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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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KAAPSTAD, 28 JUNIE 1972.

[No. 3593.]

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1125.

28th June, 1972.

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

No. 90 of 1972: Income Tax Act, 1972.

No. 1125.

28 Junie 1972.

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

No. 90 van 1972: Inkomstebelastingwet, 1972.

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, 1973, and the thirtieth day of June, 1973, 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, 1973; to provide for the payment of a portion of the normal tax payable by certain companies into the Revenue Fund of the territory of South-West Africa; to provide for the repayment to the taxpayers concerned of a certain portion of the normal tax paid by those taxpayers; to amend the Income Tax Act, 1962, the Income Tax Act, 1971, and the Insolvency Act, 1936; to repeal certain provisions of the Financial Relations Consolidation and Amendment Act, 1945, the Financial Relations Amendment Act, 1954, the Exchequer and Audit Act, 1956, the Finance Act, 1960, the Finance Act, 1962, the Income Tax Amendment Act, 1962, the Income Tax Amendment Act, 1963, the Revenue Laws Amendment Act, 1963, the Income Tax Act, 1963, the Income Tax Act, 1964, the Income Tax Act, 1965, the Income Tax Act, 1966, the Income Tax Act, 1967, the Income Tax Act, 1968, the Income Tax Act, 1969, and the Income Tax Act, 1970; to amend certain provisions of the Income Tax Ordinance, 1961, of South-West Africa; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 16th June, 1972.)

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

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

- (a) the taxable income of any person other than a company for the year of assessment ending the twenty-eighth day of February, 1973, or the thirtieth day of June, 1973; and
- (b) the taxable income of any company for any year of assessment ending during the period of twelve months ending on the thirty-first day of March, 1973,

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

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

Rates of normal tax.

Portion of normal tax payable by certain companies to be paid into the Revenue Fund

INCOME TAX ACT, 1972.

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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).

of the territory of South-West Africa.

(2) The provisions of this section shall be deemed to have come into operation on the first day of April, 1972.

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

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

4. (1) Section 1 of the principal Act is hereby amended—
- (a) by the insertion after paragraph (e) of the definition of “gross income” of the following paragraph:
“(eA) any amount determined under the provisions of the Sixth Schedule in respect of any gain derived under or in respect of any insurance policy;”;
- (b) by the substitution for the definition of “married person” of the following definition:
“‘married person’ means—
- (a) any person who during any portion of the period in respect of which any assessment is made, was married and not living apart from his spouse in circumstances which, in the opinion of the Secretary, indicate that the separation is likely to be permanent, or was a widower or widow; or
- (b) any person who—
- (i) during the whole of such period—
- (aa) was divorced or was separated under an order of judicial separation, if the proceedings for such divorce or judicial separation were instituted not later than the twenty-first day of March, 1962; or
- (bb) was separated under a written agreement of separation entered into not later than that date; and
- (ii) is in respect of such period entitled to any abatement in respect of a child under section 5A (3) (a);”;
- (c) by the substitution for subparagraph (iv) of paragraph (b) of the definition of “pension fund” of the following subparagraph:
“(iv) that not more than one-third of the total value of the annuity or annuities to which any employee becomes entitled, may be commuted for a single payment, except where the annual amount of such annuity or annuities does not exceed one hundred and twenty rand;”;
- (d) by the substitution for the definition of “Republic” of the following definition:
“‘Republic’ means the Republic of South Africa: Provided that—
- (i) for the purposes of the definitions of ‘company’ and ‘representative taxpayer’ in this

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

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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, Fifth and Sixth Schedules, in so far as such definition and such provisions apply in relation to the taxation of any company or to any matter affecting the liability or non-liability of any company for tax, the territory shall be deemed to form part of the Republic;"; and

- (e) by the substitution for subparagraph (ii) of paragraph (b) of the definition of "retirement annuity fund" of the following subparagraph:

"(ii) that not more than one-third of the total value of any annuities to which any person becomes entitled, may be commuted for a single payment, except where the annual amount of such annuities does not exceed one hundred and twenty rand;".

(2) The amendment effected by subsection (1) (b) shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of the year of assessment ended the twenty-ninth day of February, 1972.

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

- (a) by the deletion at the end of subparagraph (iii) of paragraph (d) of subsection (10) of the word "and" and by the addition at the end of subparagraph (iv) of the said paragraph of the word "and"; and

- (b) by the addition to the said paragraph (d) of the following subparagraph:

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

Amendment to section 5 of Act 58 of 1962 as substituted by section 2 of Act 6 of 1963 and amended by section 5 of Act 90 of 1964, section 6 of Act 88 of 1965, section 7 of Act 55 of 1966, section 6 of Act 95 of 1967, section 6 of Act 76 of 1968, section 7 of Act 89 of 1969, section 7 of Act 52 of 1970 and section 5 of Act 88 of 1971.

6. Section 8 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (4) of the following paragraph:

- "(c) Within three months after the end of the year of assessment during which any amount referred to in paragraph (b) has been recovered or recouped by the person concerned in respect of any ship of more than two hundred gross register tons, there shall be deposited by the said person with the Public Debt Commissioners for such period and on such conditions as may be approved by the Secretary an amount equal

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

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to the amount to be excluded from such person's income in terms of that paragraph, less such amount, if any, as has in the meantime been paid by the said person in respect of the cost price of the further ship referred to in that paragraph."

7. (1) Section 10 of the principal Act is hereby amended—
- (a) by the insertion after subparagraph (xii) of paragraph (i) of subsection (1) of the following subparagraph:
- “(xiiA) interest received by or accrued to any person from deposits in any savings account with any building society under the State-Aided Home-Ownership Savings Scheme;”;
- (b) by the insertion after paragraph (i) of the said subsection of the following paragraph:
- “(iA) in the case of any unit portfolio referred to in paragraph (e) of the definition of ‘company’ in section 1, so much of the interest received by or accrued to such unit portfolio as has been distributed, or as the Secretary is satisfied will be distributed, by way of a dividend or a portion of a dividend, to persons who have become entitled to such dividend by virtue of their being registered as holders of units in such unit portfolio on a date falling on or after the first day of April, 1971;”;
- (c) 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—
- (aa) 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; or
- (bb) to so much of any dividend received by or accrued to or in favour of any company from any unit portfolio constituting a company in terms of paragraph (e) of the definition of ‘company’ in section 1 as has been distributed out of interest derived by such unit portfolio which is exempt from tax in the hands of such unit portfolio under the provisions of paragraph (iA); or
- (cc) to dividends received by or accrued to or in favour of any company during any year of assessment of such company ending during the period commencing on the first day of April, 1971, and ending on the thirty-first day of March, 1973;”;
- (d) by the insertion after subparagraph (i) of paragraph (k) of the said subsection of the following subparagraph:
- “(iA) dividends received by or accrued to or in favour of any unit portfolio constituting a company in terms of paragraph (e) of the definition of ‘company’ in section 1;”;

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

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- (e) by the insertion after paragraph (v) of the said subsection of the following paragraph:
- “(vA) in the case of any person (other than a company) who is ordinarily resident in a country or territory other than the Republic and South-West Africa, in which a building society registered under the Building Societies Act, 1965 (Act No. 24 of 1965), is under the provisions of section 22 (1) (mA) of that Act empowered to conduct its business, or in the case of a company which is managed and controlled in such country or territory, interest received by or accrued to such person or company in respect of any loan to or deposit in such building society made through any branch or agency of such society in that country or territory, or any dividend or share of profits distributed by such society to such person or company in respect of any share in such society applied or subscribed for by such person or company through any such branch or agency;” and
- (f) by the addition to the said subsection of the following paragraph:
- “(zA) any amount by way of a rebate or other assistance in respect of the financing of the export of goods from the Republic, which is received by or accrues to or in favour of any person from the State under a scheme for the payment of such amounts to exporters, if the Minister of Finance has directed that the amounts payable under that scheme by way of such rebates or other assistance shall be exempt from normal tax.”
- (2) For the purposes of assessments and determinations of tax under the principal Act—
- (a) the amendments effected by subsection (1) (b), (c) and (d) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of April, 1971;
- (b) the amendment effected by subsection (1) (e) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of November, 1970; and
- (c) the amendment effected by subsection (1) (f) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of October, 1970.
8. (1) Section 11 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (h) of the following paragraph:
- “(h) such allowance in respect of any amounts included in the taxpayer's gross income under paragraph (g) or paragraph (h) of the definition of 'gross income' in section 1 as the Secretary may deem reasonable having regard to any special circumstances of the case and, in the case of an amount so included under the said paragraph (h), to the original period for which the right of use or occupation was granted: Provided that where there has on or after the twenty-ninth day of March, 1972, accrued to the taxpayer the right to have improvements effected on land or to buildings by any other person and an amount is required to be included in the taxpayer's gross income under the said paragraph (h) with respect
- Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970 and section 10 of Act 88 of 1971.

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to such improvements, no allowance shall be made to the taxpayer under this paragraph in respect of such amount, if—

- (i) the taxpayer or such other person is a company and such other person or the taxpayer, as the case may be, is interested in more than fifty per cent of any class of shares issued by such company, whether directly as a shareholder in that company or indirectly as a shareholder in any other company; or
 - (ii) both the taxpayer and such other person are companies and any third person is interested in more than fifty per cent of any class of shares issued by one of those companies and in more than fifty per cent of any class of shares issued by the other company, whether directly as a shareholder in the company by which the shares in question were issued or indirectly as a shareholder in any other company;” and
- (b) by the substitution in paragraph (i) for the expression “1971” of the expression “1974”.
- (2) For the purposes of assessments and determinations of tax under the principal Act—
- (a) the amendment effected by subsection (1) (a) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the twenty-ninth day of March, 1972; and
 - (b) the amendment effected by subsection (1) (b) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of January, 1972.

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

- (a) by the insertion in subsection (1) before the definition of “associated companies” of the following definition: “adjusted basic export turnover”, in relation to any year of assessment, means an amount determined in accordance with the formula:

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

in which formula ‘x’ represents the amount which has to be determined, ‘a’ represents the number of months contained in the export periods in respect of which the taxpayer’s basic export turnover in relation to the said year of assessment has been determined and ‘b’ represents such basic export turnover;”;

- (b) by the substitution in the said subsection for the definition of “basic export turnover” of the following definition:

“basic export turnover’, in relation to any year of assessment, hereinafter referred to as the current year, means—

- (a) if the basic period in relation to the current year commenced within thirty-six months before the commencement of the current year, the sum of the taxpayer’s export turnovers during the export periods falling within the basic period; or
- (b) if the basic period in relation to the current year commenced more than thirty-six months before the commencement of the current year, the sum of the taxpayer’s lowest export turnovers during three export periods falling

Amendment of section 11*bis* of Act 58 of 1962, as inserted by section 10 of Act 90 of 1962 and amended by section 9 of Act 72 of 1963, section 13 of Act 55 of 1966, section 12 of Act 95 of 1967, section 10 of Act 76 of 1968 and section 11 of Act 52 of 1970.

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within the basic period and within the period of sixty months immediately before the commencement of the current year;”;

- (c) by the insertion in the said subsection after the definition of “basic export turnover” of the following definition:
 “‘basic period’ in relation to any year of assessment, means the period immediately before the commencement of that year during which the taxpayer concerned has continuously carried on an export trade;”;
- (d) by the substitution in the said subsection for the definition of “export period” of the following definition:
 “‘export period’ means any period falling within any year of assessment during which the taxpayer concerned carries on any export trade;”;
- (e) by the insertion in the said subsection after the definition of “export period” of the following definition:
 “‘export trade’ means any trade carried on by a taxpayer in the course of which goods are exported or are produced or manufactured for export or in the course of which orders are actively solicited in any country referred to in the definition of ‘exported’ in this subsection;” and
- (f) by the substitution for subsection (3) of the following subsection:
 “(3) The exporters’ allowance shall be an amount equal to seventy-five per cent of the market development expenditure (determined as provided in subsection (4)) incurred by the taxpayer during the year of assessment or, where in relation to the year of assessment the taxpayer has a current export turnover and a basic export turnover and such current export turnover exceeds the taxpayer’s adjusted basic export turnover in relation to the year of assessment by more than ten per cent of such adjusted basic export turnover, an amount equal to one hundred per cent of such market development expenditure: Provided that for the purposes of this subsection the current export turnover of an associated company in relation to any year of assessment shall be deemed to be the sum of the current export turnovers in relation to that year of all the associated companies of which that company is one, and the basic export turnover or the adjusted basic export turnover of that company in relation to that year shall respectively be deemed to be the sum of the basic export turnovers or the sum of the adjusted basic export turnovers of all the said associated companies in relation to that year.”

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

“Deduction of compensation for railway operating losses.

11sex. For the purpose of determining the taxable income derived by any taxpayer from carrying on any trade within the Republic, there shall be allowed as a deduction from the income of the taxpayer so derived the amount of any compensation due to the Railway Administration and paid by the taxpayer (whether directly or through any trade association of which the taxpayer is a member) in respect of any loss incurred by that Administration in operating any railway line, if—

- (a) such railway line was constructed by the said Administration under a written agreement in

Insertion of section 11sex in Act 58 of 1962.

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terms of which the Administration undertook to construct and operate the railway line;

- (b) the compensation so paid was paid in order to discharge an obligation under the said agreement to pay such compensation; and
- (c) the taxpayer's liability to pay such compensation was incurred in connection with his trade."

11. Section 12 of the principal Act is hereby amended by the substitution for paragraph (iv) of subsection (2) of the following paragraph:

- "(iv) such machinery or plant, not being machinery or plant qualifying for the allowance under the provisions of paragraph (ii) or (iii), is brought into use by any taxpayer on or after the thirteenth day of August, 1970, but not later than the thirtieth day of June, 1975."

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

12. Section 13 of the principal Act is hereby amended—

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

"(d) of any building (other than a building qualifying for the allowance under paragraph (c)) the erection of which was commenced on or after the thirteenth day of August, 1970, but not later than the thirtieth day of June, 1975, and of any improvements (other than repairs and other than improvements qualifying for the allowance under paragraph (c)) commenced on or after the thirteenth day of August, 1970, but not later than the thirtieth day of June, 1975, to any building, if the building in question was wholly or mainly used by him for the purpose of carrying on therein in the course of his trade (other than mining or farming) any process of manufacture or any other process which in the opinion of the Secretary is of a similar nature, or if such building was let by him and was wholly or mainly used for the purpose of carrying on therein any process as aforesaid in the course of any trade (other than mining or farming);"; and

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

"(ii) the allowance under subsection (5) (d) shall not be made in respect of any building brought into use or in respect of any improvements completed after the thirtieth day of June, 1975."

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

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

- "'college' means a college for advanced technical education established or deemed to have been established under the Advanced Technical Education Act, 1967 (Act No. 40 of 1967), or any other Act of Parliament; and"

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

14. (1) Section 19 of the principal Act is hereby amended—

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

"(4) In respect of income in the form of dividends (other than dividends referred to in section 11 (s)) derived by any company (hereinafter referred to as the taxpayer company) during any year of assessment of that company, there shall be allowed as a deduction in

Amendment of section 19 of Act 58 of 1962, as amended by section 15 of Act 90 of 1962, section 6 of Act 6 of 1963, section 17 of

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the determination of the taxable income so derived by the taxpayer company an amount equal to so much of the dividends distributed by it during such year as is proved by the taxpayer company—

Act 88 of 1965 and section 17 of Act 88 of 1971.

(a) to have accrued during the period covered by the said year to or in favour of any other company which is registered or carries on business in the Republic; and

(b) to be income (as defined in section 1) in the hands of such other company or to be an amount which, but for the fact that such amount is exempt from normal tax under the provisions of section 10 (1) (k) (i), would be income (as so defined) in the hands of such other company, and as does not exceed the taxable income derived in the form of dividends by the taxpayer company during the said year of assessment, as determined before allowing any deduction under this subsection.”;

(b) by the insertion after subsection (5) of the following subsection:

“(5A) Subject to the provisions of subsection (6), income received by or accrued to any person other than a company by way of a dividend on indefinite period or fixed period shares in any permanent building society shall, notwithstanding the definition of ‘dividend’ in section 1, be deemed for the purposes of this section to be income derived by such person in the form of dividends.”;

(c) by the insertion after subsection (5A) of the following subsection:

“(5B) So much of any dividend received by or accrued to any shareholder in relation to a unit portfolio referred to in paragraph (e) of the definition of ‘company’ in section 1 as has been distributed out of interest derived by such unit portfolio and which is exempt from tax in the hands of such unit portfolio under the provisions of section 10 (1) (iA), shall for the purposes of this section, be deemed to be income derived by such shareholder otherwise than in the form of dividends.”; and

(d) by the substitution for subsection (6) of the following subsection:

(6) Income received by or accrued to any person in the form of an annuity shall, notwithstanding the fact that such income may also be in the form of dividends or be income of the nature described in subsection (5A), be deemed for the purposes of this section to be income derived otherwise than in the form of dividends.”.

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

(a) the amendments effected by subsection (1) (a) and (c) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of April, 1971; and

(b) the amendments effected by subsection (1) (b) and (d) shall be deemed to have taken effect as from the commencement of the year of assessment ended the twenty-ninth day of February, 1972.

15. Section 20A of the principal Act is hereby amended—

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

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

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

Act 89 of 1969
and amended by
section 16 of
Act 52 of 1970.

(b) by the deletion of paragraph (a) of subsection (2).

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

Substitution of
section 21 of
Act 58 of 1962,
as substituted by
section 16 of
Act 90 of 1962.

“Deduction of alimony, allowance or maintenance. 21. The taxpayer shall have his taxable income reduced by so much of any amount payable by him to or on behalf of his spouse or former spouse under any order of divorce or judicial separation granted in consequence of proceedings instituted not later than the twenty-first day of March, 1962, or under any written agreement of separation entered into not later than that date, by way of alimony or allowance or maintenance of his spouse or former spouse and any children, as the Secretary is satisfied has been or will in respect of the year or period of assessment in question be paid out of the taxable income of the taxpayer: Provided that for the purposes of this section any order of divorce or judicial separation (hereinafter referred to as the subsequent order) which in effect supersedes any such first-mentioned order of judicial separation or written agreement of separation and does not vary the amount of alimony, allowance or maintenance payable thereunder, shall not affect the rights which any person may have under this section, and in the case of any such person and the spouse or former spouse of such person the subsequent order shall, for the purposes of this section, the definition of ‘married person’ in section 1 and the provisions of sections 5A (3) (a) and 10 (1) (u), be deemed to have been granted in consequence of proceedings instituted on or before the said date.”

(2) The amendment effected by subsection (1) shall for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of the year of assessment ended the twenty-ninth day of February, 1972.

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

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

“(b) The development allowance shall not be authorized in respect of any application received after the thirtieth day of September, 1975.”

18. (1) Section 42 of the principal Act is hereby amended by the addition to subsection (2) of the following paragraph:

Amendment of
section 42 of
Act 58 of 1962,
as amended by
section 21 of
Act 88 of 1965,

“(h) so much of any dividend accruing to any person from any unit portfolio referred to in paragraph (e) of the definition of ‘company’ in section 1 as has been

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- distributed out of interest derived by such unit portfolio which is exempt from normal tax in the hands of such unit portfolio under the provisions of section 10 (1) (iA).”
- (2) The amendment effected by subsection (1) shall be deemed to have taken effect on the first day of April, 1971.
- section 17 of Act 95 of 1967, section 29 of Act 89 of 1969, section 19 of Act 52 of 1970, and section 23 of Act 88 of 1971.
19. (1) Section 64B of the principal Act is hereby amended by the addition of the following paragraph:
- “(h) so much of any dividend accruing to any person from any unit portfolio referred to in paragraph (e) of the definition of ‘company’ in section 1 as has been distributed out of interest derived by such unit portfolio which is exempt from normal tax in the hands of such unit portfolio under the provisions of section 10 (1) (iA), shall be deemed to be interest.”
- (2) The amendment effected by subsection (1) shall be deemed to have taken effect on the first day of April, 1971.
- Amendment of section 64B of Act 58 of 1962, as substituted by section 35 of Act 89 of 1969 and amended by section 20 of Act 52 of 1970.
20. (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, the South African Reserve Bank or the South African Broadcasting Corporation;” and
- (b) by the insertion after paragraph (fA) of the following paragraph:
- “(fB) interest accruing to any person (other than a company) who is ordinarily resident in a country or territory other than the Republic and South-West Africa in which a building society registered under the Building Societies Act, 1965 (Act No 24 of 1965), is under the provisions of section 22 (1) (mA) of that Act empowered to conduct its business, or to a company which is managed and controlled in such country or territory, in respect of any loan to or deposit in such building society made through any branch or agency of such society in that country or territory, or interest accruing to any such person or company by way of any dividend or share of profits distributed by such society in respect of any share in such society applied or subscribed for by such person or company through any such branch or agency;”.
- (2) The amendment effected by subsection (1) (b) shall be deemed to have taken effect on the first day of November, 1970.
- Amendment of section 64C of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967 and amended by section 15 of Act 76 of 1968, section 36 of Act 89 of 1969, section 21 of Act 52 of 1970 and section 26 of Act 88 of 1971.
21. (1) The following paragraph is hereby substituted for paragraph 13 of the First Schedule to the principal Act:
- “13. (1) If it is proved to the satisfaction of the Secretary—
- (a) that any farmer—
- (i) has in any year of assessment (other than a year of assessment in respect of which the normal tax chargeable in the case of such farmer is required to be determined under paragraph 19) sold livestock on account of drought or stock disease; and
- (ii) has within four years after the close of the said year of assessment purchased livestock to replace the livestock so sold; or
- Amendment of paragraph 13 of 1st Schedule to Act 58 of 1962, as amended by section 25 of Act 95 of 1967.

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- (b) that any farmer—
- (i) has in any year of assessment (other than a year of assessment in respect of which the normal tax chargeable in the case of such farmer is required to be determined under paragraph 19) sold livestock by reason of his participation in a livestock reduction scheme organized by the Government; and
 - (ii) has within nine years after the close of the said year of assessment purchased livestock to replace the livestock so sold,

the cost of the livestock so purchased shall, notwithstanding anything in this Schedule contained, be allowed, at the option of such farmer, as a deduction in the determination of his taxable income for the year of assessment during which the livestock was so sold, provided the claim for such deduction is made within five years after the close of that year of assessment in the case of a farmer referred to in item (a), or within ten years after the close of that year of assessment in the case of a farmer referred to in item (b).

(2) The cost of livestock so allowed as a deduction shall not be allowed as a deduction in the year of assessment in which the purchases were made.

(3) Every farmer who desires to claim a deduction in terms of subparagraph (1), shall with his return of income for the year of assessment in which he sold livestock on account of conditions of drought or stock disease or by reason of his participation in a livestock reduction scheme organized by the Government, or within such period as the Secretary may allow, notify the Secretary accordingly and furnish full particulars in regard to the livestock so sold.

(4) Notwithstanding anything contained in the preceding provisions of this paragraph, the Secretary shall, until proof has been submitted to him as provided in subitem (ii) of item (a) or subitem (ii) of item (b) of subparagraph (1), assess and recover any tax payable by a farmer in respect of any year of assessment in which livestock has been sold as aforesaid, as if the said item had not been enacted: Provided that if proof is submitted to the satisfaction of the Secretary in terms of the said item (a) or (b) he shall revise the assessment concerned and refund to the farmer so much of the amount paid by him as exceeds the amount found to be payable after allowing the deduction referred to in the said item (a) or item (b), whichever is applicable.”

(2) The amendments effected by subsection (1), shall, for the purposes of assessments and determinations of tax under the principal Act, be deemed to have taken effect as from the commencement of the year of assessment ended the twenty-eighth day of February, 1970.

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

“(1) In the case of any taxpayer who has made an election as provided in subparagraph (5) which is binding upon him in respect of any period of assessment commencing on or after the first day of March, 1967 (hereinafter referred to as the relevant period), during which he or his wife has carried on farming operations or has derived income from the operations so carried on, the normal tax chargeable in respect of his taxable income for such period shall be determined—

Amendment of paragraph 19 of 1st Schedule to Act 58 of 1962, as added by section 28 of Act 95 of 1967 and amended by section 43 of Act 89 of 1969 and section 33 of Act 88 of 1971.

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- (i) in accordance with the formula—

$$Y = \frac{A}{B+C-D-E} \times F,$$

(hereinafter referred to as the first formula), if the relevant period ends not later than the end of the year of assessment ended the twenty-eighth day of February, 1971; or

- (ii) in accordance with the formula—

$$Y = \frac{H}{(B+C-D-E-J)-G} \times (F-I),$$

(hereinafter referred to as the second formula), if the relevant period commences not earlier than the beginning of the year of assessment ending the twenty-ninth day of February, 1972,

in which formulae—

- (a) 'Y' represents the amount of normal tax to be determined;
- (b) 'A' represents the amount of normal tax chargeable at the relevant rate fixed in terms of section 5 (2) of this Act in respect of a taxable income equal to the amount represented by the expression 'B+C-D-E' in the first formula;
- (c) 'B' represents the taxpayer's average taxable income (if any) from farming as determined in relation to the relevant period in accordance with subparagraph (2);
- (d) 'C' represents the taxpayer's taxable income (if any) for the relevant period from sources other than farming or, if the determination of such taxable income results in an assessed loss, such assessed loss: Provided that where 'C' represents such assessed loss the expression '+C' in the applicable formula shall be construed as meaning '-C';
- (e) 'D' represents the amount (if any) included in the taxpayer's gross income for the relevant period under the provisions of the Second Schedule to this Act;
- (f) 'E' represents the amount (if any) of any special remuneration, as defined in section 5 (9) of this Act, which has been included in the income of the taxpayer for the relevant period;
- (g) 'F' represents the taxpayer's taxable income for the relevant period;
- (h) 'G' represents the sum which would be allowable under section 5A of this Act by way of abatements against the taxpayer's taxable income for the relevant period if such taxable income were an amount equal to the amount represented by the expression '(B+C-D-E-J)' in the second formula;
- (i) 'H' represents the amount of normal tax calculated at the relevant rate fixed in terms of section 5 (2) of this Act in respect of a taxable amount equal to the amount represented by the expression '(B+C-D-E-J)-G' in the second formula;
- (j) 'I' represents the sum in fact allowed to the taxpayer under section 5A of this Act by way of abatements against his taxable income for the relevant period; and

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- (k) 'J' represents an amount equal to the amount, if any, by which any gain referred to in paragraph 9 of the Sixth Schedule which has been included in the taxpayer's taxable income for the relevant period exceeds an amount obtained by dividing the gain by the number of full years in the period reckoned from the commencement date of the insurance policy in question (as contemplated in the definition of 'commencement date' in paragraph 1 of the said Schedule) or the thirtieth day of March, 1972, or the date on which the taxpayer became the owner (as contemplated in the definition of 'owner' in paragraph 1 of the said Schedule) of the policy, whichever date is the latest, to the date of the receipt or accrual (as determined in accordance with the said Schedule) of the insurance benefit or the consideration in respect of which the said gain is determined:

Provided that the amount represented by the expression 'B+C-D-E' in the first formula or the expression '(B+C-D-E-J)-G' in the second formula shall in no case be determined at an amount of less than one rand."

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

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

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

- (2) The amendment effected by subsection (1) shall apply in respect of years of assessment ending on or after the first day of January, 1972, and shall be deemed to have taken effect on that date.

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

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

"(1) A person shall not be liable for the payment of the loan portion chargeable in respect of any period of assessment if, before any notice of assessment is issued by the Secretary in respect of his taxable income for such period or any amount is appropriated to such loan portion as contemplated in paragraph 8 (1)—

- (a) such person dies or his estate is sequestrated or, in the case of a company, the winding-up or liquidation thereof has commenced; or
- (b) such person, if she is a woman, marries; or
- (c) such person (not being a company) departs from the Republic or ceases to carry on business in the Republic and the Secretary is satisfied that such person will thereafter not be ordinarily resident nor carrying on business in the Republic; or

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

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- (d) such person proves to the satisfaction of the Secretary that owing to old age, continued ill health or infirmity or for any other reason, his financial circumstances are permanently reduced and that he will probably not be liable for normal tax in the future.

(1A) The estate of a deceased or insolvent person shall not be liable for the payment of any loan portion in respect of any income received by or accrued to or in favour of such estate: Provided that nothing in this paragraph contained shall be construed as relieving any person from liability for the payment of any loan portion in respect of any taxable income of any trust which is assessable in the hands of such person.”.

(2) The amendment effected by subsection (1) shall apply in respect of all years of assessment for which any loan portion, as defined in paragraph 1 of the said Schedule, may be leviable: Provided that the amendment shall not apply in respect of any period of assessment of any taxpayer ending before the date of promulgation of this Act if, before that date, the Secretary for Inland Revenue has issued a notice of assessment in respect of the taxable income of that taxpayer for that period and an amount has been appropriated to such loan portion as contemplated in paragraph 8 (1) of the said Schedule.

25. (1) Paragraph 4 of the Fifth Schedule to the principal Act is hereby amended by the substitution for subparagraphs (2) and (3) of the following subparagraphs:

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

“(2) The amounts accruing from time to time under any law to the Consolidated Revenue Fund, the Transkeian Revenue Fund or a Revenue Fund referred to in section 6 of the Bantu Homelands Constitution Act, 1971 (Act No. 21 of 1971), in respect of normal, provincial income or personal tax 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 paragraph 6) refunded by the Secretary in respect of the loan portion of the normal tax shall be paid as a drawback from amounts accruing to the said loan account.

(3) The amounts repayable under the provisions of paragraph 6 or set off under the provisions of paragraph 8A, and the interest payable under the provisions of paragraph 7 or set off under the provisions of paragraph 8A, shall be charged to the said loan account.”.

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

26. (1) Paragraph 6 of the Fifth Schedule to the principal Act is hereby amended by the substitution for the second proviso of the following proviso:

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

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“Provided further that the Secretary may, before the date so determined, repay to any person (or if such person has died or his estate has been sequestrated, to his estate) the amount paid by that person in respect of such loan portion, together with simple interest determined as hereinafter provided, if, before such date—

- (a) such person dies or his estate is sequestrated or, in the case of a company, the winding-up or liquidation thereof has commenced; or
- (b) such person, if she is a woman, marries; or
- (c) such person (not being a company) departs from the Republic or ceases to carry on business in the Republic and the Secretary is satisfied that such person will thereafter not be ordinarily resident nor carrying on business in the Republic; or
- (d) such person proves to the satisfaction of the Secretary that owing to old age, continued ill-health or infirmity or for any other reason, his financial circumstances are permanently reduced and that he will probably not be liable for normal tax in the future.”

(2) The amendment effected by subsection (1) shall apply in respect of all years of assessment for which any loan portion, as defined in paragraph 1 of the said Schedule, may be leviable: Provided that any repayment authorized by paragraph (b), (c) or (d) of the second proviso to paragraph 6 of the said Schedule in respect of any loan portion paid in respect of any period of assessment ending before the date of promulgation of this Act shall not be required to be made before a date to be determined by the Minister of Finance.

27. (1) The following paragraph is hereby inserted in the Fifth Schedule to the principal Act after paragraph 8:

“8A. (1) Where—

- (a) any amount in respect of any of the taxes as defined in paragraph 28 (8) of the Fourth Schedule is owing by any taxpayer and the period allowed under this Act for the payment of that amount has expired, or any interest payable under this Act in respect of the late payment of any such tax or any portion thereof is owing by any taxpayer;
- (b) by reason of the fact that the taxpayer's whereabouts are unknown, the Secretary is unable to take action for the recovery of the said amount of tax or the said interest;
- (c) a period of at least two years has elapsed since the expiration of the period referred to in item (a) or since the date on which the said interest commenced to run;
- (d) the Secretary is satisfied that every reasonable attempt has been made to trace the taxpayer; and
- (e) an amount stands to the credit of the taxpayer in respect of any loan portion,
the Secretary may, on a date determined by him—
 - (i) calculate the interest which is due and has become payable to the taxpayer in respect of the said loan

Insertion of paragraph 8A in 5th Schedule to Act 58 of 1962, as added by section 26 of Act 52 of 1970.

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portion or, if the loan portion has not by the said date become repayable to the taxpayer, the interest which would have been payable to the taxpayer under the provisions of paragraph 7 in respect of the said loan portion if he had under the second proviso to paragraph 6 become entitled to a repayment of the loan portion on the said date; and

- (ii) set off against the amounts owing by the taxpayer as contemplated in item (a) so much of the amount of the said loan portion and the interest referred to in item (i) as does not exceed the aggregate of the amounts owing.

(2) Where any loan portion or interest thereon has under the provisions of subparagraph (1) been set off against any amount owing by the taxpayer, such loan portion or interest shall be deemed to have been repaid or paid to the taxpayer as though the repayment of the loan portion had been made in accordance with the provisions of paragraph 6 and the payment of such interest had been made in accordance with the provisions of paragraph 7.

(3) If, before any relevant date on which any loan portion has become repayable under the provisions of paragraph 6 such loan portion and the interest calculated thereon under subparagraph (1) (i) have been set off only in part against amounts owing by the taxpayer, so much of the excess amount standing to the taxpayer's credit as does not exceed the amount of the said loan portion shall be deemed to be a loan portion paid by the taxpayer on the date determined under subparagraph (1) in respect of the year of assessment in respect of which the first-mentioned loan portion was paid.

(4) If the taxpayer's whereabouts become known to the Secretary, the Secretary shall issue a notification to the taxpayer informing him of what has been done under subparagraph (1) in the case of that taxpayer."

(2) The amendment effected by subsection (1) shall be applicable in respect of all relevant years of assessment under the principal Act.

28. (1) Schedule 3 to this Act is hereby added to the principal Act as the Sixth Schedule thereto, and shall be deemed to be and shall be construed and applied as one with the principal Act. Addition of
6th Schedule to
Act 58 of 1962

(2) The amendment effected by subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ending on or after the thirtieth day of March, 1972: Provided that the provisions of paragraphs 16 to 23, inclusive, of the said Schedule shall take effect on the date of promulgation of this Act.

29. Paragraph 2 of the Schedule to the Income Tax Act, 1971, is hereby amended, with effect from the commencement thereof, by the insertion after subparagraph (2) of the following subparagraph: Amendment of
paragraph 2 of
Schedule to
Act 88 of 1971

"(2A) For the purposes of paragraph 1 (b) and (i) of this Schedule—

- (a) any amount received by or accrued to or in favour of any company by way of a distribution out of the assets pertaining to any unit portfolio comprised in any unit trust scheme in property shares authorized under the Unit Trusts Control Act, 1947 (Act No. 18 of 1947); and
- (b) so much of any dividend received by or accrued to or in favour of any company as has been distributed out of

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interest derived by any unit portfolio referred to in paragraph (e) of the definition of 'company' in section 1 of the principal Act and which is exempt from tax in the hands of such unit portfolio under the provisions of section 10 (1) (iA) of that Act, shall be deemed to be derived otherwise than in the form of dividends."

30. Section 99 of the Insolvency Act, 1936, is hereby amended—

Amendment of section 99 of Act 24 of 1936, as substituted by section 5 of Act 6 of 1972.

(a) by the deletion at the end of subparagraph (iii) of paragraph (b) of subsection (1) of the word "or";

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

"(iv) has under the provisions of the Fourth Schedule to that Act deducted or withheld by way of employees' tax from remuneration or any other amount paid or payable by him to any other person; or"; and

(c) by the insertion after subparagraph (iv) of the said paragraph of the following subparagraph:

"(v) has under the provisions of the Sixth Schedule to that Act deducted or withheld from any insurance benefit under any insurance policy, in respect of the liability of any person for normal tax,".

31. The laws mentioned in Schedule 2 to this Act are hereby repealed to the extent set forth in the third column of that Schedule: Provided that any tax or other amount imposed under any Act of Parliament or any ordinance of a provincial council in the exercise of its powers under the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945), on companies or other persons or the incomes of companies or other persons, which has not been assessed or recovered at the commencement of this Act, may be assessed and recovered as if such repeal had not been effected.

Repeal of certain laws relating to provincial taxes on companies and other persons and their incomes.

32. Section 77 of the Income Tax Ordinance, 1961, of South-West Africa, is hereby amended—

Amendment of section 77 of Ordinance 10 of 1961 of South-West Africa.

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

"(1) Any person entitled to make an objection who is dissatisfied with any decision of the Commissioner as notified to him in terms of subsection (4) of section 75 may appeal therefrom to the special court for hearing income tax appeals for the area of jurisdiction of the South-West Africa Division of the Supreme Court of South Africa constituted in accordance with the provisions of section 83 of the Income Tax Act, 1962, (Act No. 58 of 1962), of the Republic of South Africa.";

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

"(4) Any appeals lodged under the provisions of subsection (1), before the amendment thereof by the Income Tax Act, 1972, of the Republic of South Africa, or the Income Tax Ordinance, 1942 (Ordinance 15 of 1942), may be heard and determined by the court referred to in subsection (1)."; and

(c) by the deletion of subsections (2), (3) and (5).

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33. Section 81 of the Income Tax Ordinance, 1961, of South-West Africa, is hereby amended—
- (a) by the substitution for paragraph (a) of the proviso to subsection (4) of the following paragraph:
- “(a) his place may be taken, in the case of the president of the court, by any judge or acting judge of the South-West Africa Division of the Supreme Court of South Africa who may be nominated and seconded for that purpose as contemplated in paragraph (a) of the proviso to section 86 (3) of the Income Tax Act, 1962 (Act No. 58 of 1962), of the Republic of South Africa, and in the case of any other member of the court, by an accountant, a person representative of the commercial community or a qualified mining engineer, as the case may be, appointed as a member of the special court as contemplated in the said paragraph.”; and
- (b) by the substitution for subsection (5) of the following subsection:
- “(5) Where for the purposes of subsection (4) any judge or acting judge has been nominated to take the place of the president of the court which made the determination appealed against and such judge or acting judge is of the opinion that it is impossible for the court as constituted in terms of paragraph (a) of the proviso to subsection (4) to state a case for an appeal on the material before it, he may afford the appellant and the Commissioner an opportunity of adducing evidence before that court in regard to such point or points as he deems necessary for the purposes of enabling the court to state a case as required, or he may set aside the determination appealed against and order that the appeal in respect of which the said determination was made, be heard and determined *de novo*.”
34. Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall, in so far as the assessment, determination, payment, collection and recovery of normal tax, undistributed profits tax, employees tax and provisional tax are thereby affected, be deemed to have taken effect as from the commencement of years of assessment ending on or after the first day of January, 1973.
35. This Act shall apply also in the territory of South-West Africa.
36. This Act shall be called the Income Tax Act, 1972.

Amendment of section 81 of Ordinance 10 of 1961 of South-West Africa.

Commencement of certain amendments.

Application of Act in South-West Africa.

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Schedule 1.

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING THE TWENTY-EIGHTH DAY OF FEBRUARY, 1973, AND THE THIRTIETH DAY OF JUNE, 1973, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF TWELVE MONTHS ENDING THE THIRTY-FIRST DAY OF MARCH, 1973.

(Section 1 of this Act).

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

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

TABLES.

Taxable Amount.	Rates of tax in respect of married persons.
Where the taxable amount— does not exceed R1 000	9 per cent of each R1 of taxable amount;
exceeds R1 000 but does not exceed R2 000	R90 plus 10 per cent of the amount by which the taxable amount exceeds R1 000;
“ R2 000 “ “ R3 000	R190 plus 10 per cent of the amount by which the taxable amount exceeds R2 000;
“ R3 000 “ “ R4 000	R290 plus 11 per cent of the amount by which the taxable amount exceeds R3 000;
“ R4 000 “ “ R5 000	R400 plus 12 per cent of the amount by which the taxable amount exceeds R4 000;
“ R5 000 “ “ R6 000	R520 plus 14 per cent of the amount by which the taxable amount exceeds R5 000;
“ R6 000 “ “ R7 000	R660 plus 16 per cent of the amount by which the taxable amount exceeds R6 000;
“ R7 000 “ “ R8 000	R820 plus 18 per cent of the amount by which the taxable amount exceeds R7 000;
“ R8 000 “ “ R9 000	R1 000 plus 20 per cent of the amount by which the taxable amount exceeds R8 000;
“ R9 000 “ “ R10 000	R1 200 plus 22 per cent of the amount by which the taxable amount exceeds R9 000;
“ R10 000 “ “ R11 000	R1 420 plus 24 per cent of the amount by which the taxable amount exceeds R10 000;
“ R11 000 “ “ R12 000	R1 660 plus 26 per cent of the amount by which the taxable amount exceeds R11 000;
“ R12 000 “ “ R13 000	R1 920 plus 28 per cent of the amount by which the taxable amount exceeds R12 000;
“ R13 000 “ “ R14 000	R2 200 plus 30 per cent of the amount by which the taxable amount exceeds R13 000;
“ R14 000 “ “ R15 000	R2 500 plus 32 per cent of the amount by which the taxable amount exceeds R14 000;
“ R15 000 “ “ R16 000	R2 820 plus 34 per cent of the amount by which the taxable amount exceeds R15 000;
“ R16 000 “ “ R17 000	R3 160 plus 36 per cent of the amount by which the taxable amount exceeds R16 000;
“ R17 000 “ “ R18 000	R3 520 plus 38 per cent of the amount by which the taxable amount exceeds R17 000;
“ R18 000 “ “ R19 000	R3 900 plus 40 per cent of the amount by which the taxable amount exceeds R18 000;
“ R19 000 “ “ R20 000	R4 300 plus 42 per cent of the amount by which the taxable amount exceeds R19 000;
“ R20 000 “ “ R21 000	R4 720 plus 44 per cent of the amount by which the taxable amount exceeds R20 000;
“ R21 000 “ “ R22 000	R5 160 plus 46 per cent of the amount by which the taxable amount exceeds R21 000;
“ R22 000 “ “ R23 000	R5 620 plus 48 per cent of the amount by which the taxable amount exceeds R22 000;
“ R23 000 “ “ R24 000	R6 100 plus 50 per cent of the amount by which the taxable amount exceeds R23 000;

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Taxable Amount.	Rates of tax in respect of married persons.
Where the taxable amount— exceeds R24 000 but does not exceed R25 000	R6 600 plus 52 per cent of the amount by which the taxable amount exceeds R24 000;
„ R25 000 „ „ R26 000	R7 120 plus 54 per cent of the amount by which the taxable amount exceeds R25 000;
„ R26 000 „ „ R27 000	R7 660 plus 56 per cent of the amount by which the taxable amount exceeds R26 000;
„ R27 000 „ „ R28 000	R8 220 plus 58 per cent of the amount by which the taxable amount exceeds R27 000;
„ R28 000	R8 800 plus 60 per cent of the amount by which the taxable amount exceeds R28 000.

Taxable Amount.	Rates of tax in respect of persons who are not married persons.
Where the taxable amount— does not exceed R1 000	12 per cent of each R1 of taxable amount;
exceeds R1 000 but does not exceed R2 000	R120 plus 12 per cent of the amount by which the taxable amount exceeds R1 000;
„ R2 000 „ „ R3 000	R240 plus 13 per cent of the amount by which the taxable amount exceeds R2 000;
„ R3 000 „ „ R4 000	R370 plus 14 per cent of the amount by which the taxable amount exceeds R3 000;
„ R4 000 „ „ R5 000	R510 plus 17 per cent of the amount by which the taxable amount exceeds R4 000;
„ R5 000 „ „ R6 000	R680 plus 20 per cent of the amount by which the taxable amount exceeds R5 000;
„ R6 000 „ „ R7 000	R880 plus 23 per cent of the amount by which the taxable amount exceeds R6 000;
„ R7 000 „ „ R8 000	R1 110 plus 26 per cent of the amount by which the taxable amount exceeds R7 000;
„ R8 000 „ „ R9 000	R1 370 plus 28 per cent of the amount by which the taxable amount exceeds R8 000;
„ R9 000 „ „ R10 000	R1 650 plus 30 per cent of the amount by which the taxable amount exceeds R9 000;
„ R10 000 „ „ R11 000	R1 950 plus 32 per cent of the amount by which the taxable amount exceeds R10 000;
„ R11 000 „ „ R12 000	R2 270 plus 34 per cent of the amount by which the taxable amount exceeds R11 000;
„ R12 000 „ „ R13 000	R2 610 plus 36 per cent of the amount by which the taxable amount exceeds R12 000;
„ R13 000 „ „ R14 000	R2 970 plus 38 per cent of the amount by which the taxable amount exceeds R13 000;
„ R14 000 „ „ R15 000	R3 350 plus 40 per cent of the amount by which the taxable amount exceeds R14 000;
„ R15 000 „ „ R16 000	R3 750 plus 42 per cent of the amount by which the taxable amount exceeds R15 000;
„ R16 000 „ „ R17 000	R4 170 plus 44 per cent of the amount by which the taxable amount exceeds R16 000;
„ R17 000 „ „ R18 000	R4 610 plus 46 per cent of the amount by which the taxable amount exceeds R17 000;
„ R18 000 „ „ R19 000	R5 070 plus 48 per cent of the amount by which the taxable amount exceeds R18 000;
„ R19 000 „ „ R20 000	R5 550 plus 50 per cent of the amount by which the taxable amount exceeds R19 000;
„ R20 000 „ „ R21 000	R6 050 plus 52 per cent of the amount by which the taxable amount exceeds R20 000;
„ R21 000 „ „ R22 000	R6 570 plus 54 per cent of the amount by which the taxable amount exceeds R21 000;
„ R22 000 „ „ R23 000	R7 110 plus 56 per cent of the amount by which the taxable amount exceeds R22 000;
„ R23 000 „ „ R24 000	R7 670 plus 58 per cent of the amount by which the taxable amount exceeds R23 000;
„ R24 000	R8 250 plus 60 per cent of the amount by which the taxable amount exceeds R24 000.

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

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- (i) within the territory of South-West Africa, thirty-five cents;
 (ii) elsewhere than within the said territory, forty cents:

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

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

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

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

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

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;

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- (f) on each rand of the taxable income derived by any company from mining for diamonds, forty-five cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to ten per cent of such amount;
- (g) on each rand of the taxable income derived by any company from mining operations (other than mining for gold, diamonds or natural oil)—
- (i) within the territory of South-West Africa, thirty-five cents;
 - (ii) elsewhere than within the said territory, forty cents:
- Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a sum equal to two and a half per cent of such amount;
- (h) in respect of the taxable income of any company—
- (i) a sum equal to five per cent of the aggregate of the amounts of tax determined under subparagraphs (b), (c), (d) and (g), before the addition of the sums referred to in the proviso to subparagraph (b), the third proviso to subparagraph (c), the second proviso to subparagraph (d) and the proviso to subparagraph (g);
 - (ii) a sum equal to ten per cent of the amount of tax determined under subparagraph (f) before the addition of the sum referred to in the proviso to that subparagraph; and
 - (iii) a sum equal to three per cent of so much of the company's taxable income as is derived in the form of dividends:
- Provided that any fraction of a rand of the tax calculated under this subparagraph shall be disregarded: Provided further that the tax calculated in terms of this subparagraph shall not be payable by any company whose liability under this subparagraph would, but for this proviso, be less than five rand.

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

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

(3) For the purposes of paragraph 1 (b) and (h) of this Schedule—

- (a) any amount received by or accrued to or in favour of any company by way of a distribution out of the assets pertaining to any unit portfolio comprised in any unit trust scheme in property shares authorized under the Unit Trusts Control Act, 1947 (Act No. 18 of 1947), and
- (b) so much of any dividend received by or accrued to or in favour of any company as has been distributed out of interest derived by any unit portfolio referred to in paragraph (e) of the definition of "company" in section 1 of the principal Act and which is exempt from tax in the hands of such unit portfolio under the provisions of section 10 (1) (iA) of that Act,

shall be deemed to be derived otherwise than in the form of dividends.

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

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

Schedule 2.

REPEALS.

(Section 31 of this Act).

Law Number and Year	Short Title	Extent of repeal
Act No. 38 of 1945	Financial Relations Consolidation and Amendment Act, 1945 . . .	<ol style="list-style-type: none"> (i) Definitions of "income", "income subject to super tax", "taxable income", "company" and "year of assessment" in section 1 (1); (ii) subsections (4), (5), (6), (7) and (8) of section 8; (iii) paragraph (a) of subsection (1) of section 9; (iv) the first proviso to subsection (2) of section 10;

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Law Number and Year	Short Title	Extent of repeal
		(v) subsections (2) and (3) of section 27; and (vi) paragraphs 8 and 9 of the First Schedule.
Act No. 45 of 1954	Financial Relations Amendment Act, 1954	Sections 1 and 3.
Act No. 23 of 1956	Exchequer and Audit Act, 1956	Subsection (4) of section 21.
Act No. 64 of 1960	Finance Act, 1960	Section 11.
Act No. 77 of 1962	Finance Act, 1962	Section 18.
Act No. 90 of 1962	Income Tax Amendment Act, 1962	Section 2.
Act No. 6 of 1963	Income Tax Amendment Act, 1963	Sections 23 and 24, paragraph (b) of section 25 and sections 26 and 27.
Act No. 70 of 1963	Revenue Laws Amendment Act, 1963	Section 5.
Act No. 72 of 1963	Income Tax Act, 1963	Sections 2 and 3.
Act No. 90 of 1964	Income Tax Act, 1964	Sections 2 and 3.
Act No. 88 of 1965	Income Tax Act, 1965	Sections 2 and 3.
Act No. 55 of 1966	Income Tax Act, 1966	Sections 2 and 3.
Act No. 95 of 1967	Income Tax Act, 1967	Sections 2, 3 and 33.
Act No. 76 of 1968	Income Tax Act, 1968	Sections 2 and 3.
Act No. 89 of 1969	Income Tax Act, 1969	Sections 2 and 4.
Act No. 52 of 1970	Income Tax Act, 1970	Sections 2 and 4.

Schedule 3.

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

GAINS UNDER OR IN RESPECT OF INSURANCE POLICIES.

(Paragraph (eA) of the definition of "gross income" in section 1 of this Act).

PART I.

DEFINITIONS.

1. For the purposes of this Schedule, unless the context otherwise indicates—

"cession", in relation to an insurance policy, means a cession in whole or in part of the rights conferred by such policy and includes any sale, exchange or other transaction whereby such rights are sold, exchanged or otherwise disposed of, whether for a consideration or for no consideration;

"commencement date", in relation to an insurance policy, means the date on which the contract of insurance to which the policy relates is made by the parties or, if the obligations of the insurer under the contract commence at a later date, such later date;

"insurance benefit", in relation to an insurance policy, means the gross amount or value of any benefit, whether of a capital nature or not, which is received by or accrues to or in favour of any person under such policy and, without in any way limiting the scope of this definition, includes—

- (a) the gross amount of any bonus or share of profits received by or accrued to or in favour of any person under the policy;
- (b) the gross amount or value of any benefit which is received by or accrues to or in favour of any person upon or by reason of the surrender in whole or in part by any person of his rights under the policy; and
- (c) the gross amount received by or accrued to or in favour of any person in respect of the commutation of any annuity payable under the policy;

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“insurance policy” means—

- (a) a life policy as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), if the insurer under the policy carries on life business as defined in that section, whether within or outside the Republic; and
- (b) any sinking fund policy as defined in the said section, but does not include any policy which is effected to provide benefits payable by a pension fund, provident fund or retirement annuity fund and of which such fund or the employer of an employee covered under the policy is the owner;

“owner”, in relation to an insurance policy, means the person in whom the rights conferred by the policy are vested as beneficial owner, any reference in this Schedule to an owner of an insurance policy being construed as including a reference to a part-owner thereof.

PART II.

TAXABLE GAINS.

Gains which are to be included in gross income.

2. The amount to be included in a taxpayer's gross income under the provisions of paragraph (eA) of the definition of “gross income” in section 1 of this Act shall be the amount determined in accordance with this Schedule as a gain made in respect of any amount received by or accrued to or in favour of any person on or after the thirtieth day of March, 1972, by way of—

- (a) any insurance benefit under any insurance policy, other than—
 - (i) an insurance benefit the amount whereof falls to be included in the gross income of any person under any provision of this Act except the said paragraph; or
 - (ii) any insurance benefit to the extent to which it is shown to the satisfaction of the Secretary to be an additional benefit payable under the policy in respect of disablement; or
 - (iii) any insurance benefit which becomes due under the policy at a time when the policy is a standard policy as contemplated in Part III; or
- (b) consideration in respect of the cession in whole or in part by the owner of an insurance policy of his rights under the policy, other than consideration in respect of—
 - (i) a cession by the taxpayer to his wife or *vice versa*, if at the time of the cession the spouses are not living apart in the circumstances contemplated in section 7 (2) of this Act; or
 - (ii) a cession of the policy effected at a time when the policy is a standard policy as contemplated in Part III.

Certain gains to be included in gross income of owner of insurance policy: Right to recover tax.

3. Where any insurance benefit is received by or has accrued to or in favour of any person other than the owner of the insurance policy in question, such insurance benefit shall for the purposes of this Schedule be deemed to have been received by or to have accrued to or in favour of the owner of the policy, and any tax paid by such owner in respect of any gain determined under this Part in respect of such insurance benefit shall (except to the extent that tax has been deducted or withheld from such insurance benefit as provided in paragraph 17) be recoverable by such owner from such other person.

Cession of insurance policy as security.

4. Where any person has as the owner of an insurance policy ceded his rights under the policy, whether in whole or in part, as security for the payment of any debt or other amount or as an indemnity against loss, he shall for the purposes of this Schedule not be deemed to have ceased to be the owner of the policy by reason of such cession.

Insurance policy acquired from spouse.

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

Source.

6. (1) For the purposes of this Act, as applicable in relation to this Schedule, any insurance benefit received by or accrued to or in favour of any person under any insurance policy and any consideration received by or accrued to or in favour of any person in respect of the cession of any insurance policy, shall, subject to the provisions of subparagraph (2), be deemed to have been derived by the taxpayer from a source within the Republic, if—

- (a) at the time of the receipt or accrual of such insurance benefit or consideration the owner of the policy (not being a company) is ordinarily resident in the Republic, or where the owner of the policy is a company, the company is registered, managed or controlled in the Republic; or
- (b) the contract of insurance in question was made in the Republic or the policy in question was issued in the Republic; or
- (c) the policy in question is a domestic policy as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943).

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(2) For the purposes of this Act, as applicable in relation to this Schedule, if the owner (other than a company) of an insurance policy is, at the time of the receipt or accrual of any insurance benefit or consideration referred to in subparagraph (1), ordinarily resident in the territory, he shall not be deemed to have derived such benefit or consideration from a source within the Republic if the proposal for the insurance policy in question was made in the territory by a person (other than a company) who at the time such proposal was made was ordinarily resident in the territory and the policy was issued to that person.

Bonus or share of profits payable otherwise than upon death of insured or maturity of policy.

7. (1) Where an insurance benefit under an insurance policy consists of a bonus or share of profits which becomes payable and is paid otherwise than upon or by reason of the death of a person whose life is insured under the policy or the maturity of the policy, the gain in respect of such insurance benefit shall for the purposes of this Schedule be deemed to be and be determined as, the gross amount or value of such bonus or share of profits, without any deduction.

(2) Any amount paid under any insurance policy on or after the thirtieth day of March, 1972, shall for the purposes of this Schedule be deemed to be a bonus or share of profits so payable if—

- (a) it has become payable by virtue of a right conferred by the policy upon any person to receive bonuses or to participate in the profits of the insurer; or
- (b) it has become payable by virtue of a right to receive an advance in respect of maturity or death benefits under the policy; or
- (c) the policy confers a right upon any person to receive amounts thereunder at intervals or at stated times without such person being obliged to repay such amounts and the aforesaid amount is such an amount; or
- (d) the aforesaid amount is an insurance benefit in respect of which a gain is not required to be determined under paragraph 8,

whether or not the aforesaid amount is paid in respect of a partial surrender of the policy or any rights thereunder.

Gain in the event of death, maturity, surrender or cession of policy.

8. (1) Where an insurance benefit is received by or accrues to or in favour of any person under an insurance policy upon or by reason of the death of a person whose life is insured under an insurance policy or the maturity of an insurance policy, that insurance benefit shall for the purposes of this Schedule be deemed to have been received by or to have accrued to or in favour of the person who was the owner of the policy immediately before such death or maturity.

(2) Where any insurance benefit has been received by or has accrued to or in favour of any person under an insurance policy upon or by reason of—

- (a) the death of any person whose life was insured under the policy; or
- (b) the maturity of the policy; or
- (c) the surrender in whole or in part of the rights conferred by the policy, except where a gain in respect of the insurance benefit relating to such surrender is required to be determined under paragraph 7,

or where any consideration has been received by or has accrued to or in favour of any person in respect of the cession in whole or in part by him of the rights conferred on him by the policy, the gain in respect of such insurance benefit or consideration shall be determined as provided in subparagraph (3).

(3) The gain which has to be determined as contemplated in subparagraph (2) in respect of any insurance benefit under any insurance policy or in respect of any consideration in respect of the cession in whole or in part of a person's rights under any insurance policy shall, subject to the provisions of subparagraphs (4), (5) and (6), be deemed to be the amount (if any) by which the sum of—

- (a) the gross amount or value of such insurance benefit or such consideration, as the case may be;
- (b) where, upon or by reason of the maturity of the insurance policy in question or the surrender in whole or in part of the rights conferred by the policy, a right to the payment of an insurance benefit referred to in paragraph 2 (a) (i) or (ii) has arisen in addition to a right to the payment of any other benefit, the gross amount or value of the insurance benefit so referred to;
- (c) the gross amounts or values of all the insurance benefits (including insurance benefits referred to in paragraph 2 (a) (i), (ii) and (iii) and insurance benefits the gains in respect of which have been determined under paragraph 7, but excluding any insurance benefit accounted for under item (a) or item (b) of this subparagraph) which have become payable under the insurance policy in question since the taxpayer became the owner thereof (whether such benefits became payable before, on or after the thirtieth day of March, 1972); and
- (d) the gross amount or value of all considerations received by or accrued to or in favour of the taxpayer since he became the owner of the insurance policy in question (whether such considerations were received or accrued before, on or after the thirtieth day of March, 1972), in respect of any partial cessions of his rights under the policy, including any cession referred to in paragraph 2 (b) (ii) but excluding any cession referred to in paragraph 2 (b) (i) and any cession the consideration for which is accounted for under item (a),

exceeds the sum of—

- (i) the amounts (hereinafter referred to as expenses) payable by the taxpayer in respect of—
 - (aa) any premiums due under the insurance policy in question from the time he became the owner thereof until the happening of the event upon or by reason of which the insurance benefit referred to in item (a) became payable or until the date of the cession in respect of which the consideration referred to in item (a) became payable; and
 - (bb) where the taxpayer acquired his rights under the insurance policy in question by cession—

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- (A) the amount or value of any consideration paid by him in respect of such cession; or
- (B) where no such consideration was payable by him, the amount by which the surrender value (if any) of his rights at the date of such cession exceeds the gain (if any) which would have been determined under this paragraph in the hands of the cedent if a consideration equal to such surrender value had been received by or had accrued to the cedent in respect of such cession, assuming this Schedule to have been applicable, but ignoring paragraph 2 (b) (ii) and regardless of the date of such cession:

Provided that—

- (I) where such firstmentioned insurance benefit has become payable by reason of a partial surrender of the taxpayer's rights under the policy, the amount to be taken into account under this item shall be an amount which bears to the amount of such expenses the same ratio as the amount or value of such insurance benefit bears to the amount or value of the insurance benefit which would have become payable if the taxpayer had surrendered all his rights under the policy;
- (II) where such firstmentioned consideration has become payable in respect of a partial cession of rights under the policy, the amount to be taken into account under this item shall be an amount which bears to the amount of such expenses (less any portion thereof previously accounted for under this item) the same ratio as the amount or value of such consideration bears to the market value of all the taxpayer's rights under the policy immediately before the cession;
- (ii) the amounts of any gains included in the taxpayer's gross income under this Schedule in respect of insurance benefits accounted for under item (c) and considerations accounted for under item (d); and
- (iii) where the commencement date of the insurance policy in question fell in the period ending on the twenty-ninth day of March, 1972, and the taxpayer was the owner of the policy at the end of that period, an amount equal to the amount which would have been determined under this Schedule as a gain in the hands of the taxpayer if at the end of the said period he had surrendered his rights under the policy and an amount equal to the surrender value of such rights had accrued to him in respect of such rights, assuming this Schedule to have been applicable but ignoring subitem (ii) of item (b) of paragraph 2.

(4) Where, in the determination of any gain under subparagraph (3), an amount or value is accounted for under subparagraph (3) (b) or an amount or value is accounted for under subparagraph (3) (c) in respect of an insurance benefit referred to in paragraph 2 (a) (i), (ii) or (iii) or an insurance benefit which became payable before the thirtieth day of March, 1972, or an amount or value is accounted for under subparagraph (3) (d) in respect of any consideration which became payable in respect of a cession referred to in paragraph 2 (b) (ii) or a consideration which became payable before the thirtieth day of March, 1972, the gain so determined shall be reduced by an amount which bears to that gain the same ratio as the sum of the amounts or values so accounted for bears to the sum of the amounts or values accounted for in terms of items (a) to (d), inclusive, of subparagraph (3).

(5) Where an insurance benefit consists of or includes a right to an annuity and the amount or value of such insurance benefit has to be accounted for under subparagraph (3) (b) or (c), the capitalised value of such annuity (determined as provided in subparagraph (6)) shall be included in the value of such insurance benefit.

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

(7) No deduction or allowance shall, in the determination under this paragraph of any gain in respect of any insurance benefit, be made against the gross amount or value of that insurance benefit, other than an amount allowed under this paragraph to be accounted for as a deduction from such insurance benefit, notwithstanding the fact that the insurer may, when paying such insurance benefit, have deducted the amount in question from or have set it off against such insurance benefit.

Rate of normal tax.

9. Where the taxable income of any taxpayer (other than a company) for any year of assessment includes any gain determined in accordance with the provisions of paragraph 8, the normal tax payable by the taxpayer in respect of such year shall, subject to the provisions of section 5 of this Act, be determined in accordance with the provisions of section 5 (10) of this Act or the provisions of paragraph 19 of the First Schedule, if applicable, but nothing herein contained shall be construed as relieving any person from liability for taxation under this Act upon any portion of his taxable income.

PART III.

STANDARD POLICIES.

Certain life policies are standard policies.

10. (1) For the purposes of this Schedule, but subject to the provisions of this Part, an insurance policy is a standard policy if it is a life policy as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), and if—

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- (a) it secures the payment of an insurance benefit which is payable upon or by reason of the death or the death or earlier disablement (occurring after the commencement date of the policy), of a person whose life is insured under the policy; or
- (b) it secures the payment of an insurance benefit which is payable either upon or by reason of the survival for a specified term of not less than ten years, commencing not earlier than three months before the commencement date of the policy, of a person whose life is insured under the policy, or upon or by reason of the earlier death or disablement (occurring after the commencement date of the policy) of that person,

and in either case if it satisfies the conditions appropriate to it under paragraphs 11 and 12.

(2) For the purposes of this paragraph an insurance policy shall be deemed to secure the payment of a benefit upon or by reason of death, disablement or survival for a specified term, notwithstanding that the amount payable may vary with the event.

Conditions as to premiums.

11. (1) In order to qualify as a standard policy under paragraph 10—

- (a) the premiums payable under a policy to which the provisions of paragraph 10 (1) (a) apply shall be payable at regular yearly or shorter intervals until the death of the person whose life is insured under the policy, or until the death or earlier disablement of that person, or until the expiry of a period of not less than five years (commencing not earlier than three months before the commencement date of the policy) or the earlier death or disablement of that person;
- (b) the premiums payable under a policy to which the provisions of paragraph 10 (1) (b) apply shall be payable at regular yearly or shorter intervals until the expiry of a period of not less than five years (commencing not earlier than three months before the commencement date of the policy) or until the earlier death or disablement of the person whose life is insured under the policy;
- (c) the total amount of the premiums which are so payable under any policy referred to in item (a) or (b) shall not in any period of twelve months exceed twice the total amount of the premiums so payable thereunder in any other such period; and
- (d) no consideration shall be payable to the insurer under the policy other than premiums payable as aforesaid.

(2) For the purpose of determining whether or not any insurance policy has conformed with the provisions of subparagraph (1)—

- (a) no account shall be taken of any provision therein for a waiver of premium benefit, as defined in subparagraph (3);
- (b) any premium in respect of the policy paid before the commencement date of the policy shall be deemed to have been paid on that date; and
- (c) any premium (other than a premium referred to in paragraph (b)) payable under the policy shall be deemed to have been paid on the date on which such premium is due in terms of the policy, if—
 - (i) it has been paid within a period commencing three months before and ending three months after the due date thereof; or
 - (ii) it has not been paid within the days of grace allowed by the insurer, but the insurer has kept the policy in force by advancing against the non-forfeiture value of the policy, an amount equal to the unpaid premium, applying the advance in payment of the premium and charging interest on the advance at a rate not less than the highest rate of interest charged by the insurer at the relevant time on non-forfeiture advances on the major classes of standard non-linked policies issued by the insurer; or
 - (iii) the policy has, in consequence of the non-payment of the premium, lapsed or become paid-up, but the premium has subsequently been paid and the policy re-instated within a period which the Secretary, having regard to the circumstances of the case, regards as reasonable.

(3) For the purposes of this paragraph “waiver of premium benefit” means a provision in an insurance policy whereby the insurer undertakes that—

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

Conditions as to insurance benefits.

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

- (a) a benefit which becomes payable upon or by reason of the death of a person whose life is insured under the policy or upon or by reason of the disablement of such person occurring after the commencement date of the policy; or
- (b) a benefit consisting of a bonus or share of profits payable out of the insurer's profits to all policy holders who are entitled to participate in the insurer's profits, but excluding any guaranteed bonus or share of profits; or
- (c) any benefit by way of a waiver of premium benefit as defined in paragraph 11 (3); or
- (d) any benefit payable in respect of the surrender of all the rights conferred by the policy.

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Certain policies deemed to be standard policies.

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

- (a) the only insurance benefit payable thereunder (disregarding any benefit payable upon or by reason of a surrender of the policy) is a benefit in the event of the death or earlier disablement (occurring after the commencement date of the policy) of a person whose life is insured under the policy; or
- (b) it is provided in the policy that no benefit (other than a benefit payable upon or by reason of the surrender of the policy) is to be payable thereunder until the expiry of a period of more than ten years from the commencement date of the policy or the earlier death or disablement (occurring after the commencement date of the policy) of a person whose life is insured under the policy; or
- (c) the commencement date of the policy is a date falling before the thirtieth day of March, 1972, unless—
 - (i) the policy has on or after the last-mentioned date been varied and the policy as so varied is not a policy which qualifies as a standard policy under the provisions of paragraphs 10, 11 and 12 or the provisions of item (a) or (b) of this subparagraph; or
 - (ii) the policy provides for the payment on or after the first day of January, 1968, of only one premium or consideration or for the payment of all the premiums or considerations under the policy to be made within a period of twelve months ending on or after the last-mentioned date.

(2) For the purposes of this Schedule an insurance policy which is not a standard policy as contemplated in the foregoing provisions of this Part shall, subject to the following provisions of this Part, be deemed to have become a standard policy if and when a period of at least ten years (commencing on or after the commencement date of the policy) has elapsed during which—

- (a) no insurance benefit has been paid under the policy;
- (b) no loan or advance has been made by the insurer under or on the security or strength of the policy;
- (c) the policy has throughout continued to be owned by the same owner; and
- (d) no payments have become due to the insurer under the policy other than premiums payable in the manner contemplated in paragraph 11 or further or additional premiums payable at regular yearly or shorter intervals for a period of at least five years (commencing after the commencement date of the policy but not later than the commencement of the said period of ten years) or until the earlier death or disablement (occurring after the commencement of the said period of five years) of a person whose life is insured under the policy, the total further or additional premiums so payable in any period of twelve months not exceeding twice the total further or additional premiums so payable in any other period of twelve months:

Provided that the policy shall not be deemed to have become a standard policy as aforesaid if it provides for the payment of premiums or further or additional premiums as contemplated in item (d), and during a period of five years from the date on which the first of such premiums or the first of such further or additional premiums, as the case may be, became payable a period of thirteen months elapses during which such premiums or further or additional premiums, as the case may be, are required to be paid under the policy but are not paid (except as a result of a waiver of premium benefit as defined in paragraph 11 (3)), unless the policy has in consequence of the non-payment of such premiums or further or additional premiums, lapsed or become paid-up, but those premiums or further or additional premiums have subsequently been paid and the policy re-instated within a period which the Secretary, having regard to the circumstances of the case, regards as reasonable.

When a standard policy ceases to be such.

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

- (a) in the case of a policy which qualified as a standard policy under the provisions of paragraphs 10, 11 and 12, it is on or after the thirtieth day of March, 1972, varied so that it no longer conforms with those provisions; or
- (b) in the case of a policy which qualified as a standard policy under the provisions of paragraph 13 (1) (a) or (b), it is on or after the thirtieth day of March, 1972, varied so that it no longer conforms with those provisions or (not being a policy which conformed with the requirements of paragraph 11 as to premiums) it is surrendered in whole or in part within a period of ten years from the commencement date thereof; or
- (c) in the case of a policy which qualified as a standard policy under the provisions of item (c) of subparagraph (1) of paragraph 13, it is varied as contemplated in subitem (i) of that item; or
- (d) during a period of five years, reckoned from the commencement date of the policy, a period of thirteen months elapses during which premiums are required to be paid under the policy but are not paid (except as a result of a waiver of premium benefit as defined in paragraph 11 (3)): Provided that the foregoing provisions of this item shall not apply in the case of a policy which has been re-instated as contemplated in paragraph 11 (2) (c) (iii) in consequence of the subsequent payment of the said premiums or in the case of a policy which qualified as a standard policy under the provisions of paragraph 13 (1) (c) or, in the case of any other policy, if it has been surrendered or converted into a paid-up policy within the said period of five years; or
- (e) the policy conformed with the provisions of paragraph 11 as to premiums but is on or after the thirtieth day of March, 1972, varied to provide for the payment to the insurer in any period of twelve months while the policy is in force, of any amount or amounts by way of further or additional premium or consideration in respect of the policy, unless—

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- (i) the premiums and any other considerations payable to the insurer under the policy, as so varied, in any period of twelve months do not in total exceed an amount equal to more than twice the total premiums and any other considerations payable to the insurer under the policy in any other period of twelve months; or
 - (ii) the total premiums and other considerations payable by the owner of the policy to the insurer under the policy and any other insurance policies during the year of assessment of the insurer during which the further or additional premium or consideration first becomes payable and during each of the four preceding years of assessment of the insurer, do not exceed two thousand rand; or
 - (f) in the case of a policy which qualified as a standard policy under the provisions of paragraph 13 (1) (a), (b) or (c) or in the case of a policy which has become a standard policy as contemplated in paragraph 13 (2), but which did not in either case conform with the provisions of paragraph 11 as to premiums, the policy is on or after the thirtieth day of March, 1972, varied so as to provide for the payment to the insurer, at any time while the policy is in force, of any further or additional premium or consideration in respect of the policy; or
 - (g) the policy (other than a policy which qualified as a standard policy under the provisions of paragraph 13 (1) (c) and has not been varied as contemplated in those provisions) conformed with the provisions of paragraph 11 as to premiums but is surrendered in whole or in part within a period of ten years after the commencement date of the policy, or is converted into a paid-up policy within a period of five years after that date and has not been re-instated as contemplated in paragraph 11 (2) (c) (iii), unless the sum of all the premiums and any other considerations payable by the owner of the policy to the insurer in respect of such policy and any other insurance policies during the year of assessment of the insurer during which the policy is so surrendered or converted into a paid-up policy, and during each of the four preceding years of assessment of the insurer, did not exceed two thousand rand; or
 - (h) in the case of a policy which on or after the thirtieth day of March, 1972, qualified as a standard policy under the provisions of paragraph 13 (1) (a) or (b), a loan or advance is made by the insurer under or on the security or strength of the policy, unless interest is payable on such loan or advance at a rate not less than the highest rate of interest charged by the insurer at the time the loan or advance was granted in respect of loans or advances granted on standard policies issued by the insurer.
- (2) An insurance policy which ceases to be a standard policy as contemplated in subparagraph (1) shall be deemed to have ceased to be a standard policy—
- (a) as from the date on which it is varied as contemplated in the said subparagraph; or
 - (b) as from the end of the period referred to in item (d) of the said subparagraph; or
 - (c) as from the day before the date on which the policy is surrendered or converted into a paid-up policy as contemplated in the said subparagraph; or
 - (d) as from the date on which a loan or advance is made under or on the security or strength of the policy as contemplated in item (h) of the said subparagraph.

Connected policies.

15. Where it is provided in any insurance policy or it is agreed that it is to continue in force only for as long as another insurance policy continues in force, neither policy is a standard policy unless, if they had constituted together a single policy issued in respect of an insurance made at the time of the insurance in respect of which the first-mentioned policy was issued, that single policy would have been a standard policy.

Notifications as to non-standard policies.

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

- (a) not later than three months after issuing the policy, if the policy is issued after the date of promulgation of the Income Tax Act, 1972; or
- (b) not later than six months after the said date if the policy was issued before that date, notify the policy holder that the policy is, in the opinion of the insurer, not a standard policy

(2) Where any insurance policy which, in the opinion of the insurer, was a standard policy, is varied or surrendered or converted into a paid-up policy as contemplated in paragraph 14 or the provisions of item (b) or (h) of subparagraph (1) of that paragraph are applicable, the insurer shall, not later than three months after the date of the variation, surrender or conversion or three months after the end of the period of thirteen months referred to in the said item (b), or three months after the date on which a loan or advance is made as contemplated in the said item (h), as the case may be, notify the policy holder that the policy has ceased to be a standard policy as contemplated in this Part: Provided that where the policy ceased to be a standard policy as aforesaid before the date of promulgation of the Income Tax Act, 1972, the notification under this subparagraph may be issued within six months after that date.

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

PART IV.

DEDUCTION OR WITHHOLDING OF NORMAL TAX.

Insurer to deduct or withhold normal tax from insurance benefit.

17. (1) Any insurer who in the course of an insurance business carried on by him in the Republic pays or becomes liable to pay to any person any insurance benefit (other than an insurance benefit referred to in paragraph 2 (a) (i), (ii) or (iii)) shall deduct or withhold from such

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insurance benefit an amount (which shall be determined as hereinafter provided) and pay such amount to the Secretary within fourteen days after the end of the month during which the insurer so pays or becomes liable to pay such insurance benefit, or within such further period as the Secretary may approve.

(2) The amount so paid to the Secretary shall be deemed to be an advance payment in respect of the liability for any normal tax payable by the person in whose gross income a gain in respect of the insurance benefit in question is or may be required to be included under this Schedule.

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

(4) The insurer shall, if he is satisfied that he has sufficient information on which a calculation of the gain (if any) may be made, calculate the gain, and the amount which he is required as aforesaid to deduct or withhold from the insurance benefit in respect of which such gain is calculated, shall be an amount equal to fifteen per cent of the amount of the gain as so calculated.

(5) If the insurer is unable to make any calculation as provided in subparagraph (4), the amount to be deducted or withheld from the insurance benefit in respect of which the gain cannot be so calculated, shall be fifteen per cent of the gross amount of the insurance benefit.

(6) For the purposes of this paragraph "month" means any of the twelve portions into which a calendar year is divided.

Certificate to be furnished by insurer in respect of advance payment.

18. (1) An insurer who makes any payment to the Secretary which he is required to make under paragraph 17 (1), shall, when making such payment, furnish to the Secretary a certificate, in such form as the Secretary may prescribe, giving the following information, namely—

- (a) the amount and nature of the insurance benefit;
- (b) the date on which the insurance benefit became payable;
- (c) the name and address of the person to whom the insurance benefit was payable;
- (d) the full names and address and income tax reference number of the owner of the insurance policy in question;
- (e) the amount calculated as a gain in respect of the insurance benefit, with details of the calculation;
- (f) the amount deducted or withheld from the insurance benefit,
- (g) the number or other identification of the insurance policy in question and the commencement date thereof; and
- (h) such other information as the Secretary may require.

(2) Where, in making any calculation under paragraph 17 (4), an insurer has calculated that there is no gain in respect of an insurance benefit, he shall, within fourteen days after the end of the month during which the insurer paid or became liable to pay the insurance benefit, furnish the Secretary with a certificate, in the form of the certificate referred to in subparagraph (1), giving such information as the Secretary may require.

(3) The insurer shall furnish the owner of the insurance policy in question with a copy of the certificate referred to in subparagraph (1) or (2) and shall, at the request of any other person to whom the insurance benefit was paid, also furnish that other person with a similar copy.

Advance payment to be set off against normal tax.

19. (1) Subject to the provisions of subparagraph (2), any advance payment referred to in paragraph 17 (2) shall be set off against any taxes (as defined in paragraph 28 (8) of the Fourth Schedule) owing by the taxpayer on the date on which a normal tax assessment is issued to him in respect of the gain to which the advance payment relates, and any excess shall be refunded or credited to the taxpayer.

(2) Where such advance payment has, in accordance with paragraph 17 (1), been deducted or withheld from an insurance benefit payable to any person other than the taxpayer, the amount to be set off against the taxpayer's liability for normal tax shall be restricted to the amount of normal tax payable by the taxpayer which the Secretary determines to be attributable to the inclusion in the taxpayer's gross income of the gain in respect of such insurance benefit, any excess being refundable to the insurer for payment to the said person.

Certificate in respect of certain insurance benefits not covered by paragraph 17.

20. (1) Where any insurer has in the course of any insurance business carried on by him in the Republic paid or become liable to pay any insurance benefit (other than an insurance benefit referred to in paragraph 2 (a) (i), (ii) or (iii)) and such payment was made or such liability arose before the date of promulgation of the Income Tax Act, 1972, he shall, within six months after that date or within such further period as the Secretary may allow, furnish the Secretary with a certificate, in the form of the certificate referred to in paragraph 18 (1), giving such information as the Secretary may require.

(2) The insurer shall furnish the owner of the insurance policy in question with a copy of the certificate referred to in subparagraph (1) and shall, at the request of any other person to whom the insurance benefit was paid, also furnish that other person with a similar copy.

Directive by Secretary.

21. (1) If the Secretary is satisfied that there is a reasonable prospect of recovering from any taxpayer any normal tax which is or may be due by him as a result of the inclusion in the taxpayer's gross income under this Schedule of any gain in respect of an insurance benefit or that the amount required to be deducted or withheld under the provisions of paragraph 17 is higher than is necessary, the Secretary may, having regard to the circumstances of the case—

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- (a) direct that no amount or that a reduced amount be deducted or withheld from the insurance benefit under paragraph 17; or
- (b) where there is a reasonable prospect of recovering the normal tax as aforesaid and the insurer has failed to deduct or withhold an amount when required to do so under paragraph 17, absolve the insurer from his liability under paragraph 23 (1).

Interest on late payments by insurers.

22. If any amount which an insurer is required to pay to the Secretary under the provisions of paragraph 17 is not paid in full within the relevant period allowed under those provisions for the payment of such amount, interest shall, unless the Secretary having regard to the circumstances of the case otherwise directs, be paid by the insurer liable to pay the amount in question at the rate of seven and a half per cent per annum on so much of such amount as remains unpaid in respect of the period (reckoned from the end of the first-mentioned period) during which the amount not paid remains unpaid.

Liability of insurer under this part.

23 (1) Any amount required to be deducted or withheld by an insurer under the provisions of paragraph 17 shall be a debt due to the State and the insurer shall, save as otherwise provided, be absolutely liable for the due payment thereof to the Secretary.

(2) Any agreement between an insurer and any other person whereby the insurer undertakes not to deduct or withhold any amount which is required to be deducted or withheld under the provisions of paragraph 17 shall be void.

(3) Subject to the provisions of paragraph 19, any person to whom any payment has been made or is due by an insurer shall not be entitled to recover from the insurer any amount the insurer has deducted or withheld therefrom under the provisions of paragraph 17.

(4) Any amount due by an insurer under the provisions of paragraph 17 and any interest due by the insurer under the provisions of paragraph 22 may be recovered by the Secretary in the manner prescribed in section 91 of this Act for the recovery of tax and interest due or payable under this Act.