



# STAATSKOERANT

## VAN DIE REPUBLIEK VAN SUID-AFRIKA

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### REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

*As 'n Nuusblad by die Poskantoor Geregistreer*

*Registered at the Post Office as a Newspaper*

**Prys 10c Price**  
**Oorsee 15c Overseas**  
**POSVRY—POST FREE**

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Vol. 49.]

KAAPSTAD, 4 JULIE 1969.  
CAPE TOWN, 4TH JULY, 1969.

[No. 2473.]

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DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1112. 4 Julie 1969.

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

No. 89 van 1969: Inkomstebelastingwet, 1969.

DEPARTMENT OF THE STATE PRESIDENT.

No. 1112. 4th July, 1969.

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

No. 89 of 1969: Income Tax Act, 1969.

# ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on the twenty-eighth day of February, 1970, and the thirtieth day of June, 1970, and by companies in respect of taxable incomes for years of assessment ending during the period of twelve months ending on the thirty-first day of March, 1970, and for certain other years of assessment; to provide for the payment of certain portions of the normal tax payable by certain companies into provincial revenue funds and the Revenue Fund of the territory of South-West Africa; to provide for the basis of calculation of any tax levied by a provincial council on the incomes of persons other than companies; to provide for the repayment to the taxpayers concerned of certain portions of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962; to amend the Income Tax Ordinance, 1961, of the territory of South-West Africa; and to provide for incidental matters.

*(English text signed by the State President.)*  
*(Assented to 19th June, 1969.)*

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

Rates of normal tax.

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

- (a) the taxable income of any person other than a company for the year of assessment ending the twenty-eighth day of February, 1970, or the thirtieth day of June, 1970;
- (b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on the thirty-first day of March, 1970; and
- (c) the taxable income of any company for any year of assessment of that company ended on or before the thirty-first day of March, 1969, which is determined under the principal Act to be derived by it within the territory of South-West Africa,

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

(2) The rates of normal tax provided for in subsection (1) (c) in respect of taxable income derived within the territory of South-West Africa shall, as respects such taxable income, apply instead of the rates provided for in any previous Income Tax Act in respect of the same year of assessment.

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

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

(2) The provisions of this section shall be deemed to have come into operation on the first day of March, 1969.

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

3. (1) Notwithstanding the provisions of section 5 (1) of the principal Act—

(a) a portion equal to fifteen per cent of any amount of tax determined in accordance with paragraph 2 (b) (i) of the Schedule to this Act; and

(b) a portion equal to one-sixth of any amount of tax determined in accordance with paragraph 4 (1) (a) of the said Schedule,

shall accrue for the benefit of the Revenue Fund of the territory of South-West Africa and shall be paid into the said fund in the manner prescribed in section 22 (2) (c) of the South-West Africa Affairs Act, 1969 (Act No. 25 of 1969).

(2) The provisions of this section shall be deemed to have come into operation on the first day of April, 1969.

Calculation of provincial income taxes in respect of year of assessment ending 28th February, 1970, or 30th June, 1970.

4. For the purposes of assessing any tax imposed by a provincial council in the exercise of its powers under the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945), on the incomes of persons, the amount of normal tax payable under this Act by any person other than a company for the year of assessment ending the twenty-eighth day of February, 1970, or the thirtieth day of June, 1970, whichever is applicable, shall, notwithstanding the provisions of the first-mentioned Act, be deemed to be equal to the amount payable as normal tax in terms of paragraph 2 (a) of the Schedule to this Act, after the deduction of the rebates provided for in sections 6 and 6bis of the principal Act but before the addition of the sum referred to in the proviso to the said paragraph 2 (a).

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

5. (1) Notwithstanding the provisions of section 5 (1) of the principal Act, the portion of the normal tax (hereinafter referred to as the loan portion of the normal tax) determined in accordance with the provisions of paragraph 2 (h) or (i) of the Schedule to this Act and paid by the person concerned shall be repayable to such person in the manner and at the time hereinafter provided.

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

(i) upon the death, insolvency or liquidation (in the case of a company) of that person; or

(ii) if such person leaves the Republic or ceases to carry on business in the Republic in circumstances which, in the opinion of the Secretary for Inland Revenue (hereinafter referred to as the Secretary), indicate that such person will not be ordinarily resident nor carrying on business in the Republic; or

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- (iii) in the case of a woman who marries, in respect of any period of assessment ending before her marriage, and the estate of a deceased or insolvent person or a company in liquidation shall not be liable for the payment of the loan portion of the normal tax in respect of any income received by or accrued to or in favour of such estate or such company in liquidation: Provided that nothing in this paragraph contained shall be construed as relieving any trust created under the will of a deceased person from liability for the payment of the loan portion of the normal tax in respect of any income received by or accrued to or in favour of such trust.
- (b) A person to whom the provisions of section 33 of the principal Act apply and who has no recognized agent in the Republic other than the master of the ship concerned or the pilot of the aircraft concerned, shall not be liable for the payment of the loan portion of the normal tax in respect of his taxable income determined in accordance with the said provisions.
- (c) No person (other than a company) not ordinarily resident nor carrying on business in the Republic and no company not registered nor carrying on business in the Republic, shall be liable for the payment of the loan portion of the normal tax: 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.
- (3) The provisions of section 76 of the principal Act and paragraph 20 of the Fourth Schedule to that Act shall not apply in relation to the loan portion of the normal tax.
- (4) (a) There shall from time to time be paid to the credit of the loan account referred to in the General Loans Act, 1961 (Act No. 16 of 1961), amounts equal to the amounts which the Secretary determines to have been collected in respect of the loan portion of the normal tax, whether by way of employees tax, provisional tax or otherwise.
- (b) The amounts accruing from time to time under any law to the Consolidated Revenue Fund or the Transkeian Revenue Fund in respect of normal, provincial income or personal taxes shall, notwithstanding the provisions of such law, be reduced by so much of such amounts as the Secretary determines to be payable to the credit of the said loan account, and any amounts (other than amounts repayable under the provisions of subsection (6)) refunded by the Secretary in respect of the loan portion of the normal tax shall be paid as a drawback from amounts accruing to the said loan account.
- (c) The amounts repayable under the provisions of subsection (6) shall be charged to the said loan account.
- (5) (a) The Secretary shall, at such time as he may decide, but not later than the date referred to in subsection (6), issue to every person who has paid the loan portion of the normal tax, a statement of the amount

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so paid by such person: Provided that such statement need not be issued if such loan portion has been repaid before such date.

(b) A statement issued in terms of paragraph (a) shall not be redeemable or transferable.

(6) The Minister of Finance shall determine a date, not being later than the twenty-eighth day of February, 1977, after which the loan portion of the normal tax shall be repaid to the person by whom it was paid: Provided that if in the opinion of the Secretary the circumstances of the case warrant such action, he may, subject to such conditions as he may impose, make such repayment to a person other than the person by whom such loan portion was paid: Provided further that in the event of the death, insolvency or liquidation (in the case of a company) of the person concerned before the date so determined, the Secretary may, before such date, repay to the estate of such person or to the company in liquidation the amount paid by the person concerned in respect of such loan portion, together with simple interest determined as hereinafter provided.

(7) Where the loan portion of the normal tax is repaid as provided in subsection (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 subsection (6) or, if repayment is made under the second proviso to that subsection, the date of repayment, but such interest shall not be payable until such time as the loan portion is repaid to the person concerned.

(8) (a) The Secretary may appropriate to the loan portion of the normal tax for which any person is liable in respect of the year of assessment for which such loan portion is payable, so much of—

(i) any employees tax deducted or withheld from such person's remuneration and set off in whole or part against his liability for normal and provincial taxes in respect of the said year under the provisions of paragraph 28 of the Fourth Schedule to the principal Act; and

(ii) any payments made by such person by way of provisional tax in respect of such year and set off in whole or part against his said liability under the provisions of the said paragraph; and

(iii) any other payments made by such person in respect of normal, provincial income or personal tax, whether for the said year or any other year of assessment, to the extent that the Secretary deems it necessary to appropriate such other payments in order to discharge in whole or part the said person's liability for the said loan portion, as does not exceed such loan portion: Provided that the Secretary may adjust any appropriation made by him under this paragraph if the said person's liability for such loan portion is increased or reduced on assessment of such liability by the Secretary under the principal Act or in order to rectify any calculation or accounting error.

(b) A person shall for the purposes of this section be deemed to have paid the amounts finally appropriated

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to the loan portion of the normal tax for which he is liable in respect of the year of assessment for which such loan portion is payable—

- (i) if employees tax has during such year of assessment been deducted or withheld from his remuneration as required by the principal Act and he either is not required under that Act to pay provisional tax in respect of such year of assessment or has made arrangements to the satisfaction of the Secretary for increased deductions by way of employees tax to cover his liability for provisional tax in respect of such year, on the first day of September, 1969; or
- (ii) if during such year of assessment he has paid directly by way of provisional tax in respect of such year of assessment the amount payable by him in terms of paragraph 21 (1) (a), 22 (1) or 23 (a) of the Fourth Schedule to the principal Act, on the first day of the month during which he paid such amount; or
- (iii) if the provisions of subparagraph (i) or (ii) do not apply, on such date as the Secretary, having regard to the payments made by the said person, may determine.

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

(10) The State President may by proclamation in the *Gazette* determine a date after which assessments for the payment of the loan portion of the normal tax shall not be issued by the Secretary.

(11) The provisions of this section shall be deemed to have come into operation on the first day of March, 1969.

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

(a) by the substitution for the definition of "financial year" of the following definition:  
" 'financial year' means—

(a) in relation to any company (other than a company referred to in paragraph (d)) which during the year of assessment ended the thirtieth day of June, 1962, carried on any trade or derived gross income—

(i) the period, whether of twelve months or not, commencing immediately after the specified date of such company in respect of that year of assessment and ending upon the first anniversary of such specified date or upon such other date as the Secretary having regard to the circumstances of the case may approve; or

(ii) any period subsequent to the period referred to in subparagraph (i), whether of twelve months or not, commencing immediately after the specified date of that company in respect of the immediately preceding year of assessment of that company and ending upon the first anniversary of the last-mentioned

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 and section 5 of Act 76 of 1968.

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- specified date or upon such other date as the Secretary having regard to the circumstances of the case may approve; or
- (b) in relation to any company (other than a company referred to in paragraph (d)) incorporated or created on or before the thirtieth day of June, 1962, which during the year of assessment ended upon that date neither carried on any trade nor derived any gross income—
- (i) the period, whether of twelve months or not, commencing the first day of July, 1962, and ending the twenty-eighth day of February, 1963, or upon such other date as the Secretary having regard to the circumstances of the case may approve; or
  - (ii) any period subsequent to the period referred to in subparagraph (i), whether of twelve months or not, commencing immediately after the specified date of that company in respect of the immediately preceding year of assessment of that company, and ending upon the first anniversary of the last-mentioned specified date or upon such other date as the Secretary having regard to the circumstances of the case may approve; or
- (c) in relation to any company (other than a company referred to in paragraph (d)) incorporated or created after the thirtieth day of June, 1962—
- (i) the period, whether of twelve months or not, commencing upon the date of incorporation or creation of such company and ending upon the last day of February immediately succeeding such date or upon such other date as the Secretary having regard to the circumstances of the case may approve; or
  - (ii) any period subsequent to the period referred to in subparagraph (i), whether of twelve months or not, commencing immediately after the specified date of that company in respect of the immediately preceding year of assessment of that company and ending upon the first anniversary of the last-mentioned specified date or upon such other date as the Secretary having regard to the circumstances of the case may approve; or
- (d) in relation to any company (other than a company referred to in paragraph (a), (b) or (c)) which has during a financial year contemplated in such paragraph carried on any trade elsewhere in the Republic than in the territory or derived gross income from sources outside the territory) which has during the year of assessment under the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, which ended on the thirtieth day of June, 1968, carried on any trade in the territory or derived gross income from sources within

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the territory (as contemplated in the said Ordinance) and has furnished or is required to furnish a return of income in respect of such year of assessment under that Ordinance—

- (i) the period, whether of twelve months or not, commencing immediately after the specified date (as defined in section 32 (4) of the said Ordinance) of such company for the said year of assessment and ending upon the first anniversary of such specified date or upon such other date as the Secretary having regard to the circumstances of the case may approve; or
  - (ii) any period subsequent to the period referred to in subparagraph (i), whether of twelve months or not, commencing immediately after the specified date of that company in respect of the immediately preceding year of assessment of that company and ending upon the first anniversary of the last-mentioned specified date or upon such other date as the Secretary having regard to the circumstances of the case may approve;”;
- (b) by the substitution for subparagraph (iii) of paragraph (g) of the definition of “gross income” of the following subparagraph:
- “(iii) for the right of use of any patent as defined in the Patents Act, 1952 (Act No. 37 of 1952), or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, 1965 (Act No. 63 of 1965), or any other property which, in the opinion of the Secretary, is of a similar nature; or”;
- (c) by the substitution for paragraph (i) of the definition of “gross income” of the following paragraph:
- “(i) the annual value of any quarters or board or residence or of any other benefit or advantage granted in respect of employment or to the holder of any office, including any amount required to be included in the taxpayer’s income under section 8A;”;
- (d) by the substitution for paragraph (j) of the definition of “gross income” of the following paragraph:
- “(j) any amount by which recoupments of capital expenditure which has been allowed to be deducted 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, exceed the unredeemed balance of such capital expenditure calculated as provided in section 36;”;



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- (e) by the substitution for the definition of "hotel keeper" of the following definition:

"'hotel keeper' means any person carrying on the business of hotel keeper or boarding or lodging house keeper where meals and sleeping accommodation are supplied to others for money or its equivalent, if the gross receipts from that business during the year of assessment were in excess of two thousand rand, and includes any person carrying on such business the gross receipts from which during the year of assessment were not in excess of two thousand rand by reason of the fact that the building in which the business is carried on has been in the course of erection or extensively renovated or because of circumstances beyond such person's control, if the Secretary is satisfied that during the immediately succeeding year of assessment or such further period as he may for good reason allow, the gross receipts from that business will be or could be expected to be in excess of two thousand rand per annum;"

- (f) by the insertion after the definition of "representative taxpayer" of the following definition:

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

- (i) for the purposes of the definitions of 'company' and 'representative taxpayer' in this section and the provisions of sections 98, 101, 103, 106 and 108; and
- (ii) for the purposes of the definition of 'gross income' in this section and the provisions of Parts I, II and IV of Chapter II and the First Schedule, in so far as such definition and such provisions apply in relation to the taxation of any company or to any matter affecting the liability or non-liability of any company for tax,

the territory shall be deemed to form part of the Republic;"

- (g) by the substitution for subparagraphs (viii) and (ix) of paragraph (b) of the definition of "retirement annuity fund" of the following subparagraphs:

"(viii) that the sum of the annuities payable to the widow, children, dependants and nominees of a deceased member who was in receipt of an annuity at the time of his death shall not exceed the amount of that annuity plus the amount of any further annuity that the deceased member would have received had he lived until the day before his next birthday after the date of his death;

- (ix) that a member's contributions shall cease not later than the day before his birthday following the date on which he first becomes entitled to the payment of an annuity;"

- (h) by the insertion after the definition of "taxpayer" of the following definition:

"'territory' means the territory of South-West Africa (excluding the Eastern Caprivi Zipfel);" and

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- (i) by the substitution for the definition of "trade" of the following definition:

"'trade' includes every profession, trade, business, employment, calling, occupation or venture, including the letting of any property and the use of or the grant of permission to use 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 other property which in the opinion of the Secretary is of a similar nature;"

- (2) The amendments effected by subsection (1) (c) and (g) shall first take effect in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.

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

## 7. Section 5 of the principal Act is hereby amended—

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

"(2A) In the case of any company which during any year of assessment of such company ending on or after the first day of January, 1967, derives taxable income from mining for natural oil, the rates of normal tax payable in respect of such taxable income shall be as follows:

- (a) on each rand of such taxable income which is derived from mining for natural oil (excluding gas) won by the company, fifty cents;
- (b) on each rand of such taxable income which is derived from mining for natural oil in the form of gas won by the company, forty cents:

Provided that the normal tax calculated under the preceding provisions of this subsection shall be reduced to or by such an amount as the Minister of Mines, in consultation with the Minister of Finance, may determine: Provided further that for the purposes of this subsection where sulphur, salt or any other mineral is won by the company in the course of mining for natural oil, the income derived from the mining of such sulphur, salt or other mineral shall be deemed to be derived from mining for natural oil.";

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

"(3) (a) Where it is proved to the satisfaction of the Secretary that a portion (but not the whole) of the taxable income of any taxpayer in respect of any period of assessment commencing on or after the first day of March, 1965, and ending not later than the end of the year of assessment ending on the twenty-eighth day of February, 1969, is attributable to the inclusion in the taxpayer's income of the income of his wife, and each spouse's portion of such taxable income, as determined in accordance with subsections (5) and (6), is not less than one hundred rand, the normal tax

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chargeable in respect of such taxable income shall, unless the provisions of paragraph 15 (3) or 17 of the First Schedule or paragraph 7 of the Second Schedule apply in the case of the taxpayer or the normal tax chargeable in the case of the taxpayer is required to be determined under the provisions of paragraph 19 of the First Schedule, be an amount which bears to such taxable income the same ratio as the amount of normal tax which, applying the relevant rate fixed in terms of subsection (2), would be chargeable in respect of a taxable income equal to the rating amount (determined as provided in subsection (4)) bears to such rating amount: Provided that in no case shall the amount of normal tax chargeable be less than the amount of normal tax which would be chargeable at the relevant rate fixed in terms of subsection (2) in respect of the first rand of taxable income, and nothing in this section contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of his taxable income.

(b) In determining under this subsection the amount of normal tax which is or would be chargeable no regard shall be had to the deductions provided for in section 6, *6bis* or *6ter*.”; and

(c) by the addition of the following subsection:

“(9) (a) For the purposes of this subsection ‘special remuneration’ means any amount received by or accrued to any mineworker over and above his normal remuneration and any regular allowance, in respect of special services rendered by him (otherwise than in the course of his normal duties) in combating any fire, flood, subsidence or other disaster in a mine or in rescuing persons trapped in a mine or in performing any hazardous task during any emergency in a mine, if such services are rendered by him as a member of a team recognized by the management of the mine and the members of such team have been appointed for the purpose of rendering such services.

(b) For the purpose only of calculating the rate of normal tax payable in respect of the year of assessment ending on the twenty-eighth day of February, 1970, or any succeeding year of assessment, by any person whose income for the year of assessment in question includes any special remuneration, there shall be deducted from the taxable income of such person for such year the amount so included in his income, but in no case shall the rate of tax be less than that applicable to the first rand of taxable income and nothing herein contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of his taxable income: Provided that the provisions of this paragraph shall not apply if the normal tax chargeable in the case of such person in respect of the year of assessment in question has been determined under the provisions of paragraph 19 of the First Schedule.”.

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Amendment of section 6 of Act 58 of 1962, as amended by section 4 of Act 90 of 1962, section 3 of Act 6 of 1963, section 5 of Act 72 of 1963, section 8 of Act 55 of 1966, section 7 of Act 95 of 1967 and section 7 of Act 76 of 1968.

8. (1) Section 6 of the principal Act is hereby amended—
- (a) by the substitution for paragraphs (a) and (b) of subsection (1) of the following paragraphs:
- “(a) in the case of a married person, the sum of fifty rand;
- (b) in the case of a person other than a married person, the sum of forty rand;”;
- (b) by the substitution for paragraph (cc) of the proviso to paragraph (c) of the said subsection of the following paragraph:
- “(cc) where the taxpayer is not a married person, and is entitled to a deduction 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 wholly or mainly dependent for their maintenance upon the taxpayer 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 there shall further be deducted the sum of ten rand irrespective of the number of such children;”;
- (c) by the substitution for subparagraph (ii) of paragraph (d) of the said subsection of the following subparagraph:
- “(ii) fees, subscriptions or contributions paid by him during that year to any provident fund or benefit fund; and”;
- (d) by the substitution for paragraph (f) of the said subsection of the following paragraph:
- “(f) in respect of one or more dependants who are proved to the satisfaction of the Secretary to have been wholly dependent for their maintenance upon the taxpayer, a further sum of ten rand irrespective of the number of such dependants.”.

(2) The amendments effected by subsection (1) shall first apply in respect of assessments for the year of assessment ending on the twenty-eight day of February, 1970.

Insertion of section 6quat in Act 58 of 1962.

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

“Rebate in respect of diamond profits tax (South-West Africa). 6quat. There shall be deducted from the normal tax payable by any company in respect of taxable income derived from mining for diamonds in the territory (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 company concerned) any amount assessed in respect of any period coinciding with or forming part of the year of assessment as tax payable by such company under the provisions of section 4 of the Diamond Taxation Proclamation, 1941 (Proclamation No. 16 of 1941), of the territory.”.

Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of

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

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Act 90 of 1964,  
section 9 of  
Act 88 of 1965  
and section 10 of  
Act 55 of 1966.

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under the provisions of sections 11 to 20, inclusive, of this Act, except section 11 (*k*), (*p*) and (*q*), section 11*quin*, 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 13*bis* (7), 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

(b) by the substitution for paragraph (*e*) of the said subsection of the following paragraph:

“(e) If any amount which was deducted under the provisions of section 11 (*e*) or section 12 (1) or section 12 (1) as applied by section 12 (3) or the corresponding provisions of any previous Income Tax Act or, in the case of a company, under any of the said provisions or the provisions of section 11 (2) (*e*) 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, in respect of machinery or plant which was used by the taxpayer directly in a process of manufacture, or directly in any other process carried on by him on or after the fifteenth day of March, 1961, which in the opinion of the Secretary was of a similar nature, has as a result of damage or destruction (hereinafter referred to as ‘the event’) been recovered or recouped during any year of assessment, and if the taxpayer satisfies the Secretary—

(i) that he has concluded or will within a period of one year (or such longer period as the Secretary in the circumstances of the case may allow) from the date of the event conclude a contract for the acquisition by him of further new or unused machinery or plant (hereinafter referred to as the ‘further machinery or plant’) to replace the aforesaid machinery or plant; and

(ii) that the further machinery or plant has been or will be brought into use within a period of three years from the date of the event and will be 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, for a period of not less than five years or until the further machinery or plant is scrapped or disposed of in the ordinary course of the taxpayer’s trade prior to the expiry of such period of five years,

the said amount shall, notwithstanding the provisions of paragraph (*a*) of this subsection,

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not be included in the income of the taxpayer for the aforesaid year of assessment: Provided that if, owing to any occurrence or because of any circumstance arising during any year of assessment the Secretary is no longer satisfied in regard to the matters in regard to which in terms of the preceding provisions of this paragraph he is required to be satisfied, the said amount shall be included in the income of the taxpayer for the year of assessment during which such occurrence takes place or such circumstance arises.”.

Insertion of section 8A in Act 58 of 1962.

11. The following section is hereby inserted in the principal Act after section 8:

“Gains made by directors of companies or by employees in respect of rights to acquire marketable securities.

8A. (1) (a) There shall be included in the taxpayer's income for the year of assessment the amount of any gain made by the taxpayer after the first day of June, 1969, by the exercise, cession or release during such year of any right to acquire any marketable security (whether such right be exercised, ceded or released in whole or part), if such right was obtained by the taxpayer as a director or former director of any company or in respect of services rendered or to be rendered by him as an employee to an employer.

(b) Where the taxpayer has exercised such right but, by reason of a condition imposed by the said company or employer, the taxpayer is not entitled to dispose of the marketable security until after the end of the said year of assessment, the gain made by the exercise of the right shall, if the taxpayer makes an election as provided in paragraph (c), not be included in his income for such year of assessment but shall be included in his income for the year of assessment during which he becomes entitled to dispose of the marketable security: Provided that in the event of the taxpayer's death or insolvency before he becomes entitled to dispose of the marketable security the said gain shall be deemed to have been made by him on the day before the date of his death or insolvency, as the case may be, and shall be assessed accordingly.

(c) The taxpayer may, in the circumstances contemplated in paragraph (b), elect that the provisions of that paragraph shall apply in respect of the gain referred to in that paragraph, and such election shall be in writing and shall be furnished to the Secretary not later than the date on which the taxpayer's return of income is furnished for the year of assessment referred to in paragraph (a), or within such further time as the Secretary may allow.

(2) For the purposes of this section—

(a) a gain shall be deemed to have been made by the taxpayer by the exercise of a right to acquire any marketable security if the amount by which the market value of such marketable security at the time such right was exercised exceeds the consideration given by the taxpayer for such marketable security and any consideration given by him for such right or the grant of such

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right: Provided that such market value shall for the purpose of this paragraph be deemed to be the sum which a person having the right freely to dispose of such marketable security might reasonably expect to obtain from a sale of such marketable security in the open market;

- (b) where the taxpayer for a consideration accepts a restriction upon his right to acquire any marketable security such right shall be deemed to be released in part;
- (c) where any gain is made by the exercise, cession or release of a right to acquire any marketable security, such gain shall be deemed to be made at the time when such right is exercised, ceded or released, as the case may be.

(3) The amount to be included in the taxpayer's income in respect of any gain referred to in subsection (1) shall be—

- (a) where such gain is made by the exercise of a right to obtain any marketable security, the amount referred to in subsection (2) (a); or
- (b) where such gain is made by the cession or release of a right to obtain any marketable security, the amount by which the amount or value of the consideration received by or accrued to the taxpayer for the cession or release, exceeds the amount or value of any consideration given by the taxpayer for such right or the grant of such right.

(4) In determining under subsections (2) (a) and (3) whether any gain has been made by the exercise, cession or release of a right to obtain any marketable security, and in determining the amount of such gain—

- (a) where any consideration was given by the taxpayer for such right or the grant of such right and the right is exercised, ceded or released in part only or the consideration was given for something in addition to the right, only the portion of such consideration which relates to so much of the right as is exercised, ceded or released, as the case may be, shall be deductible and for that purpose a fair apportionment of such consideration shall be made; and
- (b) no deduction shall be made in respect of any consideration in the form of services rendered or to be rendered or of anything done or to be done or not to be done.

(5) Where any right (hereinafter referred to as the first right) to acquire any marketable security is ceded or released by the taxpayer in whole or in part for a consideration which consists of or includes another right (hereinafter referred to as the second right) to acquire such marketable security or any other marketable security—

- (a) the second right shall for the purposes of this section not be deemed to be consideration for the cession or release of the first right; and

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(b) any gain made by the taxpayer by the exercise, cession or release of the second right shall be determined and included in the taxpayer's income as though such gain had been made by the exercise, cession or release of the first right, and for the purpose of determining such gain, the amount to be deducted under subsection (2) (a) or (3) in respect of the amount or value of the consideration given by the taxpayer for the second right shall be deemed to be the consideration given by the taxpayer for the first right or the grant of such right, less so much of the amount or value of that consideration as has not been offset by any consideration other than the consideration consisting of the second right.

(6) For the purposes of this section, a gain made by any person other than the taxpayer by the exercise, cession or release of a right to acquire any marketable security shall be deemed to be made by the taxpayer and shall be included in the taxpayer's income as though it were a gain referred to in subsection (1)—

(a) if that right was granted to such other person by reason of the taxpayer's office or former office as a director of any company or of any services rendered or to be rendered by the taxpayer as an employee of any employer; or

(b) if that right was originally obtained by the taxpayer as a director or former director of any company or in respect of services rendered or to be rendered by him as an employee to an employer, and—

(i) the right was ceded by the taxpayer to any person otherwise than by or under a cession made by way of a bargain at arm's length; or

(ii) the gain was made by a relative of the taxpayer,

but, where the provisions of paragraph (b) apply, the gain shall be reduced by the amount of any gain made by a previous holder of the right on a cession of the right if such gain was included in the taxpayer's income, whether for the current year of assessment or any previous year of assessment.

(7) The provisions of subsections (2), (3), (4) and (5) shall *mutatis mutandis* apply in relation to the determination of any gain referred to in subsection (6).

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

(9) For the purposes of determining any reduction to be made under subsection (8) in respect of any



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gain made by the exercise, cession or release of any right to acquire any marketable security—

- (a) the exemption period shall be deemed to be the period commencing on the date on which the person referred to in subsection (8) was granted such right and ending on the first day of June, 1969; and
- (b) the accrual period shall be deemed to be the period commencing on the first day of the exemption period and ending on the date on which such right is exercised, ceded or released, as the case may be.

(10) For the purposes of this section 'marketable security' means any security, stock, debenture, share, option or other interest capable of being sold in a share-market or exchange or otherwise."

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 and section 9 of Act 95 of 1967.

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

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

"(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 other property which in the opinion of the Secretary is of a similar nature; or";

- (b) by the deletion in paragraph (e) of the said subsection of the expression "of South-West Africa (excluding the Eastern Caprivi Zipfel referred to in section three of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951))";

- (c) by the substitution in subsection (2) for the expression "1934 (Act No. 62 of 1934)" of the expression "1965 (Act No. 24 of 1965)"; and

- (d) by the substitution in subsection (3) for the expression "Banking Act, 1942 (Act No. 38 of 1942)" of the expression "Banks Act, 1965 (Act No. 23 of 1965)".

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 and section 8 of Act 76 of 1968.

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

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

"(a) the revenues of the Government, including the railway administration, the administration of the territory, and any provincial administration or of any other state;";

- (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 under the Companies Act, 1926 (Act No. 46 of 1926), or the Companies Ordinance, 1928 (Ordinance No. 19 of 1928), of the territory 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

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Ordinance, 1964 (Ordinance No. 15 of 1964), 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 utilise its funds solely for investment or the objects for which it has been established;

(ii) any company registered under the Companies Act, 1926, or the Companies Ordinance, 1928, of the territory, 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 substitution for paragraph (e) of the said subsection of the following paragraph:

“(e) the receipts and accruals of—

(i) any company, society or other association of persons, whether or not registered under any law (other than a company referred to in paragraph (o) or 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, 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; and

(ii) associations which in the opinion of the Secretary are amateur sporting associations, except as regards any receipts or accruals from investments by any such company, society or association;”;

(d) by the substitution for subparagraph (xi) of paragraph (i) of the said subsection of the following subparagraph:

“(xi) so much of the annual interest on Six per cent Treasury Bonds and Five and a half per cent Jubilee Bonds as in the case of any taxpayer does

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not exceed the sum of two thousand six hundred and seventy-five rand;”;

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

“(xiii) in the case of a taxpayer who is a natural person, so much of the aggregate of the amounts received or accrued as dividends on Six and a half per cent Special Tax-Free Indefinite Period shares in building societies issued not later than the twenty-first day of September, 1968, and dividends on Six per cent Special Tax-Free Indefinite Period shares in building societies as does not exceed four hundred rand in any year of assessment: Provided that this exemption shall not apply—

(aa) 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

(bb) in respect of any dividend on any such Six per cent Special Tax-Free Indefinite Period shares for which application is made to a building society on or after a date notified by the Minister of Finance in the *Gazette*;”;

(f) by the addition to paragraph (i) of the said subsection of the following subparagraph:

“(xiv) so much of the interest received by or accrued to any natural person from savings deposits with the Bantu Investment Corporation of South Africa Limited as does not exceed two hundred rand in any year of assessment;”;

(g) by the substitution for subparagraph (i) of paragraph (k) of the said subsection of the following subparagraph:

“(i) dividends received by or accrued to or in favour of any company: Provided that this exemption shall not apply to dividends (other than those distributed out of profits of a capital nature) distributed by a fixed property company as defined in section 1 of the Unit Trusts Control Act, 1947 (Act No. 18 of 1947), on shares included in a unit portfolio comprised in any unit trust scheme in property shares authorized under the said Act;”;

(h) by the deletion of subparagraph (iv) of paragraph (k) of the said subsection;

(i) by the deletion of subparagraph (vi) of paragraph (k) of the said subsection;

(j) by the substitution for paragraph (m) of the said subsection of the following paragraph:

(m) any amount received by or accrued to an author of a work in respect of the assignment of or grant of an interest in a copyright in such work, if such amount is chargeable with income tax in a country other than the Republic: Provided that this exemption shall not apply to any person who is not the first owner of a copyright under the Copy-

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right Act, 1965 (Act No. 63 of 1965), or to a company;”;

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

“(nA) where an employee is as a condition of his employment required while on duty to wear a special uniform which is clearly distinguishable from ordinary clothing, the value of any such uniform given to the employee by his employer, or so much of any allowance made by the employer to the employee in lieu of any such uniform as the Secretary considers reasonable;”;

(l) by the substitution for paragraph (o) of the said subsection of the following paragraph:

“(o) the receipts and accruals of any company registered in pursuance of a licence granted under section 21 of the Companies Act, 1926 (Act No. 46 of 1926), or section 21 of the Companies Ordinance, 1928 (Ordinance No. 19 of 1928), of the territory, which has not been revoked;”;

(m) by the addition, with effect from the thirteenth day of May, 1965, to paragraph (t) of the said subsection of the following subparagraph:

“(iv) of the South Atlantic Cable Company (Proprietary) Limited registered under the Companies Act, 1926, on the thirteenth day of May, 1965;”;

(n) by the substitution for paragraph (v) of the said subsection of the following paragraph:

“(v) interest received by or accrued to any person (other than a company) who is ordinarily resident in the territory (including the Eastern Caprivi Zipfel) in respect of any loan to or deposit in any building society registered under the Building Societies Act, 1965 (Act No. 24 of 1965), made through any branch or agency of such society in that territory, or any dividend or share of profits distributed by any such society to any such person in respect of any share in such society applied or subscribed for by such person through any such branch or agency;”;

(o) by the substitution in paragraph (w) of the said subsection for the expression “Banking Act, 1942 (Act No. 38 of 1942)” of the expression “Banks Act, 1965 (Act No. 23 of 1965)”; and

(p) by the substitution for subsection (4) of the following subsection:

“(4) There shall be exempt from the tax—

(a) every married person—

(i) who on the last day of the year of assessment was not or would not had he lived have been over the age of sixty years and whose taxable income in such year of assessment does not exceed seven hundred and fifty rand or, where the period of assessment is less than

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a full year, an amount which bears to seven hundred and fifty rand the same ratio as the period assessed bears to one year; or

- (ii) who on the last day of the year of assessment was or would had he lived have been over the age of sixty years and whose taxable income in such year of assessment does not exceed one thousand two hundred rand or, where the period of assessment is less than a full year, an amount which bears to one thousand two hundred rand the same ratio as the period assessed bears to one year; and

(b) every other person, except a company—

- (i) who on the last day of the year of assessment was not or would not had he lived have been over the age of sixty years and whose taxable income in such year of assessment does not exceed five hundred rand or, where the period of assessment is less than a full year, an amount which bears to five hundred rand the same ratio as the period assessed bears to one year; or

- (ii) who on the last day of the year of assessment was or would had he lived have been over the age of sixty years and whose taxable income in such year of assessment does not exceed seven hundred and fifty rand or, where the period of assessment is less than a full year, an amount which bears to seven hundred and fifty rand the same ratio as the period assessed bears to one year.”

(2) The amendments effected by subsection (1) (d), (f), (h), (i), (k) and (p) shall first take effect in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.

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 and section 9 of Act 76 of 1968.

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

- (a) by the substitution for subparagraph (iii) of paragraph (f) of the following subparagraph:

“(iii) the right of use of any patent as defined in the Patents Act, 1952 (Act No. 37 of 1952), or any design as defined in the Designs Act, 1967 (Act No. 57 of 1967), or any trade mark as defined in the Trade Marks Act, 1963 (Act No. 62 of 1963), or any copyright as defined in the Copyright Act, 1965 (Act No. 63 of 1965), or of any other property which in the opinion of the Secretary is of a similar nature, if such patent, design, trade mark, copyright or other property is used for the production of income or income is derived therefrom; or”;

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

“(gA) an allowance in respect of any expenditure (other than expenditure which has qualified in whole or part for deduction or allowance under any of the other provisions of this section or the corresponding provisions of any previous Income Tax Act or, in the case of a company, under the said provisions or the provisions of any Income

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Tax Ordinance of the territory) actually incurred by the taxpayer—

- (i) in devising or developing any invention as defined in the Patents Act, 1952 (Act No. 37 of 1952), or in creating or producing 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 other property which in the opinion of the Secretary is of a similar nature; or
- (ii) in obtaining any patent or the restoration of any patent under the Patents Act, 1952, or the registration of any design under the Designs Act, 1967, or the registration of any trade mark under the Trade Marks Act, 1963; or
- (iii) in acquiring by assignment from any other person any such patent, design, trade mark or copyright or in acquiring any other property which in the opinion of the Secretary is of a similar nature or any knowledge connected with the use of such patent, design, trade mark, copyright or other property or the right to have such knowledge imparted, if such invention, patent, design, trade mark, copyright, other property or knowledge, as the case may be, is used by the taxpayer in the production of his income or income is derived by him therefrom: Provided that—
  - (aa) where such expenditure exceeds two hundred rand the allowance shall not exceed for any one year such portion of the amount of the expenditure as is equal to such amount divided by the number of years which, in the opinion of the Secretary, represents the probable duration of use of the invention, patent, design, trade mark, copyright, other property or knowledge, or one twenty-fifth of the said amount, whichever is the greater;
  - (bb) where such expenditure was incurred before the commencement of the year of assessment in question the allowance shall be calculated on the amount of such expenditure, less an amount equivalent to the sum of the allowances to which the taxpayer was entitled under this paragraph and the allowances to which, in the opinion of the Secretary, the taxpayer would have been entitled under this paragraph if this paragraph had been applicable, in respect of such expenditure in respect of previous years of assessment, including any year of assessment under any previous Income Tax Act and in the case of a company, under any Income Tax Ordinance of the territory;”;

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(c) by the substitution in paragraph (gB) for the expression "1916 (Act No. 9 of 1916)" of the expression "1967 (Act No. 57 of 1967)";

(d) by the substitution for paragraph (i) of the following paragraph:

"(i) the amount of any debts due to the taxpayer to the extent to which they are proved to the satisfaction of the Secretary to be bad, provided such amount is included in the current year of assessment or was included in previous years of assessment (including, in the case of a company, years of assessment under any Income Tax Ordinance of the territory) in the taxpayer's income;"

(e) by the substitution for paragraph (j) of the following paragraph:

"(j) such an allowance as may be made each year by the Secretary in respect of such debts due to the taxpayer as he considers to be doubtful: Provided that such allowance shall be included in the income of the taxpayer in the following year of assessment, and for that purpose—

(i) any allowance granted in terms of section 11 (2) (h) of the Income Tax Act, 1941, in respect of the year of assessment ended on the thirtieth day of June, 1961; and

(ii) any allowance granted to any company in terms of section 11 (2) (k) of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, in respect of the year of assessment ended on the thirtieth day of June, 1968,

shall be deemed to be an allowance which was made in terms of this paragraph;"

(f) by the substitution for paragraph (m) of the following paragraph:

"(m) any amount paid by way of annuity during the year of assessment by any taxpayer—

(i) to a former employee who has retired from the taxpayer's employ on grounds of old age, ill-health or infirmity; or

(ii) to any person who is dependent for his maintenance upon a former employee or (where such former employee is deceased) was so dependent immediately prior to his death:

Provided that the deduction under subparagraph (ii) shall not exceed in respect of the persons so dependent on any one retired or deceased employee, the sum of one thousand rand;"

(g) by the substitution for paragraph (o) of the following paragraph:

"(o) save as provided in paragraph 12 (2) of the First Schedule, an allowance in respect of any building (or portion thereof) referred to in section 13 (1) or (4) or section 13bis (1) or of any improvements (or portion thereof) to such building or of any shipbuilding structure referred to in section 13 (8) or of any improvements to such shipbuilding structure or of any machinery, implements, utensils or articles used by the taxpayer

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for the purposes of his trade which have been scrapped by such taxpayer during the year of assessment, such allowance to be the excess of the original cost to such taxpayer of such building (or portion thereof) or such improvements (or portion thereof) to such building or such shipbuilding structure or such improvements to such shipbuilding structure or such machinery, implements, utensils or articles over the total amount arrived at by adding all the allowances made in respect thereof under the provisions of paragraph (e) of this section, or section 12 (1), or section 12 (1) as applied by section 12 (3), or section 12A (2), or section 13 (1), or section 13 (1) as applied by section 13 (4) or (8), or section 13*bis* (1), (2) or (3), or section 14 (1) (a) or (b), or the corresponding provisions of any previous Income Tax Act, or section 14*bis* (1) (a) or (b), or, in the case of a company, any of the said provisions or the provisions of section 11 (2) (e) of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, or the corresponding provision of any previous Income Tax Ordinance of the territory, to any amount or the value of any advantage accruing to the taxpayer in respect of the sale or other disposal of such building, shipbuilding structure, improvements, machinery, implements, utensils or articles: Provided that—

- (i) no allowance shall be made in the case of any such building (or portion thereof) or of any such improvements (or portion thereof) to such building or of any such shipbuilding structure or of any such improvements to such shipbuilding structure which has or have been scrapped within a period of ten years from the date of erection or purchase;
- (ii) for the purposes of this paragraph the cost of any building (or portion thereof) or of any improvements (or portion thereof) to any building or of any shipbuilding structure or of any improvements to any shipbuilding structure shall be deemed to be that portion of the actual cost on which the allowance in question was made;
- (iii) for the purposes of this paragraph the cost of any machinery, implements, utensils or articles shall be deemed to be the actual cost plus the amount by which the value of such machinery, implements, utensils or articles has been increased in terms of paragraph (v) of the proviso to paragraph (e) or the corresponding provisions of any previous Income Tax Act, and less the amount by which such value has been reduced in terms of paragraph (iv) of the said proviso or the corresponding provisions of any previous Income Tax Act;
- (iv) for the purposes of this paragraph the cost of any aircraft in respect of which any allowance has been made to the taxpayer under the provisions of section 14*bis* shall be deemed to be the actual cost less any amount (not



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being an amount which has been included in the income of the taxpayer for any year of assessment in terms of section 8 (4) (i) by which the cost or estimated cost price of such aircraft has in the calculation of such allowance been reduced in terms of section 14bis (2) (a);

- (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 section 14 (2) (a);”;

- (h) by the substitution for paragraph (s) of the following paragraph:

“(s) in the case of a fixed property company as defined in section 1 of the Unit Trusts Control Act, 1947 (Act No. 18 of 1947), the dividends (other than those distributed out of profits of a capital nature) distributed by such company during the year of assessment on shares included in a unit portfolio comprised in any unit trust scheme in property shares authorized under the said Act;”;

and

- (i) by the substitution for paragraph (w) of the following paragraph:

“(w) the amount of any premium which became payable by the taxpayer during the year of assessment and was actually paid by him under any policy of insurance taken out upon the life of an employee or, in the case of a company, upon the life of a director or employee of that company, if—

- (i) such policy was during such year the property of the taxpayer;
- (ii) the benefits payable thereunder are not payable to any person other than the taxpayer; and
- (iii) either no pledge or cession of such policy was in force or of effect during such year or, if any pledge or cession of such policy was in force or of effect during such year, the Secretary is satisfied that such pledge or cession was effected for the purpose of providing security to obtain funds required by the taxpayer for the purposes of his trade in consequence of the employee's or director's ill-health, infirmity, incapacity, retirement or cessation of services occurring after such policy was taken out;”.

(2) The amendment effected by subsection (1) (f) and (i) shall first take effect in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.

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

15. Section 11*bis* of the principal Act is hereby amended—  
(a) by the substitution in subsection (1) for the definition of “exported” of the following definition:

“‘exported’ means sold and consigned to any purchaser at any address in any country other than the Republic, the territory (including the Eastern Caprivi Zipfel), Botswana, Lesotho or Swaziland, or delivered to the owner or charterer of any ship or aircraft for use in such ship or aircraft outside the Republic, the said territory, Botswana, Lesotho and Swaziland;”;

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

“(a) in research into or obtaining information (including the remuneration of consultants, agents or representatives) in regard to the marketing of goods in any country other than the Republic, the territory (including the Eastern Caprivi Zipfel), Botswana, Lesotho or Swaziland;”.

Substitution of section 16 of Act 58 of 1962.

16. (1) The following section is hereby substituted for section 16 of the principal Act:

“Deduction of expenses incurred by dentists, medical practitioners, engineers and scientists on post-graduate study courses.

16. Notwithstanding the provisions of section 23 (a) and (b), there shall be allowed to be deducted from the income of any person who is a dentist or medical practitioner or practises any profession referred to in paragraph (a), so much as the Secretary may allow of any expenditure incurred by such person in the circumstances contemplated in paragraph (c), if the Dental Association of South Africa in the case of a dentist, or the Medical Association of South Africa in the case of a medical practitioner, or the ‘Suid-Afrikaanse Akademie vir Wetenskap en Kuns’ or the Associated Scientific and Technical Societies of South Africa in any other case, certifies in such form as the Secretary may prescribe that such person—

(a) if he is not a dentist or medical practitioner, is the holder of a degree in engineering or allied technology or natural sciences awarded by a recognized university on completion of a prescribed minimum period of study of not less than four academic years or the equivalent thereof and enabling the holder thereof to practise the profession of an engineer or a profession for which advanced and specialised scientific knowledge is required which relates directly to—

- (i) the development or exploitation of natural resources;
- (ii) mining or prospecting for minerals;
- (iii) the production of pastoral, agricultural or forest produce;
- (iv) the breeding or care of farm animals;
- (v) any industrial process; or
- (vi) the training of specialists in any branch of science or technology connected with any aforementioned profession;

(b) has practised his profession for not less than three years; and

(c) has incurred such expenditure during the year of assessment in respect of the attendance by him of any post-graduate study course approved by such body to improve his qualifications for carrying on his profession in the Republic.”.

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(2) The amendments effected by subsection (1) shall first take effect in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.

Substitution of section 18 of Act 58 of 1962, as substituted by section 12 of Act 76 of 1968.

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

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

(2) The amendments effected by subsection (1) shall first apply in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.

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

18. Section 20 of the principal Act is hereby amended by the addition of the following subsections:

“(4) Where any company has, under the provisions of section 11 (3) of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, a balance of assessed loss available to be carried forward from the year of assessment ended the thirtieth day of June, 1968, to a subsequent year of assessment, such balance of assessed loss shall, for the purposes of subsection (1) (a), be deemed to be a balance of assessed loss determined under this section.

(5) Notwithstanding the foregoing provisions of this section—

(a) no assessed loss or balance of assessed loss incurred by any company in carrying on any trade in the territory shall be set off against income derived by such company elsewhere than in the territory; and

(b) no assessed loss or balance of assessed loss incurred by any company in carrying on any trade elsewhere than in the territory shall be set off against income derived by such company in the territory.”

Insertion of section 20A in Act 58 of 1962.

19. The following section is hereby inserted in the principal Act after section 20:

“Deduction in respect of salary of married woman. 20A. (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 earning of his wife, be allowed as a deduction

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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 five hundred rand, less one rand for every ten rand by which the combined amount of the taxpayer for such year of assessment exceeds eight thousand 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 five hundred rand the same ratio as the period assessed bears to one year, less one rand for every ten rand by which the combined amount of the taxpayer for such period exceeds an amount which bears to eight thousand rand the same ratio as the period assessed bears to one year.

(2) For the purposes of subsection (1)—

- (a) the combined amount of a taxpayer for any year or period of assessment shall be deemed to be the amount at which the taxable income of the taxpayer for such year or period would have been determined under this Act if the provisions of subsection (1) of this section and the proviso to section 68 (1) and the provisions of section 77 (6) had not been applicable;
- (b) 'earnings' means the income derived by a married woman from any trade carried on by her independently of her husband, including—
- (aa) any amount referred to in paragraph (c), (d), (e) or (f) of the definition of 'gross income' in section 1;
- (bb) any amount required to be included in such woman's gross income under paragraph (f) of that definition, but excluding—
- (i) income derived from the letting of any property or the use of or the grant of permission to use any patent, design, trade mark or copyright or other property of a similar nature contemplated in the definition of 'trade' in section 1;
- (ii) income derived from any trade carried on by her in partnership or association with her husband or which is in any way connected with any trade carried on by her husband;
- (iii) any amount received by or accrued to such woman from her husband or any partnership of which she or her husband was at the time of such receipt or accrual a member or any private company of which her husband was at such time a director or any private company of which she or her husband was at such time the sole or main shareholder or one of the principal shareholders.

(3) The provisions of this section shall apply in respect of assessments for the year of assessment

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ending on the twenty-eighth day of February, 1970, and succeeding years of assessment.”.

Insertion of section 21ter in Act 58 of 1962.

20. (1) The following section is hereby inserted in the principal Act after section 21bis:

“Special deduction in respect of industrial undertakings in economic development areas.

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

- (i) ‘extension’, in relation to an industrial undertaking, means any machinery or plant used in such undertaking directly in a process of manufacture or in any other process which in the opinion of the Secretary is of a similar nature, or any building wholly or mainly used in such undertaking for the purpose of carrying on therein any such process, or any improvements (other than repairs) to any such building;
- (ii) ‘industrial profit’ means the amount (as established to the satisfaction of the Secretary) at which the industrialist’s taxable income for the relevant year of assessment (before the deduction of the development allowance) would have been determined if during such year and any preceding years of assessment in respect of which the Minister has authorized the development allowance he had derived no income other than his income from the industrial undertaking in question;
- (iii) ‘industrial undertaking’ means any undertaking (other than a mining or farming undertaking) in the course of which there is carried on a process of manufacture or a process which in the opinion of the Secretary is of a similar nature.

(2) Where any person (in this section referred to as the industrialist)—

- (a) has on or after the first day of October, 1968—
  - (i) established or commenced to carry on in an economic development area a new industrial undertaking; or
  - (ii) brought into use in an economic development area for the purposes of an existing industrial undertaking carried on by him in such area, an extension to such undertaking; or
- (b) has within the period of five years ending on the thirtieth day of September, 1968—
  - (i) established or commenced to carry on in an economic development area a new industrial undertaking; or
  - (ii) brought into use in an economic development area for the purposes of an existing industrial undertaking carried on by him in such area, any extension to such undertaking,

and by the said date had not discontinued the said undertaking,

there shall, if the Minister of Finance (hereinafter referred to as the Minister), having regard to the circumstances of the case, so directs, but subject to such conditions as the Minister may see fit to impose, be deducted from the income derived by the industrialist from the industrial undertaking in question during any relevant year of assessment referred to in subsection (3), an allowance (to be known as the development allowance) of an amount to be determined in such manner as the Minister may direct but not exceeding an amount equal to the industrial profit of the industrialist for such year.

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- (3) The development allowance may be made—
- (a) in the case of an industrial undertaking referred to in subsection (2) (a) (i), in respect of the year of assessment during which production was commenced in such undertaking or any of the four succeeding years of assessment in respect of which the Minister has directed that the development allowance may be granted to the industrialist concerned;
  - (b) in the case of an industrial undertaking referred to in subparagraph (ii) of subsection (2) (a), in respect of the year of assessment during which the extension referred to in the said subparagraph was brought into use for the purposes of such undertaking or any of the four succeeding years of assessment in respect of which the Minister has directed that the development allowance may be granted to the industrialist concerned;
  - (c) in the case of an industrial undertaking referred to in subsection (2) (b) (i), in respect of the year of assessment during which the thirtieth day of September, 1968, falls or any of the four succeeding years of assessment in which falls any portion of the period of five years reckoned from the date on which production was commenced in the said undertaking and in respect of which the Minister has directed that the development allowance may be granted to the industrialist concerned;
  - (d) in the case of an industrial undertaking referred to in subparagraph (ii) of subsection (2) (b), in respect of the year of assessment during which the thirtieth day of September, 1968, falls or any of the four succeeding years of assessment in which falls any portion of the period of five years reckoned from the date on which the extension referred to in the said subparagraph was brought into use for the purposes of such undertaking and in respect of which the Minister has directed that the development allowance may be granted to the industrialist concerned.
- (4) The Minister may at any time direct that where a condition imposed by him under subsection (2) has not been complied with by the industrialist, the development allowance made in respect of any year of assessment shall be withdrawn or be reduced to such an extent as the Minister may direct, and the Secretary shall, notwithstanding any provisions of this Act to the contrary, raise an assessment in respect of the allowance so withdrawn or the amount by which the allowance is required to be reduced as aforesaid.
- (5) (a) Applications for the development allowance shall be made in writing to the Minister or any officer in the public service authorized by him to receive such applications.
  - (b) The development allowance shall not be authorized in respect of any application received after the thirtieth day of September, 1970.
- (6) Where the Secretary has reason to believe that any condition imposed by the Minister under subsection (2) has not been complied with by the industrialist concerned he may, notwithstanding the provisions of section 4, disclose to the Minister such information as may be necessary to enable the Minister to take any action he may deem fit under this section.”.

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(2) The provisions of section 21*ter* of the principal Act, as inserted by subsection (1), shall be deemed to have come into operation on the first day of October, 1968, and shall apply in respect of assessments for years of assessment ending on or after the thirtieth day of September, 1968.

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

21. Section 22 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

- “(7) (a) In this section any reference to a year of assessment includes a reference to a year of assessment under the Income Tax Act, 1941, and, in the case of any company, a year of assessment under the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory.
- (b) The reference in subsection (6) (ii) of this section to section 66 (13) of this Act includes a reference to section 52 (13) of the said Ordinance.
- (c) Any election made by a company under the provisions of section 11 (6) (e) of the said Ordinance shall for the purposes of this section be deemed to be an election made by such company under subsection (5) of this section.”

Amendment of section 24 of Act 58 of 1962.

22. Section 24 of the principal Act is hereby amended by the substitution for the second proviso of the following proviso:

“Provided further that any allowance so made shall be included as income in the taxpayer's returns for the following year of assessment and shall form part of his income and for that purpose—

- (i) any allowance granted in terms of section 22 of the Income Tax Act, 1941, in respect of the year of assessment ended on the thirtieth day of June, 1961; and
- (ii) any allowance granted to a company in terms of section 21 of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, in respect of the year of assessment ended on the thirtieth day of June, 1968,

shall be deemed to be an allowance which was made in terms of this section in respect of a year of assessment under this Act.”

Insertion of section 24A in Act 58 of 1962.

23. The following section is hereby inserted in the principal Act after section 24:

“Trans-  
actions  
whereby  
fixed  
property is  
or company  
shares are  
exchanged  
for shares.

24A. (1) If, under any transaction for the disposal by any person of any trading stock consisting of fixed property or any shares in any company, the consideration received by or accrued to such person for such trading stock in effect consists of or includes—

- (a) shares in a public company; or
- (b) company shares quoted by a recognized stock exchange at the time of such transaction or within six months thereafter; or
- (c) shares in any other company, if such shares are, under a scheme for the consolidation or merger of the interests of two or more persons, issued or transferred to the first-mentioned person, the value of the shares which constitute or are included in such consideration shall, if the said person and the Secretary agree thereto, be excluded from his income for the year of assessment during which such consideration is received by him or accrues to him.

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(2) For the purposes of this Act, the shares which constitute or are included in the said consideration shall be deemed to be trading stock of the said person and the cost price to such person of those shares shall be deemed to be the cost to him of the trading stock referred to in subsection (1) or, if such last-mentioned trading stock was held by him and had not been disposed of by him at the beginning of the year of assessment, the amount taken into account under section 22 (2) as the value thereof, less an amount which bears to the said cost or amount so taken into account, as the case may be, the same ratio as the value of such portion (if any) of the said consideration as does not consist of the said shares bears to the total value of the said consideration (including the said shares).

(3) Notwithstanding anything to the contrary in this Act contained, the value of any shares referred to in subsection (2) which have not been disposed of by the said person prior to his death, insolvency or liquidation (in the case of a company) shall be deemed to be the market value of such shares on the day prior to the date of his death, insolvency or liquidation (in the case of a company) and such value shall be included in his income for the period of assessment within which the said day falls.

(4) For the purposes of this section—

- (a) 'fixed property' means property as defined in section 1 of the Transfer Duty Act, 1949 (Act No. 40 of 1949); and
- (b) a company which has not yet been recognized under the provisions of this Act as a public company may, at the request of the taxpayer, be deemed to be a public company, if the Secretary is satisfied that such company will be so recognized.

(5) The provisions of this section shall apply in respect of the year of assessment ending on the twenty-eighth day of February, 1970, and succeeding years of assessment."

Amendment of section 28 of Act 58 of 1962, as amended by section 17 of Act 90 of 1962 and section 22 of Act 55 of 1966.

24. Section 28 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (2) of the following paragraph:

"(d) such allowance as may be made each year by the Secretary in respect of unexpired risks: Provided that the allowance granted under this paragraph in respect of any year of assessment shall be included in the income of the taxpayer in the following year of assessment, and for that purpose any allowance granted—

- (i) in terms of section 18 (2) (iv) of the Income Tax Act, 1941, in respect of the year of assessment ended on the thirtieth day of June, 1961; or
  - (ii) to a company in terms of section 16 (2) (d) of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, in respect of the year of assessment under that Ordinance which ended on the thirtieth day of June, 1968,
- shall be deemed to be an allowance which was granted under this paragraph;"

Amendment of section 28bis of Act 58 of 1962,

25. Section 28bis of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):



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as inserted by  
section 19 of  
Act 88 of 1965.

“(2) The provisions of section (1) shall *mutatis mutandis* apply also in relation to any subsidiary and any foreign company referred to in section 16A of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, if, prior to the date of promulgation of the Income Tax Act, 1969, such companies have entered into an arrangement as contemplated in that section and a concession has been duly approved under that section.”

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  
and section 14 of  
Act 76 of 1968.

26. Section 36 of the principal Act is hereby amended by the insertion after subsection (7) of the following subsection:

“(7A) In the case of income derived by a company from the working of any mine in the territory there shall, in lieu of the quotient and any deduction under the preceding provisions of this section, be deducted—

- (a) in respect of any year of assessment under this Act during which such mine commences production, the amount of capital expenditure incurred up to the close of that year of assessment; and
- (b) in respect of any other year of assessment under this Act following a year of assessment (whether under this Act or under the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory), during which such mine commenced production, the actual capital expenditure incurred during such first-mentioned year of assessment.”

Insertion of  
section 37A in  
Act 58 of 1962.

27. The following section is hereby inserted in the principal Act after section 37:

“Deter-  
mination of  
taxable  
income  
derived by  
any com-  
pany in or  
outside the  
territory  
or of  
assessed  
loss in-  
curred in or  
outside the  
territory.

37A. (1) Separate determinations shall be made of the taxable income derived or of the assessed loss incurred by any company—

- (a) within the territory; and
- (b) elsewhere than within the territory.

(2) For the purposes of any determination under subsection (1), any amount of income of any company shall be deemed to have been derived by that company within the territory if such amount has been received by or has accrued to or in favour of such company from a source within the territory or by virtue of—

- (a) any contract made by such company within the territory for the sale of goods in the course of any trade carried on by the company in the territory, whether such goods have been delivered or are to be delivered in or out of the territory;
- (b) the use in the territory of or the grant of permission to use in the territory, or the imparting of or the undertaking to impart any knowledge directly or indirectly connected with the use in the territory of—
  - (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 other property which in the opinion of the Secretary is of a similar nature; or
  - (ii) any motion picture film or any sound recording or advertising matter used or intended to be used in connection with such film,

wheresoever such patent, design, trade mark, copyright, property, film, sound recording or

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- advertising matter has been produced or made or such permission has been granted or such knowledge has been imparted or such undertaking has been given or payment for such use, grant of permission, imparting of knowledge or undertaking 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;
- (c) any business carried on by any such company which is registered, managed or controlled in the territory, as owner or charterer of any ship or aircraft, or the disposal by such company 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;
- (d) any service rendered or work or labour done by such company in the carrying on in the territory of any trade, whether the payment for such service or work or labour is or is to be made by a person resident in or outside the territory and wheresoever payment for such service or work or labour is or is to be made.

(3) Any amount of income of any company which is not an amount referred to in subsection (2) shall, for the purposes of any determination under subsection (1), be deemed to have accrued to such company elsewhere than within the territory.

(4) Where a company carries on any business within the territory and also elsewhere in the Republic, the taxable income derived from, or the assessed loss incurred by such company in, carrying on such business within the territory shall, for the purposes of this section, be deemed to be an amount which bears to the total taxable income derived or the total assessed loss incurred by such company in respect of such business, as calculated before applying the preceding provisions of this section, the same ratio as the assets of such company within the territory (excluding assets not employed in carrying on such business) bear to the total assets of such company (excluding assets not employed in carrying on such business), and the remainder of such total taxable income or total assessed loss shall for the purposes of this section be deemed to be taxable income derived or an assessed loss incurred, as the case may be, by such company otherwise than within the territory: Provided that if accounts satisfactory to the Secretary can be furnished, the Secretary or the company may claim that the actual taxable income derived in carrying on such business in or outside the territory or the actual loss incurred within or outside the territory shall be assessed in the manner otherwise provided for in this Act.

(5) Subject to the provisions of section 20 (4) and (5) there shall, in any determination made under subsection (1) (a) in respect of any year of assessment, be excluded from any taxable income derived or assessed loss incurred during such year within the territory so much of such taxable income or assessed loss, as the case may be, as is assessable under the provisions of the Income Tax Ordinance,

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1961 (Ordinance No. 10 of 1961), of the territory, in respect of the year of assessment under that Ordinance which ended on the thirtieth day of June, 1968.”

Amendment of section 38 of Act 58 of 1962, as amended by section 21 of Act 90 of 1962 and section 16 of Act 90 of 1964.

28. Section 38 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (2) of the following paragraph:

“(d) any 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;”

Amendment of section 42 of Act 58 of 1962, as amended by section 21 of Act 88 of 1965 and section 17 of Act 95 of 1967.

29. (1) Section 42 of the principal Act is hereby amended—

(a) by the insertion after paragraph (iii) of subsection (1) of the following paragraph:

“(iiiA) a company managed or controlled in the territory and not carrying on business in the Republic; or”; and

(b) by the addition to subsection (2) of the following paragraph:

“(f) any dividend which accrued before the first day of April, 1969, to—

(i) any person, other than a company, who was ordinarily resident or carrying on business in the port or settlement of Walvis Bay; or

(ii) the deceased estate of any such person; or

(iii) a company which was carrying on business in the said port or settlement:

Provided that this paragraph shall not apply in respect of any dividend which accrued to the holder of bearer scrip.”

(2) The amendment effected by subsection (1) (a) shall take effect from the commencement of the Companies Amendment Act, 1969, and the amendment effected by subsection (1) (b) shall be deemed to have taken effect on the first day of July, 1962.

Substitution of section 48 of Act 58 of 1962.

30. The following section is hereby substituted for section 48 of the principal Act:

“Levy of undistributed profits tax and rate thereof.

48. Subject to the provisions of section 50, there shall be paid for the benefit of the Consolidated Revenue Fund—

(a) in respect of the year of assessment ending the thirtieth day of June, 1962, and each succeeding year of assessment thereafter (including any period which is a financial year of the company concerned), by every private company registered or carrying on business in the Republic; and

(b) in respect of each year of assessment (including any period which is a financial year of the company concerned) ending on or after the first day of April, 1969, by every public company registered or carrying on business in the Republic,

a tax (in this Act referred to as undistributed profits tax) of twenty-five cents on every rand of the amount by which the distributable income of such company exceeds the amount of the dividends distributed by it during the specified period.”

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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 and section 17 of Act 90 of 1964.

## 31. (1) Section 49 of the principal Act is hereby amended—

(a) by the substitution for paragraph (ii) of the definition of “distributable income” of the following paragraph:

“(ii) in the case of a private company, an allowance equal to forty-five per cent of so much of the sum of the amounts referred to in paragraphs (a) and (b) of this definition as is not attributable to the inclusion in the profits of such company of any dividends received by or accrued to it;”;

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

“(iiA) in the case of a public company, an allowance equal to the aggregate of—

(aa) so much of the total net profits of the company for the year of assessment as is attributable to the inclusion therein of any profits (other than profits attributable to the inclusion in the profits of the company of any dividends received by or accrued to it) derived by the company from a source within or deemed by this Act to be within the Republic, less any taxes on income in respect of such profits which are deductible under paragraph (i) of this definition;

(bb) the amounts referred to in paragraph (b) of this definition; and

(cc) twenty-five per cent of so much of the total net profits of the company for the year of assessment as is attributable to the inclusion therein of any dividends received by or accrued to it and of any profits derived by the company from a source not within or not deemed under this Act to be within the Republic;”;

(c) by the substitution for paragraph (iii) of the said definition of the following paragraph:

“(iii) in the case of any private company which, whether in the current or in any previous year of assessment, has concluded a contract for the acquisition by it of any new or unused machinery or plant and which satisfies the Secretary that within a period of three years after the end of the current year of assessment such machinery or plant will be brought into use by it for the purposes of its trade and will be used by it directly in a process of manufacture, an allowance in respect of the current year of assessment equal to the portion, if any, of the cost price of such machinery or plant paid by it during that year of assessment: Provided that—

(aa) any such company may in respect of any such new or unused machinery or plant elect to deduct as an allowance under this paragraph, in respect of the year of assessment during which such machinery or plant is brought into use by it for the purposes of its trade and is used by it directly in a process of manufacture, an amount equal to the cost to it of such machinery or plant, which allowance shall be in lieu of and not in addition to any allowances to which such

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company would but for such election have been entitled under the preceding provisions of this paragraph in respect of such machinery or plant;

- (bb) if in the determination of the distributable income of any company for any year of assessment any amount has been allowed to be deducted under this paragraph (other than an amount referred to in paragraph (aa) of this proviso) or the corresponding provisions of any previous Income Tax Act in respect of any machinery or plant, and such machinery or plant is not brought into use and used by such company directly in a process of manufacture within three years after the end of such year of assessment, such amount shall for the purposes of section 79 (1) be deemed to be an amount which the Secretary is satisfied should have been subject to tax for such year of assessment and which has not been assessed to tax; and”.

(2) The amendments effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the first day of April, 1969.

Amendment of section 50 of Act 58 of 1962, as amended by section 23 of Act 90 of 1962 and section 19 of Act 95 of 1967.

32. (1) Section 50 of the principal Act is hereby amended—

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

“(aA) companies referred to in section 38 (2) (c), (d) and (f);”;

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

“(b) companies in respect of which the provisions of sections 28, 32, 33, 35 and 36 are by virtue of the definition of ‘total net profits’ in section 49 applicable to the determination of that portion of their total net profits which is derived from their principal business;”;

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

“(i) any company all of whose equity shares were throughout the specified period held by the Government or by one or both of the following classes of shareholders, namely—

(i) companies which are themselves exempt from this tax in terms of this section excluding paragraphs (f) and (g);

(ii) benefit funds, pension funds, provident funds or retirement annuity funds.”.

(2) The amendments effected by subsection (1) shall apply in respect of assessments for years of assessment ending on or after the first day of April, 1969.

Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964 and section 25 of Act 55 of 1966.

33. Section 56 of the principal Act is hereby amended by the insertion after paragraph (g) of subsection (1) of the following paragraph:

“(gA) by any company which is managed and controlled in the territory and does not carry on business in the Republic;”.

Substitution of section 64A of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967.

34. (1) The following section is hereby substituted for section 64A of the principal Act:

“Levy of non-residents tax on interest. 64A. There shall be paid for the benefit of the consolidated Revenue Fund a tax (in this Act referred to as non-residents tax on interest) equal to ten per cent of—

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- (a) any amount of interest which accrued on or after the first day of April, 1967, and before the first day of April, 1969, to or in favour of—
- (i) any person, other than a company, not ordinarily resident in the Republic; or
  - (ii) the deceased estate of any person who at the date of his death was not ordinarily resident in the Republic; or
  - (iii) a company not registered in the Republic, if the debtor in respect of such amount was ordinarily resident or carried on business in the Republic;
- (b) any amount of interest accruing on or after the first day of April, 1969, to or in favour of—
- (i) any person, other than a company, not ordinarily resident in the Republic; or
  - (ii) the deceased estate of any person who at the date of his death was not ordinarily resident in the Republic; or
  - (iii) a company registered outside the Republic and the territory, if the debtor in respect of such amount is ordinarily resident or carries on business in the Republic; and
- (c) any amount of interest accruing on or after the first day of April, 1969, to or in favour of any company registered outside the Republic and the territory, if the debtor in respect of such amount is a company which is ordinarily resident or carries on business in the territory."

(2) The amendments effected by subsection (1) shall be deemed to have come into operation on the first day of April, 1969: Provided that where any amount of tax chargeable under the provisions of section 64A (c) of the principal Act is in terms of the provisions of section 64F of that Act payable within a period ending on or before the date of commencement of this Act, such amount shall, notwithstanding the provisions of the said section 64F, be payable within fourteen days after the said date or within such further period as the Secretary may approve.

Substitution of section 64B of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967.

35. (1) The following section is hereby substituted for section 64B of the principal Act:

"Applica-  
tion of  
provisions.

64B. For the purposes of this Part—

- (a) where, before the first day of April, 1969, interest was payable or was credited to any person who had an address outside the Republic, such interest shall, until the contrary is proved, be deemed to have accrued to a person, estate or company, as the case may be, referred to in section 64A (a);
- (b) where, on or after the first day of April, 1969, interest was or is payable or was or is credited to any person (other than a company) having an address outside the Republic or to any company having an address outside the Republic and the territory, such interest shall, until the contrary is proved, be deemed to have accrued to a person, estate or company, as the case may be, referred to in section 64A (b) or (c);
- (c) where the debtor in respect of any amount of interest referred to in section 64A (a) or (b) is the deceased estate of any person, such estate

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shall be deemed to be ordinarily resident or to be carrying on business in the Republic if such person at the date of his death was ordinarily resident or was carrying on business in the Republic;

- (d) where the debtor in respect of any amount of interest referred to in section 64A (a) or (b) is a company, such company shall be deemed to be ordinarily resident in the Republic if it is registered, managed or controlled in the Republic;
- (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 registered, managed or controlled in the territory;
- (f) where the debtor in respect of any amount of interest referred to in section 64A (b) or (c) is a company, 'Republic' in section 64C shall in relation to such amount be construed as including the territory;
- (g) any amount accruing to any shareholder in a building society out of the profits of such society shall be deemed to be interest."

(2) The amendments effected by subsection (1) shall be deemed to have come into operation on the first day of April, 1969.

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.

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

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

"(a) any interest accruing from the Government (including the railway administration, any provincial administration and the administration of the territory), any local authority, the Electricity Supply Commission or the South African Reserve Bank;"

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

"(fA) any amount accruing to any natural person as a dividend on Six and a half per cent Special Tax-Free Indefinite Period shares in any building society issued not later than the twenty-first day of September, 1968, or as a dividend on Six per cent Special Tax-Free Indefinite Period shares in any building society: Provided that this exemption shall not apply—

- (i) 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
- (ii) in respect of any dividend on any such Six per cent Special Tax-Free Indefinite Period shares for which application is made to a building society on or after a date notified by the Minister of Finance in the *Gazette*;"

(c) by the addition of the following paragraphs:

"(i) interest accruing from the South Atlantic Cable Company (Proprietary) Limited on money borrowed by that company under any agreement or contract concluded by it not later than the seventeenth day of February, 1966;

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- (j) interest which accrued before the first day of April, 1969, to—
- (i) any person (other than a company) who was ordinarily resident in the port or settlement of Walvis Bay; or
  - (ii) the deceased estate of any such person.”.
- (2) (a) The amendment effected by subsection (1) (a) shall be deemed to have taken effect on the first day of April, 1969.
- (b) The amendment effected by subsection (1) (b) shall be deemed to have taken effect on the twenty-first day of September, 1968.
- (c) The amendment effected by subsection (1) (c) shall be deemed to have taken effect on the first day of April, 1967.

Substitution of section 89ter of Act 58 of 1962, as inserted by section 14 of Act 6 of 1963 and amended by section 22 of Act 90 of 1964 and section 22 of Act 95 of 1967.

37. The following section is hereby substituted for section 89ter of the principal Act:

“Accounts and recovery proceedings in respect of certain taxes.

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

(2) The total amount owing by the taxpayer after the deduction of the relevant payments or other credits in respect of any taxes as defined in subsection (3) and of interest in respect of such taxes payable by the taxpayer 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 taxpayer furnish the taxpayer with copies of any notices of assessments relating to the taxpayer as the taxpayer may require.

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



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- (a) non-resident shareholders' tax, undistributed profits tax, excess profits duty, donations tax and non-residents tax on interest;
- (b) any normal tax payable and recoverable as provided in section 94A; and
- (c) 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 110*bis*."

Amendment of section 91 of Act 58 of 1962, as amended by section 16 of Act 6 of 1963 and section 26 of Act 55 of 1966.

38. Section 91 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Notwithstanding anything contained in the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), or the Magistrates' Courts Ordinance, 1963 (Ordinance No. 29 of 1963), of the territory, a statement for any amount whatsoever may be filed in terms of paragraph (b) of subsection (1) with the clerk of the court of the magistrate having jurisdiction in respect of the person by whom such amount is payable in accordance with the provisions of this Act."

Insertion of section 94A in Act 58 of 1962.

39. The following section is hereby inserted in the principal Act after section 94:

"Payment and recovery of normal tax payable in respect of taxable income derived by companies within the territory.  
94A. Where any company has derived taxable income within the territory, the normal tax payable in respect of such taxable income shall, for the purposes of this Part, be deemed to be chargeable separately from the normal tax chargeable in respect of taxable income derived by such company elsewhere than within the territory and shall be payable and recoverable as a separate tax."

Insertion of section 111A in Act 58 of 1962.

40. The following section is hereby inserted in the principal Act after section 111:

"Application of Act in South-West Africa.  
111A. The provisions of this Act and any amendment thereof shall apply also in the territory."

Amendment of paragraph 4 of 1st Schedule to Act 58 of 1962, as amended by section 17 of Act 72 of 1963.

41. Paragraph 4 of the First Schedule to the principal Act is hereby amended by the addition of the following subparagraph:

"(3) For the purposes of any assessment on a company in respect of the first financial year under this Act in respect of which such company is assessable in respect of farming operations in the territory, the values of livestock and produce held and not disposed of by the company at the beginning of that year shall be deemed to be the respective values (as determined under the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory) of the livestock and produce held and not disposed of by the company at the end of the year of assessment under that Ordinance which ended on the thirtieth day of June, 1968."

Amendment of paragraph 12 of 1st Schedule to Act 58 of 1962, as amended by section 27 of Act 55 of 1966.

42. Paragraph 12 of the First Schedule to the principal Act is hereby amended by the substitution for subparagraphs (2) and (3) of the following subparagraphs:

"(2) No deduction under section 11 (e) or (o) of this Act shall be allowed in respect of any machinery, articles or plant for which a deduction has been allowed under subparagraph (1) of this paragraph or the corresponding provisions of a previous Income Tax Act or under paragraph 12 (1) of the Second Schedule to the Income Tax

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Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory or the corresponding provisions of a previous Income Tax Ordinance of the territory and no deduction under section 11 (g) of this Act shall be allowed in respect of expenditure of a capital nature for which a deduction has been allowed under subparagraph (1) of this paragraph or the said paragraph 12 (1) or any of the said corresponding provisions.

(3) The total amount allowable as deductions to any farmer under items (c) to (i), inclusive, of subparagraph (1) in any year of assessment shall not exceed the taxable income (as calculated before allowing any deductions under the said items) derived by him from farming operations during that year of assessment: Provided that the amount by which the total expenditure incurred by any farmer during any year of assessment in respect of the matters referred to in the said items exceeds the taxable income (calculated as aforesaid) derived by him from farming operations during that year of assessment shall be carried forward and be deemed for the purposes of subparagraph (1) to be expenditure which has been incurred by him during the next succeeding year of assessment and for the purposes of this proviso—

(a) any amount which has been carried forward from the year of assessment ended the thirtieth day of June, 1961, in terms of the proviso to paragraph 17 (3) of the Third Schedule to the Income Tax Act, 1941; or

(b) any amount which, in the case of any company, was in terms of the first proviso to paragraph 12 (3) of the Second Schedule to the Income Tax Ordinance, 1961, of the territory, available to be carried forward from the year of assessment under that Ordinance which ended on the thirtieth day of June, 1968, shall be deemed to be an amount which has been so carried forward in terms of this proviso.”

Amendment of paragraph 19 of 1st Schedule to Act 58 of 1962, as added by section 28 of Act 95 of 1967.

43. (1) Paragraph 19 of the First Schedule to the principal Act is hereby amended by the substitution for item (f) of subparagraph (1) of the following item:

“(f) ‘E’ represents the amount (if any) of any special remuneration, as defined in section 5 (9), which has been included in the income of the taxpayer for such period; and”.

(2) The amendments effected by subsection (1) shall first apply in respect of assessments for the year of assessment ending on the twenty-eighth day of February, 1970.

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.

44. Paragraph 1 of the Fourth Schedule to the principal Act is hereby amended by the substitution for paragraph (b) of the definition of “remuneration” of the following paragraph:

“(b) any amount required to be included in such person’s gross income under paragraph (i) of that definition.”.

Insertion of paragraph 11A in 4th Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963.

45. The Fourth Schedule to the principal Act is hereby amended by the insertion of the following paragraph after paragraph 11:

“11A. (1) Where by virtue of the provisions of paragraph (b) of the definition of ‘remuneration’ in paragraph 1, the remuneration of an employee includes any gain made by the exercise, cession or release of any right to acquire any marketable security as contemplated in section 8A of this Act, the amount of such gain shall for the purposes of

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this Schedule be deemed to be an amount of remuneration which is payable to such employee by the employer by whom such right was granted.

(2) Employees tax in respect of the said amount of remuneration shall unless the Secretary has granted authority to the contrary, be deducted or withheld by the said employer from any consideration paid or payable by him to the said employee in respect of the cession or release of the said right or from any cash remuneration paid or payable by the said employer to the said employee after the said right has to the knowledge of the said employer been exercised, ceded or released.

(3) The provisions of this Schedule shall apply in relation to the amount of employees tax deducted or withheld under subparagraph (2) as though such amount had been deducted or withheld from the amount of the gain referred to in subparagraph (1).

(4) Before deducting or withholding employees tax under subparagraph (2) the said employer shall ascertain from the Secretary the amount to be so deducted or withheld.

(5) If the said employer is, by reason of the fact that the amount to be deducted or withheld by way of employees tax exceeds the amount from which the deduction or withholding is to be made, unable to deduct or withhold the full amount of employees tax, he shall immediately notify the Secretary of the fact.

(6) Where an employee has under any transaction to which the employer is not a party made any gain referred to in subparagraph (1), such employee shall forthwith inform the employer of the fact that such gain has been made and of the amount of such gain.

(7) Any employee who without just cause shown by him fails to comply with the provisions of subparagraph (6), shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand."

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.

46. (1) Paragraph 19 of the Fourth Schedule to the principal Act is hereby amended by the substitution for subparagraph (1) of the following subparagraph:

"(1) Every provisional taxpayer shall, during every period within which provisional tax is payable 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 or, in the case of a company, of all taxable income derived elsewhere than within the territory, which will be derived by the taxpayer in respect of the year of assessment in respect of which provisional tax is payable: Provided that the amount of any estimate submitted by a provisional taxpayer during any relevant period referred to in paragraph 21 (1) (a) or paragraph 23 (a), or any extension of any 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 amount of the provisional taxpayer's taxable income as assessed by the Secretary, for the latest year of assessment preceding the year of assessment in question in respect of which an assessment has

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been issued by the Secretary not less than fourteen days before the date on which such estimate is submitted by the provisional taxpayer, less, in the case of a company, so much of such taxable income as was derived within the territory.”.

(2) The amendments effected by subsection (1) shall apply in respect of estimates of taxable income submitted by provisional taxpayers to the Secretary on or after the date of promulgation of this Act in respect of years of assessment ending on or after such date.

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 and section 29 of Act 88 of 1965.

47. (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 paragraph 19 (1) by a provisional taxpayer in respect of any year of assessment discloses his estimated taxable income in respect of that year of assessment in an amount which is less than ninety per cent of the amount of his taxable income or, in the case of a company, of the amount of the company’s taxable income derived elsewhere than within the territory, as finally determined for that year and which is also less than the basic amount in relation to such year of assessment, as determined in accordance with subparagraph (1A), 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 and provincial taxes 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 sum of the amounts of normal and provincial taxes as calculated in respect of the taxable income as so estimated by the taxpayer and the lesser of the following amounts, namely—

(a) the sum of the amounts of normal and provincial taxes calculated in respect of ninety per cent of his taxable income or, in the case of a company, of the amount of the company’s taxable income derived elsewhere than within the territory, as finally determined for the said year of assessment; and

(b) the sum of the amounts of normal and provincial taxes calculated in respect of a taxable income equal to the basic amount in relation to the said year of assessment at the rates applicable in respect of that year.”; and

(b) by the insertion after the said subparagraph of the following subparagraph:

“(1A) (a) For the purposes of subparagraph (1) the basic amount in relation to any year of assessment shall be deemed to be an amount equal to the amount of the taxpayer’s taxable income or, in the case of a company, the amount of the company’s taxable income derived elsewhere than within the territory, as assessed by the Secretary for the latest preceding year of assessment.

(b) For the purposes of item (a) the latest preceding year of assessment shall be deemed to be the

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latest year of assessment preceding the year of assessment in question, in respect of which an assessment has been issued by the Secretary not less than fourteen days before the date on which the final or last estimate of his taxable income is submitted by the taxpayer in terms of paragraph 19 (1) in respect of the year of assessment in question.”.

(2) The amendments effected by subsection (1) shall apply in respect of estimates of taxable income submitted by provisional taxpayers to the Secretary on or after the date of promulgation of this Act in respect of years of assessment ending on or after such date.

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 and section 30 of Act 95 of 1967.

48. Paragraph 28 of the Fourth Schedule to the principal Act is hereby amended by the substitution for subparagraph (1) of the following subparagraph:

“(1) There shall be set off against the liability of the taxpayer in respect of normal and provincial taxes and any other taxes (excluding non-resident shareholders' tax, undistributed profits tax, excess profits duty, donations tax, and non-residents tax on interest and excluding any normal tax payable and recoverable as provided in section 94A of this Act) due by the taxpayer which, by virtue of the definition of 'tax' in section 1 of this Act, constitute taxes for the purposes of Part IV of Chapter III of this Act, 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 and provincial taxes has been assessed by the Secretary and the amounts of provisional tax paid by the taxpayer, 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 of provisional tax 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.”.

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Deletion of paragraph 34 of 4th Schedule to Act 58 of 1962, as added by section 30 of Act 72 of 1963 and amended by section 32 of Act 95 of 1967.

49. (1) Paragraph 34 of the Fourth Schedule to the principal Act is hereby deleted.

(2) The amendment effected by subsection (1) shall come into operation on the first day of April, 1970.

Commencement of certain amendments.

50. Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act shall first take effect or be deemed to have first taken effect—

(a) for the purposes of assessments in respect of the normal and undistributed profits taxes levied under the principal Act, from the commencement of the year of assessment ended the twenty-eighth day of February, 1969, or, in the case of a company referred to in paragraph (d) of the definition of "financial year" in section 1 of the principal Act, from the commencement of the period referred to in subparagraph (i) of the said paragraph; and

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

Amendment of section 5 of Ordinance 10 of 1961 of South-West Africa.

51. Section 5 of the Income Tax Ordinance, 1961, of the territory of South-West Africa, is hereby amended by the addition of the following proviso:

"Provided that the said tax shall not be payable by any company in respect of any year of assessment ending after that which ended on the thirtieth day of June, 1968."

Repeal of Part III of Chapter II of Ordinance 10 of 1961 of South-West Africa.

52. (1) Part III of Chapter II, comprising sections 32 to 37, inclusive, of the Income Tax Ordinance, 1961, of the territory of South-West Africa, is hereby repealed insofar as such Part is applicable in relation to the liability of companies for the normal tax or the undistributed profits tax levied under the said Ordinance.

(2) The amendment effected by subsection (1) shall apply in respect of the year of assessment under the said Ordinance ending on the thirtieth day of June, 1969, and succeeding years of assessment under that Ordinance.

Repeal of Part V of Chapter II of Ordinance 10 of 1961 of South-West Africa.

53. (1) Part V of Chapter II, comprising sections 46 to 51, inclusive, of the Income Tax Ordinance, 1961, of the territory of South-West Africa, is hereby repealed.

(2) The amendment effected by subsection (1) shall apply in respect of the year of assessment under the said Ordinance ending on the thirtieth day of June, 1969, and succeeding years of assessment under that Ordinance.

Amendment of section 52 of Ordinance 10 of 1961, of South-West Africa.

54. (1) Section 52 of the Income Tax Ordinance, 1961, of the territory of South-West Africa, is hereby amended by the deletion of subparagraph (iii) of subsection (1) (b).

(2) The amendment effected by subsection (1) shall apply in respect of the year of assessment under the said Ordinance ending on the thirtieth day of June, 1969, and succeeding years of assessment under that Ordinance.

This Act to apply in South-West Africa.

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

Short title.

56. This Act shall be called the Income Tax Act, 1969.

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## Schedule.

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING THE TWENTY-EIGHTH DAY OF FEBRUARY, 1970, AND THE THIRTIETH DAY OF JUNE, 1970, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF TWELVE MONTHS ENDING THE THIRTY-FIRST DAY OF MARCH, 1970, AND, IN THE CASE OF COMPANIES DERIVING TAXABLE INCOMES WITHIN THE TERRITORY OF SOUTH-WEST AFRICA, IN RESPECT OF CERTAIN OTHER YEARS OF ASSESSMENT.

(Section 1 of this Act).

1. The rates of normal tax referred to in section 1 of this Act are as hereinafter provided.  
2. The rates of normal tax payable by persons other than companies in respect of the years of assessment ending the twenty-eighth day of February, 1970, and the thirtieth day of June, 1970, and by companies in respect of years of assessment ending during the period of twelve months ending the thirty-first day of March, 1970, are as follows:—

(a) In respect of the taxable income of any person other than a company, as prescribed in the tables below: Provided that—

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

## TABLES.

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

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| Taxable Income.                              | Rates of tax in respect of married persons.  |
|--|--|
| Where the taxable income—                    |  |
| exceeds R16,000, but does not exceed R17,000 | R2,330 plus 27 per cent of the amount by which the taxable income exceeds R16,000;   |
| „ R17,000, „ „ R18,000                       | R2,600, plus 28½ per cent of the amount by which the taxable income exceeds R17,000; |
| „ R18,000, „ „ R19,000                       | R2,885 plus 30 per cent of the amount by which the taxable income exceeds R18,000;   |
| „ R19,000, „ „ R20,000                       | R3,185 plus 31½ per cent of the amount by which the taxable income exceeds R19,000;  |
| „ R20,000, „ „ R21,000                       | R3,500 plus 33 per cent of the amount by which the taxable income exceeds R20,000;   |
| „ R21,000, „ „ R22,000                       | R3,830 plus 34½ per cent of the amount by which the taxable income exceeds R21,000;  |
| „ R22,000, „ „ R23,000                       | R4,175 plus 36 per cent of the amount by which the taxable income exceeds R22,000;   |
| „ R23,000, „ „ R24,000                       | R4,535 plus 37½ per cent of the amount by which the taxable income exceeds R23,000;  |
| „ R24,000, „ „ R25,000                       | R4,910 plus 39 per cent of the amount by which the taxable income exceeds R24,000;   |
| „ R25,000, „ „ R26,000                       | R5,300 plus 40½ per cent of the amount by which the taxable income exceeds R25,000;  |
| „ R26,000, „ „ R27,000                       | R5,705 plus 42 per cent of the amount by which the taxable income exceeds R26,000;   |
| „ R27,000, „ „ R28,000                       | R6,125 plus 43½ per cent of the amount by which the taxable income exceeds R27,000;  |
| „ R28,000 . . . . .                          | R6,560 plus 45 per cent of the amount by which the taxable income exceeds R28,000.   |
| Taxable Income.                              | Rates of tax in respect of persons who are not married persons.                      |
| Where the taxable income—                    |  |
| does not exceed R500 . . . . .               | 6 per cent of each R1 of taxable income;   |
| exceeds R500, but does not exceed R1,000     | R30 plus 7 per cent of the amount by which the taxable income exceeds R500;          |
| „ R1,000, „ „ R2,000                         | R65 plus 8 per cent of the amount by which the taxable income exceeds R1,000;        |
| „ R2,000, „ „ R3,000                         | R145 plus 9 per cent of the amount by which the taxable income exceeds R2,000;       |
| „ R3,000, „ „ R4,000                         | R235 plus 10 per cent of the amount by which the taxable income exceeds R3,000;      |
| „ R4,000, „ „ R5,000                         | R335 plus 12½ per cent of the amount by which the taxable income exceeds R4,000;     |
| „ R5,000, „ „ R6,000                         | R460 plus 15 per cent of the amount by which the taxable income exceeds R5,000;      |
| „ R6,000, „ „ R7,000                         | R610 plus 17½ per cent of the amount by which the taxable income exceeds R6,000;     |
| „ R7,000, „ „ R8,000                         | R785 plus 19½ per cent of the amount by which the taxable income exceeds R7,000;     |



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| Taxable Income.                            | Rates of tax in respect of persons who are not married persons.                     |
|--|---|
| Where the taxable income—                  |   |
| exceeds R8,000, but does not exceed R9,000 | R980 plus 21 per cent of the amount by which the taxable income exceeds R8,000;     |
| " R9,000, " " R10,000                      | R1,190 plus 22½ per cent of the amount by which the taxable income exceeds R9,000;  |
| " R10,000, " " R11,000                     | R1,415 plus 24 per cent of the amount by which the taxable income exceeds R10,000;  |
| " R11,000, " " R12,000                     | R1,655 plus 25½ per cent of the amount by which the taxable income exceeds R11,000; |
| " R12,000, " " R13,000                     | R1,910 plus 27 per cent of the amount by which the taxable income exceeds R12,000;  |
| " R13,000 " " R14,000                      | R2,180 plus 28½ per cent of the amount by which the taxable income exceeds R13,000; |
| " R14,000, " " R15,000                     | R2,465 plus 30 per cent of the amount by which the taxable income exceeds R14,000;  |
| " R15,000, " " R16,000                     | R2,765 plus 31½ per cent of the amount by which the taxable income exceeds R15,000; |
| " R16,000, " " R17,000                     | R3,080 plus 33 per cent of the amount by which the taxable income exceeds R16,000;  |
| " R17,000, " " R18,000                     | R3,410 plus 34½ per cent of the amount by which the taxable income exceeds R17,000; |
| " R18,000, " " R19,000                     | R3,755 plus 36 per cent of the amount by which the taxable income exceeds R18,000;  |
| " R19,000, " " R20,000                     | R4,115 plus 37½ per cent of the amount by which the taxable income exceeds R19,000; |
| " R20,000, " " R21,000                     | R4,490 plus 39 per cent of the amount by which the taxable income exceeds R20,000;  |
| " R21,000, " " R22,000                     | R4,880 plus 40½ per cent of the amount by which the taxable income exceeds R21,000; |
| " R22,000 " " R23,000                      | R5,285 plus 42 per cent of the amount by which the taxable income exceeds R22,000;  |
| " R23,000, " " R24,000                     | R5,705 plus 43½ per cent of the amount by which the taxable income exceeds R23,000; |
| " R24,000 . . . . .                        | R6,140 plus 45 per cent of the amount by which the taxable income exceeds R24,000.  |

(b) on each rand of the taxable income of any company (excluding so much as is derived from mining operations and, in the case of any company referred to in subparagraph (e), so much as the Secretary determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act) which is determined under the principal Act to be derived—

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

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

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

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

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

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 referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act), a percentage determined in accordance with the formula:

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

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

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

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

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

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

- (e) on each rand of the taxable income of any company, the sole or principal business of which in the Republic is or has been mining for gold and the determination of the taxable income of which for the period assessed does not result in an assessed loss, which the Secretary determines to be attributable to the inclusion in its gross income of any amount referred to in paragraph (j) of the definition of "gross income" in section 1 of the principal Act, the average rate of normal tax or thirty-five cents, whichever is the higher;
- (f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to ten per cent of such amount;
- (g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold, diamonds or natural oil)—
- (i) within the territory of South-West Africa, thirty-three and one-third cents;
  - (ii) elsewhere than within the said territory, forty cents;
- (h) in respect of the taxable income of any person other than a company, a sum equal to five per cent of the amount of tax determined in accordance with subparagraph (a) after the deduction of the rebates provided for in section 6 of the principal Act, but before the addition of the sum referred to in the proviso to the said subparagraph: Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any taxpayer whose liability under this subparagraph would, but for this proviso, be less than five rand;

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(f) in respect of the taxable income of any company—

- (i) a sum equal to ten per cent of the amount of tax determined under subparagraph (f) before the addition of the sum referred to in the proviso to that subparagraph; and
- (ii) a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (c) and (d) before the addition of the sum referred to in the third proviso to subparagraph (c) and the sum referred to in the second proviso to subparagraph (d):

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.

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

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

4. (1) The rates of normal tax payable by companies in respect of taxable income determined under the principal Act to be derived within the territory of South-West Africa in respect of years of assessment ending on or before the thirty-first day of March, 1969, are as follows:—

- (a) On each rand of such taxable income (excluding so much as is derived from mining operations carried on in the said territory), thirty cents;
- (b) on each rand of so much of such taxable income as has been derived from mining operations carried on in the said territory—
  - (i) where, in the case of any company, the ratio of net profit to allowable business expenditure is fifty-five per cent or less, twenty-two and a half cents plus one-eighth of a cent in respect of every additional one per cent or part thereof by which such ratio exceeds fifty-five per cent;
  - (ii) where such ratio exceeds seventy-five per cent, twenty-five cents plus one-fifth of a cent in respect of every additional one per cent or part thereof by which such ratio exceeds seventy-five per cent:

Provided that—

- (aa) in respect of so much of such taxable income as has been derived by any company from mining operations in the said territory (other than mining for diamonds), the maximum rate of tax shall not exceed thirty cents for each rand of taxable income;
- (bb) in respect of so much of such taxable income as has been derived by any company from mining in the said territory for diamonds, the maximum rate of tax shall not exceed forty-five cents for each rand of taxable income;
- (cc) notwithstanding the provisions of subitems (i) and (ii), the maximum rates of tax provided for in provisos (aa) and (bb) shall be payable by any company if the total taxable income derived by such company from mining operations in the said territory exceeds the amount of one million rand.

(2) For the purposes of subparagraph (1) "allowable business expenditure" includes all expenditure allowable under the provisions of the principal Act in the determination of a company's taxable income from mining operations in the territory of South-West Africa but excluding the capital expenditure allowable under the provisions of section 15 (a), read with the provisions of section 36, of the said Act.