
REPUBLIC OF SOUTH AFRICA

EXPLANATORY MEMORANDUM

ON THE

INCOME TAX BILL, 1976

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INTRODUCTION

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, to the Income Tax Act, 1974, and to the Income Tax Ordinance, 1974, of South West Africa.

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 28 February 1977, or 30 June 1977, 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) of the Schedule) and a loan portion of 10 per cent of such basic tax (see paragraph 1 (h) of the Schedule). The surcharge and the loan portion are not payable where the basic tax is less than R150 nor in the case of a natural person who is over 60 years of age on the last day of the year of assessment and whose taxable income for that year is R5 000 or less (see the proviso to paragraph 1 (a) of the Schedule, paragraph 1 (h) of the Schedule and, as regards the loan portion, paragraph 2 (4) of the Fifth Schedule to the principal Act, as amended by clause 34 of the Bill).

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

Companies

The rates for companies apply in respect of years of assessment i.e. financial years, ending during the twelve-month period from 1 April 1976, to 31 March 1977, and are provided for in paragraph 1 (b) to (g), inclusive, and paragraph 1 (i) of the Schedule. Those 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 surcharge of $7\frac{1}{2}$ per cent of such tax (proviso to paragraph 1 (b)) and a loan portion of 15 per cent of such tax (paragraph 1 (i)).

(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 10 per cent of the said amount (third proviso to the said paragraph 1 (c)) and a loan portion equal to 15 per cent of the said amount (paragraph 1 (i) 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 10 per cent of the said amount (second proviso to the said paragraph 1 (d)) and a loan portion of 15 per cent of the said amount (paragraph 1 (i) 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 15 per cent of the basic tax (paragraph 1 (i) 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 surcharge of $7\frac{1}{2}$ per cent of such tax (proviso to subparagraph (g)) and a loan portion of 15 per cent of such tax (paragraph 1 (i)).

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 basic normal tax payable before the addition of the surcharge or the loan portion. This is equivalent to 5 cents for every R1 of the taxable income on which the tax is payable. No portion of the normal tax payable by any private company and which has to be paid into the Rehoboth Revenue Fund in terms of section 25 (2) (a) (ii) of the Rehoboth Self-Government Act, No. 56 of 1976, will, however, accrue for the benefit of the Revenue Fund of South West Africa.

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. The loan portion is repayable to taxpayers in accordance with the provisions of section 5 (2B) of the principal Act and the Fifth Schedule to that Act.

CLAUSE 4

Definitions: Amendments to section 1 of the principal Act

Paragraph (a) of this clause: In terms of the definition of "retirement annuity fund" the rules of a fund must, in order to be recognized for income tax purposes, provide *inter alia*—

- (a) that the sum of the annuities payable to the widow, children, dependants and nominees of a deceased member who was in receipt of an annuity at the time of his death shall not exceed the amount of that annuity plus the amount of any further annuity that the deceased member would have received had he lived until the day before his next birthday after the date of his death (paragraph (b) (viii) of the definition); and
- (b) that the member's contributions shall cease not later than the day before his birthday following the date on which he first becomes entitled to the payment of an annuity (paragraph (b) (ix) of the definition).

The rule mentioned in (a) above to some extent prevents the member from making provision against the possible future erosion in the value of his widow's annuity, and the rule mentioned in (b) above forces the member to take out separate annuity policies if he wishes, by continuing to make contributions after some benefits have already accrued, to provide for the accrual of further annuities at future dates. The amendments introduced by paragraph (a) of this clause delete the two rules mentioned.

Paragraph (b) of this clause: the definition of "South African company" is amended to ensure that companies in a country which has been granted its independence by the Republic, will no longer be regarded as being South African companies. The dividends and interest received by such a company from the Republic will be subject to non-resident shareholders tax and non-residents tax on interest as in the case of companies in other countries.

CLAUSE 5.

Fixing of normal tax rates: Amendments to section 5 of the principal Act

The amendment introduced by *paragraph (a)* of this clause is of a textual nature.

The amendment introduced by *paragraph (b)* of this clause is consequential upon the amendment introduced by *paragraph (c)* of this clause.

Paragraph (c) of this clause introduces new subsections, numbered (3) to (7), inclusive, into section 5 of the principal Act, the provisions of which are shortly as follows:—

Subsection (3) empowers the Minister of Finance to increase or reduce the rate of any loan portion of the normal tax imposed by the latest Act of Parliament fixing the rates of such tax or, if that Act does not impose a loan portion, to impose such a loan portion. This power may be exercised when Parliament is not in session and the increase in the loan portion (or the amount of a new loan portion) may not exceed 10 per cent of the basic tax. The Minister's power must be exercised by way of an amendment of the said Act effected by a notice in the *Gazette*.

Subsection (4) defines what is meant by "basic tax". It is the normal tax payable before the addition of any surcharge or loan portion and before the deduction of any rebate.

Subsection (5) is designed to make it clear that the Minister may differentiate between individuals and companies and, in so far as companies are concerned, between different categories of taxable income.

Subsection (6) provides that any amendment effected by the Minister under subsection (3) will lapse on the date of promulgation of the Act of Parliament fixing rates of normal tax for the next year of assessment, unless

Parliament otherwise provides. In other words, the amendment made by the Minister will in practice have to be re-introduced in the next Income Tax Bill and be approved by Parliament if it is to continue in force.

Subsection (7) provides that where an assessment has been made and the rate of tax has subsequently been fixed (which may occur where an interim assessment is made before the rates are fixed) or the rate of tax has subsequently been varied (see the proposed new subsection (3)), the assessment must be adjusted. Subsection (7) takes the place of the proviso to subsection (2) which is deleted by paragraph (b) of this clause. The 3-year prescription period applicable under section 79 of the principal Act in respect of additional assessments and under section 102 in respect of refunds will also apply in relation to assessments which require to be adjusted under section 5 (7).

The amendment introduced by *paragraph (d)* of this clause is of a consequential nature.

CLAUSE 6

Abatements: Amendment to section 5A of the principal Act

The proposed amendment increases the abatement allowable to persons over the age of 60 years from R600 to R700.

CLAUSE 7

Antedated salaries and pensions: Amendment to section 7A of the principal Act

In terms of subsections (1) to (3), inclusive, of section 7A of the principal Act, which was introduced last year, antedated salaries and pensions, including bonuses payable to national servicemen upon completion of continuous periods of service of at least 18 months, may for taxation purposes be spread over the year of assessment and one or two of the preceding years of assessment. The amendment introduced by this clause is of a textual nature. The said subsections and the amendment are to have retrospective effect from the year of assessment ended 28 February 1975, i.e. in respect of amounts which under the ordinary taxation rules are regarded as having accrued during that year and did not then qualify for the concession under section 7A.

CLAUSE 8

Amounts deemed to be derived from sources in the Republic: Amendment to section 9 of the principal Act

In terms of section 9 (2) of the principal Act interest (including dividends) derived from a South African building society is deemed to be derived from a source within the Republic. In terms of the amendment introduced by this clause the provisions of section 9 (2) will in future apply only where such interest is received by or accrues to a person (other than a company) who is ordinarily resident in the Republic or is received by or accrues to a domestic company (i.e. a South African company or a company which is managed and controlled in the Republic).

The main practical effect of the amendment, read with the general provisions of the principal Act, is that an individual who is not ordinarily resident in the Republic will not be liable for normal tax on interest derived from a deposit made in a branch of a building society outside the Republic.

CLAUSE 9

Exemptions from normal tax: Amendments to section 10 of the principal Act

In terms of the amendment introduced by *paragraph (a)* of this clause, the exemption from normal tax under section 10 (1) (h) of the principal Act in respect of interest paid to non-residents on stock or securities issued by the Government, local authorities and the Electricity Supply Commission is extended to interest paid to non-residents on stock or securities issued by the South African Broadcasting Corporation, and the exemption is also to apply to all such interest paid to external companies, i.e. companies incorporated outside the Republic which are not managed and controlled in the Republic, provided they do not carry on business in the Republic.

In terms of the amendment introduced by *paragraph (b)* of this clause the maximum exemption (under section 10 (1) (i) (ii) of the principal Act) in respect of interest on Post Office Savings Bank Certificates is increased from R550 to R800.

The amendments introduced by *paragraphs (c) and (d)* of this clause remove an anomaly in regard to the taxation of dividends derived by an individual residing in the Republic from a company which is not a South African company. Basically the exemption under section 10 (1) (k) (v) of the principal Act applies if the individual acquired his shares in such company before he first took up residence in the Republic or if he acquired the shares by inheritance or if he acquired them by donation from a donor who at the date of the donation was not ordinarily resident in the Republic. In terms of the amendments the exemption in respect of dividends on inherited shares will be restricted to those cases where the deceased person from whom the shares were inherited was not immediately before his death ordinarily resident in the Republic. The anomaly that is removed is the situation where a South African resident who invests in a foreign company and is taxable on the dividends from the company, bequeaths the shares to another South African resident who is then, because he has inherited them, exempt from tax on his dividends.

Paragraph (e) of this clause introduces an exemption from normal tax in respect of the remuneration, allowances, bonuses and benefits paid by the State to national servicemen during their first compulsory training period or any voluntary extension of such period without a break in service. This is provided for in the new paragraph, numbered (mA), inserted in section 10 (1) of the principal Act. The exemption does not, however, apply to any additional service gratuity paid on completion of training periods of 18 or 24 months.

Paragraph (f) of this clause introduces an amendment to section 10 (1) (n) of the principal Act, whereby the exemption from normal tax in respect of allowances received by members of the defence forces in respect of uniforms, rations or lodgings will apply not only in time of war but also when there is peace.

CLAUSE 10

Exporters' Allowance: Amendments to section 11bis of the principal Act

In terms of the amendment introduced by *subclause (1) (a)* to the definition of "export country" in section 11bis (1), that term will not include any country which was formerly part of the Republic.

The exporters' allowance is based on an exporter's marketing expenditure, as determined under subsection (4) of section 11bis of the principal Act. Among the items allowable as marketing expenditure is included expenditure by way of premiums on certain kinds of insurance policy, as described in *paragraph (g)*

of the said subsection. The purpose of paragraph (g) is mainly to provide for premiums on special policies providing cover against failure of foreign importers to pay for imports. It is not the intention that premiums on ordinary marine policies should be allowed. The only insurer issuing the type of policy envisaged is the Credit Guarantee Insurance Corporation of Africa Limited.

The amendment introduced by *subclause* (1) (b) defines more closely the kind of policy contemplated and restricts the provisions of paragraph (g) to policies issued by the company mentioned above. The policy must insure against commercial risks which accompany the giving of credit to foreign importers or against political risks attendant upon an export trade.

In terms of section 11*bis* of the principal Act farmers who produce agricultural produce for export are regarded as carrying on an export trade, and where their produce is exported through a control board, a co-operative society, the S.A. Sugar Association or the Wool Board, any marketing expenditure incurred by such organization and passed on to the farmers is treated as having been incurred by them and the exporters' allowance is then granted to the farmers on such expenditure. In terms of the amendment introduced by *subclause* (1) (c) to section 11*bis* (4A) of the principal Act a marketing committee appointed by the Wattle Bark Industry Board under section 2 (2) (f) of the Wattle Bark Industry Act, No. 23 of 1960, is added to the list of organizations the members of which may be granted the allowance in the manner outlined above. In terms of *subclause* (2) this amendment is to apply for the purposes of assessments under the principal Act for years of assessment ending on or after 1 January 1976.

CLAUSE 11

Bantu workers training allowance: Amendments to section 11sept of the principal Act

The amendments, which are of a textual nature, are consequential upon the introduction of the Bantu Employees In-Service Training Bill the provisions of which will apply to the establishment, approval or recognition of training centres and schemes instead of the Bantu Education Act, No. 47 of 1953.

CLAUSE 12

Allowances for ships: Amendments to section 14 of the principal Act

The amendments are of a textual nature.

CLAUSE 13

Expenditure on soil erosion works by lessors of farms: Amendment to section 17A of the principal Act

The amendment is of a textual nature.

CLAUSE 14

Development allowance: Amendments to section 21ter of the principal Act

Section 21*ter* of the principal Act provides for the granting of a development allowance to industrialists who establish new industrial undertakings in economic development areas or effect extensions to existing industrial undertakings in such areas. The incentive allowances under the Income Tax Act were from time to time improved. Pioneer industrialists in some cases did not receive benefits on the same scale as those who followed. A new subsection, numbered (3A), is inserted in section 21*ter* by *subclause* (1) (d), in terms of which a supplementary allowance may be granted to the pioneer industrialists in much the same manner as the development allowance.

Subclause (1) (d) also inserts in the said section a new subsection, numbered (3B), in terms of which any cash grant made by the Secretary for Industries in lieu of the development allowance is exempted from normal tax and the industrialist is regarded as having enjoyed a corresponding tax saving as though that tax saving had been enjoyed in consequence of the granting of the development allowance, thus reducing the total tax saving which the industrialist may enjoy from the actual granting of the allowance.

In terms of the amendment introduced by *subclause (1) (i)* the provisions of section 21*ter* (7) are made applicable to the supplementary allowance, so that the parent company of a wholly-owned subsidiary may enjoy a part of the supplementary allowance which the subsidiary cannot itself enjoy, in the same way as the parent company may at present participate in a development allowance authorized to be granted to the subsidiary.

In terms of *subclause (1) (j)* a new subsection, numbered (8), is added to section 21*ter* providing for the continuance of the development allowance or the supplementary allowance where it was originally authorized to be granted to a wholly-owned subsidiary company of a domestic parent company in respect of an industrial undertaking in a Bantu development area which has become part of a country which has been granted its independence by the Republic. The parent company may be granted the allowance under subsection (7) but in that case any similar allowance granted to the subsidiary company by the said country will be taken into account.

The other amendments are of a consequential nature.

CLAUSE 15

Trading stock: Amendments to section 22 of the principal Act

The amendments are mainly of a textual nature and do not affect existing practice. It is provided therein that a person wishing to change to the LIFO basis of trading stock valuation must adopt this basis in his records, in annual financial statements prepared for shareholders or proprietors and in financial statements furnished for income tax purposes, and that he must obtain the consent of the Secretary to the change before he renders his first return of income in respect of which the LIFO basis is to be adopted. The conditions which the Secretary imposes are more accurately defined. The conditions may have the effect of deferring or accelerating liability for taxation.

CLAUSE 16

Taxable income from insurance business: Amendment to section 28 of the principal Act

The amendment is of a textual nature.

CLAUSE 17

Levy of non-resident shareholders tax: Amendment to section 41 of the principal Act

The amendment is of a textual nature.

CLAUSE 18

Income subject to non-resident shareholders tax: Amendments to section 42 of the principal Act

The provisions whereby a foreign company or a company managed and controlled in South West Africa was not liable for non-resident shareholders tax on dividends derived by it if it carried on business in the Republic, are deleted with effect from 31 March 1976.

CLAUSE 19

Undistributed profits tax: Amendment to section 48 of the principal Act

The rate of the undistributed profits tax is, with effect from years of assessment ending on or after 1 April 1976, increased from 25 per cent to 33 $\frac{1}{3}$ per cent of the amount (now called the distributable balance) by which a company's distributable income exceeds the dividends distributed by it during the specified period.

CLAUSE 20

Levy of donations tax: Amendment to section 54 of the principal Act

The amendment is of a textual nature.

CLAUSE 21

Levy of non-residents tax on interest: Amendment to section 64A of the principal Act

The amendment is of a textual nature.

CLAUSE 22

Income tax appeals: Amendment to section 83 of the principal Act

The amendment is consequential upon the amendment introduced by clause 24.

CLAUSES 23 AND 24

Appeals against special court decisions: Amendment to section 86 of the principal Act and introduction of section 86A into that Act

The amendment to section 86 of the principal Act which is introduced by clause 23 is consequential upon the introduction by clause 24 of a new procedure for appeals against decisions of income tax special courts. The existing procedure under section 86 will not apply where the procedure prescribed by the new section 86A is applicable. In practice, the provisions of section 86 will continue to apply only in respect of decisions in cases in which judgments are delivered by the special courts before the date referred to in clause 24 (2), i.e. the date fixed by the State President as the date on which the new section 86A will come into effect.

The more important changes in the procedure for appeals against decisions of the income tax special courts brought about by the new section 86A introduced by clause 24 are as follows:—

- (1) A full right of appeal is granted both on questions of fact and questions of law. (Under the existing provisions of section 86 a finding of fact cannot be appealed against except on certain limited grounds).
- (2) If the appellant wishes to appeal to the Appellate Division of the Supreme Court without an intermediate appeal to a provincial division, he must first obtain leave from the president of the special court. (Under the existing provisions of section 86 a direct appeal may be lodged by consent of the parties).
- (3) A preliminary procedure is provided in terms of which an intending appellant must lodge with the registrar of the special court a notice of his intention to appeal, stating *inter alia* in which division of the supreme court he wishes the appeal to be heard and, if in the Appellate Division, the contemplated grounds of the appeal. At a later stage the registrar calls upon the intending appellant to lodge his notice of appeal and the procedure thereafter is more or less the same as for an ordinary civil appeal.

- (4) The appellant will be responsible for preparing the record on appeal, after obtaining a transcript of the evidence from the registrar of the special court. The present procedure under section 86 requires the preparation of a stated case. This procedure is time-consuming and is abolished (except where an appeal still lies under section 86 or where a special case may be stated under the Rules of Court).

CLAUSE 25

Payment of tax pending appeal: Amendment to section 88 of the principal Act

The amendment is consequential upon the amendment introduced by clause 24.

CLAUSE 26

Service of documents: Amendments to section 106 of the principal Act

The amendment introduced by *paragraph (a)* of this clause to subsection (2) of section 106 of the principal Act makes it clear that that subsection applies to forms, notices, demands, documents or other communications which are issued, given, sent or served by the Secretary for Inland Revenue or any other officer under that Act.

Subsection (3) of section 106 of the principal Act refers to forms, notices, demands, documents or other communications which are issued, given, sent or served by registered or any other kind of post. In such case the form etc. is deemed to have been received at the time when it would in the ordinary course of post have arrived at the place to which it was addressed, unless the Secretary for Inland Revenue is satisfied it was not so received or was received at some other time. In terms of the amendment introduced by *paragraph (b)* of this clause it is further provided that where the time of receipt or the fact that it was received is in dispute in proceedings in any court the court may decide the matter. It is also provided that in criminal proceedings against any person for failure, refusal or neglect to do anything which he is required to do in terms of the form, notice, demand etc. the presumption under section 106 (3) as to the time of receipt thereof will not apply unless the form, notice, demand etc. was sent by registered or certified post.

CLAUSE 27

Application of provisions of the principal Act for the purposes of certain provincial taxes: Amendment to section 110bis of the principal Act

The amendment is of a textual nature.

CLAUSE 28

Values of livestock held by farmers: Amendments to paragraph 5 of the First Schedule to the principal Act

In terms of the First Schedule to the principal Act farmers are required to account for the values of livestock on hand at the beginning and end of each year of assessment. Paragraph 5 of that Schedule lays down what those values shall be. The amendments introduced by this clause to paragraph 5 bring about the following changes:—

- (1) Where the farmer is *a company or the estate of a deceased person*, the value to be placed on livestock is, in the case of livestock acquired by purchase, either the purchase price paid therefor or the price which, in the opinion of the Secretary, is the current market price of the livestock, and, in the case of livestock acquired otherwise than by purchase, the price which

in the opinion of the Secretary is the current market price of the livestock (paragraph 5 (3)). This provision is deleted with effect from the end of the first year of assessment of the company or estate ending on or after 1 January 1977. From then onwards companies and deceased estates will be required to account for livestock in the same manner as farmers who are natural persons, i.e. at standard values or, in the case of certain breeding stock acquired by purchase, at the purchase price less a depreciation allowance. See also the amendments introduced by clause 29 in regard to standard values. As to companies in liquidation see paragraph (3) below.

- (2) The general rule applicable to farmers other than companies and estates of deceased persons (which will, as mentioned above, in future also apply to companies and such estates) is that livestock must be valued at standard values or, in the case of *livestock purchased for breeding purposes* at prices in excess of amounts laid down in the law, at the purchase price thereof less a depreciation allowance. The amounts laid down in the law are in terms of the amendments increased by approximately 50 per cent, e.g. the amount for a bull is increased from R400 to R600. The new amounts will apply to livestock purchased during years of assessment ending on or after 1 January 1977. Livestock purchased before those years will continue to be valued on the existing basis.
- (3) *A company in liquidation* will in its final accounting for livestock on hand be required to account therefor at current market prices. A similar rule applies to a farmer (other than a company) whose estate is sequestrated. See *paragraph (c)* of this clause.

CLAUSE 29

Standard values of farmers' livestock: Amendments to paragraph 6 of the First Schedule to the principal Act

In terms of the amendments introduced by this clause to paragraph 6 of the First Schedule to the principal Act, the standard values of livestock held by companies and executors of deceased estates which carry on farming operations will, as in the case of other farmers, be the standard values fixed by regulation or such standard values as the company or the executor of the estate may adopt. Such values may be adopted when the return of income for the first year of assessment of the company or estate ending on or after 1 January 1977 is rendered or, where a new class of livestock is included for the first time in a return for a subsequent year of assessment, when the return for such subsequent year is rendered. See also the amendments introduced by clause 28, in terms of which companies and estates of deceased persons will have to account for livestock at standard values in the same manner as other farmers.

CLAUSE 30

Farmers: Equalising of rates: Amendment to paragraph 19 of First Schedule to principal Act

The amendment is consequential upon the amendments introduced by clause 5.

CLAUSE 31

Farmers: Excess profits in consequence of expropriations of farms: Amendments to paragraph 20 of the First Schedule to the principal Act

Paragraph 20 of the First Schedule to the principal Act provides for the levying of normal tax at a low rate on excess profits derived by a farmer in consequence of the sale of his farm to the South African Bantu Trust. In terms of the amendments to that paragraph introduced by this clause the provisions of

that paragraph are extended so as to apply generally in respect of excess farming profits derived in consequence of sales of farms to the State, certain local authorities and juristic persons or bodies mentioned in section 3 (2) of the Expropriation Act, No. 63 of 1975. Where the farm is acquired by the State or a local authority or a juristic person or body, there must be produced a certificate given by the head of the department of State or the administration concerned in the acquisition or by the chief executive officer of the local authority or juristic person or body, as the case may be, to the effect that the State or such administration, local authority, juristic person or body has acquired the farm. Where the farm is acquired by such juristic person or body there must be produced a further certificate given by a Minister referred to in section 3 (1) of the said Act to the effect that the farm was acquired by the juristic person or body by expropriation or, where the owner agreed to dispose of it, to the effect that if the owner had not so agreed, steps would have been taken for the expropriation of the land.

CLAUSES 32 AND 33

Tables prescribed for employees tax purposes and for use by provisional taxpayers:

Amendments to paragraphs 9 and 17 of the Fourth Schedule to the principal Act

In terms of paragraphs 9 and 17 of the Fourth Schedule to the principal Act the Secretary for Inland Revenue may prescribe tables for employees tax purposes or tables for optional use by provisional taxpayers. In terms of the amendments introduced by clauses 32 and 33 the Secretary is, when prescribing such tables, required to have regard to any variation of the rates of normal tax (i.e. of the loan portion) effected by the Minister of Finance under section 5 (3) of the principal Act. In the case also of provisional taxpayers who do not use such tables (mainly companies), any variation of the rates of normal tax effected by the Minister under the said section 5 (3) will have to be applied for the purposes of calculating provisional tax. See also clause 5.

CLAUSE 34

Exemptions from the payment of the loan portion of the normal tax: Amendment to paragraph 2 of the Fifth Schedule to the principal Act

In terms of paragraph 2 (4) of the Fifth Schedule to the principal Act a natural person over the age of 65 years is exempt from the payment of the loan portion of the normal tax if his taxable income for the year of assessment does not exceed R5 000. In terms of the amendment introduced by this clause the age is reduced to 60 years.

CLAUSE 35

Payment of the loan portion of the normal tax into the loan account: Amendments to paragraph 4 of the Fifth Schedule to the principal Act

Paragraph 4 (1) of the Fifth Schedule to the principal Act provides for payments into the loan account referred to in the General Loans Act, No. 16 of 1961, of amounts collected in respect of the loan portion of the normal tax. As the loan account has been abolished paragraph 4 (1) is no longer necessary and is deleted by *paragraph (a)* of this clause.

The amendments to paragraph 4 (2) of the Fifth Schedule introduced by *paragraph (b)* of this clause are consequential upon the abolition of the loan account and the inclusion in the Rehoboth Self-Government Act, 1976, of a provision (section 25 (2)) whereby certain taxes on income have to be paid into the Rehoboth Revenue Fund. The State will retain the loan portions of the taxes which would otherwise have to be paid into the Transkeian Revenue Fund, the Revenue Fund of a Bantu homeland or the Rehoboth Revenue Fund, as those portions have in due course to be repaid by the State and not out of any of the said Revenue Funds.

The amendment introduced by *paragraph (c)* of this clause is of a consequential nature.

CLAUSE 36

Amendment to section 35 of the Income Tax Act, 1974

The amendment is of a textual nature.

CLAUSE 37

Income tax appeals in South West Africa: Amendment to section 59 of the Income Tax Ordinance, 1974, of South West Africa

The amendment is consequential upon the amendment introduced by clause 39.

CLAUSES 38 AND 39

Appeals against special court decisions in South West Africa: Amendment to section 62 of the Income Tax Ordinance, 1974, of South West Africa, and introduction of section 62A into that Ordinance

The amendments introduced by clauses 38 and 39 bring the procedures in respect of appeals against decisions of the income tax special court of South West Africa into line with the procedures for similar appeals in the Republic, as provided for in clauses 23 and 24.

CLAUSE 40

Payment of tax pending appeal: Amendment to section 64 of the Income Tax Ordinance, 1974, of South West Africa

The amendment is consequential upon the amendment introduced by clause 39.

CLAUSE 41

Commencement of certain amendments

For the purposes of assessments of normal tax and undistributed profits tax the amendments introduced by the Bill to the principal Act are, except where otherwise provided or the context otherwise indicates, to take effect from years of assessment ending on or after 1 January 1977.

CLAUSE 42

The Act is to apply also in South West Africa. This does not affect the liability for normal tax of persons (other than companies) in respect of income derived from sources in South West Africa, as such income is taxed under an ordinance of that territory.

CLAUSE 43

This clause gives the short title of the Act.

THE SCHEDULE

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