
REPUBLIC OF SOUTH AFRICA.

EXPLANATORY MEMORANDUM

ON THE

INCOME TAX BILL, 1969.

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GENERAL.

The Bill fixes rates of normal tax payable by individuals and companies and also introduces amendments to the Income Tax Act, 1962 (Act No. 58 of 1962), hereinafter referred to as the principal Act. The amendments relate mainly to the following matters:—

- (1) The assessment of South-West African companies (clauses 6 1 (a), (d), (e), (f) and (h), 7 (a), 9, 10, 13 (1) (a), (b), (c), (l) and (n), 14 (1) (b), (d), (e) and (g) 18, 21, 22, 24, 25, 26, 27, 28, 30, 37, 38, 39, 40, 41, 42, 46, 47, 48 and 55).
- (2) The taxation of gains made by directors and employees by the exercise, cession or release of rights to acquire marketable securities (clauses 6 (1) (c), 11, 44 and 45).
- (3) Transactions whereby trading stock consisting of fixed property or shares are exchanged for shares (clause 23).
- (4) The definition of "retirement annuity fund" (clause 6 (1) (g)).
- (5) A deduction in respect of the salary of a married woman (clause 19) and the abolition of the rating amount for married couples (clause 7 (b)).
- (6) Rebates allowed to persons other than companies (clause 8).
- (7) Exemptions from normal tax in respect of interest or dividends—
 - (a) on Jubilee Bonds (clause 13 (1) (d)),
 - (b) on certain building society shares (clause 13 (1) (e)),
 - (c) on savings deposits with the Bantu Investment Corporation of South Africa Limited (clause 13 (1) (f)).
- (8) Withdrawal of exemptions in respect of dividends from certain South-West African companies (clause 13 (1) (h) and (i)).
- (9) Exemption in respect of uniforms (clause 13 (1) (k)).
- (10) Exemption of South Atlantic Cable Company (Proprietary) Limited (clause 13 (1) (m)).
- (11) General exemptions from normal tax (clause 13 (1) (p)).
- (12) Rating concession to members of proto teams (clauses 7 (c) and 43).
- (13) Deduction in respect of annuities to dependants of former employees (clause 14 (1) (f)).
- (14) Deduction of premiums on insurance policies on the lives of directors and employees (clause 14 (1) (i)).
- (15) Deduction in respect of expenditure on postgraduate study courses (clause 16).
- (16) Deduction in respect of medical and dental expenses (clause 17).
- (17) Development allowance made to certain industrialists in economic development areas (clause 20).
- (18) Undistributed profits tax (clauses 30, 31 and 32).
- (19) Non-resident shareholders tax (clause 29).
- (20) Non-residents tax on interest (clauses 34, 35 and 36).
- (21) Payments into the Transkeian Revenue Fund (clause 49).
- (22) Donations tax: South-West African companies (clause 33).
- (23) Amendments to the Income Tax Ordinance, 1961, of South-West Africa (clauses 51 to 54).

CLAUSE 1 AND THE SCHEDULE.

Rates of Normal Tax.

Rates of normal tax are enacted by clause 1 and the Schedule to the Bill.

Individuals.

The rates for persons other than companies apply in respect of the year of assessment ending on 28th February, 1970, or 30th June, 1970, and are provided for in paragraph 2 (a) and (h) of the Schedule. To the tax determined in accordance with the tables in paragraph 2 (a) of the Schedule are added a surcharge of 5 per cent of such tax (after the deduction of the rebates provided for in section 6 of the principal Act) and a loan portion equal to the surcharge. Neither the surcharge nor the loan portion is payable where the amount thereof is less than R5.

Companies.

- (a) *Years of assessment ending during the twelve-month period from 1st April, 1969, to 31st March, 1970.*

The rates for such years are provided for in paragraph 2 (b) to (g), inclusive, and in paragraph 2 (i) of the Schedule. These rates, which apply in respect of taxable income derived in South-West Africa and taxable income derived elsewhere, are as follows:

- (i) Taxable income derived otherwise than from mining—
 - (aa) where derived in South-West Africa: 33½ cents per R1 (paragraph 2 (b) (i) of the Schedule);
 - (bb) where derived elsewhere than in South-West Africa: 40 cents per R1 (paragraph 2 (b) (ii) of the Schedule).
- (ii) Taxable income derived from gold mining—
 - (aa) on any mine other than a post-1966 gold mine: an amount determined in accordance with one of the formulae provided for in paragraph 2 (c) of the Schedule, plus a surcharge of 5 per cent (provided for in the last proviso to the said paragraph 2 (c)) and a loan portion of 5 per cent (provided for in paragraph 2 (i) (ii) of the Schedule);
 - (bb) on a post-1966 gold mine: an amount determined in accordance with one of the formulae provided for in paragraph 2 (d) of the Schedule, plus a surcharge of 5 per cent (provided for in the second proviso to the said paragraph 2 (d)) and a loan portion of 5 per cent (provided for in paragraph 2 (i) (ii) of the Schedule).
- (iii) Taxable income in the form of "recoupments" of capital expenditure accruing to companies which are or have been gold mining companies: the average rate of tax, as determined in accordance with paragraph 3 (2) of the Schedule, or 35 cents per R1, whichever is higher (paragraph 2 (e) of the Schedule).
- (iv) Taxable income from diamond mining: 45 cents per R1, plus a surcharge of 10 per cent (paragraph 2 (f) of the Schedule) plus a loan portion of 10 per cent (paragraph 2 (i) of the Schedule).
- (v) Taxable income from mining operations (other than mining for gold, diamonds or natural oil)—
 - (aa) in South-West Africa: 33½ cents per R1;
 - (bb) elsewhere than in South-West Africa: 40 cents per R1 (paragraph 2 (g) of the Schedule).

- (b) *Years of assessment ending on or before 31st March, 1969.*

The rates for such years are provided for in paragraph 4 of the Schedule and apply in respect of taxable income derived in South-West Africa. It is necessary to provide for these years of assessment because the accounting years of a number of South-West African companies end on varying dates and the first year of assessment of such companies under the principal Act will in some instances end before the commencement of the twelve-month period in respect of which the rates referred to in paragraph (a) above will apply.

The rates provided for in paragraph 4 of the Schedule are the same as those hitherto applicable under the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of South-West Africa. These rates are—

- (a) in respect of taxable income other than mining: 30 cents per R1;
- (b) in respect of taxable income derived from mining: a rate varying between 22½ cents per R1 and 30 cents per R1 (in the case of mines other than diamond mines) or 45 cents per R1 (in the case of diamond mines).

CLAUSE 2.

Accrual to Provincial revenue funds of a Portion of the Normal Tax Payable by Certain Companies.

In terms of this clause a portion of the normal tax payable by companies on taxable income (other than taxable income from mining operations) derived elsewhere than in South-West Africa will, save where the tax accrues for the benefit of the Transkeian Revenue Fund under any law, accrue for the benefit of the respective provincial revenue funds in the proportions determined by proclamation. The portion so accruing to the provinces will be 12½ per cent of the normal tax payable. This is equivalent to 5 cents for every R1 of the taxable income on which the tax is payable.

CLAUSE 3.

Accrual to the Revenue Fund of South-West Africa of a Portion of the Normal Tax Payable by Certain Companies.

In terms of this clause a portion of the normal tax payable by companies on taxable income (other than taxable income from mining operations) derived in South-West Africa will accrue for the benefit of the Revenue Fund of that territory and will be paid into that fund in the manner prescribed in section 22 (2) (c) of the South-West Africa Affairs Act, 1969 (Act No. 25 of 1969). The portion so accruing will be—

- (a) 15 per cent of the tax determined in respect of years of assessment ending during the twelve-month period from 1st April, 1969, to 31st March, 1970; and
- (b) one-sixth of the tax determined in respect of years of assessment ending on or before 31st March 1969.

In both cases the portion accruing to the Revenue Fund of South-West Africa is equivalent to 5 cents for every R1 of the taxable income on which the tax is payable.

CLAUSE 4.

Calculation of Provincial Income Tax.

In terms of this clause the provincial income taxes payable by individuals in respect of the year of assessment ending on 28th February, 1970, or 30th June, 1970, whichever is applicable, will be calculated on the amount payable by way of normal tax under paragraph 2 (a) of the Schedule to the Bill after the deduction of the rebates provided for in sections 6 and 6bis of the principal Act and before the addition of the surcharge provided for in the said paragraph. The provincial income taxes will not be payable on the loan portion of the normal tax imposed by paragraph 2 (h) of the Schedule.

CLAUSE 5.

The loan portion of the Normal Tax.

This clause contains provisions in regard to the assessment and repayment of the portion (called the loan portion) of the normal tax payable by persons other than companies under paragraph 2 (h) of the Schedule to the Bill and by gold and diamond mining companies under paragraph 2 (i) of the Schedule.

Subclause (2) provides that liability for the unpaid amount of the loan portion is to cease when the person liable therefor dies or becomes insolvent or, in the case of a company, is placed under liquidation or when such person leaves the Republic permanently and ceases to carry on business in the Republic, or, in the case of a woman who marries, in respect of any period of assessment ending before her marriage. This subclause further provides that the estate of a deceased or insolvent person (but not a testamentary trust) will not be liable for the loan portion in respect of income accruing to such estate. Further exemptions are provided in the case of certain owners or charterers of ships or aircraft who are assessed to tax under section 33 of the principal Act, in the case of persons (other than companies) who are not ordinarily resident nor carrying on business in the Republic, and in the case of companies which are not registered and do not carry on business in the Republic.

In terms of *subclause (3)* the loan portion will not be payable on any amount payable by way of additional tax in terms of section 76 of the principal Act or paragraph 20 of the Fourth Schedule to that Act.

Subclause (4) provides for collections in respect of the loan portions of the normal tax to be paid into the loan account referred to in the General Loans Act, 1961 (Act No. 16 of 1961), for refunds (other than repayments under *subclause (6)*) to be paid by way of a drawback on amounts accruing to the loan account and for repayments under *subclause (6)* to be charged to the loan account.

Subclause (5) requires the Secretary to issue to every person who has paid the loan portion of the normal tax a statement of the amount of such loan portion paid by him. The statement, which will not as such be redeemable or transferable, is to be issued not later than the date for repayment determined by the Minister of Finance under *subclause (6)*, but need not be issued if the loan portion is repaid before that date.

Subclause (6) requires the Minister of Finance to determine a date, not being later than 28th February, 1977, after which the loan portion of the normal tax is to be repaid to the person by whom it was paid. The loan portion may, however, be repaid before that date in the event of the death, insolvency or liquidation (in the case of a company) of the person concerned before the date so determined.

Subclause (7) provides for simple interest to be paid on the loan portion at the rate of five per cent per annum, but such interest will not be payable until the loan portion is repaid.

Subclause (8) empowers the Secretary to appropriate tax payments and credits to the loan portion and deems the amounts so appropriated to have been paid—

- (a) in the case of a person who has had employees tax deducted or withheld from his remuneration during the year of assessment and is either not required to pay provisional tax in respect of such year or has made satisfactory arrangements for increased deductions by way of employees tax to cover his liability for provisional tax in respect of such year, on the first day of September, 1969; or
- (b) in the case of a person who has during the year of assessment paid directly by way of provisional tax the first amount due by him under the relevant provisions of the Fourth Schedule to the principal Act in respect of provisional tax for the year of assessment, on the first day of the month during which he paid such amount; or
- (c) in any other case (e.g. a person who is not an employee nor a provisional taxpayer), on such date as the Secretary, having regard to the payments made, may determine.

The date of payment, as so deemed, will be the date from which interest is calculated as provided by *subclause (7)*.

Subclause (9) empowers the State President to make regulations in order that the objects of this clause may be achieved.

Subclause (10) authorizes the State President to determine a date after which assessments for the loan portion of the normal tax shall not be issued.

Subclause (11) deems the provisions of this clause to have come into operation on the first day of March, 1969.

CLAUSES 6 TO 49, INCLUSIVE.

Amendments to the Principal Act.

Clauses 6 to 49, inclusive, introduce amendments to the principal Act. The amendments are as follows:—

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
6 (1) (a)	1: definition of "financial year"	Paragraph (d) of the definition provides for the financial years of South-West African companies which have not had financial years under the principal Act. The first financial year of such a company under the said Act will commence immediately after the last year of assessment of that company under the Income Tax Ordinance, 1961, of South-West Africa, viz. the year ended 30th June, 1968, or if accounts were rendered in respect of that year of assessment to another date, immediately after such other date.
6 (1) (b)	1: definition of "gross income", paragraph (g) (iii)	The references to the Designs, Trade Marks and Copyright Acts of the Republic are brought up to date.
6 (1) (c)	1: definition of "gross income", paragraph (i)	In terms of this amendment (which is linked with the amendments introduced by clauses 11, 44 and 45) any gain made by a director of a company or by an employee by the exercise, cession or release of a right to acquire any marketable security, is required to be included in his gross income.
6 (1) (d)	1: definition of "gross income", paragraph (j)	This amendment brings South-West African mining companies into line with other mining companies as regards the taxation of recoupments of capital expenditure.
6 (1) (e)	1: definition of "hotel keeper"	This amendment is mainly of a textual nature. The reference to the Licences Act, 1962, is deleted and other provisions substituted. The amendment is necessitated by the fact that the said Act does not apply in South-West Africa.
6 (1) (f)	1: definition of "Republic"	This is a new definition in terms of which a number of references in the principal Act to the Republic will be interpreted as including references to South-West Africa. This definition should be read with the definition of "territory" in clause 6 (1) (h).
6 (1) (g)	1: definition of "retirement annuity fund"	The amendments remove certain technical obstacles to the recognition of a fund as a "retirement annuity fund" where such fund's rules permit of the payment of annuities under more than one policy.
6 (1) (h)	1: definition of "territory"	This is a new definition necessitated mainly by changes in regard to the taxation of South-West African companies.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
6 (1) (i)	1: definition of "trade"	The references to the Designs, Trade Marks and Copyright Acts of the Republic are brought up to date.
6 (2)	—	The amendments effected by clause 6 (1) (c) and (g) take effect from the year of assessment ending on 28th February, 1970.
7 (a)	5 (2A)	The reference to section 14 of the Mining Rights Act, 1967, is deleted as that Act is not applicable in South-West Africa.
7 (b)	5 (3)	This amendment provides for the termination of the rating benefits hitherto granted to married couples where both spouses have income. The last year in respect of which such benefits are applicable is that which ended on 28th February, 1969.
7 (c)	5 (9)	This amendment provides for a rating benefit in respect of the special remuneration received by members of "proto-teams" doing rescue work and performing other hazardous tasks during emergencies in mines.
8 (1) (a)	6 (1) (a) and (b)	The primary rebate for a married person is reduced from R62 to R50 and for an unmarried person from R46 to R40. This amendment is linked with the reduced rates provided for in the tables set out in paragraph 2 (a) of the Schedule to the Bill.
8 (1) (b)	6 (1) (c)	The special rebate of R16 hitherto granted to a person who is not a married person and who is the sole support of one or more children, is reduced to R10, being the difference between the new primary rebate granted to a married person and the new primary rebate granted to an unmarried person.
8 (1) (c)	6 (1) (d)	The rebate for contributions to a medical benefit fund is reinstated in consequence of the fact that such contributions are not taken into account for purposes of the deduction allowed in respect of medical expenses provided for in clause 17 (1) of the Bill.
8 (1) (d)	6 (1) (f)	The special rebate of R16 granted in respect of dependants who are wholly dependent on a taxpayer for their maintenance, is reduced to R10.
8 (2)	—	The amendments effected by clause 8 (1) take effect from the year of assessment ending on 28th February, 1970.
9	6quat (new)	A rebate is granted to diamond mining companies in South-West Africa in respect of the diamond profits tax payable in that territory. This is a continuation of the rebate hitherto granted under the Income Tax Ordinance, 1961, of the territory.
10 (a)	8 (4) (a)	In the case of a company, recoupments of certain deductions allowed under the Income Tax Ordinances of South-West Africa will be required to be included in income.
10 (b)	8 (4) (e)	The special provisions for dealing with recoupments of certain allowances occurring as a result of damage to or destruction of machinery

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
		or plant used for manufacturing purposes, are extended to recoupments of similar allowances granted to a company under the Income Tax Ordinances of South-West Africa.
11	8A (new section)	<p>Gains made after 1st June, 1969, by a director or employee by the exercise, cession or release of a right to acquire any marketable security will be required to be included in income if the right was granted to the taxpayer as a director or former director or in respect of services rendered or to be rendered by him to an employer.</p> <p>Where, for instance, an employee has been granted an option by his employer to acquire shares, the gain will be the difference between the market value of the shares as at the date on which the option is exercised and the amount paid by the employee for the shares plus the amount (if any) paid by him for the option. The shares must be valued as though they were freely disposable but if the employer has imposed a restriction upon the right of disposal the taxpayer may elect that the gain (as assessed at the date on which the option is exercised) be included in his income for the year of assessment during which he becomes entitled to dispose of the shares. In the event, however, of the taxpayer's death or insolvency the untaxed gain is regarded as having been made on the day before the date of his death or insolvency.</p> <p>Provision is made for the gain to be taxed in the hands of the employee or director when the right to acquire the marketable security has been granted to a third person and such third person actually makes the gain (Section 8A (6)).</p> <p>Provision is also made for a case where a right to acquire any marketable security is exchanged for a consideration consisting in whole or part of a further similar right. (Section 8A (5)). For example, if a consideration is paid by an employee for an option to acquire A shares and he later exchanges that option for an option to acquire B shares, no gain in respect of the exchange transaction is assessable and on the exercise of the option to acquire the B shares the consideration originally paid for the option to acquire the A shares is regarded as having been paid for the option to acquire the B shares.</p> <p>Where a right to acquire any marketable security was granted on or before 1st June, 1969, any gain made after that date which has to be included in income under section 8A will be reduced proportionately on a time basis. (Section 8A (8)).</p>
12	9	The amendments are of a textual nature.
13 (1) (a)	10 (1) (a)	The revenues of the Administration of South-West Africa are exempted from normal tax.
13 (1) (b)	10 (1) (cA)	Supplementary references, to the Companies Ordinance, 1928, and the Co-operative Societies Ordinance, 1946, of South-West Africa, and to the Administration of that territory, are inserted.
13 (1) (c)	10 (1) (e)	A supplementary reference, to the Co-operative Societies Ordinance, 1946, of South-West Africa, is inserted.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
13 (1) (d)	10 (1) (i) (xi)	An exemption is provided in respect of interest on Five and a half per cent Jubilee Bonds. The maximum annual exemption in respect of such interest and interest on Six per cent Treasury Bonds will be R2,675.
13 (1) (e)	10 (1) (i) (xiii)	The exemption in respect of dividends on Six and a half per cent Special Tax-Free Indefinite Period shares in building societies will apply only in respect of such shares of this category as were issued not later than 21st September, 1968. The exemption is extended to interest on Six per cent Special Tax-Free Indefinite Period shares. The maximum annual exemption in respect of both categories of shares remains R400, but the period during which the exemption will apply is extended to five years, reckoned from the date of the application to the building society concerned for the relevant shares. The Minister of Finance is given power to withdraw the exemption in respect of Six per cent Special Tax-Free Indefinite Period shares for which application is made to a building society on or after a date notified by the Minister in the <i>Gazette</i> .
13 (1) (f)	10 (1) (i) (xiv)	Interest on deposits made by a natural person with the Bantu Investment Corporation of South Africa Limited is exempted up to a maximum of R200 in any year of assessment.
13 (1) (g)	10 (1) (k) (i)	This amendment effects a textual improvement.
13 (1) (h)	10 (1) (k) (iv) (deletion)	The exemption in respect of dividends distributed by a company not registered in the Republic out of profits apportioned to shareholders under the income tax law of South-West Africa is withdrawn. The distinction between companies registered in the Republic and those registered in South-West Africa will cease to exist. The apportionment system has for some time no longer been of application in that territory.
13 (1) (i)	10 (1) (k) (vi) (deletion)	The exemption in respect of dividends distributed by a company incorporated in South-West Africa and deriving its net profits wholly or mainly from sources in that territory is withdrawn. The distinction between a company incorporated in South-West Africa and a company incorporated in the Republic will cease to exist and as South-West African companies will be subject to tax under the principal Act, the necessity for the exemption will fall away.
13 (1) (j)	10 (1) (m)	The amendment is of a textual nature.
13 (1) (k)	10 (1) (nA) (new)	An exemption from tax is provided in respect of the value of any special uniform required to be worn by an employee while on duty and in respect of so much of any cash allowance made to the employee by his employer in lieu of such a uniform as the Secretary considers reasonable.
13 (1) (l)	10 (1) (o)	A reference to section 21 of the Companies Ordinance, 1928, of the territory, is inserted. This is supplementary to the reference in section 10 (1) (o) to a similar section of the Companies Act, 1926.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
13 (1) (m)	10 (1) (t) (iv)	The South Atlantic Cable Company (Proprietary) Limited is exempted from normal tax.
13 (1) (n)	10 (1) (v)	Certain textual amendments are made and the exemption in respect of certain building society interest derived by a company which is managed and controlled in South-West Africa, is withdrawn.
13 (1) (o)	10 (1) (w)	The amendment is of a textual nature.
13 (1) (p)	10 (4)	The general exemption limit is increased— (a) in respect of a married person who is not (or would not have been if he had lived) over 60 years of age on the last day of the year of assessment, from R600 to R750; (b) in respect of a married person who is (or would have been if he had lived) over 60 years of age on the last day of the year of assessment, from R600 to R1,200; (c) in respect of an unmarried person who is (or would have been if he had lived) over 60 years of age on the last day of the year of assessment, from R500 to R750. Where the period assessed is less than a full year the exemption limits are reduced proportionately. The general exemption does not apply to companies.
13 (2)	—	The amendments effected by clause 13 (1) (d) (f), (h), (i), (k) and (p) apply with effect from the year of assessment ending on 28th February, 1970.
14 (1) (a)	11 (f)	The amendment is of a textual nature.
14 (1) (b)	11 (gA)	Certain textual amendments are effected and supplementary references (applicable in the case of companies) to any Income Tax Ordinance of South-West Africa are inserted so as to exclude from the calculation of any allowance in respect of expenditure in respect of patents, designs, trade marks or copyright, any expenditure allowed under such Ordinance.
14 (1) (c)	11 (gB)	The amendment is of a textual nature.
14 (1) (d)	11 (i)	A supplementary reference (applicable in the case of companies) to any Income Tax Ordinance of South-West Africa is inserted so as to permit as a deduction from income the amount of any bad debt where such amount was included in income returned for a year of assessment under such Ordinance.
14 (1) (e)	11 (j)	A doubtful debts allowance made to a company in terms of section 11 (2) (k) of the Income Tax Ordinance, 1961, of South-West Africa, in respect of the year of assessment ended on 30th June, 1968, is deemed to be an allowance under section 11 (j) of the principal Act and will be required to be dealt with accordingly.
14 (1) (f)	11 (m)	The maximum amount allowed to be deducted under section 11 (m) of the principal Act in respect of annuities paid to the dependants of a retired or deceased employee, is increased from R600 to R1,000.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
14 (1) (g)	11 (o)	For the purposes of the scrapping allowance under section 11 (o) of the principal Act, the allowances made under the Income Tax Ordinances of South-West Africa in respect of machinery, implements, utensils or articles used by a company for the purposes of its trade, will also be required to be taken into account when such machinery, implements, utensils or articles are scrapped.
14 (1) (h)	11 (s)	The amendment effects a textual improvement.
14 (1) (i)	11 (w)	Before a deduction may be made in respect of premiums on an insurance policy on the life of a director of a company or of an employee, certain additional conditions must be observed. Firstly, the benefits payable under such a policy must not be payable to any person other than the taxpayer. Secondly, no pledge or cession of the policy must have been in force or of effect during the year of assessment or, if such a pledge or cession was in force or of effect, the Secretary must be satisfied that the pledge or cession was effected for the purpose of providing security to obtain funds required by the taxpayer for the purposes of his trade <u>in consequence of the employee's or director's ill-health, infirmity, incapacity, retirement or cessation of services occurring after such policy was taken out.</u>
14 (2)		The amendments effected by clauses 14 (1) (f) and (i) apply with effect from the year of assessment ending on 28th February, 1970.
15	11bis	The amendments are of a textural nature.
16 (1)	16	The deduction in respect of post-graduate study courses hitherto allowed to dentists and medical practitioners is extended to engineers and certain specialist scientists who hold degrees awarded by a recognized university on completion of a prescribed minimum period of study of not less than four academic years or the equivalent thereof.
16 (2)		The amendment applies with effect from the year of assessment ending on 28th February, 1970.
17 (1)	18	The deduction in respect of medical and dental expenses is fixed— (a) in the case of a married person, at R150; or (b) in the case of a person who is not a married person, at R75, or if such person was the sole support of a dependant, at R150, plus R100 if one or more children are born to the taxpayer during the year. The abovementioned amounts are deductible irrespective of whether or not medical or dental expenses were actually incurred and irrespective of the amount (if any) actually spent.
17 (2)		The amendment effected by clause 17 (1) applies with effect from the year of assessment ending on 28th February, 1970.

Clause of the Bill	Section of the principal Act affected	Description of Amendment
18	20	<p>The new section 20 (4) provides for the carrying forward of a balance of assessed loss incurred by a company in South-West Africa if such loss was available to be carried forward from the year of assessment under the Income Tax Ordinance, 1961, of that territory, which ended on 30th June, 1968.</p> <p>The new section 20 (5) prohibits the set-off against trade income derived by a company in South-West Africa of any assessed loss or balance of assessed loss incurred outside that territory, and <i>vice versa</i>.</p>
19	20A (new)	<p>A deduction is provided in the case of a married man in respect of any salary earned by his wife which has been included in his income. The maximum deduction is R500. Where the combined income of the spouses (i.e. the taxable income of the husband as taxpayer, determined before the deduction is made under section 20A) exceeds R8,000, the maximum deduction allowable is reduced by R1 for every R10 by which the combined amount exceeds R8,000. Where the period assessed is less than a full year, the maximum allowable deduction is reduced proportionately.</p> <p>“Salary” is defined. It excludes amounts earned by a married woman as an independent trader, director’s fees, any amount received from any partnership of which she or her husband is a member or from any private company of which her husband is a director or any private company of which she or her husband is the sole or main shareholder or one of the principal shareholders.</p> <p>The deduction may be made in respect of the year of assessment ending on 28th February, 1970, and succeeding years of assessment.</p>
20 (1)	21ter (new)	<p>A special deduction, on a selective basis, is provided for industrialists who establish or commence to carry on new industrial undertakings in economic development areas, or make extensions to existing industrial undertakings in such areas. The deduction is called the development allowance and must be authorized in each case by the Minister of Finance. The amount of the deduction is to be determined in such manner as the Minister may direct but may not exceed the industrial profit made by the industrialist during the relevant year of assessment.</p> <p>In the case of a new industrial undertaking established or commenced on or after 1st October, 1968, the allowance may be granted in respect of the year of assessment during which production is commenced and in respect of so many of the four succeeding years of assessment as the Minister directs.</p> <p>In the case of a new industrial undertaking established or commenced within the period of 5 years ending on 30th September, 1968, the allowance may be granted in respect of the year of assessment during which that date falls and so many of the succeeding years of assessment as overlap or partly overlap the period of 5</p>

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
		<p>years reckoned from the date of commencement of production, being years in respect of which the Minister has directed that the allowance may be made.</p> <p>The provisions in regard to extensions to an existing industrial undertaking are similar, except that the first year of assessment, in the case of extensions brought into use on or after 1st October, 1968, will be the year of assessment during which the extensions are brought into use, and the period of five years, in the case of extensions brought into use before that date, is reckoned from the date on which the extensions were brought into use.</p> <p>The Minister may impose conditions for the granting of the development allowance and, where such conditions have not been complied with, may direct that the allowance be withdrawn or reduced.</p> <p>Applications for the allowance must be in writing and be received by the Minister or an officer in the public service authorized to receive such applications, not later than 30th September, 1970.</p>
20 (2)	—	The provisions of the new section 21 <i>ter</i> are deemed to have come into operation on 1st October, 1968, and apply in respect of assessments for years of assessment ending on or after 30th September, 1968.
21	22 (7)	Provision is made for continuity in regard to the determination of the value of trading stock in the case of a company previously assessed under the Income Tax Ordinance, 1961, of South-West Africa.
22	24	Provision is made for continuity in regard to the determination of the hire-purchase allowance in the case of a company previously assessed under the Income Tax Ordinance, 1961, of South-West Africa.
23	24A (new)	<p>Provision is made for an alternative basis of assessment in cases where "paper profits" are made under transactions whereby trading stock consisting of fixed property or shares is in effect exchanged for a consideration consisting of shares in a public company or shares quoted by a stock exchange or other shares (where there is a consolidation or merger of the interests of two or more persons). The Secretary and the person concerned may agree that such consideration be excluded from such person's income for the year of assessment during which the consideration is received or accrues.</p> <p>In such cases the shares which constitute or are included in the consideration so excluded from income are deemed to be trading stock of the person concerned and on the ultimate disposal of such new trading stock the amount received therefor will be treated as income. The cost of the new trading stock will be deemed to be the cost to the person concerned of the fixed property or shares given in exchange therefor, but subject to an adjustment in respect of any consideration given therefor in addition to such fixed property or shares.</p>

Clause of the Bill	Section of the principal Act affected	Description of Amendment
		<p>If the new trading stock has not been disposed of by the person concerned prior to his death, insolvency or liquidation (in the case of a company) the market value thereof as at the day before the date of death, insolvency or liquidation will be required to be included in his income for the period of assessment within which the said day falls.</p> <p>The new section 24A is to apply in respect of assessments ending on 28th February, 1970, and succeeding years of assessment.</p>
24	28 (2) (d)	Provision is made for continuity in regard to the determination of the allowance for unexpired risks in the case of an insurance company previously assessed under the Income Tax Ordinance, 1961, of South-West Africa.
25	28bis	Provision is made for the continuation of any concession granted under section 16A of the Income Tax Ordinance, 1961, of South-West Africa, where a business undertaking in South-West Africa has been transferred from a foreign company to a subsidiary company.
26	36 (7A)	Provision is made for the deduction from a company's income of capital expenditure incurred in respect of any mine in South-West Africa. The deduction is to be made on the same basis as has hitherto been applicable in that territory and applies to all categories of mines.
27	37A (new)	<p>Section 37A (1) provides that the taxable income derived or assessed loss incurred by a company in South-West Africa shall be determined separately from any taxable income derived or assessed loss incurred elsewhere.</p> <p>Section 37A (2) and (3) provide rules for the determination of taxable income derived or assessed losses incurred in South-West Africa and elsewhere.</p> <p>Section 37A (4) provides for the case of a company which carries on any business in South-West Africa and also elsewhere in the Republic. In that case the taxable income or assessed loss is required to be apportioned on an assets basis, unless proper accounts can be furnished.</p> <p>Section 37A (5) ensures that where the last year of assessment of a company under the Income Tax Ordinance, 1961, of South-West Africa (viz. the year ended 30th June, 1968) and the first year of assessment of that company under the principal Act overlap, taxable income for the overlapping period will not be taxed twice.</p>
28	38	A supplementary reference, to the Co-operative Societies Ordinance, 1946, of South-West Africa, is inserted.
29 (1) (a)	42 (1) (iiiA)	Non-resident shareholders tax is imposed on dividends paid or payable to any company managed or controlled in South-West Africa and not carrying on business in the Republic. In terms of the existing provisions (section 42 (1) (iii) of the principal Act) the tax is <i>inter alia</i> imposed on companies <i>not registered</i> nor carrying on business in the Republic. The distinction between companies registered in South-West Africa and those registered in the Republic will, however, cease to exist and the liability of South-West African companies for the tax will be

Clause of the Bill	Section of the principal Act affected	Description of Amendment
29 (1) (b)	42 (2) (f)	governed by the new paragraph (iiiA) instead of the existing paragraph (iii) of section 42 (1) of the principal Act.
29 (1) (b)	42 (2) (f)	The amendment is designed to clarify the position in regard to the liability for the non-resident shareholders tax of shareholders in the port and settlement of Walvis Bay. It was not the practice of the Secretary for Inland Revenue to claim non-resident shareholders tax on a dividend accruing to a person (other than a company) who was ordinarily resident or carrying on business in Walvis Bay or on a dividend accruing to a company carrying on business in Walvis Bay. The amendment confirms this practice as respects dividends accruing before 1st April, 1969. As respects dividends accruing on or after that date liability is to be determined <i>inter alia</i> according to whether or not the shareholder is ordinarily resident or carrying on business in the Republic and the fact that a person is resident or carrying on business in Walvis Bay will not entitle such person to be treated as being resident or carrying on business in the Republic.
29 (2)	—	The amendment effected by clause 29 (1) (a) is to take effect from the commencement of the Companies Amendment Act, 1969, and the amendment effected by clause 29 (1) (b) is deemed to have taken effect on 1st July, 1962.
30	48	Public companies become liable for the undistributed profits tax in respect of years of assessment ending on or after 1st April, 1969. A South-West African private company will be liable for that tax with effect from its first financial year under the principal Act. The rate of the tax is now expressed as 25 cents on every rand instead of 50 cents on every two rand of the amount on which the tax is payable.
31 (1) (a)	49: definition of "distributable income", paragraph (ii)	The 45 per cent "plough-back" allowance made for purposes of the undistributed profits tax, will be restricted to private companies.
31 (1) (b)	49: definition of "distributable income", paragraph (iiA)	A "plough-back" allowance will for purposes of the undistributed profits tax be made to any public company liable for the tax and such allowance will be equal to the aggregate of— (a) 100 per cent of so much of the total net profits as consists of profits (other than dividends) derived from sources within or deemed to be within the Republic, less any taxes on income in respect of such profits which are deductible under paragraph (i) of the definition; (b) 100 per cent of any recoupment of the capital allowances made under paragraph (iii) of the definition and included in distributable income under paragraph (b) of the definition; and (c) 25 per cent of so much of the total net profits as consists of dividends and profits derived from sources not within or deemed to be within the Republic.
31 (1) (c)	49: definition of "distributable income", paragraph (iii)	The capital allowance made for purposes of the undistributed profits tax in respect of machinery or plant will be restricted to private companies.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
31 (2)	—	The amendments effected by clause 31 (1) will apply in respect of assessments for years of assessment ending on or after 1st April, 1969.
32 (1)	50 (i)	The exemption from undistributed profits tax in favour of a company which is a subsidiary of a public company, is withdrawn.
32 (2)	—	The amendment effected by clause 32 (1) will apply in respect of assessments for years of assessment ending on or after 1st April, 1969.
33	56 (gA)	Donations tax will not be payable in respect of the value of any property which is disposed of under a donation by any company which is managed and controlled in South-West Africa and does not carry on business in the Republic.
34 (1)	64A	The position in regard to liability for the non-residents tax on interest is, as respects interest which accrued before 1st April, 1969, unchanged. As respects interest accruing on or after that date to a company the tax is payable if such company is registered outside the Republic and the territory of South-West Africa and the debtor is (a) a company or individual ordinarily resident or carrying on business in the Republic or (b) a company which is ordinarily resident or carrying on business in the said territory. As respects interest accruing on or after 1st April, 1969, to a person other than a company, the law is unchanged.
34 (2)		The amendments effected by clause 34 (1) are deemed to have come into operation on 1st April, 1969. An extension of time for the payment of the non-residents tax on interest payable under section 64A (c) is provided for in cases where the period for payment of that tax ends on or before the date of commencement of the amending Act.
35	64B	The amendments are consequential upon the amendments introduced by clause 34.
36 (1) (a)	64C (a)	An exemption from the non-residents tax on interest is introduced in respect of interest accruing from the Administration of South-West Africa.
36 (1) (b)	64C (fA)	The exemption from the non-residents tax on interest in respect of dividends on Six and a half per cent Special Tax-Free Indefinite Period shares in any building society will be restricted to dividends on such shares of this class as have been issued not later than 21st September, 1968. The exemption is, however, extended to dividends on Six per cent Special Tax-Free Indefinite Period shares in any building society. The period during which dividends on both classes of shares will be exempted is extended and will be applicable in respect of such of the dividends on any share of either class as become payable during the period of five years reckoned from the date of the application to the building society concerned for such share. The Minister of Finance is empowered to terminate the exemption of dividends on Six per cent Special Tax-Free Indefinite Period shares applied for on or after a date notified by the Minister in the <i>Gazette</i> .

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
36 (1) (c)	64C (i) and (j)	Exemptions from the non-residents tax on interest are introduced— (a) in respect of interest accruing from the South Atlantic Cable Company (Proprietary) Limited on money borrowed by that company under any agreement or contract concluded by it not later than 17th February, 1966; and (b) in respect of interest which accrued before 1st April, 1969, to any person (other than a company) who was ordinarily resident in the port or settlement of Walvis Bay.
36 (2)	—	The amendment effected by clause 36 (1) (a) is to be effective from 1st April, 1969, the amendment effected by clause 36 (1) (b) from 21st September, 1968, and the amendment effected by clause 36 (1) (c) from 1st April, 1967.
37	89ter	The normal tax payable and recoverable as provided in section 94A (i.e. normal tax payable by a company in respect of taxable income derived in South-West Africa) will be accounted for separately from any normal tax payable in respect of taxable income derived elsewhere than in South-West Africa. This amendment should be read with clause 39.
38	91 (2)	A supplementary reference, to the Magistrates' Courts Ordinance, 1963, of South-West Africa, is inserted.
39	94A (new)	The normal tax payable by a company in respect of taxable income derived within South-West Africa will be separately chargeable from the normal tax payable in respect of other taxable income and will be payable and recoverable as a separate tax.
40	111A (new)	The provisions of the principal Act and any amendment thereof are to apply in South-West Africa. The extent to which such provisions will be so applicable is determinable from those provisions.
41	First Schedule, paragraph 4 (3)	Provision is made for continuity in respect of the determination of livestock values in the case of a farming company previously assessed under the Income Tax Ordinance, 1961, of South-West Africa.
42	First Schedule, paragraph 12 (2)	Provision is made for continuity of assessing in regard to deductions allowed to a company previously assessed under the Income Tax Ordinance, 1961, of South-West Africa, in respect of farming machinery, articles or plant.
	First Schedule, paragraph 12 (3)	Provision is made for the deduction of certain capital expenditure incurred by farming companies in South-West Africa which at the end of the year of assessment ended 30th June, 1968, was available to be carried forward under the Income Tax Ordinance, 1961, of that territory.
43 (1)	First Schedule, paragraph 19	This amendment is consequential upon the amendments introduced by clause 7 (b) and (c) to section 5 of the principal Act, in regard to the rating amount of married couples and the rate of normal tax applicable in respect of the special remuneration of "proto teams".

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
43 (2)	—	The amendment effected by clause 43 (1) is to be applicable with effect from the year of assessment ending on 28th February, 1970.
44	Fourth Schedule, paragraph 1, definition of "remuneration"	This amendment, which has reference to the gains made by directors and employees by the exercise, cession or release of rights to acquire marketable securities, should be read with the amendments introduced by clauses 6 (c), 11 and 45.
45	Fourth Schedule, paragraph 11A (new)	In terms of the amendment introduced by clause 44 any gain made by a director or employee by the exercise, cession or release of a right to acquire any marketable security is deemed for employees tax purposes to be remuneration. In terms of the new paragraph 11A introduced by this clause such remuneration is for the purposes of the Fourth Schedule to the principal Act deemed to be payable by the employer by whom the right was granted, and the employer is required, where possible, to make a deduction or withholding of employees tax in respect of such remuneration. The amount so to be deducted or withheld must be ascertained from the Secretary and, if it is not possible to make a deduction or withholding of employees tax, the Secretary must be notified of the fact. A duty is imposed on the employee to inform the employer of the fact that he has made a gain of the nature referred to above and of the amount of such gain.
46 (1)	Fourth Schedule, paragraph 19 (1)	Companies will not be required to pay provisional tax in respect of taxable income derived in South-West Africa. It follows that such taxable income must be excluded by companies from the estimates required to be made under paragraph 19 (1) of the Fourth Schedule to the principal Act.
46 (2)	—	The amendments effected by clause 46 (1) will apply in respect of estimates of taxable income furnished on or after the date of promulgation of the Income Tax Act, 1969, in respect of years of assessment ending on or after that date.
47 (1)	Fourth Schedule, paragraph 20	In the determination of any penalty payable under paragraph 20 of the Fourth Schedule to the principal Act in respect of an underestimate of taxable income by a company, any taxable income derived in South-West Africa will be left out of account.
47 (2)	—	The amendments effected by clause 47 (1) will apply in respect of estimates of taxable income submitted by provisional taxpayers on or after the date of promulgation of the Income Tax Act, 1969, in respect of years of assessment ending on or after that date.
48	Fourth Schedule, paragraph 28 (1)	Provisional tax payments made by a company will not be set off against any normal tax payable and recoverable under section 94A of the principal Act, i.e. the normal tax payable in respect of taxable income derived in South-West Africa.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Description of Amendment</i>
49	Fourth Schedule, paragraph 34	Paragraph 34 of the Fourth Schedule to the principal Act provides a formula for the determination of the amounts payable into the Transkeian Revenue Fund in respect of the normal and provincial taxes paid by Transkeian citizens. In terms of clause 47 of the Bantu Taxation Bill, 1969, Bantu persons will be exempt from such taxes in respect of income received or accrued after 1st March, 1970, and the provisions of the said paragraph 34 will, as from that date become inoperative.

CLAUSE 50.

Commencement of certain Amendments.

This clause provides for the commencement of certain amendments effected by the Bill to the principal Act. Except where the Bill otherwise provides or the context otherwise indicates, the amendments will for the purposes of assessments of normal tax and undistributed profits tax, apply from the commencement of the year of assessment ended the twenty-eighth day of February, 1969, (i.e. in the case of companies, financial years of companies ending on or after 1st January, 1969) or, in the case of certain South-West African companies, from the commencement of the first year of assessment of such companies under the principal Act. For the other purposes of the principal Act the amendments take effect on the date of promulgation of the Income Tax Act, 1969.

CLAUSES 51 TO 54 (INCLUSIVE).

Amendments to the Income Tax Ordinance, 1961, of South-West Africa.

Clauses 51 to 54, inclusive, introduce certain amendments to the Income Tax Ordinance, 1961, of South-West Africa, which are consequential upon the amendments to the principal Act whereby companies will be assessable under the principal Act instead of the said Ordinance.

In terms of the amendment introduced by *clause 51* to section 5 of the said Ordinance, companies will not be assessable to normal tax under that Ordinance in respect of any year of assessment ending after that which ended on 30th June, 1968.

Clause 52 repeals the special provisions of the said Ordinance (i.e. Part III of Chapter II) relating to companies.

Clause 53 repeals the provisions of the said Ordinance (i.e. Part V of Chapter II) relating to the undistributed profits tax levied under that Ordinance.

Clause 54 introduces a consequential amendment to section 52 of the said Ordinance.

CLAUSE 55.

This clause provides that the Income Tax Act, 1969, shall apply also in the territory of South-West Africa.

CLAUSE 56.

This clause prescribes the short title.