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PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

No. 1048.

19 July 1995

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

No. 21 of 1995: Income Tax Act, 1995.

No. 1048.

19 Julie 1995

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

No. 21 van 1995: Inkomstebelastingwet, 1995.

GENERAL EXPLANATORY NOTE:

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

Words underlined with a 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 29 February 1996 and 30 June 1996, and by companies in respect of taxable incomes for years of assessment ending during the period of 12 months ending on 31 March 1996; to amend the Income Tax Act, 1962; to amend the Income Tax Act, 1994; to provide for special provisions with regard to benefit funds, pension funds, provident funds or retirement annuity funds established or approved by or under the laws of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, respectively; to extend the application of the Income Tax Act, 1962; to repeal certain laws; and to provide for incidental matters.

(Afrikaans text signed by the President.)

(Assented to 10 July 1995.)

BE IT ENACTED by 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 29 February 1996 or 30 June 1996; and
 - (b) the taxable income of any company for any year of assessment ending during the period of 12 months ending on 31 March 1996,
- shall be as set forth in Schedule 1 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 90 of 1972, section 4 of Act 65 of

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit, bestaande verordenings aan.

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot vasstelling van die skale van normale belasting betaalbaar deur ander persone as maatskappye ten opsigte van belasbare inkomstes vir die jare van aanslag eindigende op 29 Februarie 1996 en 30 Junie 1996, en deur maatskappye ten opsigte van belasbare inkomstes vir jare van aanslag wat eindig gedurende die tydperk van 12 maande eindigende op 31 Maart 1996; tot wysiging van die Inkomstebelastingwet, 1962; tot wysiging van die Inkomstebelastingwet, 1994; om voorsiening te maak vir spesiale bepalings met betrekking tot bystand-, pensioen-, voorsorgs- of uittredingannuïteitsfondse wat onderskeidelik by of kragtens die wette van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei ingestel of goedgekeur is; om die toepassing van die Inkomstebelastingwet, 1962, uit te brei; om sekere wette te herroep; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die President geteken.)

(Goedgekeur op 10 Julie 1995.)

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Skale van normale belasting

1. Die skale van normale belasting wat ooreenkomstig artikel 5(2) van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962) (hieronder die Hoofwet genoem), gehê moet word ten opsigte van—

- (a) die belasbare inkomste van 'n ander persoon as 'n maatskappy vir die jaar van aanslag eindigende op 29 Februarie 1996 of 30 Junie 1996; en
 - (b) die belasbare inkomste van 'n maatskappy vir 'n jaar van aanslag wat eindig gedurende die tydperk van 12 maande eindigende op 31 Maart 1996,
- is soos uiteengesit in Bylae 1 by hierdie Wet.

Wysiging van artikel 1 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 90 van 1962, artikel 1 van Wet 6 van 1963, artikel 4 van Wet 72 van 1963, artikel 4 van Wet 90 van 1964, artikel 5 van Wet 88 van 1965, artikel 5 van Wet 55 van 1966, artikel 5 van Wet 95 van 1967, artikel 5 van Wet 76 van 1968, artikel 6 van Wet 89 van 1969, artikel 6 van Wet 52 van 1970, artikel 4 van Wet 88 van 1971, artikel 4 van Wet 90 van 1972, artikel 4 van Wet 65 van 1973, artikel 4 van Wet 85 van 1974, artikel 4 van Wet 69 van 1975, artikel 4 van Wet 103 van 1976, artikel 4 van Wet 113 van 1977, artikel 3 van Wet 101 van 1978, artikel 3 van Wet 104 van

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, section 2 of Act 85 of 1987, section 2 of Act 90 of 1988, section 1 of Act 99 of 1988, Government Notice No. R.780 of 14 April 1989, section 2 of Act 70 of 1989, section 2 of Act 101 of 1990, section 2 of Act 129 of 1991, section 2 of Act 141 of 1992, section 2 of Act 113 of 1993 and section 2 of Act 21 of 1994

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

- (a) by the substitution for paragraph (c) of the definition of “benefit fund” of the following paragraph:

“(c) any fund (other than a pension fund, provident fund or retirement annuity fund) which, in respect of the year of assessment in question, the Commissioner is satisfied is a permanent fund *bona fide* established for the purpose of providing sickness, accident or unemployment benefits for its members, or mainly for such a purpose and also for the purpose of providing benefits for the [widows, children] dependants or nominees of deceased members;”;

- (b) by the deletion of the definition of “married person”;

- (c) by the substitution for paragraph (a) of the definition of “pension fund” of the following paragraph:

“(a) a superannuation, pension, provident [widows’ or orphans’] or dependants’ fund or pension scheme established by law or any such fund established for the benefit of the employees of any local authority;”;

- (d) by the substitution for paragraph (i) of the proviso to paragraph (c) of the definition of “pension fund” of the following paragraph:

“(i) that the fund is a permanent fund *bona fide* established for the purpose of providing annuities for employees on retirement from employment or for [widows, children] the dependants or nominees of deceased employees, or mainly for the said purpose and also for the purpose of providing benefits other than annuities for the persons aforesaid; and”;

- (e) by the substitution for subparagraph (gg) of paragraph (ii) of the proviso to paragraph (c) of the definition of “pension fund” of the following subparagraph:

“(gg) that no portion of any annuity payable to the [widow, child] dependant or nominee of a deceased member shall be commuted later than six months from the date of the death of such member; and”;

- (f) by the substitution for paragraph (a) of the proviso to the definition of “provident fund” of the following paragraph:

“(a) that the fund is a permanent fund *bona fide* established solely for the purpose of providing benefits for employees on retirement from employment or solely for the purpose of providing benefits for [widows, children] the dependants or nominees of deceased employees or deceased former employees or solely for a combination of such purposes; and”;

- (g) by the substitution for paragraph (a) of the proviso to the definition of “retirement annuity fund” of the following paragraph:

“(a) that the fund is a permanent fund *bona fide* established for the sole purpose of providing life annuities for the members of the fund or annuities for the [widows, children] dependants or nominees of deceased members; and”;

- (h) by the substitution for subparagraph (iii) of paragraph (b) of the proviso to the definition of “retirement annuity fund” of the following subparagraph:

“(iii) that no portion of any annuity payable to the [widow, child] dependant or nominee of a deceased member may be commuted later than six months from the date of the death of such member;”;

- (i) by the substitution for subparagraphs (vi) and (vii) of paragraph (b) of the proviso to the definition of “retirement annuity fund” of the following subparagraphs, respectively:

1979, artikel 2 van Wet 104 van 1980, artikel 2 van Wet 96 van 1981, artikel 3 van Wet 91 van 1982, artikel 2 van Wet 94 van 1983, artikel 1 van Wet 30 van 1984, artikel 2 van Wet 121 van 1984, artikel 2 van Wet 96 van 1985, artikel 2 van Wet 65 van 1986, artikel 1 van Wet 108 van 1986, artikel 2 van Wet 85 van 1987, artikel 5 2 van Wet 90 van 1988, artikel 1 van Wet 99 van 1988, Goewermentskennisgewing No. R.780 van 14 April 1989, artikel 2 van Wet 70 van 1989, artikel 2 van Wet 101 van 1990, artikel 2 van Wet 129 van 1991, artikel 2 van Wet 141 van 1992, artikel 2 van Wet 113 van 1993 en artikel 2 van Wet 21 van 1994

2. Artikel 1 van die Hoofwet word hierby gewysig—

- 10 (a) deur paragraaf (c) van die omskrywing van “bystandsfonds” deur die volgende paragraaf te vervang:

“(c) ’n fonds [wat nie] (behalwe ’n pensioenfonds, voorsorgsfonds of uittredingannuïteitsfonds) [is nie en] wat volgens die Kommissaris se oortuiging ten opsigte van die betrokke jaar van aanslag ’n permanente fonds is wat *bona fide* ingestel is met die doel om by siekte, ongeval of werkloosheid voordele vir sy lede beskikbaar te stel, of hoofsaaklik met so ’n doel en ook met die doel om voordele vir [weduwees, kinders] die afhanklikes of benoemdes van oorlede lede beskikbaar te stel;”;

- 20 (b) deur die omskrywing van “getroude persoon” te skrap;

- (c) deur paragraaf (a) van die omskrywing van “pensioenfonds” deur die volgende paragraaf te vervang:

“(a) ’n ouderdomsvoorsorgs-, pensioen- [voorsorgs-, weduwees- of wesefonds] of voorsorgsfonds of fonds vir afhanklikes of pensioenskema by wet ingestel of so ’n fonds ten voordele van werknemers van ’n plaaslike bestuur ingestel;”;

- 25 (d) deur paragraaf (i) van die voorbehoudsbepaling by paragraaf (c) van die omskrywing van “pensioenfonds” deur die volgende paragraaf te vervang:

“(i) dat die fonds ’n permanente fonds is wat *bona fide* ingestel is met die oogmerk om vir werknemers by uitdienstreding of vir [weduwees, kinders] die afhanklikes of benoemdes van oorlede werknemers, jaargelde beskikbaar te stel, of hoofsaaklik met genoemde oogmerk en ook met die oogmerk om ander voordele as jaargelde vir voormelde persone beskikbaar te stel; en”;

- 35 (e) deur subparagraaf (gg) van paragraaf (ii) van die voorbehoudsbepaling by paragraaf (c) van die omskrywing van “pensioenfonds” deur die volgende subparagraaf te vervang:

“(gg) dat geen deel van enige jaargeld betaalbaar aan die [weduwee, kind] afhanklike of benoemde van ’n oorlede lid later as ses maande vanaf die dood van bedoelde lid deur ’n enkele betaling vervang mag word nie; en”;

- 40 (f) deur paragraaf (a) van die voorbehoudsbepaling by die omskrywing van “uittredingannuïteitsfonds” deur die volgende paragraaf te vervang:

“(a) dat die fonds ’n permanente fonds is wat *bona fide* ingestel is uitsluitlik met die oogmerk om lyfrentes vir lede van die fonds of jaargelde vir die [weduwees, kinders] afhanklikes of benoemdes van oorlede lede beskikbaar te stel; en”;

- 45 (g) deur subparagraaf (iii) van paragraaf (b) van die voorbehoudsbepaling by die omskrywing van “uittredingannuïteitsfonds” deur die volgende subparagraaf te vervang:

“(iii) dat geen deel van enige jaargeld betaalbaar aan die [weduwee, kind] afhanklike of benoemde van ’n oorlede lid later as ses maande vanaf die dood van bedoelde lid deur ’n enkele betaling vervang mag word nie;”;

- 55 (h) deur subparagraaf (vi) en (vii) van paragraaf (b) van die voorbehoudsbepaling by die omskrywing van “uittredingannuïteitsfonds” deur onderskeidelik die volgende paragrawe te vervang:

“(vi) dat waar ’n lid te sterwe kom voordat hy op betaling van ’n lyfrente geregtig word, die voordele nie ’n terugbetaling aan sy boedel, of aan sy [weduwee, kinders] afhanklikes of benoemdes, van die som van die bedrae (met of sonder billike rente daarop) deur hom bygedra en

- “(vi) that where a member dies before he becomes entitled to the payment of an annuity, the benefits shall not exceed a refund to his estate or to his **[widow, children]** dependants or nominees of the sum of the amounts (with or without reasonable interest thereon) contributed by him and an annuity or annuities to his **[widow, children]** dependants or nominees; 5
- (vii) that where a member dies after he has become entitled to an annuity no further benefit shall be payable other than an annuity or annuities to his **[widow, children]** dependants or nominees;”.

Amendment of section 3 of Act 58 of 1962, as amended by section 3 of Act 141 of 1992 and section 3 of Act 21 of 1994

3. (1) Section 3 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Any decision of the Commissioner under the definitions of ‘benefit fund’, ‘pension fund’, ‘provident fund’ and ‘retirement annuity fund’ in section 1, section 6, section 8(4)(b), (c), (d) and (e), section 10(1)(cB), (cH), (cI), (cJ), (cK), (e), (iA), (j) and (nB), section 11(e), (f), (g), (gA), (j), (L), (t), (u) and (w), section 12C, section 13[(1)], section 14[(1)], section 15, section 16A, section 22(1), (3) and (5), section 24(2), section 24A(6), section 24C, section 24D, section 27[(2)], section 31, section 35(2), section 38(4), section [42(2)] 57, paragraphs 6, 7, 9, 13, 13A, 14, 19 and 20 of the First Schedule, paragraph (b) of the definition of ‘formula A’ in paragraph 1 and paragraph 4 of the Second Schedule, paragraphs 18, 19(1), 20, 21, 22, 24 and 27 of the Fourth Schedule and paragraphs 2, 3, [and] 6, 9 and 11 of the Seventh Schedule, shall be subject to objection and appeal.”. 15 20 25

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any decision communicated to the taxpayer or person concerned on or after that date. 30

Amendment of section 5 of Act 58 of 1962, as amended by section 2 of Act 6 of 1963, section 5 of Act 90 of 1964, section 6 of Act 88 of 1965, section 7 of Act 55 of 1966, section 6 of Act 95 of 1967, section 6 of Act 76 of 1968, section 7 of Act 89 of 1969, section 7 of Act 52 of 1970, 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, section 3 of Act 65 of 1986, section 3 of Act 90 of 1988, section 3 of Act 129 of 1991 and section 5 of Act 21 of 1994 35

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

(a) by the substitution for the formula in subsection (10) of the following formula:

$$Y = \left(\frac{A}{B + D - (C + L)} \right) \times (B - L) + (L \times R); \quad 40$$

(b) by the substitution for the expression “B — C” in paragraph (b) of subsection (10) of the expression “B + D — (C + L)”;

(c) by the substitution for subparagraph (iA) of paragraph (d) of subsection (10) of the following subparagraph: 45

“(iA) **[where]** in relation to any amount which accrued to the taxpayer before 1 September 1995 to which the provisions of section 7A(4A) are **[in the case of an employee (including the holder of an office)]** applicable in respect of the said year, **the lesser of—**

(aa) **[the]** ~~that~~ amount **[contemplated in that subsection if that** 50
amount has actually accrued to such employee before

- 'n jaargeld of jaargelde aan sy [weduwee, kinders] afhanklikes of benoemdes, te bowe gaan nie;
- (vii) dat waar 'n lid te sterwe kom nadat hy op 'n lyfrente geregtig geword het, geen verdere voordeel behalwe 'n jaargeld of jaargelde aan sy [weduwee, kinders] afhanklikes of benoemdes betaalbaar sal wees nie;"; en
- (i) deur paragraaf (a) van die voorbehoudsbepaling by die omskrywing van "voorsorgsfonds" deur die volgende paragraaf te vervang:
- "(a) dat die fonds 'n permanente fonds is wat *bona fide* ingestel is uitsluitlik met die oogmerk om vir werknemers by uitdienstreding voordele beskikbaar te stel of uitsluitlik met die oogmerk om vir [weduwees, kinders] die afhanklikes of benoemdes van oorlede werknemers of oorlede voormalige werknemers voordele beskikbaar te stel of uitsluitlik met 'n kombinasie van genoemde oogmerke; en".

15 Wysiging van artikel 3 van Wet 58 van 1962, soos gewysig deur artikel 3 van Wet 141 van 1992 en artikel 3 van Wet 21 van 1994

3. (1) Artikel 3 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

- "(4) 'n Beslissing van die Kommissaris kragtens die omskrywings van 'bystandsfonds', 'pensioenfonds', 'uittredingannuïteitsfonds' en 'voorsorgsfonds' in artikel 1, artikel 6, artikel 8(4)(b), (c), (d) en (e), artikel 10(1)(cB), (cH), (cI), (cJ), (cK), (e), (iA), (j) en (nB), artikel 11(e), (f), (g), (gA), (j), (L), (t), (u) en (w), artikel 12C, artikel 13[(1)], artikel 14[(1)], artikel 15, artikel 16A, artikel 22(1), (3) en (5), artikel 24(2), artikel 24A(6), artikel 24C, artikel 24D, artikel 27[(2)], artikel 31, artikel 35(2), artikel 38(4), artikel [42(2)] 57, paragrawe 6, 7, 9, 13, 13A, 14, 19 en 20 van die Eerste Bylae, paragraaf (b) van die omskrywing van 'formule A' in paragraaf 1 en paragraaf 4 van die Tweede Bylae, paragrawe 18, 19(1), 20, 21, 22, 24 en 27 van die Vierde Bylae en paragrawe 2, 3, [en] 6, 9 en 11 van die Sewende Bylae, is aan beswaar en appèl onderhewig."
- (2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing op 'n beslissing wat op of na daardie datum aan die belastingpligtige of betrokke persoon oorgedra is.

Wysiging van artikel 5 van Wet 58 van 1962, soos gewysig deur artikel 2 van Wet 6 van 1963, artikel 5 van Wet 90 van 1964, artikel 6 van Wet 88 van 1965, artikel 7 van Wet 55 van 1966, artikel 6 van Wet 95 van 1967, artikel 6 van Wet 76 van 1968, artikel 7 van Wet 89 van 1969, artikel 7 van Wet 52 van 1970, artikel 5 van Wet 88 van 1971, artikel 5 van Wet 90 van 1972, artikel 5 van Wet 65 van 1973, artikel 5 van Wet 103 van 1976, artikel 5 van Wet 113 van 1977, artikel 3 van Wet 104 van 1980, artikel 4 van Wet 96 van 1981, artikel 4 van Wet 91 van 1982, artikel 3 van Wet 94 van 1983, artikel 3 van Wet 121 van 1984, artikel 3 van Wet 65 van 1986, artikel 3 van Wet 90 van 1988, artikel 3 van Wet 129 van 1991 en artikel 5 van Wet 21 van 1994

4. Artikel 5 van die Hoofwet word hierby gewysig—

- (a) deur die formule in subartikel (10) deur die volgende formule te vervang:

$$45 \quad "Y = \left(\frac{A}{B + D - (C + L)} \times (B - L) \right) + (L \times R)";$$

- (b) deur die uitdrukking "B — C" in paragraaf (b) van subartikel (10) deur die uitdrukking "B + D — (C + L)" te vervang;

- 50 (c) deur subparagraaf (iA) van paragraaf (d) van subartikel (10) deur die volgende subparagraaf te vervang:

"(iA) [waar] met betrekking tot 'n bedrag wat voor 1 September 1995 aan die belastingpligtige toegeval het waarop die bepalinge van artikel 7A(4A) [in die geval van 'n werknemer (met inbegrip van 'n ampsbeker)] van toepassing is ten opsigte van bedoelde jaar, die minste van—

- (aa) [die] daardie bedrag [in daardie subartikel beoog indien daardie bedrag in werklikheid aan bedoelde werknemer

1 October 1982 or is, by reason of an option exercised by the taxpayer under subsection (4) of the said section, one of three instalments of an amount which has actually accrued to such employee before that date]; or

(bb) [if the provisions of item (aa) are not applicable, the lesser of— 5

(A) the amount contemplated in the said subsection (4A); and

(B)] an amount equal to three times the annual average of the amounts derived by such [employee] taxpayer during the three years of assessment which immediately preceded the year of assessment under charge by way of remuneration as defined in paragraph 1 of the Fourth Schedule, including an amount referred to in paragraph (vii) of that definition but excluding [any amount referred to in subsection (4) of the said section: 15

Provided that where the taxpayer has exercised an option as contemplated in the said subsection (4) the sum of the amounts to be accounted for under this item in respect of the three years of assessment during which the instalments referred to in the said subsection (4) are deemed by that subsection to have been received or to have accrued shall not exceed the amount which would have been accounted for under this item in respect of the first of the said three years of assessment if the taxpayer had not exercised the said option: 25

Provided further that where such amount contemplated in the said subsection (4A) was received by or accrued to the taxpayer on or after 1 July 1983, the amount determined under subitem (B) shall be reduced by] so much of the sum of any other amounts contemplated in the said [subsection] section 7A(4A) as were included in the amount represented by the symbol 'C' in respect of any previous year of assessment;"; 30

(d) by the addition in subsection (10) of the word "and" at the end of subparagraph (iiiA) of paragraph (d);

(e) by the substitution in subsection (10) for subparagraph (iv) of paragraph (d) of the following subparagraph: 35

"(iv) [where] in relation to any amount which accrued to the taxpayer before 1 September 1995 to which the provisions of paragraph 7 of the Second Schedule are [in the case of the taxpayer] applicable, [in respect of the said year] any amount determined in accordance with the provisions of that Schedule and included in his income for the said year; [and]"; 40

(f) by the addition to subsection (10) of the following paragraphs:

"(e) 'D' represents an amount equal to so much of any current contribution to a retirement annuity fund as is allowable as a deduction in terms of section 11(n)(aa)(A) solely by reason of the inclusion in the taxpayer's income of any amount contemplated in paragraph (d)(i), (ii), (iii) and (iiiA) and paragraph (f); 45

(f) 'L' represents an amount equal to the sum of—

(i) in relation to any amount which accrued to the taxpayer on or after 1 September 1995 to which the provisions of section 7A(4A) are applicable in respect of the said year, the lesser of— 50

(aa) that amount; or

(bb) an amount equal to three times the annual average of the amounts derived by such taxpayer during the three years of assessment which immediately preceded the year of assessment under charge by way of remuneration as defined in paragraph 1 of the Fourth Schedule, including any amount 55

vóór 1 Oktober 1982 toegeval het of, uit hoofde van 'n keuse deur die belastingpligtige ingevolge subartikel (4) van genoemde artikel uitgeoefen, dit een van drie paaielemente van 'n bedrag wat in werklikheid aan bedoelde werknemer vóór daardie datum toegeval het, uitmaak]; of

(bb) [indien die bepalings van item (aa) nie van toepassing is nie, die minste van—

(A) die bedrag in genoemde subartikel (4A) beoog; en
(B)] 'n bedrag gelyk aan drie maal die jaarlikse gemiddelde van die bedrae wat deur bedoelde [werknemer] belastingpligtige gedurende die drie jare van aanslag wat die onderhawige jaar van aanslag onmiddellik voorafgegaan het, verkry is by wyse van besoldiging soos in paragraaf 1 van die Vierde Bylae omskryf, met inbegrip van 'n bedrag bedoel in paragraaf (vii) van daardie omskrywing maar met uitsluiting van [enige bedrag in subartikel (4) van genoemde artikel bedoel:

Met dien verstande dat, waar die belastingpligtige 'n keuse uitgeoefen het soos in genoemde subartikel (4) beoog, die som van die bedrae wat ingevolge hierdie item in berekening gebring moet word ten opsigte van die drie jare van aanslag waarin die paaielemente in genoemde subartikel (4) bedoel ingevolge daardie subartikel geag word ontvang te gewees het of toe te geval het, nie meer is nie as die bedrag wat ingevolge hierdie item ten opsigte van die eerste van bedoelde drie jare van aanslag in berekening gebring sou gewees het indien die belastingpligtige nie bedoelde keuse uitgeoefen het nie: Met dien verstande voorts dat waar bedoelde bedrag in genoemde subartikel (4A) beoog op of na 1 Julie 1983 deur die belastingpligtige ontvang is of aan hom toegeval het, die bedrag ingevolge subitem (B) vasgestel, verminder word met] soveel van die som van enige ander bedrae in genoemde [subartikel] artikel 7A(4A) beoog as wat ingesluit is in die bedrag wat deur die simbool 'C' voorgestel is ten opsigte van 'n vorige jaar van aanslag;";

(d) deur in subartikel (10) die woord "en" aan die einde van subparagraaf (iiiA) van paragraaf (d) by te voeg;

(e) deur in subartikel (10) subparagraaf (iv) van paragraaf (d) deur die volgende subparagraaf te vervang:

“(iv) [waar] met betrekking tot 'n bedrag wat voor 1 September 1995 aan die belastingpligtige toegeval het waarop die bepalings van paragraaf 7 van die Tweede Bylae [in die geval van die belastingpligtige] van toepassing is, [ten opsigte van bedoelde jaar] 'n bedrag wat ingevolge die bepalings van bedoelde Bylae vasgestel is en by sy inkomste vir bedoelde jaar ingesluit is; [en]”;

(f) deur die volgende paragrawe by subartikel (10) te voeg:

“(e) ‘D’ 'n bedrag voorstel gelyk aan soveel van enige lopende bydrae tot 'n uittredingannuïteitsfonds as wat toelaatbaar is as 'n aftrekking ingevolge artikel 11(n)(aa)(A) uitsluitlik omrede van die insluiting by die belastingpligtige se inkomste van 'n bedrag beoog in paragraaf (d)(i), (ii), (iii) en (iiiA) en paragraaf (f);

(f) ‘L’ 'n bedrag voorstel wat gelyk is aan die som van—

(i) met betrekking tot 'n bedrag wat op of na 1 September 1995 aan die belastingpligtige toegeval het waarop die bepalings van artikel 7A(4A) van toepassing is ten opsigte van bedoelde jaar, die minste van—

(aa) daardie bedrag; of

(bb) 'n bedrag gelyk aan drie maal die jaarlikse gemiddelde van die bedrae wat deur bedoelde werknemer gedurende die drie jare van aanslag wat die onderhawige jaar van aanslag onmiddellik voorafgegaan het, verkry is by wyse van besoldiging soos in paragraaf 1 van die Vierde Bylae omskryf, met inbegrip van 'n bedrag bedoel in paragraaf

- referred to in paragraph (vii) of that definition but excluding so much of the sum of any other amounts contemplated in the said section 7A(4A) as were included in the amounts represented by the symbols 'C' and 'L' in respect of the said year and any previous year of assessment; and 5.
- (ii) in relation to any amount which accrued to the taxpayer on or after 1 September 1995 to which the provisions of paragraph 7 of the Second Schedule are applicable, any amount determined in accordance with the provisions of that Schedule and included in his income for the said year; and 10
- (g) 'R' represents the greater of the amounts determined by applying the formula— 15
- $$R = \frac{A}{B + D - (C + L)}$$
- in respect of the said year and the preceding year of assessment, in which formula the amounts represented by the symbols 'A', 'B', 'C', 'D' and 'L' shall be determined in accordance with the foregoing provisions of this subsection as applicable in the said year or in the said preceding year, as the case may be: Provided that— 20
- (a) where, as a result of the death or insolvency of the taxpayer, the period assessed is less than 12 months, the symbol 'R' shall be determined with reference to the said year only; and 25
- (b) where the said preceding year ended on 28 February 1995, the symbols 'D' and 'L' in the formula shall be disregarded; and 25
- (g) by the addition to subsection (10) of the following further proviso: 30
- "Provided further that where the sum of the amounts included in symbol 'L' exceed the taxpayer's taxable income for the said year, the amount of normal tax so payable shall be calculated on the taxpayer's total taxable income for the said year, at the greater of the relevant rate contemplated in the preceding proviso and the amount determined as symbol 'R' in relation to the preceding year only." 30

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, section 4 of Act 85 of 1987, section 4 of Act 90 of 1988, section 4 of Act 70 of 1989, section 3 of Act 101 of 1990, section 4 of Act 129 of 1991 and section 4 of Act 141 of 1992 35

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

- (a) by the substitution for subsections (1) and (2) of the following subsections: 40
- "(1) There shall be deducted from the normal tax payable by any natural person an amount equal to the sum of the amounts allowed to the taxpayer by way of rebates under [subsections] subsection (2) [and (3)]. 45
- (2) In the case of a natural person there shall, subject to the provisions of subsection (4), be allowed by way of—
- (a) a primary rebate, [(a)] an amount of [R2 225, if such person is a married person; or 45
- (b) an amount of R1 950, if such person is not a married person; or 50
- (c) an amount of R900, if such person is a married woman] R2 625; and
- (b) a secondary rebate, if the taxpayer was or, had he lived, would have been over the age of 65 years on the last day of the year of assessment, an amount of R2 500." 50

- (vii) van daardie omskrywing maar met uitsluiting van soveel van die som van enige ander bedrae in genoemde artikel 7A(4A) beoog as wat ingesluit is in die bedrag wat deur die simbole 'C' en 'L' voorgestel is ten opsigte van bedoelde jaar en 'n vorige jaar van aanslag; en
- (ii) met betrekking tot 'n bedrag wat op of na 1 September 1995 aan die belastingpligtige toegeval het waarop die bepalings van paragraaf 7 van die Tweede Bylae van toepassing is, 'n bedrag wat ooreenkomstig die bepalings van daardie Bylae vasgestel is en by sy inkomste vir bedoelde jaar ingesluit is; en
- (g) 'R' die grootste van die bedrae vasgestel deur die toepassing van die formule—

$$R = \frac{A}{B + D - (C + L)}$$

voorstel, ten opsigte van bedoelde jaar en die voorafgaande jaar van aanslag, in welke formule die bedrae deur die simbole 'A', 'B', 'C', 'D' en 'L' voorgestel, ooreenkomstig die voorafgaande bepalings van hierdie subartikel soos van toepassing in bedoelde jaar of in genoemde voorafgaande jaar, na gelang van die geval, vasgestel word: Met dien verstande dat—

- (a) waar, as gevolg van die dood of insolvensie van die belastingpligtige, die tydperk aangeslaan minder as 12 maande is, die simbool 'R' alleenlik met verwysing na genoemde jaar vasgestel word; en
- (b) waar genoemde voorafgaande jaar op 28 Februarie 1995 geëindig het, geen ag op die simbole 'D' en 'L' in die formule geslaan word nie; en
- (g) deur die volgende verdere voorbehoudsbepaling by subartikel (10) te voeg: "Met dien verstande voorts dat waar die som van die bedrae wat by simbool 'L' ingesluit is, die belastingpligtige se belasbare inkomste vir bedoelde jaar oorskry, die bedrag van normale belasting wat aldus betaalbaar is, bereken word op die belastingpligtige se totale belasbare inkomste vir bedoelde jaar, teen die grootste van die betrokke skaal beoog in die voorafgaande voorbehoudsbepaling en die bedrag vasgestel as simbool 'R' met betrekking tot die voorafgaande jaar alleenlik."

Wysiging van artikel 6 van Wet 58 van 1962, soos ingevoeg deur artikel 5 van Wet 104 van 1980 en gewysig deur artikel 5 van Wet 96 van 1981, artikel 5 van Wet 91 van 1982, artikel 4 van Wet 94 van 1983, artikel 4 van Wet 121 van 1984, artikel 3 van Wet 96 van 1985, artikel 4 van Wet 85 van 1987, artikel 4 van Wet 90 van 1988, artikel 4 van Wet 70 van 1989, artikel 3 van Wet 101 van 1990, artikel 4 van Wet 129 van 1991 en artikel 4 van Wet 141 van 1992

5. Artikel 6 van die Hoofwet word hierby gewysig—

- (a) deur subartikels (1) en (2) deur die volgende subartikels te vervang:
- “(1) Daar word van die normale belasting betaalbaar deur 'n natuurlike persoon 'n bedrag afgetrek wat gelyk is aan die som van die bedrae wat ingevolge [subartikels] subartikel (2) [en (3)] by wyse van kortings aan die belastingpligtige toegelaat word.
- (2) In die geval van 'n natuurlike persoon word, behoudens die bepalings van subartikel (4), daar by wyse van—
- (a) 'n primêre korting toegelaat [(a)] 'n bedrag van [R2 225, indien bedoelde persoon 'n getroude persoon is; of
- (b) 'n bedrag van R1 950, indien bedoelde persoon nie 'n getroude persoon is nie; of
- (c) 'n bedrag van R900, indien bedoelde persoon 'n getroude vrou is] R2 625; en
- (b) 'n sekondêre korting toegelaat, indien die belastingpligtige op die laaste dag van die jaar van aanslag bo die ouderdom van 65 jaar was of sou gewees het indien hy die lewe behou het, 'n bedrag van R2 500.”;

(b) by the deletion of subsection (3); and

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

“(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)] 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.”.

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, section 2 of Act 30 of 1984, section 5 of Act 90 of 1988, section 5 of Act 70 of 1989, section 4 of Act 101 of 1990, section 7 of Act 129 of 1991 and section 5 of Act 141 of 1992

6. Section 7 of the principal Act is hereby amended by the deletion of paragraph (c) of subsection (2).

Amendment of section 7A of Act 58 of 1962, as inserted by section 6 of Act 69 of 1975 and amended by section 7 of Act 103 of 1976, section 6 of Act 96 of 1981, section 4 of Act 65 of 1986, section 8 of Act 129 of 1991 and section 3 of Act 113 of 1993

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

(a) by the substitution for the definition of “pension” in subsection (1) of the following definition:

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

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

“Where the taxable income of any taxpayer for any year of assessment includes any amount (other than an amount contemplated in paragraph (e) of the definition of ‘gross income’ in section 1) received by or accrued to him as an employee or the holder of any office by way of bonus, gratuity or compensation upon or because of the termination of his services or because of the impending termination of his services within five years (or such longer period as the Commissioner may approve) from the date of actual receipt or accrual of such amount, and—”;

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

“(a) the taxpayer has attained the age of 55 years [in the case of a male or fifty years in the case of a female]; or”; and

(d) by the deletion of paragraph (c) of subsection (4A).

(2) Subsection (1)(c) shall come into operation on a date fixed by the Minister of Finance by notice in the *Gazette*.

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, section 6 of Act 85 of 1987, section 6 of Act 90 of 1988, section 5 of Act 101 of 1990, section 9 of Act 129 of 1991, section 6 of Act 141 of 1992, section 4 of Act 113 of 1993 and section 6 of Act 21 of 1994

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

- (b) deur subartikel (3) te skrap; en
- (c) deur subartikel (4) deur die volgende subartikel te vervang:

“ (4) Waar die aanslagtydperk minder as 12 maande is, is die bedrag wat ingevolge subartikel (2) [of (3)(a)] by wyse van ’n korting toegelaat moet word, ’n bedrag wat in dieselfde verhouding tot die volle bedrag van daardie korting staan, as die verhouding waarin die aanslagtydperk tot 12 maande staan tensy, waar bedoelde tydperk by die dood van die belastingpligtige eindig of by die dood van die belastingpligtige se eggenoot begin, die Kommissaris in die spesiale omstandighede van die geval anders gelas.”.

10 **Wysiging van artikel 7 van Wet 58 van 1962, soos gewysig deur artikel 5 van Wet 90 van 1962, artikel 8 van Wet 88 van 1965, artikel 9 van Wet 55 van 1966, artikel 7 van Wet 94 van 1983, artikel 2 van Wet 30 van 1984, artikel 5 van Wet 90 van 1988, artikel 5 van Wet 70 van 1989, artikel 4 van Wet 101 van 1990, artikel 7 van Wet 129 van 1991 en artikel 5 van Wet 141 van 1992**

15 **6. Artikel 7 van die Hoofwet word hierby gewysig deur paragraaf (c) van subartikel (2) te skrap.**

Wysiging van artikel 7A van Wet 58 van 1962, soos ingevoeg deur artikel 6 van Wet 69 van 1975 en gewysig deur artikel 7 van Wet 103 van 1976, artikel 6 van Wet 96 van 1981, artikel 4 van Wet 65 van 1986, artikel 8 van Wet 129 van 1991
20 **en artikel 3 van Wet 113 van 1993**

7. (1) Artikel 7A van die Hoofwet word hierby gewysig—

(a) deur die omskrywing van “pensioen” in subartikel (1) deur die volgende omskrywing te vervang:

25 “ ‘pensioen’ ’n jaargeld wat betaalbaar is ingevolge ’n wet of ingevolge die reëls van ’n pensioenfonds of voorsorgsfonds of deur ’n werkgever aan ’n vorige werknemer van daardie werkgever of aan die [weduwee, kind of] afhanklike of benoemde van ’n oorlede persoon wat by daardie werkgever in diens was;”;

(b) deur die woorde wat paragraaf (a) van subartikel (4A) voorafgaan deur die volgende woorde te vervang:

30 “Waar die belasbare inkomste van ’n belastingpligtige vir ’n jaar van aanslag ’n bedrag (behalwe ’n bedrag beoog in paragraaf (e) van die omskrywing van ‘bruto inkomste’ in artikel 1) insluit deur hom ontvang of aan hom toegeval as ’n werknemer of ampsbekleër by wyse van bonus, gratifikasie of vergoeding by of omrede van die beëindiging van sy dienste of omrede van die naderende beëindiging van sy dienste binne vyf jaar (of die langer tydperk wat die Kommissaris goedkeur) vanaf die datum van werklike ontvangs of toevalling van bedoelde bedrag, en—”;

(c) deur paragraaf (a) van subartikel (4A) deur die volgende paragraaf te vervang:

40 “(a) die belastingpligtige die ouderdom van 55 jaar [in die geval van ’n manspersoon of vyftig jaar in die geval van ’n vrouspersoon] bereik het; of”;

(d) deur paragraaf (c) van subartikel (4A) te skrap.

45 (2) Subartikel (1)(c) tree in werking op ’n datum deur die Minister van Finansies by kennisgewing in die *Staatskoerant* vasgestel.

Wysiging van artikel 8 van Wet 58 van 1962, soos gewysig deur artikel 6 van Wet 90 van 1962, artikel 6 van Wet 90 van 1964, artikel 9 van Wet 88 van 1965, artikel 10 van Wet 55 van 1966, artikel 10 van Wet 89 van 1969, artikel 6 van Wet 90 van
50 **1972, artikel 8 van Wet 85 van 1974, artikel 7 van Wet 69 van 1975, artikel 7 van Wet 113 van 1977, artikel 8 van Wet 94 van 1983, artikel 5 van Wet 121 van 1984, artikel 4 van Wet 96 van 1985, artikel 5 van Wet 65 van 1986, artikel 6 van Wet 85 van 1987, artikel 6 van Wet 90 van 1988, artikel 5 van Wet 101 van 1990, artikel 9 van Wet 129 van 1991, artikel 6 van Wet 141 van 1992, artikel 4 van Wet 113 van**
55 **1993 en artikel 6 van Wet 21 van 1994**

8. (1) Artikel 8 van die Hoofwet word hierby gewysig—

- (a) by the substitution in subsection (1) for the words of the proviso to subparagraph (ii) of paragraph (b) preceding paragraph (aa) of the proviso of the following words:
 “Provided that where an allowance or advance has been paid to a recipient in relation to a motor vehicle in respect of which he has been granted the right of use as contemplated in paragraph 7 of the Seventh Schedule, no regard shall be had to such rate per kilometre in order to determine the portion of such allowance or advance expended by the recipient for business purposes: Provided further that—”;
- (b) by the addition to paragraph (b) of subsection (4) of the following proviso:
 “Provided that the provisions of this paragraph shall not apply to any amount which has been recovered or recouped as a result of any such loss, sale or disposal which has taken or takes place on or after 1 April 1995.”;
- (c) by the substitution for the words preceding the proviso to paragraph (e) of subsection (4) of the following words:
 “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 12C or section 14 or section 14bis 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 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 such products to a primary process as defined in the said section 27(9) or in respect of a ship or aircraft used by him for purposes of his trade, 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—
- (i) that he has concluded or will within a period of one year (or such longer period as the Commissioner in the circumstances of the case may allow) from the date of the event conclude a contract for the acquisition by him of further new or unused machinery or plant or a ship or aircraft (hereinafter referred to as the ‘further **[machinery or plant] asset**’) to replace the aforesaid machinery or plant or ship or aircraft; and
- (ii) that the further **[machinery or plant] asset** has been or will be brought into use within a period of three years from the date of the event and will be used by him—
- (aa) directly in a process of manufacture or any other process which in the opinion of the Commissioner is of a similar nature; **[or]**
- (bb) in the case of such co-operative, directly for storing or packing pastoral, agricultural or other farm products or for subjecting such products to a primary process, as defined in section 27(9); or
- (cc) in the case of a ship or aircraft, directly for the purposes of the taxpayer’s trade.
- for a period of not less than five years or until the further **[machinery or plant] asset** is scrapped or disposed of in the ordinary course of the taxpayer’s trade prior to the expiry of such period of five years, the said amount shall, notwithstanding the provisions of paragraph (a) of this subsection, not be included in the income of the taxpayer for the aforesaid year of assessment.”; and
- (d) by the substitution for paragraph (f) of subsection (4) of the following paragraph:
 “(f) If as a result of the loss, sale or disposal in any other manner by the taxpayer of the further **[machinery or plant] asset** referred to in paragraph (e) there has accrued to or has been received by the taxpayer an amount in excess of the cost thereof less the amount referred to in the said paragraph, so much

- (a) deur in subartikel (1) die woorde van die voorbehoudsbepaling by subparagraaf (ii) van paragraaf (b) wat paragraaf (aa) van die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
“Met dien verstande dat waar ’n toelae of voorskot aan ’n ontvanger betaal is met betrekking tot ’n motorvoertuig ten opsigte waarvan hy die reg van gebruik soos beoog in paragraaf 7 van die Sewende Bylae verleen is, geen ag geslaan word nie op bedoelde skaal per kilometer om die gedeelte van bedoelde toelae of voorskot deur die ontvanger vir besigheidsdoeleindes bestee, vas te stel: Met dien verstande voorts dat—”;
- 5 (b) deur die volgende voorbehoudsbepaling by paragraaf (b) van subartikel (4) te voeg:
“Met dien verstande dat die bepalinge van hierdie paragraaf nie van toepassing is nie op ’n bedrag wat verhaal of vergoed is as gevolg van so ’n verlies, verkoop of vervreemding wat op of na 1 April 1995 plaasvind of plaasgevind het.”;
- 10 (c) deur die woorde wat die voorbehoudsbepaling by paragraaf (e) van subartikel (4) voorafgaan deur die volgende woorde te vervang:
“Indien ’n bedrag wat ingevolge die bepalinge van artikel 11(e) of artikel 12(1) of artikel 12(1) soos deur artikel 12(3) toegepas of die ooreenstemmende bepalinge van ’n vorige Inkomstebelastingwet of artikel 12B of artikel 12C of artikel 14 of artikel 14bis of artikel 27(2)(d), ten opsigte van masjinerie of installasie afgetrek is wat deur die belastingpligtige gebruik is regstreeks by ’n vervaardigingsproses of regstreeks by enige ander proses deur hom op of na 15 Maart 1961 voortgesit wat volgens die Kommissaris se oordeel van dergelike aard was, of ten opsigte van masjinerie of installasie wat deur ’n landboukoöperasie (soos in artikel 27(9) omskryf) gebruik is regstreeks vir die opberging of verpakking van veeboerdery-, landbou- of ander plaasprodukte of om bedoelde produkte aan ’n primêre proses, soos omskryf in genoemde artikel 27(9) te onderwerp, of ten opsigte van ’n skip of vliegtuig deur hom gebruik vir doeleindes van sy bedryf, as gevolg van skade of vernietiging (hieronder ‘die gebeurtenis’ genoem) gedurende ’n jaar van aanslag verhaal of vergoed is, en indien die belastingpligtige die Kommissaris oortuig—
- 15 (i) dat hy binne ’n tydperk van een jaar (of so ’n langer tydperk as wat die Kommissaris onder die omstandighede van die geval mag toelaat) vanaf die datum van die gebeurtenis ’n kontrak gesluit het of sal sluit vir die verkryging deur hom van verdere nuwe of ongebruikte masjinerie of installasie of ’n skip of vliegtuig (hieronder die ‘verdere **[masjinerie of installasie]** bate’ genoem) ter vervanging van voormelde masjinerie of installasie of skip of vliegtuig; en
- 20 (ii) dat die verdere **[masjinerie of installasie]** bate binne ’n tydperk van drie jaar vanaf die datum van die gebeurtenis in gebruik geneem is of sal word en deur hom—
- 25 (aa) regstreeks by ’n vervaardigingsproses of ’n ander proses wat volgens die Kommissaris se oordeel van dergelike aard is; **[of]**
- 30 (bb) in die geval van bedoelde koöperasie, regstreeks vir die opberging of verpakking van veeboerdery-, landbou- of ander plaasprodukte of om bedoelde produkte aan ’n primêre proses, soos omskryf in artikel 27(9) te onderwerp; of
- 35 (cc) in die geval van ’n skip of vliegtuig, regstreeks vir die doeleindes van die belastingpligtige se bedryf, vir ’n tydperk van minstens vyf jaar of totdat die verdere **[masjinerie of installasie]** bate in die gewone loop van die belastingpligtige se bedryf voor die verstryking van bedoelde tydperk van vyf jaar as uitgedien omtrek of van die hand gesit word, gebruik sal word,
- 40 word bedoelde bedrag, ondanks die bepalinge van paragraaf (a) van hierdie subartikel, nie by die belastingpligtige se inkomste vir voormelde jaar van aanslag ingereken nie.”; en
- 45 (d) deur paragraaf (f) van subartikel (4) deur die volgende paragraaf te vervang:
“(f) Indien as gevolg van die verlies, verkoop of vervreemding op ander wyse deur die belastingpligtige van die verdere **[masjinerie of installasie]** bate in paragraaf (e) bedoel, daar ’n bedrag aan die belastingpligtige toegeval het of deur hom ontvang is wat die koste daarvan min die bedrag in
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of the excess as does not exceed such last-mentioned amount shall (unless such lastmentioned amount has been included in income in terms of the proviso to the said paragraph) be deemed to have been recovered or recouped and shall be included in the taxpayer's income for the year of assessment during which such further **[machinery or plant]** asset was so lost, sold or disposed of in addition to any recovery or recoupment referred to in paragraph (a)."

(2)(a) Subsection (1)(a) shall come into operation on 1 September 1995.

(b) Subsection (1)(b), (c) and (d) shall be deemed to have come into operation on 1 April 1995 and shall apply to any amount which has been recovered or recouped as a result of any such loss, sale or disposal which takes place on or after that date.

Amendment of section 9 of Act 58 of 1962, as amended by section 7 of Act 90 of 1962, section 6 of Act 72 of 1963, section 7 of Act 90 of 1964, section 9 of Act 95 of 1967, section 12 of Act 89 of 1969, section 6 of Act 65 of 1973, section 9 of Act 85 of 1974, section 8 of Act 103 of 1976, section 9 of Act 121 of 1984, section 5 of Act 96 of 1985, section 6 of Act 65 of 1986, section 2 of Act 108 of 1986, section 7 of Act 85 of 1987, section 36 of Act 9 of 1989, section 10 of Act 129 of 1991, section 7 of Act 141 of 1992, section 5 of Act 113 of 1993, section 3 of Act 140 of 1993 and section 7 of Act 21 of 1994

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

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

"(e) (i) any services rendered by such person to or work or labour done by such person for or on behalf of the Government, including the Railway Administration and any provincial administration, or any local authority in the Republic or the South African Tourist Corporation or the Council for Scientific and Industrial Research, notwithstanding that such services are rendered or that such work or labour is done outside the Republic, provided such services are rendered or such work or labour is done in accordance with a contract of employment entered into with the Government or such administration or local authority or that Corporation or that Council; or

(ii) the holding of a public office to which such person has been appointed or is deemed to have been appointed in terms of an Act of Parliament, notwithstanding that such public office is held outside the Republic;

[Provided that nothing in this paragraph shall be construed as imposing liability for taxation under this Act upon any salary or emolument paid to any person in the employment of the Government, including the Railway Administration, in respect of any period for which such person is stationed in the territory] Provided [further] that nothing in this paragraph shall be construed as imposing liability for taxation under this Act upon any payment made to any such person who is **[employed by the Government, including the South African Transport Services, and is]** stationed outside the Republic, by way of an allowance for the purpose of meeting expenditure incurred by such person in connection with his official duties outside the Republic;" and

(b) by the addition in subsection (1) to subparagraph (ii) of paragraph (g) of the following further proviso:

"Provided further that any services rendered in the territory of the former Republic of Transkei, Bophuthatswana, Venda or Ciskei shall be deemed to have been rendered within the Republic;".

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

genoemde paragraaf bedoel te bowe gaan, word soveel van die oorskot as wat laasbedoelde bedrag nie te bowe gaan nie (tensy laasgenoemde bedrag ingevolge die voorbehoudsbepaling by genoemde paragraaf by inkomste ingereken is) geag verhaal of vergoed te gewees het en word dit benewens enige bedrag in paragraaf (a) bedoel wat verhaal of vergoed is, vir die jaar van aanslag waartydens bedoelde verdere **[masjinerie of installasie]** bate aldus verloor, verkoop of vervreem is, by die belastingpligtige se inkomste ingereken.”.

(2)(a) Subartikel (1)(a) tree op 1 September 1995 in werking.

(b) Subartikel (1)(b), (c) en (d) word geag op 1 April 1995 in werking te getree het en is van toepassing op 'n bedrag wat verhaal of vergoed is as gevolg van so 'n verlies, verkoop of vervreemding wat op of na daardie datum plaasvind.

Wysiging van artikel 9 van Wet 58 van 1962, soos gewysig deur artikel 7 van Wet 90 van 1962, artikel 6 van Wet 72 van 1963, artikel 7 van Wet 90 van 1964, artikel 9 van Wet 95 van 1967, artikel 12 van Wet 89 van 1969, artikel 6 van Wet 65 van 1973, artikel 9 van Wet 85 van 1974, artikel 8 van Wet 103 van 1976, artikel 9 van Wet 121 van 1984, artikel 5 van Wet 96 van 1985, artikel 6 van Wet 65 van 1986, artikel 2 van Wet 108 van 1986, artikel 7 van Wet 85 van 1987, artikel 36 van Wet 9 van 1989, artikel 10 van Wet 129 van 1991, artikel 7 van Wet 141 van 1992, artikel 5 van Wet 113 van 1993, artikel 3 van Wet 140 van 1993 en artikel 7 van Wet 21 van 1994

9. Artikel 9 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:

“(e) (i) dienste deur so 'n persoon bewys aan of werk of arbeid deur so 'n persoon verrig vir of ten behoeve van die Regering, met inbegrip van die Spoorwegadministrasie en 'n provinsiale administrasie, of 'n plaaslike bestuur in die Republiek, of die Suid-Afrikaanse Toeristekorporasie, of die Wetenskaplike en Nywerheidsnavorsingsraad, al word dié dienste bewys of dié werk of arbeid verrig buite die Republiek, mits dié dienste bewys of dié werk of arbeid verrig word ooreenkomstig 'n dienskontrak aangegaan met die Regering of so 'n administrasie of plaaslike bestuur of dié Korporasie of dié Raad; of

(ii) die bekleding van 'n openbare amp waartoe bedoelde persoon aangestel is of geag word aangestel te gewees het ingevolge 'n Wet van die Parlement, al word bedoelde openbare amp buite die Republiek beklee:

[Met dien verstande dat die bepalings van hierdie paragraaf nie uitgelê word in die sin dat dit aanspreeklikheid vir belasting kragtens hierdie Wet oplê op 'n salaris of besoldiging betaal aan iemand in diens van die Regering, met inbegrip van die Spoorwegadministrasie, ten opsigte van 'n tydperk waartydens so iemand in die gebied gestasioneer is nie] Met dien verstande [voorts] dat die bepalings van hierdie paragraaf nie uitgelê word in die sin dat dit aanspreeklikheid vir belasting kragtens hierdie Wet oplê op 'n betaling gemaak aan so iemand [in diens van die Regering, met inbegrip van die Suid-Afrikaanse Vervoerdienste, en] wat buite die Republiek gestasioneer is, by wyse van 'n toelae ter bestryding van onkoste deur so iemand in verband met sy ampspligte buite die Republiek aangegaan nie;”;

(b) deur in subartikel (1) die volgende verdere voorbehoudsbepaling by subparagraaf (ii) van paragraaf (g) te voeg:

“Met dien verstande voorts dat dienste bewys in die gebied van die voormalige Republiek van Transkei, Bophuthatswana, Venda of Ciskei geag word binne die Republiek bewys te gewees het;”.

Wysiging van artikel 10 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 90 van 1962, artikel 7 van Wet 72 van 1963, artikel 8 van Wet 90 van 1964, artikel 10 van Wet 88 van 1965, artikel 11 van Wet 55 van 1966, artikel 10 van Wet 95 van 1967, artikel 8 van Wet 76 van 1968, artikel 13 van Wet 89 van 1969, artikel 9 van Wet 52 van 1970, artikel 9 van Wet 88 van 1971, artikel 7 van Wet 90 van 1972,

of 1974, section 8 of Act 69 of 1975, 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, section 9 of Act 85 of 1987, section 7 of Act 90 of 1988, section 36 of Act 9 of 1989, section 7 of Act 70 of 1989, section 10 of Act 101 of 1990, section 12 of Act 129 of 1991, section 10 of Act 141 of 1992, section 7 of Act 113 of 1993, section 4 of Act 140 of 1993 and section 9 of Act 21 of 1994

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

(a) by the addition to paragraph (h) of subsection (1) of the following further proviso:

“Provided further that the exemption under this paragraph shall not apply to any natural person unless such person was physically absent from the Republic for a period or periods of at least 183 days in aggregate during the year of assessment in which such interest was received or accrued;”;

(b) by the deletion in subsection (1) of the word “and” at the end of paragraph (ii) of the proviso to paragraph (hA);

(c) by the addition in subsection (1) of the word “and” at the end of paragraph (iii) of the proviso to paragraph (hA);

(d) by the addition in subsection (1) to the proviso to paragraph (hA) of the following paragraph:

“(iv) the exemption under this paragraph shall not apply to any natural person unless such person was physically absent from the Republic for a period or periods of at least 183 days in aggregate during the year of assessment in which such interest was received or accrued;”;

(e) by the substitution in subsection (1) for paragraph (i) of the first proviso to paragraph (x) of the following paragraph:

“(i) such person has attained the age of 55 years [in the case of a male or fifty years in the case of a female]; or”; and

(f) by the deletion in subsection (1) of paragraph (iii) of the first proviso to paragraph (x).

(2)(a) Subsection (1)(a), (b), (c) and (d) shall be deemed to have come into operation on 1 April 1995 and shall apply to any interest received or accrued on or after that date.

(b) Subsection (1)(e) shall come into operation on a date fixed by the Minister of Finance by notice in the *Gazette*.

Amendment of section 10A of Act 58 of 1962, as inserted by section 8 of Act 65 of 1973 and amended by section 11 of Act 85 of 1974 and section 8 of Act 113 of 1993

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

(a) by the substitution in subsection (1) for the words following upon paragraph (c) of the definition of “annuity contract” of the following words:

“but does not include any agreement for the payment by any insurer of any annuity which is under the rules of a pension fund or of a provident fund or of a retirement annuity fund payable to a member of such fund [or to the widow of such member] or to any other person;”;

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

“(2) There shall be exempt from normal tax so much of any annuity amount payable to a purchaser or his deceased or insolvent estate or his spouse or surviving spouse (as contemplated in paragraph (a) of the definition of ‘annuity contract’ in subsection (1)) as is determined in accordance with subsection (3) to represent the capital element of such amount.”;

(2) Subsection (1)(b) shall be deemed to have come into operation on 1 March 1993.

artikel 7 van Wet 65 van 1973, artikel 10 van Wet 85 van 1974, artikel 8 van Wet 69 van 1975, artikel 9 van Wet 103 van 1976, artikel 8 van Wet 113 van 1977, artikel 4 van Wet 101 van 1978, artikel 7 van Wet 104 van 1979, artikel 7 van Wet 104 van 1980, artikel 8 van Wet 96 van 1981, artikel 6 van Wet 91 van 1982, artikel 5 9 van Wet 94 van 1983, artikel 10 van Wet 121 van 1984, artikel 6 van Wet 96 van 1985, artikel 7 van Wet 65 van 1986, artikel 3 van Wet 108 van 1986, artikel 9 van Wet 85 van 1987, artikel 7 van Wet 90 van 1988, artikel 36 van Wet 9 van 1989, artikel 7 van Wet 70 van 1989, artikel 10 van Wet 101 van 1990, artikel 12 van Wet 129 van 1991, artikel 10 van Wet 141 van 1992, artikel 7 van Wet 113 van 1993, 10 artikel 4 van Wet 140 van 1993 en artikel 9 van Wet 21 van 1994

10. (1) Artikel 10 van die Hoofwet word hierby gewysig—

(a) deur die volgende verdere voorbehoudsbepaling by paragraaf (h) van subartikel (1) te voeg:

15 “Met dien verstande voorts dat die vrystelling kragtens hierdie paragraaf nie van toepassing is nie op ’n natuurlike persoon tensy bedoelde persoon fisies uit die Republiek afwesig was vir ’n tydperk of tydperke van ten minste 183 dae in totaal gedurende die jaar van aanslag waarin bedoelde rente ontvang is of toegeval het;”;

20 (b) deur in subartikel (1) die woord “en” aan die einde van paragraaf (ii) van die voorbehoudsbepaling by paragraaf (hA) te skrap;

(c) deur in subartikel (1) die woord “en” aan die einde van paragraaf (iii) van die voorbehoudsbepaling by paragraaf (hA) by te voeg;

(d) deur in subartikel (1) die volgende paragraaf by die voorbehoudsbepaling by paragraaf (hA) te voeg:

25 “(iv) die vrystelling kragtens hierdie paragraaf nie van toepassing is nie op ’n natuurlike persoon tensy bedoelde persoon fisies uit die Republiek afwesig was vir ’n tydperk of tydperke van ten minste 183 dae in totaal gedurende die jaar van aanslag waarin bedoelde rente ontvang is of toegeval het;”;

30 (e) deur in subartikel (1) paragraaf (i) van die eerste voorbehoudsbepaling by paragraaf (x) deur die volgende paragraaf te vervang:

“(i) bedoelde persoon die ouderdom van 55 jaar [**in die geval van ’n manspersoon of vyftig jaar in die geval van ’n vrouspersoon**] bereik het; of”; en

35 (f) deur in subartikel (1) paragraaf (iii) van die eerste voorbehoudsbepaling by paragraaf (x) te skrap.

(2)(a) Subartikel (1)(a), (b), (c) en (d) word geag op 1 April 1995 in werking te getree het en is van toepassing op enige rente op of na daardie datum ontvang of toegeval.

40 (b) Subartikel (1)(e) tree in werking op ’n datum deur die Minister van Finansies by kennisgewing in die *Staatskoerant* vasgestel.

Wysiging van artikel 10A van Wet 58 van 1962, soos ingevoeg deur artikel 8 van Wet 65 van 1973 en gewysig deur artikel 11 van Wet 85 van 1974 en artikel 8 van Wet 113 van 1993

45 11. (1) Artikel 10A van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) die woorde wat op paragraaf (c) van die omskrywing van “jaargeldkontrak” volg deur die volgende woorde te vervang:

50 “maar nie ook ’n ooreenkoms vir die betaling deur ’n versekeraar van ’n jaargeld wat ingevolge die reëls van ’n pensioenfonds of ’n voorsorgsfonds of ’n uittredingannuïteitsfonds aan ’n lid van daardie fonds [**of aan die weduwee van bedoelde lid**] of aan enige ander persoon betaalbaar is nie;”; en

(b) deur subartikel (2) deur die volgende subartikel te vervang:

55 “(2) Van normale belasting word vrygestel soveel van ’n jaargeldbedrag wat betaalbaar is aan ’n koper of sy bestorwe of insolvente boedel of sy eggenoot of langselewende eggenoot (soos in paragraaf (a) van die omskrywing van ‘jaargeldkontrak’ in subartikel (1) beoog) as wat ooreenkomstig subartikel (3) vasgestel word om die kapitaal-element van daardie bedrag voor te stel.”.

60 (2) Subartikel (1)(b) word geag op 1 Maart 1993 in werking te getree het.

Amendment of section 11 of Act 58 of 1962, as amended by section 9 of Act 90 of 1962, section 8 of Act 72 of 1963, section 9 of Act 90 of 1964, section 11 of Act 88 of 1965, section 12 of Act 55 of 1966, section 11 of Act 95 of 1967, section 9 of Act 76 of 1968, section 14 of Act 89 of 1969, section 10 of Act 52 of 1970, section 10 of Act 88 of 1971, section 8 of Act 90 of 1972, section 9 of Act 65 of 1973, section 12 of Act 85 of 1974, section 9 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, section 46 of Act 97 of 1986, section 10 of Act 85 of 1987, section 8 of Act 90 of 1988, section 8 of Act 70 of 1989, section 11 of Act 101 of 1990, section 13 of Act 129 of 1991, section 11 of Act 141 of 1992, section 9 of Act 113 of 1993, section 5 of Act 140 of 1993 and section 10 of Act 21 of 1994

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

- (a) by the substitution for the proviso to paragraph (bB) of the following proviso:

“Provided that any such finance charge (other than a finance charge which falls to be dealt with in terms of the provisions of section 24J) which is calculated or payable in respect of a period of more than 12 months extending beyond the end of the year of assessment shall for the purposes of this paragraph be deemed to have been incurred from day to day during the said period;”;
- (b) by the deletion of paragraph (vii) of the proviso to paragraph (n); and
- (c) by the substitution for paragraph (viii) of the proviso to paragraph (n) of the following paragraph:

“(viii) where any such contribution was allowed as a deduction to a [married woman] person, no deduction in respect of such contribution shall be allowed to [her husband] such person’s spouse;”.

(2) Subsection (1)(a) shall be deemed to have come into operation on 16 March 1995 and shall apply to any agreement entered into on or after that date.

Amendment of section 12C of Act 58 of 1962, as inserted by section 14 of Act 101 of 1990 and amended by section 11 of Act 113 of 1993, section 7 of Act 140 of 1993 and section 11 of Act 21 of 1994

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

- (a) by the addition of the word “or” at the end of paragraph (e) of subsection (1);
- (b) by the addition to subsection (1) of the following paragraphs:

“(f) aircraft which was or is brought into use on or after 1 April 1995 for the first time by the taxpayer for the purposes of his trade (other than an aircraft in respect of which an allowance has been granted to the taxpayer under section 12B or 14bis); or

(g) ship which was or is brought into use on or after 1 April 1995 for the first time by the taxpayer for the purposes of his trade (other than a ship in respect of which an allowance has been granted to the taxpayer in terms of section 14(1)(a) or (b));”;
- (c) by the substitution for the words following upon paragraph (e) of subsection (1) of the following words:

“a deduction equal to 20 per cent of the cost of such machinery, plant, implement, utensil, [or] article, ship or aircraft (hereinafter referred to as an asset) shall, subject to the provisions of subsection (4), be allowed in the year of assessment during which the asset is so brought into use and in each of the four succeeding years of assessment: Provided that where such asset is a ship or aircraft, the deduction shall be calculated on the adjustable cost as determined in terms of section 14 or 14bis, as the case may be.”; and
- (d) by the substitution for paragraph (c) of subsection (4) of the following paragraph:

“(c) a deduction under this section, section 12(1), section 12B, [or] section 14(1)(a) or (b), section 14bis or section 27(2)(d) was previously

Wysiging van artikel 11 van Wet 58 van 1962, soos gewysig deur artikel 9 van Wet 90 van 1962, artikel 8 van Wet 72 van 1963, artikel 9 van Wet 90 van 1964, artikel 11 van Wet 88 van 1965, artikel 12 van Wet 55 van 1966, artikel 11 van Wet 95 van 1967, artikel 9 van Wet 76 van 1968, artikel 14 van Wet 89 van 1969, artikel 10 van 5 Wet 52 van 1970, artikel 10 van Wet 88 van 1971, artikel 8 van Wet 90 van 1972, artikel 9 van Wet 65 van 1973, artikel 12 van Wet 85 van 1974, artikel 9 van Wet 69 van 1975, artikel 9 van Wet 113 van 1977, artikel 5 van Wet 101 van 1978, artikel 8 van Wet 104 van 1979, artikel 8 van Wet 104 van 1980, artikel 9 van Wet 96 van 1981, artikel 7 van Wet 91 van 1982, artikel 10 van Wet 94 van 1983, artikel 10 11 van Wet 121 van 1984, artikel 46 van Wet 97 van 1986, artikel 10 van Wet 85 van 1987, artikel 8 van Wet 90 van 1988, artikel 8 van Wet 70 van 1989, artikel 11 van Wet 101 van 1990, artikel 13 van Wet 129 van 1991, artikel 11 van Wet 141 van 1992, artikel 9 van Wet 113 van 1993, artikel 5 van Wet 140 van 1993 en artikel 10 van Wet 21 van 1994

- 15 12. (1) Artikel 11 van die Hoofwet word hierby gewysig—
 (a) deur die voorbehoudsbepaling by paragraaf (bB) deur die volgende voorbe-
 houdsbepaling te vervang:
 “Met dien verstande dat enige bedoelde finansieringskoste (behalwe finan-
 20 sieringskoste wat ingevolge die bepalings van artikel 24J mee gehandel staan
te word) wat bereken of betaalbaar is ten opsigte van ’n tydperk van meer as
 12 maande wat verby die einde van die jaar van aanslag strek, by die
 toepassing van hierdie paragraaf geag word van dag tot dag gedurende
 genoemde tydperk aangegaan te gewees het;”;
 (b) deur paragraaf (vii) van die voorbehoudsbepaling by paragraaf (n) te skrap;
 25 en
 (c) deur paragraaf (viii) van die voorbehoudsbepaling by paragraaf (n) deur die
 volgende paragraaf te vervang:
 “(viii) waar ’n bedoelde bydrae as ’n aftrekking aan ’n [getroude vrou]
 30 persoon toegestaan is, geen aftrekking ten opsigte van daardie bydrae
 aan [haar man] bedoelde persoon se gade toegestaan word nie;”.
 (2) Subartikel (1)(a) word geag op 16 Maart 1995 in werking te getree het en is van
 toepassing op ’n ooreenkoms wat op of na daardie datum aangegaan is.

Wysiging van artikel 12C van Wet 58 van 1962, soos ingevoeg deur artikel 14 van
 Wet 101 van 1990 en gewysig deur artikel 11 van Wet 113 van 1993, artikel 7 van
 35 Wet 140 van 1993 en artikel 11 van Wet 21 van 1994

13. (1) Artikel 12C van die Hoofwet word hierby gewysig—
 (a) deur die woord “of” aan die einde van paragraaf (e) van subartikel (1) by te
 voeg;
 (b) deur die volgende paragrawe by subartikel (1) te voeg:
 40 “(f) vliegtuig wat vir die eerste maal op of na 1 April 1995 deur die
 belastingpligtige vir die doeleindes van sy bedryf in gebruik geneem is
 of word (behalwe ’n vliegtuig ten opsigte waarvan ’n aftrekking
 ingevolge artikel 12B of 14bis aan die belastingpligtige toegestaan is);
 of
 45 (g) skip wat vir die eerste maal op of na 1 April 1995 deur die belasting-
 pligtige vir die doeleindes van sy bedryf in gebruik geneem is of word
 (behalwe ’n skip ten opsigte waarvan ’n aftrekking ingevolge artikel
 14(1)(a) of (b) aan die belastingpligtige toegestaan is);”;
 (c) deur die woorde wat op paragraaf (e) van subartikel (1) volg deur die
 50 volgende woorde te vervang:
 “word, behoudens die bepalings van subartikel (4), ’n aftrekking toegestaan
 gelyk aan 20 persent van die koste van bedoelde masjinerie, installasie,
 gereedskap, werktuig, [of] artikel, skip of vliegtuig (hierna ’n bate genoem)
 in die jaar van aanslag waarin die bate aldus in gebruik geneem word en
 55 elkeen van die daaropvolgende vier jare van aanslag: Met dien verstande dat
waar bedoelde bate ’n skip of vliegtuig is, die aftrekking op die veranderbare
koste soos vasgestel ingevolge artikel 14 of 14bis, na gelang van die geval,
bereken word.”; en
 (d) deur paragraaf (c) van subartikel (4) deur die volgende paragraaf te vervang:
 60 “(c) ’n aftrekking ingevolge hierdie artikel, artikel 12(1), artikel 12B, [of]

granted to such connected person, whether in the current or any previous year of assessment.”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1995 and shall apply to any ship or aircraft acquired on or after that date.

Amendment of section 14 of Act 58 of 1962, as substituted by section 19 of Act 55 of 1966 and amended by section 17 of Act 85 of 1974, section 12 of Act 103 of 1976, section 11 of Act 104 of 1979, section 10 of Act 65 of 1986, section 14 of Act 113 of 1993 and section 8 of Act 140 of 1993

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

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

“Provided that any such allowance in respect of any year of assessment shall be included in the income of the taxpayer for the following year of assessment [and for that purpose any allowance made in terms of section 11(2)(n) of the Income Tax Act, 1941, in respect of the year of assessment ended on 30 June, 1961, shall be deemed to have been made in terms of this paragraph].”;

(b) by the substitution for the words preceding the proviso to subsection (1A) of the following words:

“Where during any year of assessment a subsidiary company referred to in paragraph (b) of the definition of ‘South African ship’ in subsection (2) has carried on business as the owner of one or more ships which are by virtue of the said paragraph South African ships and has not ceased to carry on such business, there shall be deducted from the income derived during that year of assessment by the parent company (being a parent company referred to in the said paragraph) of the subsidiary company an allowance equal to so much of any assessed loss which is in terms of section 20 available to be carried forward by the subsidiary company to the following year of assessment, as is [proved to the satisfaction of the Commissioner to be] attributable to any assessed loss (as determined under section 20) incurred by the subsidiary company in carrying on the aforesaid business.”;

(c) by the substitution for subsection (1B) of the following subsection:

“(1B) Where a subsidiary company referred to in paragraph (b) of the definition of ‘South African ship’ in subsection (2) has on or after 1 January 1974 purchased from its parent company (being a parent company referred to in the said paragraph), a ship (being a South African ship by virtue of the provisions of the said paragraph and not being a ship acquired to replace a ship) which is used by the subsidiary company for the purposes of its trade for prospecting for minerals (including natural oil) or for mining operations or as a foreign-going ship and in respect of which any allowance has in respect of any year of assessment been granted to the parent company under subsection (1)(a) or (b) or section 12C—

(a) any allowances in respect of such ship granted to the subsidiary company under the provisions of subsection (1)(a) or section 12C, as the case may be, shall be equal in amount to the allowances to which the parent company would have been entitled under those provisions if the parent company had continued to use the ship for the purposes of its trade;

(b) an allowance in respect of such ship shall not be granted to the subsidiary company under the provisions of subsection (1)(a) or section 12C in respect of the year of assessment during which the ship was purchased by the subsidiary company if any allowance in respect of the ship has been granted to the parent company under the provisions of subsection (1)(a) or (b) or section 12C in respect of the same year of assessment;

(c) the cost to the subsidiary company of such ship shall, for the purposes

artikel 14(1)(a) of (b), artikel 14bis of artikel 27(2)(d) voorheen aan bedoelde verbonde persoon toegestaan is, hetsy in die lopende of 'n vorige jaar van aanslag,”.

(2) Subartikel (1) word geag op 1 April 1995 in werking te getree het en is van toepassing op enige skip of vliegtuig wat op of na daardie datum verkry is.

Wysiging van artikel 14 van Wet 58 van 1962, soos vervang deur artikel 19 van Wet 55 van 1966 en gewysig deur artikel 17 van Wet 85 van 1974, artikel 12 van Wet 103 van 1976, artikel 11 van Wet 104 van 1979, artikel 10 van Wet 65 van 1986, artikel 14 van Wet 113 van 1993 en artikel 8 van Wet 140 van 1993

10 **14.** Artikel 14 van die Hoofwet word hierby gewysig—

(a) deur die voorbehoudsbepaling by paragraaf (c) van subartikel (1) deur die volgende voorbehoudsbepaling te vervang:

15 “Met dien verstande dat so 'n vermindering ten opsigte van 'n jaar van aanslag by die inkomste van die belastingpligtige vir die volgende jaar van aanslag ingesluit word **[en vir dié doel word 'n vermindering ingevolge artikel 11(2)(n) van die Inkomstebelastingwet, 1941, toegestaan ten opsigte van die jaar van aanslag wat op 30 Junie 1961 geëindig het, geag ingevolge hierdie paragraaf toegestaan te gewees het]**.”;

20 (b) deur die woorde wat die voorbehoudsbepaling by subartikel (1A) voorafgaan deur die volgende woorde te vervang:

25 “Waar gedurende 'n jaar van aanslag 'n filiaalmaatskappy bedoel in paragraaf (b) van die omskrywing van ‘Suid-Afrikaanse skip’ in subartikel (2) besigheid gedryf het as die eienaar van een of meer skepe wat uit hoofde van genoemde paragraaf Suid-Afrikaanse skepe is en hy nie opgehou het om daardie besigheid te dryf nie, word daar as 'n aftrekking op die inkomste wat gedurende daardie jaar van aanslag verkry is deur die moedermaatskappy (synde 'n moedermaatskappy in genoemde paragraaf bedoel) van die filiaalmaatskappy, 'n vermindering toegelaat wat gelyk is aan soveel van enige vasgestelde verlies wat kragtens artikel 20 beskikbaar is om deur die filiaalmaatskappy na die volgende jaar van aanslag oorgedra te word as wat **[tot bevrediging van die Kommissaris bewys word]** toe te skryf is aan 'n vasgestelde verlies (soos volgens voorskrif van artikel 20 vasgestel) wat deur die filiaalmaatskappy gely is by die dryf van voormelde besigheid.”;

30 (c) deur subartikel (1B) deur die volgende subartikel te vervang:

35 “(1B) Waar 'n filiaalmaatskappy bedoel in paragraaf (b) van die omskrywing van ‘Suid-Afrikaanse skip’ in subartikel (2) van sy moedermaatskappy (synde 'n moedermaatskappy in genoemde paragraaf bedoel) 'n skip (wat uit hoofde van die bepalinge van genoemde paragraaf 'n Suid-Afrikaanse skip is maar nie 'n skip is wat ter vervanging van 'n ander skip verkry is nie) op of na 1 Januarie 1974 gekoop het wat deur die filiaalmaatskappy vir die doeleindes van sy bedryf vir prospektering na minerale (met inbegrip van aard-olie) of vir mynbouwerkzaamhede of as 'n skip op vreemde vaart gebruik word en ten opsigte waarvan 'n vermindering ten opsigte van enige jaar van aanslag aan die moedermaatskappy ingevolge subartikel (1)(a) of (b) **of artikel 12C** toegestaan is—

45 (a) is die bedrae van enige verminderings ten opsigte van bedoelde skip wat ingevolge die bepalinge van subartikel (1)(a) **of artikel 12C, na gelang van die geval**, aan die filiaalmaatskappy toegestaan word, gelyk aan die bedrae van die verminderings waarop die moedermaatskappy ingevolge bedoelde bepalinge geregtig sou gewees het indien die moedermaatskappy aangehou het om die skip vir die doeleindes van sy bedryf te gebruik;

50 (b) word 'n vermindering ten opsigte van bedoelde skip nie ingevolge die bepalinge van subartikel (1)(a) **of artikel 12C** aan die filiaalmaatskappy toegestaan nie ten opsigte van die jaar van aanslag waarin die skip deur die filiaalmaatskappy gekoop is indien 'n vermindering ten opsigte van die skip ingevolge die bepalinge van subartikel (1)(a) of (b) **of artikel 12C** aan die moedermaatskappy ten opsigte van dieselfde jaar van aanslag toegestaan is;

60 (c) word, by die toepassing van hierdie artikel, artikel 8(4), **[en]** artikel 11(o) **en artikel 12C**, die koste van bedoelde skip vir die filiaal-

- of this section, section 8(4), **[and]** section 11(o) and section 12C, be deemed to be the adjustable cost to the parent company of the ship;
- (d) the allowances in respect of such ship granted to the parent company under subsection (1)(a) or (b) of this section or section 12C shall, for the purposes of this section, section 8(4), **[and]** section 11(o) and section 12C, be deemed to be allowances granted to the subsidiary company in respect of such ship and the provisions of paragraph (iii) of the proviso to subsection (1)(b) of this section or the proviso to section 8(4)(e), as the case may be, shall, as respects such ship apply to the subsidiary company as though it were the taxpayer referred to in those provisions;
- (e) the parent company shall, for the purposes of section 8(4), not be deemed to have recovered or recouped out of the purchase consideration payable by the subsidiary company any of the allowances granted in respect of such ship to the parent company under subsection (1)(a) or (b) of this section or section 12C and no allowance shall be made to the parent company under section 11(o) in respect of such ship and, for the purposes of paragraph (iii) of the proviso to subsection (1)(b) of this section as applicable to the parent company, the parent company shall not by reason of the sale of the ship to the subsidiary company be deemed to have ceased to use the ship; and
- (f) in the event of such ship ceasing to be a South African ship or to be used by the subsidiary **[in the manner contemplated in subsection (1)(b)] as aforesaid**, the Commissioner may **[in his discretion]** direct that any amount falling to be included in the income of the subsidiary company for any year of assessment under paragraph (iii) of the proviso to subsection (1)(b) or the proviso to section 8(4)(e), as the case may be, be included in the income of the parent company for such year of assessment and not in the income of the subsidiary company.”;
- and
- (d) by the addition of the following subsection:
- “(5) The provisions of subsections (1)(a) and (b) and (1C) shall not apply to any ship acquired on or after 1 April 1995 unless such ship was acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement before that date.”.

Amendment of section 14bis of Act 58 of 1962, as inserted by section 16 of Act 88 of 1965 and amended by section 15 of Act 141 of 1992, section 15 of Act 113 of 1993 and section 9 of Act 140 of 1993

15. Section 14bis of the principal Act is hereby amended by the addition of the following subsection:

- “(6) The provisions of this section shall not apply to any aircraft acquired on or after 1 April 1995 unless such aircraft was acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement before that date.”.

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, section 11 of Act 96 of 1985, section 14 of Act 90 of 1988, section 11 of Act 70 of 1989, section 16 of Act 101 of 1990, section 19 of Act 129 of 1991 and section 18 of Act 141 of 1992

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

- (a) by the substitution in subsection (1) for the words following upon subparagraph (iii) of paragraph (b) of the following words:
- “the taxpayer or his spouse or his children or stepchildren **[in respect of which the taxpayer or his spouse is entitled to a rebate in terms of section 6(3)(a)]**; and”;

- maatskappy geag die veranderbare koste van die skip vir die moedermaatskappy te wees;
- (d) word, by die toepassing van hierdie artikel, artikel 8(4), **[en]** artikel 11(o) en artikel 12C, die vermindering ten opsigte van bedoelde skip wat ingevolge subartikel (1)(a) of (b) van hierdie artikel of artikel 12C aan die moedermaatskappy toegestaan is, geag vermindering te wees wat ten opsigte van bedoelde skip aan die filiaalmaatskappy toegestaan is, en is die bepaling van paragraaf (iii) van die voorbehoudsbepaling by subartikel (1)(b) van hierdie artikel of die voorbehoudsbepaling by artikel 8(4)(e), na gelang van die geval, met betrekking tot daardie skip op die filiaalmaatskappy van toepassing asof hy die in daardie bepaling bedoelde belastingpligtige was;
- (e) word, by die toepassing van artikel 8(4), die vermindering wat aan die moedermaatskappy ten opsigte van bedoelde skip ingevolge subartikel (1)(a) of (b) van hierdie artikel of artikel 12C toegestaan is, nie geag deur die moedermaatskappy verhaal te wees of aan hom vergoed te wees uit die koopprys wat deur die filiaalmaatskappy betaalbaar is nie, **en** word geen vermindering ingevolge artikel 11(o) ten opsigte van bedoelde skip aan die moedermaatskappy toegestaan nie en by die toepassing van paragraaf (iii) van die voorbehoudsbepaling by subartikel (1)(b) van hierdie artikel soos dit op die moedermaatskappy van toepassing is, word die moedermaatskappy nie omrede van die verkoop van die skip aan die filiaalmaatskappy geag op te gehou het om die skip te gebruik nie; en
- (f) ingeval bedoelde skip ophou om 'n Suid-Afrikaanse skip te wees of om deur die filiaalmaatskappy gebruik te word **[op die manier in subartikel (1)(b) beoog]** soos voormeld, kan die Kommissaris **[na goeddunke]** gelas dat 'n bedrag wat ingevolge paragraaf (iii) van die voorbehoudsbepaling by subartikel (1)(b) of die voorbehoudsbepaling by artikel 8(4)(e), na gelang van die geval, by die inkomste van die filiaalmaatskappy vir enige jaar van aanslag ingesluit staan te word, by die inkomste van die moedermaatskappy vir daardie jaar van aanslag, en nie by die inkomste van die filiaalmaatskappy nie, ingesluit word.”; en
- (d) deur die volgende subartikel by te voeg:
- “(5) Die bepalinge van subartikels (1)(a) en (b) en (1C) is nie van toepassing nie op enige skip wat op of na 1 April 1995 verkry is tensy bedoelde skip deur die belastingpligtige verkry is ingevolge 'n ooreenkoms wat voor of op daardie datum formeel en finaal deur elke party tot die ooreenkoms onderteken is.”.
- Wysiging van artikel 14bis van Wet 58 van 1962, soos ingevoeg deur artikel 16 van Wet 88 van 1965 en gewysig deur artikel 15 van Wet 141 van 1992, artikel 15 van Wet 113 van 1993 en artikel 9 van Wet 140 van 1993**
15. Artikel 14bis van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:
- “(6) Die bepalinge van hierdie artikel is nie van toepassing nie op enige vliegtuig wat op of na 1 April 1995 verkry is tensy bedoelde vliegtuig deur die belastingpligtige verkry is ingevolge 'n ooreenkoms wat voor of op daardie datum formeel en finaal deur elke party tot die ooreenkoms onderteken is.”.
- Wysiging van artikel 18 van Wet 58 van 1962, soos ingevoeg deur artikel 12 van Wet 104 van 1980 en gewysig deur artikel 15 van Wet 96 van 1981, artikel 15 van Wet 121 van 1984, artikel 11 van Wet 96 van 1985, artikel 14 van Wet 90 van 1988, artikel 11 van Wet 70 van 1989, artikel 16 van Wet 101 van 1990, artikel 19 van Wet 129 van 1991 en artikel 18 van Wet 141 van 1992**
16. Artikel 18 van die Hoofwet word hierby gewysig—
- (a) deur in subartikel (1) die woorde wat op subparagraaf (iii) van paragraaf (b) volg deur die volgende woorde te vervang:
- “die belastingpligtige of sy gade of sy kinders of stiefkinders **[ten opsigte waarvan die belastingpligtige of sy gade op 'n korting ingevolge artikel 6(3)(a) geregtig is]; en**”;

- (b) by the substitution for paragraphs (c) and (d) of subsection (1) of the following paragraphs, respectively:
- “(c) any amounts (other than amounts recoverable by the taxpayer or his spouse) which were paid by the taxpayer during the year of assessment in respect of expenditure incurred outside the Republic on services rendered or medicines supplied to the taxpayer or his spouse or his children or stepchildren **[in respect of which the taxpayer or his spouse is entitled to a rebate in terms of section 6(3)(a)]** and which are substantially similar to the services and medicines in respect of which a deduction may be made under paragraph (b) of this subsection; and
- (d) any expenditure (other than expenditure recoverable by the taxpayer or his spouse) necessarily incurred and paid by the taxpayer in consequence of any physical disability suffered by the taxpayer, his spouse or child or stepchild **[in respect of which the taxpayer or his spouse is entitled to a rebate in terms of section 6(3)(a)]**.”;
- (c) by the substitution in subsection (2) for the expression “section 6(3)(f)” wherever it occurs of the expression “section 6(2)(b)”;
- (d) by the deletion of the word “or” at the end of paragraph (c) of subsection (3);
- (e) by the addition of the word “or” at the end of paragraph (d) of subsection (3);
- (f) by the addition to subsection (3) of the following paragraph:
- “(e) a person who suffers from a mental illness as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973).”; and
- (g) by the addition of the following subsection:
- “(4) For the purposes of this section the expression ‘child or stepchild’ means the taxpayer’s child or stepchild who was alive during any portion of the year of assessment, and who on the last day of the year of assessment—
- (a) was unmarried and was not or would not, had he lived, have been—
- (i) over the age of 18 years;
- (ii) over the age of 21 years and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year; or
- (iii) over the age of 26 years and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year and was a full-time student at an educational institution of a public character; or
- (b) in the case of any other child or stepchild, was incapacitated by physical or mental infirmity from maintaining himself and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of the year of assessment:
- Provided that any child or stepchild of the taxpayer who has become liable for the payment of normal tax in respect of any year of assessment solely by reason of the provisions of section 5(1A) shall be deemed for the purposes of this section not to have become liable for the payment of normal tax in respect of such year.”.

Amendment of section 20 of Act 58 of 1962, as amended by section 13 of Act 90 of 1964, section 18 of Act 88 of 1965, section 13 of Act 76 of 1968, section 18 of Act 89 of 1969, section 15 of Act 65 of 1973, section 8 of Act 101 of 1978, section 18 of Act 94 of 1983, section 19 of Act 101 of 1990 and section 16 of Act 113 of 1993

17. Section 20 of the principal Act is hereby amended by the deletion in subsection (1) of paragraph (iii) of the proviso to paragraph (a).

- (b) deur paragrawe (c) en (d) van subartikel (1) deur onderskeidelik die volgende paragrawe te vervang:
- “(c) enige bedrae (behalwe bedrae wat deur die belastingpligtige of sy gade verhaalbaar is) wat gedurende die jaar van aanslag deur die belastingpligtige betaal is ten opsigte van onkoste buite die Republiek aangegaan aan dienste of medisyne gelewer aan die belastingpligtige of sy gade of sy kinders of stiefkinders **[ten opsigte waarvan die belastingpligtige of sy gade op ’n korting ingevolge artikel 6(3)(a) geregtig is]** en wat wesentlik soortgelyk is aan die dienste of medisyne ten opsigte waarvan ’n aftrekking kragtens paragraaf (b) van hierdie subartikel gedoen kan word; en
- (d) enige koste (behalwe koste wat deur die belastingpligtige of sy gade verhaalbaar is) noodsaaklikerwys deur die belastingpligtige aangegaan en betaal as gevolg van ’n liggaamsgebrek waaraan die belastingpligtige, sy gade of kind of stiefkind ly **[ten opsigte waarvan die belastingpligtige of sy gade op ’n korting ingevolge artikel 6(3)(a) geregtig is]**.”;
- (c) deur in subartikel (2) die uitdrukking “artikel 6(3)(f)” waar dit ook al voorkom deur die uitdrukking “artikel 6(2)(b)” te vervang;
- (d) deur die woord “of” aan die einde van paragraaf (c) van subartikel (3) te skrap;
- (e) deur die woord “of” aan die einde van paragraaf (d) van subartikel (3) by te voeg;
- (f) deur die volgende paragraaf by subartikel (3) te voeg:
- “(e) ’n persoon wat aan ’n geestesongesteldheid soos omskryf in artikel 1 van die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973), ly.”;
- en
- (g) deur die volgende subartikel by te voeg:
- “(4) By die toepassing van hierdie artikel beteken die uitdrukking ‘kind of stiefkind’ die belastingpligtige se kind of stiefkind wat gedurende enige gedeelte van die jaar van aanslag in lewe was, en wat op die laaste dag van die jaar van aanslag—
- (a) ongetroud was en—
- (i) nie bo die ouderdom van 18 jaar;
- (ii) as hy geheel en al of gedeeltelik van die belastingpligtige vir sy onderhoud afhanklik was en nie vir die betaling van normale belasting ten opsigte van bedoelde jaar aanspreeklik geword het nie, nie bo die ouderdom van 21 jaar; of
- (iii) as hy geheel en al of gedeeltelik van die belastingpligtige vir sy onderhoud afhanklik was en nie vir die betaling van normale belasting ten opsigte van bedoelde jaar aanspreeklik geword het nie en ’n voltydse student was aan ’n opvoedkundige inrigting van ’n openbare aard, nie bo die ouderdom van 26 jaar,
- was of sou gewees het indien hy die lewe behou het nie; of
- (b) in die geval van ’n ander kind of stiefkind, weens liggaams- of geestesgebrek nie in staat was om homself te onderhou nie en geheel en al of gedeeltelik van die belastingpligtige vir sy onderhoud afhanklik was en nie vir die betaling van normale belasting ten opsigte van die jaar van aanslag aanspreeklik geword het nie:
- Met dien verstande dat ’n kind of stiefkind van die belastingpligtige wat uitsluitlik as gevolg van die bepalinge van artikel 5(1A) vir die betaling van normale belasting ten opsigte van enige jaar van aanslag aanspreeklik geword het, by die toepassing van hierdie artikel geag word nie aanspreeklik te geword het vir die betaling van normale belasting ten opsigte van bedoelde jaar nie.”.

Wysiging van artikel 20 van Wet 58 van 1962, soos gewysig deur artikel 13 van Wet 90 van 1964, artikel 18 van Wet 88 van 1965, artikel 13 van Wet 76 van 1968, artikel 18 van Wet 89 van 1969, artikel 15 van Wet 65 van 1973, artikel 8 van Wet 101 van 1978, artikel 18 van Wet 94 van 1983, artikel 19 van Wet 101 van 1990 en artikel 16 van Wet 113 van 1993

17. Artikel 20 van die Hoofwet word hierby gewysig deur in subartikel (1) paragraaf (iii) van die voorbehoudsbepaling by paragraaf (a) te skrap.

Amendment of section 21 of Act 58 of 1962, as substituted by section 16 of Act 90 of 1972 and amended by section 16 of Act 104 of 1980

18. Section 21 of the principal Act is hereby amended by the substitution for the proviso of the following proviso:

“Provided that for the purposes of this section any order of divorce or judicial separation (hereinafter referred to as the subsequent order) which in effect supersedes any such first-mentioned order of judicial separation or written agreement of separation and does not vary the amount of alimony, allowance or maintenance payable thereunder, shall not affect the rights which any person may have under this section, and in the case of any such person and the spouse or former spouse of such person the subsequent order shall, for the purposes of this section [the definition of ‘married person’ in section 1] and the provisions of section [6(3)(a) and] 10(1)(u), be deemed to have been granted in consequence of proceedings instituted on or before the said date.”.

Amendment of section 22 of Act 58 of 1962, as amended by section 8 of Act 6 of 1963, section 14 of Act 90 of 1964, section 21 of Act 89 of 1969, section 23 of Act 85 of 1974, section 20 of Act 69 of 1975, section 15 of Act 103 of 1976, section 20 of Act 94 of 1983, section 19 of Act 121 of 1984, section 14 of Act 65 of 1986, section 5 of Act 108 of 1986, section 21 of Act 101 of 1990, section 22 of Act 129 of 1991, section 17 of Act 113 of 1993 and section 1 of Act 168 of 1993

19. (1) Section 22 of the principal Act is hereby amended—

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

“(1) The amount which shall, in the determination of the taxable income derived by any person during any year of assessment from carrying on any trade (other than farming), be taken into account in respect of the value of any trading stock held and not disposed of by him at the end of such year of assessment, shall be—

(a) in the case of trading stock other than trading stock contemplated in paragraph (b), the cost price to such person of such trading stock, less such amount as the Commissioner may think just and reasonable as representing the amount by which the value of such trading stock, not being shares held by any company in any other company, has been diminished by reason of damage, deterioration, change of fashion, decrease in the market value or for any other reason satisfactory to the Commissioner; and

(b) in the case of any trading stock which consists of any instrument in respect of which a company has made an election which has taken effect as contemplated in section 24J(9), the market value of such trading stock as contemplated in such section.”;

(b) by the addition to subsection (5) of the following paragraphs:

“(f) The provisions of paragraphs (d) and (e) shall *mutatis mutandis* apply to any person who carries on any trade in the former Republic of Transkei or Bophuthatswana and who, in respect of the last year of assessment in which he was liable for tax under a law of such a former Republic, determined the value of the trading stock held and not disposed of by him at the end of such year under the provisions of such a law which are similar to the provisions of this section.

(g) Where the provisions of paragraph (f) are applicable in the case of any taxpayer—

(i) the LIFO reserve shall be determined in accordance with the provisions of paragraph (d) in relation to the trading stock held by him at the beginning of the year of assessment immediately following the last year of assessment referred to in paragraph (f); and

(ii) the reference in the second proviso to paragraph (e) to the amount of

Wysiging van artikel 21 van Wet 58 van 1962, soos vervang deur artikel 16 van Wet 90 van 1972 en gewysig deur artikel 16 van Wet 104 van 1980

18. Artikel 21 van die Hoofwet word hierby gewysig deur die voorbehoudsbepaling deur die volgende voorbehoudsbepaling te vervang:

- 5 “Met dien verstande dat by die toepassing van hierdie artikel ’n egskeidingsbevel of bevel tot skeiding van tafel en bed (hieronder die latere bevel genoem) wat in wese eersbedoelde bevel tot of skriftelike ooreenkoms van skeiding van tafel en bed vervang en nie die bedrag van onderhoud of toelae wat daarkragtens betaalbaar is, verander nie, nie die regte wat iemand ingevolge hierdie artikel mag
- 10 hê, aantas nie, en in die geval van so iemand en die eggenote of voormalige eggenote van so iemand word die latere bevel, by die toepassing van hierdie artikel **[die omskrywing van ‘getroude persoon’ in artikel 1]** en die bepalinge van **[artikels 6(3)(a) en artikel 10(1)(u)]**, geag toegestaan te gewees het as gevolg van geregtelike stappe op of voor bedoelde datum ingestel.”

- 15 **Wysiging van artikel 22 van Wet 58 van 1962, soos gewysig deur artikel 8 van Wet 6 van 1963, artikel 14 van Wet 90 van 1964, artikel 21 van Wet 89 van 1969, artikel 23 van Wet 85 van 1974, artikel 20 van Wet 69 van 1975, artikel 15 van Wet 103 van 1976, artikel 20 van Wet 94 van 1983, artikel 19 van Wet 121 van 1984, artikel 14 van Wet 65 van 1986, artikel 5 van Wet 108 van 1986, artikel 21 van Wet 101 van 1990, artikel 22 van Wet 129 van 1991, artikel 17 van Wet 113 van 1993 en artikel 1 van Wet 168 van 1993**

19. (1) Artikel 22 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

- 25 “(1) Die bedrag wat by die vasstelling van die belasbare inkomste deur ’n persoon gedurende ’n jaar van aanslag uit die beoefening van ’n bedryf (behalwe boerdery) verkry, in rekening gebring moet word ten opsigte van die waarde van handelsvoorraad wat hy aan die einde van bedoelde jaar van aanslag besit en nie van die hand gesit het nie, is—

- (a) in die geval van handelsvoorraad behalwe handelsvoorraad beoog in
- 30 paragraaf (b), die kosprys vir dié persoon van bedoelde handelsvoorraad, min ’n bedrag wat volgens die oordeel van die Kommissaris billikerwys en redelikerwys die bedrag verteenwoordig waarmee die waarde van bedoelde handelsvoorraad, vir sover dit nie bestaan uit aandele deur ’n maatskappy in ’n ander maatskappy besit nie, verminder
- 35 is as gevolg van skade, bederf, verandering van mode, daling in markwaarde of enige ander oorsaak wat vir die Kommissaris bevredigend is; en

- (b) in die geval van handelsvoorraad wat bestaan uit ’n instrument ten opsigte waarvan ’n maatskappy ’n keuse uitgeoefen het wat in werking
- 40 getree het soos beoog in artikel 24J(9), die markwaarde van bedoelde handelsvoorraad soos in bedoelde artikel beoog.”;

(b) deur die volgende paragrafe by subartikel (5) te voeg:

- “*(f)* Die bepalinge van paragrafe (d) en (e) is *mutatis mutandis* van toepassing op ’n persoon wat ’n bedryf beoefen in die voormalige Republiek
- 45 van Transkei of Bophuthatswana en wat, ten opsigte van die laaste jaar van aanslag waarin hy aanspreeklik was vir belasting kragtens ’n wet van so ’n voormalige Republiek, die waarde van die handelsvoorraad deur hom besit en nie van die hand gesit nie aan die einde van bedoelde jaar van aanslag, vasgestel het kragtens die bepalinge van so ’n wet wat soortgelyk is aan die bepalinge van hierdie artikel.

- 50 (g) Waar die bepalinge van paragraaf (f) in die geval van ’n belastingplichtige van toepassing is—

- (i) word die LIEU-reserwe ooreenkomstig die bepalinge van paragraaf (d) vasgestel met betrekking tot die handelsvoorraad deur hom
- 55 besit aan die begin van die jaar van aanslag wat onmiddellik volg op die laaste jaar van aanslag waarna in paragraaf (f) verwys word; en
- (ii) word die verwysing in die tweede voorbehoudsbepaling by para-

the LIFO reserve allowed as a deduction under that paragraph during the year of assessment ending during the period of 12 months which commenced on 1 January 1990 shall be construed as a reference to the amount of the LIFO reserve determined in accordance with the provisions of subparagraph (i)."; and

- (c) by the substitution for the second proviso to subsection (8) of the following proviso:

"Provided further that where any trading stock (other than livestock or produce) of any company has on or after 21 June 1993 been distributed *in specie* (whether such distribution occurred by means of a dividend, including a liquidation dividend, a total or partial reduction of capital (including any share premium) or a redemption of redeemable preference shares) to any shareholder of that company, there shall be included in the income of such company during the year of assessment in which such trading stock was distributed an amount equal to the market value of such trading stock."

- (2)(a) Subsection (1)(a) shall be deemed to have come into operation on 16 March 1995.

- (b) Subsection (1)(b) shall be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 April 1995.

- (c) Subsection (1)(c) shall come into operation on the date of promulgation of this Act and shall apply to any trading stock distributed on or after that date.

Amendment of section 23D of Act 58 of 1962, as inserted by section 19 of Act 113 of 1993 and amended by section 10 of Act 140 of 1993

20. (1) Section 23D of the principal Act is hereby amended—

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

"(aA) any invention, patent, design, trade mark, copyright, or any other property which is of a similar nature, contemplated in section 11(gA);";

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

"(2) Where any asset which has been let by a taxpayer to a lessee was acquired by the taxpayer, **[on or after 21 June 1993]** whether directly or indirectly from—

(a) such lessee; **[or]**

(b) a person who is a connected person in relation to such lessee;

(c) a sublessee in relation to such asset (being a person to whom the right of use of such asset has been granted by a lessee or by any person to whom the right of use of such asset has previously been granted); or

(d) a person who is a connected person in relation to such sublessee,

and a deduction was previously granted to such lessee, **[or]** such connected person or such sublessee under section 11(e), 11(gA), 12B, 12C, 13, 14 or 14bis or section 12 prior to the repeal thereof by section 16 of the Income Tax Act, 1991 (Act No. 129 of 1991), or section 27(2)(d) prior to the deletion thereof by section 28(b) of that Act, whether in the current or any previous year of assessment, any deduction or allowance claimed by such lessor in respect of such asset in terms of section 11(e), (gA) or (o), 12C, 13, 14 or 14bis shall be calculated on an amount not exceeding the lesser of the cost or adjustable cost, as the case may be, of such asset to such lessee, **[or]** such connected person or such sublessee or the market value thereof as determined on the date upon which the asset was acquired by the taxpayer."; and

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

"(3) The provisions of subsection (2) shall apply to—

- (a) any asset, excluding an asset contemplated in subsection (1)(aA), acquired from a lessee or a connected person in relation to such lessee on or after 21 June 1993;

graaf (e) na die bedrag van die LIEU-reserwe toegestaan as 'n aftrekking kragtens daardie paragraaf gedurende die jaar van aanslag eindigende gedurende die tydperk van 12 maande wat op 1 Januarie 1990 'n aanvang geneem het, uitgelê as 'n verwysing na die bedrag van die LIEU-reserwe vasgestel ooreenkomstig die bepaling van subparagraaf (i)."; en

(c) deur die tweede voorbehoudsbepaling by subartikel (8) deur die volgende voorbehoudsbepaling te vervang:

"Met dien verstande voorts dat waar enige handelsvoorraad (behalwe lewende hawe of produkte) van 'n maatskappy op of na 21 Junie 1993 aan 'n aandeelhouer van daardie maatskappy *in specie* uitgekeer is (hetsy daardie uitkering plaasgevind het by wyse van 'n dividend, met inbegrip van 'n likwidasië-dividend, 'n algehele of gedeeltelike vermindering van kapitaal (met inbegrip van enige aandeelpremie) of 'n aflossing van aflosbare voorkeuraandeel), daar by die inkomste van bedoelde maatskappy in die jaar van aanslag waarin die bedoelde handelsvoorraad uitgekeer is 'n bedrag gelyk aan die markwaarde van bedoelde handelsvoorraad, ingesluit word."

(2)(a) Subartikel (1)(a) word geag op 16 Maart 1995 in werking te getree het.

(b) Subartikel (1)(b) word geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 1 April 1995 eindig.

(c) Subartikel (1)(c) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing op enige handelsvoorraad wat op of na daardie datum uitgekeer word.

Wysiging van artikel 23D van Wet 58 van 1962, soos ingevoeg deur artikel 19 van Wet 113 van 1993 en gewysig deur artikel 10 van Wet 140 van 1993

20. (1) Artikel 23D van die Hoofwet word hierby gewysig—

(a) deur na paragraaf (a) van subartikel (1) die volgende paragraaf in te voeg: "(aA) enige uitvinding, patent, model, handelsmerk, outeursreg of ander goed van 'n soortgelyke aard beoog in artikel 11(gA);";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Waar 'n bate wat deur 'n belastingpligtige aan 'n huurder verhuur is [**op of na 21 Junie 1993**] deur die belastingpligtige, hetsy regstreeks of onregstreeks vanaf—

(a) bedoelde huurder; [of]

(b) 'n persoon wat 'n verbonde persoon met betrekking tot bedoelde huurder is;

(c) 'n onderhuurder met betrekking tot bedoelde bate (synde 'n persoon aan wie die reg van gebruik van bedoelde bate verleen is deur 'n huurder of deur enige persoon aan wie die reg van gebruik van bedoelde bate voorheen verleen is); of

(d) 'n persoon wat 'n verbonde persoon met betrekking tot bedoelde onderhuurder is,

verkry is, en 'n aftrekking voorheen aan bedoelde huurder, [**of**] bedoelde verbonde persoon of bedoelde onderhuurder ingevolge artikel 11(e), 11(gA), 12B, 12C, 13, 14 of 14bis of artikel 12 voor die herroeping daarvan deur artikel 16 van die Inkomstebelastingwet, 1991 (Wet No. 129 van 1991), of artikel 27(2)(d) voor die skraping daarvan deur artikel 28(b) van daardie Wet, hetsy in die lopende of 'n vorige jaar van aanslag, toegestaan is, word enige aftrekking of vermindering deur bedoelde verhuurder ten opsigte van bedoelde bate ingevolge artikel 11(e), (gA) of (o), 12C, 13, 14 of 14bis geëis, bereken op 'n bedrag wat nie die minste van die koste of veranderbare koste, na gelang van die geval, van bedoelde bate vir bedoelde huurder, [**of**] bedoelde verbonde persoon of bedoelde onderhuurder of die markwaarde daarvan soos bepaal op die datum waarop die bate deur die belastingpligtige verkry is, te bowe gaan nie."; en

(c) deur die volgende subartikel by te voeg:

"(3) Die bepalinge van subartikel (2) is van toepassing op—

(a) 'n bate, behalwe 'n bate in subartikel (1)(aA) beoog, wat op of na 21 Junie 1993 vanaf 'n huurder of 'n verbonde persoon met betrekking tot bedoelde huurder verkry is;

(b) 'n bate in subartikel (1)(aA) beoog, wat op of na 1 Julie 1995 vanaf 'n

- (b) any asset contemplated in subsection (1)(aA), acquired from a lessee or a connected person in relation to such lessee on or after 1 July 1995; and
 (c) any asset acquired from a sublessee or a connected person in relation to such sublessee on or after 1 July 1995.”.

(2) Subsection (1) shall come into operation on 1 July 1995.

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Insertion of section 24J in Act 58 of 1962

21. (1) The following section is hereby inserted in the principal Act after section 24I:

“Incurral and accrual of interest

24J. (1) For the purposes of this section, unless the context otherwise indicates—

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‘accrual amount’, in relation to an accrual period, means an amount determined in accordance with the following formula:

$$A = B \times C$$

in which formula—

(a) ‘A’ represents the amount to be determined;

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(b) ‘B’ represents the yield to maturity; and

(c) ‘C’ represents the adjusted initial amount:

Provided that—

(i) where the commencement or end of any year of assessment falls within an accrual period, the amount so determined shall be apportioned on a day to day basis over the term of such accrual period in order to determine the relevant portion of such amount relating to that part of such accrual period falling within the year of assessment so commencing or ending, as the case may be;

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(ii) where an instrument is transferred on a date other than at the end of an accrual period, the amount so determined shall be apportioned on a day to day basis over the term of such accrual period in order to determine the relevant portion of such amount relating to the relevant transferor or transferee, as the case may be, in relation to such instrument; and

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(iii) the amount so determined shall be appropriately adjusted by taking into account amounts received or payments made other than at the end of an accrual period;

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‘accrual period’, in relation to an instrument, means—

(a) where in terms of such instrument regular payments at intervals of equal length and not exceeding 12 months per interval are to be made throughout the term of such instrument, the period between such regular payments; or

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(b) any period not exceeding 12 months elected by the holder or issuer, as the case may be,

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which period shall be applied consistently throughout the term of such instrument;

‘adjusted gain on transfer or redemption of an instrument’ means—

(a) in relation to the holder of any income instrument, the amount by which the sum of the transfer price or redemption payment of such income instrument in relation to such holder and any payments received by such holder in terms of such income instrument during the accrual period in which such income instrument is transferred or redeemed, exceeds the sum of the adjusted initial amount in relation to such income instrument and the accrual amount in relation to such accrual period and any payments made by such holder in terms of such income instrument during such accrual period; or

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(b) in relation to the issuer of any instrument, the amount by which the sum of the adjusted initial amount in relation to such instrument and the accrual amount in relation to the accrual period during which such instrument is transferred or redeemed and any payments received by such issuer in terms of such instrument during the accrual period, exceeds the sum of the transfer price or redemption payment in relation to such instrument in relation to such issuer and any payments

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huurder of 'n verbonde persoon met betrekking tot bedoelde huurder verkry is; en

(c) 'n bate wat op of na 1 Julie 1995 vanaf 'n onderhuurder of 'n verbonde persoon met betrekking tot bedoelde onderhuurder verkry is.”.

(2) Subartikel (1) tree op 1 Julie 1995 in werking.

Invoeging van artikel 24J in Wet 58 van 1962

21. (1) Die volgende artikel word hierby in die Hoofwet na artikel 24I ingevoeg:

“Aangaan en toevalling van rente

24J. (1) By die toepassing van hierdie artikel, tensy uit die samehang anders blyk, beteken—

‘aangepaste aanvangsbedrag’—

(a) met betrekking tot die houer van 'n inkomste-instrument betreffende 'n bepaalde toevallingstydperk, die som van die aanvangsbedrag en die toevallingsbedrae met betrekking tot alle vorige toevallingstydperke en enige ander betalings deur bedoelde houer gedurende alle bedoelde vorige toevallingstydperke gemaak min enige betalings deur bedoelde houer gedurende alle bedoelde vorige toevallingstydperke ontvang, ingevolge bedoelde inkomste-instrument; of

(b) met betrekking tot die uitreiker van 'n instrument betreffende 'n bepaalde toevallingstydperk, die som van die aanvangsbedrag en die toevallingsbedrae met betrekking tot alle vorige toevallingstydperke en enige ander betalings deur bedoelde uitreiker gedurende alle bedoelde vorige toevallingstydperke ontvang min enige betalings deur bedoelde uitreiker gedurende alle bedoelde vorige toevallingsstydperke gemaak, ingevolge bedoelde instrument;

‘aangepaste verlies by oordrag of aflossing van 'n instrument’—

(a) met betrekking tot die houer van 'n inkomste-instrument, die bedrag waarmee die som van die aangepaste aanvangsbedrag met betrekking tot bedoelde inkomste-instrument en die toevallingsbedrag met betrekking tot die toevallingstydperk waartydens bedoelde inkomste-instrument oorgedra of afgelos word en enige betalings deur bedoelde houer ingevolge bedoelde inkomste-instrument gedurende bedoelde toevallingstydperk gemaak, die som van die oordragprys of aflossingsbetaling met betrekking tot bedoelde inkomste-instrument met betrekking tot bedoelde houer en enige betalings deur bedoelde houer ingevolge bedoelde inkomste-instrument gedurende bedoelde toevallingstydperk ontvang, te bowe gaan; of

(b) met betrekking tot die uitreiker van 'n instrument, die bedrag waarmee die som van die oordragprys of aflossingsbetaling van bedoelde instrument met betrekking tot bedoelde uitreiker en enige betalings deur bedoelde uitreiker ingevolge bedoelde instrument gemaak gedurende die toevallingstydperk waartydens bedoelde instrument oorgedra of afgelos word, die som van die aangepaste aanvangsbedrag met betrekking tot bedoelde instrument en die toevallingsbedrag met betrekking tot bedoelde toevallingstydperk en enige betalings deur bedoelde uitreiker ingevolge bedoelde instrument gedurende bedoelde toevallingstydperk ontvang, te bowe gaan;

‘aangepaste wins by oordrag of aflossing van 'n instrument’—

(a) met betrekking tot die houer van 'n inkomste-instrument, die bedrag waarmee die som van die oordragprys of aflossingsbetaling van bedoelde inkomste-instrument met betrekking tot bedoelde houer en enige betalings ontvang deur bedoelde houer ingevolge bedoelde inkomste-instrument gedurende die toevallingstydperk waarin bedoelde inkomste-instrument oorgedra of afgelos word, die som van die aangepaste aanvangsbedrag met betrekking tot bedoelde inkomste-instrument en die toevallingsbedrag met betrekking tot bedoelde toevallingstydperk en enige betalings gemaak deur bedoelde houer ingevolge bedoelde inkomste-instrument gedurende bedoelde toevallingstydperk, te bowe gaan; of

- made by such issuer in terms of such instrument during such accrual period;
- 'adjusted initial amount' means—
- (a) in relation to the holder of an income instrument with regard to a particular accrual period, the sum of the initial amount and the accrual amounts in relation to all previous accrual periods and any other payments made by such holder during all such previous accrual periods less any payments received by such holder during all such previous accrual periods, in terms of such income instrument; or
 - (b) in relation to the issuer of an instrument with regard to a particular accrual period, the sum of the initial amount and the accrual amounts in relation to all previous accrual periods and any other payments received by such issuer during all such previous accrual periods less any payments made by such issuer during all such previous accrual periods, in terms of such instrument;
- 'adjusted loss on transfer or redemption of an instrument' means—
- (a) in relation to the holder of any income instrument, the amount by which the sum of the adjusted initial amount in relation to such income instrument and the accrual amount in relation to the accrual period during which such income instrument is transferred or redeemed and any payments made by such holder in terms of such income instrument during such accrual period, exceeds the sum of the transfer price or redemption payment in relation to such income instrument in relation to such holder and any payments received by such holder in terms of such income instrument during such accrual period; or
 - (b) in relation to the issuer of any instrument, the amount by which the sum of the transfer price or redemption payment of such instrument in relation to such issuer and any payments made by such issuer in terms of such instrument during the accrual period during which such instrument is transferred or redeemed, exceeds the sum of the adjusted initial amount in relation to such instrument and the accrual amount in relation to such accrual period and any payments received by such issuer in terms of such instrument during such accrual period;
- 'alternative method' means a method of calculating interest in relation to any class of instruments which—
- (a) conforms with generally accepted accounting practice;
 - (b) is consistently applied in respect of all such instruments (excluding any instrument as contemplated in subsection (9)) for all financial reporting purposes; and
 - (c) method achieves a result in so far as the timing of the accrual and incurrance of interest is concerned which does not differ significantly from the result achieved by the application of the provisions of subsections (2)(a) and (3)(a);
- 'deferred interest' includes—
- (a) any interest where such interest (or any portion thereof), calculated in respect of any accrual period falling within the term of any instrument by applying a constant interest rate throughout the term of such instrument, is not payable or receivable in terms of such instrument within one year from the date of the commencement of such accrual period; and
 - (b) any interest payable or receivable in terms of any instrument where such interest is not calculated by applying a constant interest rate throughout the term of such instrument;
- 'fixed rate instrument' means an instrument in terms of which the amount or amounts payable or receivable is or are or consists of or consist of—
- (a) a specified amount or specified amounts;
 - (b) an amount or amounts the method of calculation of which does not involve the application of a variable rate; or
 - (c) any combination of amounts referred to in paragraph (a) or (b);
- 'holder', in relation to an income instrument—
- (a) means any person who has become entitled to any interest in terms of such income instrument; or
 - (b) at any particular time, means any person who, if any interest payable

- (b) met betrekking tot die uitreiker van 'n instrument, die bedrag waarmee die som van die aangepaste aanvangsbedrag met betrekking tot bedoelde instrument en die toevallingsbedrag met betrekking tot die toevallingstydperk waartydens bedoelde instrument oorgedra of afgelees word en enige betalings deur bedoelde uitreiker ingevolge bedoelde instrument gedurende die toevallingstydperk ontvang, die som van die oordragprys of aflossingsbetaling met betrekking tot bedoelde instrument met betrekking tot bedoelde uitreiker en enige betalings deur bedoelde uitreiker ingevolge bedoelde instrument gedurende bedoelde toevallingstydperk gemaak, te bowe gaan;
- 'aanvangsbedrag' die uitreikersprys of oordragprys, na gelang van die geval, met betrekking tot 'n instrument;
- 'aflossing', met betrekking tot 'n instrument, die aflossing van alle aanspreeklikheid om alle bedrae ingevolge bedoelde instrument te betaal;
- 'aflossingsbetaling', met betrekking tot 'n instrument, enige betaling gemaak of ontvang wat die effek het om bedoelde instrument af te los;
- 'alternatiewe metode' 'n metode om rente te bereken met betrekking tot 'n klas instrumente—
- (a) wat aan algemeen aanvaarde rekeningkundige praktyk voldoen;
- (b) wat konsekwent toegepas word ten opsigte van alle bedoelde instrumente (uitgesonderd enige instrument soos beoog in subartikel (9)) vir alle finansiële verslagdoeningsdoeleindes; en
- (c) welke metode die uitwerking het vir sover dit die tydsberekening van die toevalling of aangaan van rente betref wat nie noemenswaardig verskil nie van die uitwerking wat die toepassing van subartikels (2)(a) en (3)(a) het;
- 'daalverkoping' die verkoop van 'n instrument deur 'n persoon wat nie die eienaar van bedoelde instrument is nie en ten opsigte waarvan bedoelde persoon die verpligting het om bedoelde instrument op 'n toekomstige datum te lewer;
- 'houer', met betrekking tot 'n inkomste-instrument—
- (a) 'n persoon wat geregtig geword het op enige rente ingevolge bedoelde inkomste-instrument; of
- (b) op 'n bepaalde tydstip, 'n persoon wat, indien enige rente betaalbaar ingevolge bedoelde inkomste-instrument op daardie tydstip verskuldig en betaalbaar was, geregtig is om betaling van bedoelde rente te ontvang;
- 'inkomste-instrument' 'n instrument—
- (a) waarvan die termyn een jaar, of redelikerwys waarskynlik een jaar, sal oorskry; en
- (b) wat uitgereik of verkry is teen 'n diskonto of premie of uitgestelde rente dra;
- 'instrument' enige vorm van rentedraende reëling, hetsy skriftelik al dan nie, met inbegrip van—
- (a) 'n effek, obligasie, skuldbrief, wissel, promesse, sertifikaat of soortgelyke reëling;
- (b) 'n deposito by 'n bank of ander finansiële instelling;
- (c) 'n versekerde of onversekerde lening, voorskot of skuld;
- (d) enige verkryging of vervreemding van enige reg om rente te ontvang of die verpligting om rente te betaal, na gelang van die geval, ingevolge enige ander rentedraende reëling; of
- (e) 'n terugkoop-ooreenkoms of 'n terugverkoop-ooreenkoms, wat na 15 Maart 1995 uitgereik is of geag uitgereik te gewees het, of op of voor 15 Maart 1995 uitgereik is en oorgedra is op of na die datum van afkondiging van die Inkomstebelastingwet, 1995, maar uitgesonderd—
- (i) 'n huurooreenkoms; en
- (ii) 'n ooreenkoms wat kwalifiseer vir 'n vermindering beoog in artikel 24(2) in die mate wat bedoelde artikel van toepassing is op die houer van bedoelde ooreenkoms;
- 'oordrag', met betrekking tot 'n instrument, ook—
- (a) die oordrag, verkoop of assignasie van of beskikking op enige ander wyse oor bedoelde instrument deur die houer of uitreiker daarvan, na gelang van die geval; of

- in terms of such income instrument was due and payable at that time, would be entitled to receive payment of such interest;
- 'income instrument' means any instrument—
- (a) the term of which will, or is reasonably likely to, exceed one year; and
 - (b) which is issued or acquired at a discount or premium or bears deferred interest;
- 'initial amount' means the issue price or transfer price, as the case may be, in relation to an instrument;
- 'instrument' means any form of interest-bearing arrangement, whether in writing or not, including—
- (a) any stock, bond, debenture, bill, promissory note, certificate or similar arrangement;
 - (b) any deposit with a bank or other financial institution;
 - (c) any secured or unsecured loan, advance or debt;
 - (d) any acquisition or disposal of any right to receive interest or the obligation to pay any interest, as the case may be, in terms of any other interest bearing arrangement; or
 - (e) any repurchase agreement or resale agreement, which was issued or deemed to have been issued after 15 March 1995, or issued on or before 15 March 1995 and transferred on or after the date of promulgation of the Income Tax Act, 1995, but excluding—
 - (i) any lease agreement; and
 - (ii) any agreement qualifying for an allowance contemplated in section 24(2) to the extent that such section is applicable to the holder of such agreement;
- 'interest' includes the gross amount of any interest or related finance charges, discount or premium payable or receivable in terms of or in respect of a financial arrangement, irrespective of whether such amount is—
- (a) calculated with reference to a fixed rate of interest or a variable rate of interest; or
 - (b) payable or receivable as a lump sum or in unequal instalments during the term of the financial arrangement;
- 'issue', in relation to an instrument, means the creation of the liability to pay or the right to receive an amount or amounts in terms of such instrument;
- 'issue price', in relation to an instrument, means the consideration given or received for the issue of the instrument;
- 'issuer', in relation to any instrument—
- (a) means any person who has incurred any interest in terms of such instrument; or
 - (b) at any particular time, means any person who, if any interest payable in terms of such instrument was due and payable at that time, would be liable to pay such interest;
- 'redemption', in relation to an instrument, means the discharging of all liability to pay all amounts in terms of such instrument;
- 'redemption payment', in relation to an instrument, means any payment made or received which has the effect of redeeming such instrument;
- 'repurchase agreement' means the obtaining of money (which money shall for the purposes of this section be deemed to have been so obtained by way of a loan) through the disposal of an asset by any person to any other person subject to an agreement in terms of which such person undertakes to acquire from such other person at a future date the asset so disposed of or any other asset issued by the issuer of, and which has been so issued subject to the same conditions regarding term, interest rate and price as, the asset so disposed of;

- (b) die verkryging van bedoelde instrument deur die houer of uitreiker daarvan, na gelang van die geval, by wyse van 'n oordrag, verkoop, assignasie of beskikking op enige ander wyse, maar sluit nie die aflossing van bedoelde instrument in nie;
- 5 'oordragprys', met betrekking tot die oordrag van 'n instrument, die teenprestasie betaalbaar of ontvangbaar, na gelang van die geval, vir die oordrag van bedoelde instrument;
- 10 'opbrengs tot op vervaldatum' die koers van saamgestelde rente per toevallingstydperk waarteen die huidige waarde van alle bedrae betaalbaar of ontvangbaar ingevolge 'n instrument met betrekking tot 'n houer of 'n uitreiker, na gelang van die geval, van bedoelde instrument gedurende die termyn van bedoelde instrument gelyk is aan die aanvangsbedrag met betrekking tot bedoelde houer of uitreiker van bedoelde instrument: Met dien verstande dat waar—
- 15 (a) bedoelde instrument 'n veranderlike koers instrument is, bedoelde koers van saamgestelde rente bereken word met verwysing na die veranderlike koers van toepassing op die datum waarop bedoelde koers van saamgestelde rente bereken staan te word ten einde alle bedrae betaalbaar of ontvangbaar na daardie datum vas te stel;
- 20 (b) in die geval van 'n veranderlike koers instrument die veranderlike koers met betrekking tot bedoelde instrument verander, die koers van saamgestelde rente met betrekking tot bedoelde veranderlike koers instrument hervasgestel word met verwysing na—
- 25 (i) die toepaslike aangepaste aanvangsbedrag met betrekking tot bedoelde veranderlike koers instrument voor bedoelde verandering in die koers vasgestel; en
- (ii) bedoelde veranderde veranderlike koers van toepassing op die datum waarop bedoelde koers van saamgestelde rente hervasgestel staan te word ten einde alle bedrae betaalbaar of ontvangbaar na daardie datum vas te stel;
- 30 (c) 'n verandering in die bedinge of voorwaardes van bedoelde instrument plaasvind wat 'n verandering in bedoelde koers van saamgestelde rente met betrekking tot bedoelde instrument tot gevolg sal hê, die koers van saamgestelde rente hervasgestel word met betrekking tot bedoelde instrument met verwysing na die toepaslike aangepaste aanvangsbedrag met betrekking tot bedoelde instrument voor bedoelde verandering vasgestel; of
- 35 (d) daar 'n verandering of wysiging—
- (i) van die regte of belange van 'n houer is met betrekking tot 'n inkomste-instrument om rente ingevolge bedoelde inkomste-instrument te ontvang, die koers van saamgestelde rente met betrekking tot bedoelde inkomste-instrument hervasgestel word ten opsigte van bedoelde houer met verwysing na die toepaslike aangepaste aanvangsbedrag met betrekking tot bedoelde inkomste-instrument voor bedoelde verandering of wysiging vasgestel; of
- 40 (ii) van die verpligtinge van 'n uitreiker is met betrekking tot 'n instrument om enige rente ingevolge bedoelde instrument te betaal, die koers van saamgestelde rente met betrekking tot bedoelde instrument hervasgestel word ten opsigte van bedoelde uitreiker met verwysing na die toepaslike aangepaste aanvangsbedrag met betrekking tot bedoelde instrument voor bedoelde verandering of wysiging vasgestel;
- 45 'rente' ook die bruto bedrag van enige rente of verwante finansieringskoste, diskonto of premie betaalbaar of ontvangbaar ingevolge of ten opsigte van 'n finansiële reëling, ongeag of bedoelde bedrag—
- 50 (a) met verwysing na 'n vaste koers van rente of 'n veranderlike koers van rente bereken word; of
- (b) as 'n enkelbedrag of in ongelyke paaielemente gedurende die termyn van die finansiële reëling betaalbaar of ontvangbaar is;
- 60 'termyn', met betrekking tot 'n instrument, die tydperk vanaf die uitreiking of oordrag, na gelang van die geval, tot die datum van aflossing daarvan; 'terugkoop-ooreenkoms' die verkryging van geld (welke geld by die

- 'resale agreement' means the provision of money (which money shall for the purposes of this section be deemed to have been so provided in the form of a loan) through the acquisition of an asset by any person from any other person subject to an agreement in terms of which such person undertakes to dispose of to such other person at a future date the asset so acquired or any other asset issued by the issuer of, and which has been so issued subject to the same conditions regarding term, interest rate and price as, the asset so acquired; 5
- 'short selling' means the sale of any instrument by a person who is not the owner of such instrument, and in respect of which such person has the obligation to deliver such instrument at a future date; 10
- 'term', in relation to an instrument, means the period from the issue or transfer, as the case may be, until the date of redemption thereof;
- 'transfer', in relation to an instrument, includes—
- (a) the transfer, sale, assignment or disposal in any other manner of such instrument by the holder or issuer thereof, as the case may be; or 15
 - (b) the acquisition of such instrument by the holder or issuer thereof, as the case may be, by way of a transfer, sale, assignment or disposal in any other manner,
- but does not include the redemption of such instrument; 20
- 'transfer price', in relation to the transfer of an instrument, means the consideration payable or receivable, as the case may be, for the transfer of such instrument;
- 'variable rate' means a rate determined with reference to an interest or indexation rate or other similar factor, being a rate or factor that varies or may vary during the term of the instrument; 25
- 'variable rate instrument' means an instrument which is not a fixed rate instrument; and
- 'yield to maturity' means the rate of compound interest per accrual period at which the present value of all amounts payable or receivable in terms of any instrument in relation to a holder or an issuer, as the case may be, of such instrument during the term of such instrument equals the initial amount in relation to such holder or issuer of such instrument: Provided that where— 30
- (a) such instrument is a variable rate instrument, such rate of compound interest shall be calculated with reference to the variable rate applicable on the date such rate of compound interest is to be calculated to determine all amounts payable or receivable after such date; 35
 - (b) in the case of a variable rate instrument the variable rate in relation to such instrument changes, the rate of compound interest shall be redetermined in relation to such variable rate instrument with reference to— 40
 - (i) the appropriate adjusted initial amount in relation to such variable rate instrument determined before such change in the rate; and 45
 - (ii) such changed variable rate applicable on the date such rate of compound interest is to be redetermined to determine all amounts payable or receivable after such date; 50
 - (c) any variation in the terms or conditions of such instrument takes place which will result in a change in such rate of compound interest in relation to such instrument, the rate of compound interest shall be redetermined in relation to such instrument with reference to the appropriate adjusted initial amount in relation to such instrument determined before such variation; or 55
 - (d) there is a variation or alteration— 60
 - (i) of the rights or interests of a holder in relation to an income instrument to receive interest in terms of such income instrument, the rate of compound interest in relation to such income instrument shall be redetermined in respect of such holder with reference to the appropriate adjusted initial amount in relation to such income instrument determined before such variation or alteration; or

- 5 toepassing van hierdie artikel geag word aldus verkry te gewees het by wyse van 'n lening) deur die vervreemding van 'n bate deur 'n persoon aan enige ander persoon onderworpe aan 'n ooreenkoms ingevolge waarvan bedoelde persoon onderneem om op 'n toekomstige datum die bate aldus
- 10 vervreem of enige ander bate uitgereik deur die uitreiker van, en wat aldus uitgereik is onderworpe aan dieselfde voorwaardes betreffende termyn, rentekoers en prys as, die bate aldus vervreem, van bedoelde ander persoon te verkry;
- 15 'terugverkoop-ooreenkoms' die verskaffing van geld (welke geld by die toepassing van hierdie artikel geag word aldus verskaf te gewees het in die vorm van 'n lening) deur die verkryging van 'n bate deur 'n persoon van enige ander persoon onderworpe aan 'n ooreenkoms ingevolge waarvan bedoelde persoon onderneem om op 'n toekomstige datum die bate aldus
- 20 verkry of enige ander bate uitgereik deur die uitreiker van, en wat aldus uitgereik is onderworpe aan dieselfde voorwaardes betreffende termyn, rentekoers en prys as, die bate aldus verkry, aan bedoelde ander persoon te vervreem;
- 'toevallingsbedrag', met betrekking tot 'n toevallingstydperk, 'n bedrag vasgestel ooreenkomstig die volgende formule:
- $$A = B \times C$$
- in welke formule—
- (a) 'A' die bedrag voorstel wat vasgestel moet word;
- (b) 'B' die opbrengs tot op vervaldatum voorstel; en
- (c) 'C' die aangepaste aanvangsbedrag voorstel:
- 25 Met dien verstande dat—
- (i) waar die begin of einde van 'n jaar van aanslag binne 'n toevallings-tydperk val, die bedrag aldus vasgestel, op 'n dag-tot-dag-grondslag oor die termyn van bedoelde toevallingstydperk toegedeel word ten einde die betrokke gedeelte van bedoelde bedrag wat betrekking het
- 30 op daardie deel van bedoelde toevallingstydperk vallende binne die jaar van aanslag wat aldus begin of eindig, na gelang van die geval, vas te stel;
- (ii) waar 'n instrument oorgedra word op 'n ander datum as aan die einde van 'n toevallingstydperk, die bedrag aldus vasgestel op 'n dag-tot-dag-grondslag oor die termyn van bedoelde toevallingstydperk
- 35 toegedeel word ten einde die betrokke gedeelte van bedoelde bedrag wat betrekking het op die betrokke oordraggewer of oordragnemer, na gelang van die geval, met betrekking tot bedoelde instrument, vas te stel; en
- 40 (iii) die bedrag aldus vasgestel, toepaslik aangepas word deur ander bedrae of betalings as aan die einde van 'n toevallingstydperk ontvang of gemaak, in berekening te bring;
- 'toevallingsstydperk', met betrekking tot 'n instrument—
- 45 (a) waar ingevolge bedoelde instrument gereelde betalings met tussenposes van gelyke duur en wat nie 12 maande per tussenpose te bowe gaan nie, deurgaans gedurende die termyn van bedoelde instrument gemaak staan te word, die tydperk tussen bedoelde gereelde betalings; of
- 50 (b) 'n tydperk van hoogstens 12 maande deur die houer of uitreiker, na gelang van die geval, gekies, welke tydperk deurgaans konsekwent gedurende die termyn van bedoelde instrument toegepas moet word;
- 'uitgestelde rente' ook—
- 55 (a) enige rente waar bedoelde rente (of 'n gedeelte daarvan), bereken ten opsigte van 'n toevallingstydperk wat binne die termyn van 'n instrument val deur 'n konstante rentekoers deurgaans gedurende die termyn van bedoelde instrument toe te pas, nie ingevolge bedoelde instrument binne een jaar vanaf die datum vanaf die begin van bedoelde toevallingstydperk betaalbaar of ontvangbaar is nie; en
- 60 (b) enige rente betaalbaar of ontvangbaar ingevolge 'n instrument waar bedoelde rente nie bereken word deur 'n konstante rentekoers deurgaans gedurende die termyn van bedoelde instrument, toe te pas nie;

- (ii) in the obligations of an issuer in relation to an instrument to pay any interest in terms of such instrument, the rate of compound interest in relation to such instrument shall be redetermined in respect of such issuer with reference to the appropriate adjusted initial amount in relation to such instrument determined before such variation or alteration. 5
- (2) Where any person is the issuer in relation to an instrument during any year of assessment, such person shall for the purposes of this Act be deemed to have incurred an amount of interest during such year of assessment, which is equal to— 10
- (a) the sum of all accrual amounts in relation to all accrual periods falling, whether in whole or in part, within such year of assessment in respect of such instrument; or
- (b) an amount determined in accordance with an alternative method in relation to such year of assessment in respect of such instrument. 15
- (3) Where any person is the holder in relation to an income instrument during any year of assessment, there shall for the purposes of this Act be deemed to have accrued to such person during such year of assessment, an amount of interest which is equal to— 20
- (a) the sum of all accrual amounts in relation to all accrual periods falling, whether in part or in whole, within such year of assessment in respect of such income instrument; or
- (b) an amount determined in accordance with an alternative method in relation to such year of assessment in respect of such income instrument. 25
- (4) Any—
- (a) adjusted gain on transfer or redemption of an instrument calculated in relation to the transfer or redemption, as the case may be, of such instrument by a person during any year of assessment shall for the purposes of this Act be deemed to have accrued to such person in such year of assessment; and 30
- (b) adjusted loss on transfer or redemption of an instrument calculated in relation to the transfer or redemption, as the case may be, of such instrument by a person during any year of assessment, shall for the purposes of this Act be deemed to have been incurred by such person in such year of assessment. 35
- (5) Where any interest actually—
- (a) paid by any person in terms of an instrument is to be taken into account in the determination of any accrual amount in relation to such an instrument or any other amount determined in accordance with an alternative method in relation to such instrument which accrual amount or other amount is to be dealt with in terms of the provisions of subsection (2), no account shall for the purposes of section 11 be taken of any such interest so actually paid, save by way of the operation of such subsection; or 40
- (b) received by any person in terms of an income instrument is to be taken into account in the determination of any accrual amount in relation to such income instrument or any other amount determined in accordance with an alternative method in relation to such income instrument which accrual amount or other amount is to be dealt with in 45 50

- ‘uitreik’, met betrekking tot ’n instrument, die skepping van die aanspreeklikheid om te betaal of die reg om ’n bedrag of bedrae te ontvang ingevolge bedoelde instrument;
- 5 ‘uitreikingsprys’, met betrekking tot ’n instrument, die teenprestasie gegee of ontvang vir die uitreik van die instrument;
- ‘uitreiker’, met betrekking tot ’n instrument—
- (a) ’n persoon wat enige rente ingevolge bedoelde instrument aangegaan het; of
- 10 (b) op ’n bepaalde tydstip, ’n persoon wat, indien enige rente betaalbaar ingevolge bedoelde instrument op daardie tydstip verskuldig en betaalbaar was, vir die betaling van bedoelde rente aanspreeklik is;
- ‘vastekoersinstrument’ ’n instrument ingevolge waarvan die bedrag of bedrae betaalbaar of ontvangbaar—
- 15 (a) ’n vasgestelde bedrag of vasgestelde bedrae;
- (b) ’n bedrag of bedrae waarvan die metode van berekening nie die toepassing van ’n veranderlike koers behels nie; of
- (c) enige kombinasie van bedrae in paragraaf (a) of (b) bedoel, is of daaruit bestaan;
- 20 ‘veranderlike koers’ ’n koers bepaal met verwysing na ’n rente- of indekskoers of ander soortgelyke faktor, synde ’n koers of faktor wat gedurende die termyn van die instrument verander of mag verander; en
- ‘veranderlike koers instrument’ ’n instrument wat nie ’n vastekoersinstrument is nie.
- (2) Waar ’n persoon die uitreiker met betrekking tot ’n instrument gedurende ’n jaar van aanslag is, word bedoelde persoon by die toepassing
- 25 van hierdie Wet geag ’n bedrag aan rente aan te gegaan het gedurende bedoelde jaar van aanslag, wat gelyk is aan—
- (a) die som van alle toevallingsbedrae met betrekking tot alle toevallings tydperke wat, hetsy in geheel of gedeeltelik, binne bedoelde jaar van aanslag ten opsigte van bedoelde instrument val; of
- 30 (b) ’n bedrag ooreenkomstig ’n alternatiewe metode met betrekking tot bedoelde jaar van aanslag ten opsigte van bedoelde instrument vasgestel.
- (3) Waar ’n persoon die houër met betrekking tot ’n inkomsteinstrument gedurende ’n jaar van aanslag is, word daar by die toepassing van hierdie Wet geag aan bedoelde persoon gedurende bedoelde jaar van aanslag ’n bedrag aan rente toe te geval het wat gelyk is aan—
- 35 (a) die som van alle toevallingsbedrae met betrekking tot alle toevallings tydperke wat, hetsy in geheel of gedeeltelik, binne bedoelde jaar van aanslag ten opsigte van bedoelde inkomsteinstrument val; of
- 40 (b) ’n bedrag ingevolge ’n alternatiewe metode met betrekking tot bedoelde jaar van aanslag ten opsigte van bedoelde inkomsteinstrument vasgestel.
- (4) Enige—
- 45 (a) aangepaste wins by oordrag of aflossing van ’n instrument met betrekking tot die oordrag of aflossing, na gelang van die geval, van bedoelde instrument deur ’n persoon gedurende ’n jaar van aanslag bereken, word by die toepassing van hierdie Wet geag aan bedoelde persoon in bedoelde jaar van aanslag toe te geval het; en
- 50 (b) aangepaste verlies by oordrag of aflossing van ’n instrument met betrekking tot die oordrag of aflossing, na gelang van die geval, van bedoelde instrument deur ’n persoon gedurende ’n jaar van aanslag bereken, word by die toepassing van hierdie Wet geag deur bedoelde persoon in bedoelde jaar van aanslag aangegaan te gewees het.
- 55 (5) Waar enige rente werklik—
- (a) deur ’n persoon ingevolge ’n instrument betaal, in ag geneem staan te word by die vasstelling van ’n toevallingsbedrag met betrekking tot bedoelde instrument of ’n ander bedrag ooreenkomstig ’n alternatiewe metode met betrekking tot bedoelde instrument vasgestel
- 60 welke toevallingsbedrag of ander bedrag ingevolge die bepaling van subartikel (2) mee gehandel staan te word, word by die toepassing van artikel 11 geen ag geslaan nie op bedoelde rente aldus werklik betaal behalwe deur die werking van bedoelde subartikel; of

terms of the provisions of subsection (3), no account shall for the purposes of the definition of 'gross income' in section 1 be taken of any such interest so actually received, save by way of the operation of such subsection.	
(6) Where the term of an instrument issued on or before 15 March 1995 is extended or the terms or conditions of such instrument are materially varied after the said date, such instrument shall be deemed to have been issued after the said date and the provisions of this section shall apply to both the issuer and the holder in relation to such instrument as from the date of such extension or material variation.	5 10
(7) Where there is more than one—	
(a) holder in relation to an income instrument and any accrual amount in relation to an accrual period with regard to any one of the holders in relation to such income instrument is to be determined, such accrual amount shall be so determined without taking into account any consideration or any amount or amounts paid or payable or received or receivable by any other holder in terms of such income instrument; and	15
(b) issuer in relation to an instrument and any accrual amount in relation to an accrual period with regard to any one of the issuers in relation to such instrument is to be determined, such accrual amount shall be so determined without taking into account any consideration or any amount or amounts paid or payable or received or receivable by any other issuer in terms of such instrument.	20
(8) Where in relation to an instrument any person is entitled to any interest in terms of such instrument and also liable to pay any interest in terms of such instrument, such person shall for the purposes of this section—	25
(a) where the interest which he is entitled to receive in terms of such instrument exceeds the interest which he is liable to pay in terms of such instrument, be deemed not to be an issuer in relation to such instrument; and	30
(b) where the interest which he is liable to pay in terms of such instrument exceeds the interest which he is entitled to receive in terms of such instrument, be deemed not to be a holder in relation to such instrument.	35
(9)(a) Any company whose business comprises the dealing in instruments (including the short selling of instruments) may elect that the provisions of subsections (2) to (8), inclusive, shall not apply to all such instruments in respect of which it so deals in.	40
(b) Any election referred to in paragraph (a) shall—	
(i) be made in writing;	
(ii) be accompanied by a statement setting forth full details of the methodology to be applied by the company to determine the market value as contemplated in paragraph (c) in relation to all instruments contemplated in paragraph (a);	45
(iii) not take effect unless the Commissioner has, subject to such conditions as he may deem necessary, approved—	
(A) the methodology to be applied by such company to determine the market value as contemplated in paragraph (c) in respect of such instruments; and	50
(B) the manner in which such market value in relation to such instruments is to be taken into account in the determination of the taxable income of such company during any year of assessment; and	55

- (b) deur 'n persoon ingevolge 'n inkomste-instrument ontvang, in aanmerking geneem staan te word by die vasstelling van 'n toevallingsbedrag met betrekking tot bedoelde inkomste-instrument of 'n ander bedrag ingevolge 'n alternatiewe metode met betrekking tot bedoelde inkomste-instrument bepaal welke toevallingsbedrag of ander bedrag ingevolge die bepalings van subartikel (3) mee gehandel staan te word, word by die toepassing van die omskrywing van 'bruto inkomste' in artikel 1 geen ag geslaan nie op bedoelde rente aldus werklik ontvang behalwe deur die werking van bedoelde subartikel.
- (6) Waar die termyn van 'n instrument op of voor 15 Maart 1995 uitgereik, verleng word of die bedinge of voorwaardes van bedoelde instrument wesentlik na bedoelde datum gewysig word, word bedoelde instrument geag na bedoelde datum uitgereik te gewees het en is die bepalings van hierdie artikel van toepassing op beide die uitreiker en die houer met betrekking tot bedoelde instrument vanaf die datum van bedoelde verlenging of wesentlike wysiging.
- (7) Waar daar meer as een—
- (a) houer met betrekking tot 'n inkomste-instrument is en 'n toevallingsbedrag met betrekking tot 'n toevallingstydperk ten aansien van enigeen van die houters met betrekking tot bedoelde instrument vasgestel staan te word, word bedoelde toevallingsbedrag aldus vasgestel sonder om enige teenprestasie of 'n bedrag of bedrae betaal of betaalbaar of ontvang of ontvangbaar deur enige ander houer ingevolge bedoelde instrument in aanmerking te neem; en
- (b) uitreiker met betrekking tot 'n instrument is en 'n toevallingsbedrag met betrekking tot 'n toevallingstydperk ten aansien van enigeen van die uitreikers met betrekking tot bedoelde instrument vasgestel staan te word, word bedoelde toevallingsbedrag aldus vasgestel sonder om enige teenprestasie of 'n bedrag of bedrae betaal of betaalbaar of ontvang of ontvangbaar deur enige ander uitreiker ingevolge bedoelde instrument in aanmerking te neem.
- (8) Waar met betrekking tot 'n instrument 'n persoon op enige rente ingevolge bedoelde instrument geregtig is en ook vir die betaling van enige rente ingevolge bedoelde instrument aanspreeklik is, word bedoelde persoon by die toepassing van hierdie artikel—
- (a) waar die rente wat hy geregtig is om ingevolge bedoelde instrument te ontvang die rente waarvoor hy ingevolge bedoelde instrument aanspreeklik is om te betaal, te bowe gaan, geag nie 'n uitreiker met betrekking tot bedoelde instrument te wees nie; en
- (b) waar die rente waarvoor hy ingevolge bedoelde instrument aanspreeklik is om te betaal, die rente wat hy ingevolge bedoelde instrument geregtig is om te ontvang, te bowe gaan, geag nie 'n houer met betrekking tot bedoelde instrument te wees nie.
- (9)(a) 'n Maatskappy wie se besigheid die handel drywe in instrumente (met inbegrip van die daalverkoop van instrumente) uitmaak, kan kies dat die bepalings van subartikels (2) tot en met (8) nie van toepassing is nie op alle bedoelde instrumente ten opsigte waarvan dit aldus in handel drywe.
- (b) 'n Keuse bedoel in paragraaf (a)—
- (i) word skriftelik gedoen;
- (ii) word vergesel van 'n verklaring waarin volle besonderhede verstrekk word van die metodologie wat deur die maatskappy toegepas staan te word om die markwaarde soos beoog in paragraaf (c) vas te stel met betrekking tot alle instrumente in paragraaf (a) beoog;
- (iii) word nie van krag nie tensy die Kommissaris, behoudens die voorwaardes wat hy nodig ag—
- (A) die metodologie wat deur bedoelde maatskappy toegepas staan te word om die markwaarde soos beoog in paragraaf (c) ten opsigte van bedoelde instrumente vas te stel; en
- (B) die wyse waarop bedoelde markwaarde met betrekking tot bedoelde instrumente in rekening gebring staan te word by die vasstelling van die belasbare inkomste van bedoelde maatskappy gedurende 'n jaar van aanslag,

- (iv) subject to the provisions of paragraphs (e) and (f), be binding upon such company in respect of all such instruments during the year of assessment in which it took effect and every succeeding year of assessment.
- (c) The market value in relation to all instruments contemplated in paragraph (a) of a company which made an election as contemplated in such paragraph shall be determined in accordance with commercially accepted practice which is applied by such company consistently in respect of all such instruments for financial reporting purposes to its shareholders.
- (d) Any instrument contemplated in paragraph (a) which as a result of an election made in terms of such paragraph is to be dealt with on a market value basis as contemplated in the foregoing provisions of this subsection shall (subject to the provisions of paragraphs (e) and (f)) be so dealt with until the date of redemption or transfer of such instrument.
- (e) Where the Commissioner is satisfied that the approval granted by him in terms of paragraph (b)(iii) was obtained by fraud or in consequence of any misrepresentation or failure to disclose any material fact by the company which made the election in terms of paragraph (a), he shall, if he is satisfied that in the light of the full facts the approval should not have been granted, withdraw such approval as from the date such approval was granted by him.
- (f) Where any company during any year of assessment no longer complies with the provisions of this subsection—
- the approval granted by the Commissioner in terms of paragraph (b)(iii) shall be deemed to have been withdrawn by the Commissioner as from such year of assessment; and
 - an appropriate adjustment shall be made to the taxable income of such company during such year of assessment in relation to all instruments contemplated in paragraph (a) of the company held and not disposed of or not redeemed by it, as the case may be, as at the end of such year of assessment, having regard to all interest which would have been deemed to have been incurred by or accrued to such company had the provisions of this subsection not been applicable during all years of assessment before such year of assessment and all amounts which have been included in or deducted from the income of such company during such years of assessment: Provided that the provisions of this paragraph shall not have the effect that an amount be included in or deducted from the income of such company more than once.
- (10) Any reference in this section to any payment made or an amount paid or payable, consideration given or received or any payment received or an amount received or receivable, as the case may be, shall be construed as including a payment or an amount or consideration otherwise than in cash.
- (11) Any decision of the Commissioner in the exercise of his discretion under this section shall be subject to objection and appeal.”.
- (2) Subsection (1) shall, in so far as it relates to—
- any instrument issued after 15 March 1995, be deemed to have come into operation on 16 March 1995 and shall apply in respect of any instrument issued on or after that date;
 - any instrument issued on or before 15 March 1995 of which the term is extended after that date or of which the terms and conditions are materially varied after that date, be deemed to have come into operation from the date of such extension or material variation, as the case may be; or
 - the transfer of any instrument issued on or before 15 March 1995, come into operation on the date of promulgation of this Act and shall apply to any such

goedgekeur het; en

(iv) is, behoudens die bepalinge van paragrafe (e) en (f), bindend op bedoelde maatskappy ten opsigte van alle bedoelde instrumente gedurende die jaar van aanslag waarin dit van krag word en elke daaropvolgende jaar van aanslag.

(c) Die markwaarde met betrekking tot alle instrumente beoog in paragraaf (a) van 'n maatskappy wat 'n keuse gedoen het soos in bedoelde paragraaf beoog, word vasgestel ooreenkomstig kommersieel aanvaarde praktyk wat konsekwent deur bedoelde maatskappy ten opsigte van alle bedoelde instrumente vir finansiële verslagdoeningsdoeleindes aan sy aandeelhouders toegepas word.

(d) 'n Instrument beoog in paragraaf (a) wat as gevolg van 'n keuse gemaak ingevolge bedoelde paragraaf op 'n markwaardegrondslag soos beoog in die voorgaande bepalinge van hierdie subartikel mee gehandel staan te word, word (behoudens die bepalinge van paragrafe (e) en (f)) aldus mee gehandel tot die datum van aflossing of oordrag van bedoelde instrument.

(e) Waar die Kommissaris oortuig is dat die goedkeuring deur hom ingevolge paragraaf (b)(iii) toegestaan deur bedrog of as gevolg van 'n wanvoorstelling of verswyging van enige tersaaklike feit deur die maatskappy verkry is wat die keuse ingevolge paragraaf (a) uitgeoefen het, moet hy, indien hy oortuig is dat in die lig van die volle feite die goedkeuring nie toegestaan moes gewees het nie, bedoelde goedkeuring intrek vanaf die datum waarop bedoelde goedkeuring deur hom toegestaan is.

(f) Waar 'n maatskappy gedurende 'n jaar van aanslag nie meer aan die bepalinge van hierdie subartikel voldoen nie, word—

(i) die goedkeuring deur die Kommissaris toegestaan ingevolge paragraaf (b)(iii) geag ingetrek te gewees het deur die Kommissaris vanaf bedoelde jaar van aanslag; en

(ii) 'n toepaslike aanpassing aan die belasbare inkomste van bedoelde maatskappy gedurende bedoelde jaar van aanslag gemaak met betrekking tot alle instrumente beoog in paragraaf (a) deur die maatskappy besit en nie van die hand gesit of afgelees nie, na gelang van die geval, soos aan die einde van bedoelde jaar van aanslag, met inagneming van alle rente wat sou geag aangegaan gewees het deur of toegeval het aan bedoelde maatskappy, sou die bepalinge van dié subartikel nie van toepassing gewees het nie gedurende alle jare van aanslag voor bedoelde jaar van aanslag en alle bedrae wat ingesluit is in of afgetrek is van die inkomste van bedoelde maatskappy gedurende bedoelde jare van aanslag: Met dien verstande dat die bepalinge van hierdie paragraaf nie die uitwerking het dat 'n bedrag meer as een keer ingesluit word in of afgetrek word van die inkomste van bedoelde maatskappy nie.

(10) Enige verwysing in hierdie artikel na 'n betaling gemaak of 'n bedrag betaal of betaalbaar, teenprestasie gegee of ontvang of 'n betaling ontvang of 'n bedrag ontvang of ontvangbaar, na gelang van die geval, word uitgelê asof dit 'n betaling of 'n bedrag of teenprestasie andersins as in kontant insluit.

(11) 'n Beslissing deur die Kommissaris by die uitoefening van sy diskresie kragtens hierdie artikel is aan beswaar en appèl onderhewig.”.

(2) Vir sover subartikel (1) betrekking het op—

(a) die uitreiking van 'n instrument na 15 Maart 1995, word dit geag op 16 Maart 1995 in werking te getree het en is dit van toepassing op 'n instrument wat op of na daardie datum uitgereik is;

(b) 'n instrument wat op of voor 15 Maart 1995 uitgereik is waarvan die termyn na daardie datum verleng is of waarvan die bedinge of voorwaardes wesentlik na daardie datum gewysig is of word, word dit geag in werking te getree het vanaf die datum van bedoelde verlenging of wesentlike wysiging, na gelang van die geval; of

(c) die oordrag van 'n instrument wat op of voor 15 Maart 1995 uitgereik is, tree dit in werking op die datum van afkondiging van hierdie Wet en is dit van

instrument transferred on or after that date as from the date of transfer of such last-mentioned instrument.

Amendment of section 29 of Act 58 of 1962, as inserted by section 25 of Act 113 of 1993

22. Section 29 of the principal Act is hereby amended by the substitution in subsection (18) for the expression "married person" of the expression "natural person". 5

Substitution of section 31 of Act 58 of 1962

23. (1) The following section is hereby substituted for section 31 of the principal Act:

"Determination of taxable income of certain persons in respect of international transactions" 10

31. (1) For the purposes of this section—

'goods' includes any corporeal movable thing, fixed property and any real right in any such thing or fixed property;

'international agreement' means a transaction, operation or scheme entered into between— 15

(a) a person who, in the case of a natural person, is ordinarily resident in the Republic or in the case of a person other than a natural person, is managed or controlled in the Republic; and

(b) any other person who, in the case of a natural person, is ordinarily resident outside the Republic or in the case of a person other than a natural person, is managed or controlled outside the Republic; and 20

'services' includes anything done or to be done, including, without limiting the generality of the foregoing—

(a) the granting, assignment, cession or surrender of any right, benefit or privilege; 25

(b) the making available of any facility or advantage;

(c) the granting of financial assistance, including a loan, advance or debt, and the provision of any security or guarantee;

(d) the performance of any work;

(e) an agreement of insurance; or 30

(f) the conferring of rights to incorporeal property.

(2) Where any goods or services are supplied or acquired in terms of an international agreement and—

(a) the acquiror is a connected person in relation to the supplier; and

(b) the goods or services are supplied or acquired at a price which is either— 35

(i) less than the price which such goods or services might have been expected to fetch if the parties to the transaction had been independent persons dealing at arm's length (such price being the arm's length price); or 40

(ii) greater than the arm's length price, then, for the purposes of this Act in relation to either the acquiror or supplier, the Commissioner may, in the determination of the taxable income of either the acquiror or supplier, adjust the consideration in respect of the transaction to reflect an arm's length price for the goods or services. 45

(3)(a) Where any natural person ordinarily resident outside the Republic or any person other than a natural person who is managed or controlled outside the Republic (hereinafter referred to as the investor) has granted financial assistance contemplated in paragraph (c) of the definition of 'services' in subsection (1), whether directly or indirectly, to— 50

(i) any connected person in relation to the investor who, in the case of a natural person, is ordinarily resident in the Republic or in the case of a person other than a natural person, is managed or controlled in the Republic; or

(ii) any other person (in whom he has a direct or indirect interest) other 55

toepassing op so 'n instrument wat op of na daardie datum oorgedra is vanaf die datum van oordrag daarvan.

Wysiging van artikel 29 van Wet 58 van 1962, soos ingevoeg deur artikel 25 van Wet 113 van 1993

- 5 **22.** Artikel 29 van die Hoofwet word hierby gewysig deur in subartikel (18) die uitdrukking "getroude persoon" deur die uitdrukking "natuurlike persoon" te vervang.

Vervanging van artikel 31 van Wet 58 van 1962

- 23.** (1) Artikel 31 van die Hoofwet word hierby deur die volgende artikel vervang:

"Vasstelling van belasbare inkomste van sekere persone ten opsigte van internasionale transaksies

31. (1) By die toepassing van hierdie artikel beteken—

'dienste' ook enigiets wat gedoen is of gedoen staan te word, met inbegrip van, sonder om die algemeenheid van die voorgaande te beperk—

- (a) die verlening, assignasie, sedering of afstanddoening van enige reg, voordeel of voorreg;
 (b) die beskikbaarstelling van enige fasiliteit of voordeel;
 (c) die verlening van finansiële bystand, met inbegrip van 'n lening, voorskot of skuld, en die voorsiening van enige sekuriteit of waarborg;
 (d) die verrigting van enige werk;
 (e) 'n ooreenkoms van versekering; of
 (f) die toekenning van regte op onliggaamlike eiendom;
 'goedere' ook enige liggaamlike roerende goed, vasgoed en enige saaklike reg op bedoelde goed of vasgoed; en

'internasionale ooreenkoms' 'n transaksie, handeling of skema aangegaan tussen—

- (a) 'n persoon wat, in die geval van 'n natuurlike persoon, gewoonlik in die Republiek woonagtig is of in die geval van 'n persoon behalwe 'n natuurlike persoon, in die Republiek bestuur of beheer word; en
 (b) enige ander persoon wat, in die geval van 'n natuurlike persoon, gewoonlik buite die Republiek woonagtig is of in die geval van 'n persoon behalwe 'n natuurlike persoon, buite die Republiek bestuur of beheer word.

(2) Waar enige goedere of dienste gelewer of verkry word ingevolge 'n internasionale ooreenkoms en—

- (a) die verkryger 'n verbonde persoon met betrekking tot die leweransier is; en
 (b) die goedere of dienste verkry word teen 'n prys wat óf—
 (i) minder is as die prys wat dit na verwagting sou behaal het indien die partye by die transaksie onafhanklike persone was wat tot die uiterste voorwaardes beding (bedoelde prys synde 'n prys onder uiterste voorwaardes beding te wees); óf

(ii) groter as die prys beding onder uiterste voorwaardes is, dan, by die toepassing van hierdie Wet met betrekking tot óf die verkryger óf leweransier, kan die Kommissaris, by die vasstelling van die belasbare inkomste van óf die verkryger óf leweransier, die teenprestasie ten opsigte van die transaksie aanpas om 'n prys beding onder uiterste voorwaardes vir die goedere of dienste weer te gee.

(3)(a) Waar 'n natuurlike persoon wat gewoonlik buite die Republiek woonagtig is of 'n persoon behalwe 'n natuurlike persoon wat buite die Republiek bestuur of beheer word (hieronder die belegger genoem) finansiële bystand beoog in paragraaf (c) van die omskrywing van 'dienste' in subartikel (1), hetsy regstreeks of onregstreeks verleen het, aan—

- (i) 'n verbonde persoon met betrekking tot die belegger wat, in die geval van 'n natuurlike persoon, gewoonlik in die Republiek woonagtig is of in die geval van 'n persoon behalwe 'n natuurlike persoon, in die Republiek bestuur of beheer word; of
 (ii) 'n ander persoon (waarin hy 'n regstreekse of onregstreekse belang

than a natural person, who is managed or controlled in the Republic (hereinafter referred to as the recipient) and, by virtue of such interest, is entitled to participate in not less than 25 per cent of the dividends, profits or capital of the recipient, or is entitled, directly or indirectly, to exercise not less than 25 per cent of the votes of the recipient, and the Commissioner is, having regard to the circumstances of the case, of the opinion that the value of the aggregate of all such financial assistance is excessive in relation to the fixed capital (being share capital, share premium, accumulated profits, whether of a capital nature or not, or any other permanent owners' capital, other than permanent capital in the form of financial assistance as so contemplated) of such connected person or recipient, any interest, finance charge or other consideration payable for or in relation to or in respect of the financial assistance shall, to the extent to which it relates to the amount which is excessive as contemplated in this paragraph, be disallowed as a deduction for the purposes of this Act.

(b) For the purposes of paragraph (a), financial assistance granted indirectly shall be deemed to include any financial assistance granted by any third person who is not a connected person in relation to the investor, a connected person contemplated in paragraph (a) or the recipient, where such financial assistance has been granted by arrangement, directly or indirectly, with the investor and on the strength of any financial assistance granted, directly or indirectly, by the investor or any connected person in relation to the investor, to such third person."

(2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any goods or services supplied or acquired on or after that date.

Insertion of sections 37F and 37G in Act 58 of 1962

24. (1) The following sections are hereby inserted in the principal Act after section 37E:

"Determination of taxable income derived by persons previously assessable under certain other laws

37F. Where it is necessary for any rule provided in this Act as to the inclusion in the income of any taxpayer for any year or as to the deduction or set-off of any amount from or against his income for such year, that regard shall be had to anything that has been done or has occurred in or in relation to a previous year of assessment, anything that has in fact been done or has in fact occurred in or in relation to a year of assessment during which the taxpayer was assessable for taxation purposes in terms of any law of a former self-governing territory declared under section 26 of the repealed Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), to be a self-governing territory or of the former Republic of Transkei, Bophuthatswana, Venda or Ciskei for any year of assessment, shall, subject to such adjustments as may in the circumstances be appropriate, for the purposes of applying such rule be taken into account.

Determination of taxable income derived from small business undertakings

37G. The Minister of Finance may make regulations to facilitate compliance with the provisions of this Act by natural persons who carry on business through small business undertakings, whether as sole proprietors or in partnership with other natural persons.

(2) A regulation made under subsection (1) may—

(a) prescribe what shall constitute a small business undertaking, having regard to—

- het) behalwe 'n natuurlike persoon, wat binne die Republiek bestuur of beheer word (hierna die ontvanger genoem) en, uit hoofde van bedoelde belang, geregtig word om te deel in nie minder nie as 25 persent van die dividende, winste of kapitaal van die ontvanger, of geregtig word om, regstreeks of onregstreeks, nie minder nie as 25 persent van die stemreg van die ontvanger uit te oefen,
- en die Kommissaris, met inagneming van die omstandighede van die geval, van mening is dat die waarde van die som van alle bedoelde finansiële bystand oormatig is met betrekking tot die vaste kapitaal (synde aandeelkapitaal, aandeelpremie, opgehoopte winste, hetsy van 'n kapitale aard al dan nie, of enige ander permanente eienaarskapitaal, behalwe permanente kapitaal in die vorm van finansiële bystand aldus beoog) van bedoelde verbonde persoon of ontvanger, word enige rente, finansieringskoste of ander teenprestasie betaalbaar vir of met betrekking tot of ten opsigte van die finansiële bystand, vir sover dit betrekking het op die bedrag wat oormatig is soos in hierdie paragraaf beoog, van die hand gewys as 'n aftrekking by die toepassing van hierdie Wet.
- (b) By die toepassing van paragraaf (a), word finansiële bystand wat onregstreeks verleen is, geag om enige finansiële bystand verleen deur 'n derde persoon wat nie 'n verbonde persoon met betrekking tot die belegger, 'n verbonde persoon beoog in paragraaf (a) of die ontvanger is nie, in te sluit, waar bedoelde finansiële bystand deur reëling, regstreeks of onregstreeks, met die belegger verleen is en op sterkte van enige finansiële bystand, regstreeks of onregstreeks, deur die belegger of enige verbonde persoon met betrekking tot die belegger, aan bedoelde derde persoon verleen is."

(2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing op enige goedere of dienste wat op of na daardie datum gelewer of verkry is.

30 Invoeging van artikels 37F en 37G in Wet 58 van 1962

24. (1) Die volgende artikels word hierby in die Hoofwet na artikel 37E ingevoeg:

"Vasstelling van belasbare inkomste verkry deur persone wat voorheen ingevolge sekere ander wette belasbaar was

- 35 **37F.** Waar dit vir 'n reël voorsien in die Hoofwet aangaande die insluiting van 'n bedrag in die inkomste van 'n belastingpligtige vir enige jaar of aangaande die aftrekking of in vergelyking bring van 'n bedrag van of teen sy inkomste vir bedoelde jaar, nodig is dat rekening gehou moet word met enigiets wat gedoen is of gebeur het in of met betrekking tot 'n vorige jaar van aanslag, word enigiets wat inderdaad gedoen is of inderdaad gebeur het in of met betrekking tot 'n jaar van aanslag waartydens die belastingpligtige vir belastingdoeleindes ingevolge 'n wet van 'n voormalige selfregerende gebied wat kragtens artikel 26 van die herroepe Grondwet van die Selfregerende Gebiede, 1971 (Wet No. 21 van 1971), tot 'n selfregerende gebied verklaar is of van die voormalige Republiek van Transkei, Bophuthatswana, Venda of Ciskei, vir enige jaar van aanslag belasbaar was, vir die doeleindes van die toepassing van bedoelde reël, maar behoudens die aanpassings wat onder die omstandighede toepaslik mag wees, in aanmerking geneem.

50 Vasstelling van belasbare inkomste van kleinsake-ondernemings verkry

- 37G.** Die Minister van Finansies kan regulasies uitvaardig om nakoming van die bepalings van hierdie Wet te vergemaklik deur natuurlike persone wat besigheid dryf deur middel van kleinsake-ondernemings, hetsy as alleeneienaar of in vennootskap met ander natuurlike persone.

- (2) 'n Regulasie uitgevaardig kragtens subartikel (1) kan—
- (a) voorskryf wat 'n kleinsake-onderneming uitmaak, met inagneming van—

- (i) the nature of the undertaking;
- (ii) the turnover, taxable income or profit of the undertaking;
- (iii) the number of persons employed in the undertaking;
- (iv) the nature and extent of other income derived by the proprietor or partners; and
- (v) any other feature which, in the opinion of the said Minister, indicates that an undertaking should be regarded as a small business undertaking;
- (b) provide for the variation of any provision of this Act relating to the determination of the taxable income derived from a small business undertaking, including—
- (i) the determination of taxable income having regard only to amounts actually received or expended;
- (ii) any variation in the manner in which the values of trading stock are taken into account;
- (iii) the manner in which expenditure of a capital nature incurred is to be treated; and
- (iv) any other provision which, save in so far as the timing of the receipt or accrual of income or the incurrance of expenditure is concerned, will not result in a material variation in the determination of the taxable income derived by the undertaking over a period of time;
- (c) provide for the exemption from, or extension of time limits in, any provision of this Act relating to the preparation and submission of documents, accounts, returns or payments;
- (d) make such other provision as in the opinion of the said Minister will facilitate the carrying on of small business undertakings.”
- (2) Subsection (1) shall in relation to the insertion of section 37F in the principal Act be deemed to have come into operation—
- (a) in respect of a person (other than a company), from the commencement of years of assessment commencing on or after 1 March 1995; and
- (b) in respect of any company, from the commencement of years of assessment ending on or after 1 April 1995.

Repeal of Part III of Chapter II of Act 58 of 1962

25. (1) Part III of Chapter II of the principal Act is hereby repealed. 35

(2) Subsection (1) shall come into operation on 1 October 1995 and shall apply to—

- (a) any dividend (excluding such portion thereof as consists of an interim dividend) which has been declared by any company on or after that date; and
- (b) any interim dividend the payment of which has been approved after that date by the directors of any company or by some other person under authority conferred by the memorandum and articles of association of such company. 40

Amendment of section 57 of Act 58 of 1962, as amended by section 22 of Act 88 of 1965 and section 27 of Act 90 of 1988

26. The following section is hereby substituted for section 57 of the principal Act:

“Donations by a body corporate at the instance of any person 45

57. (1) If any property is disposed of under any donation by any body corporate at the instance of any person, that property shall for the purposes of this Part be deemed to be disposed of under a donation by that person: Provided that any tax paid or payable by that person in respect of any property so disposed of under a donation by any body corporate may be recovered from the assets of that body corporate. 50

- (i) die aard van die onderneming;
- (ii) die omset, belasbare inkomste of wins van die onderneming;
- (iii) die aantal persone in diens in die onderneming;
- (iv) die aard en omvang van ander inkomste verkry deur die eienaar of vennote; en
- (v) enige ander eienskap wat, na die oordeel van bedoelde Minister, daarop dui dat 'n onderneming as 'n kleinsake-onderneming beskou moet word;
- (b) voorsiening maak vir 'n verandering van 'n bepaling van hierdie Wet wat betrekking het op die vasstelling van die belasbare inkomste verkry deur 'n kleinsake-onderneming, met inbegrip van—
- (i) die vasstelling van belasbare inkomste slegs met inagneming van bedrae werklik ontvang of bestee;
- (ii) enige verandering in die wyse waarop die waardes van handelsvoorraad in berekening gebring word;
- (iii) die wyse waarop uitgawes van 'n kapitale aard aangegaan mee gehandel moet word; en
- (iv) enige ander bepaling wat, behalwe vir sover as wat dit die tydsberekening van die ontvangs of toevalling van inkomste of aangaan van onkoste betref, nie sal lei tot 'n wesentlike verandering in die vasstelling van die belasbare inkomste verkry deur die onderneming oor 'n tydperk nie;
- (c) voorsiening maak vir die vrystelling van, of verlenging van tydsbeperkinge in, enige bepaling van hierdie Wet wat betrekking het op die voorbereiding en voorlegging van dokumente, rekeninge, opgawes of betalings;
- (d) die ander voorsiening maak wat na die oordeel van die Minister die bedryf van kleinsake-ondernemings sal vergemaklik.”

(2) Subartikel (1) word met betrekking tot die invoeging van artikel 37F by die Hoofwet geag in werking te getree het—

(a) ten opsigte van 'n persoon (behalwe 'n maatskappy), vanaf die begin van jare van aanslag beginnende op of na 1 Maart 1995; en

(b) ten opsigte van 'n maatskappy, vanaf die begin van jare van aanslag eindigende op of na 1 April 1995.

35 Herroeping van Deel III van Hoofstuk II van Wet 58 van 1962

25. (1) Deel III van Hoofstuk II van die Hoofwet word hierby herroep.

(2) Subartikel (1) tree in werking op 1 Oktober 1995 en is van toepassing op—

(a) 'n dividend (met uitsluiting van dié gedeelte daarvan wat uit 'n tussentydse dividend bestaan) wat op of na daardie datum deur 'n maatskappy verklaar is; en

(b) 'n tussentydse dividend waarvan die betaling na daardie datum goedgekeur is deur die direkteure van 'n maatskappy of deur iemand anders kragtens magtiging deur die akte van oprigting en statute van bedoelde maatskappy verleen.

45 Wysiging van artikel 57 van Wet 58 van 1962, soos gewysig deur artikel 22 van Wet 88 van 1965 en artikel 27 van Wet 90 van 1988

26. Artikel 57 van die Hoofwet word hierby deur die volgende artikel vervang:

“Skenkings deur 'n regspersoon wat deur enige persoon daartoe beweeg is

50 **57.** (1) Indien ingevolge 'n skenking oor eiendom beskik word deur 'n liggaam met regspersoonlikheid wat deur enige persoon daartoe beweeg is, word by die toepassing van hierdie Deel geag dat daardie persoon oor bedoelde eiendom ingevolge 'n skenking beskik het: Met dien verstande dat belasting deur daardie persoon betaal of betaalbaar ten opsigte van eiendom waaroor aldus ingevolge 'n skenking deur 'n liggaam met regspersoonlikheid beskik is, uit die bates van daardie liggaam met regspersoonlikheid verhaal kan word.

- (2) For the purposes of subsection (1) property shall be deemed to be disposed of under a donation by any body corporate at the instance of any person if, having regard to the circumstances under which that donation was made by such body corporate, the Commissioner is of the opinion—
- (a) that it was not made in the ordinary course of the normal income earning operations of that body corporate; and
 - (b) that the selection of the donee who benefited by the donation was made at the instance of that person.”.

Insertion of section 57A in Act 58 of 1962

27. The following section is hereby inserted in the principal Act after section 57:

“Donations by spouses married in community of property

57A. For the purposes of this Part, in the case of spouses married in community of property, where any property is disposed of in terms of a donation by one of the spouses and—

- (a) such property falls within the joint estate of the spouses, such donation shall be deemed to have been made in equal shares by each spouse; and
- (b) such property was excluded from the joint estate of the spouses, such donation shall be deemed to have been made solely by the spouse making the donation.”.

Amendment of section 64A of Act 58 of 1962, as inserted by section 4 of Act 136 of 1991 and substituted by section 29 of Act 141 of 1992 and amended by section 33 of Act 113 of 1993

28. (1) Section 64A of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding the proviso to paragraph (a) of the definition of “leviable amount” of the following words: “in relation to a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), and a branch of a foreign institution contemplated in section 18A of the said Act, an amount equal to 50 per cent of the minimum share capital and unimpaired reserve funds required to be maintained by the bank or such branch and determined in respect of each calendar quarter, in accordance with the provisions of section 70(2)(b) of the said Act.”; and
- (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph: “(a) in the case of a bank or a branch of a foreign institution within the meaning of the Banks Act, 1990 (Act No. 94 of 1990), or a [permanent society] mutual bank registered in terms of the Mutual [Building Societies Act, 1965 (Act No. 24 of 1965)] Banks Act, 1993 (Act No. 124 of 1993), the leviable amount as determined in relation to every calendar quarter commencing on or after 1 October 1991; and”.

- (2) Subsection (1) shall come into operation from any calendar quarter ending on or after 30 September 1995.

Amendment of section 64B of Act 58 of 1962, as inserted by section 34 of Act 113 of 1993 and amended by section 12 of Act 140 of 1993 and section 24 of Act 21 of 1994

29. (1) Section 64B of the principal Act is hereby amended—

- (a) by the substitution for paragraph (b) of the proviso to subsection (3) of the following paragraph: “(b) in the determination of the net amount of any dividend distributed in the course or in anticipation of the liquidation or winding up or deregistration of a company, there shall be allowed as a deduction any

- (2) By die toepassing van subartikel (1) word daar geag dat ingevolge 'n skenking oor eiendom beskik is deur 'n liggaam met regs persoonlikheid wat deur enige persoon daartoe beweeg is, indien die Kommissaris, met inagneming van die omstandighede waaronder daardie skenking deur bedoelde liggaam met regs persoonlikheid geskied het, van oordeel is—
- 5 (a) dat dit nie in die gewone loop van die normale inkomstegewende werksaamhede van daardie liggaam met regs persoonlikheid geskied het nie; en
- 10 (b) dat die keuse van die begiftigde wat deur die skenking gebaat het deur daardie persoon teweeggebring is.”.

Invoeging van artikel 57A in Wet 58 van 1962

27. Die volgende artikel word hierby in die Hoofwet na artikel 57 ingevoeg:

“Skenkings deur gades wat binne gemeenskap van goedere getroud is

- 15 **57A.** By die toepassing van hierdie Deel, in die geval van gades wat binne gemeenskap van goedere getroud is, waar enige eiendom deur een van die gades ingevolge 'n skenking vervreem is en—
- (a) bedoelde eiendom binne die gemeenskaplike boedel van die gades val, word bedoelde skenking geag in gelyke dele deur elke gade gemaak te gewees het; en
- 20 (b) bedoelde eiendom by die gemeenskaplike boedel van die gades uitgesluit is, word bedoelde skenking geag uitsluitlik gemaak te gewees het deur die gade wat die skenking gemaak het.”.

25 **Wysiging van artikel 64A van Wet 58 van 1962, soos ingevoeg deur artikel 4 van Wet 136 van 1991 en vervang deur artikel 29 van Wet 141 van 1992 en gewysig deur artikel 33 van Wet 113 van 1993**

28. (1) Artikel 64A van die Hoofwet word hierby gewysig—
- (a) deur in subartikel (1) die woorde wat die voorbehoudsbepaling by paragraaf (a) van die omskrywing van “hefbare bedrag” voorafgaan deur die volgende woorde te vervang:
- 30 “met betrekking tot 'n bank soos omskryf in artikel 1(1) van die Bankwet, 1990 (Wet No. 94 van 1990), en 'n tak van 'n buitelandse instelling beoog in artikel 18A van genoemde Wet, 'n bedrag gelyk aan 50 persent van die minimum aandeelkapitaal en onaangetaste reserwefonds wat vereis word om deur die bank of bedoelde tak gehandhaaf te word en wat, ten opsigte van
- 35 elke kalenderkwartaal, ooreenkomstig die bepalings van artikel 70(2)(b) van genoemde Wet vasgestel word:”; en
- (b) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:
- “*(a)* in die geval van 'n bank of 'n tak van 'n buitelandse instelling ooreenkomstig die bedoeling van die Bankwet, 1990 (Wet No. 94 van
- 40 1990), of 'n [permanente vereniging] onderlinge bank wat ingevolge die Wet op Onderlinge [Bouverenigings, 1965 (Wet No. 24 van 1965)] Banke, 1993 (Wet No. 124 van 1993), geregistreer is, die hefbare bedrag soos vasgestel met betrekking tot elke kalenderkwartaal wat op of na
- 45 1 Oktober 1991 'n aanvang neem; en”.
- (2) Subartikel (1) tree in werking vanaf 'n kalenderkwartaal wat op of na 30 September 1995 eindig.

Wysiging van artikel 64B van Wet 58 van 1962, soos ingevoeg deur artikel 34 van Wet 113 van 1993 en gewysig deur artikel 12 van Wet 140 van 1993 en artikel 24 van Wet 21 van 1994

- 50 29. (1) Artikel 64B van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (b) van die voorbehoudsbepaling by subartikel (3) deur die volgende paragraaf te vervang:
- “*(b)* by die vasstelling van die netto bedrag van 'n dividend uitgekeer in die loop of in afwagting van die likwidasie of deregistrasie van 'n
- 55 maatskappy, daar as 'n aftrekking toegelaat word 'n dividend beoog in

- dividend contemplated in subsection (5)(c) which has during the current or any previous dividend cycle accrued to the company.”;
- (b) by the substitution for paragraph (c) of subsection (5) of the following paragraph:
- “(c) so much of any dividend distributed in the course or in anticipation of the liquidation or winding up [of a company] or [in anticipation of the] deregistration of a company, [under a scheme for the rationalisation of a group of companies in terms of section 48 of the Taxation Laws Amendment Act, 1988 (Act No. 87 of 1988)] as is shown by the company to be a distribution of profits derived during any year of assessment which ended not later than 31 March 1993 (other than any such profits derived by way of the revaluation of trading stock held by such company) or profits of a capital nature: Provided that where such dividend is distributed in anticipation of the liquidation or winding up or deregistration of a company and such company is not liquidated or wound up or deregistered within six months after the date on which such dividend is so distributed or such further period as is in the circumstances of the case considered reasonably necessary, the provisions of this paragraph and of subsection (3)(b) shall be deemed not to have applied to such dividend and any secondary tax on companies which becomes payable as a result thereof shall be recoverable from the shareholders to whom such dividend was distributed in the same proportion as such dividend was so distributed;”;
- and
- (c) by the substitution in subsection (5) for the words preceding subparagraph (iii) of paragraph (f) of the following words:
- “any dividend declared by any company to any other company (other than a company referred to in paragraph (a)), if—
- (i) such other company at the date of such declaration [holds] and throughout the period of 12 months ending on the date of such declaration held for its own benefit all the equity share capital of such company;
- (ii) such other company is a company which has its place of effective management in the Republic and its profits (excluding profits derived by way of dividends) are derived solely from a source within the Republic; [and]
- (iiA) such dividend was declared solely out of profits earned by such company during any period in which all its equity share capital was so held by such other company for its own benefit; and”.
- (2) Subsection (1) shall come into operation on the date of promulgation of this Act and shall apply to any dividend declared on or after that date.

Amendment of section 64C of Act 58 of 1962, as inserted by section 34 of Act 113 of 1993 and amended by section 13 of Act 140 of 1993 and section 25 of Act 21 of 1994

- 30.** Section 64C of the principal Act is hereby amended—
- (a) by the deletion of the word “or” at the end of paragraph (c) of subsection (3);
- (b) by the addition of the word “or” at the end of paragraph (d) of subsection (3);
- (c) by the addition to subsection (3) of the following paragraph:
- “(e) such amount represents an amount which has been adjusted or disallowed in accordance with the provisions of section 31.”; and
- (d) by the deletion of paragraph (h) of subsection (4).

Amendment of section 77 of Act 58 of 1962, as amended by section 25 of Act 69 of 1975, section 41 of Act 101 of 1990 and section 35 of Act 129 of 1991

- 31.** Section 77 of the principal Act is hereby amended by the deletion of subsection (8).

- subartikel (5)(c) wat gedurende die lopende of 'n vorige dividend siklus aan die maatskappy toegeval het.”;
- (b) deur paragraaf (c) van subartikel (5) deur die volgende paragraaf te vervang:
- “(c) soveel van 'n dividend uitgekeer in die loop of in afwagting van die likwidasië of deregistrasie van 'n maatskappy [of in afwagting van die deregistrasie van 'n maatskappy, kragtens 'n skema vir die rasionalisasie van 'n groep maatskappye ingevolge artikel 48 van die Wysigingswet op Belastingwette, 1988 (Wet No. 87 van 1988)] as wat deur die maatskappy aangetoon word om 'n uitkering van winste [te wees] wat verkry is gedurende 'n jaar van aanslag wat nie later as 31 Maart 1993 geëindig het nie (behalwe as enige bedoelde winste wat by wyse van 'n herwaardasie van handelsvoorraad deur bedoelde maatskappy gehou, verkry is) of winste van 'n kapitale aard, te wees: Met dien verstande dat waar bedoelde dividend in afwagting van die likwidasië of deregistrasie van 'n maatskappy uitgekeer is en bedoelde maatskappy nie binne ses maande na die datum waarop bedoelde dividend aldus uitgekeer is of sodanige verdere tydperk as wat in die omstandighede van die geval, redelikerwys nodig beskou word, gelikwedeer of gederegistreer word nie, word die bepalings van hierdie paragraaf en van subartikel (3)(b) geag om nie op bedoelde dividend van toepassing te gewees het nie en enige sekondêre belasting op maatskappye wat as gevolg daarvan betaalbaar word, is verhaalbaar op die aandeelhouders aan wie bedoelde dividend uitgekeer is, in dieselfde verhouding as bedoelde dividend aldus uitgekeer is.”; en
- (c) deur in subartikel (5) die woorde wat subparagraaf (iii) van paragraaf (f) voorafgaan deur die volgende woorde te vervang:
- “'n dividend verklaar deur 'n maatskappy aan 'n ander maatskappy (behalwe 'n maatskappy bedoel in paragraaf (a)), indien—
- (i) bedoelde ander maatskappy op die datum van bedoelde verklaring en gedurende die tydperk van 12 maande eindigende op die datum van bedoelde verklaring al die ekwiteitsaandelekapitaal van bedoelde maatskappy tot sy eie voordeel [hou] gehou het;
- (ii) bedoelde ander maatskappy 'n maatskappy is wie se plek van effektiewe bestuur binne die Republiek is en wie se winste (behalwe winste verkry by wyse van dividende) uitsluitlik uit 'n bron in die Republiek verkry word; [en]
- (iiA) bedoelde dividend verklaar is alleenlik uit winste deur bedoelde maatskappy verdien gedurende 'n tydperk waarin al sy ekwiteitsaandelekapitaal aldus deur bedoelde ander maatskappy vir sy eie voordeel gehou is; en”.
- (2) Subartikel (1) tree in werking op die datum van afkondiging van hierdie Wet en is van toepassing op 'n dividend wat op of na daardie datum verklaar is.
- Wysiging van artikel 64C van Wet 58 van 1962, soos ingevoeg deur artikel 34 van Wet 113 van 1993 en gewysig deur artikel 13 van Wet 140 van 1993 en artikel 25 van Wet 21 van 1994**
- 30. Artikel 64C van die Hoofwet word hierby gewysig—**
- (a) deur die woord “of” aan die einde van paragraaf (c) van subartikel (3) te skrap;
- (b) deur die woord “of” aan die einde van paragraaf (d) van subartikel (3) by te voeg;
- (c) deur die volgende paragraaf by subartikel (3) te voeg:
- “(e) bedoelde bedrag 'n bedrag verteenwoordig wat in ooreenstemming met die bepalings van artikel 31 aangepas of van die hand gewys is.”; en
- (d) deur paragraaf (h) van subartikel (4) te skrap.
- 55 Wysiging van artikel 77 van Wet 58 van 1962, soos gewysig deur artikel 25 van Wet 69 van 1975, artikel 41 van Wet 101 van 1990 en artikel 35 van Wet 129 van 1991**

31. Artikel 77 van die Hoofwet word hierby gewysig deur subartikel (8) te skrap.

Amendment of section 79 of Act 58 of 1962, as amended by section 26 of Act 69 of 1975 and section 23 of Act 91 of 1982

32. Section 79 of the principal Act is hereby amended by the substitution in subsection (1) for item (B) of paragraph (v) of the first proviso of the following item:

“(B) to the fact that **[an incorrect or incomplete return of relevant personal particulars was]** the employee has furnished false information to the employer [under paragraph 12 of the said Schedule or to the fact that a fresh return of such particulars was not furnished to the employer as required by the said paragraph] and in consequence thereof, an incorrect amount of tax was withheld:”.

Amendment of section 89quat of Act 58 of 1962, as inserted by section 34 of Act 121 of 1984 and substituted by section 22 of Act 65 of 1986 and amended by section 18 of Act 70 of 1989, section 42 of Act 113 of 1993 and section 15 of Act 140 of 1993

33. (1) Section 89quat of the principal Act is hereby amended by the substitution in subsection (1) for the definition of “effective date” of the following definition:

“‘effective date’, in relation to any year of assessment of a provisional taxpayer, means—

(a) where the provisional taxpayer is a company which has a year of assessment which ends on the last day of February or is a person (other than a company) who has not been granted permission by the Commissioner under the provisions of section 66(13)ter to render accounts for a period ending on a date other than the last day of February, the date falling 7 months after the last day of such year; or

(b) in any other case, the date falling 6 months after the last day of such year as applicable for the purposes of the provisions of paragraph 21, 22 or 23 of the Fourth Schedule;”.

(2) Subsection (1) shall be deemed to have come into operation from the commencement of years of assessment ending on or after 28 February 1995.

Amendment of paragraph 19 of First Schedule to Act 58 of 1962, as added by section 28 of Act 95 of 1967 and amended by section 43 of Act 89 of 1969, section 33 of Act 88 of 1971, section 22 of Act 90 of 1972, section 32 of Act 69 of 1975, section 30 of Act 103 of 1976, section 16 of Act 104 of 1979, section 25 of Act 104 of 1980, section 29 of Act 91 of 1982, section 45 of Act 94 of 1983 and section 42 of Act 129 of 1991

34. Paragraph 19 of the First Schedule to the principal Act is hereby amended—

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

“(1) If any taxpayer has made an election as provided in subparagraph (5) which is binding upon him in respect of any period of assessment (hereinafter referred to as the relevant period) during which he or his **[wife] spouse** has carried on farming operations or has derived income from farming operations, and his taxable income derived during the relevant period from farming exceeds his average taxable income from farming as determined in relation to the relevant period in accordance with subparagraph (2), the normal tax chargeable in respect of his taxable income for the relevant period shall, subject to the provisions of section 5 of this Act, be determined in accordance with section 5(10).”;

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

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

(aa) for which the taxpayer was assessable under this Act **[(but excluding**

Wysiging van artikel 79 van Wet 58 van 1962, soos gewysig deur artikel 26 van Wet 69 van 1975 en artikel 23 van Wet 91 van 1982

32. Artikel 79 van die Hoofwet word hierby gewysig deur in subartikel (1) item (B) van paragraaf (v) van die eerste voorbehoudsbepaling deur die volgende item te 5 vervang:

“(B) aan die feit dat [’n onjuiste of onvolledige opgawe van tersaaklike persoonlike besonderhede ingevolge paragraaf 12 van genoemde Bylae] die werknemer valse inligting aan die werkgever verstrek [is of aan die feit dat ’n nuwe opgawe van bedoelde besonderhede nie aan die werkgever 10 verstrek is soos deur genoemde paragraaf vereis nie] het en as gevolg daarvan, ’n onjuiste bedrag aan belasting teruggehou is:”.

Wysiging van artikel 89 *quat* van Wet 58 van 1962, soos ingevoeg deur artikel 34 van Wet 121 van 1984 en vervang deur artikel 22 van Wet 65 van 1986 en gewysig 15 deur artikel 18 van Wet 70 van 1989, artikel 42 van Wet 113 van 1993 en artikel 15 van Wet 140 van 1993

33. (1) Artikel 89 *quat* van die Hoofwet word hierby gewysig deur in subartikel (1) die omskrywing van “effektiewe datum” deur die volgende omskrywing te vervang:

“‘effektiewe datum’, met betrekking tot ’n jaar van aanslag van ’n voorlopige belastingpligtige—

20 (a) waar die voorlopige belastingpligtige ’n maatskappy is met ’n jaar van aanslag wat op die laaste dag van Februarie eindig, of ’n persoon (behalwe ’n maatskappy) is wat nie toestemming deur die Kommissaris kragtens die bepalings van artikel 66(13) *ter* verleen is nie, om rekeninge vir ’n tydperk eindigende op ’n ander datum as die laaste dag van Februarie te lewer, die 25 datum vallende 7 maande na die laaste dag van bedoelde jaar; of

(b) in enige ander geval, die datum wat 6 maande na die laaste dag van bedoelde jaar val soos van toepassing vir die doeleindes van paragraaf 21, 22 of 23 van die Vierde Bylae;”.

(2) Subartikel (1) word geag in werking te getree het vanaf die begin van jare van 30 aanslag eindigende op of na 28 Februarie 1995.

Wysiging van paragraaf 19 van Eerste Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 28 van Wet 95 van 1967 en gewysig deur artikel 43 van Wet 89 van 1969, artikel 33 van Wet 88 van 1971, artikel 22 van Wet 90 van 1972, artikel 32 van Wet 69 van 1975, artikel 30 van Wet 103 van 1976, artikel 16 van Wet 104 van 35 1979, artikel 25 van Wet 104 van 1980, artikel 29 van Wet 91 van 1982, artikel 45 van Wet 94 van 1983 en artikel 42 van Wet 129 van 1991

34. Paragraaf 19 van die Eerste Bylae by die Hoofwet word hierby gewysig—

(a) deur subparagraaf (1) deur die volgende subparagraaf te vervang:

“(1) Indien ’n belastingpligtige volgens voorskrif van subparagraaf (5) ’n 40 keuse uitgeoefen het wat vir hom bindend is ten opsigte van ’n aanslagtydperk (hieronder die toepaslike tydperk genoem) waarin hy of sy [eggenote] gade boerderybedrywighede beoefen het of uit boerderybedrywighede inkomste verkry het, en sy belasbare inkomste gedurende die toepaslike tydperk uit boerdery verkry sy gemiddelde belasbare inkomste uit boerdery 45 soos volgens voorskrif van subparagraaf (2) met betrekking tot die toepaslike tydperk vasgestel, te bowe gaan, word, behoudens die bepalings van artikel 5 van hierdie Wet, die normale belasting wat ten opsigte van sy belasbare inkomste vir die toepaslike tydperk hefbaar is, ooreenkomstig die bepalings van artikel 5(10) vasgestel.”;

50 (b) deur in subparagraaf (2) die woorde wat subitem (bb) van item (a) voorafgaan deur die volgende woorde te vervang:

“waar die belastingpligtige of sy [eggenote] gade voor die begin van die toepaslike tydperk boerderybedrywighede beoefen het, die bedrag wat deur die Kommissaris vasgestel word as voorstellende die belastingpligtige se 55 jaarlikse gemiddelde belasbare inkomste (as daar is) uit boerdery ten opsigte van die aanslagtydperke—

(aa) waarvoor die belastingpligtige ingevolge hierdie Wet aangeslaan kon word [(maar behalwe, in die geval van ’n vrouspersoon, ’n

- in the case of a woman any period assessable under section 77(6) of this Act)] and which fall within the period of five years ending on the last day of the relevant period; and”;
- (c) by the substitution in subparagraph (2) for the words preceding subitem (i) of item (b) of the following words: 5
 “where the taxpayer is a person referred to in subparagraph (5)(a) and [neither he nor his wife carried] did not carry on farming operations [(whether before or after their marriage)] before the commencement of the relevant period and—”;
- (d) by the substitution for item (a) of subparagraph (5) of the following item: 10
 “(a) who is a natural person and whose taxable income for any period of assessment consists of or includes taxable income derived from farming operations carried on by him for his own benefit or by his [wife] spouse for [her] such spouse’s own benefit; or”; and
- (e) by the substitution for the proviso to subparagraph (5) of the following 15
 proviso:
 “Provided that—
 (i) no election may be made under this subparagraph by [a woman] any person in respect of any period of assessment referred to in item (a) if during such period [she] such person was married and [her] such person’s income for such period is in terms of section 7(2) of this Act deemed to be income accrued to [her husband] such person’s spouse; 20
 (ii) where an election has been made by [a woman] such person in respect of any period of assessment referred to in item (a) and [her] such person’s income for any succeeding period of assessment is in terms of section 25
 7(2) of this Act deemed to be income accrued to [her husband] such person’s spouse, such election shall, with effect from such succeeding period, cease to have any force or effect.”.

Amendment of paragraph 1 of Second Schedule to Act 58 of 1962, as amended by section 31 of Act 90 of 1962, section 23 of Act 90 of 1964, section 34 of Act 88 of 1971, section 34 of Act 69 of 1975, section 26 of Act 113 of 1977, section 17 of Act 104 of 1979, section 27 of Act 104 of 1980, section 28 of Act 96 of 1981, section 46 of Act 94 of 1983, section 24 of Act 65 of 1986 and section 43 of Act 101 of 1990 30

35. (1) Paragraph 1 of the Second Schedule to the principal Act is hereby amended by the substitution for the proviso to paragraph (b) of the definition of “retire” of the following proviso: 35

“Provided that for the purposes of this paragraph ‘full benefits’ shall in the case of a member who retires from employment on the grounds of ill-health or who retires from employment after attaining the age of 55 years [in the case of a male or fifty years in the case of a female], include the surrender value of any policy of insurance which is in terms of subparagraph (2)*bis* of paragraph 4 deemed to be a lump sum benefit;”. 40

(2) Subsection (1) shall come into operation on a date fixed by the Minister of Finance by notice in the *Gazette*.

Amendment of paragraph 4 of Second Schedule to Act 58 of 1962, as amended by section 20 of Act 72 of 1963 and section 24 of Act 90 of 1964 45

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

“(3) If a member of a provident fund retires from such fund before he reaches the age of 55 years [in the case of a male or fifty years in the case of a female] on grounds other than ill-health, any lump sum benefits received by or accrued to such member in consequence of or following upon such retirement shall, unless the Commissioner having regard to the circumstances of the case otherwise directs, be assessed to tax not in accordance with the provisions of paragraph 5 but in 50

tydperk wat ingevolge artikel 77(6) van hierdie Wet aangeslaan kon word]] en wat in die tydperk van vyf jaar eindigende op die laaste dag van die toepaslike tydperk val; en”;

- (c) deur in subparagraaf (2) die woorde wat subitem (i) van item (b) voorafgaan deur die volgende woorde te vervang:
 “waar die belastingpligtige ’n in subparagraaf (5)(a) bedoelde persoon is en [nóg hy nóg sy eggenote] nie voor die begin van die toepaslike tydperk boerderybedrywighede beoefen het [(hetsy voor of na hul troue)] nie en—”;
- (d) deur item (a) van subparagraaf (5) deur die volgende item te vervang:
 “(a) wat ’n natuurlike persoon is en wie se belasbare inkomste vir ’n aanslagtydperk uit belasbare inkomste bestaan, of belasbare inkomste insluit, wat verkry is uit boerderybedrywighede wat deur hom vir sy eie voordeel of deur sy [eggenote] gade vir [haar] bedoelde gade se eie voordeel beoefen is; of”;
- (e) deur die voorbehoudsbepaling by subparagraaf (5) deur die volgende voorbehoudsbepaling te vervang:
 “Met dien verstande dat—
- (i) geen keuse ingevolge hierdie subparagraaf uitgeoefen word nie deur [’n vrouspersoon] ’n persoon ten opsigte van ’n in item (a) bedoelde aanslagtydperk indien [sy] bedoelde persoon gedurende daardie tydperk getroud was en [haar] bedoelde persoon se inkomste vir daardie tydperk ingevolge artikel 7(2) van hierdie Wet geag word inkomste te wees wat aan [haar man] bedoelde persoon se gade toegeval het;
- (ii) waar ’n keuse deur [’n vrouspersoon] bedoelde persoon ten opsigte van ’n in item (a) bedoelde aanslagtydperk uitgeoefen word en [haar] bedoelde persoon se inkomste vir ’n daaropvolgende aanslagtydperk ingevolge artikel 7(2) van hierdie Wet geag word inkomste te wees wat aan [haar man] bedoelde persoon se gade toegeval het, daardie keuse met ingang van daardie daaropvolgende aanslagtydperk nie meer van krag is nie en geen uitwerking het nie.”.

Wysiging van paragraaf 1 van Tweede Bylae by Wet 58 van 1962, soos gewysig deur artikel 31 van Wet 90 van 1962, artikel 23 van Wet 90 van 1964, artikel 34 van Wet 88 van 1971, artikel 34 van Wet 69 van 1975, artikel 26 van Wet 113 van 1977, artikel 17 van Wet 104 van 1979, artikel 27 van Wet 104 van 1980, artikel 28 van Wet 96 van 1981, artikel 46 van Wet 94 van 1983, artikel 24 van Wet 65 van 1986 en artikel 43 van Wet 101 van 1990

35. (1) Paragraaf 1 van die Tweede Bylae by die Hoofwet word hierby gewysig deur die voorbehoudsbepaling by paragraaf (b) van die omskrywing van “uittree” deur die volgende voorbehoudsbepaling te vervang:

“Met dien verstande dat by die toepassing van hierdie paragraaf ‘volle voordele’ in die geval van ’n lid wat op grond van slegte gesondheid uit diens tree of wat uit diens tree nadat hy die ouderdom van 55 jaar [in die geval van ’n manspersoon, of vyftig jaar, in die geval van ’n vrouspersoon] bereik het, ook die afkoopwaarde van ’n assuransiepolis wat ingevolge subparagraaf (2)*bis* van paragraaf 4 geag word ’n enkelbedragvoordeel te wees, insluit;”.

(2) Subartikel (1) tree in werking op ’n datum deur die Minister van Finansies by kennisgewing in die *Staatskoerant* vasgestel.

Wysiging van paragraaf 4 van Tweede Bylae by Wet 58 van 1962, soos gewysig deur artikel 20 van Wet 72 van 1963 en artikel 24 van Wet 90 van 1964

36. (1) Paragraaf 4 van die Tweede Bylae by die Hoofwet word hierby gewysig deur subparagraaf (3) deur die volgende subparagraaf te vervang:

“(3) Indien ’n lid van ’n voorsorgsfonds op ander gronde as slegte gesondheid uit dié fonds uittree voordat hy die ouderdom van 55 jaar [in die geval van ’n manspersoon of vyftig jaar in die geval van ’n vrouspersoon] bereik, word enige enkelbedragvoordele wat deur so ’n lid ontvang is of aan hom toegeval het as gevolg van of na sodanige uittreding, tensy die Kommissaris met inagneming van die omstandighede van die geval anders gelas, nie ooreenkomstig die bepalings van paragraaf 5 nie, maar ooreenkomstig die bepalings van paragraaf 6

accordance with the provisions of paragraph 6 as though it were a lump sum benefit derived by such member in consequence of or following upon such member's withdrawal or resignation from such fund.”.

(2) Subsection (1) shall come into operation on a date fixed by the Minister of Finance by notice in the *Gazette*.

Amendment of paragraph 1 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 22 of Act 72 of 1963, section 44 of Act 89 of 1969, section 24 of Act 52 of 1970, section 37 of Act 88 of 1971, section 47 of Act 85 of 1974, section 6 of Act 30 of 1984, section 38 of Act 121 of 1984, section 20 of Act 70 of 1989, section 44 of Act 101 of 1990, section 44 of Act 129 of 1991, section 33 of Act 141 of 1992, section 48 of Act 113 of 1993 and section 16 of Act 140 of 1993

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

“(c) 35 per cent of—

- (i) the amount of any allowance or advance in respect of transport expenses referred to in section 8(1)(b), other than any such allowance or advance contemplated in section 8(1)(b)(iii) which is based on the actual distance travelled by the recipient, and which is calculated at a rate per kilometre which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under the said section 8(1)(b)(iii); and
- (ii) the amount of any allowance referred to in section 8(1)(d) granted to the holder of a public office contemplated in section 8(1)(e).”.

(2) Subsection (1) shall come into operation as from the commencement of years of assessment commencing on or after 1 March 1996.

Amendment of paragraph 2 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 23 of Act 72 of 1963, section 29 of Act 55 of 1966, section 38 of Act 88 of 1971, section 48 of Act 85 of 1974, section 28 of Act 113 of 1977, section 40 of Act 90 of 1988, section 21 of Act 70 of 1989, section 45 of Act 101 of 1990 and section 45 of Act 129 of 1991

38. Paragraph 2 of the Fourth Schedule to the principal Act is hereby amended by the substitution for the expression “section 6(3)(f)” in item (b) of subparagraph (4) of the expression “section 6(2)(b)”.

Amendment of paragraph 11 of Fourth Schedule to Act 58 of 1962

39. The following paragraph is hereby substituted for paragraph 11 of the Fourth Schedule to the principal Act:

“11. In order to alleviate hardship to an employee due to illness or other circumstances or to correct any error in regard to the calculation of employees' tax [whether arising from the furnishing to an employer of a false or incorrect return of personal particulars or otherwise, or where the employee has in terms of subparagraph (2) of paragraph 12 applied to the Commissioner for the issue of a directive to his employer to enable the employer to deduct or withhold the correct amount by way of employees' tax] the Commissioner may, having regard to the circumstances of the case, issue a directive to the employer concerned authorising the employer to refrain from deducting or withholding any amount under paragraph 2 by way of employees' tax from any remuneration due to the employee or to deduct or withhold by way of employees' tax a specified amount or an amount to be determined in accordance with a specified rate or scale, and the employer shall comply with such directive.”.

Amendment of paragraph 11B of Fourth Schedule to Act 58 of 1962, as inserted by section 41 of Act 90 of 1988 and amended by section 22 of Act 70 of 1989, section 47 of Act 101 of 1990, section 46 of Act 129 of 1991, section 34 of Act 141 of 1992 and section 3 of Act 168 of 1993

40. Paragraph 11B of the Fourth Schedule to the principal Act is hereby amended—

vir belasting aangeslaan asof dit 'n enkelbedragvoordeel is wat deur daardie lid as gevolg van of na sy onttrekking aan of bedanking uit die betrokke fonds verkry is.”.

- (2) Subartikel (1) tree in werking op 'n datum deur die Minister van Finansies by kennisgewing in die *Staatskoerant* vasgestel.

Wysiging van paragraaf 1 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 22 van Wet 72 van 1963, artikel 44 van Wet 89 van 1969, artikel 24 van Wet 52 van 1970, artikel 37 van Wet 88 van 1971, artikel 47 van Wet 85 van 1974, artikel 6 van Wet 30 van 1984, artikel 38 van Wet 121 van 1984, artikel 20 van Wet 70 van 1989, artikel 44 van Wet 101 van 1990, artikel 44 van Wet 129 van 1991, artikel 33 van Wet 141 van 1992, artikel 48 van Wet 113 van 1993 en artikel 16 van Wet 140 van 1993

37. (1) Paragraaf 1 van die Vierde Bylae by die Hoofwet word hierby gewysig deur paragraaf (c) van die omskrywing van “besoldiging” deur die volgende paragraaf te vervang:

“(c) 35 persent van—

- (i) die bedrag van 'n toelae of voorskot ten opsigte van reiskoste bedoel in artikel 8(1)(b), behalwe enige bedoelde toelae of voorskot beoog in artikel 8(1)(b)(iii) wat gebaseer is op die werklike afstand wat deur die ontvanger afgelê is, en wat vasgestel is teen 'n skaal per kilometer wat nie die toepaslike skaal per kilometer deur die Minister van Finansies ingevolge genoemde artikel 8(1)(b)(iii) bepaal, te bowe gaan nie; en
- (ii) die bedrag van 'n toelae bedoel in artikel 8(1)(d) wat aan die bekleër van 'n openbare amp in artikel 8(1)(e) bedoel, toegestaan is.”.

- (2) Subartikel (1) tree vanaf die begin van jare van aanslag beginnende op of na 1 Maart 1996 in werking.

Wysiging van paragraaf 2 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 23 van Wet 72 van 1963, artikel 29 van Wet 55 van 1966, artikel 38 van Wet 88 van 1971, artikel 48 van Wet 85 van 1974, artikel 28 van Wet 113 van 1977, artikel 40 van Wet 90 van 1988, artikel 21 van Wet 70 van 1989, artikel 45 van Wet 101 van 1990 en artikel 45 van Wet 129 van 1991

38. Paragraaf 2 van die Vierde Bylae by die Hoofwet word hierby gewysig deur die uitdrukking “artikel 6(3)(f)” in item (b) van subparagraaf (4) deur die uitdrukking “artikel 6(2)(b)” te vervang.

Wysiging van paragraaf 11 van Vierde Bylae by Wet 58 van 1962

39. Paragraaf 11 van die Vierde Bylae by die Hoofwet word hierby deur die volgende paragraaf vervang:

- “11. Ten einde ontbering vir enige werknemer as gevolg van siekte of ander omstandighede te verlig of enige fout met betrekking tot die berekening van werknemersbelasting te herstel [ongeachtig of dit as gevolg van die verstrekking aan 'n werkgewer deur 'n werknemer van 'n valse of onjuiste opgawe van persoonlike besonderhede of andersins ontstaan, of, waar die werknemer ingevolge subparagraaf (2) van paragraaf 12 by die Kommissaris aansoek gedoen het om die uitreiking aan sy werkgewer van 'n opdrag, die werkgewer in staat te stel om die juiste bedrag by wyse van werknemersbelasting af te trek of terug te hou], kan die Kommissaris met inagneming van die omstandighede van die geval 'n opdrag aan die betrokke werkgewer uitreik wat hom magtig om geen bedrag by wyse van werknemersbelasting ingevolge paragraaf 2 van enige besoldiging verskuldig aan die werknemer af te trek of terug te hou nie of om by wyse van werknemersbelasting 'n bepaalde bedrag of 'n bedrag bereken volgens 'n aangegewe maatstaf of skaal af te trek of terug te hou, en die betrokke werkgewer moet aan so 'n opdrag voldoen.”.

Wysiging van paragraaf 11B van Vierde Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 41 van Wet 90 van 1988 en gewysig deur artikel 22 van Wet 70 van 1989, artikel 47 van Wet 101 van 1990, artikel 46 van Wet 129 van 1991, artikel 34 van Wet 141 van 1992 en artikel 3 van Wet 168 van 1993

40. Paragraaf 11B van die Vierde Bylae by die Hoofwet word hierby gewysig—

- (a) by the substitution in subparagraph (1) for paragraph (b) of the definition of “standard employment” of the following paragraph:
- “(b) the employment of any employee with an employer if such employee declares **[on the return of personal particulars referred to in paragraph 12] in writing** that he does not and will not during the period in which he holds such employment render services (other than such casual services as may be determined by the Commissioner in the deduction tables prescribed by him under paragraph 9) to any other employer; or”;
- (b) by the deletion in subparagraph (1) of the proviso to the definition of “tax period”; and
- (c) by the substitution for subparagraph (6) of the following subparagraph:
- “(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)]** not allow the deduction of the rebate contemplated in section 6(2)(b) unless he is in possession of a written declaration by the employee that he would be over the age of 65 years on the last day of the year of assessment: Provided that—
- (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)] written declaration** 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]** such written declaration, the amount so determined by the employer shall for the purposes of this paragraph be deemed to have been correctly determined; and
- (b) where an employee has not furnished such **[return of personal particulars or fresh return]** written declaration 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]** written declaration.”.

Deletion of paragraph 12, and heading thereto, of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 42 of Act 90 of 1988, section 48 of Act 101 of 1990 and section 47 of Act 129 of 1991

41. Paragraph 12, and the heading thereto, of the Fourth Schedule to the principal Act are hereby deleted.

Deletion of paragraph 12A, and heading thereto, of Fourth Schedule to Act 58 of 1962, as inserted by section 49 of Act 113 of 1993

42. Paragraph 12A, and the heading thereto, of the Fourth Schedule to the principal Act are hereby deleted.

- (a) deur in subparagraaf (1) die voorbehoudsbepaling by die omskrywing van “belastingtydperk” te skrap;
- (b) deur in subparagraaf (1) paragraaf (b) van die omskrywing van “standaard-diens” deur die volgende paragraaf te vervang:
- 5 “(b) die diens van ’n werknemer by ’n werkgever indien bedoelde werknemer **[in die opgaawe van persoonlike besonderhede soos bedoel in paragraaf 12]** skriftelik verklaar dat hy nie gedurende die tydperk waarin hy bedoelde diens behou dienste (behalwe [sodanige] die toevallige dienste [soos] wat vasgestel mag word deur die Kommissaris in die aftrekkingstabelle deur hom voorgeskryf kragtens paragraaf 9) aan enige ander werkgever lewer of sal lewer nie; of”;
- 10 (c) deur subparagraaf (6) deur die volgende subparagraaf te vervang:
- 15 “(6) Vir die doeleindes van die vaststelling van die bedrag aan Standaard Inkomstebelasting op Werknemers wat afgetrek of teruggehou moet word van enige netto besoldiging wat deur ’n werkgever aan ’n werknemer betaal of verskuldig word, [stel] laat die werkgever **[die bedrag aan jaarlikse belasting met betrekking tot bedoelde netto besoldiging vas ooreen-** komstig die opgaawe van persoonlike besonderhede of nuwe opgaawe wat ingevolge paragraaf 12(1) deur die werknemer verskaf is of ooreen-
- 20 komstig ’n opdrag wat deur die Kommissaris uitgereik is soos in paragraaf 12(2) beoog of, waar geen opgaawe hoegenaamd deur die werknemer verskaf is nie en geen sodanige opdrag aan die werkgever uitgereik is nie, op die wyse in paragraaf 12(3) voorgeskryf] nie die aftrekking van die korting beoog in artikel 6(2)(b) toe nie, tensy hy in besit is van ’n skriftelike verklaring deur die werknemer, dat hy bo die ouderdom van 65 jaar op die laaste dag van die jaar van aanslag sal wees: Met dien verstande dat—
- 25 (a) waar die werknemer versuim het, of geag word te versuim het ingevolge paragraaf (b), om bedoelde **[opgaawe van persoonlike besonderhede of nuwe opgaawe]** skriftelike verklaring te verstrek [of om by die Kommissaris aansoek te doen om die uitreiking van ’n opdrag soos in paragraaf 12(2) beoog] en as gevolg van sodanige versuim die bedrag aan Standaard Inkomstebelasting op Werknemers wat deur die werkgever vasgestel is, meer is as die bedrag wat vasgestel sou gewees het indien die werknemer ’n **[opgaawe]** skriftelike verklaring verstrek het, [wat sy korrekte persoonlike besonderhede aandui] word die bedrag aldus deur die werkgever vasgestel by die toepassing van hierdie paragraaf geag korrek vasgestel te gewees het; en
- 30 (b) waar ’n werknemer nie betyds bedoelde **[opgaawe van persoonlike besonderhede of nuwe opgaawe]** skriftelike verklaring verstrek het om die werkgever in staat te stel om dit in aanmerking te neem by die vaststelling van bedoelde bedrag aan jaarlikse belasting nie, [of nie betyds by die Kommissaris aansoek om die uitreiking van bedoelde opdrag gedoen het om die Kommissaris in staat te stel om die opdrag uit te reik en die werkgever in staat te stel om dit aldus in aanmerking te neem nie] word die werknemer geag nie bedoelde **[opgaawe van persoonlike besonderhede of nuwe opgaawe]** skriftelike verklaring te verstrek het [of om bedoelde aansoek te gedoen het] nie.”.
- 35 50 **Skrapping van paragraaf 12, en opskrif daarby, van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 42 van Wet 90 van 1988, artikel 48 van Wet 101 van 1990 en artikel 47 van Wet 129 van 1991**
41. Paragraaf 12, en die opskrif daarby, van die Vierde Bylae by die Hoofwet word
- 55 hierby geskrap.
- Skrapping van paragraaf 12A, en opskrif daarby, van Vierde Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 49 van Wet 113 van 1993**
42. Paragraaf 12A, en die opskrif daarby, van die Vierde Bylae by die Hoofwet word

Amendment of paragraph 15 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 7 of Act 30 of 1984

43. Paragraph 15 of the Fourth Schedule to the principal Act is hereby amended by the deletion of subparagraph (1A).

Amendment of paragraph 19 of Fourth Schedule to Act 58 of 1962, as added by section 19 of Act 6 of 1963 and amended by section 28 of Act 88 of 1965, section 46 of Act 89 of 1969, section 43 of Act 88 of 1971, section 50 of Act 85 of 1974, section 49 of Act 94 of 1983 and section 52 of Act 101 of 1990

44. Paragraph 19 of the Fourth Schedule to the principal Act is hereby amended—
 (a) by the addition in subparagraph (1) of the word “or” at the end of subitem (i) of item (d);
 (b) by the deletion in subparagraph (1) of the word “or” at the end of subitem (ii) of item (d); and
 (c) by the deletion of subitem (iii) of item (d) of subparagraph (1).

Amendment of paragraph 30 of Fourth Schedule to Act 58 of 1962

45. Paragraph 30 of the Fourth Schedule to the principal Act is hereby amended by the substitution for item (e) of subparagraph (1) of the following item:
 “(e) [furnishes to his employer or the Commissioner a false or misleading return of personal particulars or] gives any false information or misleads his employer in relation to any matter affecting the amount of employees’ tax to be deducted in his case; or”.

Amendment of paragraph 5 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 28 of Act 96 of 1985, section 57 of Act 101 of 1990 and section 31 of Act 21 of 1994

46. Paragraph 5 of the Seventh Schedule to the principal Act is hereby amended by the substitution for the first proviso to subparagraph (2) of the following proviso:
 “Provided that where the asset in question is movable property (other than marketable securities or an asset which the employer had the use of prior to acquiring ownership thereof) and was acquired by the employer in order to dispose of it to the employee or the asset in question (other than marketable securities) was held by the employer as trading stock, the value to be placed thereon shall be the cost thereof to the employer or, where such asset was held as trading stock and the market value thereof was less than such cost, such market value.”.

Amendment of paragraph 7 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 30 of Act 96 of 1985, section 10 of Act 108 of 1986, Government Notice No. 956 of 11 May 1988, section 44 of Act 90 of 1988, Government Notice No. R.715 of 14 April 1989, section 25 of Act 70 of 1989, Government Notice No. R.764 of 29 March 1990, section 58 of Act 101 of 1990, section 50 of Act 129 of 1991, section 36 of Act 141 of 1992 and section 32 of Act 21 of 1994

47. (1) Paragraph 7 of the Seventh Schedule to the principal Act is hereby amended—
 (a) by the addition to subparagraph (1) of the following proviso:
 “Provided that—
 (a) where an employee has been granted the right of use of such motor vehicle as contemplated in subparagraph (2) and such vehicle, or the right of use thereof, was acquired by the employer not less than 12 months before the date on which the employee was granted such right of use, there shall be deducted from the amount determined under the foregoing provisions of this subparagraph a depreciation allowance

Wysiging van paragraaf 15 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 7 van Wet 30 van 1984

43. Paragraaf 15 van die Vierde Bylae by die Hoofwet word hierby gewysig deur subparagraaf (1A) te skrap.

5 **Wysiging van paragraaf 19 van Vierde Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 19 van Wet 6 van 1963 en gewysig deur artikel 28 van Wet 88 van 1965, artikel 46 van Wet 89 van 1969, artikel 43 van Wet 88 van 1971, artikel 50 van Wet 85 van 1974, artikel 49 van Wet 94 van 1983 en artikel 52 van Wet 101 van 1990**

- 10 44. Paragraaf 19 van die Vierde Bylae by die Hoofwet word hierby gewysig—
(a) deur in subparagraaf (1) die woord “of” aan die einde van subitem (i) van item (d) te voeg;
(b) deur in subparagraaf (1) die woord “of” aan die einde van subitem (ii) van item (d) te skrap; en
15 (c) deur subitem (iii) van item (d) van subparagraaf (1) te skrap.

Wysiging van paragraaf 30 van Vierde Bylae by Wet 58 van 1962

45. Paragraaf 30 van die Vierde Bylae by die Hoofwet word hierby gewysig deur item (e) van subparagraaf (1) deur die volgende item te vervang:

- 20 “(e) [aan sy werkgewer of die Kommissaris ’n valse of misleidende opgawe van persoonlike besonderhede verstrek of] valse inligting verstrek of sy werkgewer mislei met betrekking tot ’n aangeleentheid rakende die bedrag aan werknemersbelasting wat in sy geval afgetrek moet word; of”.

25 **Wysiging van paragraaf 5 van Sewende Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 28 van Wet 96 van 1985, artikel 57 van Wet 101 van 1990 en artikel 31 van Wet 21 van 1994**

46. Paragraaf 5 van die Sewende Bylae by die Hoofwet word hierby gewysig deur die eerste voorbehoudsbepaling by subparagraaf (2) deur die volgende voorbehoudsbepaling te vervang:

- 30 “Met dien verstande dat waar die betrokke bate roerende eiendom (behalwe handelseffekte of ’n bate waarvan die werkgewer die gebruik voor die verkryging van eienaarskap daarvan, gehad het) is en deur die werkgewer verkry is ten einde dit aan die werknemer af te staan, of die betrokke bate (behalwe handelseffekte) deur die werkgewer as handelsvoorraad gehou is, die waarde wat daarop geplaas moet word die koste daarvan vir die werkgewer is of, waar bedoelde bate as
35 handelsvoorraad gehou was en die markwaarde daarvan minder as bedoelde koste was, bedoelde markwaarde:”.

40 **Wysiging van paragraaf 7 van Sewende Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 30 van Wet 96 van 1985, artikel 10 van Wet 108 van 1986, Goewermentskennisgewing No. 956 van 11 Mei 1988, artikel 44 van Wet 90 van 1988, Goewermentskennisgewing No. R.715 van 14 April 1989, artikel 25 van Wet 70 van 1989, Goewermentskennisgewing No. R.764 van 29 Maart 1990, artikel 58 van Wet 101 van 1990, artikel 50 van Wet 129 van 1991, artikel 36 van Wet 141 van 1992 en artikel 32 van Wet 21 van 1994**

- 45 47. (1) Paragraaf 7 van die Sewende Bylae by die Hoofwet word hierby gewysig—
(a) deur die volgende voorbehoudsbepaling by subparagraaf (1) te voeg:
“Met dien verstande dat—
(a) waar die reg aan ’n werknemer verleen is om bedoelde motorvoertuig te gebruik soos in subparagraaf (2) beoog en bedoelde voertuig, of die reg van gebruik daarvan, nie minder nie as 12 maande voor die datum waarop bedoelde reg aan die werknemer verleen is, deur die werkgewer verkry is, daar van die bedrag wat ingevolge die voorafgaande bepalings van hierdie subparagraaf bepaal is, ’n waardeverminderingstoelae afgetrek word bereken volgens die verminderdesaldometode teen die koers
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- calculated according to the reducing balance method at the rate of 15 per cent for each completed period of 12 months from the date on which the employer first obtained such vehicle or the right of use thereof to the date on which the said employee was first granted the right of use thereof; and
- (b) where such motor vehicle was acquired by the employer from an associated institution in relation to the employer and the employee concerned had, prior to such acquisition, enjoyed the right of use of such motor vehicle, the determined value shall be the determined value as at the date on which the employee was granted the right of use of such motor vehicle for the first time.”;
- (b) by the deletion of subparagraph (1A);
- (c) by the addition to subparagraph (2) of the following proviso:
“Provided that where the employee receives an allowance or advance contemplated in section 8(1)(b), such value of the private use of such vehicle shall not be reduced by any such consideration.”; and
- (d) by the substitution in subparagraph (4) for the words preceding paragraph (i) of the proviso to item (a) of the following words:
 “as respects each such month, be an amount equal to 1,2 per cent of the determined value of such motor vehicle: Provided that where more than one motor vehicle is made available by an employer to a particular employee at the same time and the provisions of subparagraph (6) are not applicable in the case of such vehicles, the said value shall be an amount equal to 1,2 per cent of the determined value of the motor vehicle having the highest determined value and 2 per cent of the determined value of every other such motor vehicle: Provided further that where the employee—”.
- (2)(a) Subsection (1)(c) shall come into operation on 1 September 1995.
- (b) Subsection (1)(d) shall be deemed to have come into operation on 1 May 1995.

Amendment of paragraph 11 of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 33 of Act 96 of 1985 and section 35 of Act 65 of 1986

48. Paragraph 11 of the Seventh Schedule to the principal Act is hereby amended by the substitution for subparagraph (1) of the following subparagraph:

- “(1) [Subject to the provisions of paragraphs 13A and 14] The cash equivalent of the value of the taxable benefit derived in consequence of the grant of a loan to an employee in the circumstances contemplated in paragraph 2(f) shall be the amount of interest that would have been payable on the amount owing in respect of the loan in respect of the year of assessment if the employee had been obliged to pay interest on such amount during such year at the official rate of interest, less the amount of interest (if any) actually incurred by the employee in respect of the loan in respect of such year.”.

Amendment of paragraph 12 of Seventh Schedule to Act 58 of 1962, as substituted by section 34 of Act 96 of 1985

49. The following paragraph is hereby substituted for paragraph 12 of the Seventh Schedule to the principal Act:

- “12. [Subject to the provisions of paragraphs 13A and 14] The cash equivalent of the value of the taxable benefit consisting of any subsidy in respect of the amounts of interest or capital repayments referred to in paragraph 2(g) or any subsidy contemplated in paragraph 2(gA) shall be the amount of such subsidy.”.

Deletion of paragraph 13A, and heading thereto, of Seventh Schedule to Act 58 of 1962, as inserted by section 36 of Act 96 of 1985 and amended by section 54 of Act 113 of 1993

50. Paragraph 13A, and the heading thereto, of the Seventh Schedule to the principal Act are hereby deleted.

- waarop die werkgewer vir die eerste maal bedoelde voertuig of die reg van gebruik daarvan verkry het tot die datum waarop die reg van gebruik daarvan vir die eerste maal aan genoemde werknemer verleen is; en
- 5 (b) waar bedoelde motorvoertuig deur die werkgewer vanaf 'n verwante inrigting met betrekking tot die werkgewer verkry is en die betrokke werknemer die reg van gebruik van bedoelde motorvoertuig voor bedoelde verkryging, geniet het, is die vasgestelde waarde die vasgestelde waarde soos op die datum waarop die werknemer die reg van
- 10 gebruik van bedoelde motorvoertuig vir die eerste maal verleen is.";
- (b) deur subartikel (1A) te skrap;
- (c) deur die volgende voorbehoudsbepaling by subparagraaf (2) te voeg:
- 15 "Met dien verstande dat waar die werknemer 'n toelae of voorskot beoog in artikel 8(1)(b) ontvang, bedoelde waarde van die private gebruik van bedoelde voertuig nie deur enige bedoelde vergoeding verminder word nie."; en
- (d) deur in subparagraaf (4) die woorde wat paragraaf (i) van die voorbehoudsbepaling by item (a) voorafgaan deur die volgende woorde te vervang:
- 20 "met betrekking tot elke bedoelde maand, 'n bedrag gelyk aan 1,2 persent van die vasgestelde waarde van bedoelde voertuig: Met dien verstande dat waar meer as een motorvoertuig gelyktydig deur 'n werkgewer aan 'n bepaalde werknemer beskikbaar gestel word en die bepalinge van subparagraaf (6) nie in die geval van bedoelde voertuie van toepassing is nie, genoemde waarde 'n bedrag gelyk aan 1,2 persent van die vasgestelde waarde van die motorvoertuig met die hoogste vasgestelde waarde en 2
- 25 persent van die vasgestelde waarde van elke ander bedoelde motorvoertuig is: Met dien verstande voorts dat waar die werknemer—"
- (2)(a) Subartikel (1)(c) tree op 1 September 1995 in werking.
- (b) Subartikel (1)(d) word geag op 1 Mei 1995 in werking te getree het.
- 30 **Wysiging van paragraaf 11 van Sewende Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 33 van Wet 96 van 1985 en artikel 35 van Wet 65 van 1986**
48. Paragraaf 11 van die Sewende Bylae by die Hoofwet word hierby gewysig deur subparagraaf (1) deur die volgende subparagraaf te vervang:
- 35 "(1) [Behoudens die bepalinge van paragrawe 13A en 14, is] Die kontant-ekwivalent van die waarde van die belasbare voordeel verkry as gevolg van die toekenning van 'n lening aan 'n werknemer onder die omstandighede in paragraaf 2(f) beoog, is die bedrag aan rente wat op die bedrag verskuldig ten opsigte van die jaar van aanslag betaalbaar sou gewees het indien die werknemer verplig was
- 40 om rente op bedoelde bedrag gedurende daardie jaar teen die amptelike rentekoers te betaal, min die bedrag aan rente (indien enige) wat werklik deur die werknemer ten opsigte van die lening ten opsigte van bedoelde jaar opgeloopt is."
- Wysiging van paragraaf 12 van Sewende Bylae by Wet 58 van 1962, soos vervang deur artikel 34 van Wet 96 van 1985**
- 45 49. Paragraaf 12 van die Sewende Bylae by die Hoofwet word hierby deur die volgende paragraaf vervang:
- "12. [Behoudens die bepalinge van paragrawe 13A en 14, is] Die kontant-ekwivalent van die waarde van die belasbare voordeel bestaande uit 'n subsidie ten opsigte van die bedrag aan rente of kapitaalterugbetalings in paragraaf 2(g)
- 50 bedoel of 'n subsidie in paragraaf 2(gA) beoog, is die bedrag van bedoelde subsidie."
- Skrapping van paragraaf 13A, en opskrif daarby, van Sewende Bylae by Wet 58 van 1962, soos ingevoeg deur artikel 36 van Wet 96 van 1985 en gewysig deur artikel 54 van Wet 113 van 1993**
- 55 50. Paragraaf 13A, en die opskrif daarby, van die Sewende Bylae by die Hoofwet word hierby geskrap.

Deletion of paragraph 14, and heading thereto, of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 37 of Act 96 of 1985, section 36 of Act 65 of 1986 and section 30 of Act 85 of 1987

51. Paragraph 14, and the heading thereto, of the Seventh Schedule to the principal Act are hereby deleted. 5

Deletion of paragraph 15, and heading thereto, of Seventh Schedule to Act 58 of 1962, as added by section 46 of Act 121 of 1984 and amended by section 38 of Act 96 of 1985, section 37 of Act 65 of 1986 and section 11 of Act 108 of 1986

52. Paragraph 15, and the heading thereto, of the Seventh Schedule to the principal Act are hereby deleted. 10

Amendment of section 24 of Act 21 of 1994

53. Section 24 of the Income Tax Act, 1994, is hereby amended—

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

“(a) Subsection (1)(a), (b), (c), (e), (f) [(g)] and (h) shall be deemed to have come into operation on 17 March 1993.”; and 15

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

“(c) Subsection (1)(g) shall in so far as it—

(i) adds paragraphs (e) and (g) to subsection (5) of section 64B of the principal Act, be deemed to have come into operation on 17 March 1993; and 20

(ii) adds paragraph (f) to subsection (5) of section 64B of the principal Act, be deemed to have come into operation on 25 November 1994 and that paragraph shall apply to any dividend declared on or after that date.”.

Amendment of section 41 of Act 21 of 1994 25

54. Section 41 of the Income Tax Act, 1994, is hereby amended—

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

“(c) to [income derived from a source within] the territory of the former Republic of Venda.”; and 30

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

“(c) Subsection (1)(c) shall be deemed to have come into operation—

(i) [in respect of any] in so far as Parts III and VII of Chapter II of the principal Act are applicable, in respect of any dividend declared by a company during a year of assessment commencing after 1 April 1994; 35

(ii) in so far as Part VI of Chapter II of the principal Act is applicable, from any calendar quarter ending on or after 30 September 1995;

(iii) in so far as any other provision of the principal Act or any provision of any such regulation, Proclamation or Government Notice relates to a year of assessment— 40

(aa) of a person, other than a company, from the commencement of years of assessment [commencing] ending on or after [1 March 1995] 29 February 1996; [and] or

[(ii) in respect of any] 45

(bb) of a company, from the commencement of years of assessment commencing on or after 1 April 1994; or

(iv) in any other case, from 1 March 1995.”.

Repeal of section 42 of Act 21 of 1994 50

55. Section 42 of the Income Tax Act, 1994, is hereby repealed.

Special provisions to apply to former Republics of Transkei, Bophuthatswana, Venda and Ciskei in respect of certain provisions of principal Act

56. (1) Any fund which prior to the date of promulgation of this Act was approved as

Skrapping van paragraaf 14, en opskrif daarby, van Sewende Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 37 van Wet 96 van 1985, artikel 36 van Wet 65 van 1986 en artikel 30 van Wet 85 van 1987

- 5 **51.** Paragraaf 14, en die opskrif daarby, van die Sewende Bylae by die Hoofwet word hierby geskrap.

Skrapping van paragraaf 15, en opskrif daarby, van Sewende Bylae by Wet 58 van 1962, soos bygevoeg deur artikel 46 van Wet 121 van 1984 en gewysig deur artikel 38 van Wet 96 van 1985, artikel 37 van Wet 65 van 1986 en artikel 11 van Wet 108 van 1986

- 10 **52.** Paragraaf 15, en die opskrif daarby, van die Sewende Bylae by die Hoofwet word hierby geskrap.

Wysiging van artikel 24 van Wet 21 van 1994

- 53.** Artikel 24 van die Inkomstebelastingwet, 1994, word hierby gewysig—
- 15 (a) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:
 “(a) Subartikel (1)(a), (b), (c), (e), (f) [(g)] en (h) word geag op
 17 Maart 1993 in werking te getree het.”; en
- (b) deur die volgende paragraaf by subartikel (2) te voeg:
 “(c) Subartikel (1)(g) word, vir sover dit—
- 20 (i) paragrawe (e) en (g) by subartikel (5) van artikel 64B van die Hoofwet voeg, geag op 17 Maart 1993 in werking te getree het; en
- (ii) paragraaf (f) by subartikel (5) van artikel 64B van die Hoofwet voeg,
 geag op 25 November 1994 in werking te getree het en daardie
 paragraaf is van toepassing op ’n dividend wat op of na daardie datum
 25 verklaar is.”.

Wysiging van artikel 41 van Wet 21 van 1994

- 54.** Artikel 41 van die Inkomstebelastingwet, 1994, word hierby gewysig—
- (a) deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:
 “(c) op [inkomste verkry uit ’n bron binne] die gebied van die voormalige
 30 Republiek van Venda.”; en
- (b) deur paragraaf (c) van subartikel (4) deur die volgende paragraaf te vervang:
 “(c) Subartikel (1)(c) [tree] word geag in werking te getree het—
- (i) [ten opsigte van] vir sover Dele III en VII van Hoofstuk II van die
 Hoofwet van toepassing is, ten opsigte van ’n dividend wat deur ’n
 35 maatskappy gedurende ’n jaar van aanslag beginnende na 1 April 1994,
 verklaar is;
- (ii) vir sover Deel VI van Hoofstuk II van die Hoofwet van toepassing is,
 vanaf ’n kalenderkwartaal eindigende op of na 30 September 1995;
- (iii) vir sover enige ander bepaling van die Hoofwet of enige bepaling van
 40 so ’n regulasie, Proklamasie of Goewermentskennisgewing wat op ’n
jaar van aanslag betrekking het—
(aa) van ’n persoon, behalwe ’n maatskappy, vanaf die begin van jare
van aanslag [beginnende] eindigende op of na [1 Maart 1995]
29 Februarie 1996; [en] of
- 45 [(ii) **ten opsigte**] .
(bb) van ’n maatskappy, vanaf die begin van jare van aanslag begin-
nende op of na 1 April 1994; of
(iv) in enige ander geval, vanaf 1 Maart 1995.”.

50 Herroeping van artikel 42 van Wet 21 van 1994

- 55.** Artikel 42 van die Inkomstebelastingwet, 1994, word hierby herroep.

Spesiale bepalings van toepassing op voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei ten opsigte van sekere bepalings van Hoofwet

- 56.** (1) Enige fonds wat voor die datum van afkondiging van hierdie Wet as ’n

a benefit fund, pension fund, provident fund or retirement annuity fund for the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Transkei, the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Bophuthatswana, the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Venda or the Income Tax Act, 1984 (Act No. 44 of 1984), of the former Republic of Ciskei, but not for purposes of the principal Act, shall for the purposes of the principal Act be deemed to have been approved as a benefit fund, pension fund, provident fund or retirement annuity fund, as the case may be, in respect of years of assessment ending on or before 28 February 1997, if the rules of such fund are submitted to the Commissioner for Inland Revenue by 29 February 1996: Provided that the said Commissioner may, if he is satisfied that any such fund should not be so approved in respect of any such year, determine that the provisions of this section shall not apply to such fund in respect of such year, any such determination of the said Commissioner being subject to objection and appeal.

(2) For the purposes of the principal Act any superannuation, pension, provident or dependants' fund or pension scheme established by a law of the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei or any such fund so established for the benefit of the employees of any local authority of the territories of the said former Republics shall be deemed to have been established by law in the Republic.

Application of the principal Act

57. (1) The provisions of the principal Act, excluding Part III of Chapter II, as well as any regulation, Proclamation or Government Notice made or issued under the provisions thereof, shall, subject to the provisions of subsections (2) and (3), be applicable in the territories of the former Republics of Transkei, Bophuthatswana and Ciskei—

- (a) in so far as Part VI of Chapter II of such Act is so applicable, from any calendar quarter ending on or after 30 September 1995;
- (b) in so far as Part VII of Chapter II of such Act is so applicable, to any dividend declared during a year of assessment commencing after 1 April 1995;
- (c) in so far as any other provision of such Act or any provision of any such regulation, Proclamation or Government Notice so applicable, relates to a year of assessment—
 - (i) of a person other than a company, from the commencement of years of assessment ending on or after 29 February 1996; or
 - (ii) of a company, from the commencement of years of assessment ending on or after 1 April 1995; or
- (d) in any other case, from 1 March 1995.

(2)(a) In so far as the principal Act is applicable in terms of subsection (1), the laws of the territories of any of the former Republics of Transkei, Bophuthatswana and Ciskei, which impose a tax similar to a tax imposed in terms of the principal Act, shall not be applicable.

(b) In so far as the laws of any of the former Republics of Transkei, Bophuthatswana and Ciskei impose a tax which is not similar to a tax imposed in terms of the principal Act, such laws shall no longer be applicable in respect of the territory of—

- (i) the former Republic of Transkei, to—
 - (aa) any undistributed profits tax payable in terms of section 48 of the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Transkei, in respect of years of assessment ending after 1 April 1995;
 - (bb) any non-residents tax on interest payable in terms of section 64A of the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Transkei, in respect of interest accrued during years of assessment ending after 1 April 1995;
 - (cc) any special tax payable in terms of section 6B, any local tax payable in terms of section 7, any general stock tax payable in terms of section 7A or any general levy payable in terms of section 7B of the Transkei Taxation Act, 1969 (Act No. 8 of 1969), of the former Republic of

- bystands-, pensioen-, voorsorgs- of uittredingannuïteitsfonds by die toepassing van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Transkei, die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Bophuthatswana, die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Venda of die "Income Tax Act, 1984" (Wet No. 44 van 1984), van die voormalige Republiek van Ciskei goedgekeur is, maar nie by die toepassing van die Hoofwet nie, word by die toepassing van die Hoofwet geag om as 'n bystands-, pensioen-, voorsorgs- of uittredingannuïteitsfonds, na gelang van die geval, goedgekeur te gewees het ten opsigte van jare van aanslag eindigende op of voor 28 Februarie 1997, indien die reëls van bedoelde fonds teen 29 Februarie 1996 aan die Kommissaris voorgelê word: Met dien verstande dat genoemde Kommissaris, indien hy oortuig is dat enige bedoelde fonds nie ten opsigte van enige bedoelde jaar aldus goedgekeur moet wees nie, kan bepaal dat die bepalings van hierdie artikel nie van toepassing is nie op bedoelde fonds ten opsigte van bedoelde jaar, enige sodanige bepaling van genoemde Kommissaris synde onderworpe aan beswaar en appèl te wees.
- (2) By die toepassing van die Hoofwet word 'n ouderdomsvoorsorgs-, pensioen- of voorsorgsfonds of fonds vir afhanklikes of pensioenskema by 'n wet van die gebiede van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei ingestel of enige bedoelde fonds aldus ingestel ten voordele van werknemers van 'n plaaslike bestuur van die gebiede van genoemde voormalige Republieke, geag by wet in die Republiek ingestel te gewees het.

Toepassing van die Hoofwet

57. (1) Die bepalings van die Hoofwet, uitgesonderd Deel III van Hoofstuk II, asook enige regulasie, Proklamasie of Goewermentskennisgewing uitgevaardig of uitgereik kragtens die bepalings daarvan, is, behoudens die bepalings van subartikels (2) en (3), van toepassing op die gebiede van die voormalige Republieke van Transkei, Bophuthatswana en Ciskei—
- (a) vir sover Deel VI van Hoofstuk II van bedoelde Wet aldus van toepassing is, vanaf enige kalenderkwartaal eindigende op of na 30 September 1995;
- (b) vir sover Deel VII van Hoofstuk II van bedoelde Wet aldus van toepassing is, op 'n dividend wat gedurende 'n jaar van aanslag beginnende na 1 April 1995 verklaar is;
- (c) vir sover enige ander bepaling van bedoelde Wet of enige bepaling van so 'n regulasie, Proklamasie of Goewermentskennisgewing aldus van toepassing, op 'n jaar van aanslag betrekking het—
- (i) van 'n persoon behalwe 'n maatskappy, vanaf die begin van jare van aanslag wat op of na 29 Februarie 1996 eindig; of
- (ii) van 'n maatskappy, vanaf die begin van jare van aanslag wat op of na 1 April 1995 eindig; of
- (d) in enige ander geval, vanaf 1 Maart 1995.
- (2)(a) Vir sover die Hoofwet ingevolge subartikel (1) van toepassing is, is die wette van die gebiede van enige van die voormalige Republieke van Transkei, Bophuthatswana en Ciskei wat 'n belasting hef wat soortgelyk is aan 'n belasting gehef ingevolge die Hoofwet, nie van toepassing nie.
- (b) Vir sover die wette van enige van die voormalige Republieke van Transkei, Bophuthatswana en Ciskei 'n belasting hef wat nie soortgelyk is aan 'n belasting gehef ingevolge die Hoofwet nie, is bedoelde wette nie ten opsigte van die gebied van—
- (i) die voormalige Republiek van Transkei, op—
- (aa) enige belasting op onuitgekeerde winste betaalbaar ingevolge artikel 48 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Transkei, ten opsigte van jare van aanslag wat na 1 April 1995 eindig;
- (bb) 'n rentebelasting op buitelanders betaalbaar ingevolge artikel 64A van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Transkei, ten opsigte van rente toegeval gedurende jare van aanslag wat na 1 April 1995 eindig;
- (cc) 'n spesiale belasting betaalbaar ingevolge artikel 6B, 'n plaaslike belasting betaalbaar ingevolge artikel 7, 'n algemene veebelasting betaalbaar ingevolge artikel 7A of 'n algemene heffing betaalbaar ingevolge artikel 7B van die "Transkei Taxation Act, 1969" (Wet No.

- Transkei, in respect of years of assessment ending after 1 April 1995; and
- (dd) any tax on investment income payable in terms of section 6C of the Transkei Taxation Act, 1969 (Act No. 8 of 1969), of the former Republic of Transkei, in respect of interest paid or dividends declared during years of assessment ending after 1 April 1995; 5
- (ii) the former Republic of Bophuthatswana, to—
- (aa) any non-residents tax on rentals payable in terms of section 48 of the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Bophuthatswana, in respect of any rental received or accrued during years of assessment ending after 1 April 1995; 10
- (bb) any management fees tax payable in terms of section 64G of the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Bophuthatswana, in respect of any management fees derived during years of assessment ending after 1 April 1995; 15
- (cc) any non-resident partnership profits tax payable in terms of section 64I of the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Bophuthatswana, in respect of any profits accrued during years of assessment ending after 1 April 1995; and
- (dd) any withholding tax on fees paid to non-residents payable in terms of section 64J of the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Bophuthatswana, in respect of any fees derived during years of assessment ending after 1 April 1995; and 20
- (iii) the former Republic of Ciskei, to any withholding tax payable in terms of section 13(c), (d), (e) or (f) of the Income Tax Act, 1984 (Act No. 44 of 1984), of the former Republic of Ciskei, in respect of any amount paid or payable during years of assessment ending after 1 April 1995. 25
- (3) Any law referred to in the principal Act which is not yet applicable in the territories of the former Republics of Transkei, Bophuthatswana and Ciskei, shall for the purposes of the principal Act be deemed to be applicable in such territories. 30

Repeal of laws, and saving

58. (1) Subject to the provisions of subsections (2) and (3), the laws mentioned in the second column of Schedule 2 are hereby repealed to the extent as set out in the third column thereof.

(2) Any tax or levy which has become payable under a law repealed by subsection (1) before or on the date of the repeal of such a law, but which has not at the said date been paid, shall be recovered in accordance with and subject to the provisions of the law concerned as if that law had not been so repealed. 35

(3) Subsections (1) and (2) shall come into operation on 1 October 1995.

Commencement of certain amendments

59. Save in so far as is otherwise provided therein or the context otherwise indicates, the amendments effected to the principal Act by this Act, shall for the purposes of assessments in respect of normal tax under the principal Act, be deemed to have come into operation as from the commencement of years of assessment ending on or after 1 January 1996. 45

Short title

60. This Act shall be called the Income Tax Act, 1995.

8 van 1969), van die voormalige Republiek van Transkei, ten opsigte van jare van aanslag wat na 1 April 1995 eindig; en

- (dd) 'n belasting op beleggingsinkomste betaalbaar ingevolge artikel 6C van die "Transkei Taxation Act, 1969" (Wet No. 8 van 1969), van die voormalige Republiek van Transkei, ten opsigte van rente betaal of dividende verklaar gedurende jare van aanslag wat na 1 April 1995 eindig;
- (ii) die voormalige Republiek van Bophuthatswana, op—
- (aa) 'n huurgeldbelasting op buitelanders betaalbaar ingevolge artikel 48 van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Bophuthatswana, ten opsigte van enige huurgeld ontvang of toegeval gedurende jare van aanslag wat na 1 April 1995 eindig;
- (bb) 'n bestuursfooiebelasting betaalbaar ingevolge artikel 64G van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Bophuthatswana, ten opsigte van bestuursfooie verkry gedurende jare van aanslag wat na 1 April 1995 eindig;
- (cc) 'n vennootskapwinstebelasting op buitelanders betaalbaar ingevolge artikel 64I van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Bophuthatswana, ten opsigte van enige winste toegeval gedurende jare van aanslag wat na 1 April 1995 eindig; en
- (dd) 'n terughoubelasting op fooie betaal aan nie-inwoners betaalbaar ingevolge artikel 64J van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Bophuthatswana, ten opsigte van enige fooie verkry gedurende jare van aanslag wat na 1 April 1995 eindig; en
- (iii) die voormalige Republiek van Ciskei, op 'n terughoubelasting betaalbaar ingevolge artikel 13(c), (d), (e) of (f) van die "Income Tax Act, 1984" (Wet No. 44 van 1984), van die voormalige Republiek van Ciskei, ten opsigte van 'n bedrag betaal of betaalbaar gedurende jare van aanslag wat na 1 April 1995 eindig, van toepassing nie.
- (3) 'n Wet waarna in die Hoofwet verwys word wat nog nie in die gebiede van die voormalige Republieke van Transkei, Bophuthatswana en Ciskei van toepassing is nie, word by die toepassing van die Hoofwet geag in bedoelde gebiede van toepassing te wees.

Herroeping van wette, en voorbehoud

58. (1) Behoudens die bepalings van subartikels (2) en (3), word die wette genoem in die tweede kolom van Bylae 2 hierby herroep in die mate in die derde kolom daarvan uiteengesit.

(2) 'n Belasting of heffing wat betaalbaar geword het kragtens 'n wet herroep by subartikel (1) voor of op die datum van herroeping van so 'n wet, maar wat op bedoelde datum nie betaal is nie, word verhaal ooreenkomstig en behoudens die bepalings van die betrokke wet asof daardie wet nie aldus herroep is nie.

(3) Subartikels (1) en (2) tree op 1 Oktober 1995 in werking.

Inwerkingtreding van sekere wysigings

59. Behalwe vir sover daarin anders bepaal word of uit die samehang anders blyk, word die wysigings deur hierdie Wet aan die Hoofwet aangebring, vir die doeleindes van aanslae ten opsigte van normale belasting ingevolge die Hoofwet, geag in werking te getree het met ingang van die begin van jare van aanslag wat op of na 1 Januarie 1996 eindig.

Kort titel

60. Hierdie Wet heet die Inkomstebelastingwet, 1995.

SCHEDULE 1**RATES OF NORMAL TAX PAYABLE BY PERSONS OTHER THAN COMPANIES IN RESPECT OF THE YEARS OF ASSESSMENT ENDING 29 FEBRUARY 1996 AND 30 JUNE 1996, AND BY COMPANIES IN RESPECT OF YEARS OF ASSESSMENT ENDING DURING THE PERIOD OF 12 MONTHS ENDING 31 MARCH 1996****(SECTION 1)**

1. The rates of normal tax referred to in section 1 of this Act in respect of persons other than companies are as follows:—

(a) In respect of the taxable income of any natural person, an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax in respect of Natural Persons
Where the taxable income—	
does not exceed R5 000	17 per cent of each R1 of the taxable income;
exceeds R5 000 but does not exceed R10 000	R850 plus 18 per cent of the amount by which the taxable income exceeds R5 000;
“ R10 000 “ “ “ “ R15 000	R1 750 plus 19 per cent of the amount by which the taxable income exceeds R10 000;
“ R15 000 “ “ “ “ R20 000	R2 700 plus 20 per cent of the amount by which the taxable income exceeds R15 000;
“ R20 000 “ “ “ “ R30 000	R3 700 plus 21 per cent of the amount by which the taxable income exceeds R20 000;
“ R30 000 “ “ “ “ R40 000	R5 800 plus 31 per cent of the amount by which the taxable income exceeds R30 000;
“ R40 000 “ “ “ “ R50 000	R8 900 plus 42 per cent of the amount by which the taxable income exceeds R40 000;
“ R50 000 “ “ “ “ R70 000	R13 100 plus 43 per cent of the amount by which the taxable income exceeds R50 000;
“ R70 000 “ “ “ “ R80 000	R21 700 plus 44 per cent of the amount by which the taxable income exceeds R70 000;
“ R80 000	R26 100 plus 45 per cent of the amount by which the taxable income exceeds R80 000;

BYLAE 1

SKALE VAN NORMALE BELASTING BETAALBAAR DEUR ANDER PERSONE AS MAATSKAPPE TEN OPSIGTE VAN DIE JARE VAN AANSLAG EINDIGENDE OP 29 FEBRUARIE 1996 EN 30 JUNIE 1996, EN DEUR MAATSKAPPE TEN OPSIGTE VAN JARE VAN AANSLAG WAT EINDIG GEDURENDE DIE TYDPERK VAN 12 MAANDE EINDIGENDE OP 31 MAART 1996

(ARTIKEL 1)

1. Die skale van normale belasting bedoel in artikel 1 van hierdie Wet ten opsigte van persone behalwe maatskappe is soos volg:—

(a) Ten opsigte van die belasbare inkomste van 'n natuurlike persoon, 'n bedrag aan belasting wat ooreenkomstig die tabel hieronder bereken word:

Belasbare Inkomste	Skale van Belasting ten opsigte van Natuurlike Persone
Waar die belasbare inkomste—	
R5 000 nie te bowe gaan nie	17 persent van elke R1 van die belasbare inkomste;
R5 000 te bowe gaan, maar nie R10 000 nie	R850 plus 18 persent van die bedrag waarmee die belasbare inkomste R5 000 oorskry;
R10 000 “ “ “ “ “ R15 000 “	R1 750 plus 19 persent van die bedrag waarmee die belasbare inkomste R10 000 oorskry;
R15 000 “ “ “ “ “ R20 000 “	R2 700 plus 20 persent van die bedrag waarmee die belasbare inkomste R15 000 oorskry;
R20 000 “ “ “ “ “ R30 000 “	R3 700 plus 21 persent van die bedrag waarmee die belasbare inkomste R20 000 oorskry;
R30 000 “ “ “ “ “ R40 000 “	R5 800 plus 31 persent van die bedrag waarmee die belasbare inkomste R30 000 oorskry;
R40 000 “ “ “ “ “ R50 000 “	R8 900 plus 42 persent van die bedrag waarmee die belasbare inkomste R40 000 oorskry;
R50 000 “ “ “ “ “ R70 000 “	R13 100 plus 43 persent van die bedrag waarmee die belasbare inkomste R50 000 oorskry;
R70 000 “ “ “ “ “ R80 000 “	R21 700 plus 44 persent van die bedrag waarmee die belasbare inkomste R70 000 oorskry;
R80 000 te bowe gaan	R26 100 plus 45 persent van die bedrag waarmee die belasbare inkomste R80 000 oorskry;

- (b) in respect of the taxable income of any person other than a natural person, an amount of tax calculated in accordance with the table below:

Taxable Income	Rates of Tax in respect of Persons other than Natural Persons
Where the taxable income—	
does not exceed R5 000	17 per cent of each R1 of the taxable income;
exceeds R5 000 but does not exceed R10 000	R850 plus 19 per cent of the amount by which the taxable income exceeds R5 000;
“ R10 000 “ “ “ “ R15 000	R1 800 plus 21 per cent of the amount by which the taxable income exceeds R10 000;
“ R15 000 “ “ “ “ R20 000	R2 850 plus 24 per cent of the amount by which the taxable income exceeds R15 000;
“ R20 000 “ “ “ “ R30 000	R4 050 plus 28 per cent of the amount by which the taxable income exceeds R20 000;
“ R30 000 “ “ “ “ R40 000	R6 850 plus 36 per cent of the amount by which the taxable income exceeds R30 000;
“ R40 000 “ “ “ “ R50 000	R10 450 plus 41 per cent of the amount by which the taxable income exceeds R40 000;
“ R50 000 “ “ “ “ R56 000	R14 550 plus 42 per cent of the amount by which the taxable income exceeds R50 000;
“ R56 000 “ “ “ “ R70 000	R17 070 plus 43 per cent of the amount by which the taxable income exceeds R56 000;
“ R70 000 “ “ “ “ R80 000	R23 090 plus 44 per cent of the amount by which the taxable income exceeds R70 000;
“ R80 000	R27 490 plus 45 per cent of the amount by which the taxable income exceeds R80 000;

- (c) on each rand of so much of the taxable income as exceeds R50 000, 1,67 cents, in addition to the tax determined under subparagraph (a) or (b): Provided that for the purposes of this subparagraph, the taxable income of a person shall be determined without the inclusion of any amount contemplated in section 7A(4A) and paragraph 7 of the Second Schedule to the principal Act.

2. The rates of normal tax referred to in section 1 of this Act in respect of companies are, subject to the provisions of paragraphs 4 and 5, as follows:—

- (a) On each rand of the taxable income of any company (excluding taxable income referred to in subparagraphs (b), (c) and (d)), 35 cents, or, in the case of a company which mines for gold on any gold mine and which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, 48 cents;
- (b) on each rand of the taxable income derived by any company from mining for gold on any gold mine (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, but after the set-off of any assessed

- (b) ten opsigte van die belasbare inkomste van 'n persoon behalwe 'n natuurlike persoon, 'n bedrag aan belasting wat ooreenkomstig die tabel hieronder bereken word:

Belasbare Inkomste	Skale van Belasting ten opsigte van Persone behalwe Natuurlike Persone
Waar die belasbare inkomste—	
R5 000 nie te bowe gaan nie	17 persent van elke R1 van die belasbare inkomste;
R5 000 te bowe gaan, maar nie R10 000 nie	R850 plus 19 persent van die bedrag waarmee die belasbare inkomste R5 000 oorskry;
R10 000 “ “ “ “ “ R15 000 “	R1 800 plus 21 persent van die bedrag waarmee die belasbare inkomste R10 000 oorskry;
R15 000 “ “ “ “ “ R20 000 “	R2 850 plus 24 persent van die bedrag waarmee die belasbare inkomste R15 000 oorskry;
R20 000 “ “ “ “ “ R30 000 “	R4 050 plus 28 persent van die bedrag waarmee die belasbare inkomste R20 000 oorskry;
R30 000 “ “ “ “ “ R40 000 “	R6 850 plus 36 persent van die bedrag waarmee die belasbare inkomste R30 000 oorskry;
R40 000 “ “ “ “ “ R50 000 “	R10 450 plus 41 persent van die bedrag waarmee die belasbare inkomste R40 000 oorskry;
R50 000 “ “ “ “ “ R56 000 “	R14 550 plus 42 persent van die bedrag waarmee die belasbare inkomste R50 000 oorskry;
R56 000 “ “ “ “ “ R70 000 “	R17 070 plus 43 persent van die bedrag waarmee die belasbare inkomste R56 000 oorskry;
R70 000 “ “ “ “ “ R80 000 “	R23 090 plus 44 persent van die bedrag waarmee die belasbare inkomste R70 000 oorskry;
R80 000 te bowe gaan	R27 490 plus 45 persent van die bedrag waarmee die belasbare inkomste R80 000 oorskry;

- (c) op elke rand van soveel van die belasbare inkomste wat R50 000 te bowe gaan, 1,67 sent, benewens die belasting vasgestel kragtens subparagraaf (a) of (b): Met dien verstande dat by die toepassing van hierdie subparagraaf, die belasbare inkomste van 'n persoon vasgestel word sonder om 'n bedrag beoog in artikel 7A(4A) en paragraaf 7 van die Tweede Bylae by die Hoofwet, in te sluit.

2. Die skale van normale belasting bedoel in artikel 1 van hierdie Wet ten opsigte van maatskappye is, behoudens die bepalings van paragrafe 4 en 5, soos volg:—

- (a) Op elke rand van die belasbare inkomste van 'n maatskappy (met uitsondering van belasbare inkomste in subparagrafe (b), (c) en (d) bedoel), 35 sent, of, in die geval van 'n maatskappy wat vir goud myn op 'n goudmyn en wat ingevolge 'n keuse deur hom uitgeoefen van die betaling van sekondêre belasting op maatskappye vrygestel is, 48 sent;
- (b) op elke rand van die belasbare inkomste wat deur 'n maatskappy uit die myn van goud op 'n goudmyn verkry word (met uitsluiting van soveel van die belasbare inkomste as wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by bruto inkomste van 'n bedrag bedoel in paragraaf (j) van die omskrywing van “bruto inkomste” in artikel 1 van die Hoofwet, maar na die in vergelyking bring van enige vasgestelde verlies

loss in terms of section 20(1) of the principal Act), a percentage determined in accordance with the formula:

$$y = 43 - \frac{215}{x}$$

or, in the case of a company which is in terms of an option exercised by it exempt from the payment of secondary tax on companies, in accordance with the formula:

$$y = 58 - \frac{290}{x}$$

in which formulae y represents such percentage and x the ratio expressed as a percentage which the taxable income so derived (with the said exclusion, but before the set-off of any assessed loss or deduction which is not attributable to the mining for gold from the said mine) bears to the income so derived (with the said exclusion);

- (c) 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, 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;
- (d) on each rand of the taxable income derived by any company from carrying on long-term insurance business—
 - (i) where such taxable income has been determined in terms of the provisions of section 28 of the principal Act, 45 cents; or
 - (ii) where such taxable income has been determined in terms of the provisions of section 29 of the principal Act—
 - (aa) in respect of its individual policyholder fund, 30 cents; and
 - (bb) in respect of its company policyholder fund and corporate fund, 35 cents;

Provided that the tax determined in accordance with any of subparagraphs (a) to (d), inclusive, shall be payable in addition to the tax determined in accordance with any other of the said subparagraphs.

3. The rates set forth in paragraphs 1 and 2 shall be the rates required to be fixed by Parliament in accordance with the provisions of section 5(2) of the principal Act, in respect of taxable incomes derived from sources within or deemed to be within the Republic.

4. Where the normal tax payable by any company in respect of taxable income derived from a source within the territories of the former Republics of Transkei, Bophuthatswana and Ciskei as determined under paragraph 2(a), (b), (c) and (d), exceeds the tax which, but for the provisions of section 57(2) of this Act, would have been payable in respect of such taxable income as determined under the provisions of—

- (a) the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Transkei, the Transkei Taxation Act, 1969 (Act No. 8 of 1969), of the former Republic of Transkei and the Income Tax Amendment Act, 1982 (Act No. 19 of 1982), of the former Republic of Transkei;
- (b) the Income Tax Act, 1962 (Act No. 58 of 1962), of the former Republic of Bophuthatswana and the Bophuthatswana Taxation Act, 1978 (Act No. 26 of 1978), of the former Republic of Bophuthatswana; or
- (c) the Income Tax Act, 1984 (Act No. 44 of 1984), of the former Republic of Ciskei,

ingevolge artikel 20(1) van die Hoofwet), 'n persentasie vasgestel ooreenkomstig die formule:

$$y = 43 - \frac{215}{x}$$

of, in die geval van 'n maatskappy wat ingevolge 'n keuse deur hom uitgeoefen van die betaling van sekondêre belasting op maatskappye vrygestel is, ooreenkomstig die formule:

$$y = 58 - \frac{290}{x}$$

in welke formules y bedoelde persentasie voorstel en x die verhouding, as 'n persentasie uitgedruk, waarin die aldus verkreeë belasbare inkomste (met genoemde uitsluiting, maar voor die in vergelyking bring van enige vasgestelde verlies of aftrekking wat nie aan die myn van goud uit bedoelde goudmyn toeskryfbaar is nie) staan tot die aldus verkreeë inkomste (met genoemde uitsluiting);

- (c) op elke rand van die belasbare inkomste van 'n maatskappy wie se enigste of vernaamste besigheid in die Republiek die myn van goud is of was en waarvan die vasstelling van die belasbare inkomste vir die tydperk van aanslag nie op 'n vasgestelde verlies uitloop nie, wat volgens vasstelling van die Kommissaris toe te skryf is aan die inrekening by sy bruto inkomste van 'n bedrag bedoel in paragraaf (j) van die omskrywing van "bruto inkomste" in artikel 1 van die Hoofwet, 'n skaal gelyk aan die gemiddelde skaal van normale belasting of 35 sent, watter ook al die hoogste is: Met dien verstande dat vir die doeleindes van hierdie subparagraaf die gemiddelde skaal van normale belasting vasgestel word deur die totale normale belasting (met uitsondering van die belasting wat vir die tydperk van aanslag ooreenkomstig hierdie subparagraaf vasgestel is) wat deur die maatskappy betaal is ten opsigte van sy totale belasbare inkomste uit die myn van goud vir die tydperk vanaf 1 Julie 1916 tot die end van die tydperk waarvoor aangeslaan word, te deel deur die getal rande wat genoemde totale belasbare inkomste bevat;
- (d) op elke rand van die belasbare inkomste wat deur 'n maatskappy uit die dryf van langtermynversekeringsbesigheid verkry word—
 - (i) waar bedoelde belasbare inkomste vasgestel is ingevolge die bepaling van artikel 28 van die Hoofwet, 45 sent; of
 - (ii) waar bedoelde belasbare inkomste vasgestel is ingevolge die bepaling van artikel 29 van die Hoofwet—
 - (aa) ten opsigte van sy individuele polishouerfonds, 30 sent; en
 - (bb) ten opsigte van sy maatskappypolishouerfonds en korporatiewe fonds, 35 sent:

Met dien verstande dat die belasting ooreenkomstig enige van subparagrafe (a) tot en met (d) vasgestel, benewens die belasting vasgestel ooreenkomstig enige ander van genoemde subparagrafe betaalbaar is.

3. Die skale uiteengesit in paragrafe 1 en 2 is die skale wat deur die Parlement ooreenkomstig die bepaling van artikel 5(2) van die Hoofwet, vasgestel moet word ten opsigte van belasbare inkomste verkry uit bronne in die Republiek of geag in die Republiek te wees.

4. Waar die normale belasting betaalbaar deur 'n maatskappy ten opsigte van belasbare inkomste verkry uit 'n bron binne die gebiede van die voormalige Republieke van Transkei, Bophuthatswana en Ciskei soos vasgestel kragtens paragraaf 2(a), (b), (c) en (d), die belasting te bowe gaan wat, by ontstentenis van die bepaling van artikel 57(2) van hierdie Wet, betaalbaar sou gewees het ten opsigte van bedoelde belasbare inkomste soos vasgestel kragtens die bepaling van—

- (a) die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Transkei, die "Transkei Taxation Act, 1969" (Wet No. 8 van 1969), van die voormalige Republiek van Transkei en die "Income Tax Amendment Act, 1982" (Wet No. 19 van 1982), van die voormalige Republiek van Transkei;
- (b) die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), van die voormalige Republiek van Bophuthatswana en die Bophuthatswana Belastingwet, 1978 (Wet No. 26 van 1978), van die voormalige Republiek van Bophuthatswana; of
- (c) die "Income Tax Act, 1984" (Wet No. 44 van 1984), van die voormalige Republiek van Ciskei,

as the case may be, there shall be deducted from such normal tax an amount equal to 50 per cent of the amount by which such normal tax exceeds the tax which, but for the provisions of section 57(2) of this Act, would have been payable under any such Act.

5. Any company which qualifies for exemption under the provisions of section 2 of the Company Tax Amendment Decree, 1994 (Decree No. 2 of 1994 of Ciskei), shall be exempt from normal tax on so much of its taxable income as is derived from a source within the territory of the former Republic of Ciskei.

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

7. For the purposes of the principal Act any amount determined in accordance with paragraph 1(c) shall be known as the transition levy.

8. 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.

na gelang van die geval, word daar van bedoelde normale belasting afgetrek 'n bedrag gelyk aan 50 persent van die bedrag waarmee bedoelde normale belasting die belasting te bowe gaan wat, by ontstentenis van die bepalings van artikel 57(2) van hierdie Wet, kragtens enige bedoelde Wet betaalbaar sou gewees het.

5. 'n Maatskappy wat kwalifiseer vir vrystelling kragtens die bepalings van artikel 2 van die "Company Tax Amendment Decree, 1994" (Dekreet No. 2 van 1994 van Ciskei), is vrygestel van normale belasting op soveel van sy belasbare inkomste as wat uit 'n bron binne die gebied van die voormalige Republiek van Ciskei verkry is.

6. By die toepassing van paragraaf 2 sluit inkomste uit die myn van goud verkry inkomste in wat verkry is van silwer, osmiridium, uraan, piriet of ander minerale wat in die loop van die myn van goud gewin word, en enige ander inkomste wat volgens die oordeel van die Kommissaris regstreeks uit die myn van goud voortvloei.

7. By die toepassing van die Hoofwet staan enige bedrag ooreenkomstig paragraaf 1(c) vasgestel as die oorgangsheffing bekend.

8. In hierdie Bylae, tensy uit die samehang anders blyk, het enige woord of uitdrukking waaraan daar in die Hoofwet 'n betekenis toegeskryf is, die betekenis aldus daaraan toegeskryf.

Act No. 10 of 1977	Taxation Amendment Act 1977	The whole
Act No. 17 of 1978	Taxation Amendment Act 1978	The whole
Act No. 15 of 1980	Taxation Amendment Act 1980	The whole
Act No. 23 of 1981	Taxation Amendment Act 1981	The whole
Act No. 10 of 1982	Income Tax Amendment Act 1982	The whole
Act No. 5 of 1983	Taxation Amendment Act 1983	The whole
Act No. 19 of 1983	Income Tax Amendment Act 1983	The whole
Act No. 10 of 1984	Income Tax Amendment Act 1984	The whole
Act No. 22 of 1985	General Law Amendment Act 1985	The whole
Act No. 10 of 1986	Taxation Amendment Act 1986	The whole
Act No. 1 of 1987	Taxation Amendment Act 1987	The whole
Act No. 10 of 1987	Revenue Laws Amendment Act 1987	The whole
Decree No. 12 of 1988	Decree No. 12 (General Law Amendment) of 1988	Sections 6 and 7
Decree No. 17 of 1989	Decree No. 17 (Revenue Laws Amendment) of 1989	Section 4

SCHEDULE 2**LAWS REPEALED****(SECTION 58)**

(a)

Laws of the former Republic of Transkei		
Number and year of law	Short title	Extent of repeal
Act No. 58 of 1962	Income Tax Act, 1962	The whole
Act No. 8 of 1969	Transkei Taxation Act, 1969	The whole
Act No. 2 of 1970	Transkeian Finance Act, 1970	The whole
Act No. 5 of 1972	Transkeian General Law Amendment Act, 1972	The whole
Act No. 27 of 1976	Taxation Adjustment Act, 1976	The whole
Act No. 10 of 1977	Taxation Amendment Act, 1977	The whole
Act No. 17 of 1978	Taxation Amendment Act, 1978	The whole
Act No. 25 of 1980	Taxation Amendment Act, 1980	The whole
Act No. 23 of 1981	Taxation Amendment Act, 1981	The whole
Act No. 19 of 1982	Income Tax Amendment Act, 1982	The whole
Act No. 3 of 1983	Taxation Amendment Act, 1983	The whole
Act No. 19 of 1983	Income Tax Amendment Act, 1983	The whole
Act No. 10 of 1984	Income Tax Amendment Act, 1984	The whole
Act No. 22 of 1985	General Law Amendment Act, 1985	The whole
Act No. 16 of 1986	Taxation Amendment Act, 1986	The whole
Act No. 4 of 1987	Taxation Amendment Act, 1987	The whole
Act No. 19 of 1987	Revenue Laws Amendment Act, 1987	The whole
Decree No. 13 of 1988	Decree No. 13 (General Law Amendment) of 1988	Sections 6 and 7
Decree No. 17 of 1989	Decree No. 17 (Revenue Laws Amendment) of 1989	Section 4

BYLAE 2

WETTE HERROEP

(ARTIKEL 58)

(a)

Wette van die voormalige Republiek van Transkei

Nummer en jaar van wet	Kort titel	Omvang van herroeping
Wet No. 58 van 1962	Inkomstebelastingwet, 1962	Die geheel
Wet No. 8 van 1969	"Transkei Taxation Act, 1969"	Die geheel
Wet No. 2 van 1970	"Transkeian Finance Act, 1970"	Die geheel
Wet No. 5 van 1972	"Transkeian General Law Amendment Act, 1972"	Die geheel
Wet No. 27 van 1976	"Taxation Adjustment Act, 1976"	Die geheel
Wet No. 10 van 1977	"Taxation Amendment Act, 1977"	Die geheel
Wet No. 17 van 1978	"Taxation Amendment Act, 1978"	Die geheel
Wet No. 25 van 1980	"Taxation Amendment Act, 1980"	Die geheel
Wet No. 23 van 1981	"Taxation Amendment Act, 1981"	Die geheel
Wet No. 19 van 1982	"Income Tax Amendment Act, 1982"	Die geheel
Wet No. 3 van 1983	"Taxation Amendment Act, 1983"	Die geheel
Wet No. 19 van 1983	"Income Tax Amendment Act, 1983"	Die geheel
Wet No. 10 van 1984	"Income Tax Amendment Act, 1984"	Die geheel
Wet No. 22 van 1985	"General Law Amendment Act, 1985"	Die geheel
Wet No. 16 van 1986	"Taxation Amendment Act, 1986"	Die geheel
Wet No. 4 van 1987	"Taxation Amendment Act, 1987"	Die geheel
Wet No. 19 van 1987	"Revenue Laws Amendment Act, 1987"	Die geheel
Dekreet No. 13 van 1988	"Decree No. 13 (General Law Amendment) of 1988"	Artikels 6 en 7
Dekreet No. 17 van 1989	"Decree No. 17 (Revenue Laws Amendment) of 1989"	Artikel 4

Act No. 21, 1995

INCOME TAX ACT, 1995

(b)

Laws of the former Republic of Bophuthatswana		
Number and year of law	Short title	Extent of repeal
Act No. 58 of 1962	Income Tax Act, 1962	The whole
Act No. 26 of 1978	Bophuthatswana Taxation Act, 1978	The whole
Act No. 4 of 1980	Bophuthatswana Taxation Amendment Act, 1980	The whole
Act No. 26 of 1980	Bophuthatswana Taxation Second Amendment Act, 1980	The whole
Act No. 27 of 1980	Bophuthatswana Taxation Third Amendment Act, 1980	The whole
Act No. 30 of 1980	Bophuthatswana Taxation Fourth Amendment Act, 1980	The whole
Act No. 7 of 1982	Bophuthatswana Taxation Amendment Act, 1982	The whole
Act No. 34 of 1982	Bophuthatswana Taxation Second Amendment Act, 1982	The whole
Act No. 15 of 1983	Bophuthatswana Taxation Amendment Act, 1983	The whole
Act No. 31 of 1984	Bophuthatswana Taxation Amendment Act, 1984	The whole
Act No. 32 of 1984	Bophuthatswana Second Taxation Amendment Act, 1984	The whole
Act No. 23 of 1985	Bophuthatswana Taxation Amendment Act, 1985	The whole
Act No. 24 of 1985	Second Bophuthatswana Taxation Amendment Act, 1985	The whole
Act No. 28 of 1986	Bophuthatswana Taxation Amendment Act, 1986	The whole
Act No. 33 of 1986	Bophuthatswana Taxation Second Amendment Act, 1986	The whole
Act No. 4 of 1988	Bophuthatswana Taxation Amendment Act, 1988	The whole
Act No. 10 of 1989	Bophuthatswana Taxation Amendment Act, 1989	The whole
Act No. 4 of 1991	Bophuthatswana Taxation Amendment Act, 1991	The whole
Act No. 34 of 1992	Taxation Laws Amendment Act, 1992	The whole
Act No. 64 of 1992	Bophuthatswana Taxation Laws Amendment Act, 1992	The whole
Act No. 35 of 1993	Taxation Laws Amendment Act, 1993	The whole

(c)

Laws of the former Republic of Venda		
Number and year of law	Short title	Extent of repeal
Act No. 36 of 1987	Taxation Laws Amendment Act, 1987	The whole

(b)

Wette van die voormalige Republiek van Bophuthatswana		
Nommer en jaar van wet	Kort titel	Omvang van herroeping
Wet No. 58 van 1962	Inkomstebelastingwet, 1962	Die geheel
Wet No. 26 van 1978	Bophuthatswana Belastingwet, 1978	Die geheel
Wet No. 4 van 1980	Bophuthatswana Wysigingswet op Belasting, 1980	Die geheel
Wet No. 26 van 1980	Bophuthatswana Tweede Wysigingswet op Belasting, 1980	Die geheel
Wet No. 27 van 1980	Bophuthatswana Derde Wysigingswet op Belasting, 1980	Die geheel
Wet No. 30 van 1980	Bophuthatswana Vierde Wysigingswet op Belasting, 1980	Die geheel
Wet No. 7 van 1982	Bophuthatswana Wysigingswet op Belasting, 1982	Die geheel
Wet No. 34 van 1982	Bophuthatswana Tweede Wysigingswet op Belasting, 1982	Die geheel
Wet No. 15 van 1983	Bophuthatswana Wysigingswet op Belasting, 1983	Die geheel
Wet No. 31 van 1984	Bophuthatswana Wysigingswet op Belasting, 1984	Die geheel
Wet No. 32 van 1984	Tweede Bophuthatswana Wysigingswet op Belasting, 1984	Die geheel
Wet No. 23 van 1985	Bophuthatswana Wysigingswet op Belasting, 1985	Die geheel
Wet No. 24 van 1985	Tweede Bophuthatswana Belastingwysigingswet, 1985	Die geheel
Wet No. 28 van 1986	Bophuthatswana Wysigingswet op Belasting, 1986	Die geheel
Wet No. 33 van 1986	Tweede Bophuthatswana Belastingwysigingswet, 1986	Die geheel
Wet No. 4 van 1988	Bophuthatswana Wysigingswet op Belasting, 1988	Die geheel
Wet No. 10 van 1989	Bophuthatswana Wysigingswet op Belasting, 1989	Die geheel
Wet No. 4 van 1991	Bophuthatswana Wysigingswet op Belasting, 1991	Die geheel
Wet No. 34 van 1992	Wysigingswet op Belastingwette, 1992	Die geheel
Wet No. 64 van 1992	Bophuthatswana Wysigingswet op Belastingwette, 1992	Die geheel
Wet No. 35 van 1993	Wysigingswet op Belastingwette, 1993	Die geheel

(c)

Wette van die voormalige Republiek van Venda		
Nommer en jaar van wet	Kort titel	Omvang van herroeping
Wet No. 36 van 1987	"Taxation Laws Amendment Act, 1987"	Die geheel

Act No. 21, 1995

INCOME TAX ACT, 1995

(d)

Laws of the former Republic of Ciskei		
Number and year of law	Short title	Extent of repeal
Act No. 16 of 1984	Company Tax Amendment Act, 1984	The whole
Act No. 44 of 1984	Income Tax Act, 1984	The whole
Act No. 7 of 1988	Income Tax Amendment Act, 1988	The whole
Act No. 15 of 1988	Company Tax Amendment Act, 1988	The whole
Act No. 11 of 1989	Reinsurance of Material Damage and Loss Act, 1989	The Schedule
Decree No. 16 of 1991	Income Tax Amendment Decree of 1991	The whole
Decree No. 20 of 1992	Income Tax Amendment Decree of 1992	The whole
Decree No. 21 of 1992	Taxation Amendment Decree of 1992	The whole
Decree No. 24 of 1993	Taxation Amendment Decree of 1993	The whole
Decree No. 7 of 1994	Income Tax Amendment Decree of 1994	The whole

Laws of the former Republic of Ciskei		
Number and year of law	Short title	Extent of repeal
Act No. 16 of 1984	Company Tax Amendment Act, 1984	The whole
Act No. 44 of 1984	Income Tax Act, 1984	The whole
Act No. 7 of 1988	Income Tax Amendment Act, 1988	The whole
Act No. 15 of 1988	Company Tax Amendment Act, 1988	The whole
Act No. 11 of 1989	Reinsurance of Material Damage and Loss Act, 1989	The Schedule
Decree No. 16 of 1991	Income Tax Amendment Decree of 1991	The whole
Decree No. 20 of 1992	Income Tax Amendment Decree of 1992	The whole
Decree No. 21 of 1992	Taxation Amendment Decree of 1992	The whole
Decree No. 24 of 1993	Taxation Amendment Decree of 1993	The whole
Decree No. 7 of 1994	Income Tax Amendment Decree of 1994	The whole

(d)

Wette van die voormalige Republiek van Ciskei		
Nummer en jaar van wet	Kort titel	Omvang van herroeping
Wet No. 16 van 1984	"Company Tax Amendment Act, 1984"	Die geheel
Wet No. 44 van 1984	"Income Tax Act, 1984"	Die geheel
Wet No. 7 van 1988	"Income Tax Amendment Act, 1988"	Die geheel
Wet No. 15 van 1988	"Company Tax Amendment Act, 1988"	Die geheel
Wet No. 11 van 1989	"Reinsurance of Material Damage and Loss Act, 1989"	Die Bylae
Dekreet No. 16 van 1991	"Income Tax Amendment Decree of 1991"	Die geheel
Dekreet No. 20 van 1992	"Income Tax Amendment Decree of 1992"	Die geheel
Dekreet No. 21 van 1992	"Taxation Amendment Decree of 1992"	Die geheel
Dekreet No. 24 van 1993	"Taxation Amendment Decree of 1993"	Die geheel
Dekreet No. 7 van 1994	"Income Tax Amendment Decree of 1994"	Die geheel

(b)

Wette van die voormalige Republiek van Oos-Afrika		
Nummer en jaer van wet	Kort titel	Omvang van betrekking
Wet No. 18 van 1984	"Company Tax Amendment Act, 1984"	Die geset
Wet No. 44 van 1984	"Income Tax Act, 1984"	Die geset
Wet No. 7 van 1988	"Income Tax Amendment Act, 1988"	Die geset
Wet No. 15 van 1988	"Company Tax Amendment Act, 1988"	Die geset
Wet No. 11 van 1989	"Remittance of Mutual Dividends and Losses Act, 1989"	Die Bylae
Dekreet No. 16 van 1991	"Income Tax Amendment Decree of 1991"	Die geset
Dekreet No. 20 van 1992	"Income Tax Amendment Decree of 1992"	Die geset
Dekreet No. 21 van 1992	"Taxation Amendment Decree of 1992"	Die geset
Dekreet No. 24 van 1993	"Taxation Amendment Decree of 1993"	Die geset
Dekreet No. 7 van 1994	"Income Tax Amendment Decree of 1994"	Die geset