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Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

To consolidate the law relating to the taxation of incomes and donations.

*(English text signed by the State President.)
(Assented to 25th May, 1962.)*

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BE IT ENACTED by the State Council of the Republic of South Africa, in the House of Assembly of the Republic of South Africa, as follows:--

PRELIMINARY.

1. In this Act, unless the context otherwise indicates--
- (i) "company" includes any partnership or co-operative society or any other body of persons corporate or unincorporate acting as an agent; (iv)
- (ii) "assessment" means--
- (a) the determination of a tax amount upon which any tax is payable under this Act is chargeable; or
- (b) the determination of the amount of the tax payable for the purposes of Part III of Chapter IV of the Income Tax Act, 1956, in respect of any of the deductions referred to in section 11; (ii)
- (iii) "benefit fund" means--
- (a) any friendly society registered under the Friendly Societies Act 1956 (Act No. 25 of 1956) or
- (b) any fund which is so registered solely because of the provisions of paragraph (1) of subsection (2) of section 11 of the said Act; or
- (c) any fund (other than a provident fund) in respect of the year in which the Commission is satisfied that a pensioner has established for the purpose of providing for his 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: (X:ii)
- (iv) "Commissioner" means the Commissioner for Inland Revenue: (xxv)
- (v) "company" includes--
- (a) any association incorporated by or under any law in force in the Republic or in any part thereof or registered or deemed to be registered under any law; or

- (b) any association incorporated or registered outside the Republic which carries on business or has an office or place of business in the Republic or derives income from any source within or outside the Republic in which a person ordinarily resident or carrying on business in the Republic is included as a shareholder or member; or
- (c) any association which is incorporated or registered outside the Republic and is a shareholder in or member of any company as defined in paragraph (a) or (b), other directly or indirectly by reason of the fact that it is a shareholder in or member of any other company; or
- (d) any association (not being an association referred to in paragraph (c) or an association to which the provisions of paragraph (e) of sub-section (1) or section ten apply) formed in the Republic to serve a specified public or a section of the public (xxvi)
- (vi) "date of deep level production" in relation to any deep level gold mine means the date when the Government Mining Engineer certifies as to be done on which stoping below a vertical distance of five hundred feet from the surface commenced (xiii)
- {vH} "dependent". In relation to any taxpayer means--
- (a) any person (other than any child or stepchild or spouse or partner in respect of whom he is for the year of assessment entitled to a rebate in terms of paragraph (1) of section six), in accordance with the provisions or any other law satisfactory to the Commissioner from maintaining himself; and
- (b) any child (other than child or stepchild or such taxpayer under the age of eighteen years on the last day of the year of assessment, towards whose maintenance the taxpayer has provided in cash or otherwise during the year assessment not less than fifty per cent; (iii)
- (v) "dividend" means any amount distributed by a company (not being a permanent building society or an association or institution to which paragraph (d) of sub-section (1) of section ten applies) to its shareholders, and in this definition includes--
- (a) in relation to a company that is being wound up or liquidated, any profits distributed, whether in cash or otherwise, to or for the benefit of the creditors, or during the winding up or liquidation;
- (b) in relation to a company that is not being wound up or liquidated, any profits distributed, whether in cash or otherwise, and whether of a capital nature or not, including any bonus shares, debentures or securities awarded to the shareholders;
- (c) for the effect of the partial reduction of the capital of a company, any cash or the value of any asset which is given to a shareholder in the course of the reconstruction of the company, or the value of any asset which is given to a shareholder in the course of the reconstruction of the company, or the value of any asset which is given to a shareholder in the course of the reconstruction of the company, or the value of any asset which is given to a shareholder in the course of the reconstruction of the company;
- (d) in relation to the reconstruction of a company, any cash or the value of any asset which is given to a shareholder in the course of the reconstruction of the company, or the value of any asset which is given to a shareholder in the course of the reconstruction of the company, or the value of any asset which is given to a shareholder in the course of the reconstruction of the company;
- (e) the nominal value of any bonus shares awarded to a shareholder as part of the equity share capital of a company by a company which is recognized as a public company in form of certificate thirty-three; (xiv)

- (ix) "equity share capital" means in relation to any company, issued share capital including any part thereof which he, etc. as respects dividends or as respects any other rights attaching to or in respect of such shares, and the expression "equity shares" shall be construed accordingly. (D.81Y; (0011))
- (x) "executor" means any person to whom letters of administration have been granted by a Master or a District Assistant Master of the Supreme Court appointed in accordance with the Administration of Estates Act, 1925 (Act No. 24 of 1925), in respect of the estate of a deceased person under any law relating to the administration of estates, and includes a person acting or authorized to act under letters of administration granted outside the Republic but issued and sealed by such a Master or Assistant Master for use within the Republic and in any case where the estate is not required to be administered under the supervision of such a Master or Assistant Master, the person administering the estate; (xv)
- (xi) "gross total income" in relation to any year or period of assessment means in the case of any person, the total amount, cash or otherwise received by or accrued to or in favour of such person during such year or period of assessment from a source within or deemed to be within the Republic, including receipts or accruals of a capital nature, but including, without in any way limiting the scope of the definition such amounts (whether of a capital nature or not) so received or accrued as are described below, namely-
- (a) any amount received or accrued by way of annuity;
 - (b) any amount payable to the taxpayer by his spouse or former spouse, under any judicial order or written agreement or separation or under any order of divorce, by way of alimony or allowance or maintenance or to the taxpayer or any child;
 - (c) any amount, including any voluntary award, received or accrued in respect of services rendered or to be rendered: Provided that any amount received by or accrued to an employee, upon and because of the termination of his services, by way of bonus, gratuity or compensation, shall be deemed to be received or to accrue to him in equal annual instalments of which the first instalment shall be deemed to have been received or to have accrued on the date of receipt or accrual of such amount and the subsequent instalments on the anniversary of that date, if-
 - (i) the termination of the services of such employee is due to superannuation, mental disability or infirmity; or
 - (ii) the Commissioner is satisfied that the circumstances of the case warrant this concession,
 and, for the purposes of this paragraph, any amount which but for the repeal of the Income Tax Act 1941 would have been deemed to have been received or to have accrued on any date in the month of the termination of the services of the employee to paragraph (b) of the definition of gross income, in section seven of that Act shall be deemed to have been received or to have accrued on the date in terms of this paragraph;
 - (d) any amount, including any voluntary award, received or accrued in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment, or of any appointment (or right or claim to be appointed) to any office or employment: Provided that the provisions of this paragraph shall not apply to any lump sum award from any pension fund, provident fund, retirement benefit fund or benevolent fund;

- (c) any amount determined in accordance with the provisions of the Second Schedule in respect of lump sum benefits received by or accrued to such person from any fund (not being a superannuation fund, provident fund or orphans' fund established by law) which has in respect of the current or any previous year of assessment been approved by the Commission, whether under this Act or any previous Income Tax Act, as a pension fund, or a fund or retirement annuity fund, if such person was a member of such fund, if such year provided that the provisions of rule 11 of section nine shall mutatis mutandis apply in the case of any amount deemed to have accrued;
- (CJ) any amount received or accrued in commutation, or amounts due under any contract of employment or service;
- (g) any amount received or accrued from another person, as premium or like consideration paid by such other person—
- (i) for the right of use or occupation of land or buildings; or
 - (ii) for the right of use of plant or machinery or
 - (iii) for the right of use of any patent as defined in the Patents Act, 1952 (Act No. 37 of 1952), or any trademark or copyright or right as defined in the Designs, Trade Marks and Copyright Act, 1916 (Act No. 9 of 1916), or any other property which, in the opinion of the Commissioner, is of a similar nature; or
 - (iv) for the imparting of or in the undertaking in which any knowledge directly or indirectly connected with the use of any such patent, design, trade mark, copyright or other property as aforesaid.
- (ft) in the case of any person to whom, in terms of any agreement relating to the grant to any other person of the right of use or occupation of land or buildings or by virtue of the exercise of any rights under any such agreement, he has accrued in any such year or period the right to have improvements in the land or to the buildings by any other person—
- (i) the amount stipulated in the agreement as the value of the improvements or as the amount to be expended on the improvements; or
 - (ii) if no amount is so stipulated, an amount representing in the opinion of the Commissioner the fair and reasonable value of the improvements.
- (l) the annual value or any quarterly or board or revenue or of any other benefit or advantage granted in respect of employment;
- (o) any amount by which repayments of capital **ture** which has been allowed to be deducted under paragraph (a) of section 11 of the Income Tax Act, exceeded the unredeemed balance of such capital expenditure calculated as provided in section 11 of the Act;
- (Q) Any amount received or accrued by way of dividends including any dividends distributed by a private company out of or by way of capital of any income of such company, which in the terms of section 11 of the Income Tax Act, 1941 (Act No. 31 of 1941), had previously been apportioned among its shareholders as the taxable income of the company, and for the purposes of this paragraph deemed to have been received by or accrued to any person (other than a company) who is ordinarily resident in the Republic shall be deemed to have been received by or to have accrued to, solely from a source within the Republic;

- (l) any amount received or credited by way of grant or subsidy in respect of the matters mentioned in sub-section (j), including sub-paragraph (1) of paragraph 12 of Schedule:
- (m) any amount received or accrued in or upon the surrender or discontinuance of any policy of insurance upon the death of an employee or, in the case of a company upon the death of a director or employee of that company;
- (n) any amount which in terms of any other provision of this Act is specifically referred to, but is not included in the tax payable and for the purposes of this paragraph amounts which in terms of sub-section (4) of section 11 are required to be included in the taxpayer's income shall be deemed to be included by or to have accrued to the taxpayer from a source within the Republic notwithstanding that such amounts may have been received outside the Republic; (xi)
- (xii) "hotelkeeper" means any person, other than a hotelkeeper or boarding or lodging house keeper who provides meals and other accommodation for others for money or its equivalent, if such person is the holder of a licence issued under the provisions of Item 4 of Part I of the Second Schedule to the Income Tax Act, 1962, in respect of that business, and includes in respect of any year of assessment any person who is not a holder of such a licence by reason of the fact that the business in which the business is carried on, has been discontinued or that the provisions of sub-section (1) of section 11 do not apply; for the purposes of this definition the Commissioner is satisfied that during the immediately preceding year of assessment such further period as he may for good reason allow, the gross receipts from that business will be or could be expected to be in excess of two thousand rand per annum; (ui)
- (xiii) "income" means the amount remaining of the gross income of any person for any year or period of assessment after deducting therefrom any amount payable from normal tax under Part I of Chapter II; (XJii)
- (xiv) "local authority" means any divisional council, municipal council, town council, village council, town board, local board, village management board, health committee or school board or any district council or any local authority established or deemed to have been established under the Native Authorities Act, 1959 (Act No. 55 of 1959), and includes the Water Board; (caii)
- (xv) "matrimonial" includes joined together in a union recognized as a marriage in accordance with any custom, and "husband", "wife" or "spouse" shall be construed accordingly; (x.vi)
- (xvi) "married person" means any person who—
- during any period of that period in respect of which any assessment is made was in any way or was a widower or a widow; or
 - during the whole of such period was divorced or separated under a judicial order or written agreement and who is entitled to any deduction in respect of a child under paragraph (c) of sub-section (1) of section 11; (xviii)
- (xvii) "mining for gold" or "to mine for gold" includes mining for uranium or to mine for uranium; (xviii)
- (xviii) "mining operations" and "mining" include every method or process by which any mineral is won from the soil or from any substance or constituent thereof; (uvjij)
- (xix) "new depth level of mine" means any new level in respect of which—
- the Governor-General, the Minister or the Minister of Mines has after the thirtieth day of July, 1955 issued the recommendation

- (iv) If not more than one-third of the total value of the annuity or annuities to which any employee becomes entitled, may be commuted for a single payment, except where the annual amount of such annuity or annuities is not more than sixty JilJid;
- (v) for the administration or the *total* in such a manner as to preclude the employer or, in the case of a local authority, from controlling the management matters of the fund and from deriving any monetary advantage from moneys paid into or out of the fund; and
- (vi) that the Commissioner shall be notified of all amendments of the rules; and
- (c) that the rules of the fund have become operative with effect from the 1st day of January 1962.
- (iii) "person" includes (a) the estate of a deceased person; (xxxix)
- (xxiv) "prescribed" means prescribed or deemed to be prescribed by or under this Act; (xxxvii)
- (v) "provisional fund" means any fund (other than a pension fund, benefit fund or refundable annuity fund) which is approved by the Commissioner for the purpose of the assessment in question; provided that the Commissioner may approve a fund subject to such limitations or conditions as he may deem fit, and shall not approve a fund in respect of any year of assessment unless he is satisfied that the fund is a permanent fund *Jolla a 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, dependent dependants or of deceased employees or deceased former employees or solely for a combination of such purposes and
- (b) that the rules of the fund contain provisions which are in accordance with the provisions of paragraphs (ii), (iii), (iv), (v) and (vi) of paragraph (b) of the definition of "pension fund" and
- (c) that the rules of the fund have become operative with effect from the 1st day of January 1962.
- (xxvi) "regulations" means any regulations in force under this Act; (xxxix)
- (vii) "residential tax" means--
- (a) in respect of (the income of a company, the public officer thereof;
- (b) in respect of the income under his management, disposition or control, the subject of any person, including an agent appointed as such under the provisions of section 11 of the Income Tax Act; and for the purposes of this paragraph the term "agent" shall include any person in the public having the management or control of income, wholly or partly, any person permanently or temporarily absent from the Republic or receiving of payment in connection with or receiving moneys for such person
- (c) in respect of income the subject of any trust or in respect of the income of any minor or mentally disordered or defective person or any other person under legal disability, the trustee, guardian, curator or other person entitled to the trust, management or disposal or control of such income or receiving or holding on behalf of such person under disability
- (d) in respect of income payable under the decree or order of any court or judge to any person, or other person, such person or person who ever may be entitled to the benefit of such income and will then or in the future accrue to any person on a contingency or an uncertain event;
- (e) in respect of the income received by or accrued to any deceased person during his lifetime and the income received by or accrued to the estate of any deceased person, the executor or administrator of the estate of such person,

- which the Commissioner is satisfied, provides benefits similar to those provided by such fund or be paid for the benefit of such member into another approved retirement fund;
- (iii) that save as is contained in sub-paragraph (iii), no member's rights to benefits shall be capable of being assigned or commuted or assignment of such rights being pledged as security for any loan;
- (iv) that the Commission shall be notified of all amendments of the rules; and
- (c) that the rules of the fund shall have been complied with.
- (ix) "scientific research" means any activity in the field of natural or applied science for the extension of knowledge; (x)
- (xi) "shareholder" in relation to any company, means the registered shareholder in the register of members of such company, except that when some person other than the registered shareholder is entitled to the shares of any company in the memorandum or articles of association of the company or under the terms of any agreement or contract or otherwise, to all or part of the business of the company or to the share of the profits of the company, such person shall, to the extent that he is entitled to such shares, also be deemed to be a shareholder; (i)
- (xii) "the date" in respect of any year of assessment, means the first day of January, if the return of any company is under the proviso to sub-section (1) of section 13 of the Act accepted in full of a period ending on some other date, such other date or, in the case of any company which has been required to furnish returns in terms of sub-section (4) of that section the date up to which such returns have been rendered; (x)
- (xiii) "the tax" or "taxation" means any levy or tax levied under this Act; (viii)
- (xiv) "taxable income" means the amount remaining after deducting from the income of any person all the amounts allowed to be deducted or set off under Part I of Chapter II; (vii)
- (xv) "taxpayer" means any person chargeable with any tax levied under this Act and, for the purposes of any provision relating to any return, includes every person required by this Act to furnish such return; (ix)
- (xvi) "this Act" includes the regulations; (X)
- (xvii) "trade" includes every profession, business, employment, calling, occupation or trade, including the letting of any property and the use of or the grant of permission to use any patent as defined in the Patents Act, 1952 (Act No. 37 of 1952) or any trade mark or design as defined in the Designs, Trade Marks and Copyright Act, 1912 (Act No. 9 of 1912) or any other law in force in the Dominion of India or in any territory which immediately before the commencement of this Act was part of that Dominion; (vi)
- (xviii) "trade goods" includes anything produced, manufactured, purchased or in any other manner acquired by a person for the purpose of manufacture, sale or exchange by him or on his behalf or the disposal of his goods or the disposal of his goods or the disposal of his goods or the disposal of his goods; (wt)
- (xix) "trustee", in addition, to every person appointed or constituted as such by act of law or by will, or order or declaration of court or by operation of law, includes an executor or administrator; tutor or curator and any person having the administration or control of any property subject to a trust, or a trustee or other limited partner or partner in any fiduciary capacity or having control or management or possession or control or management or possession of any property under legal disability; (XX)
- (xx) "year of assessment" means any period of twelve months in respect of which any tax or duty leviable under this Act is chargeable; (ii)

CHAPTER I.

ADMINISTRATION.

2. (1) The Commissioner shall be responsible for carrying out the provisions of this Act.

(2) A notice in the Gazette that any person has been appointed to hold office as Commissioner for Land Revenue or to act in that capacity, shall be conclusive evidence of such appointment without further proof.

3. (1) The powers conferred and hereby imposed upon the Commissioner by or under the provisions of this Act or any amendment thereof may be exercised or performed by the Commissioner personally, or by any officer engaged in carrying out the said provisions under the control and supervision of the Commissioner.

(2) Any decision made and any notice or communication issued or signed by any officer shall be deemed to have been made, issued or signed by the Commissioner: Provided that a decision made by any such officer in the exercise of any discretionary power under the provisions of this Act or of any previous Income Tax Act shall not be withdrawn or amended after the expiration of two years from the date of the written notification of such decision or of the making of assessment giving effect thereto, if all the material facts were, known to the said officer when he made his decision.

(3) Any written decision made by the Commissioner personally in the exercise of any discretionary power under the provisions of this Act or of any previous Income Tax Act shall not be withdrawn or amended after the expiration of two years from the date of the making of such decision if the material facts were known to him when he made his decision.

4. (1) Every person employed in carrying out the provisions of this Act shall be deemed to be a public servant within the meaning of section 2(c) of the Prevention of Corruption Act, 1947 and shall be deemed to be a public servant within the meaning of section 2(c) of the Prevention of Corruption Act, 1958. (2) Every person employed in carrying out the provisions of this Act shall be deemed to be a public servant within the meaning of section 2(c) of the Prevention of Corruption Act, 1947 and shall be deemed to be a public servant within the meaning of section 2(c) of the Prevention of Corruption Act, 1958.

(a) Every person so employed shall, before acting under this Act, take and subscribe before a magistrate or justice or the police, such oath of fidelity or secrecy as may be prescribed.

(b) Any oath of secrecy taken and subscribed under the provisions of any previous law in connection with this Act by any person who is employed in carrying out the provisions of this Act, shall be deemed to be an oath taken and subscribed in terms of this sub-section.

(3) Every person who is guilty of a contravention of the provisions of this section or of the taking of the oath of fidelity or secrecy taken by him, and without lawful excuse, is guilty of an offence under this section if he knows or has reason to believe that such person is guilty of such offence, and he is guilty of such offence if he has reason to believe that such person is guilty of such offence.

(4) Any person who acts in the execution of his office before he has taken the prescribed oath, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rupees.

(ii) recs., shall be paid by him during that year to the fund (other than the DeJit fund referred to in paragraph (a) of section *eighteen*);

(iii) contribution made by him during that year as an employee of any establishment.

any law in force in the Republic of Ceylon concerning the payment of a sum equal to seven per cent of the amount of the sum in respect of such premiums, fees, subscriptions or contributions in the calculation of the said sum shall be regarded as a completed rate, and subject to a maximum deduction of seven per cent: Provided that no allowance shall be made in respect of the sum under a policy of motor insurance, nor under any other policy if the amount of the premium for such other policy has been allowed as a deduction from the income of the taxpayer under the provisions of section *eleven*;

(e) in respect of each decedent the sum of six hundred and

(f) in the case of any one or more dependants who are proved to the satisfaction of the Commissioner to have been wholly dependent for their maintenance upon the taxpayer, a further sum of sixteen hundred and

(2) In any case in which the period assessed is less than twelve months, the deduction allowed under paragraph (a), (b), (c), (e) and (f) of sub-section (1) shall be scaled down as bears to the full amount of the respective deductions provided for under the said paragraphs, the same ratio as the period assessed bears to twelve months, unless, in the case of an, such period terminates at the death of the taxpayer or commences at the death of the taxpayer, the Commissioner in the special circumstances of the case otherwise directs.

7. (1) Income shall be deemed to have been accrued to a person when income has been deemed to have been invested, accumulated or otherwise capitalised by him or that such income has not been actually paid over to him but it remains due and receivable to him or has been credited in his account or reinvested or accumulated or capitalised or otherwise dealt with in his name or on his behalf, and a complete statement of such income shall be included by any person in the return rendered by him under this Act.

(2) Any income received by or accrued to or in favour of a woman married with or without community of property and not separated from her husband under a judicial order or written agreement of separation shall be deemed for the purposes of this Act to be income accrued to her husband.

(1) Income shall be deemed to have been received by the parent of any minor child, if by the will of any person, settlement or other disposition made by that parent of that child-

(a) it has been received by or has accrued to or in favour of that child, or has been entrusted for the maintenance, education or benefit of that child; or

(b) it has been accumulated for the benefit of that child.

(4) Any income received by or accrued to or in favour of any minor child of any person by will, donation or settlement or other disposition made by any other person shall be deemed to be the income of the parent of such child, if such parent or his spouse has made a donation, settlement or other disposition or given some other consideration in favour directly or indirectly of the said father or his family.

(5) If any person has in any deed of donation or settlement or other disposition made a stipulation to the effect that the beneficiaries or some of them shall not receive the income or some portion of the income thereunder until the happening of some event, whether fixed or contingent, so much of any income as would be payable in consequence of the donation, settlement or other disposition shall be deemed to have accrued to or in favour of the beneficiaries,

sbau, until the happening of that event or the death of that person, whichever first takes place, be deemed to be the illcome of that: .C ISOD,

(6) If any deed of donation, or settlement in trust or other disposition out of which any stipulation that the right to receive any income thereby conferred may, under powers conferred by deed upon a trustee, be revoked or commuted upon a trustee, so much of any income as in consequence of the donation, settlement or other disposition is received by or accretes to or in favour of the person on whom that right is conferred, shall be deemed to be the income of the person by whom it is conferred, so long as he retains the power.

8. (1) So much of any amount which has been paid by any person to a director, manager or other person in respect of a contract of service, as the Commissioner is satisfied was actually received by the recipient on such service, shall be deemed to be part of the taxable income of the recipient.

(1) If, within the period of ten years from the date of the award by any company of any bonus which in terms of paragraph 100 of the definition of "dividend" in section 101 or the corresponding provisions of the Income Tax Act did not rank as a dividend any share, asset or right to any share or interest in the company or the partial redemption of its share capital, the taxable income of the company shall, subject to the provisions of sub-section (3), be deemed to include

(iii) in the case of the reconstruction of the company or the partial redemption of its share capital, an amount equal to the amount of the value of any such asset and the value of any such asset, but not exceeding the nominal value of such bonus shares (excluding any such shares awarded on the issue of share premium account) exceeds the sum of the paid-up capital and the amount standing to the credit of the company immediately prior to the commencement of the reconstruction of the company, or, if the Commissioner is not so satisfied, an amount determined as provided in paragraph (a),

(i) in the case of the liquidation of the company, if the Commissioner is satisfied that the liquidation is bona fide and was not brought about solely or mainly for the purpose of avoiding liability for tax under this sub-section, the amount by which the sum of all the amounts of any such cash and the value of any such assets so given to shareholders (in so far as that amount does not exceed the nominal value of the bonus shares so awarded to shareholders, including any such shares awarded out of share premium account) exceeds the sum of the paid-up capital and the amount standing to the credit of the company immediately prior to the commencement of the liquidation of the company, or, if the Commissioner is not so satisfied, an amount determined as provided in paragraph (a),

(1) (a) The provisions of sub-section (2) shall not apply where any cash or asset derived to the company in respect of

(b) in respect of any class of redeemable share capital issued before the 1st day of July, 1957, in pursuance of special provisions prescribed before the date of the repayment of such capital

(d) in respect of any class of redeemable share capital issued on or after the 1st day of July, 1957, for the repayment of which special provisions are contained in the memorandum and articles of association of the company, if the holders of the equity share capital of the company will not be entitled to the time of the award of such bonus shares or at any time thereafter to participate in that class of redeemable share capital

(h) for the purposes of sub-section (2) "paid-up capital" means the nominal value of the paid-up capital, excluding so much of the nominal value of any bonus shares as did not rank as a dividend in terms of paragraph 100 of the definition of "dividend" in section 101 or the corresponding provisions of any previous Income Tax Act,

(c) The decision of the Commissioner in the exercise of his discretion under sub-section (2) shall be subject to objection and appeal.

(4j) (a) There shall be included in the taxpayer's income all amounts allowed to be deducted or set off in the tax return of sections eleven to twenty inclusive, except paragraphs (k), (p) and (q) of section eleven, section twenty (2) and section twenty or the said sections, section twenty applied by sub-section (3) of that section or sub-section (5) of section twenty, or under the **ending** provisions of any **PROVISIONS** Income Tax Act, whether in the current or any previous year of assessment, which have been recovered or recouped during the current year of assessment.

(b) If any amount referred to in paragraph (a) of this subsection is an amount which has been recovered or recouped during any year of assessment by a person referred to in paragraph (c) of section twenty as a result of the sale or disposal in any other manner by that person of a ship, it shall not be included in the income of that person if the Commissioner is satisfied that-

(i) the ship was within a period of one year or such longer period as the Commissioner in the circumstances of the case may allow after the end of that year of assessment conclude a contract for the acquisition by him of a ship to replace the aforesaid ship;

(ii) such ship will be used by him for the purposes of his trade for a period of not less than ten years; and

(iii) such ship will be a ship in relation to which the provisions of paragraph (b) of section twenty will apply and which continues to apply for the said period of not less than ten years,

the said amount shall notwithstanding anything to the contrary contained in paragraph (p), but subject to the provisions of paragraphs (i) and (ii) not be included in the income of that person for the aforesaid year of assessment; but shall be included in his income for the period of **five** years ending on the date of his death, insolvency or liquidation (in the case of a company), as the case may be.

(c) Within the month after the end of the year of assessment in which the amount aforesaid has been recovered or returned by the person concerned, the Commissioner may direct the said person with the Public Debt Commission for the purpose and on such conditions as may be approved by the Commissioner an amount equal to the amount which has been so recovered or recouped less such amount, if any, as has meantime been paid by the said person in respect of the cost price of such ship.

(d) If owing to any circumstance (other than the death of the said person or such last failure of the ship) or because of any circumstances arising during any year of assessment preceding the period of assessment in respect of which any amount would in terms of the preceding provisions of this subsection or the corresponding provisions of any previous Income Tax Act be required to be included in the income of the taxpayer the Commissioner is no longer satisfied in regard to the matter in regard to which in terms of the preceding provisions of this subsection it is required to be included, the said amount shall be included in the income of the taxpayer for the year of assessment in which the said amount is paid or such circumstances arise.

(e) If any amount which was deductible under paragraph (c) of section eleven or section twenty (1) of section twenty or the said subsection as applied by section twenty (3) of that section or the corresponding provisions of any previous Income Tax Act 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 or at the time of the death of the taxpayer which in the opinion of the Commissioner was of a similar nature, as a result of the destruction or destruction by water or fire (hereinafter referred to as

"the **nl**") been recovered or recouped during any year of 385JCSJMCIH, and if the **ilBXpa**)t satisfi.es the Cor.ru:ni!i\$lou

Q.) that he OO.:S concluded or wiH Wiith:n a JJfflOO of one r (or such Jon,sn period as 'tltc Com-missioner in the draJnUttaI s of Ule case ll'iaiy at ow) from the date C}f *thc* !M!,nt co:ncill.de a contract for tihc acqliisiEon by hjm or forther new or unu;s;e,d ma.cltin.ery or pLa:n1: (hi:mnafuru:ooed to as *the* "fu.r(her machfDel'y o:r plantH) to rep.lace:: the aforesafd machinncy or plant; and

(ii) that the further rnacbiacry or plant has been or will be brought into use, wiU-.in a pmod o.f three years fr,om tho date of the e.,,ent alld wiH be used by him directly in a pLi(lle'S\$ of manufunure or. a.A] otlwr prooeH whteh in the opinion of the Commi.ss.ionei is of a simllar aatlIl'e, for a period of not less tha Q, five yealS ot until Cihc rurlheet maohinc:zy or plant is sempcd or disposed of jn the o:rdiiruuy course ot 'lhc: taxpayer's trade prior to illilo expiry of :snch plidod or friv. year:s

the said. amount: sihaD nofwfthstandmg the: provisions. of p:ua graph (a) of this sub-section. not be inlcu.ded in the income of the taxpayer for Ule aforesaid year 0 aw:ssment: Provided tha:t if. owing to al:ly occur um: ot b«ausei or any clr Uimiffln-ce atfaimg during a)! year!Jf a.&c111&\$11eD!l: the Commissionc::r is no lon r satisfied Hii: regard to the:: matters in regard to which n lcrms of *tm*: pmcediin. pr:oviiion.s oftb:is paragraph he is reqmred lio be ans ed. the said amount shall be inlcu.ded In the il lcome of thie- taxpayer for: the ye.it of auessrne:rrt. du.ring which such oocuniemoe ta es ptace or such circ:umstaioc arises,

(f) If as a result of th Joss, s.n.le or disposal in any other manner 'by the taxpayer of the further machinery or plant referred to in pangmpb (e) tbn: bas acemtd to or has bee:n. reaiived by the payer an a.mout im excess of the cost th.ett'Of less the amo0m:t m&rrcd to in tile said panigrapl! so mlllch, o f t,he cx as docs l.llol c:t.eccd su Jast-. tion!d amount haU (s such. l, \a:st m.ontioned amount has: been mduded m in c:: in terms 0 the pccoviso to dl said pua g:apb) be deemed ro have been recovered or recouped and sbaU be inlcu.ed in the taxpayer's income tibr the rear of asse5sment during which. su h furthc,r m nery or pbnt was so test. sold or disposed of !n addmon to any rcoovry or recon:lpment u:fcmd to In pot:3;gr3pbJ (a).

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- (a), Any amount which has been **paid**, whrthcr iii the form or rllrl or othi;rwis:, by any person for the right or use or occupation of ll.ny mow btc or tlll!movable property and has been a'llowed as a dedudio in the <fctcrmmatioo of such pm;oD's taxable ll:leomc, and whiclil or the eqniva[oot of whi'Ch is: upon the su&!lç., QJuent w:;qui:sition of such property by tllat or any olhC] petson applied in ttdlu.ction Qr towards s:ettfe:ment of thei purchase price of such p:roipflly, s.twl be inlcuded. in the tm:::ome of the penon (b) whom lhc, **pro y** il acquired as afoicsaidl for t!he year 0 :assessm:Jllt m wltieh such per n exercises the option, or co.nchldes the a cementi as th(: case may be in n.seq;uucc of which thlll prepmy is acquired. by him,,
- (b) Where :an5 amo1,n:n has beç!l. paid by any person for the right of ll!se Of occupad on. of any proprty which. lcs thucafler aoqmttd hy t!hat or any other p=10:n for a coui:lcration which. in the opinion of the Com. missioner is not an adequate oo:nsidention. it shall fOF the purposes of paragraph (a) be deemed, unless the Commissiontr hmng lie,gard to the circumstances of tile case otherwi e d i.des- tha,t the said amount, or so much thereof as does aot ex the dJflell:ilce between the fint m,atk,;t v.a.hle of suchi property asdel-er m.iRCd by **tht Co oner andl** amO'dU of the co:nsidctation for wkichi il has been acqlllired as afoirc-said has been applfod im ftmuatiloni or towards set'tle-meat or the purchase prie of such propeny.

but if the pension or annuity was granted in whole or in part outside the Republic, only so much of such pension or annuity as bears to the amount of such pension or annuity the same ratio as the period during which the services were rendered in the Republic bears to the total period during which the services were rendered, shall be deemed to be derived from a source within the Republic.

- JO. (1) The Rules shall be exempt from the provisions of section 10 of the Income Tax Act, 1947, in respect of the following:
- (a) the salaries and emoluments payable to—
 - (i) the State President; and
 - (ii) any person who holds office in the Republic or an office of any government or the Government of the Republic or the Administration of the territory of South West Africa, provided that such office is stated in the Schedule for that purpose and is not ordinarily considered to be in the Republic;
 - (b) the receipts and accruals (including tips or gratuities from the employees of any trading business, provident fund or benefit fund or of any institution which in the opinion of the Commissioner is a mutual saving bank, a mutual loan association, a fidelity or indemnity fund, a trade union or non-profit-making stock exchange, club, or association);
 - (c) the receipts and accruals of—
 - (i) any company, society or association of persons, whether or not registered under any law [other than a company referred to in Paragraph (o) or a co-operative society or company registered under the Co-operative Societies Act, 1939 (Act No. 29 of 1939)]—the profits or gains or wherewith, other than profits or gains from investments, are derived solely from transactions with or on behalf of its individual members, and the constitution of which does not admit of the distribution of its profits or gains to any persons other than the members with whom or on whose behalf the transactions took place, and does not confer upon any person any benefit other than benefits accruing to that person from transactions with or on behalf of that person; and
 - (ii) associations which in the opinion of the Commissioner are amateur sporting associations, except as regards any tips or accruals from investments by any such company, society or association;
 - (d) the receipts and accruals of all ecclesiastical, charitable and educational institutions of a public character, whether or not supported wholly or partly by grants from the public revenue;
 - (e) any amount received as a gratuity, or as an award or a benefit under any law relating to the payment of compensation to persons employed in mining operations;
 - (f) amounts received by or accrued to any person not ordinarily resident nor carrying on business in the Republic from stock or securities (including Treasury Bills) issued by the Government or any of the Government or the Electricity Supply Commission; Provided that if in the case of any such stock or securities issued in respect of a loan raised in a country outside the Republic the Government has, with the approval of the Minister or Finance, given an undertaking that the interest thereon shall be exempt from tax in the Republic the interest

received by or accrued to such a person from such of the said stock or securities as he acquired by him outside the Republic and paid for by him in the currency of any country other than the Republic shall be exempt from this tax even if the person carries on business in the Republic;

- (i) interest received from any deposit in the Post Office Savings Bank including interest on Post Office Savings Bank certificates or on Tax Redemption Certificates, or on any other certificate, in respect of any Umon Loan Certificates or National Savings Certificates; or interest received in respect of any loan portion of the normal and super tax imposed under the Income Tax Act, 1953; or any subsequent Act of Parliament, or annual interest accrued in respect of Five Per Cent Five Year Treasury Bonds, Five per cent Seven Year Treasury Bonds and any amount **credited as interest in respect of** any subscription share; *but* not in respect of any amount paid or credited on any paid-up share of any public company: Provided that the exemption in respect of such interest—
- (i) on deposits in the Post Office Savings Bank and on Post Office Savings Bank Certificates made by any one person shall be limited to each account to the sum of one hundred rand;
 - (ii) on Tax Redemption Certificates held by any one person shall be limited to the sum of fifty rand;
 - (iii) on Five per cent Five Year Treasury Bonds shall be limited to the sum of one thousand rand in the case of any taxpayer; and
 - (iv) on Five per cent Seven Year Treasury Bonds shall be limited to the sum of one thousand rand in the case of any taxpayer;

U} the receipts and accounts of any bank, if the Controller of the Revenue is satisfied that such bank is not resident in the Republic and is entrusted by the Government of a territory outside the Republic with the custody of the principal foreign exchange reserves of that territory, and the Minister of Finance decides to apply the provisions of this paragraph to that bank in respect of the year of assessment in which it is first established:

- (fa) (i) dividends received by or accrued to or in favour of any company: Provided that this exemption shall not apply to dividends (other than those distributed out of profits of a company) distributed by a foreign company as defined in Section 11 of the Income Tax Act, 1941 (Act No. 41 of 1941), so shares held by a company which is registered under the said Act as a **foreign** company in respect of such dividends;
- (ii) dividends received by or accrued to or in favour of the **deceased** estate of any person who at date of death was not resident in the Republic, nor carrying on business in the Republic, if, but for this exemption, such deceased estate would have been liable for normal tax in respect of such dividends;
- (iv) so much of any dividend received by or accrued to any person (other than a company) who is ordinarily resident in the Republic from any company not registered in the Republic; as the Commissioner is satisfied has been distributed out of any profits of such company in which any amount has been included in any **of a person in the** taxable income or net income of such person as the result of the apportionment under the law of the Republic of South Africa of the taxable income or income subject to super tax of such company among its shareholders;

- (v) dividend received by or accrued to any person (other than a company) ordinarily resident in the Republic during any year of assessment from the South West Africa, if the Commissioner is satisfied that so much of the total net profits of such company for such year of assessment as does not consist of dividends was derived wholly or mainly from a source within the said territory, and that any dividends included in the total net profits of such company for such year of assessment were derived from such company or companies the total net profits of which for such year of assessment consisted solely or mainly of taxable income, determined under the income tax laws of, and derived from sources within, the said territory: Provided that for the purposes of this sub-paragraph the expression "net profits" in relation to any company in respect of any year of assessment means the net profits of that company for such year of assessment as calculated in the manner prescribed under the income tax laws of the said territory for the determination of taxable income for normal tax purposes in respect of that year of assessment, but irrespective of whether the profits are derived from a source within or outside the said territory and subject to the provisions in the profits tax Act of 1962 of all dividends from whatever source;
- (j) the profits of mining made in and a tax is granted in the section *fort ix* of the Provisions and Base Minerals Act, 1908 (Act No. 35 of 1908) of the Transvaal;
- (m) any amount received by or accrued to an author of a work in the field of literature, art or science or in a work, if such work is chargeable with income tax in a country other than the Republic: Provided that this exemption shall not apply to any person who is not the first owner of copyright in a work, of Chapter IV of the Designs, Trade Marks and Copyright Act, 1916 (Act No. 9 of 1916), or to a company;
- (n) any amount received by or accrued to any member of the executive committee of the Republic in time of war or

during a period of three months thereafter, when he is in cash or otherwise, an allowance for any uniform, ration or lodging;

- (o) the receipts and returns of any company registered in pursuance of a licence granted under section 111 of the Companies Act, 1926 (Act No. 46 of 1926) which has not been revoked;
- (p) any amount received by or for any person who is not ordinarily resident in the Republic, for services rendered or work or labour done by him outside the Republic for or on behalf of the Government, including the Railway Administration, or any provincial administration, or any local authority or the South African Tourist Corporation, if such amount is chargeable with income tax in the country in which he is ordinarily resident and the income tax so chargeable is borne by himself and is not paid on his behalf by the Government, the provincial administration or local authority concerned or the said Corporation;
- (q) so much of any gratuity received by or accrued to any person from his employer as the Commissioner deems to be a grant made because such person had obtained a university degree or diploma or had been successful in some examination, and not remuneration or any portion of remuneration for services rendered or to be rendered;
- (r) any gratuity (other than a leave gratuity) received by or for any person from public funds upon his retirement from any office of the Government, or any provincial administration and any portion of such gratuity which the Treasury declares to be exempt from tax;
- (s) the receipts and accounts derived by any company from the realization of assets consisting of gold bullion or shares in companies, if such assets were acquired by such company with funds which were transferred to the Republic from any country outside the Republic by arrangement with the Treasury or with funds derived from the proceeds of similar assets acquired with the proceeds derived from any such asset or from the proceeds of shares in companies and the Treasury has with the approval of the Minister of Finance given an undertaking that any such receipts and accounts shall be exempt from this tax, provided that the terms and conditions of any arrangement with and any undertaking given by the Treasury and the Minister during which such undertaking is to endure are published in the *Gazette*.
- (t) the receipts and accounts of the Commission for Science and Industrial Development.

(2) Notwithstanding the exemptions provided for in paragraphs (l) and (k) of subsection (1)-

- (a) an amount payable with the scope of the said paragraph shall be set out by the taxpayer in the return rendered by him; and
- (b) the said exemptions shall not apply in respect of any portion of an annuity.

(3) The exemptions provided by any paragraph of subsection (1) shall not extend to any payments out of the revenues, receipts, assets or profits mentioned in such paragraph.

(4) There shall be exempt from the tax-

- (a) every married person whose taxable income in any year of assessment does not exceed such amount, where the period of assessment is less than a year, as bears to six months the same ratio as the period assessed bears to one year; and
- (b) every other person except a company, whose taxable income in any year of assessment does not exceed five hundred rand or, where the period of assessment is less than a year, any amount which bears to five hundred rand the same ratio as the period assessed bears to one year.

- (v) **the value of any machinery, implements, utensils or articles used by the taxpayer for the purposes of his trade shall be increased by the amount of any expenditure (other than expenditure referred to in paragraph (a)) which is proved to the satisfaction of the Commissioner to have been incurred by the taxpayer in moving such machinery, implements, utensils or articles from one location to another;**
- (f) **an allowance in respect of any premium or consideration in the nature of a premium paid by a taxpayer for-**
- (i) **the right of use or occupation of land or buildings used or occupied for the production of income or from which income is derived; or**
- (ii) **the right of use of any plant or machinery used for the production of income or from which income is derived; or**
- (iii) **the right of use of any patent as defined in the Patents Act, 1952 (Act No. 37 of 1952), or any design, trade mark or copyright as defined in the Designs, Trade Marks and Copyright Act, 1916 (Act No. 9 of 1916), or of any other property which in the opinion of the Commissioner is of a similar nature, if such patent, design, trade mark, copyright or other property is used for the production of income or income is derived therefrom; or**
- (iv) **the imparting of or the undertaking to impart any knowledge directly or indirectly connected with the use of such patent, design, trade mark, copyright or other property as aforesaid.**

Provided that-

- (aa) **the allowance under sub-paragraph (i), (ii) or (iii) shall not exceed for any one year such portion of the amount of the premium or consideration so paid as is equal to the said amount divided by the number of years for which the taxpayer is entitled to the use or occupation, or one twenty-fifth of the said amount, whichever is the greater;**
- (bb) **if the taxpayer is entitled to such use or occupation for an indefinite period he shall be deemed, for the purposes of this paragraph, to be entitled to such use or occupation for such period as in the opinion of the Commissioner represents the probable duration of such use or occupation; and**
- (cc) **the allowance under sub-paragraph (iv) shall not exceed for any one year such portion (not being less than one twenty-fifth) of the amount of the premium or consideration so paid as the Commissioner may allow having regard to the period during which the taxpayer will enjoy the right to use such patent, design, trade mark, copyright or other property as aforesaid and any other circumstances which in the opinion of the Commissioner are relevant;**
- (g) **an allowance in respect of any expenditure actually incurred by the taxpayer, in pursuance of an obligation to effect improvements on land or to buildings, incurred under an agreement whereby the right of use or occupation of the land or buildings is granted by any other person, where the land or buildings are used or occupied for the production of income or income is derived therefrom: Provided that-**
- (i) **the aggregate of the allowances under this paragraph shall not exceed the amount stipulated in the agreement as the value of the improvements or as the amount to be expended on the improvements or, if no amount is so stipulated, an amount representing in the opinion of the Commissioner the fair and reasonable value of the improvements;**

- (ii) any such allowance shall not be available for any one of the allowances under this paragraph as is equal to the said amount divided by the number of years (including from the date on which the improvements are completed) for which the taxpayer is entitled to the use or occupation, or one-twentieth of the said amount; which clause is hereby amended; and
 - (in) if the taxpayer is entitled to such use or occupation on for a limited period he shall for the purposes of this paragraph be deemed to be entitled to such use or occupation for such period as in the opinion of the Commissioner represents the probable duration of such use or occupation;
 - (h) such allowance in respect of any machinery included in the taxpayer's gross income under paragraph (g) or paragraph (f) of the definition of "gross income" as the Commissioner may deem fit having regard to any special circumstances of the case in the case of an amount included under this paragraph (1), to be the right of use or occupation was granted;
 - (a) the amount of any debts due to the taxpayer to the extent to which they are provided for the satisfaction of the Commissioner to be paid, provided such amount is included in the current assessment or was included in previous years of assessment, in the case of a taxpayer's income
- 01 such an allowance as may be made each year by the Commissioner in respect of such debts due to the taxpayer as he considers to be deductible. Provided that such amount shall be included in the income of the taxpayer in the following year of assessment, and for that purpose any amount in terms of paragraph (1), of sub-section (2), of Section eleven of the Income Tax Act, 1941; hereinafter of the year of assessment ended on the thirtieth day of June, 1962 shall be deemed to be an allowance which was made in pursuance of this paragraph;
- (k) any sum contributed during the year of assessment by way of contribution to a pension fund by any person holding any office of employment where the nature of his contribution is a contribution to the fund (if such office is a "public office"): Provided that the deduction shall be allowed in respect of contributions to a pension fund established by law shall not exceed the sum of four hundred rupees;
 - (l) any sum contributed by the taxpayer during the year of assessment for the benefit of his employee, to any pension fund, provident fund or gratuity fund, provided that:
 - (i) in the case of any lump sum contribution the Commissioner may determine that the said sum shall be deductible as a series of annual instalments, so that only a portion thereof is deducted in the year of assessment in which it is contributed, and the residue in each subsequent year of assessment and in subsequent years as the Commissioner may determine, until the contribution is extinguished;
 - (ii) if the contributions (including any lump sum payments) made by the taxpayer in respect of any employee during any year of assessment to such funds exceed an amount equal to ten per cent of the employee's emoluments for such year of assessment, and the Commissioner is satisfied that the aggregate of such contributions and the total remuneration accrued during such year or 8.5% of the employee's emoluments in respect of his employment by the taxpayer is excessive or unjustly in relation to the value of the services rendered by such employee to the taxpayer, and having regard to other benefits, if any, derived by him from his employment by the taxpayer, only the excess of

1,11ch contributions as appear to the Commissioner to be reasonable but not less than an amount equal to ten per cent of the approved remuneration of such employee for such year or assessment, shall be allowed, to be deducted under this paragraph:

(liii) any decision of the Commissioner under this paragraph, not being a decision under paragraph (1) of this **pro** shall be subject to objection and appeal,

and for the purposes of paragraph (ii) of this proviso "approved remuneration" in relation to any employee, for any year of assessment, means so much of the total remuneration accrued to such employee during the year of assessment in respect of his employment by the taxpayer concerned as the Commissioner considers to be fair and reasonable in relation to the value of the services rendered by such employee during the year of assessment to the taxpayer and having regard to other benefits, if any, derived by him from his employment by the taxpayer;

- (m) any amount paid by way of a gratuity during the year or to any employee by any employer—
- (ii) to a former employee who has retired from the service of the employer on grounds of old age, ill health or infirmity or
 - (ii) to any person who is dependent for his maintenance upon a former employee or (where such former employee is deceased) was so dependent immediately prior to his death:

Provided that the deduction under this paragraph (u"), shall not exceed in respect of the persons so dependent on any one retired or deceased employee, the sum of six hundred rand;

(JJ) any sum contributed by the taxpayer during the year of assessment by way of current contribution to any retirement annuity fund provided that the deduction under this paragraph shall not exceed eight hundred rand or, in the case of any person who is entitled to a deduction under paragraph (k) the amount by which the amount of the deduction under the said paragraph is less than eight hundred rand:

(o) save as provided in sub-paragraph (2) of paragraph 2 of the First Schedule, an allowance in respect of the depreciation of the furniture, fixtures, fittings or (4) of section *thirteen* or any machinery, implements, utensils and articles used by the taxpayer for the purposes of his trade which have been scrapped by such taxpayer during the year of assessment such allowance to be the excess of the original cost to such taxpayer of such building, machinery, implements, utensils or articles over the total amount received at by adding to the allowance made for depreciation under paragraph (e) of this section, the amount as applied by sub-section (3) of the said section, or section (11) or (4) of section *thirteen* or paragraph (a) or (b) of section *thirteen* or the corresponding provision of any previous Income Tax Act, to any amount or the value of any advantage accruing to the taxpayer in respect of the building, machinery, implements, utensils and articles: Provided that—

(ii) no allowance shall be made in the case of any such furniture, fixtures, fittings or articles which have been scrapped within a period of ten years from the date of creation or purchase;

(o) for the purposes of this paragraph the cost or value of any building shall be deemed to be the actual cost less any amount deducted from such cost in terms of section (31) of section *thirteen* or the corresponding provisions of any previous Income Tax Act.

all the purposes of this paragraph the cost of any machinery, implements, utensils or articles shall be deemed to be the actual cost of such machinery, implements, utensils or articles as has been included in terms of paragraph (V) (If the proviso to paragraph (e) or the corresponding provisions of any previous Income Tax Act, and which is included in terms of paragraph (V) of the proviso or the corresponding provisions of any previous Income Tax Act;

(p) expenditure incurred during the year of assessment, by any taxpayer-

(i) for the purpose of scientific research undertaken by him for the development of his business, if such expenditure is not of a capital nature or

(ii) by way of contribution to any association, institute, college or university, to be used exclusively relating to the taxpayer's own business, if the Council for Scientific and Industrial Research refers to the Commissioner that it approves the proposal of such association, institute, college or university in regard to such contribution and that it is satisfied that such contributions will be used in such research;

(q) as provided in sub-paragraph (1) of paragraph 12 of the First Schedule if the Commissioner is satisfied that expenditure of a capital nature has been incurred by a taxpayer for the purpose of scientific research undertaken by him for the development of his business, and the Council for Scientific and Industrial Research referred to in the proviso to paragraph 12 of the First Schedule is satisfied that during the year of assessment in question such expenditure was incurred and was allowed by such expenditure, an amount in respect of the year of assessment in which such expenditure was incurred and of any succeeding year of assessment calculated at the rate of twenty-five per cent of such expenditure: Provided that-

(i) the total deduction under this paragraph shall not exceed the amount of such expenditure; and

(ii) if in any year of assessment the taxpayer does not claim such deduction or if the Council for Scientific and Industrial Research is unable, in respect of any year of assessment, to certify as provided in the foregoing provisions of this paragraph, the relevant provisions of this paragraph, the relevant provisions of the Income Tax Act, shall not apply to the total of the deduction under this paragraph for the corresponding previous year of assessment or any previous year of assessment, less the amount of the deduction of such expenditure in any year of assessment, if the Council for Scientific and Industrial Research is satisfied that such expenditure was incurred in the year of assessment in question.

(r) notwithstanding the provisions of section 11 of the Income Tax Act, 1961, so much of any donation made on or before the 31st day of June 1961 by a company during the year of assessment (or the previous year of assessment) as does not exceed one per cent of the taxable income of such company as calculated in accordance with the provisions of section 11 of the Income Tax Act, 1961, shall be deemed to be a donation made on or before the 31st day of June 1961, if the Council for Scientific and Industrial Research is satisfied that such expenditure was incurred in the year of assessment in question.

(s) In the case of a company as defined in section one of the Companies Act, 1941 (Act No 18 of 1941), the dividends (other than those distributed out of profit of a capital maturing) dis-

such person during the year of assessment as the Commissioner is satisfied was incurred by him in consequence of physical disability and for the purpose of carrying on his trade, not being such expenditure as is referred to in any of the other paragraphs of this section or in section eighteen

- (v) the amount of any premium *tot* which life taxpayer actually became liable under any policy of insurance taken out upon the life of an employee of a company, or of a director or an employee of a company, if such policy is the property of the taxpayer;
- (x) all allowances, which in terms of any other provision in this Part, are allowed to be deducted from the income of the taxpayer.

11. (1) In respect of new or used machinery or plant brought into use by any taxpayer for the purposes of his trade and used by him directly in a process of manufacture or other process, whether in the opinion of the Commissioner is of a similar nature, the cost of such machinery or plant shall be reduced by an amount equal to fifteen per cent of the cost to him of such machinery or plant. Provided that in the case of machinery or plant which has been acquired to replace machinery or plant which was destroyed or destroyed by water or fire, the allowance shall be calculated on such cost less any amount which has been received or recovered in respect of the damaged or destroyed machinery or plant and has been included from the taxpayer's income in terms of paragraph (e) of sub-section (4) of section eight or the corresponding provisions or any previous Income Tax Act, whether in the current or any previous year of assessment.

(2) There shall further be allowed to be deducted from the income, of any taxpayer in respect of machinery or plant brought into use by him directly in a process or other process which in the opinion of the Commissioner is of a similar nature, the cost of such machinery or plant shall be known as a machinery or plant brought into use in a Bantu area or an area adjacent to a Bantu area, with due regard to the circumstances of the case and to the recommendations of the Secretary for Bantu Administration and Development and the Secretary for Commerce and Industries, direct that the allowance shall not exceed ten per cent of such cost.

(3) The provisions of sub-sections (1) and (2) shall apply-

(a) in the case of machinery or plant brought into use by a taxpayer for the purposes of his trade as hotel, and

the allowance for managers' and servants' rooms and offices brought into use by a taxpayer for the purposes of his trade as hotel, and

(b) where the Minister of Finance, having regard to the circumstances of the case and to the recommendations of the Secretary for Bantu Administration and Development and the Secretary for Commerce and Industries so directs, with reference to-

(i) used machinery or plant brought into use and used directly in a process or manufacture or any other process, which in the opinion of the Commissioner is of a similar nature, in a Bantu area or an area adjacent to a Bantu area;

(ii) used machinery, implements, utensils and articles other than vehicles and other than equipment brought into use for the purposes of trade by a hotelkeeper in such an area;

Provided that the allowance provided for in subsection (1) shall not be permitted to be deducted in respect of used machinery, plant, implements, utensils or articles in respect of which an allowance has already been deducted for the year of assessment; and during which such machinery, plant, implements, utensils or articles were used or used in connection with or used in the machinery plant, implements, utensils or articles either under the said subsection (1) or under the corresponding provisions or any previous Income Tax Act. Provided that where an allowance has been permitted to be deducted under subsection (2) in the case of used machinery, plant, implements, utensils or articles, the amount thereof as used machinery, plant, implements, utensils or articles shall be such a proportion, not exceeding ten per cent of the cost thereof as the Minister of Finance may direct.

(4) The cost of used machinery, plant, implements, utensils or articles shall, for the purpose of determining the allowance to be deducted in respect thereof:

- (a) under subsection (1) as applied by subsection (3), be deemed to be the actual cost thereof less the aggregate of the amounts allowed to be deducted in respect thereof under paragraph (e) of section 11 or the corresponding provisions of any previous Income Tax Act either in the current or in any previous year of assessment;
- (b) under subsection (2) as so applied, be deemed to be the actual cost thereof less the aggregate of the amounts allowed to be deducted in respect thereof under paragraph (e) of section 11 or under that subsection or under the corresponding provisions of any previous Income Tax Act either in the current or in any previous year of assessment.

13. (1) Notwithstanding anything to the contrary contained in paragraph (ii) of subsection (e) of section 11, an allowance equal to two per cent of the cost (after the deduction of any amount referred to in subsection (3)) to the mind of any person of any building and of any improvements thereon, whether or not such building and improvements were used in connection with the carrying on of any business, shall not be allowed to be deducted from the cost of such building and improvements if:

- (a) if the erection of such building was commenced on or after the first day of March, 1961, and such building was wholly or mainly erected by him during the year of assessment for the purpose of carrying on the business of manufacturing in connection with his trade (other than mining or fishing); or
- (b) if the erection of such building was wholly or mainly completed on or after the first day of March, 1961, and such building was wholly or mainly completed by him during the year of assessment for the purpose of carrying on the business of his trade (other than mining or ramungi) any process of manufacturing or any other process which in the opinion of the Commissioner is of a similar nature, or such building was erected by him and was wholly or partly used for the purpose of carrying on the business of any trade (other than mining or farming); or
- (c) if the erection of such building was commenced on or after the twenty-fifth day of March, 1959, but not later than the fourteenth day of March, 1961, and such building has been acquired by the person named in any other person who was entitled to the allowance in respect of such building under paragraph (a) or the corresponding provisions of any previous Income Tax Act and such building was wholly or partly used for the purpose of carrying on the business of his trade (other than mining or farming) or

commenced on or after the thirtieth day of March, 1962., but not later than the thirtieth day of June, 1962., to any such building or to any building owned by the taxpayer the erection of which was commenced before the fifteenth day of March, 1951. if the building was wholly or mainly used by him for the purpose of carrying on the trade (other than mining or farming) of the Commissioner is of a similar nature or for the purpose of carrying on the trade of his trade or if such building was built by him and was wholly or mainly used for the purpose of carrying on the same or any process as aforesaid in the course of any trade (other than mining or farming) or for the purpose of carrying on therein the trade of the taxpayer.

(6) The building investment allowance shall be a sum equal to ten per cent of the cost of the buildings or improvements in question for the year of assessment (but not later than the end of the financial year or 1st April, 1964) during which:-

- (a) in the case of the cost of erection of a building used by the taxpayer or the lessee, the building was first used;
- (b) in the case of any improvements to a building, the improvements were completed:

Provided that the Minister of finance may, having regard to the circumstances of the case and to the recommendations of the Secretary for Bantu Administration and Development and the Secretary for Commerce and Industries, direct that the allowance in respect of buildings referred to in paragraphs (a) and (b) of subsection (5) which have been used in the manner aforesaid in a Bantu area or an area adjacent to a Bantu area, or in respect of improvements to such buildings, shall be increased to a sum not exceeding twenty per cent of such cost.

14. There shall be allowed to be deducted from the income of a person any non-allowable expenditure incurred by him in paragraph (c) of section 11A-

- (a) in respect of any ship used by such person for the purposes of his trade during the year of assessment an allowance equal to ten per cent of the cost of such ship: Provided that-
 - (i) where under paragraph (b) or (c) of section 11A no allowance shall be made under this paragraph to such person in respect of the ship for the year of assessment in which the ship is first used by him for the purposes of his trade; and
 - (ii) the aggregate of all the allowances made to any person in respect of any ship under this paragraph (a) shall not exceed the cost to such person of the ship;

- (h) in the case of a person who dwells in any of the areas mentioned in section 11A, any of the following conditions shall apply to a ship (whether built or constructed to be built) or a ship which is not new and is provided to the satisfaction of the Secretary for Transport and Air Services in connection with the operation of a ship or for the purpose of carrying on the trade of a person who satisfies the condition that the ship must be registered by him in the Republic and is or will be used by him for the purposes of his trade as a foreign-going ship (as defined in section 11A of the Merchant Shipping Act, 1951 (Act No. 57 of 1951)), prior to its amendment by the Merchant Shipping Amendment Act, 1959 subject to the reservation that the provisions of paragraph (b) of the definition of a ship or more than one thousand gross register tons shall be deemed to be a reference to a ship or more than two hundred gross register tons and that the reference in paragraph

graph (d) to a shore-based whaling boat shall be deemed as a reference to a shore-based whaling boat of less than two hundred gross register tons) an allowance in respect of that year of a sum, not equal to (forty per cent of the cost to the said person of that ship (hereinafter referred to as the cost price of the ship), or, if at the time at which the allowance under this paragraph has to be made the cost price of the ship has not yet been determined, of the estimated cost price of that ship, provided the said person satisfies the Commissioner that not less than forty per cent of the cost price or of the estimated cost price, as the case may be, of the ship will be paid by him within a period of two years or if the Commissioner agrees, three years after the end of that year of assessment or, if the said person does not so satisfy the Commissioner, an allowance in respect of any year of assessment equal to forty per cent of the cost price, if any, of the cost price of the ship paid by him during that year of assessment. Provided that:

- (i) the provisions of this paragraph shall not apply in respect of any ship the registration of which in the Republic in the name of the taxpayer concerned does not or will not constitute its first registration in the Republic;
- (ii) if any taxpayer to whom an allowance equal to forty per cent of the cost price or estimated cost price, as the case may be, of any ship has been made under this paragraph or the corresponding provisions of any previous Income Tax Act, fails to pay at least forty per cent of such cost price or estimated cost price; as the case may be, within the said period of two or (as the case may be) three years after the end of the year of assessment in respect of which the said allowance has been made; the said allowance shall be included in the income of the said taxpayer for the year of assessment immediately following the same day as the said period, and there shall be deducted from the income of the said taxpayer for that year of assessment an allowance equal to forty per cent of the portion, if any, of the cost price of such ship paid by him during the said period, and from the income of the said taxpayer for any year of assessment thereafter an allowance equal to twenty per cent of the portion, if any, of the cost price of such ship paid by him during that year of assessment; and
- (ii) if in respect of any year or assessment the Commissioner is no longer satisfied that a ship in respect of which an allowance has been made under the provisions of paragraph (i) of this section or the corresponding provisions of any previous Income Tax Act (whether in the Ceylon or any previous year of assessment) will be registered in the Republic or will be used for the payer as aforesaid, or if in any year of assessment a ship which has been registered in the Republic or has been used by the taxpayer as aforesaid, ceases to be so used, or if in any year of assessment the taxpayer ceases to be a person resident in the Republic: (c) of section nine, so much of the amount of the said allowance as is not in terms of subsection (4) of section eight required to be included in the taxpayer's income for the current or any other year of assessment, less such amount as would, if this paragraph had not been enacted, have been allowed to the taxpayer by way of deduction (in addition to the amount actually allowed), under paragraph (a) of this section or paragraph (i) of section eleven or the corresponding provisions of any previous Income

Tax A<t, mtmr in the Cllrrcent or any previous year of a t , shall in h"rms or this pw-*liso* be included in the income of Ure taxpayer for the, cWJent year of as ssmw;

(c) in laespot of any **di:lwc** which sllch pe £\$0n satisfies the Commission he: is [Hwy to mcu.r within five years from be c.nd of the year of asssm,nt in question on **airs W** any ship wed by him for the purpoS&! of llis trade, such an allowanoc a.s, notwithstanding the prov.is.ions of paragrah. (e) of scedon *tIWl.ty.t ree.* lh.c Commissioner, havmg regard. to ilbe estimated cost of such nprms and the datic on which they are lfkdy to oe incurred, may 100.ke each year. Provided that aQy such allowance m respect of any year of assessment. Sibml be ioclu.dcd iiii t:hc incorn!! of the taxpayer for the r0Howi:1g r of asswment, and tor tbH plilp ose MY allow nee m,ade in tCfl'its para.gr p'hi (11) of mb-sccti t'I £2) of section. r/rwn Of the ll!CQme Tax Act. 194!, in respecL of Che year of assessmer.t ended on the thirtieth day of June. ll!6lt s:b ll be deemed to have been made mn terms of lhis pai;agraph.

IS. There shall 'be allowed. 10 be ded!!ietM from the income Pcduc:tion FROM derived by the taxpayer from mining operations=.

{a} an amount to be asoertained under the provis!OJ!! of **t:om!** **opc tiou.** **sectio.n. *ihlty-ik***, in lieu of the allowances in **para** **gra. ;e s (e), (f)** of **socti. d&ven** and **t:Jb-** **sectwn 0) d** sec:llon *tivem* , nll.cludm,g that S1:Jb-kclio11 as applied by sub-section (3) of Ole lais t,imeat.fonedl **section;**

(b) any expe.nditu:re incurred by the taxpayer duriQg the :ymr of aumment mt pro tiJig opera:licnas (includ- i:og su:vey, boreholes, lteliches pjits and ollber expwal.0ry wotk preli'minary to the esm.blishment of a mine) in respect of any area within the Republic in rt of whi.cb a mining lease has not been gramited by the State, together with any other expend' ture which in t'ue: opinion or the Commldssioner is :iilcdtotal t:o such operations: Provided thal'-

(i), m cbc case of aily p=n-on who derives income from mining fer diamonds in the ltc- public, the C-0mmissuoml:r may .detc:-00inc tiffit aQY **mliture** :refcm:d to in tb"s para.grap'l'l shall: be deducted in a seri!S of atmual mstal- ments, so that @ a portion Qf su.cn ndit.m, is dmucted in the yce:r of assessment in which it fa il lCwr and the titsldw in such :subsequel't years .of. aa.c", DICnt and in sucli .porporli?Ds as the Commissioner may dc tmb.llc, tmtil :the pen.di me is e,11;. Wlrgllished;

(U) in the ca:se of any oompany whi'e& derives income from dJ're:ent classes of mining o, ationu, :the d duc on u er this l.a:ap'aph H be from the**mcomc** derived from web. class or classes of' mining op,Er.Uions and m mch **priopomon**, as the Commissioner may determine

(tii) any expenditure which has bec.D allowed to be dedw:ru:i from llte :u;ome of an;y person .in terms Of this paragirapb shall not be Incblcded itll such puson*s caipiW: expendiitu:re 3:s fined. hi iub-soetion (10 of on. *rhtrsy-sf,X*.

ll'i. Notwil!il:Uand:iog the provi.s\$ons. of paragraphs (al and **?f** **o:seetiollll *twe.nty.Iliree***, tbcoc &ha lbe allow ed to be d.cd **Um** from the income of any dentist or medical practluon so much medical as tile Commi:,siolllC'J' ma:y allow of any expc,nclitUJe incurred by **o-** such dentist or medical practitioner if lbB Dent.ail Assotiatm-. **Of POS ifU** **latc** South Africa or the Medkal Association or Sourth Africa, as Sludy **COlllks,** **the case mly be. oertmcs** in such form as the Commissioner may **p beh,e-**

(Q) 1w. practis«i his profcss.ioa for not less tbae three yeals; and
 (b) has il_nccurred such expe.lilditure d'ilri:ng the :year of a5C smnt in msp(l:ct of the acitendan-cc by lli:n of any post.ograchlaite study course approved by such. Al&oo1-o a:ation, to improve .his ql lalific.atioos for carrying on his profession in the Republic.

17. There shall be allowed to any taxpayer any expenditure incurred in the year of assessment in respect of any expenditure incurred by the taxpayer in the carrying on of any business or profession or trade or other activity carried on by him in the Republic.

18. Notwithstanding the provisions of paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i) of section twenty-three, there shall be allowed to be deducted from the total income of any taxpayer an amount not exceeding in the aggregate the sum of two hundred and fifty thousand rupees, of—

- (a) any sum contributed by him during the year of assessment, by way of contributions due by him as a member, to any fund recognized by the Commissioner as a benefit fund established for the purpose of defraying the whole or in part any amount payable by him for the maintenance of himself or his wife or child or stepchild or dependent relative as defined in paragraph (c) of section 17;
- (b) any amount which the Commissioner is satisfied were paid by the taxpayer during the year of assessment to any institution in connection with any contribution of his wife or to—
 - (i) any dentist or medical practitioner for dental and medical services rendered to him;
 - (ii) any duly registered nursing home or hospital in which he or his wife or child or stepchild or dependent relative as defined in paragraph (c) of section 17 is receiving medical treatment.

19. (1) The provisions of paragraphs (a) and (b) of section twenty-three shall apply in relation to any amount received by any person in the form of dividend.

(2) In respect of expenditure and losses not of a capital nature incurred by any person (other than a company) in the production of his income from dividends, there shall be allowed as a deduction under paragraph (a) of section twenty-three an amount which bears to the expenditure and losses which but for this sub-section would have been allowed to be deducted the same ratio as bears the amount of such dividends as calculated after allowing for the deduction under sub-section (3) bears to the amount of such dividends as calculated before allowing for such deduction.

(3) In respect of income in the form of dividends received by any person other than a company there shall be allowed as a deduction in the determination of his taxable income of such person an amount representing a percentage of such dividends calculated in accordance with the following scale:

Where, but for the provisions of this sub-section and sub-section (2) the taxable income of the taxpayer for the year of assessment in question—	Percentage of dividends to be deducted
would not exceed Rs. 600	100 per cent.
would exceed Rs. 600 but not Rs. 800	94 "
" " " " Rs. 800 " " Rs. 1,000	88 "
" " " " " " " " " " " " " " Rs. 1,000 " " Rs. 1,200	82 "
" " " " " " " " " " " " " " Rs. 1,200 " " Rs. 1,400	76 "
" " " " " " " " " " " " " " Rs. 1,400 " " Rs. 1,600	70 "
" " " " " " " " " " " " " " Rs. 1,600 " " Rs. 1,800	64 "
" " " " " " " " " " " " " " Rs. 1,800 " " Rs. 2,000	58 "
" " " " " " " " " " " " " " Rs. 2,000 " " Rs. 2,200	52 "
" " " " " " " " " " " " " " Rs. 2,200 " " Rs. 2,400	46 "
" " " " " " " " " " " " " " Rs. 2,400 " " Rs. 2,600	40 "
" " " " " " " " " " " " " " Rs. 2,600	34 "

20. (1) For the purpose of determining the taxable income of any person derived wholly or partly from any business, profession or trade carried on by him in the Republic, there shall be allowed as a deduction in the determination of his taxable income of such person an amount representing a percentage of such income so derived by him in the Republic.

- (a) any amount of assessed loss incurred by the taxpayer in any previous year which has been carried forward from the immediately preceding year of assessment: Provided that—

(i) no person whose estate has been voluntarily or compulsorily sequestrated shall, pursuant to the order of the court, be required to carry forward any assessed losses incurred prior to the date of sequestration;

(ii) the balance of assessed loss shall be reduced by the amount or value of any benefit received by or accruing to a person resulting from a compromise granted by or a compromise made with his creditors whereby his liabilities to them have been reduced or extinguished, provided such liabilities arose in the ordinary course of trade in the same year of assessment or in the year immediately preceding the year of assessment in the Republic of South Africa or in any other country in which he or she is a member of a company the capital of which is listed in the Republic of South Africa.

(1) For the purposes of this section the loss of any amount, as mentioned in the provisions of sections 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

The amount payable to the estate of a deceased person shall 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 and shall be the cost price of such trading stock, not being shares held by any company in an unlisted company, has been diminished by reason of damage, loss or other reason satisfactory to the Commissioner.

(1) The amount which shall in the determination of the taxable income derived by any person during any year of assessment 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 the cost price of such trading stock, not being shares held by any company in an unlisted company, has been diminished by reason of damage, loss or other reason satisfactory to the Commissioner.

(2) The amount which shall in the determination of the taxable income derived by any person during any year of assessment 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 the cost price of such trading stock, not being shares held by any company in an unlisted company, has been diminished by reason of damage, loss or other reason satisfactory to the Commissioner.

(a) if such trading stock formed part of the trading stock of such person at the end of the immediately preceding year of assessment, be the value of such trading stock, not being shares held by any company in an unlisted company, has been diminished by reason of damage, loss or other reason satisfactory to the Commissioner;

(b) if such trading stock did not form part of the trading stock of such person at the end of the immediately preceding year of assessment, be the cost price of such trading stock.

(3) For the purposes of this section the cost price at any date of any trading stock in relation to any person shall be the cost incurred by such person, whether in the ordinary course of business or otherwise, in acquiring such trading stock, plus any expenditure incurred by him up to and including the said date of putting such trading stock into service in the ordinary course of business.

(4) If any trading stock has been acquired by any person for no consideration or for a consideration which is not measurable in terms of money, such person shall for the purposes of subsection (3) be deemed to have acquired such trading stock at a cost equal to the price which in the opinion of the Commissioner...

missioner was the current market price of such trading stock on the date on which it was acquired by such person: *Provided* that any bonus shares awarded to any shareholder of that company, on or after the first day of July, 1957, shall have no value.

(S) For the purpose of determining the cost price of all trading stock, any person may if and as long as he maintains records in respect of his trading stock which the Commissioner considers to be satisfactory, adopt the basis of trading stock valuation which he uses at the last end of any class of trading stock, or any date is deemed to be the first item of that class of trading stock sold by such person or after that date: *Provided* that any person elects to adopt the aforesaid basis of trading stock valuation & shall give the Commissioner written notice thereof when he renders his return of income for the first year of assessment in respect of which such basis is adopted, and any such election shall be binding upon such person and may not be varied by him in respect of any subsequent year or assessment, save with the approval of the Commissioner and subject to such conditions as the Commissioner may determine.

(6) Any reference in this section to the beginning or end of a year of assessment includes--

- (i) where the period assessed is less than twelve months; a reference to the beginning or end, as the case may be, of the period assessed; and
- (ii) where a return is accepted under the provision of subsection (13) of section six, to a date earlier than the thirtieth day of June, a reference to the beginning of the month, as the case may be, of the period covered by the return.

(7) In this section a reference to a year of assessment includes a reference to a year of assessment under the Income Tax Act, 1948.

23. No deductions shall in any case be made in respect of the following matters, namely--
- (a) the cost incurred in the maintenance of any taxpayer, his family or establishment;
 - (b) domestic or private expenses, including the rent or cost of repairs of a house, expenses incurred in connection with any business not carried on for the purpose of trade or of any dwelling-house or domestic premises except in respect of such part as may be occupied for the purposes of trade;
 - (c) any loss, or expense, the deduction of which would otherwise be allowable, to the extent to which it is attributable to any contract of insurance, guarantee, or liability or indemnity;
 - (d) like taxation levied on income;
 - (e) income credited to any reserve fund or capital account in any way;
 - (f) any expenses incurred in respect of any amounts received or accrued which do not constitute income as defined in section one.
 - (g) all moneys borrowed as a deduction from income derived from trade, which are not wholly of a capital nature or expended for the purposes of trade;
 - (h) interest which might have been made on any capital employed in trade;
 - (i) any amount credited by a taxpayer to the account of his shareholding in a private company in respect of the taxable income of such company the determination of which requires an assessment.

24. If any taxpayer has entered into any agreement with any other person in respect of any property, the effect of which is that, in the case of movable property, the ownership shall pass to or from the taxpayer to that other person, upon or after the receipt of the whole or a certain portion of the amount concerned, the taxpayer and the other person, the whole of that amount shall for the purposes of this Act be deemed to have been received by the taxpayer on the day on which the agreement was entered into: *Provided* that the Commissioner, & in his discretion may allow the taxpayer to deduct from the amount of any such agreement the amount of any allowance as under

UIG I c:h:cu:m'S'LM.oes of Ute trade of the L.nparcr scc:ms to b:m reasonable, in rt?Spe:ct or .atl amo1m,ts* who:bi are deemed to have accnu;d under su.cih a.gttb! cnts, but whwh have ncrb be!en received! at Uile close of the taxpayer's aQQOwitin period= Provide:d forth.er that any ,dlo wac:ee !IQ shall be Inclu&d as income in the tax.payell returns for lns following^{yeM} of asswm.cmt and sh.all form part O his inwme ao:d'l for that purpo-se any allowance .sran c.d in terms of section ^{twe1d)-ltt'O} of "hcln.comc Th.x.:ct., 1941, i.ni respect of the year ofassessQent enck:d o.n tbo tlfultb day of J 1961, sihatl be deemed to be DD al QWIIIcQ which was made in terms of this section.

2S. (1) Any income cd by o r aceru{:d to or in favour l!!!.come of of any person in bis c:apaa y by the executor of the estate of a beoefiwries **ud** deoco.sed person 9:nd aoy! mount so r CC'ived or accrued which **dec,ear.e.d** WQU:jd !lave n. /fi,CQ:m.e. 111. the hMds of ttle deOO!Sc:d person had "t been ived by or acemed to or in ravour of such d d per&on duriag his lifetime, s hali, t.O lb ex.tent. that tbi: Commissio.Mt is satisfied that such inoom.e or amoumit bu be= dcriv-ed for the immediate or future bmlit oif any ascctta.ini!d. beit of the tct of suoh d peno.ol, be deemed to be in:ome Keei,red by or a.oonied to su:oh b.c:ir or le ite. and shaQ, to tho e,;tent NIH the Commissioner is not. SO \$a ti 5fi t be deemed to be in.come of the cstatt of such dccasc:d. person.

(2) So mOch or die ammm.t of any expendiwl"e incurred by or O.il bMllllr of tlm c.s.tate or any &ccased pet&on duriug any year **OR** assessment as in tbc o:pjniom of the Commii:S.S:ioner relat to any amount of in.come de=med to be income received by or a:ocru.ed to an hrir or t,cga.tn of such d med pc:rsoo. in terms of s b/4ectioDJ (1) sha.Ui-

(a) mot be ta:ke.n into account in the determination of the: **tanble** income of such C\$! t; and

{b) i bi, dec:llled to be expen.diture i.ocuud by sucli heir o r legatee during such year, and sltal!l. Q the Cl!ttemt dat" aie deduction of c&pet11d:it!J11e of the nawre of t e expenditure b1 qiUUiOil is H@ORIZED by this Act, 111:1; taken in.to a.Qcount in the determination of the taxable income of wC:h heir or ga:tffl.

Q, No.thing in sub-section OOsh.all be construed as i iing liaabil..ity for tax Ji tes. pe,cit of fh.e same .ai:n.o ot both m Iii= ha:n.ds of the estate OJ" heir or kgatee of a deceased person a.nd ia thit hands. of sudl. d.ece.a.scd person,

(4) The decision of tbc Colillmissioner Bl v excreiso of bis ditcrt,tion: Wllldel sub-section (0 or (2) sba.U be subject to objection and appeal.

26. The tax:blt b:come of any ne.,-s on canying on ll astoral. b'lfim.IJl.a'tio-uj B811.CU:1W m of ot ...a mu g o m'tions s' Au1, ill so far as it is. b'lfim.IJl.a'tio-uj de:rlvtd from such opetations. bill detettmi.ed Jli. accordance **r:me** :qi l'- with the provis.ions of this Act but subject to the provis.ion of .l'.atow)J. Ibo F-mt Schedl dc.

27. (1) i:n the dc rminati.on of the tuabte income or any **O-eterdnatiOll** of **op tiYC** tradigg society, as elrned the Co opera vc _____ of Soci.et cs A.of, 193.9 (Ace No'. 29 of 119 39).deme:d by Uill-t soc_1,£E.y sodi=lii.es and from its transactionsJ whetetr with person, w,bo ar,e m. mbe.rs eom.panies. ot with persons who arc n.o.t mscmbcr:s o'fth :s.oclery. the amoumc **oruy** bbn.Ill.ditribured io any r O ass.-csm ent to its memibels by any liu.c.h society which is a dosed society as defined in s.ectio:n *ninc&y-uVM* of that Act s.l 11 be, !llJowed as a dedw:tio:n fl'mn the income of dlat socl ty M so far as such bomn docs noc e,;ccl!d an amount equiv.di:mt to w e-ten th **OR** the aggregate valu;c O the birsints s. of su.ch society with its members du.ring su'Ch year or a,ss:essm t, but :no s.l!c.h deduction shall be slllowed in lhei case af am:iy cbi co-o,p b'vt uadiillg socl.ety which is notsub aciosedSCCJet,y.

(:2) The receipts and accroab of any co-opmrnve .agricultural society or <empa!l,y, or fam,crs" special oo-opcrati,rc compa:DY BS,d cfiofd in the said Act., otller than nccpts or accruals derived from trnnsaotions with pmo:ns who are not members of fl ty or company. :shaU be exempt from tu.

0) The provisions of sub-section (5) of section 11, relating to the assessment of the income of a partnership firm, shall apply to the purpose of determining the tax liability of any such co-operative society or company or farmer's special co-operative company which have been defined from time to time with persons who are not members of such society or company.

28. (1) Notwithstanding anything contained in this Act, the income derived from the business of a taxpayer who carries on such business in the Republic (whether on a mutual or otherwise) shall be deemed to be an amount equal to thirty per cent of the gross income so derived, excluding--

- (a) income payable to or for the benefit of the Commissioner to have been derived by the taxpayer from the investment of funds attributable to any long-term insurance policy earned or received by him in the Republic with a view to the purchase of an annuity fund;
- (b) income derived from the investment of the taxpayer from the investment of funds attributable to individual annuity contracts entered into by him in respect of which annuities are being paid and which are not connected with any business carried on by him in the Republic, with any fund referred to in paragraph (a); and
- (c) one-third of any dividends received by or accrued to him and which are not included in his income referred to in paragraphs (a) and (b),

which the Commissioner is satisfied has been derived by the taxpayer from the investment (including the receipt of any interest) on or on much of his funds situated within or outside the Republic in respect of any long-term insurance business carried on by him in the Republic and of so much of his funds as are deposited within the Republic in respect of any long-term insurance contract entered into by him on behalf of the Republic.

(1) Subject to the provisions of this Act the income derived by any taxpayer from the carrying on in the Republic of short-term insurance business (whether or not a principal or otherwise) shall be determined by deducting from the sum of premiums (including premiums on reinsurance) received by or accrued to such taxpayer in respect of the business of any risk, and other amounts derived from the carrying on of such business of insurance in the Republic the sum or--

- (a) the total amount of the liability incurred in respect of premiums on reinsurance;
- (b) the actual amount of the liability incurred in respect of any claims due in the year of assessment in respect of that business of insurance, less the value or any contribution received or received by any insured of insurance, including security or maturity;
- (c) the expenditure, not being expenditure falling under paragraph (a) or (b), incurred in respect of the business of insurance;
- (d) such allowance may be made each year by the Commissioner in respect of the following risks: **Provided** that the allowance granted under this paragraph in respect of any year of assessment shall be included in the income of the taxpayer in the following year of assessment and, or that the allowance shall be granted in accordance with the provisions of paragraph (iv) of section 11 of the Income Tax Act, 1961, in respect of the year of assessment ended on the thirtieth day or the 31st day of the month of June, 1961, in which the allowance was granted under this paragraph; and
- (e) the allowance as may be made each year by the Commissioner for the purpose of the provisions of this paragraph shall be included in the income of the taxpayer in the following year of assessment, and for that purpose any allowance granted in pursuance of paragraph (v) of sub-section (2) of section 11 of the Income Tax Act, 1961, in respect of the year of assessment ended on the thirtieth day of

... for every two hundred and fifty dollars to some person in respect of messages unsent from any office of such...

(2) For the purposes of this section any message which is delivered to any office in the Republic by the person who...

(3) The provisions of this section shall not apply to any person so carrying on business who renders accounts which...

33. (1) Any person (not being a person ordinarily resident in the Republic) who embarks, passengers or livestock...

(2) Mere fact of person so embarking, passengers or loading livestock, mails or goods has no recognition in the Republic...

- (a) the Commissioner may make the assessment of such information as may be available to him,
(b) the tax thereon shall be payable to the Commissioner prior to the clearance of the ship or aircraft;
(c) the principal officer of customs at the port or airport...

34. (1) Any person referred to in sub-section (1) who derives income under or by virtue of any contract or agreement...

(2) The provisions of this section shall apply to any person (other than a company) who is ordinarily resident in the Republic...

35. (1) Any person (not being a person who is ordinarily resident in the Republic) or a company which is registered or managed or controlled in the Republic to whom any amount...

(2) (a) Any person who incurs a liability to pay to any other person (not being a person who is ordinarily resident in the Republic or a person who is a citizen of the Republic or controlled in the Republic) any amount accrued to him, or (b) of a person who receives payment of any such amount on behalf of such other person shall within fourteen days after the end of the month during which the said liability is incurred, or the said payment is effected, as the case may be, or within such further period as the Commissioner may approve, make a payment (which shall be deemed to be a final payment made on behalf of such other person), in the Commission in respect of such other person's obligation to pay normal tax for the year of assessment during which the said amount accrues to or is received by such other person, calculated on a basis equal to thirty per cent of the said amount, in addition to the amount applicable to the taxable income (other than taxable income derived from mining operations in the Republic) or companies, and shall submit to the Commissioner at the time or with the tax payment a declaration in the form as the Commissioner may prescribe: Provided, that

(i) if the Commissioner is satisfied that the tax payment required to be made in terms of this paragraph in respect of the said amount has been or will be made by any person, the Commissioner may direct that any other person who is in terms of this paragraph required to make a tax payment in respect of the said amount shall be relieved of the duty to make such payment;

(ii) for the purposes of this sub-section a person having an actual domicile in the Republic shall be deemed to be domiciled in the Republic or, in the case of a company, to be a company, which is not registered, established or controlled in the Republic.

(b) Any person making a payment to the Commissioner in terms of paragraph (4) shall, notwithstanding any agreement to the contrary, be entitled to deduct out of the amount of such payment from the amount which he is liable to pay to the aforesaid other person, or to recover the amount so paid from such other person, or to retain out of any one of them as he may see fit his possession or may come to him as the agent of such other person an amount not to exceed the amount of such payment.

(c) The provisions of subsection (2) of section 111A shall apply in respect of payments made to the Commissioner in terms of paragraph (a).

(d) A taxpayer on whose behalf a payment has been made to the Commissioner in terms of paragraph (a) shall not be entitled to recover the amount of such payment from the person who under the provisions of paragraph (b) deducted, withholds or retains the amount of such payment and shall be deemed to have received the amount so deducted or withheld.

(e) Every person who is required to make a payment to the Commissioner in terms of paragraph (a) shall be personally liable for making such payment, and the amount so payable shall be deemed to be a tax due by such person and shall be recoverable from him in the manner prescribed in section 111B.

(f) Nothing in this section contained shall be construed as relieving any person to whom the provisions of section 111B apply from the obligation to declare a return of income for any year of assessment or file a return of income. For the purposes of this section, a person shall be deemed to be liable or as deemed to be liable for the purposes of this section if that person has made on his behalf in terms of paragraph (a) in respect of any year of assessment a payment in excess of the amount of normal tax properly chargeable under this Act in respect of income received by or accrued to him during such year.

36. (0 Subjed to lile provi&ions: of sub seclions, (2) to m. Ca.tc,uJ thu, of ve.,; the amom t to be dedw::too each ,reair det paragr apli = d (a) of uonjijteen ln :rcsp!Cn of in.come from m(nin_e operaño.ns unrec!remed shall be, a.l.l amoMt (hereimute:r :referred. «, as the qnotic,nt} Waned of capita! obtained by-

- (a) adding the oorance. of capital expendihllrc unredeemed minln opcmiom at t&e commmcement of the year of assessmu.t afte,r subtrne mg therefrom any :re:eooupm.c.n;ts received d"uWlig the)ftt fromi caJ?ital expcn ilurt: (irrcs ctive ofU.e datw hen suclt capita ex dtturewas OtJgmaliy illcunc di), to : amou:tof ttal expendihuc:ran'king fur r demption incurred durm;g ilhat year, ud'ng sonnu:b of ll h capi:tal expenditure as fls deduc!ibic under stlb-section (&); and
- (b) dividing the aggregate .amount so ,ob tained by the estimated .nmn.ber of rs {ftercinafter referred to }as the life of the mine) during which mini:ng ope ations may be l:cd :to conLitwc.

(2) Int the: case Of moomes derived from the wo.rkng o.f any diamond ntines, th.c:rei shaU in lieu of t!N qtil>tie:cu be dt<iucted in respect of the year ofassewment dl:mng which the prodeelfon of diamonds oo.mmtACcs. Uic amoull of capital e dilVlre incuttud up to the close orlhat year of assessment, nd thereafter in rcs,pl?ct o.f each sltCCcdl:ng year of assessment the actual capital expenditure ii.ncu.rred during su.cb year cf assessment.t.

- (3) (a) T.im amou.nt to be deducted each year- und-er p ar,agr .ph (a) Of scc lo.n fi/trum from come dtrived from. lhc worki:ng or a :new gold mine shall, jn respECt of the year of assessment dl:lring whiC:lt such mine c:omme.ncc.o; the prodlet:ion of gOk!:, be the amOU!Jlt of capital expenditure: inCl:l:rc:cd up to the dose. of that year of as-s c M!trea:frer in respect of eachsu,=rliJjg year cf assesSilllCnt the ac:tucal capital expc:ndilure inourred durin ,g: su.cb)CB.f of assessment.

- (h) For the plllrpOsc of par.apl:i 6,), any ambunt eaC11'-ra t'ed under paragraph (c) o:f the delmitfon of "capital ex tnre" in sub-section (I I) in respect of any ye:ir of as-ssessmtshall be deem.td to be capital expr.mditlDc in.ontttd @ k fa.st day o.f such year of aisse:ssme:nt

(4) Subjc,et ro tho provisions of su.b«dfon (5), the amount ro be deducted each ear in respect of im:ome de-rived fr.om the working of godt mtnes otMr Olan new g.oJd mines shaU be an amOWJt eqw valrmt to t ty-\$even and.a half per cellt i Che. sum of tle unredeemed baJance of capltal expellldmuc at the bcciinniog of the year a.semment and :i::: capittJ:l expenditure :i:incuncd dl:ring that yca,r, or t.b (Jiloll:ent resutLi111g from dilVklng the said sum by the tifo of the mine. whichever is, s t he grea(er

(5) Int du: case of any per-son carryill,g o,n goM mlniil ag oper-a lions, other th.an on mew gold mimes. who commcoed or commences the prod:u.clio.n of goh:l a:filer t!lo tbttry-first d!ay of De bert 193S, the amount to be deducted with ooretlcc to cacbi year of assessment. in respect of the capital expendihlro r,ltl lcpig for l'icdem.pijon incurred by th t pers:onJrior to t he d ate of commccment of sw;:h production shall, until the aggregate of the amoulus deducted ls equal to th.e amount or such capii:l expellditur: be sl!lch sum as Wm when ml!lllip:lied by ten o.r (where: tho frife of the mime as cstimated Or revised \ind r the l).rovisions of sulHec io.n (8) or C,} is 1 s titan. ten Y.ears) by the number of years m the life of tho :mine ais so cstLmated Or revised, be equ,d to the amoMt of sw;:b capital exp:nditure: Prl illi dcd that any C21lpital tpc:;l'lditu:rc in tcspect of whidi a dc- duction is. ma.de:: uoder this :sl!lb-stectiom shall not rank for de- duction undeub-seci fon(4).

(6) Thel'c sbaEI in ad<litio to the qU(nicnt rdentd to in s,:ib- sctio: (1). be dtductd under paragraph (a) of section Jiffe.en from income dc:rvcd! from t!he working of any mine: 0th.er t!an. n coppe:l mine m the, district of Na a91.1afand ill tl c provlnoe of the Cape of Good Hope: or lh.c dism of Lelab/: In the provt:nce of the TrnJlsvaru\ or a g,0Ed or diam<md mine, tweJilytlve pct'ccn:i: of the capital expauJitudo ■ ■ ■ ■ inresptct or suclt mine on o.r after U1e :lifl.eenth day of Marohil' 1961, or such peromtagc of the said capital exp nditure in e-x ess of twe:J:Uy-five f t , (but no c:ecding, on hu:ml per c:eqt) as may be directed by t&e M,:nisrcr of Finance ,havmg R83,rd ul the circumstane:s of the case to tbt= ofcg;ee to whicli the product

of such mine is processed in the Republic and to the: rceo mr.n=n.-
 dations of the retary fior M"m.es and the Setretary far Com-
 and! lndillitries.

(7) In tbt case of incom.e d e'l'ivcd from the w'odcing of any
 copper mint in the district of Namagualand in the province of
 the Cape, of Good Hope or the dismct of L taba in the: provjnce
 of the Tra lu vaal, there !ihia;l1. jn lieu o:f the: qu.oti t refermd to in
 sub--sectora (E), be deducted in respect of thit year of asussme111t
 during which ttle :pmdliii ctio:n of **coppit comm** t1e101.n11t
 of c-apltail experubture iriCUned Up le tih.e ci0se 0 tbatit year .of
 as'Sei:tJDe.ntj and thereatter tn respect of each se-cc dln g year of
 ssssm.e111t the ;actual capifal "PEndilhie incurred lihrlrlq that
 year of asses,s,m:ent.

(8) The **iric** of a mine s baU be determined b ythe -Oovcmmnit
 Mirung Engmce, but such determi_na@fon shaH be: subject to
 objedion !-nd appeal to the special co\lit'l constituted Under
 Chapter III .:ts ir n we:rc a docis.ion: of th.c Commisst0ni:r, a11d
 where the life of a mine, estimated arid dewrmined .as aforesaid;
 exceeds thirty y B the alfowante shaJlj 'SO long as the estimatc
 exceeds tihat period, be: c oofat:ed on a period. of tltfoty years.

(9) (a) The life of a mil:lc shall be subje:ot to rcivjs.ion at the-
 iostaocc: of the pmon Uable to the tlx or of tile Com-
 missioner, wher:i.evei:- ally me.tcria(alteration takes
 place in a.n:y ci:rnmsraoccs relating to the mine or its
 worichl,g :hi:olil all'cets tile: life oif the mha and shall
 otherwise be subJiu:t to revision :iwi. ewty third. year a;fwt
 the Jast pr:eceding: **d rm** nation, and in any su.dt
 nvis:ion th sa'fle:: pruyi'si? lls:shaH ap_ply as. tn tile: o.dg,i-
 cai determ1nallon or thel fl. ohhe: mln.e.

(b) No such 1,levirloom shaH aiffect any assessment determined
 or any allowanee made or presumed to have been
 made nder this Act or any previous law f0 the t xati-
 tion of the profits of mutio:g-.

(10) Where separat; a.11:d dliisnot mimt1g o perati:011s .are
 car:ncd n in mines .lh ait an. ot nt guouis, thL! allow;ance fQt
 redemptlam of capital expendtu re shaU be computed sc:imrately
 according to the es!imatr.:d life of.cmcll sl.lcb mine.

(11) Fot th.eipu: rpo.scs of this sr:ction-

c; capital pc:ildltute? mi.mns----

(a) expenditure on .sh fl! s1in:ldll(g and equipment,
 iochl:ding any single ewal or replacement
 of equ:pmnt which toge,th.e,r with the :Keesoi:
 therero exceeds in cost forty tho usa:nd rrrnd; and

(b) **xpenditure** on dewlpmem't, geoeral adm "nistr;
 ti on ai!.td manag,c:m.c-nt (incl11d;iog any interest
 'l'id other ch'3irges pa)'albie afh r tie thitty-
 first day of December, 19SOi, on loam; uti]ized
 for mining pu:rposes) prior to the eoinmenc.emw
 of production or d.uri'llg any period of non-
 productio.n, and

(c) in: th case of any new dec:p level gold m:ine oir
 any Other deep .level gotd mine an amount
 calculated as, n rly as may be in U1e maontr
 p:r:scribed for the calculation of the capital
 aUowance: pro "d d. for im sub-.stfon (3) Of
 section *ni, id ee:tl* of the Pucious aRd Ba. Melab
 Act, 1908 (Act No. 35 of t'908), of , he Transvaal
 (fr• this paragraph rdcrrcl!I to as @e Gold Law),
 at the mte of five per cent per annum ON the
 aimounl of llw 'tilUt:deemcd balance of the ag-
 gregate of-

(i) the expenditillro :referred to fa!. paragraphs
 (a) and (b)r, cxclu.ding any fohtRGSt and
 other charges on loam !!!!fr,t116d to illl para-
 graph (b), if the miae is n new deep lc l loldl
 mine, or the hala'11;c or capita] expenditure
 noredced in terms of sub.section (1) at
 the commencement of the ye:u of as.se:ssoo=1:1t
 during which tile mine is recogn.izcd as a'l]y
 oflim-deep velgold mjnc .a thee.x:ipen itm
 referred to, 10 pa gt:aph {a), ft'.he mtne ts any
 other deep]evcl gold mine;

(ii) the S:11\Otl:l:lit | | any) allow d to rank as
 capital m:pendhum fut terms of secb.Q.n
llirl eren:

(iii) any e pell. itur, s i:Qcumd dl1riRg any period
 of productron on dc'lelopment on any reef
 on whkli at t.lilci d'ate of such iimrelopment
 stoping ha.s not yetoommeined; eindl

(iv) if the amount of this paragraph up to the end of the year of assessment under this Act or the Income Tax Act, 1941, immediately preceding the year of assessment is under charge,

if the mine is a low deep level gold mine for the period from the end of the month in which the expenditure is actually incurred or is in terms of paragraph (b) of sub-section (3) deemed to be included up to the end of the year of assessment immediately preceding the year of

assessment in respect of which the determination of the taxable income derived from the working of such mine does not result in an assessed loss, and, if the mine is any other deep level gold mine, for a period of ten years from the commencement of the year of assessment during which the mine is recorded as any other deep level gold mine! Provided that-

(aa) the amount under this paragraph shall not be included for any period during which mining operations are not carried on in accordance with the terms of the relevant lease;

(bb) notwithstanding anything to the contrary in any law in force, the amount under this paragraph shall not be taken into account for the purpose of calculating the capital allowance provided for in sub-section (3) of section 11 of the Gold Law or for the purpose of determining the profits of the mine for the purpose of the State for the terms of any mining lease;

(c) the provisions of sub-sections (4) and (4b) of section 11 of the Gold Law shall, in so far as they can be applied, apply to the provisions of the Gold Law for the purpose of determining the profits of the mine referred to in sub-paragraphs (a) to (iv) of this paragraph;

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••ex diture" meaos net expendih:ir:e afler taki:ng in:to accou:nt any :rcba:t , recouprmen,ts or rct:l:m:s from a pen.dihue.

(2) The amount of capital expenditure incurred at the commencement of the first year of assessment chargeable under this Act shall be the balance which is immediately at the end of the last year of assessment chargeable under the Income Tax Act, 1941.

37. (1) Where the ownership of a mining property is transferred to a new owner, the value of the property at the time the change of ownership takes place, of the preliminary surveys, shafts, development and equipment included in the assets passing by such change, or in a case in which consideration is given, the effective value of the assets so passing exceeds the consideration, the amount available to rank as capital expenditure for redemption by the new owner shall be the proportion of the consideration which is attributable to the preliminary surveys, shafts, development and equipment bears to the effective value of the property.

(2) The amount available to rank as capital expenditure for redemption by the new owner under the provisions of sub-section (1) shall be the amount of the value of the property as defined in section 37 or for the purpose of sub-section (1) of section 37, as the case may be, determined to be a recoupment from capital expenditure by the person from whom ownership was acquired.

(1), If the value of the consideration given or of the property where no consideration is given is in dispute, it may with the consent of the new owner be fixed by the Commissioner and shall fail if such consent be determined in the same manner as if the amount were payable,

() The effective date at the time the change of ownership takes place, of the assets of the company shall be determined by the Government. The Minister who shall notwithstanding the repeal of the Statute Schedule to the Transvaal Minding Leases and Minerals Amendment Act, 1918 (Act No. 10 of 1918), for the purposes of such determination have all the powers which were conferred upon him by the provisions of that Statute.

P.A.R.I II.

Special Powers for Relating to Companies

38. 0) For the purposes of this Act a company shall, in respect of each year of assessment be recognized as either a public or a private company, and the Commissioner shall require of any company to inform that company whether it is recognized as a public company or as a private company.

(i) To determine a company shall be subject to the provisions of section 111, be recognized as public companies, namely-

- (a) any company in which the shares are publicly quoted on a stock exchange in the State issued under its authority provided the Commissioner is satisfied-
 - (1) that the stock exchange is a recognized and *bona fide* stock exchange under adequate control;
 - (i) that the rules and regulations of the stock exchange are for the benefit and protection of the public in regard to dealings in the shares or the company;
 - (ii) that the memorandum and articles of association of the company contain no restrictions on the right of any member or shareholder of its shares to transfer the same to any other person in more than one class of shares; and
 - (iv) that the company was throughout the year of assessment in question interested either directly as shareholder in the company or indirectly as shareholder in any other public company, in more than one class of shares, class of shares issued by the company;
- (b) any other company, not being a private company as defined in section 111 of the Companies Act, 1926 (as in force on the twenty-sixth day of June, 1946), in respect of which the Commissioner is satisfied-
 - (i) that the company was throughout the year of assessment in question interested either directly as shareholder in the company or indirectly as shareholder in any other public company, in more than one class of shares of every class of equity shares issued by the company; and
 - (ii) that the business of the company is conducted and its profits are distributed in a manner that no person enjoys or receives or is entitled to enjoy or receive, by reason of his holding, participation in the management or otherwise, any advantage which would not be enjoyed or received by him if the company had been under the control of a body of shareholders and had been one which could have been recognized as a public company under paragraph (a),
- (c) any company which the Commissioner is satisfied was incorporated to serve a specified purpose, but subject to the provisions of the public if under the control of the company no shareholder is entitled to participate in the profits or income of the company to an extent greater than seven per cent of the nominal value of his shareholding
- (d) any society or company registered under the Cooperative Societies Act, 1939 (Act No. 29 of 1939);
- (e) any insurance society or company subject to assessment in terms of section 111, and
- (f) any public utility company, established by or under a special Act of Parliament

- (g) any company the sole or principal business of which in the Republic is mining for gold or diamonds;
- (h) any company to which the provisions of section 111A, 111B or 111C apply.
- (3) a company which at the date of its incorporation as a public company shall be recognised as a private company.

39. If owing to change in the constitution or shareholding of any company which has been recognised as a public company under paragraph (a), (b) or (c) of sub-section (2) of section 111A, 111B or 111C, the Commissioner is no longer satisfied of the matters of which he is in receipt of the application paragraph required to be satisfied, or the company does not comply with the requirements of that paragraph the Commissioner may notify the public officer of the company that it will as from the next succeeding specified date be recognised as a private company.

40. The decision of the Commissioner in the exercise of his discretion under paragraph (a), (b) or (c) of section 111A, 111B or 111C shall be subject to objection and appeal.

PART III.

Non-resident Shareholders' Tax.

41. There shall be paid for the benefit of the Consolidated Fund a tax (in this Act referred to as non-resident shareholders' tax) in respect of the amounts specified in section 42.

42. (1) The non-resident shareholders' tax shall be payable in respect of—

- (a) any dividend (excluding such portion thereof as consists of an interim dividend) which has been declared by any company after the thirtieth day of June, 1962; and
- (b) any interim dividend the payment of which has been approved after the date by the directors of any company or by some other person authorised by the memorandum and articles of association of that company,

if the shareholder to whom the dividend or interim dividend has been paid is payable to—

- (i) a person, other than a company, not ordinarily resident nor carrying on business in the Republic;
- (ii) a deceased estate referred to in sub-paragraph (i) or a manager of the estate of such a person;
- (iii) a company not registered or carrying on business in the Republic;
- (iv) the holder of bearer shares, irrespective of whether he is resident within or outside the Republic,

and where a shareholder as at the date of declaration of the dividend is specified as the date of withdrawal of the dividend is required to be entitled to the dividend, as at the date of withdrawal.

(2) The non-resident shareholders' tax shall be payable in respect of—

- (a) so much of the amount of any dividend declared by a company which was, in respect of the year ended on the thirtieth day of June 1960, exempt from distributed profits tax in terms of paragraph (d), (e) or (i) of section 111A, 111B or 111C of the Income Tax Act 1914, (hereinafter referred to as the distributing company) to a company not registered or carrying on business in the Republic (hereinafter referred to as the shareholder company), as is proved to the satisfaction of the Commissioner to have been distributed by way of dividend out of income which was derived by the distributing company during a year of assessment which ended at least on the thirtieth day of June, 1960;
- (b) so much of the amount of any dividend declared by the distributing company to the shareholder company as remains after the deduction therefrom of a sum equal

to the amount (if any) by which the aggregate of the amounts which were received or accrued during the year of assessment ended on the thirty-first day of July, 1960, and which in the opinion of the Commissioner were available for dividend, to the shareholder or company by way of dividend, exceeds the aggregate of the amounts of dividend (excluding the amount in question) declared by the distributing company to the shareholder or company on or after the thirty-first day of March, 1961, in respect of which non-resident shareholders' tax was payable under this Act or the Income Tax Act 1941 and

(c) dividends received from companies referred in paragraphs (d) (i) and (j) of sub-section (2) of section thirty-eight.

(3) Sub-section (2) shall not be construed as exempting from the provisions of section 115D any dividend payable to the shareholder or company in respect of any share or by virtue of any right to participate in the income or profits of the distributing company which the shareholder or company acquired after the date in relation to the assessment of income of the distributing company for the year of assessment ended on the thirty-first day of June 1961.

(4) For the purposes of this section: "dividend" or "interim dividend" includes any dividend or interim dividend distributed by a company out of or by way of the capitalisation of the profits of that company which had previously been apportioned among its shareholders in terms of section 141 of the Income Tax Act, 1941 as the taxable income or income subject to super tax of that company or in terms of section 141 of the Income Tax Act as it applied to a company.

4. The person liable for the tax shall be the person to whom it is payable; in favour of the amount described in section 115D or true.

44. (1) Notwithstanding the provisions of section 115D, the tax shall be payable by and recoverable from the person or persons who are liable to pay the tax.

(a) in the case of dividends distributed by any company to any person whose address appearing in the register of the company is outside the Republic or to any shareholder or bearer of a share, the company by which the dividend is distributed;

(b) in the case of dividends received by any person in the Republic on behalf of any shareholder or member of a company, the agent of the shareholder or member.

(2) For the purposes of this section a person shall be deemed to be the agent of a shareholder or member in relation to a dividend if that person's address appears in the register of the company as the registered address of the shareholder or member and the dividend was or is payable to that person at that address; provided that any person so deemed to be the agent of any shareholder or member shall be deemed to be the agent of any shareholder or member in relation to a dividend if and in respect of any income received by or accruing to him or for his favour and in respect of all the duties and liabilities of the shareholder or member as taxpayer arising from the dividend.

(3) Nothing contained in sub-section (2) shall be construed as relieving any company by which a dividend is distributed from the duties and responsibilities imposed upon it by section 115D, as if the agent of any shareholder or member absent from the Republic.

(4) Any tax payable in terms of this section by any company or agent for any shareholder may be recovered by such company or agent, as the case may be, from the shareholder concerned.

45. The rate of tax shall be 10% and one-half per cent of the amount of the tax payable in respect of the dividend.

46. If any amount spoilt in section 10N has been received from a company which derives income from sources within and outside the Republic, the tax payable in respect of that amount shall be calculated upon an amount which bears to that amount the same ratio as the sum of the net profits of the company derived from sources within the Republic bears to the total sum of its net profits and from all sources as last determined by the Commissioner for the purposes of this Act or the Income Tax Act 1941; or, in cases in which there has been no previous determination by the Commissioner, as estimated by the Commissioner according to such information as is available to him,

47. (1) The company which in terms of paragraph (a) of Division 10N is required to pay the tax of any dividend shall pay to the Commissioner the tax due on such dividend within thirty days, or within such further period as may be approved by the Commissioner, of the date on which the dividend is payable; and shall furnish him with a memorandum showing the names and addresses of the persons (with the amount in each case) to whom it is payable and, in the case of dividends payable in respect of bearer shares, the total dividends distributable to holders of such shares.

(2) The agent in the Republic by whom the tax is payable shall, within thirty days of the date of delivery of the dividend warrant or of the date of payment of the dividend at his address, or within such further period as may be approved by the Commissioner, pay the tax to the Commissioner and furnish him with a statement showing the amount of the dividend and the name and address of the person to whom it has accrued.

(3) The provisions of sub-sections (1) and (2) shall not prevent the Commissioner from recovering from the person liable any tax which has not been paid and which the Commissioner may ascertain to be due, after the dates specified in the said sub-sections.

Part IV.

Undistributed Profits Tax

48. Subject to the provisions of section 10N, there shall be levied and paid for the benefit of the Consolidated Revenue Fund in respect of the year of assessment ending on the thirty-first day of June, 1962, and each succeeding year of assessment thereafter by every private company registered or carrying on business in the Republic, a tax (in this Act referred to as undistributed profits tax) of fifty cents on every two hundredths of the amount by which the distributable income of such company exceeds the amount of the dividends distributed by it during the specified

49. In this Part-

- (i) "distributable" for the purposes of this definition means any amount ascertained to the satisfaction of the Commissioner, by whom the sum of the net profits admissible to the determination of total net profits, under this Act or the Income Tax Act, 1941, exceeds the sum of the amounts from which they are so deductible and in relation to any year of assessment preceding that which ended on the thirty-first day of June, 1955, or in relation to any year of assessment ending on or after that date in respect of which the company was not subject to undistributed profits tax, means any amount, as established to the satisfaction of the Commissioner, by whom the sum of the deductions which would have been admissible in the determination of total net profits exceeds the sum of the amounts from which they could have been so deductible in respect of the year of assessment aforesaid; (ii) "undistributed profits" in relation to any company in respect of any year of assessment means the amount which would have been available for distribution to the shareholders of the company in respect of that year if the company had been subject to undistributed profits tax;

Definition, for purposes of this Part

(ii) "distributable income" in relation to any company in respect of any year of assessment means the amount which would have been available for distribution to the shareholders of the company in respect of that year if the company had been subject to undistributed profits tax;

- (a) Ute total net profits of the company in the year of assessment; and:
- (b) all amounts deducted in terms of paragraph (iii) of this section or the corresponding provisions of any former Income Tax Act in the company's distributable income, whether in the current or any previous year of assessment which have been recovered or recouped by it during the current year of assessment;

the sum or-

- (i) any losses on income (including unlisted profits tax) payable by the company in respect of all amounts, including its net profits:
- (ii) an allowance equal to forty per cent of so much of the value of the assets referred to in paragraphs (a) and (b) as this definition as is not attributable to the inclusion in the profits of such company of any dividends received by or accrued to and

(iii) in the case of any company which, whether in the current or in any previous year of assessment, has contracted for the acquisition by it of any new or used machinery or plant which satisfies the Commission that within a period of three years after the end of the current year of assessment such machinery or plant will be brought in to use by it for the purposes of its trade and will be used by it directly in a process of manufacture, an allowance in respect of the amount payable of such machinery or plant paid by it during that year of assessment:

- (aa) any company may in respect of any such new or unused machinery or plant elect to deduct as an allowance under this paragraph in respect of the year of assessment during which such machinery or plant is brought in to use by it for the purposes of its trade and is used by it directly in a process of manufacture, an amount equal to the cost thereof which allowance shall be in lieu of and not in addition to any allowance to which such company would but for subsection (1) have been entitled under the preceding provisions of this paragraph in respect of such machinery or plant;

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

- (w) an allowance equal to thirty per cent of any amount which has in terms of sub-paragraph (l), or paragraph 13 of the First Schedule been included in the income of the company for the year of assessment; (vi)

- (iii) "fair value", in relation to any asset means the fair market value of such asset; and in the definition of the fair market value of any asset regard shall be had, in the following cases,-

- (o) to any sworn valuation of the asset which may be furnished by or on behalf of the company concerned;

- (l.) to any valuation OR the asset made by any com. l)Ctc.nt aodl dkh:itc-tested pemln appo.ia ied by the Ccmmi&isioner; and
- (c) to any other Relevant facts within the know! ge ,of tbc Comm§ioJter o.r til-e company oonc:emed whim either of tJullm. considers could. rusoiabJy be takeo ioto account; l

(iv) Paid up Capital (e: <Ct! pt wllete t tpxrffllion is used In ap:aph (a) of sllb-se:cuon (2) or stet:ion fifty-flJ0)1 10 rclatwn to aoy company. means the nominat value of the paid up COJ.ifaf cf that cc:xnpny re u.ccd ls prfflljded in the, smdl para:gra:ph and ex-cluding so much of tbe: nominal vaitu of any boaus shares as did 110:t r.rwk as a divide:nd in u.rms. of para:gra:ph (g) of tke defioitio: of ° dJyidc:lid "" M section one or the corres_poodli'flg pi:iovisioos of any previo:lils Income Tax Act (iii),

(v) HSI)Coffed period., in respect of any r ofass sllmti, means the period of twelve months ending six: m.O:l:tflls after the specifict!l date for that yem of assessmc.nl as detin.ed! in section ,one; 0)

(vi) ••tOW d U profits", in rcfatlw: 10 any c:ompabY i n. respect of anr ymr of assesml!cnt. means the net pmlit:s of that company far :such yeat' of ancs:smeat ca.l:ulatel in l!he manner prescriboo for the deter--nn.ati.on for normal tax purposes o:f taxable income in i'es.pit'Cl: of that year of asSICssm.cnt (wit.bout applyi:ng: libe p:r,ovision.s of pamgmph (a) or subsaSection (0 of stetfun t!hw.lj)), but i:rus.pective o,fwhelttler the, plinlits: are derh cd ftom a source within or c:outside the RtpnblJo, and subject to the inclusion in the profits of such company o:f all dividends from wh.Meve:r scrutt:tl and any amsounts referred to in para:gmphs. Qi) au.d (i) Of sub-section (J) of sootio: ten reociv,ed by or aocni-cd io such company d l lri Sl!ch year of assess nient a!l:ld all amounts dcduted 111 ttrm.s of para:gra:ph (a) of this defioitioo " the OOmipOnding pmvif ons. of any previous Income Tax Act in the determination of the company's total n« profits,, wll Mt ih the <=llnent o:r any previous year o:f asscssm which &ave bccn, rec:o,vered or recon:oed by it durilJis: the cunent year of assess:mmt; ltss the following amcm ts, oomcly-

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- (b) any deficit j;ncur.red by the company which bas been brought forward from the i,rel,eding year of ass:es:smcnt: Provided that tbe d c.it shall be redluocd by the amount or value of any beneft received by or ace.mi ng io thf compa.oy sulting from a 031:leesiiio.n granted by or a comprollisc made with snch company's cooditors whereby its ilia:bilitie-s o th,em ilave been reduccd or extinguishtd., if s:,ich liab:ilHics: arose in. th.e: o-rdmary oonJSe of trad,.. (v)

50. I'hm than be e;empt from undfatd bl:lted pro6ts tax EamplionJ,i

- (a) any association: rcfmed to in. paraR,ta phi- of the: dcfinidon of 'Q0mpmy.. in section oJre;
- (l.) comprues in :respect of which liht prc0visions OR :sectiO\§ t!1Jr1y.mo, llJriy-/011r and 1hfrtJ1-,six an: by virtue of tht def:in:tion of ""total net profits•• in section

Jorty-nfJie :applicable to the detc:rmirn. don of that portion of die "r total net profits wh:ic.h fa deriw:!!: from their pri:nci l busine:S' .:

- (c) any company in which shares representing not less than seven per cent of such company's issued capital are held by one or more companies in respect of which the provisions of section 10(1) are in force in the definition of 'total net profits' in section 10(1) applicable to that period or their total net profits which is derived from their principal business:
- (d), any company which satisfies the Commission that shares representing not less than fifty per cent of its equity share capital are throughout the specified period held by one or more persons (other than companies) not ordinarily resident nor carrying on business in the Republic, or by one or more persons registered in the Republic and deriving the greater portion of their profits for the year of assessment in question from sources not within or deemed to be within the Republic or by one or more persons (other than companies) and one or more such companies: Provided that for the purpose of determining the portion of its profits which has been derived by any company from sources within or deemed to be within the Republic for any year of assessment there shall be included in the profits derived by such company from sources within or deemed to be within the Republic as well as in the profits derived by it from all sources during such year of assessment the amount, if any, by which the dividends received by or accrued to such company during such year of assessment from all companies registered in the Republic are less than the dividends which would have been received by or would have accrued to such company from such companies registered in the Republic if the latter had distributed by way of dividends during such year of assessment an amount equal to not less than ten per cent of its total net profits for the said year of assessment;
- (e) any company *residing* outside the Republic which carries on business in the Republic and satisfies the Commission that not more than fifty per cent of its profits for the year of assessment in question are derived from sources within or deemed to be within the Republic;
- (f) any company (other than a company whose total net profits are derived solely or mainly from dividends) which satisfies the Commission that the sum of all its reserves (including any share premium account) and balance or provision appropriated as at the specified date, together with the amount payable to so much of the nominal value of any bonus shares awarded to shareholders on or after the first day of July, 1957, as did not rank as a dividend in terms of paragraph (g) of the definition of 'dividend' in section 10(1) or the earnings, including provisions of any previous Income Tax Act, the sum of the dividends distributed by such company during the last six months or the specified period, and the taxes on income (including undistributed profits tax) payable by such company in respect of all amounts included in its net profits for the year of assessment in question did not exceed the greater of the following amounts namely-
- (i) one hundred thousand rand; or
 - (ii) forty per cent of such company's paid up capital as at the specified date;
- (g) a company whose total net profits for the year of assessment in question did not exceed five per cent of its paid up capital as at the specified date;
- (h) the South African Reserve Bank, the National Finance Corporation of South Africa, any building society

and my company registered as a bank under the Banking Act, 1942 (Act No 38 of 1942);

- (0) any company whose shares were throughout the specified period held by the Government or by one or more private companies which are themselves exempt from this tax in terms of this section excluding paragraphs (f) and (g), or by one or more public companies and one or more such public companies or partly by one or more public companies or such private companies and partly by persons other than companies if, in any case or any company whose equity shares were wholly held by the said companies as aforesaid the Commissioner is satisfied that the company would have been recognized as a public company in terms of paragraph (a) of subsection (1) of section 2(17) for the year of assessment in question if the shares held by persons other than companies had been held by the company's total shareholders and the holders of the said shares had been the company's only shareholders.

51. The Commissioner shall after the close of the specified period issue an assessment to the public officer of the company in respect of the amount by which the dividend payable in any year prior to the year of assessment exceeds the dividends distributed by such company during such specified period and shall state in such assessment the amount of tax payable thereon, and the date on which such tax shall be paid.

52. (1) The provisions relating to profits tax for any assessment year shall apply to any company which is registered in the Republic and which has a turnover in the year of assessment exceeding the sum of a million and a half rupees as if—

- (a) that portion of the total net profits which was derived by the company during such year of assessment from sources which are deemed to be within the Republic represents the company's total net profits for that year of assessment;
- (b) the value of the company's reserves (including any share premium account) and balance of profits unappropriated (together with an amount equal to so much of the nominal value of any bonus shares awarded to shareholders on or after the first day of July, 1957, did not rank as a dividend in paragraph (g) of the definition of "dividend" in section one of the Income Tax Act) which in the opinion of the Commissioner are attributable to its business in the Republic represented the sum of all its reserves (including any share premium account) and balance of profits unappropriated (together with an amount equal to so much of the nominal value of any bonus shares awarded to shareholders on or after the first day of July, 1957, as did not rank as a dividend as aforesaid);
- (c) that portion of the total net profits of the company as at the specified date were equal to an amount which bears to the sum of the company's paid up capital the same ratio as its reserves in the Republic bear to its total assets;
- (d) the company had distributed by way of dividends during the specified period or any portion thereof an amount which bears to the amount of the dividends, if any, actually distributed by it during the period or such portion thereof, as the case may be, the same ratio as that portion of the total net profits which was derived by the company during such year of assessment from sources within or deemed to be within the Republic bears to the company's total net profits for that year of assessment;

- (2) (a) If any company has issued shares as consideration for the issue of any shares by the company and the Commissioner considers

- together with the fair market value of any immovable rights attaching to the land, as at the date upon which the donation takes effect; (iii)
- (v) "property" means any right in or to property movable or immovable, corporeal or incorporeal, wheresoever situated. (iii)
- (2) (a) In the case of any property in respect of which the donor elects the value determined in accordance with paragraph (b) of the definition of "fair market value" in subsection (1) the donor shall lodge an application in the prescribed form in duplicate: for a determination of the surface value of that property with the Magistrate of the district in which such property is situated,
- (b) Any Magistrate with whom such an application has been lodged shall forward both copies thereof to a land bank valuator selected by him who has been appointed in terms of section 13 of the Land Bank Act, 1944 (Act No. 13 of 1944), with instructions to make a valuation of the surface value of the property in question,
- (c) The provisions of the Land Bank Act, 1944, applicable to valuers under the said Act, shall apply in time to time by the Land Bank to such valuations in connection with the exercise of the duties which shall apply to any such valuator instructed to make a valuation of the surface value of any such property, as though he were making a valuation for land bank purposes.
- (d) Fees and expenses shall be paid by the donor to any such valuator in accordance with the tariffs applicable to the valuator on or property by sworn Dippers appointed by Masters of the Supreme Court.
- (e) Any land bank valuator to whom a duly submitted application in duplicate has been referred, shall certify the particulars of his valuation of the surface value of the property in question to be inserted on both copies of the application: and shall within three days from the date on which his valuation was made forward one copy to the Director and the remaining copy to the Magistrate for transmission to the Commissioner.
- (f) The Commissioner, subject to the provisions of paragraph (h), thereupon determine the surface value of the property in question, or may refer the matter to the Board of the Land Bank, as constituted under section 13 of the Land Bank Act, 1944 (in this section referred to as "the Board"), for its determination of such value.
- (g) The Commissioner shall at the same time determine the surface value of the immovable rights attached to the property in question and shall advise the donor of the values determined by him under this paragraph and paragraph (f) and shall indicate to the donor the determination of the surface value of the property as made by him or by the Board.
- (h) If the Commissioner himself determines the surface value of any property in terms of paragraph (f) he shall notify the Commissioner thereof in writing within two days or such further period as the Commissioner may allow from the date of the advice referred to in paragraph (f) and the Commissioner shall thereupon forward the matter to be referred to the Board for review.
- (i) For the purposes of the determination under paragraph (f) or (h) the Board shall apply the same principles and follow the same procedure and procedure as in the case of a determination by it of the value of property for land bank purposes.
- (j) Any person who is aggrieved by the determination of the value of which is referred to in paragraph (f) or (h) may appeal therefrom to the Board, whose decision shall be final and shall be communicated in duplicate to the Commissioner who shall forward one copy thereof to the Director.
- (k) For the purposes of this Part a donation shall be deemed to take effect upon the date upon which the legal formalities for a valid donation have been complied with.

56. (1), Donations tax shall not be payable in respect of the Exemption value of any property which is disposed of under a donation-
- (a) to the spouse of the donor under a duly registered ante-nuptial contract or post-nuptial contract;
 - (b) to the spouse of the donor who is not separated from him under a judicial order or notarial deed of separation;
 - (c) as a *donatio mortis causa*;
 - (d) in circumstances of which the donee will not obtain any benefit thereafter under the will of the donor;
 - (e) which is cancelled within six months from the date upon which it took effect;
 - (f) if such property consists of any right in or to so insurance policy which is disposed of by means of a cessism in terms of which such right is to revert to the donor if the cessismary proceeds to the estate;
 - (g) if such property consists of any right in or to immovable property situated outside the Republic and was acquired by the donor-
 - (i) not less than ten years before the date upon which the donation takes effect; or
 - (ii) before the donor, being a person other than a company or the firm time became ordinarily resident in the Republic or was, in the case of a company, (or the firm time) registered, managed or controlled in the Republic; or
 - (h) by or to any person (including a government), referred to in paragraph (a), (b), (c), (e) or (g) of section 5 of the Income Tax Act of 1962;
 - (i) by or to any institution for the advancement of science, art or of a charitable, educational or athletic nature, if the Minister of Finance is satisfied that the operations of such institution are in the interest of the public;
 - (j) if such property or the income therefrom is required to be devoted wholly to purposes which the Minister of Finance is satisfied are in the interest of the public and which are of a charitable or educational or ecclesiastical nature;
 - (k) as a voluntary award the value of which is included in the gross income of the donee in terms of paragraph (c), or (d) of the definition of "gross income" in section one;
 - (l) if such property is disposed of under a will, trust or of any trust;
 - (m) if such property consists of a right (other than a fiduciary, usufructuary or other like interest) to the use or occupation or possession used for farming purposes, for no consideration or for a consideration which is not an adequate consideration, and the donee is a relative of the donor.

(2) Donations tax shall not be payable in respect of-

- (a), so much of the sum of the value of all casual gifts made by the donor on or after the first day of July, 1962; and thereafter the period ending on the first day of July, 1962, and commencing on the first day of January, 1962; or on the day following the specified date, whichever is later, or during any period ending on any specified date subsequent to such first specified date and commencing on the day following the specified date immediately preceding the subsequent specified date, as does not exceed one thousand rand: Provided that-

if the period exceeds or is less than twelve months, the amount in respect of which the tax shall not be payable in terms of this paragraph shall be an amount which bears to one thousand rand the same ratio as that period bears to twelve months.

(ii) in the case of a such period which commenced before the first day of July 1962 the amount of one thousand (wile.re lb period is twelve months) or the amount determined in accordance with paragraph (i) of this section, (wile.re lute period .cell ds or is less than twelv manhs.) shall be reduced by an amount equal to the sum of the values of all casual gifts made by the donor from the commencement of the period in question to, and including the thirtieth day of July, 1962.;

(iii) for the purposes of this paragraph "specified date" in relation to any donor shall have the meaning assigned thereto in the definition of "specified date" in section one, the reference in the said definition to a company being construed as including a reference to a person other than a company

- (b), so much of the value of all property disposed of by the donor under a disposition on any date to or for the benefit of his children as, together with so much as was exempt from donations tax in terms of this paragraph or paragraph (b) of subsection (2) of section fiftyfour of the Income Tax Act 1941, of the sum, of the value of all property disposed of under donations before such date by the donor to or on behalf of his children, does not exceed the sum arrived at by multiplying the amount of ten thousand rands by the number of children of the donor who are alive on the said date, and: for the purposes of this paragraph any child of a deceased child of the donor shall be deemed to be a child of the donor if more than one child of any one deceased child alive on the date referred to in this paragraph the child of the deceased child shall be regarded as a child of the donor as at that date;
- (c) so much of any amount payable by the donor towards the maintenance of a person as the Commissioner considers to be reasonable.

57. (1) If any property is disposed of by a woman married in or out of community of property and not wife or by a separated man her husband under a judicial order of separation, that property shall be deemed to be disposed of under a donation by her husband: Provided that...

- (a) any tax payable by the husband in respect of any property disposed of under a donation by the wife may be recovered from the assets of the wife.;
- (b) if either the husband or the wife makes a written application therefor to the Commissioner or the Commissioner directs it, separate assessments may be made by, or separate assessments of the property disposed of under any donation by such husband and wife respectively; but the total amount of such separate payments or the total tax payable in respect of the separate assessments so issued, as the case may be, shall not be less than the total amount of tax which would have been payable by the husband alone if the value of the property disposed of under a donation by the husband and wife together had been assessed as the value of property disposed of under a donation by the husband alone.

(2) If any property is disposed of under any donation by any body corporate at the instance of any person, that property shall be deemed to be disposed of under a donation by that person: Provided that any amount paid or payable by any 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.

(3) For the purposes of subsection (2) property shall be deemed to be disposed of under a donation by any body co

operate 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 donor's income earning operations of the body corporate; and
- (b) that the selection of the donee who benefited by the donation was made at the instance of that person.

58. Where any property has been disposed of for a consideration which is in the opinion of the Commissioner, is not an adequate demonstration that property shall for the purposes of this Part be deemed to have been disposed of under a donation provided that in the determination of the value of such property a reduction shall be made of an amount equal to the value of the said consideration.

SI The person liable for donations tax shall be the donor; if the donor fails to pay the tax within the period prescribed in sub-section (1) of section sixty the donor and the donee shall be jointly and severally liable for the tax.

60. (1) Donations shall be payable within three months after the date on which the donor or any person on behalf of the donor or any company in which he is ordinarily resident or (in the case of a company) partner is liable for the tax.

(2) Where a donor has disposed of property under more than one donation in respect of which donations tax is payable the tax payable in respect of each such donation shall be calculated according to the order in which such donations took effect.

(3) Where a donor has disposed of property under more than one donation on the same date those donations shall for the purpose of determining tax payable in respect of each donation be deemed to have taken effect-

- (a) in such order as the donor may elect; or
- (b) if the donor fails to make an election, within fourteen days after having become called upon by the Commissioner to do so, in such order as the Commissioner may determine.

(4) The provisions of the sub-section (1) shall be accompanied by a return in such form as may be prescribed by the Commissioner.

(5) The Commissioner may at any time assess either the donor or the donee of both the donation and the donee of the donation of donations tax payable or, where the Commissioner is satisfied that the tax payable under this Part has not been paid in full, for the difference between the amount of the tax payable and the amount paid (paid from the payment by either of the said parties of the amount payable under such assessment shall discharge the obligation.

61. For the purposes of the donations tax-
 any reference in section 60 or 61 of the Act to the definition of "transferor" in section 2(1) of the Income Tax Act, 1961 shall be deemed to include a reference to property which is disposed of by any person under a donation or to the value of such property as the context may require;

(b) the reference in sub-section (2) of section 60 to any person entitled to or in receipt of any income shall be deemed to include a reference to any person who has disposed of property under a donation;

(c) the reference in section 60 to the taxable income in relation to which any return or information is required shall be deemed to include a reference to the value of any property disposed of under a donation in relation to which the following information is required:

- (d) the reference in paragraphs (b) and (c) of the definition of "representative taxpayer" in section one to the income, will, in the management, disposition or control of an agent or to income derived from any trust, as the case may be, shall be deemed to include a reference to any property disposed of or controlled by the agent or to property disposed of under a donation which is subject to the trust, as the case may be.
- (e) The reference in sub-section (1) of section nine to the income to which a representative taxpayer is entitled in his representative capacity, or of which, in such capacity he has the management, receipt, disposal, payment or control, shall include a reference to any property disposed of under a donation of which a representative taxpayer in his representative capacity has the management, disposal, payment or control, and the reference in the said sub-section to income received by or accruing to or in favour of such a person shall be deemed to include a reference to property disposed of by him in his own right under a donation.

62. (1) For the purposes of donations tax the value of any property shall be deemed to be— **Value of property disposed of under donations.**

- (a) in the case of any fiduciary, usufructuary or other like interest in property, an amount equal to the value of the right of enjoyment or the property over which such interest was or is held, to the extent to which the donor is entitled to such right of enjoyment, or if such interest is to be held for a less period than the life of the donor or for such lesser period;
- (b) in the case of any right to any annuity, or of any interest in property, the value of the annuity or interest, or if such right is to be held by the donee for a lesser period than the life of the donor, over such lesser period;
- (c) in the case of a right of usufruct in any movable or immovable property which is subject to a usufruct, or of any interest in favour of any person, the value of the property, or if such right is to be held for a lesser period than the life of such person, over such lesser period;
- (i) in the case of a usufruct interest, the value of the right of enjoyment or the property subject to such usufruct interest over the expectation of life of the person entitled to such interest, or, if such interest is to be held for a lesser period than the life of such person, over such lesser period;
- (ii) in the case of an annuity charged upon the property of the annuitant, the value of the annuity over the expectation of life of the person entitled to such annuity, or, if it is to be held for a lesser period than the life of such person, over such lesser period;
- (w) in the case of any other interest, the value of the interest, or, if such interest is to be held for a lesser period than the life of such person, over such lesser period;

(ii) in the case of any other property, the fair market value of such property as at the date upon which the donation was effected: Provided that in any case in which, as a result of conditions which in the opinion of the Commissioner were imposed by or at the instance of the donor, the value of any property is reduced in consequence of the donation, the value of such property shall be determined as though the conditions in terms of which the value of such property is reduced in consequence of the donation had not been imposed.

(2) For the purposes of paragraphs (1) and (i) of sub-section (1) the annual value of the right of enjoyment in property, movable or immovable, amount equal to the percentage upon the value of the full ownership of the property which is enjoyed by any person, usufructuary or otherwise, in such interest: Provided that—

(a) where it is established to the satisfaction of the Commissioner that the probable value of any such interest could not reasonably be expected to produce an annual yield equal to such percentage on such value of the property, the Commissioner may fix such sum as represents the annual yield as may seem to him to be reasonable, and the sum so fixed shall for the purposes of paragraph (a) of sub-section (1) be deemed to be the annual value of the enjoyment of such property

(b) where the property is subject to any such interest in movable or immovable property, statues or other objects of art, the annual value of the right of enjoyment in such property for the purposes of paragraph (a) of sub-section (1) shall be the average net receipts (if any) derived by the person entitled to such enjoyment, or the average net receipts of such property for the three years immediately preceding the date on which the donation took effect.

(3) Where for the purposes of sub-section (1) any calculation is required to be made of the expectation of life of any person, such calculation shall, in the case of a person who is not a natural person, be made over a period of fifty years.

(4) If the Commissioner is of the opinion (based on the amount shown in any return as the fair market value of any property other than property whereof the fair market value has been determined in accordance with the provisions of sub-section (2) of section 5A, is less than the fair market value of such property, he may, if he is satisfied that the value of such property, and the value of the property, shall, subject to the provisions of section 5B, be deemed for the purposes of this Part to be the fair market value of such property.

(5) In fixing the fair market value of any property in accordance with sub-section (4), the Commissioner shall have regard to—

- (a) to the municipal or divisional valuation (if any) of such property;
- (b) to any sworn valuation of such property furnished by or on behalf of the donor or the donee; and
- (c) to any valuation of such property made by any person, competent and disinterested person appointed by the Commissioner.

63. The decision of the Commissioner in the case of his objection under sub-section (3) of section 5A, shall be final.

paragraph (iii) of paragraph (c) of sub-section (1) of section 5A or paragraph (d) of sub-section (1) of section 5B, and any determination made by the Commissioner under paragraph (8) of sub-section (1) of section 5A of the value of the immovable property attached to any property, shall be subject to objection and appeal.

64. (3) The rate of duty, in the case of immovable property, shall be as follows:—

Cumulative Taxable value of Property Disposed of under Division. & tax payable thereon.

On so much of the cumulative taxable value, of property disposed of by the donor under Division-

which does not exceed R8,000	3
as exceeds R10,000 but does not exceed R12,000	4
.. .. R.10,000	5
.. .. R.12,000	6
.. .. R.14,000	7
.. .. R.16,000	8
.. .. R.18,000	9
.. .. R.20,000	10
.. .. R.22,000	11
.. .. R.24,000	12
.. .. R.26,000	13
.. .. R.28,000	14
.. .. R.30,000	15
.. .. R.32,000	16
.. .. R.34,000	17
.. .. R.36,000	18
.. .. R.38,000	19
.. .. R.40,000	20
.. .. R.42,000	21
.. .. R.44,000	22
.. .. R.46,000	23
.. .. R.48,000	24
.. .. R.50,000	25
.. .. R.52,000	26
.. .. R.54,000	27
.. .. R.56,000	28
.. .. R.58,000	29
.. .. R.60,000	30
.. .. R.62,000	31
.. .. R.64,000	32
.. .. R.66,000	33
.. .. R.68,000	34
.. .. R.70,000	35
.. .. R.72,000	36
.. .. R.74,000	37
.. .. R.76,000	38
.. .. R.78,000	39
.. .. R.80,000	40
.. .. R.82,000	41
.. .. R.84,000	42
.. .. R.86,000	43
.. .. R.88,000	44
.. .. R.90,000	45
.. .. R.92,000	46
.. .. R.94,000	47
.. .. R.96,000	48
.. .. R.98,000	49
.. .. R.1,00,000	50

(2) For the purpose only of determining [in accordance with the rates prescribed in sub-section (1)] the rate of tax payable in respect of the value of any property (US) disposed of by any donor under any donation, the cumulative taxable value of all property disposed of by such donor in connection with the donation shall be increased by an amount equal to the cumulative taxable value [as defined in sub-section (1) of section 14] of the property disposed of by the donor under donations which took effect before the first day of July, 1962, and which will so amount at such time as the said property be deemed to represent the cumulative taxable value of all property disposed of by the donor in connection with the donation in question.

CHAPTER III.

G PROVISIONS.

PART I.

Return.

65. All forms of returns and other forms required for the administration of this Act shall be in such form as may be prescribed by the Commission.

66. (a) The Commissioner shall notify give public notice that all persons liable to taxation under the Income Tax Act, 1962, shall be required to furnish returns to the Commissioner within the specified period. After the date of such notice, the Commissioner may for good cause allow returns for the assessment of the tax.

(b) For the purposes of this section, persons liable to taxation under the provisions of this Act shall be deemed to include

(1) any person who rendered, or was required to render under this Act or any previous Income Tax Act, a return in respect of the last preceding year of assessment and who has not been advised by the Commission in writing that he is not required to render a return in respect of the year of assessment under the Act;

- (j) If a person, other than a company, whose gross income for the year of assessment under charge exceeded the amount to be stated by the Commissioner in the notice referred to in paragraph (a);
- (l.ii) any company which derived gross income during the year of assessment under charge.

(2) Such notice shall state the places at which the prescribed forms may be obtained and it shall be the duty of any such persons, as defined in the Act, to furnish the prescribed forms for the purposes of the Act.

(3) Any person failing to furnish such returns shall not be deemed to have done so by reason only of his having received notice to furnish the same, or of the prescribed form not having been delivered to him, but the Commissioner may, if he deems it advisable, call the person to be delivered of the same by post to any person.

(4) The Commissioner may, prior to the issue of any such annual notice, require any person by notice in writing to render interim returns (or any period) he may designate in such notice, and may provide to make an appeal in respect of that period.

(5) (a) Every person on publication of the annual notice or on receipt of a form delivered or sent by post as provided in sub-section (3) or of a notice issued in pursuance of sub-section (4), shall prepare and deliver the prescribed return within the time mentioned in any such notice or form to the person appointed to receive the same, in relation to the Form prescribed in relation thereto which may be prescribed.

(b) Any such return shall be signed by the taxpayer or by his agent duly authorized in that behalf.

(6) Any person signing any such return shall be deemed for the purposes in connection with this Act to be cognizant of all statements made in that return.

(7) Any return made or prepared or signed by or on behalf of any person for the purposes of this Act, shall be deemed to be duly made, amended, or signed, by the person if such person proves that such return was not made or signed by him or on his behalf.

(8) If any person fails to make such a return, the Commissioner may appoint a person to make a return on behalf of such person, and the return made by the person so appointed shall for all the purposes of this Act be deemed to be the return of the person liable to make the same.

(9) Returns furnished by or on behalf of any person required to furnish returns under this Act shall contain such particulars, be in such form and be submitted to the person appointed to receive the same at such time as may be prescribed by the Commissioner.

(10) The Commissioner may, when and as often as he thinks necessary, require any person to make further or more detailed returns respecting any matter of which a return is required or prescribed by the Act.

(11) Returns required to be furnished under this Act shall be delivered to, or sent by post to, the prescribed address.

(12) Any such return shall, if marked with the words "Official" or "Official" be, earned and delivered free of postal or other charges by the postman.

(13) The return of income to be made by any person in respect of any year of assessment shall be a full and true return for the whole period of twelve months ending upon the day of the year of assessment under charge: Provided that where it is established to the satisfaction of the Commissioner that the income of a person cannot be conveniently returned for that year, the Commissioner may accept returns made up to a date agreed to, by him which returns shall be deemed to be for all purposes of this Act, to be returns for the periods covered by the year of assessment under charge, and the taxpayer shall not withhold the consent of the Commissioner to make a return in respect of any subsequent year or to make a return to a date other than the date so agreed to.

- (d) all interest or rent received by or accrued to or in favour of any person from the property of the estate of the decedent or from any business carried on by the last-mentioned person in the Republic;
- (e) any interest, profit or dividends collected for or on behalf of any person by the person furnishing the return;
- (f) any other information in his possession with regard to the income received by or accrued to or in favour of himself or of any other person as may be required by the Commission.

(2) In addition to the returns filed in sub-section (1) every person whether a taxpayer or not shall, if required by the Commission, supply such information, and furnish such further particulars as the Commissioner may require.

(1) Every person to whom a form of return or a written request for information is sent by the Commissioner shall comply therewith by returning to the Commissioner and affixing thereon the stamp provided for the purpose a copy of the return or furnish the information to the Commissioner at such place and within such time as the Commissioner may direct.

70. (1) Every company which pays interest upon or in respect of debentures or debenture stock or which pays interest on any loans or advances shall, within thirty days after the thirty-first day of June in each year, furnish to the Commissioner a return giving the full name and address of each person receiving such interest and the amount of interest so paid.

(2) Every company which pays dividends or securities or pays any liquidation dividends to shareholders in such company in respect of the shares held by them shall within thirty days after the thirty-first day of June in each year furnish to the Commissioner a return giving the full name and address of each shareholder and the amount or value of such payment or award to each such shareholder.

(3) Every company shall, within thirty days after the thirty-first day of June in each year furnish to the Commissioner the name and address of and the number of shares held by every person who on the specified date was a shareholder of the company.

(4) Every company shall file with the Commissioner a copy of the memorandum and articles of association of the company and the copies of a memorandum of amendments thereto.

(5) Every company shall, within thirty days of the registration by the Registrar of Companies or any prospectus proposed to be issued by it, file with the Commissioner a copy of the prospectus.

71. Every bank carrying on business in the Republic or any person carrying on or negotiating, bearing, or acting as a record of all payments in respect of interest or dividends made to any person by means of, or in, or by, or for, or on behalf of, or in any manner and form and at such times as may be prescribed or as the Commissioner may require, shall furnish particulars of such payments.

71. Every person who makes a return of his own income or in a representative capacity makes a return of the income of some other person, shall attach to the return a statement showing fully--

- (a) the number of shares in the company registered in the name of the taxpayer for whom the return is rendered;
- (b) the dividends from, any company received by or accrued to be taxpayer for whom the return is rendered;
- (c) the name and address of the person, if the taxpayer for whom the return is rendered is not entitled to retain the dividends, received or accrued from any company, who, under any agreement or arrangement, is entitled to receive and return such dividends or to participate in such profit or income;
- (d) the number of shares in any company which are not registered in the name of the taxpayer for whom the return is rendered but in respect of which such taxpayer under any agreement or arrangement with

the registm:d owner obtains :all dividends payable by such cO'mpao.y or in the case of a private company the!i8hts of the- :registered owne.r to pamdpaie in the profit or .mcomc: of such company;

- (e) the diivldends so r«clvcd bY the wcpa:ycr .for whom the rc:t;urn js ted from the pmoB Jit wh G name suob shares. aiR registered.

73-. (1) Ir any person submits in support of any return, Du.ty o Pl'=rsous u__ S by :lll.mder this Act any oalaiioe meet, situemCBt n: lln of ass ts nd lla:b lilies '?!' .ccount prc rcd bf any other n:o:n, suppan of return\$ he shatJ. If the CommJsstooer so requu:es submit a ceitmate or pruit:ring or stateme.n:t by such athu ptrs,on :recording the cxE.cot of the n l.ln1 rot aminM.ion by such othc pc-tson of (hi:; boob s of aceollnt and oihu:- r:som. of th: documClili from which the boob of a.cc,ount were wntt-m up, and reonli:ng :in so .fa-r u may be ascru,incd by :such cxantiDaidoc, . hcthet ot not the eilkies in suclt t,ooks and dacume.nts msio l.o.sie the true nature of any lmmactioo, receipt, aoru_al, . paymc:t or dilhl:t.

(2) Any penoll who has prepared any balance sheet., smten • of assci.s ml Jiabilirties or aocou:nt for any ofle:r person :;shalt, at the request of such ou:r:r person, fornib mm wi th the ee.rtificate or statement required under sub-soetiion 0),

74. (1) For the pwpose of obtlmg full iwormatio in Pirooll«ion cot respect of any income of any mxpayer or of any part thertof. documents .m d. the Commissioner may require ty per.son K1 produce e:viden:c Oil oalb.

examinat ion by CoiJ]mfss2ooer. OI' by any pe:noa appoJn«:d by him for that purpose at :Such t.imli and ,race as may be appojoted by the Commissioner ie U:iat ibebrill',, any deed R'lans, m:strument:s, books., accouotst bade lists, s.tock lists oi dloouments whieh the Commisstoner may deem ncccs.s.a.ry: for tht purpose, of chj:s Aot, and if ll,ny such. d'.cedls, plla-ns, insttu.. .ments boob J acc-oumts. lists or a docum-nu lar not in one of the ollli.Ciat lalligua8ff, tu eommissioner may by no ce in WritiP :re(m)C the taxpayer to produce af his. own expesc arid at suc.b time and pla as mia,y be appoued, a translation in O:ile of tlie official languages prepared and. certified: by a sworn translator or a person other than a swom trnnslator approved by tlie Commission.er.

- (2) (a) The Commission.er may by notice in writing uquire any .l)ltrson e.ntiied to or in receipt of any i-ncome (whe.ther on .his own he.hw.f o:r as the representative of aizy- per.son) or any pm on whom tbe Commissioner may deem able to furn"sb information. W:it tend'. at a time and place to be, named! by the Commissioner f01" the purpose of bei:n.g exam"ncd on oath respecting the income of any tnc:hi p enoo or any tmn sa:ctions o!l mat ters. affeel.iQg the same o!l my of them or aay part thereof.
- (b) An' pm'S(ln so attendmg Jll:!!Y be allowed lll 'the Co,m-mrs:sioner any t-ea.5o.nable expen:s:es: neecessan[y incur:red hy him m so attending.

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- (a) without pJ"evioiw notfue. at any time during the day enter,- .any pm.lillilills wftatsoe'll'Cr and On such. prem:is search for any moneys, boob records, ai:couots Ot d Oollm/CDb .i
- 0), iin ca out any such seareh, open O-r cause to blili removed and opon.ed. any article in which he sl lpects any moneys, books. records, .accounts or docwnen.ts to &e, CODJtained,;
- (c) seize any such books. records, accounts or documents as in his opinion may alfoui e.viden:J:lce which may be :material in assessing the lfabJ!:ity of any person for acy tax,;
- (d) rcitam MY such books, records, a.ocounts or documnts for .as fongacs they may be required! for any assessment or for a.Qy cr.imilial o!l o!h,lllr proceedings lw..d.cr this Act.

(4)i July authorized persGn. cxemsjng any power under sub-section (3) shall o:n demand produce tho wntteQ a tho.rity furnished to hmm 'by the Commissioner.

(5) The peno.n lo whose a:IFaiirs any _boob records., accounts or documc.o,s seized wider- sub-section (.3) reJate. shaU 't

to examine and make e, wac l\$ from them during offi.oe hours under s'lilch s'Upervision as the Cnmmissio,ncr may determin .

75. (1) Any person ;; ho-

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- (a) fails to furnish, or to produce any return or document as and when required by or under this Act;
- (b) withholds or conceals any information or property or any other document or any office or duty or any other thing which he is required to produce or any books or papers required of him by the Commissioner or any such officer; or
- (c) fails to show in any return made by him any portion of the gross income received by or accrued to or from him or fails to disclose to the Commissioner, when making, in his return, any material facts which should have been disclosed; or
- (d) fails to show in any return prepared or made by him on behalf of any other person any portion of the gross income received by or accrued to or in favour of such other person or fails to disclose to the Commissioner, when preparing or making such return, any facts which, if so disclosed, might result in the assessment of tax; or
- (e) obstructs or hinders any officer in the discharge of his duties; or
- (f) not being a person whose gross income consists solely of salary, or similar compensation for personal services without just cause shown, by him fails to retain for a period of twelve months from the date of the entry therein all cash books, journals, cheques, books, bank statements, deposit slips, cheques, invoices, stock lists and all other books of account relating to any trade carried on by him and recording the details from which his return for the assessment of taxes under this Act or any previous Income Tax Act were prepared; or
- (g) submits or furnishes a false statement or statement under section 111B.

shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rupees or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

(2) The Commissioner may, subject to such conditions as he may determine, and in respect of such books (other than ledgers, cash books and journals) or documents as he may specify, authorize the retention of a microfilm copy of any book or document referred to in section 111B (j) in lieu of the original thereof.

(3) Any person who has been convicted under sub-section (1) of any offence under this Act or any previous Income Tax Act and of which notice has been given to him by the Commissioner, to furnish the required information or reply in respect of which the offence was committed, being guilty of an offence and liable on conviction to a fine of ten rupees for each day during which such default continues or to imprisonment without the option of a fine for a period not exceeding twelve months.

16. (1) A taxpayer shall be liable to pay in addition to the tax chargeable in respect of his taxable income-

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- (a) if he makes default in rendering a return in respect of any year of assessment an amount equal to twice the tax chargeable in respect of his taxable income for that year of assessment; or
- (b) if he omits from his return any amount which ought to have been included therein an amount equal to twice the difference between the tax as calculated in respect of his taxable income returned by him and the tax payable in respect of his taxable income as determined after including the amount omitted;

- (c) if he makes any income in any year which is rendered by him which results or would result in the assessment of the normal tax at a rate which is less than the rate which would be applicable to him if he were assessed on the basis of the tax as assessed in accordance with the provisions made by him and the tax which would have been properly chargeable.
- (2) (a) The Commissioner may remit or vary any additional charge imposed by section 10 or any part thereof as he may think fit: Provided that, unless he is of the opinion that the circumstances are extenuating, he shall not remit if he is satisfied that any act of omission of the taxpayer referred to in paragraph (a).
 (b) (c) of sub-section (1) was done with intent to evade taxation.
- (b) In the event of the Commissioner, deciding not to remit the whole or any part of the additional charge imposed by sub-section (1), his decision shall be subject to objection and appeal.
- (c) Notwithstanding the provisions of this sub-section the Commissioner may either before or after all assessment is issued by him with the tax year on the amount of tax, additional charge to be paid, the amount of tax agreed upon shall not be subject to any objection and appeal.
- (3) The additional amounts of tax for which provision is made under this section shall be chargeable in cases where the tax is payable in instalments or by instalments by the Commissioner in terms of section 10 or 11 with the taxpayer in terms of the provisions of sub-section (2) of the said section as well as in cases when such taxable income or any part thereof is determined from accounts rendered by the taxpayer.
- (4) The power conferred upon the Commissioner by this section shall extend to any amount payable by him by this Act to tax proceedings for the recovery of any penalties for evasion or avoiding assessment or the payment of tax or attempting to do so.
- (5) Any taxpayer who in determining his taxable income as disclosed by his return, deduction or set-off any amount, or deduction or set-off whereof is not permissible under the provisions of this Act or shows as an expenditure or loss any amount which he has not in fact expended or lost, shall be deemed for the purposes of this section to have owned such amount from his return.
- (6) Any taxpayer who wilfully refuses to disclose in any return made by him any facts which should be disclosed and the disclosure of which would result in the tax payable of the taxpayer's income on an amount which is higher than the amount upon which such income would be taxable on such return, shall for the purposes of this section be deemed to have omitted from his return the amount by which the former amount exceeds the latter.
- (7) If in any year of assessment in which the determination of the taxable income of the taxpayer does not result in an assessment to tax, he is entitled to the set-off of a balance of assessed income from the previous year of assessment and such balance is less than it would have been had it been calculated on the basis of the returns rendered by him, he shall for the purposes of this section be deemed to have omitted from his return for the assessment year of assessment an amount equal to the difference between the amount of tax payable on such return and the amount at which it would have been determined on the basis of the returns.

PART II.

Assessments.

77. (1) All assessments required to be made under this Act shall be made by the Commissioner or any officer authorised in that behalf by the Commissioner, or under his direction.

(2) The parties to any assessment and the amount of tax payable thereon shall be recorded and filed and kept in the office of the Commissioner: Provided that any assessment so recorded shall be filed and destroyed by the Commissioner after the expiration of such period from the date of the filing or filing as may be approved by the Comptroller and Auditor-General,

(j) Upon receipt of filing the particulars of any assessment the Commissioner shall give notice of the assessment and of the tax payable thereon to the taxpayer assessed.

(4) Such notice shall be given to such person by post or delivery, and to such person in such other manner as the Commissioner may consider necessary or convenient.

(5) The Commissioner shall give notice of assessment to the taxpayer (having any objection to the assessment) made must be sent to him within twenty days after the date of such notice.

(6) Any separate returns which may be rendered by spouse in terms of the proviso to sub-section (1) of section *sixty-eight* shall be separately assessed and separate notices of assessment shall be sent to the respective spouses *that* the total tax payable in respect of the separate assessments so assessed shall not be less than the total amount which would have been payable by the husband alone if the income of both husband and wife had been assessed as the income of the husband alone.

(7) Separate assessments shall, notwithstanding the provisions of sub-section (15) of section *sixty-six*, be made upon partners.

18. (1) In every case in which any person makes default in furnishing any return or information or the Commissioner is not satisfied with the return or information furnished by any person, the Commissioner may estimate the whole or in part the amount in relation to which the return or information is required.

(2) Any such estimate of the taxable income shall be subject to objection and appeal: provided that if it appears to the Commissioner that any person is unable from any cause to furnish an accurate return of his income the Commissioner may agree with such person as to what amount of such income shall be taxable in case and any objection or appeal shall not be subject to any objection or appeal.

79. (1) If at any time the Commissioner is satisfied that any amount which should have been subject to tax have not been assessed to tax either under this Act or any previous Income Tax Act, he shall raise assessments in respect of such amounts notwithstanding that assessments may have been made upon the person concerned in respect of the year or years of assessment in which the amount in question is in question as a result, and notwithstanding the provisions of sub-section (5) of section *eighty* and sub-section (1) of section *eighty-one* or the corresponding provisions of such previous Income Tax Act; provided that the Commissioner shall not make an assessment under this section—

- (a) after the time or three years from the date of assessment in terms of which any amount which should have been assessed to tax under this Act or any previous Income Tax Act was not so assessed, unless the Commissioner is satisfied that the amount was not so assessed because of fraud or misrepresentation or non-disclosure of material facts; or
- (b) if the amount which should have been subject to tax was in accordance with the practice generally prevailing at the time when the assessment was made not assessed to tax; or
- (c) in respect of any amount if any previous assessment in question has in respect of that amount been amended or reduced pursuant to an order made by a special court or hearing in income tax appeals constituted under the provisions of this Act or any previous Income Tax Act, unless the Commissioner is satisfied that the order in question was obtained by fraud or misrepresentation or non-disclosure of material facts.

(2) For the purposes of this section any amount referred to in sub-section (1) shall include an amount which, in the reduction of any loss rankable for set-off (including only a portion or such amount becoming chargeable with tax.

(3) The provisions of sections *seventy-nine* and *seventy-nine* shall apply to any assessments or additional assessments made by the Commissioner under the powers conferred by this section,

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(6) 'foe Jud Prfflden, t o, f the: P. rovin, cial Division of lhe Supreme Cmul Jtaving juli'i:sdiorion jn the are for which a court has been eonstitute ci ShaU no: Jllu te a.m.d seeo:nd a, j:l:elge or an a cring judge of sue.h division to he the Pr i.dent of such c:OU1rt. and such secondtM1U shaH be for such period or for- the heading of su:cltcases as. lhesa.id J-i1dge-President, t shaU detum.ine.

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(b) At any :such appeal tile; person. who l'nade dl,e objec&foo sbal I be limited to da.c grounds stated in his notice of objectioo.

(8) lJf an ass-essment has: en altertd or rød'liiced. the as ss-ment as all,c ed or reduted s:shall bt emtd to be. th a s t ag;inst which the appeal js *madA*.

(9) At *iw* t ten days before the dah:fu..ed for the hear"ng of a.n appeal lhe Comms.sioncr shall se:nd! to tbcpenon who ma.de t c objtc fon *ot t 'hj5 dl:ily a)thOriz. aUOllle)* t repres !ta.- uv: e a witten notice of tile ume and place appwll.tecl fot thi:= hearing Of such appeal.

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(12) The Commissioner or a:11ly person authom:ed. by Jum may appear in isUJport of tha as:s.esmtUit on til:e hearing of .any appeal, and the appclil3llt and lll1y person w!ho is interested in such ap,pe-al may ap p4?8r in person or by his comllll f. attorney oi:- age:nt.

(13) Subject to tile p,ro'lisio1:1s of this Act. the 001.111 may-

(a) in the case of any assessment under appeal. ordtt s ucli assessment to be am,clui'ed, md:l'leed or confirmed, or may iif it th:inb ll't refer the- ass cni back to i:he Com.m.imo:rn.e:r for forth.et: nvesti,g,!tion and assm:- mmt;

(h) iin ttw ca of aiqy appeal aglilitt tli:tC amount. of the additional charge impoffd by dl,e Commissioner under su.b..sccLion (1) of section *sev.en.ly.six*, i; uce, conJi.rm or increas,e the amount of the additfoDa[charge so imposed;

(c) ia. lhc case of any oth er decilio11 or th{ Commissioner wlucht is subj,oct to appeal, cdrm or am.end. such d!d ioo.

(14) Any asscssm.e.nt made by tho Commissforter on :refeJence undef suti-§ion (13) *sh.an* be subject to objection and a:ppcal as in th"s Prut, rovdjed.

(IS) ABY :ma:Ue:r 0 Jaw adsi:ng for decls:ion b eform 'till coult, and tuly q u t:ion as to w)whe:r a Jll'IUer fot decision is a matter of fact or a mauer of law shall be deci<kd. by the Prcside.mit of the court, and tht othcr members shaU haw no voice iin such deci&io:n.

(Hi) hll dcc:ision of: th-e co:l:1rt :shaiU be n:cotded by the Commiwoner.

(17) The lCOl:1rt: sbaH nat make oy ordu as to costs save when the claim of l'he CommiHione:r. is held to l unreasonable o.r t'he grounds of appeal t'bercfro:m to !be frivolous.

(18) Any decision of Che oOUJ!t l.111d.er this :seotion :sEla'II, SUIbjoot to t'fie pttfffsioo of sEo.tio.n *eigl,ty-six*, be fina:l.

84. (1) 1111;1 Commi'S\$ioner. the appdlant or the hesmelllt Summ0cnil!11, Or of a special ooult may procure ll.he attendan.cc 0 laay witness ifiljesses, lml! (w et e! idimg ot for the lim be.mg withm Ole !rea ?f =: !tu.:! auoc. jun:sd:01:IIOn of that coun or :not) In the manner prescribed in the regulatiou.

(2) If any pemm who has been. dlill!ly sll!bpoenaed to give evidence at the him:rine; of.ain appeal o! to produce oy book, record document or t'ling m his possession or und,er his conil'rol fails without reasonable cause to atiUmd u to give evidence Ot m prod11,ce t'ba,t book, ord document or thing accordulg to the sl;ibpoena ort unless excused by the President of the court.

to remain in attendance throughout the proceedings. The President of the court may, upon being satisfied by oath or by the return of the person by whom the subpoena was served, that such person has been duly subpoenaed and that his reasonable expenses have been paid or offered to him, impose upon the said person a fine not exceeding fifty rand or in default of payment imprisonment for a period not exceeding three months.

(3) Any person so subpoenaed fails to appear or willfully abstains to remain in attendance throughout the proceedings. The President of the court may also, upon being satisfied as aforesaid and in case of default for such failure, cause a warrant to exist, in which a warrant for the apprehension of that person in order that he may be brought up to give evidence or to produce any book, document or thing, to be deposited with the magistrate presiding in sub-section (2).

(4) The President of the court may, on cause shown, remit the whole or any part of any fine or imprisonment which he may have imposed under this section.

(5) The President of the court may order the costs of any postponement or adjournment occasioned by the default of any witness to be paid out of any fine imposed under this section.

(6) A fine imposed under section (2) or (3) shall be enforceable as if it were a penalty imposed by a magistrate in circumstances as are described in the relevant sections, and the provisions of any law which are applicable in respect of such a penalty imposed by a magistrate, shall apply in respect of a penalty imposed under either of the said sections.

85. If during the sitting of a special court, any person wilfully insults a member or the officer or any officer of the court attending at the sitting, or wilfully interrupts the proceedings of the court or otherwise misbehaves in the place where the court is held, the President of the court may make an order committing that person to imprisonment for any period not exceeding three months or order that person to pay a fine not exceeding one hundred rand or in default of payment to be imprisoned for such a period.

(2) An order made under sub-section (1) shall be executed as if it were an order made by a magistrate's court under circumstances such as are described in that sub-section, and the provisions of any law which are applicable in respect of such an order made by a magistrate's court shall apply in respect of an order made under the said section.

86. (1) There shall be no right of appeal against any decision of the special court on a question of fact, but upon the determination of an appeal by the special court the appellant or the Commissioner, if dissatisfied with that determination as being erroneous in law, may by notice in writing addressed to the registrar of the court require the special court to state the reasons for the facts, the contentions of the parties and the determination of the court, for all appeals-

(a) in the provincial or local division of the Supreme Court of South Africa having jurisdiction in the area in which the sitting of the special court was held; or

(b) if the appellant and the Commissioner lodge their written appeal thereto with the registrar of the special court to the Appellate Division of the Supreme Court of South Africa, without any intermediate appeal to such provincial or local division.

and the provincial or local division or the Appellate Division & the case may be, may upon the bearing of the appeal decide any question of law which was or could have been properly raised before the special court, and may affirm or set aside the determination of the special court or remit the matter to the special court with instructions as the special division may think fit to give, or make such other order as it may deem fit.

(2) Any such notice shall be lodged with the registrar of the special court within thirty days of the date of the notice issued by him in respect of the decision of the special court.

(3) The court by which a case shall be stated for appeal in terms of section (1) shall consist of the persons who

were the members of the court which made the determination appealed against notwithstanding that any person who in terms of this subsection is required to act as the President or a member of such court is (m.g. a judge or acting judge of the Provincial Division of the Supreme Court) or, as the case may be, that his appointment as a member of the special court since the date of the said determination expired: Provided that if any person who was a member of the court died or is for any other reason unable to act-

- (a) his place may be taken in the case of the President of the court, by any Judge or Acting Judge of the Provincial Division of the Supreme Court concurred in accordance with the provisions of subsection (6) of section 110, and, in the case of any other member of the court, by any accountant, a person representative of the community or a qualified mining engineer as the case may be, appointed as a member of the special court in terms of paragraph () of subsection (5) of the said section; or
- (b) the said court may, if the appellant and the Commissioner so agree, consist of one or more of the persons who were members of the court which made the determination appealed against and who are able to act as referees;

(4) Where for the purposes of subsection (3) any judge or a judge has been nominated to take the place of the President of the court which made the determination appealed against and such judge or acting judge is of the opinion that it is impossible for the court as constituted in terms of paragraph (a) of subsection (3) to state a case for appeal on the matter before it, he may afford the appellant and the Commissioner an opportunity of adducing evidence before that court in regard to such point or points as he deems necessary for the purpose of enabling the court to state a case as required, or he may set aside the determination appealed against and order that the appeal in respect of which the said determination was made, be heard and determined *de novo*.

(5) An appeal shall lie to the Appellate Division of the Supreme Court of South Africa from a decision of a provincial or local division under this section.

87. A member of any special court or a Judge of any division Member of the court of the Supreme Court of South Africa shall not solely on account of his habitually assessed, under this Act be deemed to be from adjudication in respect of any matter upon which he may be called upon to adjudicate thereon;

88. The obligation to pay and the right to receive and recover any tax chargeable under this Act shall not, unless the Commissioner so directs, be suspended by any appeal or pending the decision of a court of appeal or in conformity with any such decision a due adjustment shall be made amounts paid in excess being refunded with interest from the date of receipt and amounts short-paid being recomputed with interest from the due date.

P.A.R.T.I.V.

P(J) the duty of the Revenue of Tax.

89. (1) Any tax chargeable under this Act shall be paid on such days and at such places as may be notified by the Commissioner for payment of such tax, and may be paid in instalments or equal or varying amounts as may be determined by the Commissioner having regard to the circumstances of the case.

(2) Any person who fails to pay his tax on or before the day on which it falls due under this Act shall be liable to pay, on any amount not paid after the due date in respect of such tax, interest at the rate of one and a half per cent on each completed month or part of a month of such amount for each month contained in the period reckoned from the date of completion of the tax, and the amount of such interest shall not be collected on any amount of tax which is paid in respect of such tax as may be notified by the Commissioner.

in the notice of assessment or with any extension of such period which the Commissioner may, with regard to the circumstances of the case.

90. Subject to the provisions of this Act, normal tax leviable on a person to whom the provisions of section 10 apply shall be payable by—

- (a) by any representative taxpayer, in respect of any income of such person or controlled by him in such capacity;
- (b) by any spouse upon whom any assessment notice has been issued, where separate assessments have been made upon two spouses, under the provisions of sub-section (6) of section 10; or
- (c) in respect of any other income and, in all other cases, by the person by whom the income is received or to whom or in whose favour it accrues or who is directly entitled to the receipt thereof.

Provided that any person may, in respect of the tax paid by him under this Act which is due to him in respect of any income deemed to have been received by him or to be his income; as the case may be, in terms of sub-section (1), (4) or (5) of section 10, from the person entitled, whether on his own behalf or in a representative capacity, to the receipt of that income, to be deemed to have received the same.

(M. U) (a) Any tax which becomes due or is payable by a person shall, in respect of that tax, be deemed to be due to the Government and shall be payable to the Commissioner in such manner and at such place as may be prescribed.

(b) If any person fails to pay any tax which becomes due or is payable by him, the Commissioner may, after giving notice in writing to the person, cause to be issued a certificate by the Commissioner or a court of law, in respect of the amount of the tax so due or payable by that person, and such certificate shall, thereupon, have the effect of a decree of a court of law, and any proceedings may be taken thereon as if it were a civil judgment of a court of law given in favour of the Commissioner for the liquid debt of the amount specified in the certificate.

(c) The Commissioner may, in respect of the estate of any taxpayer and shall, in respect of the estate of any taxpayer, be deemed to be the executor in respect of any tax due by such taxpayer.

(2) Notwithstanding anything contained in the Magistrates' Courts Act 1944 (Act No. 32 of 1944), the amount of any tax which is payable by a person in respect of any income, as defined in section 10, shall be deemed to be payable by the person to the Commissioner in respect of the person by whom such amount is payable in accordance with the provisions of this Act.

(3) Any tax due and payable by any person married, with a community of property and not separated from his wife under a judicial order or when agreement may be made from the wife of his wife in so far as it is payable in respect of the income of his wife deemed to be his under the provisions of sub-section (1) of section 10.

(4) So much of any tax payable by any person under this Act as is due to him in respect of any income of any person who has died, and which is received by him or to be his income, as the case may be, in terms of sub-section (J) (4), (5) or (6) of section 10, may be recovered from the assets by which the income so included was produced.

92. It shall not be competent for any person in any proceedings to object to any statement filed in terms of sub-section (1) of section 10 on the ground that the correctness of any assessment on which such statement is based, notwithstanding that objection and appeal may have been lodged thereon.

(1) If the Commissioner has, in accordance with any arrangement made with the Government, or any other authority, or territory by an agreement entered into under section 108, in the Tax Act with a view to rendering reciprocal assistance in the collection of taxes, received a request for the

(4) Any x: payable in .iltsptct of any. assm ment , upo:n a public officet of a gompny ,D his capa ty as nocl! shall be teCOVerafJle fr:om the. tompany of whToh the JS. the public officer.

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- (a) he alienates, charges or dlspo\$U OR the income in ilCJpcc! of wbidi the ra,; is chargeable or
- (b) e P of or;ans wilb aQy fnn or money. w bwh IS ul hi& s-sets:uin m comes to him after the tax is payable; If the tax could legall y .have been pa.id from or out orsuch t1:1od or lfnQmcy,

98. Where a shareholder or a: mcmbcr of a company is 0:nBpi:a1 o.t from lb Republic. such CO"mpny shall for the ln rposes :t=:a r .a of thls Act be deemed to be the, .agent for sucli. s&amhofdcr or member, and shall as regards, s.uis:h shariCibolder or member and in respect of .any income rncci.wd by or acoruil'lg to bbn or .in his favOtl' as a :atehaCder or member, have and e crcise all! the powers, duties and respoasU,ilitics Df an agent for a t.u:pa:yu abs-ent from the Republic..

99. The Commmioner may, if he thinks n cssary, deoiiarc Pow:r to :an,y p(itsO'ti to be the apt of any oilier plmlOn, and the petso_n appomt !l:,pnt. so declared an aijent sfiatU be: the for :the piuposes of this Act and may be rc9llliired to 1 !!! payment of any ta due fram any mone. mcludmg peMJons_ saila:ry, wages or .any other remune-muon; which may br::: beld by bim for or due hy him to die person ,vlwse ag t llt(l hu been dwred to be.

100. The Commissioner shall have the same remedies against all property of any kind vested in or under the control or management of any agent or trustee as he would have against the property of any person liable to pay any tax and in as full and ample a manner. Remedies of Commissioner against agent or trustee.

101.. (1) Every company car:cying 0111 busmw or having an Pubik:offian of in llie ':Public s U at au times be represented by an compr;anies. Hldldwluar c&uling thercJD.

{21 Such individual shall be a pe,no:n pproved by Ike Com-missio:ar and .shall be appointed by the compa,ny or by a.n agcnit or attorney, who has awthority to appoint such a repr¼ • sentative lb.r the purposes of libis A.ct! Pl'i'ovided that in the even.t. of any CODi.Pal}Y belag placed in vo11111tary or oompulso:ry liquidation ttle liquidator or liqwda:tors: duiy a ppolo.« d. shaU be uitcd to ini ftSpect of that OO in all ru.uctions and assume all the respommilitics of .a. public officer under tms Act dl: lring the C<ffJtmuan.ce or the liqoida,tioo.

(3) The representative shall be cali:d. the J):UbUc officer of the company and shaiH be .appointed within one month a.fler the- comp.any begins to carry on business er acqllifd; an offi.Qe in the Republic. •

(4) In defauJt of u y sudl ap,pointment tbe pl1blle oillker er an,- compaa y shall be such mlaagil lrg director, director :litcr-e.taey of other offi.ctr of the comp3BY, ,as: the Con:unlssoncer may deiiginate for that purpose..

(S) .Every company shall also wltbin the period prescribed by sub-section Q) ap nt a place within the RepUbic ap-,roved by ttui CQllllll1'S\$ jonef a:t which ooy notices or oUter i::locumCJits under this Act aff.eetng Ole company may be senred or doii!YCtted or to which any such notiO?s or doc11:1Pents Qlay be S-Clit.

(6) No appointment shall be dcented to have bttn made, under sub-soccion (l) or (S), until notice thereof pccifying the name of the public om and aD. address ror smice or delivery of notices and docum,e,mts has been give-n to the Commhstcm:c.r.

(7) Every company shall be notified of the change of public officer or of the place for the service or delivery of notices; and every change of public officer or of the place for the service or delivery of notices shall be notified to the Commissioner within four days of such change taking effect,

(8) Any company which makes default in appointing a public officer or appointing a place for service or delivery of notices in accordance with this Act; or in maintaining the office of public officer or in maintaining a place for the service or delivery of notices; or which fails to notify to the Commissioner of any change of public officer or of the place for the service or delivery of notices, and every person who willfully contravenes this Act as agent or manager or representative of such company, shall incur a penalty not exceeding two hundred dollars for every day during which the default continues, and any such penalty shall be recoverable by the Commissioner by action in any competent court.

(9) No process or proceeding which under this Act may be served upon or taken against any public officer, or if at any time there is no public officer, any officer or person acting or appearing to act in the management of the business of such company or as agent for such company.

(10) Every public officer shall be answerable for the doing of such acts, matters or things as are required to be done by the law; and in case of default he shall be liable to the payment of a fine not exceeding one hundred dollars by a taxpayer.

(11) Everything done by any public officer which he is required to do in excess of his capacity shall be deemed to have been done by the company which he represents.

(12) The absence or non-performance of a public officer shall not constitute any default under this Act, but the company shall in all respects be subject to and liable to comply with the provisions of the Act as if the officer were appointed or deemed to have been appointed under the provisions of the Act.

(13) Any public officer appointed or deemed to have been appointed under the provisions of the Income Tax Act 1941, and holding office at the commencement of this Act shall, provided no objection to his continuance in office is raised by the Commission, be deemed to be a public officer appointed under this Act.

PART VI.

McKelfer's Law.

101. (1) It is provided that in satisfaction of the Commission's claim for any amount paid by a taxpayer in excess of the amount properly chargeable under this Act, or any previous Income Tax Act, the Commissioner may authorize a refund to such taxpayer of any tax overpaid; provided that no amount paid in respect of an assessment made in accordance with the practice generally prevailing at the time when that assessment was made shall be refunded to the taxpayer; and shall be deemed to have been paid in the manner in which it was paid.

(2) The Commission shall not entertain any refund claim unless the claim therefor is made within two years after the date when the assessment was made.

103. (1) Where any transaction, operation, or scheme is entered into or carried out before or after the commencement of this Act, or any previous Act, which has the effect of avoiding or postponing liability for any tax, duty, or levy imposed by a previous Act, or of diminishing the amount of such tax, duty, or levy, the Commissioner having regard to the circumstances under which the transaction, operation, or scheme was entered into or carried out...

- (j) was entered into or carried out by means, or in a manner which would not normally be employed in the entering into or carrying out of transaction, operation or scheme of a nature at the transaction, operation or scheme in question; or
- (ii) has created debts or obligations which would not normally be contracted by persons dealing at arm's length in a transaction, operation or scheme of the nature of the transaction, operation or scheme in question,

and the Commission is of the opinion that the avoidance or the postponement of such liability was the sole or one of the main purposes of the transaction, operation or scheme, and the amount thereof as if the transaction, operation or scheme had not been entered into or carried out or in such manner as in the circumstances of the case be deemed appropriate for the prevention or restriction of such avoidance or postponement.

(2) When the Commissioner is satisfied that any payment or accrual or change in the shareholding in any company, as a direct or indirect result of which income has been received by or accrued to that company during any year of assessment, has at any time before or after the commencement of the Income Tax Act, 1946 been entered into or effected by any person solely or mainly for the purpose of avoiding assessed loss or any allowance of assessed loss incurred by the company, in order to avoid liability on that company or any other person for the payment of any tax, duty or levy on income, or to reduce the amount thereof, or to reduce the amount of any such assessed loss or allowance of assessed loss, any such income shall be disallowed.

(3) For the purposes of sub-section (1) any transaction or operation or scheme, whether entered into or carried out before or after the commencement of this Act) which is entered into or carried out by a person (other than a company) who is ordinarily resident or carrying on business in the Republic, or any company incorporated in the Republic to which such person (other than a company) is ordinarily resident or carrying on business in the Republic, or to any company registered outside the Republic, unless it is proved to the satisfaction of the Commissioner at the instance of independent persons dealing at arm's length with each other, be deemed to be a transaction, operation or scheme entered into or carried out by means, or in a manner not normally employed in the entering into or carrying out of such a transaction, operation or scheme of the nature of the transaction, operation or scheme in question.

(4) Any agreement or change in shareholding, whether entered into or effected by means, or in a manner not normally employed in the entering into or carrying out of such a transaction, operation or scheme of the nature of the transaction, operation or scheme in question, shall be deemed to be a transaction, operation or scheme of the nature of the transaction, operation or scheme in question, unless it is proved to the satisfaction of the Commissioner at the instance of independent persons dealing at arm's length with each other, be deemed to be a transaction, operation or scheme entered into or carried out by means, or in a manner not normally employed in the entering into or carrying out of such a transaction, operation or scheme of the nature of the transaction, operation or scheme in question.

(a) In the case of any such agreement or change in shareholding, whether entered into or effected by means, or in a manner not normally employed in the entering into or carrying out of such a transaction, operation or scheme of the nature of the transaction, operation or scheme in question, shall be deemed to be a transaction, operation or scheme of the nature of the transaction, operation or scheme in question, unless it is proved to the satisfaction of the Commissioner at the instance of independent persons dealing at arm's length with each other, be deemed to be a transaction, operation or scheme entered into or carried out by means, or in a manner not normally employed in the entering into or carrying out of such a transaction, operation or scheme of the nature of the transaction, operation or scheme in question.

(b) In the case of any such agreement or change in shareholding, whether entered into or effected by means, or in a manner not normally employed in the entering into or carrying out of such a transaction, operation or scheme of the nature of the transaction, operation or scheme in question, shall be deemed to be a transaction, operation or scheme of the nature of the transaction, operation or scheme in question, unless it is proved to the satisfaction of the Commissioner at the instance of independent persons dealing at arm's length with each other, be deemed to be a transaction, operation or scheme entered into or carried out by means, or in a manner not normally employed in the entering into or carrying out of such a transaction, operation or scheme of the nature of the transaction, operation or scheme in question.

10. (1) Any person who with intent to evade or to assist any other person to evade any liability or tax, or who causes or allows to be made any false statement or entry in any return rendered in terms of this

Act, or signs any statement or return so rendered without onable ground for believing the same to be true; or

- (b) gives any false information or in writing, to the collector or informant under this Act by the Commissioner of any person duly authorized by him or any officer referred to in section 176 or
- (c) prepares or maintains or authorizes the preparation or maintenance of any false books of account or other records or falsifies or falsifies the falsification of any book of account or other records; or
- (d) makes use of any fraudulent or contrivance whatsoever, or authorizes the use of any such fraud, art or contrivance.

shall be guilty of an offence and liable on conviction to a fine not exceeding two years or to both such fine and such imprisonment

(1) Wherever in any provision under this section it is proved that any false statement or declaration is made in any return furnished under this Act by or on behalf of any taxpayer or in any book of account or other records of any taxpayer, that the taxpayer shall be presumed, until the contrary is proved, to have made a false statement or entry or to have allowed the false statement or entry to be made or to have allowed it to be made with intent to evade a tax or taxation, and any other person who made, any such false statement or entry shall be presumed until the contrary is proved, to have made such false statement or entry with intent to assist the taxpayer to evade assessment or taxation.

(15) Any person charged with no offence under this Act may, if he is not willing to stand trial in any court having jurisdiction within any area in which he resides or carries on business.

(16) Any notice, demand or other document issued or given by or on behalf of the Commissioner or any other officer under this Act shall be deemed to be served on the person named in the notice, demand or other document if it is stamped or printed thereon.

(2) Any notice required or authorized under this Act to be served upon any person shall be effectually served--

- (a) if delivered to him; or
- (b) if left with some adult person apparently residing at or occupying or employed at his last known abode or office or place of business in the Republic; or
- (c) if despatched by registered post in an envelope on which is written his name and his last known address, which may be any such place or office as is referred to in paragraph (b) or his last known post office, box number or that of his employer; and
- (d) in the case of a company--
 - (i) delivered to the public officer of the company; or
 - (ii) if delivered to some adult person apparently residing at or occupying or employed at the place appointed by the company under sub-section (2) of section 176, or where no such place has been appointed by the company, if left with some adult person apparently residing at or occupying or employed at the last known office or place of business of the company in the Republic; or
 - (iii) if despatched by registered post in an envelope on which is written the name of the company or its public officer and its or his last known address, which may be any such place or office as is referred to in sub-paragraph (b) or its or his last known post office, box number or that of his employer.

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110. (1) For t&c purposes of any lease O' the right to mine i'!!!Uon of fbr gold i!! which provision is made for the set-olJ of t&e whole l.:X1 or a ponion O' tb.c amou!lt paya.bJ of tht!ksse:c by on of for or a.y. 10cNaSe 10 the s:cate of taxation levtable upon .mco:mes ccmio. lea5es of derived ftio:m mining for gold against Ute annual el"ation U i riah to . payab-k-: by the lessee: jn ICS:J)!!Ct of such lease. andl which has :a& mmei ror gold. the basics for dctermitng wll.ether or not such. an inc;ease bas been eiff"etted the: b:ttation wlll.J.ch w:3:15 Jeviable at the rates prescribed by eit:hcr-

- (a) the IrJloomc Tax Act, !933 (Act No. :n of 1933), a od the Gold Miines Excess ProfiCS. Doty kt, 1933 (Act No. 33 0: 1933) or
- (c) the: Gold Mmes Profi . Doty Act, 19J3 (Act o 33 0:R 1933), as amended by the .old M nes Excess Profits Doty (Amendm.ellt) Act., 1934 {Act No. 43 of 1934), and the Income Tux Act;., J9 34 (Act No. 44 of 19'34),,

the amouit 10 be :so t off ill. :respect of any)!Nr shaH be the amount by which th:e a m.ount of normal tax leviabile for that year upon the income derived from mimmg for goldt imdud"og excess rcooupmmt:s of capital ex di tu , together with an am.ollit eqool to the amoult of go profits surtax whicl would have been paJ ibtc for that year by t'lii lessee concerned, if the provisions Sectfoa twv of the Goldi Mines Exoess Profits Docyr Amendmcdt Act, 1935 (Act No. S/ of 19'JS)i, had still been in rorce and bad applied in pcm. of that year, e:<ceeds. the amouot of normal tax which would haw becll payable! fur such year on the same inoomc; if the provisions. of section one 0 the Income Tax Act. 1936 (Act No.. 34 of 1 9'36), .had stiU bell in fotce: and had applied in respect of that year.

IU. (1) Sub eot to tb. provisk,ns-. of sub.section {2) the RicM of rn.ws. la"HS spec.lfied .m tke Third Schedwe are hereby repealed to Ille e.xte!llt set out in the thi:rd cot'uth.n th t Sci,cdel Pro- vided that any tax o"i" other amount whkh b,nt for such repeal '- "On!d ha:va been c:apable of bc=i:ng levifd. as or r d and wh.ieb bais, not been te"iied, assessed or recovered .it tho com- men.ce:ment of trus Act, may bo .It.vied, assessed or :reoo"^\-cred as f such repeal had not been effected.

f Any notice or ptocJa:matlon !!.SUC!d .Qr rc.gldatiion made or anything dlone under any pro'<islon of a law [ed by :!!00- sr.ctio-n. (1) .s.h.all be & med: to have b issued, rtn:aidc or done under the col!!'CS'pond:ing pmyJsfo.n of this Act.

li:1. This Act shat[be caH<l the: Income l ax Act., 1962,, sbcrt title ;mdl amd shaH come, into operation. on the lint d!a,y of July 1962 col1111J1Cncc:ment.

First Schedule.

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(l:l) in th C!tSCH: ota fannr olh« than III ccm or the c-d,ltnc Cl' &lcued JllrSon, the tllndard value apPl b,le kl tho lvtfflock, P.li),...ided l,bat the v lue to 'bG p on Jivuti,ck held d uot dis. i;f by nny s farmer at the end of Lhe m:riod, of amn!l.tnt' Im'flllla.tinJ al the dealh or insolvency of the said farm« shall be the price which in the opinion of l'le Commis Qll.Cr J1,111e eu rent mamel pr!cc d lD livesrock; ;

(b) in th!t: CMC or h'vtStoc:l: acq,uirtd by a ciimpany er tho estMO of a. d cdpc

(i) if :iCl}uil'cd by 'PU: cilther th JuruiMe p.rkc Paid or the price which hi lbe opinion c f Lhe Commis.llo.111er l's the ,current marJc:et :price of l'le li'lestocJc; or

(J) if acqll,li.e d ,i:;:i th:ffl by D:l:UchtSe, .lJw pr whicli M the opinioll of tho Co iwi,ct i, . eumnt martet price r.,f d1;ll live:lloclt

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- (b) de pmienlion of soil ien
- (.e) di ppinl tanks;
- (d) d'Mu. irru li.OO ;:;h,em;:s, liOMhales ll.nd plllllllping plut IS.I
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- 00 U.e ll:;iii gf buIJ:di11G\$ d bi eomicetim'l with fMfflin; **OJ:era-** tios., other l:hnn thosie i,Jsed for- the 4omccSlic purposes, gf penom who are not enq,loyees: of s:udl far mer;:
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- (l) l.he c Jy'l.'IJ of elcc:tric power Imm • main ttan!l:l'HWiOo. lines (o the filrm !!!Jllp us.

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(3) Toe total c:mcmt ;illowable i:s d:edudions to any farmer undet il (.:;) to (J) jnc'll.Si of b-,paru Jib m ln Y9f 1\$scs\$.m Dt :lutll wt' e:ctcd lhc (a:xabc maome- (M calculated bc:fo:re a'allow'nl any dr:dDCllions under the uid itelm) de:rldw by him from l:mnng; fl!l'or.J during l.h:U year of assessment: Provided thil,t th account by whid:l the t.o.fll' pendiUiu incurred by u y l'iH'n'tu durm'- any ye:a,r of iaiS.W5ment: iii RSpe:ct of the matLCff rd'erud to In the Sli:id items :u:ceds; the tuablo income {Cldculatd as af'oric auid) dec:rived by him fl'am fmmll; : opernll'fon9 durin:fl: th' r' r' l' sh'll be e:am t-d. fom.ard: aad be d fw ilie pu:ppo of sub-pu n.gr.aph (j) to 'be expe:ndliwre which has &een im:urnd b'l bllf d'Vfi Qg lhl:!! a l u ng of ilipe\$!r:C.ttt m(l Jor the purposes of this pro.,,iso an.Y;mwunt bu b-cell emicd for- ward Crom Cb;:yeru" cf t emfod lhc i in h day of J,l,le, ll'flf1. Thml Schod'u ,o the DISO to l'S Tax Act, 194J :l'af l'U'ntd to be an amount whim h;u: bee.n so c.mied forw.ard b:l' w-ms of this proriw.

(4) (1a1) Per th: JUQXISCS of this paragraph "cmp'IOYffl" in relation to any farmer mean, pe"50JU ycd tty that fam.u in c:OimKfil.11 Wlh his uminal operat'ion: but cJod: o. of ill e,l, ll do l'ns relala l' or, where: the imrGr is a oomp'any, die s'l'at,c., holders (o.r the ri=la.ti of:tharohol n) in th.tl co.m.oany W f ny QQinp:u:iy wh :b i: :iw !Qd w'abywm Ql po, hokll'ing...

- b) l'For Ou: pwposu o'l lem (it) "shamioldm • In re'otio:n co ll n, comp.11ny d'ieS not includ=1 persons wh<l hoo! all 'their sh:ires in that compan, solely became t emp'o:yed by tha: rom,p;any ud i'ho will, h la-ms or the arkt les of ation Of that comp;iny, not be mtided to hoM shares alter diq ensSc o; be .so emp ioyed.

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(6) If in any NU ol as \$m.ent any buidin in n:J:ation kl whi:h a deduclicm l'm\$ beel' 11o C? li Y farUn:m(O U'?-l.)uasmJ'h 0) Qf thtS l'ml sra l'ih or ll:mi U) p f m pbO) P8A }lh 17 of the Thu:d Schchitc to l'h "Income Tall Act 1941, whether m current or In a;ny vio:us yCar of Dscssmnt i, usod! fi,r U't: dOltl lic P, ir gf a.m y i;);n aUJg-1.miim aq c o.f 'b,gt f. tM:rc wU be included .. tho il'Cl'RI, er th t flU'm l'w, lle: e'HKP1 - rfwrit,l't t e a Yit Of uen dcdw'10-n JCSl. OnthCnib of he, said amolln;l n moeet d each oompkied pt:rjod or orac • but nlt ex- llll ta :yri:r . dutin.g wll'cb.su.ch bl,ilding: wU usri:d the said fa m CQH'le:tl:OJl W, dl his, f-il'mms OpemhwU od!Cl' loon 1/9' lM dOme!SIC purposes of penom whtJ a.re net lm empl;J'i:es.

- 13. (l) JIU is proved tu the salm'ac!WD of the CommissioneP''''''
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- (b) tho.t :such fil.rmer ha\$ ""11ilbin [ou r ye.us; aftllll.' the h.,sc: of l.he w<l year OR ll'SHSmri,nj pUfcitasod ll\$ t04lk 1.0 rc;:i;i' the live\$1.0clc io :i:odJ,
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membership which is common to such fund and any other such fund, if such common period has been included in the period of employment or membership taken into account in applying the formula in relation to such other fund;

- (b) unless, not later than the date on which he submits his first return of income in which is included or should have been included any lump sum benefit referred to in sub-paragraph (1) of paragraph 5, or within such further period as the Commissioner in the circumstances of the case may allow, any taxpayer who is a member of two or more such funds having a common period of employment or membership informs the Commissioner in writing in relation to which fund such common period shall be applied, the said common period shall be applied to such fund as the Commissioner may, with the object of achieving the best result for the taxpayer, determine; (ii)
- (ii) "formula B", in relation to a pension fund, provident fund or retirement annuity fund means the formula—

$$Z = C - D,$$

in which formula—

- (a) "Z" represents the amount which has to be determined;
- (b) "C" represents an amount not exceeding twenty thousand rand representing the sum of the amounts calculated in accordance with formula A in relation to the taxpayer in respect of the different pension and provident funds of which he is or was a member and from which any lump sum benefits were or may be derived in consequence of or following upon his retirement or death on or after the fifteenth day of March, 1961, and the aggregate of the lump sum benefits received by or accrued to him from retirement annuity funds in the circumstances described in sub-paragraph (1) of paragraph 5 on or after the fifteenth day of March, 1961, and whether in the current or any previous year of assessment: Provided that the lump sum benefits in respect of any retirement annuity fund taken into account for the purpose of this calculation shall not exceed the amount received or accrued in commutation of not more than one-third of the taxpayer's annuity from such fund, or, in the case of the death of a member before his retirement in relation to such fund, an amount equal to one-third of the member's own contributions to such fund (including so much of any amount paid into such fund for his benefit by another approved retirement annuity fund, or any approved pension or provident fund, as represented his own contributions to the fund by which such amount was so paid) together with reasonable interest on one-third of the said contributions calculated from the dates of payment of the respective contributions to the date of death of such member; and
- (c) "D" represents the sum of the deductions which may have been allowed to the taxpayer in terms of sub-paragraph (1) of paragraph 5 of this Schedule or sub-paragraph (1) of paragraph 5 of the Fourth Schedule to the Income Tax Act, 1941, in respect of previous years of assessment; (iii)
- (iii) "lump sum benefit" includes any amount determined by the commutation of an annuity or portion of an annuity and any fixed or ascertainable amount (other than an annuity) payable by any fund referred to in paragraph (e) of the definition of "gross income" in section one of this Act whether in one amount or in instalments; (i)
- (iv) "pension fund", in relation to any taxpayer, means a fund (other than a superannuation, pension, provident, widows' or orphans' fund established by law) which has in respect of the year of assessment in question or any previous year of assessment been approved by the Commissioner as a pension fund as defined in section one of this Act or the corresponding provisions of any previous Income Tax Act, if during any such year the taxpayer was a member of such fund; (iv)
- (v) "provident fund", in relation to any taxpayer, means a fund which has in respect of the year of assessment in question or any previous year of assessment been approved by the Commissioner as a provident fund as defined in section one of this Act or the corresponding provisions of any previous Income Tax Act, if during any such year the taxpayer was a member of such fund; (vii)
- (vi) "retire" means, in relation to a member of—
- (a) a pension fund, to retire from employment and become entitled to the payment of an annuity from such fund;
- (b) a provident fund, to retire from employment and become entitled to the payment of full benefits in terms of the rules of the fund;
- (c) a retirement annuity fund, to become entitled to the payment of an annuity from such fund.
- and "retirement" in relation to a member of any of the said funds bears a corresponding meaning; (vi)
- (vii) "retirement annuity fund", in relation to any taxpayer, means a fund which has in respect of the year of assessment in question or any previous year of assessment been approved by the Commissioner as a retirement annuity fund as defined in section one of this Act or the corresponding provisions of any previous Income Tax Act, if during any such year the taxpayer was a member of such fund. (v)

2. The amount to be included in the gross income of any person in terms of paragraph (e) of the definition of "gross income" in section one of this Act shall be the aggregate of the amounts received by or accrued to such person by way of lump sum benefits during any year of assessment from any pension funds, provident funds or retirement annuity funds, less the deductions permitted under the provisions of this Schedule.

3. Any lump sum benefit which becomes recoverable in consequence of or following upon the death of a member of a pension fund, provident fund or retirement annuity fund shall be deemed to be a lump sum

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5. (1) The deduction to be allowed in determining the amount required to be included in the taxpayer's gross income for any year of assessment in terms of paragraph 2 shall, if the lump sum benefits in question have been derived in consequence of or following upon the taxpayer's retirement or are deemed to have accrued to him immediately prior to his death, be an amount (not exceeding the aggregate value of such lump sum benefits) equal to the greater of the following amounts, namely—

- (a) an amount determined in accordance with formula B in relation to such taxpayer, but subject to the provisions of sub-paragraph (2); or
- (b) an amount equal to the sum of the amounts which would have been allowed to be deducted in terms of paragraph (b)ter of the definition of "gross income" in section seven of the Income Tax Act, 1941, prior to its amendment by the Income Tax Act, 1961 (Act No. 80 of 1961), if such lump sum benefits had been received by or had accrued to such taxpayer on the fourteenth day of March, 1961, and had been required to be included in his gross income in terms of the said paragraph, less the aggregate of any deductions which may have been allowed to the taxpayer under this sub-paragraph or sub-paragraph (1) of paragraph 5 of the Fourth Schedule to the Income Tax Act, 1941, in respect of any years of assessment preceding the year of assessment in question.

(2) Notwithstanding anything to the contrary contained in the definition of "formula B" in paragraph 1, the amount that shall be taken into account as represented by the symbol C in that formula for the purpose of determining the amount of the deduction to be allowed in terms of item (a) of sub-paragraph (1) in the circumstances described in any of the items of this sub-paragraph shall not be less than the amount stated in the relevant item, namely—

- (a) four thousand rand if the taxpayer is or was a member of a provident fund from which any lump sum benefit was or may be derived in consequence of or following upon his retirement on or after the fifteenth day of March, 1961;
- (b) in respect of lump sum benefits deemed to have accrued immediately prior to the taxpayer's death, ten thousand rand;
- (c) in respect of lump sum benefits deemed to have accrued to the taxpayer immediately prior to his death and consisting of or including benefits derived from provident funds, an amount equal to the sum of the taxpayer's own contributions to such funds including so much of the amounts paid into such funds for his benefit by other provident funds as represented his own contributions to such other funds;
- (d) in respect of lump sum benefits deemed to have accrued to the taxpayer immediately prior to his death and consisting of or including lump sum benefits derived from retirement annuity funds in any case in which the death has occurred before the taxpayer's retirement in relation to such funds, an amount (not exceeding the lesser of twenty thousand rand and the aggregate value of such lump sum benefits) equal to the sum of

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of U annuities which he would have become entitled from such annuities if the date of his death.

(3) Where in respect of any year of assessment a person has to make a contribution to a fund, it shall be assumed for the purposes of this section that such taxpayer will survive to the end of the year in which he is employed on the date of the contribution and that he will be employed at the date on which he is made.

(4) For the purpose of section 10(1)(c) of the Income Tax Act, 1961, any contribution made by a person to a fund which is a provident fund or a gratuity fund shall be deemed to be a contribution to a fund if the contribution is made on or after the date on which the person is employed at the date of the contribution.

For the purpose of section 10(1)(c) of the Income Tax Act, 1961, any contribution made by a person to a fund which is a provident fund or a gratuity fund shall be deemed to be a contribution to a fund if the contribution is made on or after the date on which the person is employed at the date of the contribution.

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6. The deduction to be allowed in determining the amount required to be paid in the year of assessment shall, if the lump sum is a gratuity, be the amount of the annuity fund or the amount of the gratuity fund or the amount of the annuity fund or the amount of the gratuity fund.

(i) If the lump sum is a gratuity, the amount of the gratuity fund shall be the amount of the gratuity fund or the amount of the annuity fund or the amount of the gratuity fund or the amount of the annuity fund.

(ii) If the lump sum is a gratuity, the amount of the gratuity fund shall be the amount of the gratuity fund or the amount of the annuity fund or the amount of the gratuity fund or the amount of the annuity fund.

(c) so much of the lump sum as is attributable to the annuity fund shall be the amount of the annuity fund or the amount of the gratuity fund or the amount of the annuity fund or the amount of the gratuity fund.

(d) so much of the lump sum as is attributable to the gratuity fund shall be the amount of the gratuity fund or the amount of the annuity fund or the amount of the gratuity fund or the amount of the annuity fund.

Provide: If the lump sum is a gratuity, the amount of the gratuity fund shall be the amount of the gratuity fund or the amount of the annuity fund or the amount of the gratuity fund or the amount of the annuity fund.

7. For the purpose of section 10(1)(c) of the Income Tax Act, 1961, any contribution made by a person to a fund which is a provident fund or a gratuity fund shall be deemed to be a contribution to a fund if the contribution is made on or after the date on which the person is employed at the date of the contribution.

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Numbr l l lndyar oruw.	Sihcrt titk.	Extent of repeal.
Act No. 29 of 1939.	Co-operative Societies Act, 1939 ..	Sub-sections (2) and (3) of section ninety-nine.
Act No., 31 of 1941.	Income Tax Act, 1941	The whole.
Act No., 46 of 1941.	Special Marriage Act, 1941 ..	The whole.
Act No., 34 of 1942.	Income Tax Act, 1942	The whole.
Act No. 16 of 1941.	Income Tax Act, 1941	The whole.
Act No., 31 of 1943.	Special Marriage Amendment Act, 1943.	The whole.
Act No. 47 of 1944.	Income Tax Act, 1944	The whole.
Act No. 39 of 1945.	Income Tax Act, 1945 ..	The whole.
Act No. " " of 1945.	Income Tax Act, 1945	The whole.
Act No. "2" of 1947.	Income Tax Act, 1947	The whole.
Act No., 40 of 1948.	Income Tax Act, 1948 ..	The whole.
Act No. 45 of 1949.	Income Tax Act, 1949 ..	The whole.
Act No., 35 of 1950.	Income Tax Act, 1950 ..	The whole.
Act No. '4- of 1951.	Income Tax Act, 1951 ..	The whole.
Act No. 51 of 1952.	Income Tax Act, 1952 ..	The whole.
Act No. 34 of 1951.	Income Tax Act, 1951	The whole, except section two.
Act No. 55 of 1954.	Income Tax Act, 1954 ..	The whole.
Act No. 41 of 1955.	Income Tax Act, 1955	The whole, except section two, three and four.
Act No. '5' of 1956.	Income Tax Act, 1956 ..	The whole.
Act No. 61 of 1957.	Income Tax Act, 1957	The whole, except section two, three and four.
Act No. 3-6 of 1958.	Income Tax Act, 1958	The whole, except section two, three and four.
Act No., 78 of 1959.	Income Tax Act, 1959	The whole, except section two, three and four.
Act No. 55 of 1961.	Income Tax Act, 1961	The whole.
Act No., 80 of 1961.	Income Tax Act, 1961 ..	The whole, except sections thirty-two and thirty-three.