

REPUBLIC OF SOUTH AFRICA.

EXPLANATORY MEMORANDUM

ON THE

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In terms of the principal Act (Act. No. 58 of 1962) the rates of normal tax must be fixed annually. The Bill fixes rates—

- (a) for individuals in respect of the period of eight months ended 28th February, 1963 or the year of assessment ending 30th June, 1963, whichever is applicable, and for the year of assessment ending 29th February, 1964 or 30th June, 1964, whichever is applicable; and
- (b) for companies in respect of their financial years ending on or before 31st December, 1963.

In addition to fixing the rates of normal tax the Bill amends the principal Act.

CLAUSE ONE.

This clause enacts the rates set forth in the Schedule to the Bill.

CLAUSE TWO.

In terms of *paragraph (a)* one-sixth of the normal tax payable by companies on taxable income derived otherwise than from mining operations in the Republic shall, save where the tax accrues for the benefit of the Transkeian Revenue Fund under any law, accrue for the benefit of the provincial revenue funds in proportions determined by proclamation.

Paragraph (b) provides that the provincial portion of the normal tax shall not be payable by any company the sole or principal business of which in the Republic is or has been mining for gold, in respect of that portion of its taxable income which is attributable to any recoupment of capital expenditure included in its gross income under *paragraph (j)* of the definition of "gross income" in section *one* of the principal Act.

CLAUSE THREE.

Clause *three* provides that provincial income taxes payable by individuals in respect of the year of assessment ending 29th February, 1964, or 30th June, 1964, whichever is applicable, shall be calculated on the full amount payable by way of normal tax before the deduction of the discount of five per cent provided for in the proviso to sub-item (ii) of item (a) of sub-paragraph (1) of paragraph 1 of the Schedule to the Bill.

CLAUSE FOUR.

Paragraph (a) amends the definition of "gross income" in section *one* of the principal Act so as to exclude from the operation of *paragraph (e)* of that definition lump sum benefits derived from any pension fund established for the benefit of employees of any local authority. This amendment is of a textual nature and should be read with the definition of "pension fund" in paragraph 1 of the Second Schedule to the principal Act.

Paragraph (b) expands the definition of "local authority" in section *one* of the principal Act to include the Evaton Native Township Liaison Committee as constituted under Part II of Schedule B to Proclamation No. 54 of 1959. The purpose of the amendment is to exempt that committee from the payment of tax, by virtue of the provisions of *paragraph (b)* of sub-section (1) of section *ten* of the principal Act.

Paragraph (c) expands the term "mineral" in the definition of "mining operations" and "mining" in section *one* of the principal Act to include natural oil. This amendment should be read with the amendments introduced by paragraph *(d)* of this clause and by paragraph *(a)* of clause *twelve*.

Paragraph (d) inserts in section *one* of the principal Act a definition of "natural oil", a term used in the definition of "mining operations" and "mining" in section *one* of the principal Act, as amended by paragraph *(c)* of this clause, and in sub-section *(2)bis* of section *thirty-six* of the principal Act, as inserted by paragraph *(a)* of clause *twelve*.

Paragraph (e) amends the definition of "new gold mine" in section *one* of the principal Act. For the purposes of calculating the capital allowance under the provisions of paragraph *(c)* of the definition of "capital expenditure" in sub-section *(11)* of section *thirty-six* of the principal Act, the expression "new gold mine" will, in terms of the amendment, not apply to any mining proposition in regard to which a decision to grant a mining lease was signified in writing by the Governor-General, the State President or the Minister of Mines on or before 19th March, 1963, or which was in the opinion of the Government Mining Engineer established as an independent workable proposition on or before that date.

Paragraph (f) removes a textual inconsistency between paragraph *(b)* of the definition of "year of assessment" in section *one* of the principal Act and paragraph *(b)* of sub-section *(1)* of section *five* of the principal Act.

CLAUSE FIVE.

This clause raises the maximum rebate allowable under paragraph *(d)* of sub-section *(1)* of section *six* of the principal Act in respect of insurance premiums and contributions to provident and benefit funds and contributions in respect of unemployment insurance, from R17 to R25.

CLAUSE SIX.

In terms of the amendment introduced by this clause to paragraph *(e)* of sub-section *(1)* of section *nine* of the principal Act the earnings of any employee of the Council for Scientific and Industrial Research are deemed to be derived from a source within the Republic notwithstanding the fact that the employee concerned may be stationed outside the Republic. Similar provisions already exist in regard to employees of the Government, the Railway Administration, any provincial administration, any local authority in the Republic and the South African Tourist Corporation. This clause should be read with paragraph *(b)* of clause *seven*.

CLAUSE SEVEN.

In terms of the amendment effected by paragraph *(a)* of this clause to paragraph *(i)* of sub-section *(1)* of section *ten* of the principal Act the exemption from normal tax in respect of interest on five per cent Seven Year Treasury Bonds is extended to interest on four and a half per cent Seven Year Treasury Bonds. The interest on the five per cent and the four and a half per cent Seven Year Treasury Bonds will be exempt to the extent that the interest on such bonds does not in the aggregate exceed an amount of R1,000 in the case of any taxpayer.

Paragraph (b) of this clause amends paragraph *(p)* of sub-section *(1)* of section *ten* of the principal Act. This amendment, which is connected with the amendment effected by clause *six* to section *nine* of the principal Act, extends the exemption from tax enjoyed by persons not ordinarily resident in the Republic who are chargeable with income tax in a country other than the Republic in respect of remuneration earned outside the Republic from the Government, local authorities in the Republic and the South African Tourist Corporation, to similarly placed employees of the Council for Scientific and Industrial Research.

CLAUSE EIGHT.

Paragraph (a) of this clause inserts in paragraph *(k)* of section *eleven* of the principal Act a reference to a pension fund established for the benefit of employees of any local authority, and increases from R400 to R600 the limit on the deduction to be allowed in respect of contributions to a pension fund not established by law or for the benefit of employees of any local authority.

Paragraph (b) of this clause increases from R800 to R1,200 the limit on the deduction to be allowed in respect of contributions to a retirement annuity fund, in terms of paragraph (n) of section *eleven* of the principal Act.

Paragraph (c) of this clause extends from 30th June, 1963 to 30th June, 1968 the period within which donations made by a company for purposes of technological training may qualify for deduction under the provisions of paragraph (r) of section *eleven* of the principal Act. The further amendment to paragraph (r) is designed to ensure that the maximum amount of the deduction will be calculated on one per cent of the taxable income of the donor company as calculated before any deduction is made under section *twenty-one bis* of the principal Act.

Paragraph (d) of this clause extends the period within which the allowance to employers in respect of dwellings for their employees may be made under paragraph (t) of section *eleven* of the principal Act. At present the allowance may be made in respect of any year of assessment falling within the period of two years ending on 30th June, 1963. In terms of the amendment this period is extended to 31st December, 1968.

CLAUSE NINE.

Sub-clause (1) amends section *eleven bis* of the principal Act. In terms of that section an exporters' allowance is made in certain circumstances to persons who incur market development expenditure as contemplated in that section. In terms of the existing provisions no exporters' allowance may be made if the taxpayer has no export turnover in the year of assessment under charge or if his export turnover in the year of assessment under charge does not exceed his export turnover in the preceding year of assessment. The amendment provides for a minimum exporters' allowance equal to twenty-five per cent of the market development expenditure incurred by the taxpayer during the year of assessment under charge, irrespective of whether or not he has an export turnover in the year of assessment under charge and whether or not the export turnover in the year of assessment under charge exceeds the export turnover in the preceding year of assessment. The conditions under which the exporters' allowance may be increased above twenty-five per cent of the market development expenditure remain unchanged.

Sub-clause (2) provides that the amendment effected by sub-clause (1) shall first take effect in respect of assessments for the year of assessment ended the twenty-eighth day of February, 1963, or, in the case of a company, the first year of assessment ending after the thirtieth day of June, 1962.

CLAUSE TEN.

In terms of section *twelve* of the principal Act a machinery investment allowance may be granted in respect of certain machinery or plant brought into use by a taxpayer for the purposes of his trade not later than 30th June, 1965, and used by him directly in a process of manufacture or in a similar process or in respect of certain machinery, implements, utensils or articles brought into use by the taxpayer for the purposes of his trade as an hotel keeper not later than 30th June, 1965. In terms of the amendment introduced by *paragraph (a)* of this clause the period within which the machinery, plant, implements, utensils or articles must be brought into use to qualify for the allowance is extended from 30th June, 1965, to the end of the year of assessment ending on 28th February, 1966.

Paragraph (b) of this clause introduces a textual amendment to the Afrikaans version of sub-sections (3) and (4) of section *twelve* of the principal Act.

CLAUSE ELEVEN.

In terms of section *thirteen* of the principal Act a building investment allowance may be granted in respect of certain buildings and improvements to buildings where the buildings are wholly or mainly used for the purpose of carrying on therein any process of manufacture or similar process or for the purpose of carrying on therein the trade of an hotel keeper. The allowance in respect of any such building is subject to the requirements that the erection of the building or the improvements should be commenced not later than 30th June, 1965, and that the building should be used for the first time not later than 30th June, 1966,

or that the improvements should be completed not later than the latter date. The amendments introduced by this clause modify these requirements by extending the date by which the building or improvements should be commenced, from 30th June, 1965, to 30th June, 1966, (*paragraph (a)*) and by extending the date by which the building should be used for the first time, or by which the improvements should be completed, from 30th June, 1966, to the end of the year of assessment ending upon 28th February, 1967, (*paragraph (b)*).

CLAUSE TWELVE.

Clause *twelve* amends section *thirty-six* of the principal Act, which provides for the deduction of certain capital expenditure from income derived from mining operations.

Paragraph (a) introduces a new sub-section, numbered (2)*bis*, which provides for the deduction of capital expenditure where income is derived from the working of any natural oil deposit. This amendment should be read with the amendments introduced by paragraphs (c) and (d) of clause *four*.

Paragraph (b) deletes paragraph (b) of sub-section (3), which has been re-enacted as paragraph (dd) to the proviso to paragraph (c) of the definition of "capital expenditure" in sub-section (11).

Paragraph (c) inserts a new sub-section, numbered (3)*bis*, providing for the deduction of capital expenditure from income derived from the working of any other deep level gold mine.

The amendment introduced by *paragraph (d)* is consequential upon the amendment made by *paragraph (c)*.

Paragraphs (e) to (h), inclusive, amend paragraph (c) of the definition of "capital expenditure" in sub-section (11) so as to extend to new gold mines the benefit of the special capital allowance made to new deep level gold mines and other deep level gold mines. "New gold mine" is defined in section *one* of the principal Act and that definition has been amended by *paragraph (e)* of clause *four* for the purposes of *paragraph (c)* of the said definition of "capital expenditure".

CLAUSE THIRTEEN.

This clause makes a textual amendment to section *one hundred and nine* of the principal Act.

CLAUSE FOURTEEN.

The amendment to section *one hundred and ten bis* of the principal Act made by this clause is consequential upon the amendment made by clause *thirty*.

CLAUSE FIFTEEN.

Clause *fifteen* substitutes a new paragraph for paragraph 1 of the First Schedule to the principal Act. The new paragraph provides for the interpretation of certain terms used in that Schedule.

CLAUSE SIXTEEN.

This clause amends paragraph 3 of the First Schedule to the principal Act. This amendment is consequential upon the amendment effected by clause *nineteen*.

CLAUSE SEVENTEEN.

This clause amends paragraph 4 of the First Schedule to the principal Act, which contains provisions in regard to the values of livestock to be accounted for by farmers at the beginning and end of each year of assessment.

The amendment to sub-paragraph (1) of paragraph 4 introduced by *paragraph (a)* of this clause is consequential upon the amendment introduced by *paragraph (c)*, and the amendment introduced by *paragraph (b)* is consequential upon the amendment introduced by clause *nineteen*.

Paragraph (c) adds to paragraph 4 a new sub-paragraph, numbered (2), which contains special provisions in regard to the year of assessment ended 28th February, 1963.

The value of livestock held and not disposed of at the beginning of any year of assessment is in terms of the existing law deemed to be the value of such livestock at the end of the preceding year of assessment, less the mortality allowance made in respect of the preceding year of assessment. The new sub-paragraph (2) provides that the value of livestock held and not disposed of at the commencement of the year of assessment ending 28th February, 1963, shall be the value thereof at the end of the year of assessment ended 30th June, 1962, reduced by only so much of the mortality allowance made in respect of the latter year as relates to livestock acquired by purchase for stud purposes.

CLAUSE EIGHTEEN.

This clause substitutes a new paragraph for paragraph 5 of the First Schedule to the principal Act, containing provisions in regard to the valuation of farmers' livestock.

At present a farmer (other than a company or the estate of a deceased person) is required to value the livestock held by him and not disposed of by him at the beginning and end of each year of assessment at the standard value applicable in terms of paragraph 6 of the First Schedule to the principal Act, except—

- (a) livestock acquired by purchase for stud purposes, which is required to be valued at the purchase price of the livestock; and
- (b) livestock (other than livestock acquired by purchase for stud purposes) on hand at the date of the farmer's death or insolvency, which is required to be valued at the current market price of the livestock.

The basis of livestock valuation in the case of such a farmer is changed in the following respects:—

(1) Livestock (other than livestock referred to in (2) below) acquired by him for breeding purposes will, if acquired at a price exceeding the relevant amount laid down in item (a) of sub-paragraph (1) of the new paragraph 5, be valued at the purchase price of the livestock, less an amount not exceeding the purchase price, calculated at the rate of ten per cent of such purchase price for each year of assessment during which the livestock has been held and has not been disposed of by the farmer. Any other livestock (not being livestock referred to in (2) below) acquired by the farmer will normally be valued at the applicable standard values.

(2) All livestock on hand at the date of the farmer's death or insolvency will be valued at the current market price of the livestock.

CLAUSE NINETEEN.

This clause deletes paragraphs 8 and 10 of the First Schedule to the principal Act. The provisions of paragraph 8 are re-enacted in a modified form in the new paragraph 5 as substituted by clause *eighteen*. The effect of the deletion of paragraph 10 is to abolish the mortality allowance.

CLAUSE TWENTY.

The Second Schedule to the principal Act provides rules for the assessment of lump sum benefits accruing from pension, provident and retirement annuity funds. In terms of sub-paragraph (2) of paragraph 4 of that Schedule if upon a member's withdrawal or resignation from such a fund or upon the winding up of such a fund, a policy of insurance is ceded or otherwise made over to or in favour of the member, any lump sum due in respect of such policy upon its maturity or earlier surrender is deemed to be a lump sum benefit accruing to such member from the fund in question. The purpose of the amendment introduced by clause *twenty* is to exclude from the operation of the provisions of the said sub-paragraph any lump sum due in respect of any such insurance policy if the member's withdrawal or resignation from the fund in question took place before 15th March, 1961, (the date on which those provisions first came into operation) or if the winding up of the fund took place before that date.

CLAUSE TWENTY-ONE

In terms of item (b) of sub-paragraph (2) of paragraph 5 of the Second Schedule to the principal Act where lump sum benefits become recoverable in consequence of or following upon the death of a taxpayer and consist of or include benefits from a provident fund a minimum deduction is allowed against the aggregate of the lump sum benefits of the greater of ten thousand rand or an amount equal to twice so much of the deceased taxpayer's actual salary during the period of twelve months ending at his death as does not exceed ten thousand rand. The purpose of the amendment introduced by clause *twenty-one* is to extend these provisions to the case where the lump sum benefits consist of or include benefits from any pension fund.

CLAUSE TWENTY-TWO.

This clause amends the definition of "employer" in paragraph 1 of the Fourth Schedule to the principal Act so as to include persons responsible for paying remuneration on behalf of the State.

CLAUSE TWENTY-THREE.

This clause amends paragraph 2 of the Fourth Schedule to the principal Act.

Paragraph (a) substitutes in sub-paragraph (1) for the word "person" where it occurs for the first time the word "employer". This amendment is consequential upon the amendment introduced by clause *twenty-two*. The further amendment introduced by paragraph (a) is textual.

The amendment introduced by *paragraph (b)* is consequential upon the amendments made to section *eleven* of the principal Act by paragraphs (a) and (b) of clause *eight*.

CLAUSE TWENTY-FOUR.

The amendment introduced by *paragraph (a)* of this clause to paragraph 13 of the Fourth Schedule of the principal Act is consequential upon the amendment introduced by clause *twenty-two* to paragraph 1 of that Schedule. The amendment introduced by *paragraph (b)* of this clause is of a textual nature.

CLAUSE TWENTY-FIVE.

This clause amends paragraph 20 of the Fourth Schedule of the principal Act. In terms of that paragraph a penalty may be imposed if the final or last estimate of his taxable income made by a provisional taxpayer in terms of paragraph 19 of that Schedule in respect of any year of assessment discloses his estimated taxable income in an amount which is less than ninety per cent of the amount of his taxable income as finally determined for that year and which is also less than his taxable income for the immediately preceding year of assessment. In terms of the amendment the preceding year of assessment in relation to the year of assessment ending 29th February, 1964, will in the case of a person other than a company be deemed to be the year of assessment which ended on 30th June, 1962. This provision is similar to the provisions of sub-paragraph (4) of paragraph 19 of the Fourth Schedule.

CLAUSE TWENTY-SIX.

This clause amends paragraph 22 of the Fourth Schedule to the principal Act. In terms of the amendment the Commissioner may on the application of any provisional taxpayer (other than a company) whose income is wholly or mainly derived from farming, fishing or diamond digging extend the period for payment of provisional tax by such taxpayer in respect of any year of assessment if the Commissioner has in terms of sub-section (13)ter of section *sixty-six* of the principal Act agreed to accept accounts from such taxpayer in respect of such year drawn to a date falling after the end of such year.

CLAUSE TWENTY-SEVEN.

This clause effects a textual amendment to paragraph 24 of the Fourth Schedule to the principal Act.

CLAUSE TWENTY-EIGHT.

This clause effects a textual amendment to the English version of paragraph 32 of the Fourth Schedule to the principal Act.

CLAUSE TWENTY-NINE.

The amendments to paragraph 33 of the Fourth Schedule to the principal Act effected by this clause are consequential upon the provisions of paragraph 34 of that Schedule, as added by clause *thirty*, or are of a textual nature, except the amendment effected by paragraph (c).

In applying item (b) of sub-paragraph (6) of paragraph 33 of the Fourth Schedule to the principal Act the Commissioner may in his determination of the proportions of any amount accruing for the benefit of the Consolidated Revenue Fund and any provincial revenue fund in terms of sub-paragraph (2) of that paragraph or to be refunded by way of a drawback from revenues accruing to such funds in terms of sub-paragraph (4) of that paragraph, take into account changes in rates of tax in respect of the year of assessment preceding the commencement of the fiscal year in respect of which the determination is made. The purpose of the amendment effected by *paragraph (c)* of this clause is to enable the Commissioner, in addition to any change in rates for the preceding year, to take into account any change in rates of normal or provincial taxes occurring in respect of any year of assessment ending during the fiscal year in question.

CLAUSE THIRTY.

Clause *thirty* adds a new paragraph, numbered 34, to the Fourth Schedule to the principal Act. This paragraph provides the basis upon which payments are to be made into the Transkeian Revenue Fund in respect of the liability for normal tax, interest, penalties and additional charges under the principal Act and any provincial income tax due under any ordinance of the province of the Cape of Good Hope, of citizens of the Transkei who are ordinarily resident in the Transkei.

CLAUSE THIRTY-ONE.

This clause removes from the definition of "technological training" in section *one* of the Technological Training—Advancement Act, 1960, the word "post-graduate". In terms of sub-clause (2) the amendment will first take effect in respect of donations made on or after the commencement of the Income Tax Act, 1963.

CLAUSE THIRTY-TWO.

This clause introduces an amendment to sub-section (2) of section *ten* of the Income Tax Amendment Act, 1962. The purpose of the amendment is to ensure that a company having a financial year ending after 30th June, 1962, but on or before 31st December, 1962, will in appropriate circumstances qualify for the exporters' allowance in respect of that financial year under section *eleven bis* of the principal Act (inserted by sub-section (1) of the said section *ten*).

CLAUSE THIRTY-THREE.

This clause provides for the commencement of certain of the amendments.

CLAUSE THIRTY-FOUR.

This clause enacts the short title.

THE SCHEDULE.

The Schedule enacts the rates of tax referred to in clause *one*. The only difference between these rates and the rates imposed in respect of the year of assessment ended 30th June, 1962, is that a discount of five per cent has been provided in respect of the normal tax payable by persons other than companies in respect of the year ending 29th February, 1964, or the year ending 30th June, 1964, whichever may be applicable.