
REPUBLIC OF SOUTH AFRICA.

EXPLANATORY MEMORANDUM

ON THE

INCOME TAX BILL, 1971.

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GENERAL.

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

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 29th February, 1972, or 30th June, 1972, and are provided for in paragraph 1 (a) and (h) of the Schedule. To the basic tax determined in accordance with the tables in paragraph 1 (a) of the Schedule are added a surcharge of 10 per cent of such basic tax (see the proviso to paragraph 1 (a)) and a loan portion varying between 12½ per cent and 20 per cent of the basic tax (see paragraph 1 (h)). The surcharge and the loan portion are not payable where the basic tax is less than R150.

The basic tax is calculated on the taxable amount, i.e. the amount remaining after deducting from taxable income the abatements provided for in the new section 5A of the principal Act introduced by clause 6 of the Bill.

Companies.

The rates for companies apply in respect of years of assessment i.e. financial years, ending during the twelve-month period from 1st April, 1971, to 31st March, 1972, and are provided for in paragraph 1 (b) to (g), inclusive, and in paragraph 1 (i) of the Schedule. These rates, which apply in respect of taxable income derived in South-West Africa and taxable income derived in the Republic, are as follows:—

(a) Taxable income derived otherwise than from mining—

- (i) where derived in South-West Africa: 35 cents per R1 (paragraph 1 (b) (i) of the Schedule);
- (ii) where derived elsewhere than in South-West Africa, i.e. in the Republic: 40 cents per R1 (Paragraph 1 (b) (ii) of the Schedule).

To the tax determined as above is added a loan portion of 7½ per cent of such tax (paragraph 1 (i) (i) of the Schedule).

(b) Taxable income derived from gold mining—

- (i) on any mine other than a post-1966 gold mine: an amount determined in accordance with one of the formulae provided for in paragraph 1 (c) of the Schedule plus a surcharge (which is not payable in the case of certain assisted gold mines) equal to 5 per cent of the said amount (third proviso to the said paragraph 1 (c)) and a loan portion equal to 5 per cent of the said amount (paragraph 1 (i) (ii) of the Schedule);

- (ii) on a post-1966 gold mine: an amount determined in accordance with one of the formulae provided for in paragraph 1 (d) of the Schedule, plus a surcharge of 5 per cent of the said amount (second proviso to the said paragraph 1 (d)) and a loan portion of 5 per cent of the said amount (paragraph 1 (i) (ii) of the Schedule).
- (c) 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 2 (2) of the Schedule, or 35 cents per R1, whichever is higher (paragraph 1 (e) of the Schedule).
- (d) Taxable income from diamond mining: a basic tax of 45 cents per R1, plus a surcharge equal to 10 per cent of the basic tax (paragraph 1 (f) of the Schedule) plus a loan portion equal to 10 per cent of the basic tax (paragraph 1 (i) (iii) of the Schedule).
- (e) Taxable income from mining operations (other than mining for gold, diamonds or natural oil)—
 - (i) where derived in South-West Africa: 35 cents per R1 (paragraph 1 (g) (i) of the Schedule);
 - (ii) where derived elsewhere than in South-West Africa, i.e. in the Republic: 40 cents per R1 (paragraph 1 (g) (ii) of the Schedule). To the tax determined as above is added a loan portion of 7½ per cent of such tax (paragraph 1 (i) (i) of the Schedule).
- (f) Taxable income derived in the form of dividends: 7½ per cent (paragraph 1 (i) (iv) of the Schedule). This is a loan portion.

CLAUSE 2.

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 one-seventh 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.

The Loan Portion of the Normal Tax.

In terms of this clause the portion of the normal tax determined in accordance with the provisions of paragraph 1 (h) or (i) of the Schedule is a loan portion of that tax and is repayable in accordance with the provisions of section 5 (2B) of the principal Act and the Fifth Schedule to that Act.

CLAUSES 4 TO 51 INCLUSIVE.

Amendments to the Principal Act.

Clauses 4 to 51, 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>Nature of Amendment</i>
4 (1) (a) and (b)	1: definitions of "assessment" and "dependant"	The amendments are consequential upon the amendment introduced by clause 6.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Nature of Amendment</i>
4 (1) (c)	1: definition of "gross income", paragraph (k)	Dividends derived by a company which is registered, managed and controlled in the Republic are deemed to be from a source within the Republic. (See also clauses 9 (b), 17 (1) (a) and (b), 22 and 43).
4 (1) (d)	1: definition of "gross income", paragraph (m)	The amendment is designed to remove a doubt as to whether an amount received or accrued under or upon the surrender or disposal of any policy of insurance on the life of an employee or director is required to be included in gross income, if at the time of receipt or accrual, the employee or director is no longer an employee or director of the taxpayer.
4 (1) (e)	1: definition of "married person"	The amendment is consequential upon the amendment introduced by clause 6.
4 (1) (f)	1: definition of "taxable amount" (new)	In the case of an individual, normal tax will be calculated on his "taxable amount" (see clause 5 (a) and paragraph 1 (a) of the Schedule). The "taxable amount" will be the amount remaining after deducting from "taxable income" the abatements allowed under section 5A of the principal Act (introduced by clause 6).
4 (1) (g)	1: definition of "taxable income"	The amendment, which is of a textual nature, is necessary in consequence of the introduction of the definition of "taxable amount" by clause 4 (1) (f).
4 (2)		The amendment introduced by clause 4 (1) (e) will apply in respect of years of assessment of companies ending on or after 1st April, 1971.
5 (a)	5 (1A) (new)	In the case of an individual, normal tax is to be calculated on his "taxable amount" (see clauses 4 (1) (f) and 6 and paragraph 1 (a) of the Schedule).
5 (b) and (c)	5 (9) and (10)	The principal Act at present provides for a reduction in the rate of normal tax— <ul style="list-style-type: none"> (a) where there is included in the taxpayer's income any special remuneration derived by him as a member of a "proto team" engaged in performing certain dangerous tasks on a mine (section 5 (9)); or (b) where the taxpayer is a plantation farmer and his taxable income from the disposal of plantations and forest produce exceeds the annual average taxable income derived by him from that source during the 3 preceding years of assessment (paragraph 15 (3) of the First Schedule); or (c) where the taxpayer is a sugar cane farmer whose sugar cane fields have been damaged by fire and who has derived taxable income from the sale of sugar cane as a result of such fire which would not otherwise have been derived by him (paragraph 17 of the First Schedule); or

Clause of the Bill	Section of the principal Act affected	Nature of Amendment
		<p>(d) Where the taxpayer's income includes a lump sum derived from a pension fund, provident fund or retirement annuity fund (paragraph 7 of the Second Schedule).</p> <p>The provisions referred to above are based on the system of tax rebates which has hitherto been in force. The substitution for the system of tax rebates of a system of abatements makes it necessary to alter the method of calculating normal tax in the cases referred to. The new section 5 (10) provides a formula for the purpose. (See also clauses 31, 32 and 36).</p>
6	5A (new)	<p>The new section prescribes the abatements which are to be deducted from the taxable income of an individual taxpayer in determining the taxable amount. These abatements are as follows:—</p> <p>(i) <i>Primary abatement</i> of R1 000 in the case of a married person and R600 in the case of an unmarried person.</p> <p>(ii) <i>Child abatement</i> of R450 for each of the first two children and R550 each for the third and subsequent children plus a further R100 in any year in which one or more children are born to the taxpayer and, in the case of an unmarried person who has maintained one or more of his/her own children out of his/her own resources, a further R400. The pre-requisites for the granting of the abatements are the same as those which have applied hitherto for the granting of tax rebates.</p> <p>(iii) <i>Medical expenses abatement</i> of R150 and R75 for married and unmarried persons respectively who are under the age of sixty years and R250 and R125 for married and unmarried persons respectively who are over the age of sixty years. These are increased by R100 for any year in which one or more children are born to the taxpayer.</p> <p>(iv) <i>Insurance abatement</i> equivalent to the aggregate of the premiums paid by the taxpayer during the period of assessment on life, accident and sickness policies and fees and subscriptions paid by him to provident and benefit funds and in respect of unemployment insurance. This abatement is subject to a maximum of R400.</p> <p>(v) <i>Dependant's abatement</i> of R80 for each dependant or R200 if the taxpayer has contributed not less than R200 towards the dependant's support and the dependant is wholly dependent on the taxpayer.</p> <p>(vi) A further abatement of R350 in the case of persons who are over the age of sixty years. This abatement is reduced by R1 for every completed R10 by which the taxpayer's income exceeds R1 500 if he is married or by R1 for every completed R10 by which the taxpayer's income exceeds R1 000 if he is unmarried.</p>

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Nature of Amendment</i>
		<p>The abovementioned abatements with the exception of the special abatement of R100 for a child born during the year of assessment, the medical expenses abatement and the insurance abatement, are reduced proportionately in cases where the period of assessment is less than twelve months.</p> <p>The total amount allowable by way of abatements is reduced by R2 for every R10 by which the taxpayer's taxable income exceeds R5 000.</p> <p>If the period of assessment is less than twelve months the figure of R5 000 is reduced proportionately.</p>
7	6 (repealed)	Section 6 of the principal Act provided for tax rebates and its repeal is consequential upon the introduction of the income abatements provided for by clause 6.
8 (a)	8A (1) (b)	<p>Section 8A of the principal Act provides for the taxing of gains which arise from the exercise of options to acquire shares where such options are acquired in respect of services rendered or by virtue of the holding of office as a director of a company. In cases where there is a restriction on the right to dispose of the shares in question the taxpayer can elect to have taxation postponed but only if the restriction was imposed by the company of which the taxpayer is a director or by his employer.</p> <p>It is possible for taxable gains to arise from options which are not granted by the taxpayer's employer or the company of which he is a director and the amendment introduced by this clause provides for the concession to apply also in these cases if the grantor has imposed a restriction on the disposal of the shares.</p>
8 (b)	8A (5) (b)	This is a textual amendment.
8 (c)	8A (6)	<p>The amendment is designed to remove certain technical difficulties which may arise in cases where options are granted to third persons by reason of the taxpayer's office or former office as a director or of any services rendered or to be rendered by the taxpayer as an employee.</p> <p>As paragraph (a) of section 8A (6) now reads, that paragraph is applicable to a gain made by a third person if the right was granted to that particular person. In terms of the amendment the said paragraph will also be applicable where the right was originally granted to a predecessor of the third person. Section 8A (6) envisages the possibility of a gain being made by more than one person and provision is made for an adjustment in such cases. This provision is unnecessary and is deleted.</p>
9 (a)	10 (1) (i) (xiA) (new)	An exemption is provided in respect of interest and premiums on Republic of South Africa Premium Bonds.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Nature of Amendment</i>
9 (b)	10 (1) (k) (i)	The amendment withdraws the exemption in respect of dividends derived by companies during years of assessment ending during the twelve months ending on 31st March, 1972, except dividends derived by unit portfolios comprised in unit trust schemes in securities other than property shares.
9 (c)	10 (1) (t) (v) and (vi)	An exemption is provided in respect of the Armaments Development and Production Corporation of South Africa Ltd., and its subsidiaries.
9 (d)	10 (1) (x)	An exemption is at present provided in section 10 (1) (x) in respect of certain lump sums derived by a taxpayer upon or because of the termination or impending termination of his services or in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment. The maximum amount which may at present be exempted is R6 000. In terms of the amendment the maximum is increased to R9 000.
9 (e)	10 (1) (z)	An exemption is provided in respect of State subsidies paid to farmers on interest on loans utilised for farming purposes.
9 (f)	10 (4) (deletion)	The general exemption provided for in section 10 (4) of the principal Act is withdrawn. The introduction of the system of abatements has eliminated the necessity therefor.
10 (1) (a)	11 (c)	Section 11 (c) of the principal Act at present provides for a deduction from income of "expenditure, other than that of a capital nature . . . in respect of any dispute or action at law . . .". The amendment is designed to make it clear that only legal expenses may be deducted and not any other amount, such as damages. Legal expenses incurred in respect of a claim arising in the course of or by reason of the ordinary operations of the taxpayer's trade may qualify for deduction notwithstanding the fact that there may not be a dispute or action at law. Legal expenses incurred in respect of a claim against the taxpayer for damages or compensation will not qualify for deduction if the damages or compensation are not or would not be deductible from the taxpayer's income under section 11 (a) or (b). Legal expenses incurred by the taxpayer in respect of a claim by him for the payment to him of an amount which does not or would not constitute income will also not be deductible.
10 (1) (b)	11 (u)	In terms of section 11 (u) of the principal Act entertainment expenses which are not deductible under section 11 (a) of that Act but which are incurred directly in connection with the taxpayer's trade are allowable as a deduction from income, but subject to a maximum deduction of R300. In terms of the amendment the deduction will in the case of salary and wage earners be restricted to cases where the performance of the taxpayer's duties would be impeded or seriously hampered if he did not incur entertainment expenses.

Clause of the Bill	Section of the principal Act affected	Nature of Amendment
10 (1) (c)	11 (v)	The amendment is consequential upon the introduction of an abatement for medical expenses (section 5A (3) (c), as introduced by clause 6) and the repeal of section 18 by clause 15.
10 (1) (d)	11 (w)	In terms of section 11 (w) of the principal Act an allowance may in certain circumstances be made in respect of premiums paid on insurance policies on the lives of directors of companies and employees. In terms of proviso (bb) (B) to section 11 (w) the allowance may be refused in certain circumstances if a pledge or cession was in force or of effect. In terms of the amendment the references to a pledge or cession are deleted and references to a loan or advance are substituted. The loan or advance will not be restricted to a loan or advance secured by a pledge or cession.
10 (2)		The amendment effected by clause 10 (1) (b) will apply in respect of assessments for years of assessment ending on or after 28th February, 1971.
11	12 (2A) (c)	The maximum investment allowance which, in the case of an industrialist in an economic development area, may be granted in respect of the introduction of machinery or plant is increased from 35 to 50 per cent of the cost thereof, with effect from years of assessment ending on or after 1st April, 1971.
12 (1)	12A (4)	Section 12A (3) of the principal Act provides for the deduction from the income of an hotel keeper of an hotel equipment investment allowance, provided the hotel in question is registered under the Hotels Act, 1965 (Act No. 70 of 1965). The said Act does not apply in the territory of South-West Africa. In terms of the amendment the allowance will be available to companies in respect of new or unused hotel equipment brought into use in an hotel in the territory of South-West Africa on or after 1st January, 1969, provided the hotel is registered as an hotel in accordance with the Accommodation Establishments and Tourism Ordinance, 1967 (Ordinance No. 29 of 1967), of that territory.
12 (2)		The amendment introduced by clause 12 (1) is applicable in respect of years of assessment ending on or after 1st January, 1969.
13 (1) (a)	13 (1), (2) and (3)	Section 13 (1) of the principal Act provides for the deduction from the income of certain industrialists of an allowance equal to two per cent of the cost of certain buildings. To qualify for the allowance the building must have been used in a certain manner and the erection thereof must have been commenced on or after a certain date. In addition to the allowance in respect of a building an allowance is also granted in respect of improvements to the building. The allowance is at present not granted in respect of improvements to a building which does not itself qualify for the allowance.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Nature of Amendment</i>
		In terms of the amendment the allowance may be granted in respect of improvements commenced on or after 1st April, 1971, notwithstanding the fact that the building itself may not qualify for the allowance.
13 (1) (b)	13 (6A) (a)	The maximum investment allowance which may be granted to an industrialist in an economic development area in respect of buildings or improvements thereto is increased from 25 to 35 per cent of the cost of the building or improvements.
13 (1) (c)	13 (9)	A definition of "improvements" is introduced, which will apply in respect of improvements commenced on or after 1st April, 1971. "Improvements" in this context means any extension, addition or improvements (other than repairs) to a building which is or are effected for the purpose of increasing or improving the industrial capacity of the building. This definition will apply for the purposes of the allowance under section 13 (1) and also the building investment allowance under section 13 (5).
13 (2)		The amendments effected by clause 13 (1) will apply in respect of assessments for years of assessment ending on or after 1st April, 1971.
14 (1)	13bis (9), (10) and (11)	Section 13bis of the principal Act provides certain allowances in respect of hotel buildings which are conditional upon the hotel in question being registered under the Hotels Act, 1965, or being graded by the board established under that Act. The said Act does not apply in the territory of South-West Africa. In terms of the amendment the allowance will in the appropriate circumstances be available to companies in respect of hotel buildings in the territory of South-West Africa and improvements (other than repairs thereto) if the erection of the building or the improvements, as the case may be, is or are commenced on or after 1st January, 1969, and the hotel in question is registered or graded in accordance with the provisions of the Accommodation Establishments and Tourism Ordinance, 1967 (Ordinance No. 29 of 1967), of that territory.
14 (2)		The amendments effected by clause 14 (1) are applicable in respect of assessments for years of assessment ending on or after 1st January, 1969.
15	18 (repealed)	Section 18 provided for a deduction in respect of medical expenses. An abatement will be applicable in place thereof—see section 5A (3) (c), introduced by clause 6.
16 (1)	18A	Section 18A of the principal Act provides for a deduction from taxable income of donations to universities and certain colleges and of donations to the National Study Loans and Bursaries Fund. The amount allowed to a company may not exceed 5 per cent of its taxable income, as determined before making the deduction. The

Clause of the Bill	Section of the principal Act affected	Nature of Amendment
		amendment is consequential upon the inclusion in the taxable income of a company of taxable income in the form of dividends. In terms of the amendment, the deduction to be allowed against taxable income derived otherwise than in the form of dividends will, as in the past, be restricted to an amount equal to 5 per cent of that taxable income. If the donations made exceed that amount, the excess will, to the extent that it does not exceed 5 per cent of the taxable income derived in the form of dividends, be allowed against the lastmentioned taxable income.
16 (2)		The amendment effected by clause 16 (1) is applicable in respect of assessments for years of assessment ending on or after 1st April, 1971.
17 (1) (a)	19 (1)	An assessed loss incurred by a company in relation to dividends will not be allowed to be set off against income derived by the company in any form other than dividends, and <i>vice versa</i> .
17 (1) (b)	19 (4) and (5) (new)	A company which derives income in the form of dividends will in certain circumstances and subject to certain limitations be allowed to deduct from such income any dividends distributed by that company to any other company which is registered or carries on business in the Republic (including South-West Africa). To qualify for deduction the dividend paid must have accrued to the other company during the period covered by the year of assessment of the taxpayer company and the dividend must be income in the hands of the other company. In the case of a company which carries on long-term insurance business, regard will be had to the fact that a portion of its dividend income is taken into account in determining its taxable income from such business, and its taxable income in the form of dividends will be reduced, as indicated in the proposed new section 19 (5).
17 (1) (c)	19 (6)	In practice an annuity paid out of dividends is not for income tax purposes regarded as being income in the form of dividends, and in accordance with that practice the provisions of section 19 of the principal Act have not been regarded as being applicable to an annuity. The amendment confirms that practice. (See also clauses 23 and 26 (b)).
17 (2) (a)		The amendments effected by clause 17 (1) (a) and (b) are to apply in respect of assessments on companies for years of assessment ending on or after 1st April, 1971.
17 (2) (b)		The amendment effected by clause 17 (1) (c) is deemed to have first applied in respect of assessments for the year of assessment ended on 30th June, 1962.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Nature of Amendment</i>
18 (1) (a)	21ter (1)	Section 21ter provides for a development allowance to be made to industrialists in economic development areas. The definition of "Bantu development area" is necessary because, in terms of the amendments introduced by subclause (1) (c) of this clause, the allowance in the case of an industrialist in such an area may be granted for a longer period than in the case of an industrialist in any other economic development area.
18 (1) (b)	21ter (2)	The development allowance takes the form of a deduction from income. At present the deduction in any year of assessment may not exceed the amount of the industrialist's industrial profit for that year. The amendment relaxes this rule and the allowance may in future exceed the amount of the industrial profit if the industrialist has derived income otherwise than from the industrial undertaking. The allowance will in such a case be limited to an amount sufficient to provide the industrialist with a saving in normal tax for the year of assessment of an amount determined as indicated in the amendment.
18 (1) (c)	21ter (3) (a) and (b)	The number of years for which the development allowance may be granted is increased from five to ten in the case of an industrial undertaking in a Bantu development area, and from five to seven in the case of an industrial undertaking in any other economic development area.
18 (1) (d)	21ter (3): proviso	The Minister of Finance may in certain circumstances extend the period during which the development allowance may be granted.
18 (1) (e)	21ter (4) and (6)	This amendment is consequential upon the amendment introduced by subclause (1) (d) of this clause.
18 (1) (f)	21ter (7)	Where an industrial undertaking in a Bantu development area is carried on through a wholly-owned subsidiary company and the subsidiary is unable to enjoy the full benefit of the development allowance, the allowance (or a portion thereof) may be granted to the parent company.
18 (2)		The amendments effected by clause 18 (1) apply in respect of years of assessment ending on or after 1st April, 1971.
19 (1)	22A (new)	Under the Companies Act, 1926, a scheme may be approved whereby the assets, including the trading stock belonging to one company (referred to as the transferor company) pass to another company (referred to as the transferee company) without any consideration (or with an inadequate consideration) passing from the transferee company to the transferor company. The transferee company generally ceases to exist, without being liquidated in the normal

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		<p>manner and its shareholders are compensated by being given shares in the transferee company.</p> <p>At present there is in such a case no income tax liability on the part of the transferor company in respect of the disposal of its trading stock, and the assets taken over are accounted for by the transferee company at market value.</p> <p>The new section 22A provides that the assets taken over by the transferee company which were trading stock of the transferor company shall be treated as trading stock in the hands of the transferee company and be deemed to have been acquired by the transferee company at a price equal to the cost price thereof to the transferor company.</p>
19 (2)		<p>The amendment effected by clause 19 (1) applies in respect of years of assessment ending on or after 1st April, 1971.</p>
20 (1)	24A	<p>Section 24A of the principal Act provides for the case where a trader disposes of trading stock consisting of fixed property or shares for a consideration consisting of or including shares. The section provides a measure of relief from taxation on the "paper profits" realised. The shares received are treated as trading stock (now called new trading stock) and on a disposal of such new trading stock the amount realised is treated as income. Apart from certain textual changes, the following amendments are effected:—</p> <ol style="list-style-type: none"> <li data-bbox="769 1218 1306 1559">(1) At present, if the trader dies or goes insolvent (or, in the case of a company, goes into liquidation) the new trading stock is required to be accounted for at market value. This requirement is relaxed and, in terms of the new subsection (5) of section 24A (hitherto subsection (3)) the value to be accounted for will be the market value on the day before the date of death, insolvency or liquidation, as the case may be, or the market value on the date of the exchange transaction, whichever value is lower. <li data-bbox="769 1585 1306 1693">(2) In terms of subsection (2) (a) of section 24A bonus shares issued in respect of new trading stock are also to be regarded as new trading stock. <li data-bbox="769 1720 1306 1899">(3) In terms of the new subsection (3) of section 24A any amount derived from the disposal of new trading stock must be included in income, irrespective of whether the disposal is in the course of the carrying on of any trade and irrespective of the source of the amount. <li data-bbox="769 1926 1306 2031">(4) The new subsection (4) provides for cases where the trader disposes of new trading stock or ceases to be the owner thereof for any reason other than the trader's death,

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		insolvency or liquidation, and no consideration or an inadequate consideration accrues to him in respect of the trading stock. In such a case the trader will be required to include in his income the market value of the trading stock at the date on which the disposal is made or on which he ceases to be the owner, as the case may be, or the market value on the date of the exchange transaction, whichever value is lower, less any amount accounted for as income under the new subsection (3). The new subsection (4) is effective from the date of promulgation of the Income Tax Act, 1971.
20 (2)		The amendments effected by clause 20 (1) are, except as otherwise indicated in section 24A, applicable as from the year of assessment which ended on 28th February, 1970.
21 (1) (a)	28 (1)	<p>The following changes are made in the method of calculating the taxable income derived by a taxpayer from the carrying on of long-term insurance business:—</p> <ol style="list-style-type: none"> <li data-bbox="790 1159 1335 1265">(1) The provision whereby one-third of certain dividends received by or accrued to the taxpayer were excluded from his investment income is deleted. <li data-bbox="790 1277 1335 1618">(2) Managerial, secretarial and other fees derived by an insurance company from subsidiary companies are to be included in the total amount on which the taxable income is calculated. The holding of a 10 per cent beneficial interest in the issued share capital or issued equity share capital of a company will be sufficient to constitute that company a subsidiary company but companies whose sole or principal function is to render services will not be treated as subsidiary companies for the purposes of section 28 (1) (b). <li data-bbox="790 1629 1335 1712">(3) Interest on the loan portion of the normal tax is excluded from the amount on which the taxable income is to be calculated.
21 (1) (b)	28 (3)	A Long-term insurer will be liable for normal tax on taxable income in the form of dividends, notwithstanding the inclusion of the dividends in the gross amounts taken into account under section 28 (1) in the determination of the taxable income from long-term insurance business. An adjustment will, however, be made under section 19 (5)—see clause 17 (1) (b).
21 (2)		The amendments effected by clause 21 (1) are applicable in respect of assessments for years of assessment ending on or after 1st April, 1971.
22 (1)	37A (6)	Taxable income derived in the form of dividends by a company which is managed and controlled in the territory of South-West Africa is deemed to be derived within that territory. This provision affects the assessment and collection of tax. In terms of section 94A of the principal Act

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		normal tax on taxable income derived by a company within the said territory is chargeable, payable and recoverable as a separate tax, and in terms of other provisions of the principal Act provisional tax is not payable in respect of such taxable income. (See also clause 41).
22 (2)		The amendment effected by clause 22 (1) applies in respect of assessments for years of assessment of companies ending on or after 1st April, 1971.
23	42 (2) (g)	Dividends accruing to any person in the form of an annuity are exempted from non-resident shareholders tax. The amendment is effective as from the commencement of the principal Act. (See also clauses 17 (1) (c) and 26 (b)).
24 (1) (a)	49: "adjusted total net profits" (new definition)	This amendment should be read with the amendments introduced by subclause (1) (b) and (d) of this clause. Subclause (1) (d) introduces an allowance for undistributed profits tax purposes in respect of certain investments in prospecting companies. In terms of the amendments introduced by subclause (1) (b) the "plough-back" allowances of 45 per cent in respect of non-dividend profits and 25 per cent in respect of dividend profits are to be calculated with reference to the relevant portion of total net profits remaining after deducting therefrom the prospecting allowance, i.e., the "adjusted total net profits".
24 (1) (b)	49: "distributable income", paragraphs (ii), (iiA) and (iii)	<p><i>Paragraph (ii)</i> of the definition is amended by the deletion of the reference to a private company. The 45 per cent "plough-back" allowance made for undistributed profits tax purposes will apply to public as well as private companies. The allowance will be calculated with reference to the "adjusted total net profits"—see subclause (1) (a) of this clause.</p> <p><i>Paragraph (iiA)</i> of the definition is amended by the deletion of the references to non-dividend profits. The 100 per cent "plough-back" allowance made for undistributed profits tax purposes in respect of non-dividend profits derived by a public company from a source within the Republic and the 25 per cent "plough-back" allowance in respect of non-dividend profits derived by a public company from a source outside the Republic will no longer be applicable.</p> <p>The 45 per cent allowance under paragraph (ii) of the definition will be applicable. The allowance under paragraph (iiA) of the definition will, as in the case of the allowance under paragraph (ii) of the definition, be calculated with reference to the "adjusted total net profits"—see subclause (1) (a) of this clause.</p>

Clause of the Bill	Section of the principal Act affected	Nature of Amendment
		<i>Paragraph (iii)</i> of the definition is amended so as to make the allowance for undistributed profits tax purposes in respect of new or unused machinery or plant applicable in the case of a public as well as a private company and so as to restrict the allowance to the case of machinery or plant brought into use for the purposes of a trade carried on in the Republic.
24 (1) (c)	49: "distributable income", paragraph (iv)	This is a textual amendment.
24 (1) (d)	49: "distributable income", new paragraph (v)	Provision is made for an allowance to be made for undistributed profits tax purposes in respect of investments made by the taxpayer company in any other company if the amounts invested were intended to be used to defray expenditure incurred by such other company on prospecting operations in the Republic or in any other country approved by the State President by proclamation. The allowance is limited to 50 per cent of the taxpayer company's distributable income, as determined before the deduction of the said allowance or any allowance under paragraph (ii) or (iiA) of the definition of "distributable income".
24 (1) (e)	49: "total net profits"	<p>In terms of the definition of "total net profits" in section 49 of the principal Act the total net profits of a company must for undistributed profits tax purposes be calculated in the manner prescribed for the determination for normal tax purposes of taxable income. Section 19 (4) of the principal Act, which is introduced by clause 17 (1) (b), provides for a deduction from income in the form of dividends of certain dividends distributed to other companies. The amendment negatives this deduction for the purposes of the calculation of "total net profits".</p> <p>The deduction of dividends for undistributed profits tax purposes will, as in the past, be made after the determination of a company's distributable income and not before that stage of assessment is reached.</p>
24 (2)		The amendments effected by clause 24 (1), except that effected by paragraph (e), are to apply in respect of assessments for years of assessment ending on or after 1st October, 1971. The amendment effected by paragraph (e) is applicable in respect of assessments for years of assessment ending on or after 1st April, 1971.
25 (1) (a)	50 (f) (i)	At present a company (other than a company whose total net profits are derived solely or mainly from dividends) is exempt from undistri-

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Nature of Amendment</i>
		buted profits tax if the sum of its reserves (including share premium account) and the balance of its unappropriated profits at the end of the year of assessment, together with an amount equal to the value of certain bonus shares which did not rank as a dividend, does not exceed the sum of the dividends distributed by the company during the six months after the end of the year of assessment and taxes on income (excluding undistributed profits tax) for the year of assessment by R100 000 or 40 per cent of the company's paid-up capital at the end of the year of assessment, whichever is higher. In terms of the amendment the amount of R100 000 is reduced to R20 000.
25 (1) (b)	50 (i)	The exemption from undistributed profits tax in favour of subsidiary companies of long-term insurance companies is withdrawn.
25 (2)		The amendments effected by clause 25 (1) are to apply in respect of assessments for years of assessment ending on or after 1st October, 1971.
<u>26 (a)</u>	64C (k) (new)	An exemption from non-residents tax on interest is provided in respect of the interest on certain foreign loans obtained for long-term industrial development in the Republic. The prior approval of the Minister of Finance will be required and it will have to be shown to the Minister's satisfaction that the exemption or partial exemption is necessary to avoid the payment by the debtor of excessive additional expenditure by reason of his having to ensure the tax-free payment of the interest and, where the interest is subject to foreign income tax, that either no credit in respect of the non-residents tax on interest or that an inadequate credit in respect of that tax, will be granted by the foreign country by which the foreign tax is imposed.
26 (b)	64C (l)	An exemption from non-residents tax on interest is provided in respect of interest in the form of an annuity derived from a source within the Republic. The amendment is effective from 1st April, 1967, i.e. the date on which the tax was first imposed. (See also clauses 17 (1) (c) and 23).
27	66 (1) (a)	The period allowed for rendering annual returns of income is increased from 30 to 60 days.
28	89bis (1)	The amendment is of a textual nature.
29 (1)	110bis (3) (g)	The amendment is consequential upon the discontinuance of provincial income and personal taxes.
29 (2)		The amendment effected by clause 29 (1) is deemed to have taken effect on 1st April, 1971.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Nature of Amendment</i>
30	First Schedule, paragraph 5 (1) (a)	At present farmers' livestock purchased for amounts in excess of certain minima and used for breeding purposes may for income tax purposes be written off over a period of 10 years. In terms of the amendment this period is reduced to 4 years.
31 (1)	First Schedule, paragraph 15 (3)	A plantation farmer whose taxable income derived from the disposal of plantations and forest produce exceeds the annual average taxable income derived by him from that source over the preceding 3 years of assessment, is in certain circumstances entitled to pay normal tax at a reduced rate. The amendment, while preserving the principle, provides that the calculation of tax must be made in terms of section 5 (10) of the principal Act. A formula is provided therein for the purpose. (See clause 5 (c)). The amendments are necessitated by the introduction of a system of abatements by clause 6.
31 (2)		Companies are now specifically excluded from enjoying the rating provisions of paragraph 15 (3) of the First Schedule to the principal Act and the amendments effected by clause 31 (1) will, so far as companies are concerned, apply in respect of assessments for years of assessment ending on or after 1st April, 1971. In the case of persons other than companies the amendments will apply in respect of assessments for years of assessment ending on or after 29th February, 1972.
32 (1)	First Schedule, paragraph 17	A sugar-cane farmer whose cane fields are damaged by fire and who sells sugar cane in consequence of such fire and thus derives taxable income which he would not otherwise have derived, is entitled to pay normal tax at a reduced rate. As a result of the introduction of the system of abatements by clause 6, a formula for the calculation of tax in such cases is provided for in section 5 (10) of the principal Act. (See clause 5 (c)).
32 (2)		Companies are now specifically excluded from the operation of paragraph 17 of the First Schedule to the principal Act and, so far as companies are concerned, the amendment effected by clause 32 (1) will apply in respect of years of assessment ending on or after 1st April, 1971.
33 (a)	First Schedule, paragraph 19 (1)	Farmers in general (other than persons who are not natural persons) are permitted by paragraph 19 of the First Schedule to elect to have their normal tax calculated on a basis taking the average taxable income from farming into account. A formula is provided for the purpose. As a result of the introduction of a system of abatements by clause 6, it is necessary to vary the formula, as indicated in the amendment.

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Nature of Amendment</i>
33 (b)	First Schedule, paragraph 19 (6)	An election already made to have normal tax calculated as indicated above will continue to be binding upon the person concerned.
34 and 35	Second Schedule, paragraphs 1 and 5	<p>The Second Schedule provides rules for determining the amounts to be included in a person's gross income in respect of lump sum benefits derived from pension funds, provident funds and retirement annuity funds. From the gross amounts so derived certain deductions are made, some of which are, in the case of retirement and death benefits, determined in accordance with certain formulae, referred to as formula A and formula B.</p> <p>Formula A, which applies in relation to a pension fund or a provident fund, takes into account the taxpayer's highest annual average salary actually earned by him during any five consecutive years of his service, but not exceeding an amount of R10 000. That amount is now increased to R15 000 (<i>clause 34 (a)</i>).</p> <p>Formula B takes into account the fact that the taxpayer may be a member of more than one fund and places a limit of R20 000 on the amounts which (apart from certain contributions) may be deducted in respect of the various funds. This limit is now increased to R30 000 (<i>clause 34 (b)</i>).</p> <p>Paragraph 5 (2) of the Second Schedule to the principal Act lays down that certain minimum amounts shall be deducted in certain circumstances under formula B. The minimum amounts which are as follows, are increased as indicated below:—</p> <p>(a) If the taxpayer is or was a member of a provident fund (other than a provident fund which has become a pension fund) from which any lump sum benefit was or may be derived in consequence of or following upon his retirement on or after 15th March, 1961: R4 000, now increased to R6 000 (<i>clause 35 (a)</i>).</p> <p>(b) In respect of death benefits: R10 000, now increased to R15 000 (<i>clause 35 (b)</i>). If the death benefits consist of or include benefits from any pension or provident fund the deduction may be increased to an amount equal to twice so much of the taxpayer's salary earned during the twelve months ending at his death as does not exceed R10 000. That amount is also increased to R15 000 (<i>clause 35 (b)</i>).</p> <p>A minimum deduction is applicable in respect of death benefits from retirement annuity funds derived where death has occurred before retirement. That minimum amount is the amount (but not exceeding the lesser of R20 000 and the value of benefits) which the taxpayer could have derived in respect of the commutation of one-third of his annuities from the funds if he had retired on the day before the date of his death. The amount of R20 000 is increased to R30 000 (<i>clause 35 (c)</i>).</p>

Clause of the Bill	Section of the principal Act affected	Nature of Amendment
36	Second Schedule, paragraph 7	A reduced rate of tax is applicable where the taxpayer's income includes lump sum benefits from a pension fund, provident fund or retirement annuity fund, as determined under the Second Schedule to the principal Act. As a result of the introduction of the system of abatements by clause 6 it is necessary to provide a formula for the calculation of normal tax in such a case. The formula is provided in section 5 (10) of the principal Act (see clause 5 (c) of the Bill).
37	Fourth Schedule, paragraph 1	The amendments are consequential upon the discontinuance of provincial income and personal taxes or the introduction of the system of abatements.
38	Fourth Schedule, paragraph 2	
39	Fourth Schedule, paragraph 9	
40	Fourth Schedule, paragraph 14	
41	Fourth Schedule, paragraph 17	
42	Fourth Schedule, paragraph 18 (1) (d)	An exemption from the payment of provisional tax is provided in the case of a company whose taxable income is derived solely within the territory of South-West Africa.
43 (1)	Fourth Schedule, paragraph 19 (1A)	In terms of paragraph 19 (1) of the Fourth Schedule to the principal Act a company is required to furnish estimates of its taxable income derived elsewhere than within the territory of South-West Africa. The amendment introduces a rule in regard to taxable income in the form of dividends. If the company is managed and controlled in the said territory such taxable income will be regarded as being derived in the territory (See also clause 22).
43 (2)		The amendment effected by clause 43 (1) applies in respect of years of assessment ending on or after 1st April, 1971.
44	Fourth Schedule, paragraph 20	The amendments are consequential upon the discontinuance of provincial income and personal taxes.
45	Fourth Schedule, paragraph 20A	
46	Fourth Schedule, paragraph 21	
47	Fourth Schedule, paragraph 22	
48	Fourth Schedule, paragraph 28	
49	Fourth Schedule, paragraph 33	

<i>Clause of the Bill</i>	<i>Section of the principal Act affected</i>	<i>Nature of Amendment</i>
50 ←	Fifth Schedule, paragraph 2 (4) and (5)	A natural person who is over the age of 65 years on the last day of a year of assessment ending on or after 29th February, 1972, will be exempt from the payment of the loan portion of the normal tax if his taxable income for that year is R5 000 or less. A company will be exempt from the payment of the loan portion calculated on taxable income in the form of dividends if at the end of the year of assessment it has a balance of assessed loss incurred in its trading activities which exceeds the taxable income in the form of dividends, (as determined before making any deduction under section 19 (4) or (5)) by more than 75 per cent of that taxable income. The loan portion payable by a company will be reduced if the company's income includes a dividend which has borne South-West African non-resident shareholders' tax.
51 (1)	Fifth Schedule, paragraph 8 (2) (b)	In the case of a company, where taxable income is derived wholly or mainly in the form of dividends, the date of payment of the loan portion of the normal tax by such company will not be determined by reference to the date of payment of its first provisional tax payment for the year, but will be required to be determined by the Secretary for Inland Revenue, having regard to the payments made by the company.
51 (2)		The amendment effected by clause 51 (1) applies in respect of years of assessment ending on or after 1st April, 1971.

CLAUSE 52.

This clause provides for the commencement of certain amendments.

CLAUSE 53.

The Act will apply also in the territory of South-West Africa.

CLAUSE 54.

This clause provides the short title.

THE SCHEDULE.

The Schedule is dealt with in the portion of this Memorandum dealing with clause 1.