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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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No. 11412

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1395.

15 Julie 1988

No. 1395.

15 July 1988

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

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

No. 90 van 1988: Inkomstebelastingwet, 1988.

No. 90 of 1988: Income Tax Act, 1988.

INCOME TAX ACT, 1988

Act No. 90, 1988

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

ACT

To fix the rates of normal tax payable by persons other than companies in respect of taxable incomes for the years of assessment ending on 28 February 1989 and 30 June 1989, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1989; to amend the Income Tax Act, 1962; to provide for the payment of a minimum tax; to withdraw a certain Government Notice; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 6 July 1988.)

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

Rates of normal tax

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

- (a) the taxable income of any person other than a company for the year of assessment ending on 28 February 1989 or 30 June 1989; and
 (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1989,
 shall be as set forth in the Schedule to this Act.

Amendment of section 1 of Act 58 of 1962, as amended by section 3 of Act 90 of 1962, section 1 of Act 6 of 1963, section 4 of Act 72 of 1963, section 4 of Act 90 of 1964, section 5 of Act 88 of 1965, section 5 of Act 55 of 1966, section 5 of Act 95 of 1967, section 5 of Act 76 of 1968, section 6 of Act 89 of 1969, section 6 of Act 52 of 1970, section 4 of Act 88 of 1971, section 4 of Act 65 of 1973, section 4 of Act 85 of 1974, section 4 of Act 69 of 1975, section 4 of Act 103 of 1976, section 4 of Act 113 of 1977, section 3 of Act 101 of 1978, section 3 of Act 104 of 1979, section 2 of Act 104 of 1980, section 2 of Act 96 of 1981, section 3 of Act 91 of 1982, section 2 of Act 94 of 1983, section 1 of Act 30 of 1984, section 2 of Act 121 of 1984, section 2 of Act 96 of 1985, section 2 of Act 65 of 1986, section 1 of Act 108 of 1986 and section 2 of Act 85 of 1987

2. Section 1 of the principal Act is hereby amended—

- (a) by the substitution for paragraphs (b) and (c) of the definition of “married person” of the following paragraph:

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- “(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 21 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 rebate in respect of a child under section 6 (3) (a) [or
 - (c) any person who is in respect of such period entitled to any rebate under section 6 (3) (a) in respect of a child who is proved to the satisfaction of the Commissioner to have been maintained by him during such period wholly or mainly from his own resources derived otherwise than by way of any alimony or maintenance received from the other parent of such child, and who is not a child in respect of whose maintenance his taxable income has been reduced in terms of section 21];” and
- (b) by the deletion of the definition of “dependant”.

Amendment of section 5 of Act 58 of 1962, as substituted by section 2 of Act 6 of 1963 and amended by section 5 of Act 90 of 1964, section 6 of Act 88 of 1965, section 7 of Act 55 of 1966, section 6 of Act 95 of 1967, section 6 of Act 77 of 1968, section 7 of Act 89 of 1969, section 7 of Act 52 of 1970, section 5 of Act 88 of 1971, section 5 of Act 90 of 1972, section 5 of Act 65 of 1973, section 5 of Act 103 of 1976, section 5 of Act 113 of 1977, section 3 of Act 104 of 1980, section 4 of Act 96 of 1981, section 4 of Act 91 of 1982, section 3 of Act 94 of 1983, section 3 of Act 121 of 1984 and section 3 of Act 65 of 1986

3. Section 5 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

- “(1A) Notwithstanding the provisions of subsection (1) (c)—
- (a) where the income of any person for any year of assessment includes any net remuneration as defined in paragraph 11B of the Fourth Schedule, the normal tax payable by such person in respect of such year shall not be less than the sum of the amounts of Standard Income Tax on Employees required to be determined in relation to such net remuneration under the provisions of the said paragraph; and
 - (b) where the taxable income of any person for any year of assessment was derived solely from such net remuneration and the employees tax required to be deducted or withheld from such net remuneration under the said Schedule consisted solely of such Standard Income Tax on Employees, the normal tax payable by him in respect of such year shall be an amount equal to the sum of the amounts of such Standard Income Tax on Employees required to be so determined.”

Amendment of section 6 of Act 58 of 1962, as inserted by section 5 of Act 104 of 1980 and amended by section 5 of Act 96 of 1981, section 5 of Act 91 of 1982, section 4 of Act 94 of 1983, section 4 of Act 121 of 1984, section 3 of Act 96 of 1985 and section 4 of Act 85 of 1987

4. Section 6 of the principal Act is hereby amended—

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

“(1) There shall be deducted from the normal tax payable by any person other than a company or a married woman who is liable for the payment of such tax solely by reason of the provisions of paragraph (b) of the proviso to section 7 (2), an amount equal to the sum of the amounts allowed to the taxpayer by way of rebates under subsections (2) and (3).”;
- (b) by the substitution in paragraph (a) of subsection (2) for the expression “R920” of the expression “R1 100”;
- (c) by the substitution in paragraph (b) of subsection (2) for the expression “R650” of the expression “R750”;

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- (d) by the deletion of paragraphs (b), (c) and (d) of subsection (3); and
 (e) by the substitution for subsection (4) of the following subsection:

5 “(4) Where the period assessed is less than 12 months, the amount to be allowed by way of a rebate under subsection (2) or (3) (a) [paragraph (a), (c) or (d) of subsection (3)] shall be such amount as bears to the full amount of such rebate, the same ratio as the period assessed bears to 12 months, unless, where such period terminates at the death of the taxpayer or commences at the death of the spouse of the taxpayer, the Commissioner in the special circumstances of the case otherwise directs.”

- 10 Amendment of section 7 of Act 58 of 1962, as amended by section 5 of Act 90 of 1962, section 8 of Act 88 of 1965, section 9 of Act 55 of 1966, section 7 of Act 94 of 1983 and section 2 of Act 30 of 1984

5. Section 7 of the principal Act is hereby amended by the substitution for the proviso to subsection (2) of the following proviso:

15 “Provided that—

- (a) where any husband is at any time married to two or more wives, the provisions of this subsection shall apply only to income received by or accrued to or in favour of the wife of his longest subsisting marriage;
 20 (b) the provisions of this subsection shall not apply to net remuneration (as defined in paragraph 11B of the Fourth Schedule) received by or accrued to such married woman, if the employees tax required to be deducted or withheld from all such net remuneration received by or accrued to her during the year of assessment consisted solely of amounts of Standard Income Tax on Employees determinable under the said paragraph.”

- 25 Amendment of section 8 of Act 58 of 1962, as amended by section 6 of Act 90 of 1962, section 6 of Act 90 of 1964, section 9 of Act 88 of 1965, section 10 of Act 55 of 1966, section 10 of Act 89 of 1969, section 6 of Act 90 of 1972, section 8 of Act 85 of 1974, section 7 of Act 69 of 1975, section 7 of Act 113 of 1977, section 8 of Act 94 of 1983, section 5 of Act 121 of 1984, section 4 of Act 96 of 1985, section 5 of Act 65 of 1986
 30 and section 6 of Act 85 of 1987

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

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

35 “(a) There shall be included in the taxpayer’s income all amounts allowed to be deducted or set off under the provisions of sections 11 to 20, inclusive, section 24D, section 24F, section 24G and section 27 (2) (b) and (d) of this Act, except section 11 (k), (p) and (q), section 11quin, section 12 (2), or section 12 (2) as applied by section 12 (3), section 12A (3), section 13 (5), or section 13 (5) as applied by section 13 (8), or section 13bis (7), or section 15 (a), or section 15A, or under the corresponding provisions of any previous Income Tax Act, whether in the current or any previous year of assessment which have been recovered or recouped during the current year of assessment.”; and

- 40 (b) by the substitution in paragraph (e) of subsection (4) for the words preceding subparagraph (i) of the following words:

45 “If any amount which was deducted under the provisions of section 11 (e) or section 12 (1) or section 12 (1) as applied by section 12 (3) or the corresponding provisions of any previous Income Tax Act or section 12B or section 27 (2) (d), in respect of machinery or plant which was used by the taxpayer directly in a process of manufacture, or directly
 50 in any other process carried on by him on or after 15 March 1961, which in the opinion of the Commissioner was of a similar nature, or in respect of machinery or plant which was used by an agricultural co-operative (as defined in section 27 (9)) directly for storing or packing pastoral, agricultural or other farm products or for subjecting
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such products to a primary process as defined in the said section 27 (9), has as a result of damage or destruction (hereinafter referred to as 'the event') been recovered or recouped during any year of assessment, and if the taxpayer satisfies the Commissioner—".

5 Amendment of section 10 of Act 58 of 1962, as amended by section 8 of Act 90 of 1962, section 7 of Act 72 of 1963, section 8 of Act 90 of 1964, section 10 of Act 88 of 1965, section 11 of Act 55 of 1966, section 10 of Act 95 of 1967, section 8 of Act 76 of 1968, section 13 of Act 89 of 1969, section 9 of Act 52 of 1970, section 7 of Act 90 of 1972, section 7 of Act 65 of 1973, section 10 of Act 85 of 1974, section 8 of Act 69 of 1975,
10 section 9 of Act 103 of 1976, section 8 of Act 113 of 1977, section 4 of Act 101 of 1978, section 7 of Act 104 of 1979, section 7 of Act 104 of 1980, section 8 of Act 96 of 1981, section 6 of Act 91 of 1982, section 9 of Act 94 of 1983, section 10 of Act 121 of 1984, section 6 of Act 96 of 1985, section 7 of Act 65 of 1986, section 3 of Act 108 of 1986 and section 9 of Act 85 of 1987

15 7. (1) Section 10 of the principal Act is hereby amended—

(a) by the substitution for the second proviso to paragraph (h) of subsection (1) of the following proviso:

"Provided further that the exemption under this paragraph shall not apply in respect of interest which on or after 1 November 1987 is received by or
20 accrues to—

(a) a person (other than a company) who is ordinarily resident in a neighbouring country, if such stock or security was acquired by him on or after that date; or

(b) a company which is incorporated, registered, managed or controlled in any neighbouring country;"

(b) by the insertion after paragraph (mA) of subsection (1) of the following paragraph:

"(mB) any benefit or allowance payable in terms of the Unemployment Insurance Act, 1966 (Act No. 30 of 1966);" and

(c) by the addition to paragraph (t) of subsection (1) of the following subparagraph:

"(xi) of the South African Housing Trust Limited, a company registered under the Companies Act, 1973, on 27 November 1986;"

(2) Subsection (1) (a) shall be deemed to have taken effect as from the
35 commencement of years of assessment ended or ending on or after 1 November 1987.

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,
40 section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 19 of Act 69 of 1975, section 9 of Act 113 of 1977, section 5 of Act 101 of 1978, section 8 of Act 104 of 1979, section 8 of Act 104 of 1980, section 9 of Act 96 of 1981, section 7 of Act 91 of 1982, section 10 of Act 94 of 1983, section 11 of Act 121 of 1984
45 and section 10 of Act 85 of 1987

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

(a) by the substitution in paragraph (bB) for the words preceding the proviso of the following words:

"any finance charge (other than any finance charge in respect of which
50 any deduction or allowance has been or may be granted to the taxpayer under this Act in any year of assessment) incurred by the taxpayer in respect of the purchase or contract price owing under an agreement for the acquisition, installation, erection or construction of any machinery, plant, aircraft, implement, utensil [or], article or livestock [acquired
55 by him on or after 15 March 1984 and] used by him for the purposes of his trade, including (but not limited to) mining, shipping or farming,

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which deduction shall be in lieu of any deduction or allowance in respect of such finance charge which may be allowable under any other provision of this Act:";

- 5 (b) by the substitution in paragraph (e) for the words preceding the proviso of the following words:

10 "save as provided in paragraph 12 (2) of the First Schedule, such sum as the Commissioner may think just and reasonable as representing the amount by which the value of any machinery, plant, implements, utensils and articles (other than machinery, plant, implements, utensils and articles in respect of which a deduction may be granted under section 12B) used by the taxpayer for the purposes of his trade has been diminished by reason of wear and tear or depreciation during the year of assessment:";

- 15 (c) by the addition to the proviso to paragraph (gA) of the following paragraph:

20 "(cc) no allowance shall be made in respect of any such invention, patent, design, trade mark, copyright or other property or knowledge so acquired or obtained by the taxpayer on or after 24 June 1988 from any other person who is a resident of the Republic or a neighbouring country (or, in the case of a company, a domestic company or a company incorporated, managed or controlled in a neighbouring country), if—

25 (A) 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 50 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

30 (B) both the taxpayer and such other person are companies and any third person is interested in more than 50 per cent of any class of shares issued by one of those companies and in more than 50 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;";

- 35 (d) by the substitution for item (A) of subparagraph (aa) of paragraph (n) of the following item:

40 "(A) 15 per cent of an amount equal to the amount remaining after deducting from the income derived by the taxpayer during the year of assessment (excluding income derived from any retirement funding employment (being the income or part thereof referred to in the definition of 'retirement-funding employment' in section 1)) the deductions admissible against such income under this Act, excluding this paragraph, sections 17A, 18, 18A, **[and]** 19 (3) and 20A (1) (b) of this Act and paragraph 12 (1) (c) to (j), inclusive, of the First Schedule; or";

- 45 (e) by the addition to the proviso to paragraph (n) of the following paragraph:

50 "(vii) where any married woman has derived remuneration which solely by reason of the provisions of paragraph (b) of the proviso to section 7 (2) has not been included in the income of her husband, the amounts of R3 500, R1 750 and R1 800 contemplated in items (B) and (C) of subparagraph (aa) and subparagraph (bb), respectively, shall for the purposes of determining the deduction allowable to each spouse under the said subparagraphs be construed as a sum equal to one-half of the relevant amount plus so much of the maximum deduction to which the

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taxpayer's spouse was entitled under the applicable item or subparagraph, as the case may be, as has not been allowed as a deduction in the determination of such spouse's taxable income.";

(f) by the substitution in paragraph (o) for the words preceding the proviso of the following words:

"save as provided in paragraph 12 (2) of the First Schedule, an allowance in respect of any building (or portion thereof) referred to in section 13 (1) or (4) or section 13bis (1) or section 27 (2) (b) or of any improvements (or portion thereof) to such building or of any shipbuilding structure referred to in section 13 (8) or of any improvements to such shipbuilding structure or of any residential unit referred to in section 13ter or of any permanent work, road pavement or ancillary service referred to in section 24G or of any machinery, plant, implements, utensils or articles used by the taxpayer for the purposes of his trade which have been scrapped by such taxpayer during the year of assessment, such allowance to be the excess of the original cost to such taxpayer of such building (or portion thereof) or such improvements (or portion thereof) to such building or such shipbuilding structure or such improvements to such shipbuilding structure or such residential unit or such permanent work, road pavement or ancillary service or such machinery, plant, implements, utensils or articles over the total amount arrived at by adding all the allowances made in respect thereof under the provisions of paragraph (e) of this section, or section 12 (1), or section 12 (1) as applied by section 12 (3), or section 12A (2), or section 12B, or section 13 (1), or section 13 (1) as applied by section 13 (4) or (8), or section 13bis (1), (2) or (3), section 13ter (2) or (3), or section 14 (1) (a) or (b), or the corresponding provisions of any previous Income Tax Act, or section 14bis (1) (a) or (b), or section 24F, or section 24G, or section 27 (2) (b) or (d), to any amount or the value of any advantage accruing to the taxpayer in respect of the sale or other disposal of such building, shipbuilding structure, improvements, residential unit, permanent work, road pavement, ancillary service, machinery, plant, implements, utensils or articles:"; and

(g) by the substitution in paragraph (p) for the words preceding subparagraph (i) of the following words:

"expenditure (other than expenditure in respect of which any deduction or allowance has been or will be granted under any other provision of this Act) incurred during the year of assessment by any taxpayer—"

(2) Subsection (1) (a) shall be deemed to have come into operation on 13 February 1988 and shall apply to livestock acquired on or after that date.

Amendment of section 11bis of Act 58 of 1962, as inserted by section 10 of Act 90 of 1962 and amended by section 9 of Act 72 of 1963, section 13 of Act 55 of 1966, section 12 of Act 95 of 1967, section 10 of Act 76 of 1968, section 15 of Act 89 of 1969, section 11 of Act 52 of 1970, section 9 of Act 90 of 1972, section 10 of Act 65 of 1973, section 13 of Act 85 of 1974, section 10 of Act 69 of 1975, section 10 of Act 103 of 1976, section 10 of Act 113 of 1977, section 10 of Act 96 of 1981, section 8 of Act 91 of 1982, section 11 of Act 94 of 1983, section 12 of Act 121 of 1984 and section 7 of Act 96 of 1985

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

(a) by the addition to subsection (3) of the following proviso:

"Provided that—

(i) where any loan or credit has been used by the exporter for the payment or financing of the whole or any portion of such marketing expenditure (other than marketing expenditure contemplated in section 24F) and any portion of such loan or credit is owed by him on the last day of the year of assessment, the amount of such marketing expenditure which may be taken into account under this subsection shall be reduced by

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- any portion of such loan or credit so owed by him for which he is not under the provisions of subsection (3A) deemed to be at risk on the last day of the year of assessment; and
- 5 (ii) any amount by which the marketing expenditure is reduced under paragraph (i) shall be deemed for the purposes of this section to be an amount of marketing expenditure which was incurred in the succeeding year of assessment and which was allowed to be deducted from his income under section 11 or 17 during such year.”; and
- 10 (b) by the insertion after subsection (3) of the following subsection:
 “(3A) For the purposes of the proviso to subsection (3), an exporter shall be deemed to be at risk for the amount of any loan or credit owed by him and used by him for the payment or financing of any marketing expenditure to the extent that the payment of the amount so owed would, having regard to any transaction, agreement, arrangement, understanding or scheme entered into by him (other than a *bona fide* contract of insurance concluded at arm’s length with an insurer in the ordinary course of the insurer’s business), result in an economic loss to him were no income to be received by or to accrue to him in future years from the carrying on of the export trade in respect of which such marketing expenditure was incurred.”.
- 15 (2) Subsection (1) shall be deemed to have come into operation on 23 February 1988 and shall apply to any marketing expenditure incurred by an exporter on or after that date, other than marketing expenditure incurred under a written agreement formally and finally signed by every party thereto before that date.

25 Amendment of section 12A of Act 58 of 1962, as inserted by section 16 of Act 55 of 1966 and amended by section 13 of Act 95 of 1967, section 12 of Act 88 of 1971, section 12 of Act 69 of 1975, section 13 of Act 96 of 1981, section 12 of Act 91 of 1982, section 12 of Act 94 of 1983 and section 9 of Act 65 of 1986

10. Section 12A of the principal Act is hereby amended by the addition of the following subsection:

- 30 “(6) No deduction shall be allowed under the provisions of this section in respect of any hotel equipment which was or is brought into use on or after 4 June 1988.”.

Insertion of section 12B in Act 58 of 1962

11. The following section is hereby inserted in the principal Act after section 12A:

35 “Deduction in respect of certain machinery, plant, implements, utensils and articles

12B. (1) In respect of any—

- 40 (a) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (b)) which is on or after 1 January 1989 brought into use for the first time by the taxpayer for the purposes of his trade (other than mining or farming) and is used by him directly in a process of manufacture carried on by him or any other process carried on by him which in the opinion of the Commissioner is of a similar nature;
- 45 or
- (b) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (a)) which is let by any taxpayer and is on or after 1 January 1989 brought into use for the first time by the lessee for the purposes of the lessee’s trade (other than mining or farming) and is used by the lessee directly in a process of manufacture carried on by him or any other process carried on by him which in the opinion of the
- 50 Commissioner is of a similar nature; or

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- 5 (c) machinery or plant (other than machinery or plant in respect of which an allowance has been granted to the taxpayer under paragraph (a)) which is on or after 1 January 1989 brought into use for the first time by any agricultural co-operative incorporated or deemed to be incorporated under the Co-operatives Act, 1981 (Act No. 91 of 1981), and is used by it directly for storing or packing pastoral, agricultural or other farm products of its members (including any person who is a member of another agricultural co-operative which is itself a member of such agricultural co-operative) or for subjecting such products to a primary process as defined in section 27 (9); or
- 10 (d) machinery, implement, utensil or article (other than any machinery, implement, utensil or article in respect of which an allowance has been granted to the taxpayer under item (e)) which was or is on or after 4 June 1988 brought into use for the first time by any taxpayer for the purposes of his trade as hotelkeeper and used by him in an hotel, except any vehicle or equipment for offices or managers' or servants' rooms; or
- 15 (e) machinery, implement, utensil or article (other than any machinery, implement, utensil or article in respect of which an allowance has been granted to the taxpayer under paragraph (d)) which was or is let by any taxpayer and was or is on or after 4 June 1988 brought into use for the first time by the lessee for the purposes of the lessee's trade as hotelkeeper and used by him in an hotel, except any vehicle or equipment for offices or managers' or servants' rooms; or
- 20 (f) machinery, implement, utensil or article (other than livestock) which is on or after 1 July 1988 brought into use for the first time by any taxpayer and used by him for farming purposes, except any motor vehicle the sole or primary function of which is the conveyance of persons or any caravan or any aircraft (other than an aircraft used solely or mainly for the purpose of crop-spraying) or any office furniture or equipment,
- 25 a deduction calculated in terms of subsection (2) shall be allowed in respect of the year of assessment during which such machinery, plant, implement, utensil or article (hereinafter referred to as an asset) is so brought into use and each of the two succeeding years of assessment, such succeeding years of assessment hereinafter in this section referred to as the second and third years, in chronological order.
- 30 (2) The deduction contemplated in subsection (1) shall be calculated on the cost to the taxpayer of the asset, as referred to in subsection (3), and the rate of the allowance shall be—
- 35 (a) in respect of the year of assessment during which the asset is so brought into use, 50 per cent of such cost;
- 40 (b) in respect of the second year, 30 per cent of such cost; and
- 45 (c) in respect of the third year, 20 per cent of such cost.
- (3) For the purposes of this section the cost to a taxpayer of any asset shall be deemed to be the cost which a person would, if he had acquired the asset under a cash transaction concluded at arm's length on the date on which the transaction for the acquisition of the asset was in fact concluded, have incurred in respect of the direct cost of acquisition of the asset, including the direct cost of the installation or erection thereof or, where the asset has been acquired to replace an asset which has been damaged or destroyed, such cost less any amount which has been recovered or recouped in respect of the damaged or destroyed asset and has been excluded from the taxpayer's income in terms of section 8 (4) (e), whether in the current or any previous year of assessment.
- 50 (4) No deduction shall be allowed under this section in respect of—
- 55 (a) any asset which has been let by the taxpayer under a lease other than an operating lease as defined in section 23A (1), unless—

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- (i) the lessee under such lease derives in the carrying on of his trade amounts constituting income for the purposes of this Act; and
- 5 (ii) the period for which the asset is let under such lease is at least 5 years or such shorter period as is shown by the taxpayer to be the useful life of the asset;
- (b) any asset contained in or forming part of any ship, if the cost of such asset has been included in the adjustable cost of such ship as defined in section 14 (2);
- 10 (c) any asset brought into use by any company during any year of assessment if such asset was previously brought into use by any other company during such year and both such companies are managed, controlled or owned by substantially the same persons, and a deduction under this section, section 12 (1) or section 27 (2) (d) was previously granted to such other company; and
- 15 (d) any asset which has been disposed of by the taxpayer during any previous year of assessment.
- (5) The deductions which may be allowed in terms of this section in respect of any asset shall not in the aggregate exceed the cost to the taxpayer of such asset.
- 20 (6) Where a lessor of any asset under a lease contemplated in paragraph (a) of subsection (4) has within the period contemplated in subparagraph (ii) of that paragraph, reckoned from the commencement of the period for which the asset is let under such lease, disposed of the whole or a portion of his interest in the lease or of his right to receive rent under the lease, there shall be included in his income for the year of assessment during which the disposal is made a sum equal to the aggregate of any deductions allowed to him under this section, section 12 (1) or section 27 (2) (d), less such amount as the Commissioner may allow in respect of the expired portion of the lease or any portion of such interest or right which has not been disposed of by the lessor.”
- 25
- 30

Amendment of section 13 of Act 58 of 1962, as amended by section 12 of Act 90 of 1962, section 15 of Act 6 of 1963, section 11 of Act 72 of 1963, section 12 of Act 90 of 1964, section 14 of Act 88 of 1965, section 17 of Act 55 of 1966, section 13 of Act 52 of 1970, section 13 of Act 88 of 1971, section 12 of Act 90 of 1972, section 13 of Act 65 of 1973, section 16 of Act 85 of 1974, section 13 of Act 69 of 1975, section 7 of Act 101 of 1978, section 10 of Act 104 of 1980, section 14 of Act 96 of 1981, section 10 of Act 96 of 1985 and section 12 of Act 85 of 1987

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12. Section 13 of the principal Act is hereby amended by the addition to subsection 40 (1) of the following further proviso:

“Provided further that in the case of any such building the erection of which has or is commenced on or after 1 January 1989 and any such improvements which have or are commenced on or after that date the allowance under this subsection shall be increased to 5 per cent of the cost (after the deduction of any amount as provided in subsection (3)) to the taxpayer of such building or improvements.”

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Amendment of section 13bis of Act 58 of 1962, as inserted by section 15 of Act 88 of 1965 and amended by section 18 of Act 55 of 1966, section 14 of Act 95 of 1967, section 14 of Act 69 of 1975 and section 13 of Act 94 of 1983

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

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- (a) by the addition to subsection (1) of the following further proviso:
 "Provided further that in the case of any such building the erection of which has or is commenced on or after 4 June 1988 and any such improvements which have or are commenced on or after that date the allowance under this subsection shall be increased to 5 per cent of the cost (after the set-off of any amount as provided in subsection (6)) to the taxpayer of such building or improvements."; and
- (b) by the addition of the following subsection:
 "(9) The allowance under subsection (2) and the hotel building investment allowance under subsection (7) shall not be granted in respect of—
 (a) any building the erection of which has or is commenced on or after 4 June 1988; and
 (b) any improvements which have or are commenced on or after that date."

15 Amendment of section 18 of Act 58 of 1962, as inserted by section 12 of Act 104 of 1980 and amended by section 15 of Act 96 of 1981, section 15 of Act 121 of 1984 and section 11 of Act 96 of 1985

14. Section 18 of the principal Act is hereby amended—

- (a) by the insertion at the end of paragraph (c) of subsection (1) of the word "and";
- (b) by the insertion after the said paragraph (c) of the following paragraph:
"(d) any expenditure necessarily incurred and paid by the taxpayer or his wife in consequence of any physical disability suffered by the taxpayer, his wife or child or stepchild referred to in section 6 (3) (a)";
- (c) by the addition to subsection (1) of the following further proviso:
"Provided further that where any married woman is a taxpayer solely by reason of the provisions of paragraph (b) of the proviso to section 7 (2), any such expenditure paid by such married woman shall be deemed for the purposes of this section to have been paid by her husband."; and
- (d) by the substitution for subsection (2) of the following subsection:
 "(2) The allowance under subsection (1) shall be—
 (a) where the taxpayer is entitled to a rebate under section 6 (3) (f), the sum of the amounts referred to in that subsection; or
 (b) where the taxpayer is not entitled to such rebate, so much of the sum of such amounts as exceeds the greater of R1 000 or 5 per cent of the taxpayer's taxable income as determined before granting an allowance under this section and section 20A (1) (b)."

40 Amendment of section 18A of Act 58 of 1962, as inserted by section 15 of Act 52 of 1970, substituted by section 16 of Act 96 of 1981 and amended by section 14 of Act 91 of 1982, section 16 of Act 94 of 1983 and section 16 of Act 121 of 1984

15. Section 18A of the principal Act is hereby amended by the substitution for paragraph (aa) of subsection (2) of the following paragraph:

- 45 "(aa) in the case of a person other than a company, R500 or 2 per cent of his taxable income as calculated before allowing any deduction under this section, section 18 and section 20A (1) (b), whichever is the greater; or"

50 Amendment of section 20A of Act 58 of 1962, as inserted by section 19 of Act 89 of 1969 and amended by section 16 of Act 52 of 1970, section 15 of Act 90 of 1972, section 19 of Act 85 of 1974, section 17 of Act 69 of 1975, section 15 of Act 113 of 1977, section 12 of Act 104 of 1979, section 15 of Act 104 of 1980, section 18 of Act 96 of 1981, section 17 of Act 91 of 1982, section 13 of Act 65 of 1986 and section 14 of Act 85 of 1987

16. (1) Section 20A of the principal Act is hereby amended—

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

“(1) There shall, in the determination of the taxable income of any taxpayer in whose income there is under the provisions of section 7 (2) included any earnings of his wife, be allowed as a deduction from his income—

(a) so much of the total amount of the net earnings of his wife (whether consisting of the earnings of one wife or more than one wife) as does not in the year of assessment exceed an amount equal to the greater of R2 250 or 22,5 per cent of the said net earnings; and

(b) an amount equal to the lesser of R4 650 or the applicable percentage of the taxable earnings of the taxpayer's wife: Provided that where such taxable earnings exceed R16 000, the amount determined under this paragraph shall be reduced by 20 per cent of so much of such taxable earnings as exceeds R16 000.”;

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

“For the purposes of [subsection (1)] this section—

(a) ‘applicable percentage’ means a ratio, expressed as a percentage (which shall in no case exceed 30), determined in accordance with the formula—

$$P = 30 \times \frac{(I - 28\,000)}{W}$$

in which formula

- (i) ‘P’ represents the percentage to be determined;
 (ii) ‘I’ represents the taxpayer's taxable income as determined before allowing a deduction under subsection (1) (b); and
 (iii) ‘W’ represents the taxable earnings of the taxpayer's wife;”;

(c) by the substitution in paragraph (b) of subsection (2) for the words preceding subparagraph (aa) of the following words:

“‘earnings’ means any annuity derived by a married woman from a pension fund or retirement annuity fund (other than any such annuity derived by her during a year of assessment ended or ending before 1 January 1989) or the income derived by [a married woman] her from any trade carried on by her independently of her husband, including—”;

(d) by the substitution for paragraph (c) of subsection (2) of the following paragraph:

“(c) ‘net earnings’ means the taxable income derived by a married woman from earnings, as determined before the deduction of any amount allowable under this section and sections 11 (k), (n) [18] and 18A [and 21quat].”; and

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

“(d) ‘taxable earnings’ means the amount remaining after deducting from the net earnings derived by a married woman—

- (i) so much of any current or arrear contributions made by her to any pension fund or retirement annuity fund as may be allowed as a deduction under section 11 (k) or (n), as the case may be;
 (ii) so much of any donation made by her as may be allowed as a deduction under section 18A; and
 (iii) an amount equal to the deduction to which her husband is entitled under subsection (1) (a).”.

(2) Subsection (1) (c) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 28 February 1969.

Repeal of section 21quat of Act 58 of 1962, as inserted by section 17 of Act 65 of 1973 and amended by section 22 of Act 85 of 1974, section 17 of Act 104 of 1980, section 19 of Act 96 of 1981 and section 18 of Act 121 of 1984

17. Section 21quat of the principal Act is hereby repealed.

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Repeal of section 24E of Act 58 of 1962, as inserted by section 18 of Act 91 of 1982

18. Section 24E of the principal Act is hereby repealed.

Amendment of section 24F of Act 58 of 1962, as inserted by section 17 of Act 85 of 1987

19. (1) Section 24F of the principal Act is hereby amended—

- 5 (a) by the substitution for the proviso to paragraph (a) of subsection (4) of the following proviso:
- 10 “Provided that where any loan or credit has been used by him for the payment or financing of the whole or any portion of such production cost or post-production cost and any portion of such loan or credit is owed by him on the last day of the year of assessment, the amount which may be taken into account under this paragraph shall be reduced by any portion of such loan or credit so owed by him for which the film owner is not under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment; and”;
- 15 (b) by the substitution for the proviso to paragraph (a) of subsection (7) of the following proviso:
- 20 “Provided that where any loan or credit has been used by him for the payment or financing of the whole or any portion of such print cost or marketing expenditure and any portion of such loan or credit is owed by him on the last day of the year of assessment, the amount to be allowed under this paragraph shall be reduced by any portion of such loan or credit so owed by him for which the film owner is not under the provisions of subsection (8) deemed to be at risk on the last day of the year of assessment; and”;
- 25 (c) by the addition to subsection (7) of the following further proviso:
- 30 “Provided further that any amount of print cost or marketing expenditure which has been disallowed in terms of this subsection shall be carried forward and be deemed for the purposes of sections 11 and 17 to be an amount of print cost or marketing expenditure, as the case may be, incurred in the succeeding year of assessment.”;
- (d) by the substitution for paragraph (b) of subsection (9) of the following paragraph:
- 35 “(b) the amount of marketing expenditure contemplated in subsection (4) of the said section which may be taken into account in the calculation of the marketing allowance under the said section shall be limited to so much of such marketing expenditure incurred or deemed to be incurred during the year of assessment as, together with the total amount of such marketing expenditure taken into account in the calculation of the marketing allowance in respect of the relevant film in previous years of assessment, does not exceed an amount determined in accordance with the formula—
- $$Y = (2,5 \times A) - B$$
- 40 in which formula—
- (i) ‘Y’ represents the amount to be determined;
- 45 (ii) ‘A’ represents so much of the sum of the amounts of production cost and post-production cost incurred in the current and any previous year of assessment in relation to the film and which may in terms of subsection (4) be taken into account in the determination of the film allowance as was incurred and was paid or is payable in the Republic; and
- 50 (iii) ‘B’ represents so much of the sum of the production cost and post-production cost contemplated in subparagraph (ii) as was incurred outside the Republic:
- 55 Provided that—
- (a) where the production cost or post-production cost incurred in the Republic by a film owner consists of or includes any amount which directly or indirectly relates to expenditure similar to production cost or post-production cost in relation to such film which was or

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will be incurred or paid by any other person outside the Republic, the said amount shall for the purposes of this subsection and subsection (11) be deemed to have been incurred by the film owner outside the Republic; and

5 (b) any amount of such marketing expenditure which has been allowed as a deduction in terms of subsection (7) and which has not been taken into account in the calculation of the marketing allowance by reason of the provisions of paragraph (a) or (b) of this subsection shall be deemed for the purposes of section 11*bis* to be an amount of marketing expenditure incurred in the succeeding year of assessment and allowed as a deduction in that year under the provisions of section 11 or 17.”; and

10 (e) by the insertion after subsection (10) of the following subsection:

15 “(11) Where for the purposes of determining the marketing allowance granted to a film owner in any year of assessment under section 11*bis* in respect of any film, an amount represented by the symbol ‘Y’ (hereinafter referred to as the previous determination) has been determined in accordance with the formula contemplated in subsection (9) (b) and, in consequence of any production cost or post-production cost incurred by the film owner in relation to such film in any succeeding year of assessment, the amount represented by the symbol ‘Y’ as so determinable in relation to such succeeding year (hereinafter referred to as the new determination) is less than the previous determination, the Commissioner shall, notwithstanding anything to the contrary contained in this Act, make a revised assessment—

20 (a) for such first-mentioned year of assessment on the basis that the new determination is applicable to such year; and

25 (b) for any subsequent year of assessment to the extent that the determination of the film owner’s taxable income for such subsequent year is affected by the revised assessment made for the said first-mentioned year of assessment.”

30 (2) (a) The amendments effected by subsection (1) (a), (b) and (c) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 7 April 1987.

35 (b) The amendments effected by subsection (1) (d) and (e) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 23 February 1988 and shall apply in respect of any film acquired by a film owner otherwise than under a written agreement formally and finally signed by every party thereto before that date.

Insertion of section 24G in Act 58 of 1962

40 20. (1) The following section is hereby inserted in the principal Act after section 24F:

“Taxable income of toll road operators

24G. (1) For the purposes of this section—

45 ‘agreement’ means an agreement concluded by the taxpayer in terms of which the taxpayer is entitled to operate a toll road;

‘ancillary service’ in relation to a toll road, means any—

(a) vehicle service station, breakdown or repair facility;

(b) shop or restaurant;

(c) park, recreation or rest area;

50 (d) emergency medical or first-aid facility;

(e) hotel or other accommodation; or

(f) entertainment facility,

or other service or facility to which persons or vehicles may gain access from the toll road;

‘permanent work’ means—

55 (a) any earthwork, tunnel, bridge or structure forming part of a toll road, including any building erected for the purpose of housing toll equipment, but excluding any such work constructed or erected solely for the purposes of the repair or maintenance of a toll road; and

60 (b) the reimbursement to the State of the cost of acquisition or expropriation of land required for the purposes of the toll road;

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'road pavement' means the road surface, road shoulders, sub base, base course, wearing courses, road signage, road markings, lighting, guard rails, tolling equipment, emergency telephone systems, emergency telephone repeater stations, access roads to emergency telephone repeater station sites and other parts and road furniture of a toll road, excluding any permanent work or ancillary service;

5

'single toll road' means—

10

(a) a single continuous toll road or portion thereof, or two or more toll roads or portions thereof which are not contiguous but which the Minister of Transport Affairs, after consultation with the Minister of Finance, considers should be regarded as a single toll road; or

15

(b) two or more toll roads or portions thereof in respect of which a single agreement has been concluded with the State;

20

'tolling period', in relation to a toll road, means the initial period during which the State has granted to the taxpayer or any other person the right to operate such toll road, including any period in respect of which such right was so granted in terms of an interim agreement concluded by the State, but excluding any extension of such first-mentioned period in respect of which a right of renewal may be exercised;

25

'toll road' means a road or section thereof, including any access road, crossroad or ramp constituting a necessary adjunct to such road or section, in respect of which the taxpayer derives or will derive income through the imposition of a toll or the exploitation of the right to impose a toll.

30

(2) Subject to the provisions of subsection (5), there shall be deducted in the determination of the taxable income derived by the taxpayer during any year of assessment—

35

(a) the sum of any annual allowances determined under subsection (3) in relation to expenditure incurred during the current or any previous year of assessment in respect of any permanent work, road pavement, major rehabilitation of the road pavement or erection or construction of ancillary services in relation to a toll road;

40

(b) any expenditure incurred during the year of assessment in respect of the repair or maintenance of a toll road or any ancillary service in relation to such toll road, other than expenditure incurred on major rehabilitation of the road pavement;

45

(c) any interest (other than interest which is deductible under section 11 (a) or (b)) incurred by the taxpayer during the year of assessment in respect of any loan utilized for the purpose of financing any expenditure contemplated in paragraph (a) or (b); and

(d) any amount which has been disallowed in the preceding year of assessment under the provisions of subsection (5):

50

Provided that the aggregate of the allowances which may be granted under paragraph (a) shall not exceed the total expenditure incurred by the taxpayer on such permanent work, road pavement, major rehabilitation of road pavement or erection or construction of ancillary services.

55

(3) For the purposes of subsection (2), an annual allowance shall be calculated in respect of expenditure incurred by the taxpayer on permanent works, road pavements, major rehabilitation of road pavements or the erection, construction, installation or provision of ancillary services during any year of assessment, such allowance to be equal to the expenditure so incurred during the year divided by the lesser of the number of years reckoned from the commencement of that year until the end of the tolling period (for which purpose a portion of a year shall be regarded as a year) and—

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(a) in the case of expenditure incurred on permanent works or the erection or construction of ancillary services, 25 years; and

(b) in the case of such expenditure incurred on road pavements or major rehabilitation of road pavements, 8 years.

5 (4) No deduction or allowance shall be granted under this Act in respect of expenditure contemplated in subsection (2) otherwise than as provided in that subsection or section 11 (o).

10 (5) The allowances which may be granted under subsection (2) (a), (b) and (d) in any year of assessment in respect of any single toll road shall not in the aggregate exceed the taxable income (as determined before the deduction of the said allowances) derived by the taxpayer during such year from—

(a) the exploitation of such toll road or any ancillary service in relation to such toll road; and

15 (b) any interest derived in the ordinary course of such exploitation and the financing of any expenditure contemplated in subsection (3) which relates to such toll road.”.

(2) Subsection (1) shall be deemed to have taken effect as from the commencement of years of assessment ended or ending on or after 1 January 1987.

20 Insertion of section 24H in Act 58 of 1962

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

“Persons carrying on trade or business in partnership

25 **24H. (1)** For the purposes of this section, ‘limited partner’ means any member of a partnership *en commandite*, an anonymous partnership or any similar partnership, if such member’s liability towards a creditor of the partnership is limited to the amount which he has contributed or undertaken to contribute to the partnership or is in any other way limited.

30 (2) Where any trade or business is carried on in partnership, each member of such partnership shall, notwithstanding the fact that he may be a limited partner, be deemed for the purposes of this Act to be carrying on such trade or business.

35 (3) Notwithstanding anything to the contrary in this Act contained, the amount of any allowance or deduction which may be granted to any taxpayer under any provision of this Act other than section 11*bis* in respect of or in connection with any trade or business carried on by him in a partnership in relation to which he is a limited partner shall not in the aggregate exceed the sum of—

40 (a) the amount, whether it consists of the taxpayer’s contribution to the partnership or of any other amount, for which the taxpayer is or may be held liable to any creditor of the partnership; and

(b) any income received by or accrued to the taxpayer from such trade or business.

45 (4) Any allowance or deduction which has been disallowed under the provisions of subsection (3) shall be carried forward and be deemed to be an allowance or deduction to which the taxpayer is entitled in the succeeding year of assessment.

50 (5) (a) Where any income has in common been received by or accrued to the members of any partnership, a portion (determined in accordance with any agreement between such members as to the ratio in which the profits or losses of the partnership are to be shared) of such income shall, notwithstanding anything to the contrary contained in any law or the relevant agreement of partnership, be deemed to have been received by or to have accrued to each such member individually on the date upon which such income was received by or accrued to them in common.

55 (b) Where a portion of any income is under the provisions of paragraph (a) deemed to have been received by or to have accrued to a taxpayer, a portion (determined as aforesaid) of any deduction or

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allowance which may be granted under the provisions of this Act in the determination of the taxable income derived from such income shall be granted in the determination of the taxpayer's taxable income so derived."

5 Amendment of section 27 of Act 58 of 1962, as amended by section 17 of Act 113 of 1977, section 11 of Act 101 of 1978, section 19 of Act 104 of 1980, section 21 of Act 96 of 1981, section 15 of Act 96 of 1985 and section 18 of Act 85 of 1987

22. Section 27 of the principal Act is hereby amended by the addition to paragraph (b) of subsection (2) of the following further proviso:

10 "Provided further that in the case of any such building the erection of which commences on or after 1 January 1989 and any such improvements which commence on or after that date the allowance under this paragraph shall be increased to 5 per cent of the cost (after the deduction of any amount as provided in subsection (4)) to the taxpayer of such building or improvements."

15 Amendment of section 28 of Act 58 of 1962, as amended by section 17 of Act 90 of 1962, section 22 of Act 55 of 1966, section 24 of Act 89 of 1969, section 21 of Act 88 of 1971, section 19 of Act 65 of 1973, section 19 of Act 91 of 1982, section 22 of Act 94 of 1983 and section 17 of Act 65 of 1986

20 23. Section 28 of the principal Act is hereby amended by the substitution in subsection (1) for the expression "40 per cent" of the expression "70 per cent".

Substitution of section 54 of Act 58 of 1962, as amended by section 37 of Act 85 of 1974 and section 20 of Act 103 of 1976

24. The following section is hereby substituted for section 54 of the principal Act:

"Levy of donations tax

25 54. Subject to the provisions of section 56, there shall be paid for the benefit of the State Revenue Fund a tax (in this Act referred to as donations tax) on the [cumulative taxable value of all] value of any property disposed of (whether directly or indirectly and whether in trust or not) under [donations which take] any donation which took or takes effect on or after [the first day of July, 1962] 16 March 1988 by any person (in this Part referred to as the donor) who, in the case of a person other than a company, is ordinarily resident in the Republic, or, in the case of a company, is a domestic company."

Amendment of section 55 of Act 58 of 1962

35 25. Section 55 of the principal Act is hereby amended—

(a) by the deletion in subsection (1) of the definition of "cumulative taxable value"; and

(b) by the substitution in the definition of "fair market value" in the said subsection for the words preceding paragraph (a) of the following words:

40 "'fair market value' in relation to immovable property on which a *bona fide* farming [operations are] undertaking is being carried on in the Republic, means, at the option of the donor, either—"

45 Amendment of section 56 of Act 58 of 1962, as amended by section 18 of Act 90 of 1964, section 25 of Act 55 of 1966, section 33 of Act 89 of 1969, section 38 of Act 85 of 1974, section 21 of Act 113 of 1977, section 13 of Act 101 of 1978, section 23 of Act 96 of 1981, section 31 of Act 94 of 1983, section 4 of Act 30 of 1984, section 28 of Act 121 of 1984, section 18 of Act 96 of 1985 and section 21 of Act 85 of 1987

26. Section 56 of the principal Act is hereby amended—

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- (a) by the deletion of paragraph (gA) of subsection (1);
- (b) by the substitution in paragraph (i) of the said subsection for the word "ecclesiastical" of the word "religious";
- 5 (c) by the substitution in paragraph (j) of the said subsection for the word "ecclesiastical" of the word "religious"; and
- (d) by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs:
- 10 " (a) so much of the sum of the values of all casual gifts made by [the] a donor other than a natural person during any year of assessment as does not exceed R5 000: Provided that where the year of assessment exceeds or is less than 12 months, the amount in respect of which the tax shall not be payable in terms of this paragraph shall be an amount which bears to R5 000 the same ratio as that year of assessment bears to 12 months;
- 15 (b) so much of the [value] sum of the values of all property disposed of by [the donor under a donation on any date to or for the benefit of his children as, together with so much as was exempt from donations tax in terms of this paragraph or paragraph (b) of sub-section (2) of section fifty-four quat of the Income Tax Act, 1941, of the sum of the values of
- 20 all property disposed of under donations before such date by the donor to or on behalf of his children, does not exceed the sum arrived at by multiplying the amount of R20 000 by the number of children of the donor who are alive on the said date, and for the purposes of this paragraph any child of a deceased child of the donor shall be deemed to be a child of the donor, but if more than one child of any one deceased child is alive on the date referred to in this paragraph the children of that deceased child shall be regarded as a single child of the donor as at that date] a donor who is a natural person under donations taking
- 25 effect on or after 16 March 1988 as does not during any year of assessment exceed R20 000: Provided that the donations tax payable in respect of property disposed of by a donor under a donation to or for the benefit of his children which took effect on or before 24 June 1988 shall not exceed the donations tax which would have been payable in respect of such donation under the provisions of this Part before the
- 30 amendment of those provisions by the Income Tax Act, 1988."
- 35

Amendment of section 57 of Act 58 of 1962, as amended by section 22 of Act 88 of 1965

27. Section 57 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding the proviso of the following words:

- "If any property [—
- 40 (a) was on or before the twenty-eighth day of February 1965 disposed of under a donation by a woman married in or out of community of property and not separated from her husband under a judicial order or notarial deed of separation; or
- 45 (b) has [after that date] been disposed of under a donation by a woman married in or out of community of property and not living apart from her husband in circumstances which [in the opinion of the Commissioner] indicate that the separation is likely to be permanent,
- that property shall for the purposes of this Part be deemed to have been disposed of under a donation by her husband:"

50 Amendment of section 60 of Act 58 of 1962, as amended by section 39 of Act 85 of 1974

28. Section 60 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

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- 5 “(2) Where a donor has during the year of assessment disposed of property under more than one donation in respect of which **[donations tax is payable the tax payable in respect of each such donation]** an exemption may be applicable under the provisions of section 56 (2) (a) or (b), the amount to be exempted in respect of any such donation shall be calculated according to the order in which such donations took effect.”.

Amendment of section 61 of Act 58 of 1962, as amended by section 25 of Act 90 of 1962

29. Section 61 of the principal Act is hereby amended by the substitution for paragraph (g) of the following paragraph:
- 10 “(g) the reference in section 96 (2) to the taxable income of any deceased person shall be deemed to include a reference to the **[cumulative taxable value of all]** value of property disposed of by such person under **[donations]** any donation.”.

Substitution of section 64 of Act 58 of 1962

- 15 30. The following section is hereby substituted for section 64 of the principal Act:
- “Rate of donations tax**
64. The rate of the donations tax chargeable under section 54 in respect of the value of any property disposed of under a donation shall be 15 per cent of such value.”.

- 20 **Repeal of section 64A of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967 and substituted by section 32 of Act 94 of 1983**

31. (1) Section 64A of the principal Act is hereby repealed.
(2) Subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.

- 25 **Repeal of section 64B of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967 and substituted by section 33 of Act 94 of 1983**

32. (1) Section 64B of the principal Act is hereby repealed.
(2) Subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.

- 30 **Repeal of section 64C of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967 and amended by section 15 of Act 76 of 1968, section 36 of Act 89 of 1969, section 21 of Act 52 of 1970, section 26 of Act 88 of 1971, section 20 of Act 90 of 1972, section 42 of Act 85 of 1974, section 22 of Act 113 of 1977, section 14 of Act 104 of 1979, section 22 of Act 104 of 1980, section 24 of Act 96 of 1981, section 21 of Act 91 of 1982, section 34**
- 35 **of Act 94 of 1983, section 29 of Act 121 of 1984, section 18 of Act 65 of 1986, section 8 of Act 108 of 1986 and section 22 of Act 85 of 1987**

33. (1) Section 64C of the principal Act is hereby repealed.
(2) Subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.

- 40 **Repeal of section 64D of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967**

34. (1) Section 64D of the principal Act is hereby repealed.

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(2) Subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.

Repeal of section 64E of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967

35. (1) Section 64E of the principal Act is hereby repealed.

5 (2) Subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.

Repeal of section 64F of Act 58 of 1962, as inserted by section 20 of Act 95 of 1967

36. (1) Section 64F of the principal Act is hereby repealed.

10 (2) Subsection (1) shall be deemed to have come into operation on 16 March 1988 and shall apply in respect of interest accruing on or after that date.

Amendment of section 67 of Act 58 of 1962, as amended by section 16 of Act 87 of 1968

37. (1) Section 67 of the principal Act is hereby amended by the addition of the following subsection:

15 “(6) If any amount of tax payable in terms of subsection (2) is not paid in full within the period prescribed for payment thereof in that subsection, interest shall, unless the Commissioner having regard to the circumstances of the case otherwise directs, be paid by the person liable to pay the amount in question at the prescribed rate on so much of such amount as remains unpaid in respect of
20 the period (reckoned from the end of the relevant period prescribed as aforesaid for payment of the amount) during which the amount underpaid remains unpaid, which interest shall be paid in lieu of the interest chargeable under section 89.”.

25 (2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any tax contemplated in section 67 of the principal Act which is paid on or after that date, regardless of when liability for the payment of such tax arose.

Insertion of paragraph 8 in 1st Schedule to Act 58 of 1962

38. (1) The following paragraph is hereby inserted in the First Schedule to the principal Act after paragraph 7:

30 “8. (1) Where any farmer has during any year of assessment incurred expenditure in respect of the acquisition of livestock, the deduction which may be allowed to him under section 11 (a) or (b) of this Act in respect of the cost price of such livestock shall be limited to an amount which, together with the value of livestock held and not disposed of by him at the beginning of such year, does not exceed the income received by or accrued to him from farming during
35 such year and the value of livestock held and not disposed of by him at the end of such year.

40 (2) Any amount which has been disallowed under the provisions of subparagraph (1) shall be carried forward and be deemed to be expenditure incurred by the farmer in respect of the acquisition of livestock during the succeeding year of assessment.

(3) The provisions of this paragraph shall not apply—

45 (a) in any case where it is shown by the farmer that livestock the cost of which falls to be dealt with under such provisions is no longer held and not disposed of by him; and

(b) to so much of any expenditure (including any amount which has been carried forward under the provisions of subparagraph (2)) which falls to be disallowed under subparagraph (1) as, together with the value of livestock held and not disposed of by him at the beginning of the year of assessment,

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exceeds such amount as is shown by him to be market value of all livestock held and not disposed of by him at the end of such year.”.

- (2) Subsection (1) shall be deemed to have come into operation as from the commencement of years of assessment ended or ending on or after 31 May 1988, and shall apply in respect of expenditure incurred on or after that date in respect of the acquisition of livestock.

Amendment of paragraph 12 of 1st Schedule to Act 58 of 1962, as amended by section 27 of Act 55 of 1966, section 42 of Act 89 of 1969, section 24 of Act 113 of 1977, section 24 of Act 104 of 1980, section 27 of Act 96 of 1981 and section 28 of Act 91 of 1982

- 10 39. Paragraph 12 of the First Schedule to the principal Act is hereby amended by the addition to item (j) of subparagraph (1) of the following proviso:

“Provided that no deduction shall be allowed under the provisions of this item in respect of any such machinery, implements, utensils or articles which are brought into use by the farmer on or after 1 July 1988.”.

- 15 Amendment of paragraph 2 of 4th Schedule to Act 58 of 1962, as amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974 and section 28 of Act 113 of of 1977

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

- 20 “(4) Any amount required to be deducted or withheld from any amount of remuneration under this Schedule by way of employees tax shall be calculated on the balance of such amount of remuneration remaining after deducting in respect of—
- 25 (a) any contribution by the employee concerned to any pension fund or retirement annuity fund which the employer is entitled or required to deduct from such amount of remuneration; and
- (b) at the option of the employer, any such contribution to a retirement annuity fund which has been paid by the employee and in respect of which proof of
- 30 an amount which, having regard to such remuneration or to the period in respect of which it is payable, is sufficient to restrict the aggregate of the deductions under this subparagraph during the year of assessment to an amount equal to the deduction to which the employee is entitled under the provisions of section 11 (k) (i) or (ii) or 11 (n) (aa) or (bb), as the case may be: Provided that
- 35 where the employee is a married woman, no deduction shall be made in respect of any contribution by her to any retirement annuity fund unless the Commissioner has authorized the employer to make such deduction.”.

Insertion of paragraph 11B in 4th Schedule to Act 58 of 1962

41. The following heading and paragraph are hereby inserted in the Fourth Schedule to the principal Act after paragraph 11A:

“Standard Income Tax on Employees

- 45 11B. (1) For the purposes of this paragraph—
- ‘annual equivalent’, in relation to any net remuneration, means an amount equal to the sum of such net remuneration multiplied by the ratio which a full year bears to the period in respect of which such net remuneration is payable;
- ‘annual tax’, in relation to any amount of net remuneration, means—
- 50 (a) where the employee is a married woman, an amount calculated at the rate of 25 per cent of so much of the annual equivalent of such net remuneration as does not exceed the sum of R20 000, less a deduction of R1 075; or
- (b) in any other case, an amount equal to the normal tax payable in accordance with the rates of tax fixed in respect

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5 of the relevant year of assessment under section 5 (2) of
 this Act or, if such rates have not been fixed on the date
 upon which any amount of annual tax is required to be
 determined, the rates of tax so fixed in respect of the
 preceding year of assessment, in respect of a taxable
 10 income equal to so much of the annual equivalent of such
 net remuneration as does not exceed the sum of R12 000,
 less a deduction equal to the sum of the rebates to which
 the employee would have been entitled under section 6 (2)
 and (3) had the relevant year of assessment ended on the
 last day of the relevant tax period;

'net remuneration' means the balance of any remuneration as
 determined by an employer under paragraph 2 (4) or by the
 Commissioner under subparagraph (4), but excluding—

- 15 (a) any amounts which, when included in the taxpayer's in-
 come, will result in the normal tax payable by him being
 determined under the provisions of section 5 (10);
- 20 (b) any amount, if the taxpayer has in the production of such
 amount incurred expenditure exceeding 1 per cent of such
 amount which is deductible in the determination of the
 taxable income derived by him from such amount;
- (c) any remuneration derived by a married woman in the
 circumstances contemplated in section 20A (2) (b) (ii) or
 (iii) of this Act;
- 25 (d) any remuneration which the Commissioner has under
 subparagraph (8) declared to be part-time remuneration;
- (e) any remuneration derived by a married woman, if the gross
 income (other than such remuneration) derived by her
 husband during the year of assessment does not exceed
 30 R7 500;
- (f) any annuity other than an annuity payable by a pension
 fund or retirement annuity fund;

'tax period', in relation to any employee, means any unbroken period
 35 in the year of assessment during which the employee was
 employed in the Republic by any one employer or during which
 remuneration was paid or became payable to him by any one
 employer: Provided that where on any date—

- 40 (a) a woman marries, a tax period shall in relation to such
 woman be deemed to have ended on the day preceding that
 date; and
- (b) a married woman is widowed or divorced or commences to
 live apart from her husband in circumstances which indi-
 cate that the separation is likely to be permanent, a tax
 period shall in relation to such woman be deemed to
 45 have ended on that date.

(2) Notwithstanding the provisions of paragraphs 9 and 10, the amount
 of employees tax required to be deducted or withheld from any net
 remuneration paid or payable by an employer to an employee during any
 tax period shall—

- 50 (a) to the extent that the annual equivalent of all such net remuneration
 so paid or payable during the tax period does not exceed R20 000 in
 the case of a married woman or R12 000 in any other case; or
- (b) where such net remuneration includes any annual payment (being an
 amount of net remuneration which in terms of the employee's
 55 service conditions or in accordance with the employer's practice is

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payable to the employee once annually or which is determined without reference to any period), to the extent that the sum of all such annual payments and the annual equivalent of all other net remuneration so paid or payable during the tax period does not exceed R20 000 in the case of a married woman or R12 000 in any other case,

be an amount (to be known as Standard Income Tax on Employees) which shall, subject to the provisions of subparagraph (4), be finally determined by the employer at the end of the tax period under the provisions of subparagraph (3).

(3) The amount of Standard Income Tax on Employees to be deducted or withheld from any net remuneration under the provisions of subparagraph (2) shall—

(a) in the case of any net remuneration referred to in subparagraph (2)

(a), be an amount equal to the annual tax determined in relation to the annual equivalent of such net remuneration divided by the ratio which a full year bears to the tax period; and

(b) in the case of any annual payment referred to in subparagraph (2)

(b), be an amount determined in accordance with the formula—

$$S = \frac{T1 - T2}{R}$$

in which formula—

(i) 'S' represents the amount of Standard Income Tax on Employees to be determined;

(ii) 'T1' represents the annual tax determined in relation to an amount (not exceeding R20 000 in the case of a married woman or R12 000 in any other case) equal to the sum of all such annual payments and the annual equivalent of all other net remuneration paid or payable by the employer to the employee during the tax period;

(iii) 'T2' represents the annual tax determined in relation to an amount (not exceeding the relevant said amount) equal to the said annual equivalent; and

(iv) 'R' represents the ratio which a full year bears to the tax period.

(4) Where the taxpayer is entitled to a deduction under section 11 (n) of this Act in respect of any contribution to a retirement annuity fund which has not been taken into account by his employer in the determination of the balance contemplated in the definition of 'net remuneration' in subparagraph (1), or to a deduction under section 18 of this Act, and the taxpayer's taxable income derived otherwise than from net remuneration cannot be reduced by the full amount of any such deduction, the Commissioner shall on application made by the taxpayer amend—

(a) the determination of the amount of any net remuneration derived by the taxpayer; and

(b) the amount of Standard Income Tax on Employees payable by the taxpayer in respect of such net remuneration.

(5) (a) Where at the end of any tax period the annual equivalent of the net remuneration paid or payable by an employer to an employee during the tax period or, where such net remuneration includes any annual payment referred to in subparagraph (2) (b), the sum of all such annual payments and such annual equivalent, does not exceed R20 000 in the case of a married woman or R12 000 in any other case, and the total amount of employees tax deducted or withheld by the employer from such net remuneration exceeds the Standard Income Tax on Employees required to be deducted or withheld from

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such net remuneration, the employer shall repay to the employee the amount of such excess.

(b) Any amount of employees tax which has been repaid by an employer to an employee under the provisions of item (a) may be deducted by the employer from any subsequent payment of employees tax due by him, or shall be refunded to the employer by the Commissioner.

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(6) For the purposes of determining the amount of Standard Income Tax on Employees required to be deducted or withheld from any net remuneration paid or payable by an employer to an employee, the employer shall determine the amount of annual tax in relation to such net remuneration in accordance with the return of personal particulars or fresh return furnished by the employee in terms of paragraph 12 (1) or in accordance with any directive issued by the Commissioner as contemplated in paragraph 12 (2) or, where no return whatsoever has been submitted by the employee and the employer has not been issued with such a directive, in the manner prescribed in paragraph 12 (3): Provided that—

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(a) where the employee has failed, or is deemed to have failed in terms of paragraph (b), to furnish such return of personal particulars or fresh return or to apply to the Commissioner for the issue of a directive as contemplated in paragraph 12 (2), and in consequence of such failure the amount of Standard Income Tax on Employees determined by the employer is greater than the amount which would have been determined had the employee submitted a return reflecting his correct personal particulars, the amount so determined by the employer shall for the purposes of this paragraph be deemed to have been correctly determined; and

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(b) where an employee has not furnished such return of personal particulars or fresh return in sufficient time to enable the employer to take account thereof for the purpose of determining such amount of annual tax, or has not applied to the Commissioner for the issue of such directive in sufficient time to enable the Commissioner to issue such directive and the employer to take account thereof for the said purpose, the employee shall be deemed for the said purpose to have failed to render such return of personal particulars or fresh return or to have applied for such directive.

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(7) Any amount of employees tax which—
(a) has been determined by an employer as representing the amount of Standard Income Tax on Employees required to be determined by him under the provisions of this paragraph in relation to any net remuneration paid or payable by him to an employee;
(b) has been deducted or withheld by the employer from such net remuneration; and
(c) is not more than 5 per cent greater or less than the amount of Standard Income Tax on Employees required to be determined in relation to such net remuneration,

shall be deemed to be an amount of Standard Income Tax on Employees correctly determined under those provisions.

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(8) Every employer shall on any employees tax certificate furnished by him in terms of paragraph 13 (1), indicate separately the amount of Standard Income Tax on Employees determined by him and deducted or withheld from remuneration payable to the employee concerned.

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(9) Where the Commissioner is of the opinion that, having regard to the manner in which any remuneration is payable to an employee, the employer will be unable to determine the amount of employees tax to be deducted or withheld from such remuneration at an amount which fairly

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5 represents the employee's probable liability for normal tax in respect of such remuneration, the Commissioner may in any deduction tables prescribed by him under paragraph 9 or in any directive issued by him under paragraph 11, declare such remuneration to be part-time remuneration."

Amendment of paragraph 12 of 4th Schedule to Act 58 of 1962

42. Paragraph 12 of the Fourth Schedule to the principal Act is hereby amended by the substitution for subparagraph (3) of the following subparagraph:

- 10 "(3) If an employer has not at any time received any return of personal particulars whatsoever from an employee as required by subparagraph (1), or has not in respect of that employee received a directive from the Commissioner as provided in paragraph 11, he shall, until such return or directive is received, deduct or withhold employees tax under the provisions of paragraph 9 or 10, whichever may be applicable, at the rate applicable—
- 15 (a) in the case of a male employee, to a person who is not a married person and who is not entitled to [have any child or stepchild taken into account in the determination of the amount of employees tax to be deducted or withheld] a rebate under section 6 (3) (a), (e) or (f); or
- (b) in the case of a female employee, to a married woman."

20 **Substitution of paragraph 29 of 4th Schedule to Act 58 of 1962, as inserted by section 19 of Act 6 of 1963 and substituted by section 57 of Act 85 of 1974 and section 55 of Act 94 of 1983**

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

- 25 "29. No refund of any amount of employees tax or provisional tax shall be made to the taxpayer concerned otherwise than as provided in paragraph 11B or 28."

30 **Amendment of paragraph 7 of 7th Schedule to Act 58 of 1962, as inserted by section 46 of Act 121 of 1984 and amended by section 30 of Act 96 of 1985 and section 10 of Act 108 of 1986**

44. (1) Paragraph 7 of the Seventh Schedule to the principal Act is hereby amended—

- (a) by the substitution in item (a) of subparagraph (4) for the scale of values of the following scale:

Determined value	"Value of private use			
	Engine capacity			
	0-1600cc	1601-2000cc	2001-3000cc	Over 3000cc
	R	R	R	R
0-R 20 000	150	184	219	253
R 20 001-R 25 000	173	207	242	276
R 25 001-R 30 000	196	230	265	299
R 30 001-R 35 000	219	253	288	322
R 35 001-R 40 000	242	276	311	345
R 40 001-R 45 000	265	299	334	368
R 45 001-R 50 000	288	322	357	391
R 50 001-R 55 000	311	345	380	414
R 55 001-R 60 000	334	368	403	437
R 60 001-R 65 000	357	391	426	460
R 65 001-R 70 000	380	414	449	483
R 70 001-R 75 000	403	437	472	506
R 75 001-R 80 000	426	460	495	529
R 80 001-R 85 000	449	483	518	552
R 85 001-R 90 000	472	506	541	575
R 90 001-R 95 000	495	529	564	598
R 95 001-R100 000	518	552	587	621

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Determined value	"Value of private use"			
	Engine capacity			
	0- 1600cc	1601- 2000cc	2001- 3000cc	Over 3000cc
R100 001-R110 000	R 564	R 598	R 633	R 667
R110 000-R120 000	610	644	679	713
R120 001-R130 000	656	690	725	759
R130 001-R140 000	702	736	771	805
R140 001-R150 000	748	782	817	851
Over R150 000	794	828	863	897";

- (b) by the substitution in paragraph (i) of the proviso to the said item (a) for the expression "R50" of the expression "R58"; and
- (c) by the substitution in paragraph (ii) of the proviso to the said item (a) for the expression "R30" of the expression "R35".
- 5 (2) Subsection (1) shall be deemed to have come into operation on 1 June 1988.

Minimum Tax on Companies

45. (1) In this section, 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, and

- 10 "company" means a company as defined in paragraph (a) of the definition of "company" in section 1 of the principal Act if such company is a South African company as defined in that section;

"tax year", in relation to any company, means the financial year of that company which ended on 29 February 1988 or, if the company's financial years ends on a date other than the last day of February, the latest financial year of that company which ended before the said date.

- 15 (2) Subject to the provisions of subsection (5), there shall be paid for the benefit of the State Revenue Fund by every company which has in relation to the tax year of that company derived a taxable amount, as determined in accordance with the provisions of subsection (3), a tax (referred to in this section as the minimum tax) in respect of such tax year, calculated at the rate of 25 per cent of such taxable amount.

(3) For the purposes of this section a company shall be deemed to have derived a taxable amount in respect of the tax year of that company if the sum of the dividends distributed by it during that year exceeds the sum of—

- 25 (a) any normal tax for which the company has or will become liable on its taxable income for the tax year and any taxation levied by any country or territory other than the Republic on any income, profits or gains derived by the company during the tax year from a source outside the Republic; and

30 (b) any dividends received by or accrued to the company during the tax year, whether from a source within or outside the Republic,

and the excess shall be deemed to be the company's taxable amount for the tax year.

(4) For the purposes of this section a dividend shall be deemed to have been distributed by a company on the date on which payment of the dividend was approved by the company, its directors or some other person acting under authority conferred by the memorandum or articles of association of the company or otherwise, whether the dividend was payable on that date or on a subsequent date.

40 (5) There shall be exempt from the payment of the minimum tax—

- (a) any company which has during the tax year distributed dividends amounting in total to less than R250 000;
- (b) any company the receipts and accruals of which from sources within and

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outside the Republic during the tax year, excluding receipts and accruals of a capital nature and dividends, amounted in the aggregate to not more than R100 000;

- 5 (c) any company (hereinafter referred to as the distributing company) which has during the tax year distributed any dividend to one or more shareholders who on or before 24 June 1988 ceased to be shareholders in the distributing company, if the aggregate of the dividends so distributed amounted to not less than 75 per cent of the sum of all the dividends distributed by the distributing company during the tax year: Provided that—
- 10 that—
- (i) the said aggregate shall not include any dividend distributed to a company, close corporation or body corporate (such company, close corporation or body corporate being hereinafter referred to as the shareholder company) which ceased to be a shareholder in the distributing company by reason of the fact that the shareholder company disposed of its shareholding in the distributing company to another company which was the holding company or a subsidiary of the shareholder company or to a subsidiary of such holding company;
- 15 (ii) for the purposes of paragraph (i) of this proviso "holding company" in relation to the shareholder company means a company which was the holding company of the shareholder company as contemplated in subsection (4) of section 1 of the Companies Act, 1973 (Act No. 61 of 1973), and "subsidiary", in relation to the shareholder company or such holding company, means a company which was a subsidiary of the shareholder company or such holding company (as the case may be) as contemplated in subsection (3) of the said section;
- 20 (iii) where any close corporation or body corporate is a member of or holds equity share capital in a company such close corporation or body corporate shall in applying the provisions of the said subsections (3) or (4) for the purposes of this proviso be deemed to be a company;
- 25 (d) any fixed property company referred to in section 11 (s) of the principal Act;
- (e) any company the receipts and accruals of which are exempt from normal tax under the provisions of section 10 (1) (t) of the principal Act;
- 30 (f) any company the winding up or liquidation whereof has commenced not later than 30 September 1988: Provided that if at any time after the end of the period of 12 months reckoned from the commencement of the winding up or liquidation the steps necessary for the winding up or liquidation have not been actively taken, the Commissioner, having regard to the circumstances of the case, may notify the company that the exemption under this paragraph is withdrawn and in such case the exemption shall for the purposes of this section be deemed to have been withdrawn with effect from 30 September 1988.
- 35 (6) (a) Every company which is liable for the minimum tax and every other company when required by the Commissioner shall, not later than 30 September 1988 or within such period ending after that date as the Commissioner, having regard to the circumstances of the case, may allow, furnish to the Commissioner a declaration in such form as the Commissioner may prescribe, giving such information as may be required for the purposes of this section.
- 40 (b) Any company, whether or not liable for the minimum tax, to which a notification has been issued by the Commissioner that it is required to submit such a declaration, shall furnish such declaration to the Commissioner not later than the said date or within such period as the Commissioner may allow.
- 45 (7) The minimum tax for which any company is liable shall be calculated by that company on the declaration referred to in subsection (6) and payment thereof shall accompany such declaration and be made not later than 30 September 1988 or within the period allowed by the Commissioner under the said subsection: Provided that
- 50 where the amount of normal tax or taxation referred to in subsection (3) (a) has not yet been finally determined, the company shall estimate such amount.
- 55 (8) (a) If any company fails to pay the minimum tax for which it is liable in full on or before 30 September 1988 interest shall be paid by the company on the
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- outstanding amount of such tax for the period from 1 October 1988 to the date of payment of such amount at a rate equal to the rate applicable for purposes of the principal Act under paragraph (b) of the definition of "prescribed rate" in section 1 of that Act.
- 5 (b) If a payment of minimum tax is made by any company in excess of its liability for such tax the excess shall on application be refundable to it and interest shall be payable to the company on the excess for the period from the date of payment of the excess to the date on which the refund is made at a rate equivalent to the rate applicable for purposes of the said Act under
- 10 paragraph (a) of the said definition.
- (9) Where it appears to the Commissioner that the amount of minimum tax due by any company has not been paid in full when required by this section the Commissioner may raise an assessment in respect of the amount due and any interest payable thereon.
- 15 (10) (a) Any assessment raised by the Commissioner under this section shall be subject to objection and appeal.
- (b) The provisions of the principal Act relating to objections and appeals concerning assessments under that Act shall *mutatis mutandis* apply in respect of objections and appeals concerning assessments under this
- 20 section.
- (11) The minimum tax and any interest thereon which is due by any company shall be a debt due to the State and shall be recoverable by the Commissioner in the manner prescribed in the principal Act for the recovery of any tax or interest due under that Act.
- 25 (12) The amount of minimum tax paid by any company (less so much thereof as became refundable in terms of subsection (8) (b)) shall be available as a credit to be set off, on application, against any unpaid amount of provisional tax payable in respect of any period ending on or after the date of commencement of this Act or any unpaid amount of normal tax which has become payable on assessment, the amount
- 30 of minimum tax so available as a credit being reduced by the amount so set off.
- (13) Where on 1 October 1991 any balance of the minimum tax paid by a company remains available as a credit as contemplated in subsection (12), so much of such balance as the Commissioner is satisfied is not required for set off against provisional tax or normal tax which is due and has not been paid on the said date, shall be
- 35 refunded to the company.
- (14) Where the winding up or liquidation of any company commences on or after 1 October 1988 and before 1 October 1991, the Commissioner may, if he is satisfied that all the formalities for such winding up or liquidation will be complied with within a period of 12 months after the commencement of the winding up or liquidation,
- 40 make a refund to the company of so much of any balance of the minimum tax paid by the company as remains available as a credit as contemplated in subsection (12) and is not required for set off against provisional tax or normal tax which is or will be payable by the company.
- (15) Sections 4, 75, 78, 79, 82, 88, 104 and 105A of the principal Act shall *mutatis*
- 45 *mutandis* apply in relation to the provisions of this section as though such provisions were provisions of the said Act.

Withdrawal of Government Notice No. 956 of 11 May 1988

46. Government Notice No. 956 of 11 May 1988 is hereby withdrawn with effect from 1 June 1988.

50 Commencement of certain amendments

47. 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 be deemed to have taken effect—

- 55 (a) for the purposes of assessments in respect of normal tax and undistributed profits tax under the principal Act, as from the commencement of years of assessment ending on or after 1 January 1989; and

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(b) for the purposes of the donations tax levied under the principal Act, in respect of donations which have taken effect or take effect, as contemplated in section 55 (3) of that Act, on or after 16 March 1988.

Short title

5 48. This Act shall be called the Income Tax Act, 1988.

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SCHEDULE

RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 28 FEBRUARY 1989 AND 30 JUNE 1989, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 1989.

(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:

TABLES

Taxable Income		Rates of Tax in respect of Married Persons
Where the taxable income— does not exceed R12 000		14 per cent of each R1 of the taxable income;
exceeds R12 000 but does not exceed R13 000		R1 680 plus 15 per cent of the amount by which the taxable income exceeds R12 000;
„ R13 000 „ „ R14 000		R1 830 plus 17 per cent of the amount by which the taxable income exceeds R13 000;
„ R14 000 „ „ R15 000		R2 000 plus 19 per cent of the amount by which the taxable income exceeds R14 000;
„ R15 000 „ „ R16 000		R2 190 plus 21 per cent of the amount by which the taxable income exceeds R15 000;
„ R16 000 „ „ R18 000		R2 400 plus 23 per cent of the amount by which the taxable income exceeds R16 000;
„ R18 000 „ „ R20 000		R2 860 plus 25 per cent of the amount by which the taxable income exceeds R18 000;
„ R20 000 „ „ R22 000		R3 360 plus 27 per cent of the amount by which the taxable income exceeds R20 000;
„ R22 000 „ „ R24 000		R3 900 plus 29 per cent of the amount by which the taxable income exceeds R22 000;
„ R24 000 „ „ R26 000		R4 480 plus 31 per cent of the amount by which the taxable income exceeds R24 000;
„ R26 000 „ „ R28 000		R5 100 plus 33 per cent of the amount by which the taxable income exceeds R26 000;
„ R28 000 „ „ R30 000		R5 760 plus 35 per cent of the amount by which the taxable income exceeds R28 000;
„ R30 000 „ „ R35 000		R6 460 plus 37 per cent of the amount by which the taxable income exceeds R30 000;
„ R35 000 „ „ R40 000		R8 310 plus 39 per cent of the amount by which the taxable income exceeds R35 000;
„ R40 000 „ „ R50 000		R10 260 plus 41 per cent of the amount by which the taxable income exceeds R40 000;
„ R50 000 „ „ R60 000		R14 360 plus 42 per cent of the amount by which the taxable income exceeds R50 000;
„ R60 000 „ „ R70 000		R18 560 plus 43 per cent of the amount by which the taxable income exceeds R60 000;
„ R70 000 „ „ R80 000		R22 860 plus 44 per cent of the amount by which the taxable income exceeds R70 000;
„ R80 000		R27 260 plus 45 per cent of the amount by which the taxable income exceeds R80 000.

Taxable Income		Rates of Tax in respect of persons who are not Married Persons
Where the taxable income— does not exceed R10 000		14 per cent of each R1 of the taxable income;
exceeds R10 000 but does not exceed R11 000		R1 400 plus 15 per cent of the amount by which the taxable income exceeds R10 000;
„ R11 000 „ „ R12 000		R1 550 plus 17 per cent of the amount by which the taxable income exceeds R11 000;
„ R12 000 „ „ R13 000		R1 720 plus 19 per cent of the amount by which the taxable income exceeds R12 000;
„ R13 000 „ „ R14 000		R1 910 plus 21 per cent of the amount by which the taxable income exceeds R13 000;
„ R14 000 „ „ R15 000		R2 120 plus 23 per cent of the amount by which the taxable income exceeds R14 000;
„ R15 000 „ „ R16 000		R2 350 plus 25 per cent of the amount by which the taxable income exceeds R15 000;
„ R16 000 „ „ R18 000		R2 600 plus 27 per cent of the amount by which the taxable income exceeds R16 000;
„ R18 000 „ „ R20 000		R3 140 plus 29 per cent of the amount by which the taxable income exceeds R18 000;
„ R20 000 „ „ R22 000		R3 720 plus 31 per cent of the amount by which the taxable income exceeds R20 000;
„ R22 000 „ „ R24 000		R4 340 plus 33 per cent of the amount by which the taxable income exceeds R22 000;

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Taxable Income	Rates of Tax in respect of persons who are not Married Persons
Where the taxable income— exceeds R24 000 but does not exceed R26 000	R5 000 plus 35 per cent of the amount by which the taxable income exceeds R24 000;
„ R26 000 „ „ R28 000	R5 700 plus 37 per cent of the amount by which the taxable income exceeds R26 000;
„ R28 000 „ „ R30 000	R6 440 plus 39 per cent of the amount by which the taxable income exceeds R28 000;
„ R30 000 „ „ R36 000	R7 220 plus 41 per cent of the amount by which the taxable income exceeds R30 000;
„ R36 000 „ „ R42 000	R9 680 plus 42 per cent of the amount by which the taxable income exceeds R36 000;
„ R42 000 „ „ R48 000	R12 200 plus 43 per cent of the amount by which the taxable income exceeds R42 000;
„ R48 000 „ „ R54 000	R14 780 plus 44 per cent of the amount by which the taxable income exceeds R48 000;
„ R54 000.....	R17 420 plus 45 per cent of the amount by which the taxable income exceeds R54 000.

- (b) on each rand of the taxable income of any company (excluding taxable income derived from mining operations and taxable income referred to in subparagraph (e)), 50 cents;
- (c) on each rand of the taxable income derived by any company from mining for gold otherwise than on any post-1966 gold mine (but with the exclusion of so much of the taxable income as the Commissioner 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 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 R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

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

and if such taxable income exceeds R40 000, 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

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

by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 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 Commissioner 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 R40 000, the rate of tax shall not exceed a percentage determined in accordance with the formula:

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

and if such taxable income exceeds R40 000, 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

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

by one for each completed amount of R2 500 by which the said taxable income exceeds R40 000: Provided further that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 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 Commissioner 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, a rate equal to the average rate of normal tax or 35 cents, whichever is higher: Provided that for the purposes of this subparagraph

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the average rate of normal tax shall be determined by dividing the total normal tax (excluding the tax determined in accordance with this subparagraph for the period assessed) paid by the company in respect of its aggregate taxable income from gold mining for the period from 1 July 1916 to the end of the period assessed, by the number of rands contained in the said aggregate taxable income;

- (f) on each rand of the taxable income derived by any company from mining for diamonds, 45 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 25 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 or diamonds), 50 cents: Provided that there shall be added to the amount of tax calculated in accordance with the preceding provisions of this subparagraph a surcharge equal to 15 per cent of such amount.

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 mining for gold, and any income which, in the opinion of the Commissioner, results directly from mining for gold.

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

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