty-five per cent, of such cost as the said Minister, having regard to the circumstances of the case, may direct; or”;

- (f) by the insertion after subparagraph (ii) 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 30 June 1978, 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”;

- (g) 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 1978, 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”;

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- (h) by the substitution for subparagraph (ii) of paragraph (d) of subsection (2A) of the following subparagraph:
- “(ii) in respect of machinery or plant brought into use on or after 1 April 1973 and on or before 14 August 1974, twenty per cent of such cost; or;” and
- (i) by the addition to 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, twenty-five per cent of such cost.”.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect from the commencement of years of assessment ending on or after 15 August 1974.

16. Section 13 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (d) of subsection (5) of the following paragraph:
- “(d) of any building (other than a building qualifying for the allowance under paragraph (c)) the erection of which was commenced on or after 13 August 1970 but not later than 30 June 1978, and of any improvements (other than repairs and other than improvements qualifying for the allowance under paragraph (c)) commenced on or after 13 August 1970 but not later than 30 June 1978, to any building, if the building in question was wholly or mainly used by him for the purpose of carrying on therein in the course of his trade (other than mining or farming) any process of manufacture or any other process which in the opinion of the Secretary is of a similar nature, or if such building was let by him and was wholly or mainly used for the purpose of carrying on therein any process as aforesaid in the course of any trade (other than mining or farming);”;
- (b) by the substitution for paragraph (ii) of the proviso to subsection (6) of the following paragraph:
- “(ii) the allowance under subsection (5) (d) shall not be made in respect of any building brought into use or in respect of any improvements completed after 30 June 1979.”; and
- (c) by the substitution for paragraph (a) of subsection (6A) of the following paragraph:
- “(a) in the case of any building or improvements referred to in subsection (5) (c)—
- (i) if the erection of such building was commenced on or before 31 March 1973, or such improvements were commenced on or before that date, and such building is brought into use or such improvements are completed on or before 30 June 1979, ten per cent of such cost, plus such further percentage (not exceeding twenty-five per cent) of such cost as the Minister of Finance, having regard to the circumstances of the case, may direct; or
- (ii) if the erection of such building was or is commenced on or after 1 April 1973 and on or before 30 June 1978, or such improvements were or are commenced on or after 1 April 1973 and on or before 30 June 1978, and such

Amendment of section 13 of Act 58 of 1962, as amended by section 12 of Act 90 of 1962, section 5 of Act 6 of 1963, section 11 of Act 72 of 1963, section 12 of Act 90 of 1964, section 14 of Act 88 of 1965, section 17 of Act 55 of 1966, section 13 of Act 52 of 1970, section 13 of Act 88 of 1971, section 12 of Act 90 of 1972 and section 13 of Act 65 of 1973.

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building is brought into use or such improvements are completed on or before 30 June 1979, fifteen per cent of such cost, plus such further percentage (not exceeding twenty-five per cent) of such cost as the said Minister, having regard to the circumstances of the case, may direct; or

- (iii) if the provisions of subparagraph (i) or (ii) are not applicable, such percentage (not exceeding twenty-five per cent) of such cost as the said Minister, having regard to the circumstances of the case, may direct;”.

17. Section 14 of the principal Act is hereby amended—

Amendment of section 14 of Act 58 of 1962, as substituted by section 19 of Act 55 of 1966.

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

“(b) in the case of a person who during any year of assessment concludes a contract for the acquisition by him of a new ship (whether built or still to be built), or of a ship which is not new and is proved to the satisfaction of the Secretary for Transport at all times since its construction to have been maintained in the highest class applicable to a ship of its type, and who satisfies the Secretary that the ship in question is or will be a South African ship and is or will be used by him for the purposes of his trade for prospecting for minerals (including natural oil) or for mining operations or as a foreign-going ship, an allowance in respect of that of that year of assessment equal to forty per cent of the adjustable cost to the said person of that ship, or, if at the time at which the allowance under this paragraph has to be made, the cost price of the ship has not yet been determined, of the adjustable estimated cost price of that ship, provided the said person satisfies the Secretary that not less than forty per cent of the cost price or of the estimated cost price, as the case may be, of the ship will be paid by him within a period of two years or, if the Secretary agrees, three years after the end of that year of assessment or, if the said person does not so satisfy the Secretary, an allowance in respect of any year of assessment equal to forty per cent of the portion, if any, of the adjustable cost price or the adjustable estimated cost price of the ship paid by him during that year of assessment: Provided that—

- (i) the provisions of this paragraph shall not apply in respect of any ship in respect of which an allowance has in any year of assessment under this Act or any previous Income Tax Act been granted to any other person under this subsection or the corresponding provisions of any previous Income Tax Act;
- (ii) if any taxpayer to whom an allowance equal to forty per cent of the adjustable cost price or adjustable estimated cost price, as the case may be, of any ship has been made under this paragraph or the corresponding provisions of any previous Income Tax Act, fails

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to pay at least forty per cent of such cost price or estimated cost price, as the case may be, within the said period of two or (as the case may be) three years after the end of the year of assessment in respect of which the said allowance has been made, the said allowance shall be included in the income of the said taxpayer for the year of assessment ending on the same day as the said period, and there shall be deducted from the income of the said taxpayer for that year of assessment an allowance equal to forty per cent of the portion, if any, of the adjustable cost price of such ship paid by him during the said period, and from the income of the said taxpayer for any year of assessment thereafter an allowance equal to forty per cent of the portion, if any, of the adjustable cost price of such ship paid by him during that year of assessment; and

- (iii) if in respect of any year of assessment the Secretary is no longer satisfied that a ship in respect of which an allowance has been made under the preceding provisions of this paragraph or the corresponding provisions of any previous Income Tax Act (whether in the current or any previous year of assessment) will be a South African ship or will be used by the taxpayer as aforesaid, or if in any year of assessment any such ship which has become a South African ship or has been used by the taxpayer as aforesaid, ceases to be a South African ship or to be used by the taxpayer as aforesaid or if in any year of assessment the taxpayer ceases to be a person referred to in section 9 (1) (c), so much of the amount of the said allowance as is not in terms of section 8 (4) required to be included in the taxpayer's income for the current or any other year of assessment and is not in terms of subsection (2) (a) of this section required to be deducted from the cost or estimated cost price of a further ship acquired to replace such ship, less such amount as would, if this paragraph had not been enacted, have been allowed to the taxpayer by way of deductions (in addition to those actually allowed) under paragraph (a) of this subsection or section 11 (o) or the corresponding provisions of any previous Income Tax Act, either in the current or any previous year of assessment, shall in terms of this proviso be included in the income of the taxpayer for the current year of assessment;";

- (b) by the insertion after subsection (1) of the following subsections:

“(1A) Where during any year of assessment a subsidiary company referred to in paragraph (b) of the definition of ‘South African ship’ in subsection (2)

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has carried on business as the owner of one or more ships which are by virtue of the said paragraph South African ships and has not ceased to carry on such business, there shall be deducted from the income derived during that year of assessment by the parent company (being a parent company referred to in the said paragraph) of the subsidiary company an allowance equal to so much of any assessed loss which is in terms of section 20 available to be carried forward by the subsidiary company to the following year of assessment, as is proved to the satisfaction of the Secretary to be attributable to any assessed loss (as determined under section 20) incurred by the subsidiary company in carrying on the aforesaid business: Provided that the allowance granted under this subsection to the parent company in respect of any year of assessment shall be included in the income of that company for the following year of assessment.

(1B) Where a subsidiary company referred to in paragraph (b) of the definition of 'South African ship' in subsection (2) has on or after 1 January 1974 purchased from its parent company (being a parent company referred to in the said paragraph), a ship (being a South African ship by virtue of the provisions of the said paragraph and not being a ship acquired to replace a ship) which is used by the subsidiary company for the purposes of its trade for prospecting for minerals (including natural oil) or for mining operations or as a foreign-going ship and in respect of which any allowance has in respect of any year of assessment been granted to the parent company under subsection (1) (a) or (b)—

- (a) any allowances in respect of such ship granted to the subsidiary company under the provisions of subsection (1) (a) shall be equal in amount to the allowances to which the parent company would have been entitled under those provisions if the parent company had continued to use the ship for the purposes of its trade;
- (b) an allowance in respect of such ship shall not be granted to the subsidiary company under the provisions of subsection (1) (a) in respect of the year of assessment during which the ship was purchased by the subsidiary company if any allowance in respect of the ship has been granted to the parent company under the provisions of subsection (1) (a) or (b) in respect of the same year of assessment;
- (c) the cost to the subsidiary company of such ship shall, for the purposes of this section, section 8(4) and section 11(o), be deemed to be the adjustable cost to the parent company of the ship;
- (d) the allowances in respect of such ship granted to the parent company under subsection (1) (a) or (b) of this section shall, for the purposes of this section, section 8 (4) and section 11(o), be deemed to be allowances granted to the subsidiary company in respect of such ship and the provisions of paragraph (iii) of the proviso to paragraph (b)

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of subsection (1) of this section shall, as respects such ship apply to the subsidiary company as though it were the taxpayer referred to in those provisions;

- (e) the parent company shall, for the purposes of section 8 (4), not be deemed to have recovered or recouped out of the purchase consideration payable by the subsidiary company any of the allowances granted in respect of such ship to the parent company under subsection (1) (a) or (b) of this section, no allowance shall be made to the parent company under section 11 (o) in respect of such ship and, for the purposes of paragraph (iii) of the proviso to paragraph (b) of subsection (1) of this section as applicable to the parent company, the parent company shall not by reason of the sale of the ship to the subsidiary company be deemed to have ceased to use the ship; and
- (f) in the event of such ship ceasing to be a South African ship or to be used by the subsidiary in the manner contemplated in subsection (1) (b), the Secretary may in his discretion direct that any amount falling to be included in the income of the subsidiary company for any year of assessment under paragraph (iii) of the proviso to paragraph (b) of subsection (1), be included in the income of the parent company for such year of assessment and not in the income of the subsidiary company.

(1C) Where on or after 1 January 1974 any South African company (being a person referred to in section 9 (1) (c)) has concluded a contract for the acquisition by it of a ship and such company (hereinafter referred to as the taxpayer company) satisfies the Secretary that—

- (a) the ship will be sold by the taxpayer company to a subsidiary company of the taxpayer company for a consideration not exceeding the cost to the taxpayer company of such ship;
- (b) the subsidiary company will qualify for an allowance in respect of the ship under the provisions of subsection (1) (b); and
- (c) not less than forty per cent of the cost price or, if at the time the allowance under this subsection has to be made, the cost price has not yet been determined, of the estimated cost price which is payable by the taxpayer company in respect of its acquisition of the ship will be paid by the taxpayer company within a period of two years or, if the Secretary agrees, three years after the end of the year of assessment during which the said contract was concluded,

there shall be deducted from the income of the taxpayer company for the said year of assessment an allowance equal to forty per cent of the said cost price or estimated cost price, as the case may be: Provided that the allowance granted to the taxpayer company under this subsection shall be included in the income of that company for the year of assessment during which the subsidiary company has qualified for an allowance in respect of the ship under the provisions of subsection (1) (b) or, if in respect of any

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earlier year of assessment the Secretary is no longer satisfied as to any of the matters in respect of which he is required to be satisfied under this subsection, such earlier year of assessment.”; and

- (c) by the substitution for subsection (2) of the following subsections:

“(2) For the purposes of this section—

‘adjustable cost’ or ‘adjustable cost price’, in relation to any ship, means the cost to the taxpayer of such ship, or, if such ship was acquired by the taxpayer to replace a ship and the ship so acquired is a ship in relation to which the Secretary is satisfied in regard to the matters in regard to which he is required to be satisfied in terms of section 8 (4) (b), the cost to the taxpayer of the ship so acquired, less so much of any amount referred to in section 8 (4) (a) which has on or after 17 August 1966 been recovered or recouped in respect of the ship so replaced as does not exceed such cost, and ‘adjustable estimated cost price’ shall be construed accordingly;

‘foreign-going ship’ means—

- (a) a ship plying between a port in one country and a port in another country; or
- (b) a ship of not less than two hundred gross register tons plying between ports in the same country; or
- (c) a ship of more than one thousand gross register tons exclusively employed in sea fishing or seal catching; or
- (d) a whaling boat other than a shore-based whaling boat of less than two hundred gross register tons;

‘South African ship’ means—

- (a) a ship which is owned by a person referred to in section 9 (1) (c), if such ship is a South African ship as defined in section 2 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951); or
- (b) if the Minister of Finance, having regard to the circumstances of the case, so directs, a ship which is owned by a company (in this section referred to as a subsidiary company) which is managed and controlled in the Republic if the sole beneficial shareholder in that company is a South African company (in this section referred to as a parent company) which is managed and controlled in the Republic.

(3) Where any allowance under this section is determinable on a portion of the adjustable cost price paid in respect of any ship, such portion shall for the purposes of this section be deemed to be an amount which bears to the portion of the cost price paid the same ratio as the adjustable cost price bears to the full cost price or, if at the time at which the allowance has to be made the cost price of the ship has not yet been determined, the estimated cost price payable in respect of such ship.”.

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18. Section 19 of the principal Act is hereby amended by the deletion in the heading to the table in subsection (3) of the words "*(as determined before the deduction of any amount under section twenty-one bis)*".

Amendment of section 19 of Act 58 of 1962, as amended by section 15 of Act 90 of 1962, section 6 of Act 6 of 1963, section 17 of Act 88 of 1965, section 17 of Act 88 of 1971 and section 14 of Act 90 of 1972.

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

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 and section 15 of Act 90 of 1972.

"(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 six hundred 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 six hundred rand the same ratio as the period assessed bears to one year."

(2) The amendments effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect from the commencement of years of assessment ending on or after 28 February 1975.

20. (1) The following section is hereby substituted for section 21*bis* of the principal Act:

Substitution of section 21*bis* of Act 58 of 1962, as inserted by section 7 of Act 6 of 1963.

"Special deduction for companies deriving income in the territory during certain years of assessment ending during 1975 calendar year

21*bis*. (1) For the purposes of this section—

'pre-transition period', in relation to any company, means the year of assessment of that company which immediately precedes the transition period of that company;

'territorial amount', in relation to any year of assessment (whether it is the transition period, the pre-transition period or any other year of assessment) of any company, means the amount which would have been determined under this Act as the taxable income derived by the company within the territory during such year, if—

- (a) as respects the income for such year derived by the company within the territory, the company had not been entitled to deduct any amount under subsection (2) or (5) or to set off any balance of assessed loss under section 20 (1) (a); and
- (b) in the case of any company not managed nor controlled in the territory, any amount derived by it during such year otherwise than in carrying on in the territory the operations of a permanent commercial, financial, industrial, mining or farming undertaking established in the territory, had not been derived by the company as income, unless the company has during the pre-transition period derived from a source within the territory income of a nature substantially similar to such amount:

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Provided that if the Secretary having regard to any circumstances which he deems relevant (whether occurring before, during or after the relevant year of assessment) is of the opinion that the territorial amount (as so determined) in respect of such year is greater than might be expected normally to have been derived by the company in respect of such year, the Secretary shall for the purposes of this section determine the territorial amount at such lesser figure as to him appears fair and reasonable, and the amount so determined by the Secretary shall be deemed to be the territorial amount derived by the company in respect of such year:

'transition period' in relation to any company, means the first year of assessment of that company ending during the period of twelve months ending on 31 December 1975.

(2) For the purpose of determining the taxable income derived within the territory by any company during its transition period, there shall, subject to the provisions of subsections (3) and (4), be allowed as a deduction from the company's income derived by it within the territory during that period an amount (not exceeding the territorial amount derived by the company during that period) determined as follows, namely—

- (a) if the company derived a territorial amount during its pre-transition period, an amount equal to the lesser of—
 - (i) an amount which bears to the territorial amount derived by the company during its transition period the same ratio as a period of eight months bears to such transition period; and
 - (ii) an amount which bears to the territorial amount derived by the company during its pre-transition period the same ratio as a period of eight months bears to such pre-transition period; or
- (b) if the company did not derive a territorial amount during its pre-transition period or during any earlier year of assessment, an amount determined as provided in paragraph (a) (i); or
- (c) if the company did not derive a territorial amount during its pre-transition period but derived a territorial amount during an earlier year of assessment, such amount as to the Secretary appears fair and reasonable; or
- (d) if the company's transition period is less than twelve months and it proves to the satisfaction of the Secretary that the income derived by it in respect of that period was substantially the same amount as it could reasonably be expected to have derived during a period of twelve months, but that the expenditure incurred by it during the transition period was substantially less than it could reasonably be expected to have incurred

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red during a period of twelve months, such amount in lieu of any other deduction under this subsection as to the Secretary appears fair and reasonable; or

- (e) if the Secretary is satisfied that the case cannot reasonably be dealt with under paragraph (a), (b), (c) or (d) by reason of the existence of special circumstances, such amount in lieu of any other deduction under this subsection as to the Secretary appears fair and reasonable.

(3) If in the case of a private company the Secretary is satisfied that but for the formation of such private company, or but for any transaction, operation or scheme (whether entered into or carried out before or after the commencement of this section, and including a transaction, operation or scheme involving the alienation of property) the territorial amount derived by such private company in respect of the relevant transition period would have been derived in whole or in part by a shareholder of such private company or by a relative of such shareholder or by a company in which such private company has been a shareholder or by a company having substantially the same shareholders as such private company, the Secretary shall, having regard *inter alia* to the amount of the deduction allowed to such shareholder, relative or company, as the case may be, under subsection (2) or under the provisions of section 22 of the Income Tax Ordinance, 1974 (Ordinance No. 5 of 1974), of the territory, reduce the amount of the deduction to be allowed to such private company under the said subsection by such amount as to the Secretary appears fair and reasonable.

(4) Where it is proved to the satisfaction of the Secretary that the territorial amount derived by a company in respect of the pre-transition period was as a result of the inclusion of non-recurrent deductions or because of other circumstances abnormally low, the Secretary may increase the amount of the deduction under paragraph (a) of subsection (2) to such amount (not exceeding the territorial amount derived by the company in respect of its transition period) as to the Secretary appears fair and reasonable.

(5) Where any company—

- (a) derived income from a source within the territory during the year of assessment under the Income Tax Ordinance, 1961, of the territory, which ended on 30 June 1968 and the company's return of income rendered under the said ordinance for such year was made up to a date falling before the said date; and
- (b) derived income from any such source during a year of assessment under this Act (hereinafter referred to as the adjustment year) which commenced immediately after the date to which the return referred to in paragraph (a) was made up,

there shall, for the purpose of determining the taxable income derived by the company within the territory during its transition year, be allowed (in addition to any deduction allowed under subsection

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(2) as a deduction from the income derived by the company within the territory during the transition year, an amount which bears to the taxable income derived by the company from sources within the territory during the adjustment year the same ratio as that portion of the adjustment year which fell before 1 July 1968 bears to the whole of the adjustment year: Provided that the deduction under this subsection shall not exceed the territorial amount derived by the company during its transition period less the amount of any deduction allowed under subsection (2).

(6) Any decision of the Secretary in the exercise of his discretion under this section shall be subject to objection and appeal.”.

(2) The amendment effected by subsection (1) shall not apply for the purposes of any law other than the principal Act.

21. (1) Section 21*ter* of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

“(7) Where the Minister has directed that the development allowance be made to an industrialist in respect of an industrial undertaking and the industrialist is a company all the issued share capital of which was, during a year of assessment in respect of which the said allowance may be made, held by one other company (hereinafter referred to as the parent company), but, by reason of the circumstances of the case, the said allowance either may not be granted to the industrialist for such year or, if such allowance is granted for such year, the amount thereof is less than the amount referred to in subsection (2) (bb), as determined in relation to the said undertaking, there shall be allowed as a deduction from the income of the parent company for the same year of assessment a development allowance in respect of the said industrial undertaking equal to such sum as the parent company may claim but not exceeding the difference between the amount referred to in subsection (2) (bb), as determined in relation to the said undertaking, and the actual amount allowed in respect of the said undertaking to the industrialist by way of the development allowance for that year: Provided that the sum of the development allowances made to the industrialist and the parent company in respect of the relevant years of assessment referred to in subsection (3) shall be limited to an amount sufficient to provide the industrialist and the parent company with a total saving in normal tax of the sum referred to in subsection (2) (bb) as applicable to the said undertaking.”.

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 and section 16 of Act 65 of 1973.

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

22. (1) Section 21*quat* of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Notwithstanding the provisions of section 23 (a) and (b), where the taxpayer suffers from any physical disability or, if he is a married person, his wife suffers from any physical disability, there shall be allowed to be deducted from his taxable income an allowance in respect of so much of the expenditure incurred during the year of assessment by the taxpayer or his wife (not being such expenditure as is referred to in section 11 or fees in respect of medical,

Amendment of section 21*quat* of Act 58 of 1962, as inserted by section 17 of Act 65 of 1973.

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dental, nursing or hospital services or amounts incurred in respect of medicines (other than medicines required in respect of a chronic physical disability) as the Secretary is satisfied was necessarily incurred by him or her in consequence of his or her physical disability, as the case may be.”.

(2) The amendment effected by subsection (1) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect from the commencement of the year of assessment ending on 28 February 1975.

23. Section 22 of the principal Act is hereby amended by the substitution for the first proviso to subsection (4) of the following proviso:

“Provided that any capitalization shares awarded by any company to shareholders of that company on or after 1 July 1957 shall have no value as trading stock in the hands of such shareholders:”.

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.

24. Section 24A of the principal Act is hereby amended by the substitution in paragraph (a) of subsection (2) for the word “bonus”, wherever it occurs, of the word “capitalization”.

Amendment of section 24A of Act 58 of 1962, as inserted by section 23 of Act 89 of 1969 and substituted by section 20 of Act 88 of 1971.

25. Section 28*bis* of the principal Act is hereby amended by the substitution in subsection (1) for the word “registered”, wherever it occurs, of the word “incorporated”.

Amendment of section 28*bis* of Act 58 of 1962, as inserted by section 19 of Act 88 of 1965 and amended by section 25 of Act 89 of 1969.

26. Section 33 of the principal Act is hereby amended by the substitution in subsection (1) for the words “company registered, managed or controlled in the Republic” of the words “domestic company”.

Amendment of section 33 of Act 58 of 1962.

27. Section 35 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words “company which is registered, managed or controlled in the Republic” of the words “domestic company”;
- (b) by the substitution in paragraph (a) of subsection (2) for the words “company which is registered, managed or controlled in the Republic” of the words “domestic company”; and
- (c) by the substitution for paragraph (ii) of the proviso to paragraph (a) of subsection (2) of the following paragraph:

“(ii) for the purposes of this subsection a person having an address outside the Republic shall until the contrary is proved be deemed to be not ordinarily resident in the Republic or, in the case of a company, to be a company which is not a domestic company;”.

Amendment of section 35 of Act 58 of 1962, as amended by section 20 of Act 90 of 1962 and section 20 of Act 65 of 1973.

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28. (1) Section 36 of the principal Act is hereby amended—
- (a) by the substitution for subsection (8) of the following subsection:
- “(8) The life of a mine shall be determined by the Government Mining Engineer, but such determination shall be subject to objection and appeal to the special court constituted under Chapter III as if it were a decision of the Secretary, and where the life of a mine, estimated and determined as aforesaid, exceeds five years or, in the case of a gold mine, four years, the allowance calculated under subsection (7D) shall, so long as the estimate exceeds such period of five years or four years, as the case may be, be calculated on a period of five years or, in the case of a gold mine, four years.”:
- (b) by the substitution for paragraph (a) of the definition of “capital expenditure” in subsection (11) of the following paragraph:
- “(a) expenditure on shaft sinking and mine equipment and, in the case of a natural oil mine, the cost of laying pipelines from the mining block to the marine terminal or the local refinery, as the case may be; and”;
- (c) by the substitution for paragraph (c) of the said definition of “capital expenditure” in subsection (11) of the following paragraph:
- “(c) in the case of any post-1973 gold mine, any post-1966 gold mine, any new gold mine, any new deep level gold mine, any other deep level gold mine or any natural oil mine, an amount calculated as nearly as may be in the manner prescribed for the calculation of the capital allowance provided for in section 26 (2) of the Mining Rights Act, 1967 (Act No. 20 of 1967), at the rate of ten per cent per annum in the case of a post-1973 gold mine or eight per cent per annum in the case of any post-1966 gold mine or six per cent per annum in the case of any new gold mine or any natural oil mine or five per cent per annum in the case of any new deep level gold mine or any other deep level gold mine on the amount of the unredeemed balance of the aggregate of—
- (i) the expenditure referred to in paragraphs (a) and (b), excluding any interest and other charges on loans referred to in paragraph (b), if the mine is a post-1973 gold mine, a post-1966 gold mine, a new gold mine, a new deep level gold mine or a natural oil mine, or the expenditure referred to in paragraph (a), if the mine is any other deep level gold mine;
 - (ii) the amount (if any) allowed to rank as capital expenditure in terms of section 37;
 - (iii) any expenditure incurred during any period of production on development on any reef on which at the date of such development stoping has not yet commenced; and
 - (iv) the amount calculated in terms of this paragraph up to the end of the year of assessment immediately preceding the year of assessment under charge,
- if the mine is a post-1973 gold mine, a post-1966 gold mine, a new gold mine, a new deep level gold mine or a natural oil mine, for the period from the end of the month in which the expenditure is actually incurred or is in terms of proviso

Amendment of section 36 of Act 58 of 1962, as amended by section 12 of Act 72 of 1963, section 15 of Act 90 of 1964, section 20 of Act 88 of 1965, section 23 of Act 55 of 1966, section 16 of Act 95 of 1967, section 14 of Act 76 of 1968, section 26 of Act 89 of 1969 and section 21 of Act 65 of 1973.

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(*dd*) to this paragraph deemed to be incurred, up to the end of the year of assessment immediately preceding the first year of assessment in respect of which the determination of the taxable income derived from the working of such mine does not result in an assessed loss, and, if the mine is any other deep level gold mine, for a period of ten years from the commencement of the year of assessment during which the mine is recognized as any other deep level gold mine: Provided that—

- (*aa*) the amount under this paragraph shall not be calculated for any period during which mining operations are not carried on in accordance with the terms of the relevant lease;
- (*bb*) notwithstanding anything to the contrary in any law contained, the amount under this paragraph shall not be taken into account for the purpose of calculating the capital allowance provided for in section 26 (2) of the Mining Rights Act, 1967, or for the purpose of determining the profits of which a share is payable to the State in terms of any mining lease;
- (*cc*) the provisions of section 26 (3) and (4) of the Mining Rights Act, 1967, shall, in so far as they can be applied, apply *mutatis mutandis* for the purpose of determining the unredeemed balance of the aggregate of the amounts referred to in subparagraphs (i) to (iv), inclusive, of this paragraph;
- (*dd*) for the purposes of subsections (3) and (3)*bis* of this section any amount calculated under this paragraph in respect of any year of assessment shall be deemed to be capital expenditure incurred on the last day of such year of assessment;
- (*ee*) the amount under this paragraph in respect of any new gold mine shall not be calculated in respect of any period occurring before 20 March 1963;
- (*ff*) in the case of any such mine which becomes an assisted gold mine, no amount shall be calculated under this paragraph in respect of any year of assessment during which the mine is an assisted gold mine;”.

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

29. Section 37 of the principal Act is hereby amended—

Amendment of
section 37 of
Act 58 of 1962.

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

“(1) For the purposes of this Act, whenever a change of ownership of a mining property occurs the new owner shall be deemed to have acquired such preliminary surveys, boreholes, shafts, development and equipment (in this section referred to as the development assets) as are included in the assets passing by such change of ownership, at a cost equal to the effective value to the new owner of the development assets at the time the change of ownership takes place, and the said cost shall be deemed to be expenditure that is incurred by the new owner during the period of assessment during which the change of ownership

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occurs and to be capital expenditure which is in respect of such period required to be taken into account for the purposes of the definition of 'capital expenditure incurred' in section 36 (11): Provided that if in a case in which consideration is given, the effective value of all the assets so passing exceeds the consideration, the amount of such cost and expenditure shall be deemed to be an amount which bears to the amount of such consideration the same ratio as such effective value of the development assets bears to the effective value to the new owner at the said time of all the assets passing.

(2) For the purposes of paragraph (j) of the definition of 'gross income' in section 1 and section 36, the person from whom ownership of any mining property is acquired in consequence of a change of ownership of that property shall be deemed to have disposed of the development assets included in the assets passing by the change of ownership for a consideration equal in value to the cost of the development assets to the new owner, as determined under subsection (1), and such consideration shall be deemed to have been received by or to have accrued to the said person at the time the change of ownership takes place."; and

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

"(4) The effective value at the time the change of ownership takes place, of all the assets passing and of the development assets included therein shall be determined by the Government Mining Engineer who shall notwithstanding the repeal of the Second Schedule to the Transvaal Mining Leases and Mineral Law Amendment Act, 1918 (Act No. 30 of 1918), for the purposes of such determination have all the powers which were conferred upon him by the provisions of that Schedule."

30. (1) Section 37A of the principal Act is hereby amended—
- (a) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
- "(b) the use or right of use in the territory of or the grant of permission to use in the territory—
- (i) any patent as defined in the Patents Act, 1952 (Act No. 37 of 1952), or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, 1965 (Act No. 63 of 1965), or any model, pattern, plan, formula or process or any other property or right of a similar nature; or
- (ii) any motion picture film, or any film or video tape or disc for use in connection with television, or any sound recording or advertising matter used or intended to be used in connection with such motion picture film, film or video tape or disc,

Amendment of section 37A of Act 58 of 1962, as inserted by section 27 of Act 89 of 1969 and amended by section 18 of Act 52 of 1970.

wheresoever such patent, design, trade mark, copyright, model, pattern, plan, formula, process, property, right, motion picture film, film, video tape or disc, sound recording or advertising matter has been produced or made or such right

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of use or permission has been granted or payment for such use, right of use or grant of permission has been made or is to be made, and whether such payment has been made or is to be made by a person resident in or outside the territory;”;

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

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

- (c) by the addition of the following subsection:

“(7) Notwithstanding anything to the contrary in this section, any taxable income of a company which is attributable to the inclusion (under the provisions of paragraph (eA) of the definition of ‘gross income’ in section 1) in the gross income of the company of the amount of any gain determined under the provisions of the Sixth Schedule shall be deemed to be taxable income derived by the company—

- (a) within the territory if the company is managed and controlled exclusively in the territory; or
(b) elsewhere than within the territory if the company is not managed and controlled exclusively within the territory.”.

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

31. Section 38 of the principal Act is hereby amended—

- (a) by the substitution in the Afrikaans version of paragraph (a) of subsection (2) for the words “gewone aandele”, in both places where they occur, of the word “ekwiteitsaandele”;
- (b) by the substitution in paragraph (b) of the said subsection for the words preceding subparagraph (i) of the following words:
“(b) any other company, not being a private company as defined in section 20 of the Companies Act, 1973 (Act No. 61 of 1973) (as in force on 1 January 1974), in respect of which the Secretary is satisfied —”; and
- (c) by the substitution in the Afrikaans version of subparagraph (i) of the said paragraph (b) of the said subsection for the words “gewone aandele” of the word “ekwiteitsaandele”.

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 and section 28 of Act 89 of 1969.

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32. Section 42 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (iii) of subsection (1) of the following paragraph:
“(iii) a company which is not a South African company and is not carrying on business in the Republic; or”; and
- (b) by the substitution in paragraph (a) of subsection (2) for the words “not registered nor” of the words “which is not a South African company and is not” and by the substitution in that paragraph for the word “bonus” of the word “capitalization”.
- 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 and section 22 of Act 65 of 1973.
33. Section 48 of the principal Act is hereby amended—
- (a) by the substitution in paragraph (a) of subsection (1) for the words “registered or” of the words “which is a South African company or is”; and
- (b) by the substitution in paragraph (b) of the said subsection for the words “registered or” of the words “which is a South African company or is”.
- Amendment of section 48 of Act 58 of 1962, as substituted by section 30 of Act 89 of 1969 and amended by section 23 of Act 65 of 1973.
34. (1) Section 49 of the principal Act is hereby amended by the substitution for the definition of “paid-up capital” of the following definition:
- “‘paid-up capital’ (except where that expression is used in paragraph (a) of subsection (2) of section 52), in relation to any company, means the amount of the paid-up capital (including any share premium account) of that company, reduced as provided in the said paragraph and reduced by—
- (a) so much of the nominal value (at the time of issue) of any capitalization shares awarded on or before 31 December 1973 as did not rank as a dividend in terms of paragraph (g) or (h) of the definition of ‘dividend’ in section 1 or the corresponding provisions of any previous Income Tax Act; and
- (b) any amounts deemed by the second proviso to the said definition to be profits available for distribution by the company;”.
- Amendment of section 49 of Act 58 of 1962, as amended by section 22 of Act 90 of 1962, section 9 of Act 6 of 1963, section 17 of Act 90 of 1964, section 31 of Act 89 of 1969, section 24 of Act 88 of 1971 and section 24 of Act 65 of 1973.
- (2) The amendment effected by subsection (1) shall, for the purposes of assessments in respect of, and determinations of, undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1975.
35. (1) Section 50 of the principal Act is hereby amended—
- (a) by the insertion after paragraph (aA) of the following paragraph:
“(aB) any association incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), or deemed by that section so to have been incorporated;”;
- (b) by the substitution for paragraphs (d), (e) and (f) of the following paragraphs:
“(d) any company which satisfies the Secretary that shares representing not less than fifty per cent of its equity share capital were throughout the specified period held by one or more persons (other
- Amendment of section 50 of Act 58 of 1962, as amended by section 23 of Act 90 of 1962, section 19 of Act 95 of 1967, section 32 of Act 89 of 1969, section 25 of Act 88 of 1971 and section 25 of Act 65 of 1973.

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than companies) not ordinarily resident nor carrying on business in the Republic, or by one or more companies which are not South African companies and derive the greater portion of their profits for the year of assessment in question from sources not within or deemed to be within the Republic or by one or more such persons (other than companies) and one or more such companies: Provided that where any of the said shares were held by any private company (being a company deriving the greater portion of its profits for the year of assessment in question from sources within or deemed to be within the Republic) and the Secretary is satisfied that more than fifty per cent of the equity share capital of such private company was throughout the specified period held by one or more persons (other than companies) not ordinarily resident nor carrying on business in the Republic, whether directly or indirectly, through one or more private companies controlled by such persons, for the ultimate benefit of such persons, each of the said persons shall, for the purposes of this paragraph, be deemed to have held such portion of the said shares as is proved to the satisfaction of the Secretary to be represented by such person's direct or indirect interest in the said equity share capital: Provided further that for the purpose of determining the portion of its profits which has been derived by any company from sources within or deemed to be within the Republic for any year of assessment there shall be included in the profits derived by such company from sources within or deemed to be within the Republic as well as in the profits derived by it from all sources during such year of assessment the amount, if any, by which the dividends received by or accrued to such company during such year of assessment from any South African company are less than the dividends which would have been received by or would have accrued to such first-mentioned company from such South African company if the latter had distributed by way of dividends during such year of assessment an amount equal to not less than thirty per cent of its total net profits for the said year of assessment;

- (e) any company (other than a South African company) which carries on business in the Republic and satisfies the Secretary that not more than fifty per cent of its total net profits for the year of assessment in question was derived from sources within or deemed to be within the Republic;
- (f) any company (other than a company whose total net profits are derived solely or mainly from dividends) which satisfies the Secretary that the amount arrived at by deducting from the company's accumulated profits (being the sum of all its reserves (excluding any share premium account) and balance of profits unappropriated as at the specified date, together with an amount equal to so much of the nominal value of any capitalization shares (at the time of issue thereof) awarded to shareholders on or after 1 July 1957 and on or

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before 31 December 1973 as did not rank as a dividend in terms of paragraph (g) or (h) of the definition of 'dividend' in section 1 or the corresponding provisions of any previous Income Tax Act and any amounts deemed by the second proviso to the said definition to be profits available for distribution by the company), the sum of the dividends distributed by such company during the last six months of the specified period and the taxes on income (excluding undistributed profits tax) payable by such company in respect of all amounts included in its total net profits for the year of assessment in question did not exceed the greater of the following amounts, namely—

- (i) fifty thousand rand; or
 - (ii) forty per cent of such company's paid-up capital as at the specified date;";
- (c) by the substitution for paragraph (g) of the following paragraph:
- “(g) any company (other than a company whose total net profits are derived solely or mainly from dividends) whose total net profits for the year of assessment in question did not exceed five per cent of its paid-up capital as at the specified date;”; and
- (d) by the substitution in the Afrikaans version of paragraph (i) for the words “gewone aandeel”, in both places where they occur, of the word “ekwiteitsaandeel”.

(2) The amendments effected by subsection (1) shall, for the purposes of assessments in respect of, and determinations of, undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1975.

36. (1) Section 52 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: Amendment of section 52 of Act 58 of 1962, as amended by section 24 of Act 90 of 1962.
- “(1) The liability for undistributed profits tax for any year of assessment of any company (other than a South African company) which carries on business in the Republic shall be determined as if—”;
- (b) by the substitution for paragraph (b) of the said subsection of the following paragraph:
- “(b) the accumulated profits of the company contemplated in section 50 (f) consisted only of so much of the amounts included therein as in the opinion of the Secretary is attributable to the company's business in the Republic;”; and
- (c) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
- “(a) If any company has received as consideration for the issue by it of any share in such company an asset other than cash and the Secretary considers that the fair value of such asset as at the date of the issue of the share was less than the amount accounted for as share capital and any share premium in respect of such share, the paid-up capital (including any share premium account) of such company shall for the purposes of this Part be reduced by the amount by which in the

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opinion of the Secretary the amount so accounted for exceeded the fair value of such asset as at the said date.”

(2) The amendments effected by subsection (1) shall, for the purposes of assessments in respect of, and determinations of, undistributed profits tax under the principal Act, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1975.

37. Section 54 of the principal Act is hereby amended by the substitution for the words “registered, managed or controlled in the Republic” of the words “a domestic company”. Amendment of section 54 of Act 58 of 1962.

38. Section 56 of the principal Act is hereby amended— Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964, section 25 of Act 55 of 1966 and section 33 of Act 89 of 1969.

(a) by the substitution in subparagraph (i) of paragraph (g) of subsection (1) for the words “was, in the case of a company, for the first time registered, managed or controlled in the Republic” of the words “or, in the case of a company, became for the first time, a domestic company”;

(b) by the substitution for paragraph (h) of the said subsection of the following paragraph:
“(h) by or to any person (including any government) referred to in paragraph (a), (b), (cA), (cB), (cC), (cD), (d) or (e) of subsection (1) of section 10;”;

(c) by the addition to the said subsection of the following paragraph:
“(o) by any Bantu as defined in section 1 of the Bantu Taxation Act, 1969 (Act No. 92 of 1969).”

39. Section 60 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 60 of Act 58 of 1962.

“(1) Donations tax shall be payable within three months or such longer period as the Secretary may allow from the date upon which the donation in question takes effect and shall be paid to the receiver of revenue for the district within which the donor (in the case of any person other than a company) is ordinarily resident or (in the case of any company) has its registered office or principal place of business.”

40. Section 64A of the principal Act is hereby amended— Amendment of section 64A of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967 and substituted by section 34 of Act 89 of 1969.

(a) by the substitution for subparagraph (iii) of paragraph (b) of the following subparagraph:
“(iii) a company which is not a South African company;”;

(b) by the substitution for paragraph (c) of the following paragraph:
“(c) any amount of interest accruing on or after 1 April 1969 to or in favour of any company which is not a South African company, if the debtor in respect of such amount is a company which is ordinarily resident or carries on business in the territory.”

41. Section 64B of the principal Act is hereby amended— Amendment of section 64B of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967 and substituted by section 35 of Act 89 of 1969 and amended by section 20 of Act 52 of 1970 and section 19 of Act 90 of 1972.

(a) by the substitution for subparagraph (ii) of paragraph (dA) of the following subparagraph:
“(ii) it is a South African company and is not managed nor controlled in the territory;”;

(b) by the substitution for paragraph (e) of the following paragraph:
“(e) where the debtor in respect of any amount of interest referred to in section 64A (c) is a company, such company shall be deemed to be ordinarily resident in the territory if it is managed and controlled in the territory;”

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42. (1) Section 64C of the principal Act is hereby amended—
- (a) by the substitution for paragraph (i) of the proviso to paragraph (fA) of the following paragraph:
 “(i) in respect of any such dividend the rate of which exceeds seven and a half per cent per annum; or”;
 and
- (b) by the substitution for subparagraph (i) of paragraph (k) of the following subparagraph:
 “(i) the loan will be used for long-term industrial or mining development in the Republic (including the territory);”.
- (2) The amendment effected by subsection (1) (a) shall be deemed to have taken effect on 7 June 1974 and the amendment effected by subsection (1) (b) shall be deemed to have taken effect on 16 July 1971.

Amendment of section 64C of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967 and amended by section 15 of Act 76 of 1968, section 36 of Act 89 of 1969, section 21 of Act 52 of 1970, section 26 of Act 88 of 1971 and section 20 of Act 90 of 1972.

43. Section 70 of the principal Act is hereby amended—
- (a) by the substitution for subsections (1) and (2) of the following subsections:
 “(1) Where, during any period of twelve months ending on the last day of February in any year, any interest has become due by any company upon or in respect of debentures, debenture stock, loans or advances, the company shall, within thirty days after the end of such period or within such further period as the Secretary may allow, furnish the Secretary with a return giving the full name and address of each person to whom such interest became due and the amount of such interest.
 (2) Where, during any period of twelve months ending on the last day of February in any year, any cash or any asset the amount or value of which in whole or part constitutes a dividend as defined in section 1, is given to shareholders in any company or a company distributes to shareholders any amount which constitutes a dividend so defined, whether by way of an award of capitalization shares or bonus debentures or securities or otherwise, the company concerned shall, within thirty days after the end of the said period, or within such further period as the Secretary may allow, furnish the Secretary with a return giving the full name and address of each shareholder and the amount of the dividend accruing to such shareholder.”; and
- (b) by the insertion after subsection (2) of the following subsections:
 “(3) Every company which has after 31 December 1973 transferred from its reserves (excluding any share premium account) or unappropriated profits to its share capital or share premium account any amount which is in whole or part deemed by the second proviso to the definition of ‘dividend’ in section 1 to be a profit available for distribution to shareholders of the company, shall, when rendering the annual return of the company’s income, furnish the Secretary with a statement (which may be included in the accounts or statements accompanying such return) showing the profits of a capital nature and those not of a capital nature so deemed to be available for distribution on the last day of the year of assessment in question.
 (3A) Where any cash or any asset is given to any shareholder of a company in consequence of the winding-up, liquidation or reconstruction of the

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

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company or the partial reduction of its share capital, and the amount of such cash or the value of such asset or a portion of such amount or value constitutes a dividend as defined in section 1, 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.

(3B) Within thirty days after the date of an advice by the Secretary of the amount of any dividend determined by him as contemplated in subsection (3A) or within such further period as the Secretary may approve, the company shall, on the basis of the Secretary's determination, calculate the amount accruing to each shareholder by way of such dividend and notify the shareholder accordingly."

44. The following section is hereby substituted for section 88 of the principal Act:

"Payment of tax pending appeal.

88. The obligation to pay and the right to receive and recover any tax chargeable under this Act (including any additional charge levied under section 76 as applied by section 110*bis*) or any tax on persons or the incomes of persons levied by any provincial council shall not, unless the Secretary so directs, be suspended by any appeal or pending the decision of a court of law under section 86, but if any assessment is altered on appeal or in conformity with any such decision a due adjustment shall be made, amounts paid in excess being refunded with interest at the rate of seven and a half per cent per annum calculated from the date proved to the satisfaction of the Secretary to be the date on which such excess was received and amounts short-paid being recoverable with interest calculated as provided in section 89."

Substitution of section 88 of Act 58 of 1962, as amended by section 12 of Act 6 of 1963.

45. Section 89*bis* of the principal Act is hereby amended—

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

"(1) Payments by way of employees tax and provisional tax shall be made in accordance with the provisions of the Fourth Schedule and shall be made at such place as may be notified by the Secretary, and any such payments which relate to a taxpayer shall, for the purposes of this Act and subject to the provisions of paragraphs 28 and 28A of the said Schedule, be deemed to have been made in respect of his liability for taxes as defined in subsection (3), whether or not such liability has been ascertained or determined at the date of any payment."; and

Amendment of section 89*bis* of Act 58 of 1962, as inserted by section 14 of Act 6 of 1963 and amended by section 21 of Act 95 of 1967 and section 28 of Act 88 of 1971.

(b) by the addition of the following subsection:

"(3) For the purposes of this section 'taxes' means the taxes comprehended in the definition of 'tax' in section 1, excluding—

(a) non-resident shareholders tax, undistributed profits tax, excess profits duty, donations tax and non-residents tax on interest;

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- (b) any tax on persons levied by any provincial council and payable by any person who is not an income tax payer in terms of section 110bis.”.

46. The following section is hereby inserted in the principal Act after section 89ter: Insertion of section 89quat in Act 58 of 1962.

“Accounts and recovery proceedings in respect of normal tax payable and recoverable as provided in section 94A.

89quat. (1) Where any amounts of tax (as defined in subsection (3)) are owing by any company in respect of more than one year of assessment, the Secretary shall not be required to maintain a separate account in respect of each year of assessment, but may maintain one tax account for the company recording details of the assessed amounts of such tax and the interest payable in respect of such taxes in terms of section 89 (2) for which the company has from time to time become liable, the amounts of the payments made in respect of such amounts of tax or interest (excluding payments by way of provisional tax in terms of the Fourth Schedule), any credit in respect of any amount of provisional tax which the company is under that Schedule entitled to have set off against his liability for such amounts of tax and such other details as may be required to establish the total amount owing by the company from time to time in respect of such amounts of tax or interest, and any such payment or credit shall be deemed to have been made or to have accrued in respect of the total amount reflected in such tax account as owing by the company at the time such payment is made or such credit is passed.

(2) The total amount owing by the company (after the deduction of the relevant payments or other credits) in respect of tax as defined in subsection (3) and interest in respect of such tax payable by the company in terms of section 89 shall for the purposes of any proceedings for recovery (including proceedings under section 91) be deemed to be a debt due to the State, and in any such proceedings the Secretary shall not be required to furnish particulars of the amount claimed: Provided that the Secretary shall at the request of the company furnish the company with copies of any notices of assessments relating to the company which the company may require.

(3) For the purposes of this section ‘tax’ means the normal tax payable and recoverable as provided in section 94A.”.

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

- (a) by the substitution for the definition of “Bantu person” of the following definition:

“‘Bantu person’ means a Bantu as defined in section 1 of the Bantu Taxation Act, 1969 (Act No. 92 of 1969);”;

- (b) by the substitution for paragraph (b) of the definition of “provisional taxpayer” of the following paragraph:

“(b) unless the Secretary in the particular case otherwise directs, any director of a private company if such director is ordinarily resident in the Republic

Amendment of paragraph 1 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970 and section 37 of Act 88 of 1971.

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or such company is managed and controlled or has its registered office in the Republic;"; and

(c) by the substitution for paragraphs (ii) and (iii) of the definition of "remuneration" of the following paragraphs:

"(ii) any amount paid or payable in respect of services rendered or to be rendered by any person (other than a person who is not ordinarily resident in the Republic) in the course of any trade carried on by him independently of the person by whom such amount is paid or payable and of the person to whom such services have been or are to be rendered: Provided that for the purposes of this paragraph a person shall not be deemed to carry on a trade independently as aforesaid—

(aa) if he is subject to the control or supervision of any other person as to the manner in which his duties are performed or to be performed or as to his hours of work; or

(bb) if the amounts paid or payable for his services consist of or include earnings of any description which are payable at regular daily, weekly, monthly or other intervals;

(iii) any pension or additional pension under the Aged Persons Act, 1967 (Act No. 81 of 1967), or the Blind Persons Act, 1968 (Act No. 26 of 1968), any disability grant or additional or supplementary allowance under the Disability Grants Act, 1968 (Act No. 27 of 1968), or any grant or contribution under the provisions of section 89 of the Children's Act, 1960 (Act No. 33 of 1960);".

(2) The amendments effected by subsection (1) shall take effect on the date of promulgation of this Act.

48. Paragraph 2 of the Fourth Schedule to the principal Act is hereby amended by the substitution for subparagraph (4) of the following subparagraph:

"(4) Any amount required to be deducted or withheld from any amount of remuneration under this Schedule by way of employees' tax shall be calculated on the balance of such amount of remuneration remaining after deducting any current contribution by the employee concerned to any pension fund or retirement annuity fund (excluding so much of such contribution to a pension fund not established by law or for the benefit of employees of any local authority as exceeds an amount sufficient to restrict the aggregate of the deductions under this subparagraph in respect of the current contributions of the employee concerned to such pension fund during the year of assessment to an amount equal to the maximum amount which that employee is entitled to deduct from his income for that year under the provisions of section 11 (k) of this Act, and excluding so much of such contribution to a retirement annuity fund as, taken together with any current contribution to any pension fund deducted as aforesaid, exceeds an amount sufficient to restrict the aggregate of the deductions under this subparagraph in respect of the current contributions of the employee concerned to such retirement annuity fund during the year of assessment to an amount

Amendment of paragraph 2 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966 and section 38 of Act 88 of 1971.

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equal to the maximum amount which that employee is entitled to deduct from his income for that year under the provisions of section 11 (n) of this Act) which is calculated with reference to such amount of remuneration or to a portion of that amount or to the period in respect of which the amount of remuneration is paid or payable and which the employer is *vis-à-vis* the employee concerned, entitled or required to deduct or withhold from such amount of remuneration.”.

49. (1) Paragraph 18 of the Fourth Schedule to the principal Act is hereby amended by the deletion of item (d) of subparagraph (1).

(2) The amendment effected by subsection (1) shall take effect on 1 April 1975.

Amendment of paragraph 18 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 28 of Act 90 of 1964 and section 42 of Act 88 of 1971.

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

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

“(1) (a) Every provisional taxpayer (other than a company) shall, during every period within which provisional tax is or may be payable by him as provided in this Part, or any extension of such period granted in terms of paragraph 25 (2), submit to the Secretary, in such form as the Secretary may prescribe, an estimate of the total taxable income which will be derived by the taxpayer in respect of the year of assessment in respect of which provisional tax is or may be payable by him.

Amendment of paragraph 19 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 28 of Act 88 of 1965, section 46 of Act 89 of 1969 and section 43 of Act 88 of 1971.

(b) Every company which is a provisional taxpayer shall, during every period within which provisional tax is or may be payable by it as provided in this Part or any extension of such period granted in terms of paragraph 25 (2), submit to the Secretary, in such form as the Secretary may prescribe, separate estimates of—

(i) the total taxable income which will be derived by the company elsewhere than within the territory in respect of the year of assessment in respect of which provisional tax is or may be payable by the company; and

(ii) the total taxable income which will be derived by the company within the territory in respect of the said year of assessment:

Provided that a company which has not during the relevant period derived income elsewhere than within the territory shall not be required to submit an estimate under subitem (i) unless the company has in respect of the year of assessment immediately preceding the aforesaid year of assessment derived income elsewhere than within the territory or it has been requested by the Secretary to submit such estimate, and a company which has not during the relevant period derived income within the territory shall not be required to submit an estimate under subitem (ii) unless the company has in respect of the said preceding year of assessment derived income within the territory or

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it has been requested by the Secretary to submit such estimate.

- (c) The amount of any estimate so submitted by a provisional taxpayer (other than a company) during the period referred to in paragraph 21 (1) (a) or any extension of such period granted in terms of paragraph 25 (2), or by a company (as a provisional taxpayer) during the period referred to in paragraph 23 (a) (i) or 23 (b) (i) or any extension of such period granted in terms of paragraph 25 (2), shall, unless the Secretary, having regard to the circumstances of the case, agrees to accept an estimate of a lower amount, not be less than the basic amount applicable to the estimate in question, as contemplated in item (d).
- (d) The basic amount applicable to any estimate submitted by a provisional taxpayer under this paragraph shall, for the purposes of this paragraph and paragraph 20, be deemed to be—
- (i) as respects an estimate submitted by a provisional taxpayer (other than a company) under item (a), the taxpayers' taxable income, as assessed by the Secretary, for the latest preceding year of assessment in relation to such estimate;
- (ii) as respects an estimate submitted by a company under item (b) (i), the company's taxable income derived elsewhere than within the territory, as assessed by the Secretary, for the latest preceding year of assessment in relation to such estimate; or
- (iii) as respects an estimate submitted by a company under item (b) (ii), the company's taxable income derived within the territory, as assessed by the Secretary, for the latest preceding year of assessment in relation to such estimate: Provided that—
- (aa) where such estimate is made in respect of a year of assessment which is a transition period as defined in section 21*bis* of this Act, the basic amount applicable to that estimate shall be deemed to be an amount equal to one-third of the said taxable income or such lower amount as the Secretary, having regard to the circumstances of the case, deems to be reasonable;
- (bb) where the latest preceding year of assessment in relation to such estimate is a transition period as defined in section 21*bis* of this Act, the basic amount applicable to such estimate shall be deemed to be the sum of the said taxable income and the amounts of any deductions allowed under the said section in the determination of such taxable income.
- (e) For the purposes of item (d), the latest preceding year of assessment in relation to any estimate under this paragraph shall be deemed to be the latest of the years of assessment—

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- (i) preceding the year of assessment in respect of which the estimate is made; and
 - (ii) in respect of which a notice of assessment relevant to the estimate has been issued by the Secretary not less than fourteen days before the date on which the estimate is submitted to the Secretary.”;
- (b) by the substitution for subparagraph (2) of the following subparagraph:
- “(2) If any provisional taxpayer fails to submit any estimate as required by subparagraph (1), the Secretary may estimate the taxable income which is required to be estimated, and such estimate shall be final and conclusive.”; and
- (c) by the deletion of subparagraph (4).
- (2) The amendments effected by subsection (1) shall take effect on 1 April 1975.

51. (1) Paragraph 20 of the Fourth Schedule to the principal Act is hereby amended—

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

“(1) If the final or last estimate of his taxable income made in terms of item (a) of subparagraph (1) of paragraph 19 or subitem (i) of item (c) of that subparagraph or subitem (ii) of the said item (c), by a provisional taxpayer in respect of any year of assessment discloses an estimated amount of taxable income which is less than ninety per cent of the amount of the actual taxable income in respect of which the estimate was made, as finally determined for that year under this Act, and which is also less than the basic amount applicable to the estimate in question, as contemplated in paragraph 19 (1) (d), the taxpayer shall, subject to the provisions of subparagraphs (2), (3) and (4), be required to pay to the Secretary, in addition to the normal tax chargeable in respect of his taxable income for such year of assessment, an amount by way of additional tax equal to twenty per cent of the difference between the amount of normal tax as calculated in respect of the amount of taxable income as so disclosed and the lesser of the following amounts, namely—

- (a) the amount of normal tax calculated, at the rates applicable in respect of the said year of assessment, in respect of a taxable income equal to ninety per cent of the said actual taxable income; and
 - (b) the amount of normal tax calculated in respect of a taxable income equal to the said basic amount, at the rates applicable in respect of that year.”;
- (b) by the deletion of subparagraph (1A); and
- (c) by the substitution for subparagraphs (2) and (3) of the following subparagraphs:

“(2) Where the Secretary is satisfied that the amount of any estimate referred to in subparagraph (1) was not deliberately or negligently understated and was seriously calculated with due regard to the factors having a bearing thereon, or if the Secretary is partly so satisfied, the Secretary may in his discretion remit the additional tax or a part thereof.

(3) The provisions of subparagraph (1) of this paragraph shall not apply in relation to any final or last estimate referred to in that subparagraph if the Secretary has under the provisions of subparagraph (3) of paragraph 19, increased such final or last estimate.”.

Amendment of paragraph 20 of 4th 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 and section 44 of Act 88 of 1971.

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(2) The amendments effected by subsection (1) shall take effect on 1 April 1975.

52. (1) Paragraph 20A of the Fourth Schedule to the principal Act is hereby amended by the substitution for subparagraph (1) of the following subparagraph: Amendment of paragraph 20A of 4th Schedule to Act 58 of 1962, as inserted by section 25 of Act 25 of 1970 and amended by section 45 of Act 88 of 1971.

“(1) Subject to the provisions of subparagraphs (2) and (3), where any provisional taxpayer is liable for the payment of normal tax in respect of any amount of taxable income derived by him during any year of assessment and he has not on or before the last day of that year or, if the period for the final or last payment of provisional tax by him in respect of such taxable income has under paragraph 25 (2) been extended to a date later than the end of such year, on or before such date, submitted to the Secretary an estimate of such taxable income as required under paragraph 19 (1), the taxpayer shall, unless the Secretary has estimated the said taxable income under paragraph 19 (2), be required to pay to the Secretary, in addition to the normal tax chargeable in respect of such taxable income, an amount by way of additional tax equal to twenty per cent of the amount by which the normal tax payable by him in respect of such taxable income exceeds the sum of any amounts of provisional tax paid by him in respect of such taxable income within any period allowed for the payment of such provisional tax under this Part or within any extension of such period under paragraph 25 (2) and any amounts of employees tax deducted or withheld from his remuneration by his employer during such year.”

(2) The amendment effected by subsection (1) shall take effect on 1 April 1975.

53. (1) The following paragraph is hereby substituted for paragraph 23 of the Fourth Schedule to the principal Act: Substitution of paragraph 23 of 4th Schedule to Act 58 of 1962, as substituted by section 30 of Act 88 of 1965.

“PROVISIONAL TAX PAYMENTS BY COMPANIES.

23. Provisional tax shall be paid by every company which is a provisional taxpayer in the following manner, namely—

- (a) in respect of the liability of the company for normal tax on taxable income derived elsewhere than within the territory—
 - (i) within six months of the commencement of the year of assessment in question, one half of an amount equal to the total estimated liability of such company (as determined in accordance with paragraph 17) for normal tax in respect of that year on taxable income so derived; and
 - (ii) not later than the last day of the year of assessment in question, an amount equal to the total estimated liability of such company (as finally determined in accordance with paragraph 17) for normal tax in respect of that year on taxable income so derived, less the amount paid in terms of subitem (i) of this item; and
- (b) in respect of the liability of the company for normal tax on taxable income derived within the territory—
 - (i) within six months of the commencement of the year of assessment in question, one half of an amount equal to the total estimated liability of such company (as determined in accordance with paragraph 17) for normal tax in respect of that year on taxable income so derived; and

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- (ii) not later than the last day of the year of assessment in question, an amount equal to the total estimated liability (as finally determined in accordance with paragraph 17) for normal tax in respect of that year on taxable income so derived, less the amount paid in terms of subitem (i) of this item.”.

(2) The amendment effected by subsection (1) shall take effect on 1 April 1975.

54. The following paragraph is hereby substituted for paragraph 24 of the Fourth Schedule to the principal Act:

“24. The Secretary may absolve any provisional taxpayer from making payment of any amount of provisional tax payable in terms of paragraph 21 (1) (a) or paragraph 22 or paragraph 23 (a) (i) or paragraph 23 (b) (i), if he is satisfied that the taxable income which may be derived by such taxpayer for the year of assessment in question cannot be estimated on the facts available at the time when payment of the amount in question has to be made.”.

Substitution of paragraph 24 of 4th Schedule to Act 58 of 1962, as substituted by section 30 of Act 88 of 1965.

55. (1) Paragraph 28 of the Fourth Schedule to the principal Act and the heading immediately preceding that paragraph are hereby amended by the substitution for the said heading and subparagraphs (1) and (1)*bis* of the said paragraph of the following heading and subparagraphs:

“SET-OFF OF EMPLOYEES’ TAX AND CERTAIN PROVISIONAL TAX AGAINST TAX LIABILITY OF PERSONS (OTHER THAN COMPANIES) AND OF COMPANIES DERIVING INCOME ELSEWHERE THAN IN THE TERRITORY.

Amendment of paragraph 28 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 29 of Act 90 of 1964, section 30 of Act 95 of 1967, section 48 of Act 89 of 1969, section 48 of Act 88 of 1971 and section 23 of Act 90 of 1972.

(1) There shall be set off against the liability of the taxpayer in respect of any taxes (as defined in subparagraph (8)) due by the taxpayer, the amounts of employees’ tax deducted or withheld by the taxpayer’s employer during any year of assessment for which the taxpayer’s liability for normal tax has been assessed by the Secretary and the amounts of provisional tax paid by the taxpayer (excluding provisional tax paid under paragraph 23 (b)), and—

- (a) if, in the case of a taxpayer who is not a provisional taxpayer, the sum of the said amounts of employees’ tax exceeds the amount of the taxpayer’s total liability for the said taxes, the excess amount shall be refunded to the taxpayer;
- (b) if, in the case of any provisional taxpayer, the sum of the said amounts of employees’ tax and provisional tax exceeds the taxpayer’s total liability for the said taxes, the Secretary shall not be required to make any refund of the excess amount (or any portion thereof) standing to the taxpayer’s credit unless the Secretary is satisfied, having regard to the circumstances of the case, that a refund of such excess amount (or a portion thereof) is warranted, and any amount (after the deduction of any amount refunded to the taxpayer) standing to the taxpayer’s credit shall be set off against the taxpayer’s liability for any of the said taxes for which he is subsequently assessed by the Secretary or may be set off in whole or in part against any amount

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of provisional tax (excluding provisional tax payable under paragraph 23 (b)) which the taxpayer is required to pay under this Schedule; and

- (c) if, in the case of any taxpayer, the taxpayer's total liability for the aforesaid taxes exceeds the sum of the said amounts of employees' tax and provisional tax, the amount of the excess shall be payable by the taxpayer to the Secretary.

(1)*bis* The provisions of subparagraph (1) shall not be construed as requiring any amount of provisional tax paid in respect of any year of assessment to be set off against any liability of the taxpayer before the taxpayer's liability for normal tax (disregarding normal tax payable and recoverable as provided in section 94A of this Act) in respect of that year is determined by the Secretary or, where such last-mentioned liability has not been determined by the Secretary, before the expiration of a period determined by the Secretary."

(2) The amendment effected by subsection (1) shall take effect on 1 April 1975.

56. (1) The following heading and paragraph are hereby inserted in the Fourth Schedule to the principal Act after paragraph 28:

Insertion of paragraph 28A in 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963.

"SET-OFF OF CERTAIN PROVISIONAL TAX PAYMENTS AGAINST TAX LIABILITY OF COMPANIES DERIVING INCOME IN THE TERRITORY.

28A. (1) There shall be set off against the liability of any company for normal tax payable and recoverable as provided in section 94A of this Act which is due by the company, the amounts of provisional tax paid by the company under paragraph 23 (b) of this Schedule, and—

- (a) if the sum of the said amounts of provisional tax exceeds the company's total liability for such normal tax, the Secretary shall not be required to make any refund of the excess amount (or any portion thereof) standing to the company's credit unless the Secretary is satisfied, having regard to the circumstances of the case, that a refund of the excess amount (or a portion thereof) is warranted, and any amount (after the deduction of any amount refunded to the company) standing to the company's credit shall be set off against the company's liability for any normal tax payable and recoverable as provided in the said section, for which it is subsequently assessed by the Secretary or may be set off in whole or in part against any amount of provisional tax which the company is required to pay under paragraph 23 (b) of this Schedule; and
- (b) if the company's total liability for such normal tax exceeds the sum of the said amounts of provisional tax, the amount of the excess shall be payable by the company to the Secretary.

(2) The provisions of subparagraph (1) shall not be construed as requiring any amount of provisional tax paid in respect of any year of assessment to be set off against any liability of the taxpayer before the taxpayer's liability for normal tax payable and recoverable as provided in section

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94A of this Act is determined by the Secretary in respect of that year or, where such last-mentioned liability has not been determined by the Secretary, before the expiration of a period determined by the Secretary.

(3) If the Secretary, purporting to act under the provisions of this paragraph, pays to any person by way of a refund any amount which was not properly payable to that person under those provisions or which was in excess of the amount due to such person by way of a refund under those provisions, such amount or the excess, as the case may be, shall forthwith be repaid by the person concerned to the Secretary and shall be recoverable by the Secretary under this Act as if it were a tax.”.

(2) The amendment effected by subsection (1) shall take effect on 1 April 1975.

57. The following paragraph is hereby substituted for paragraph 29 of the Fourth Schedule to the principal Act:

“29. No refund of any amount of employees’ tax or provisional tax shall be made to the taxpayer concerned otherwise than as provided in paragraph 28 or 28A.”.

Substitution of paragraph 29 of 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963.

58. Paragraph 2 of the Fifth Schedule to the principal Act is hereby amended by the substitution for subparagraph (3) of the following subparagraph:

“(3) Any person (other than a company) who is not ordinarily resident and is not carrying on business in the Republic and any company which is not a South African company and is not carrying on business in the Republic, shall not be liable for the payment of any loan portion: Provided that any person (other than a company) who proves to the satisfaction of the Secretary that his business operations in the Republic are of a temporary and non-recurrent nature shall for the purposes of this paragraph not be deemed to be carrying on business in the Republic.”.

Amendment of paragraph 2 of 5th Schedule to Act 58 of 1962, as added by section 26 of Act 52 of 1970 and amended by section 50 of Act 88 of 1971 and section 24 of Act 90 of 1972.

59. (1) Paragraph 4 of the Fifth Schedule to the principal Act is hereby amended by the substitution for subparagraph (3) of the following subparagraph:

“(3) The amounts repayable under the provisions of paragraph 6 or set off under the provisions of paragraph 8A shall be charged to the said loan account.”.

(2) The amendment effected by subsection (1) shall be deemed to have taken effect on 1 April 1972.

Amendment of paragraph 4 of 5th Schedule to Act 58 of 1962, as added by section 26 of Act 52 of 1970 and amended by section 25 of Act 90 of 1972.

60. Paragraph 6 of the Fifth Schedule to the principal Act is hereby amended by the addition of the following further proviso:

“Provided further that the Secretary may, before the date so determined, repay to any person who is a Bantu as defined in section 1 of the Bantu Taxation Act, 1969 (Act No. 92 of 1969), any amounts paid by such person in respect of such loan portion, together with simple interest determined as hereinafter provided.”.

Amendment of paragraph 6 of 5th Schedule to Act 58 of 1962, as added by section 26 of Act 52 of 1970 and amended by section 26 of Act 90 of 1972.

61. The following paragraph is hereby substituted for paragraph 7 of the Fifth Schedule to the principal Act:

“7. Where any loan portion is repaid as provided in paragraph 6, simple interest at the rate of five per cent per annum shall be paid for the period from the date on which such loan portion is paid to the date determined by the Minister of Finance under paragraph 6 or, if repayment is made under the second or third proviso to that paragraph,

Amendment of paragraph 7 of 5th Schedule to Act 58 of 1962, as added by section 26 of Act 52 of 1970.

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the date of repayment, but such interest shall not be payable until such time as the loan portion is repaid to the person concerned.”.

62. Paragraph 8 of the Fifth Schedule to the principal Act is hereby amended by the substitution in item (b) of subparagraph (2) for the expression “23 (a)” of the expression “23 (a) (i) or 23 (b) (i).”.

Amendment of paragraph 8 of 5th Schedule to Act 58 of 1962, as added by section 26 of Act 52 of 1970 and amended by section 51 of Act 88 of 1971.

63. Paragraph 6 of the Sixth Schedule to the principal Act is hereby amended by the substitution in item (a) of subparagraph (1) for the words “registered, managed or controlled in the Republic” of the words “a domestic company”.

Amendment of paragraph 6 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972 and amended by section 31 of Act 65 of 1973.

64. (1) Paragraph 9 of the Sixth Schedule to the principal Act is hereby amended by the addition of the following proviso:

Amendment of paragraph 9 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

“Provided that, except in the case of any gain determined in accordance with the said provisions in respect of any insurance benefit which becomes payable under any policy the proposal for which was made and accepted in writing on or before 14 August 1974, the foregoing provisions of this paragraph shall apply only in respect of any gain determined in accordance with the said provisions in respect of any insurance benefit which becomes payable under any insurance policy upon or by reason of—

- (i) the maturity of the policy upon the expiry of a period of at least ten years commencing not earlier than three months before the commencement date of the policy; or
- (ii) the disablement of any person whose life is insured under the policy; or
- (iii) the death of such person; or
- (iv) the final surrender of the policy not earlier than the tenth anniversary of the commencement date thereof resulting in the termination thereof.”.

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

65. (1) Paragraph 11 of the Sixth Schedule to the principal Act is hereby amended by the substitution for item (c) of subparagraph (1) of the following item:

Amendment of paragraph 11 of 6th 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.

“(c) the total amount of the premiums which are so payable under any policy referred to in item (a) or (b), shall not exceed—

- (i) in any period of twelve months ending during the period of ten years, reckoned from the date on which the first premium becomes payable under the policy, twice the total amount of the premiums payable under the policy during any other period of twelve months during which premiums are payable to the insurer at the lowest rate provided for in the policy; and
- (ii) in any period of twelve months ending after the close of the said period of ten years, four times the total amount referred to in subitem (i); and”.

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(2) The amendment effected by subsection (1) shall, for the purposes of the principal Act, be deemed to have taken effect on 15 August 1974 and shall apply in respect of years of assessment ending on or after that date.

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

Amendment of paragraph 13 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972 and amended by section 36 of Act 65 of 1973.

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

“(a) in terms of the policy, as originally and at all times thereafter in force, the only insurance benefit payable thereunder (disregarding any benefit payable upon or by reason of a surrender of the policy and any benefit by way of a waiver of premium benefit) is a benefit in the event of the death or the death or earlier disablement (occurring after the commencement date of the policy) of a person whose life is insured under the policy; or”;

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

“(b) the proposal for the policy was made and accepted in writing on or before 14 August 1974 and in terms of the policy, as originally and at all times thereafter in force no insurance benefit (disregarding any benefit payable upon or by reason of the surrender of the policy and any benefit by way of a waiver of premium benefit) is to be payable thereunder until the expiry of a period of at least ten years commencing not earlier than three months before the commencement date of the policy except in the event of the earlier death or disablement (occurring after the commencement date of the policy) of a person whose life is insured under the policy, and, except where the proposal for the policy was made and accepted in writing before the date of promulgation of the Income Tax Act, 1973, the policy conforms with the requirements of subparagraph (1C) as to premiums; or”;

(c) by the substitution in subparagraph (1C) for the words preceding item (i) of the following words:

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

(d) by the substitution in subparagraph (2) for the words preceding item (a) of the following words:

“(2) For the purposes of this Schedule an insurance policy the proposal for which was made and accepted in writing on or before 14 August 1974 and which is not a standard policy as contemplated in the foregoing provisions of this Part shall, subject to the following provisions of this Part, be deemed to have become a standard policy if and when a period of at least ten years (commencing on or after the commencement date of the policy and on or before 14 August 1974) has elapsed during which—”.

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(2) For the purposes of the principal Act—

- (a) the amendments effected by subsection (1) (a) and (c) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972; and
- (b) the amendments effected by subsection (1) (b) and (d) shall be deemed to have taken effect on 15 August 1974 and shall apply in respect of years of assessment ending on or after that date.

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

Amendment of paragraph 14 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972 and amended by section 37 of Act 65 of 1973.

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

“(ii) in the case of a policy the proposal for which was made and accepted in writing on or before 14 August 1974 and which qualified as a standard policy under the provisions of item (a), (b) or (bA) of subparagraph (1) of paragraph 13, the varied conditions of the policy as to the insurance benefits payable thereunder conform with the requirements of the said item (a), (b) or (bA); or”;

- (b) by the insertion after subitem (ii) of item (a) of the said subparagraph of the following subitem:

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

- (c) by the substitution in item (d) of the said subparagraph (1) for the words preceding the proviso of the following words:

“(d) the policy (other than a policy which qualifies as a standard policy under the provisions of paragraph 13 (1) (a) or (bA)) is on or after 30 March 1972 varied so as to provide for the payment to the insurer, at any time while the policy is in force, of any amount or amounts by way of further or additional premium or consideration in respect of the policy.”;

- (d) by the substitution for paragraph (i) of the proviso to item (d) of the said subparagraph of the following paragraph:

“(i) the premiums (including the said further or additional premium or consideration) payable to the insurer under the policy, as so varied, continue to be payable in conformity with the provisions of paragraph 11 (1) (c) or the provisions of paragraph 13 (1C) (ii), whichever provisions are applicable; or”;

- (e) by the substitution in item (e) of the said subparagraph for the words preceding the proviso of the following words:

“(e) the policy (other than a policy which qualifies as a standard policy under the provisions of para-

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graph 13 (1) (c) is surrendered in whole or in part within a period of ten years reckoned from the commencement date of the policy (or in the case of a policy which qualified as a standard policy under the provisions of subparagraph (1A) of paragraph 13, from the date on which the policy was varied as contemplated in that subparagraph) or, in the case of a policy (other than a policy the application for which was made and accepted in writing on or before 14 August 1974) which qualifies as a standard policy under the provisions of paragraph 13 (1) (a) and not under any other provision of this Part, it is at any time surrendered in whole or in part.”.

(2) For the purposes of the principal Act—

- (a) the amendment effected by subsection (1) (c) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after 30 March 1972; and
- (b) the amendments effected by subsection (1) (a), (b), (d) and (e) shall be deemed to have taken effect on 15 August 1974 and shall apply in respect of years of assessment ending on or after that date.

68. Paragraph 19 of the Sixth Schedule to the principal Act is hereby amended by the substitution for subparagraph (1) of the following subparagraph: Amendment of paragraph 19 of 6th Schedule to Act 58 of 1962, as added by section 28 of Act 90 of 1972.

“(1) Subject to the provisions of subparagraph (2), any advance payment referred to in paragraph 17(2) shall be set off—

- (a) if the gain to which the advance payment relates has been included in the taxable income of a person other than a company or in taxable income derived by a company elsewhere than within the territory, against any taxes (as defined in paragraph 28 (8) of the Fourth Schedule) owing by the taxpayer on the date on which a normal tax assessment is issued to him in respect of such taxable income; or
- (b) if the gain to which the advance payment relates has been included in taxable income derived by a company within the territory, against any amounts of normal tax payable and recoverable as provided in section 94A of this Act and owing by the company on the date on which a normal tax assessment is issued to the company in respect of such taxable income,

and, in either case, any excess shall be refunded or credited to the taxpayer.”.

69. Section 99 of the Insolvency Act, 1936, is hereby amended by the substitution for subparagraphs (iii), (iv) and (v) of paragraph (b) of subsection (1) of the following subparagraphs: Amendment of section 99 of Act 24 of 1936, as substituted by section 5 of Act 6 of 1972 and amended by section 30 of Act 90 of 1972 and section 6 of Act 62 of 1973.

- “(iii) is under the provisions of section 99 of the said Act or section 76 of the Income Tax Ordinance, 1974 (Ordinance No. 5 of 1974), of the Territory, required to pay in respect of any tax due by any other person and has deducted or withheld from any moneys,

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including pensions, salary, wages, remuneration and amounts of any other nature, held by him for or due by him to such person;

- (iv) has under the provisions of the Fourth Schedule to the said Act or Schedule 3 to the said Ordinance deducted or withheld by way of employees' tax from remuneration or any other amount paid or payable by him to any other person; or
- (v) has under the provisions of the Sixth Schedule to the said Act deducted or withheld from any insurance benefit under any insurance policy, in respect of the liability of any person for normal tax."

70. Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, in so far as the assessment, determination, payment, collection and recovery of normal tax, undistributed profits tax, employees tax and provisional tax are thereby affected, be deemed to have taken effect as from the commencement of years of assessment ending on or after 1 January 1974.

Commencement
of certain
amendments.

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

Application
of Act in
South West Africa.

72. This Act shall be called the Income Tax Act, 1974.

Short title.

Schedule

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 1975 AND 30 JUNE 1975, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF TWELVE MONTHS ENDING 31 MARCH 1975.

(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:

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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;
„ R14 000 „ „ „ „ 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;

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Taxable Amount	Rates of tax in respect of married persons
Where the taxable amount— exceeds R19 000 but does not exceed R20 000	R4 300 plus 42 per cent of the amount by which the taxable amount exceeds R19 000;
„ R20 000 „ „ „ „ R21 000	R4 720 plus 44 per cent of the amount by which the taxable amount exceeds R20 000;
„ R21 000 „ „ „ „ R22 000	R5 160 plus 46 per cent of the amount by which the taxable amount exceeds R21 000;
„ R22 000 „ „ „ „ R23 000	R5 620 plus 48 per cent of the amount by which the taxable amount exceeds R22 000;
„ R23 000 „ „ „ „ R24 000	R6 100 plus 50 per cent of the amount by which the taxable amount exceeds R23 000;
„ R24 000 „ „ „ „ R25 000	R6 600 plus 52 per cent of the amount by which the taxable amount exceeds R24 000;
„ R25 000 „ „ „ „ R26 000	R7 120 plus 54 per cent of the amount by which the taxable amount exceeds R25 000;
„ R26 000 „ „ „ „ R27 000	R7 660 plus 56 per cent of the amount by which the taxable amount exceeds R26 000;
„ R27 000 „ „ „ „ R28 000	R8 220 plus 58 per cent of the amount by which the taxable amount exceeds R27 000;
„ R28 000	R8 800 plus 60 per cent of the amount by which the taxable amount exceeds R28 000.

Taxable Amount	Rates of tax in respect of persons who are not married persons
Where the taxable amount— does not exceed R1 000	12 per cent of each R1 of the taxable amount;
exceeds R 1 000 but does not exceed R 2 000	R120 plus 12 per cent of the amount by which the taxable amount exceeds R1 000;
„ R 2 000 „ „ „ „ R 3 000	R240 plus 13 per cent of the amount by which the taxable amount exceeds R2 000;
„ R 3 000 „ „ „ „ R 4 000	R370 plus 14 per cent of the amount by which the taxable amount exceeds R3 000;
„ R 4 000 „ „ „ „ R 5 000	R510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;
„ R 5 000 „ „ „ „ R 6 000	R680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;
„ R 6 000 „ „ „ „ R 7 000	R880 plus 23 per cent of the amount by which the taxable amount exceeds R6 000;

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

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Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to two and a half per cent of such amount;

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

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

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

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

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

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

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

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

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

- (d) on each rand of the taxable income derived by any company from mining for gold on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Secretary determines to be attributable to the inclusion in the gross income of any amount under the provisions of paragraph (j) of the definition of "gross income" in 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;

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- (e) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is or has been mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Secretary determines to be attributable to the inclusion in its gross income of any amount under the provisions of paragraph (j) of the definition of "gross income" in section 1 of the principal Act, a rate equal to the average rate of normal tax or thirty-five cents, whichever is the higher;
- (f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to ten per cent of such amount;
- (g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold, diamonds or natural oil)—
(i) within the territory of South West Africa, thirty-five cents;
(ii) elsewhere than within the said territory, forty cents:
Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to two and a half per cent of such amount;
- (h) in respect of the taxable income of any company—
(i) a sum equal to two and a half per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d) and (g), before the addition of the sums referred to in the proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d) and the proviso to subparagraph (g); and
(ii) a sum equal to five per cent of the amount of tax determined under subparagraph (f) before the addition of the sum referred to in the proviso to that subparagraph:
Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

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

(2) For the purposes of subparagraph (e) of paragraph 1 the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with the said subparagraph for the period assessed) paid by the company concerned in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rand contained in the said aggregate taxable income.

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