STAATSKOERANT
VAN DIE REPUBLIEK VAN SUID-AFRIKA
REPUBLIC OF SOUTH AFRICA
GOVERNMENT GAZETTE

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GOEWERMENTSKENNISGEWING

DEPARTMENT VAN FINANSIES

No. 1 4 Januarie 1982

KOMMISSIE VAN ONDERSOEK INSAKE DIE BEPALING, VIR BELASTINGDOELEINDES, VAN DIE WAARDE VAN VOORDELE (MET INBEGRIP VAN TOELAE) VOORTSPRUITEND UIT DIE LEWERING VAN DIENS OF DIE BEKLEDING VAN 'N AMP EN NA VERWANTE AANGELEENTHEDE

Hierby word vir algemene inligting bekendgemaak dat dit die Staatspresident behaag het om die volgende kennisgewing uit te vaardig:

Kennisgewing van die Staatspresident van die Republiek van Suid-Afrika

Aan:

Mnr. Gert Jeremias Kotzé, L.V.
Mnr. George Shepstone Bartlett, L.V.
Mnr. Brian Bradford Goodall, L.V.
Mnr. Eli van der Merwe Louw, L.V.
Dr. Georg Marais, L.V.
Mnr. Daniel Pieter Antonie Schutte, L.V.
Mnr. Harry Heinz Schwarz, L.V.
Mnr. Charles Henry Whellan Simkin, L.V.
Mnr. Karel David Swanepoel, L.V.
Mnr. Adriaan Johannes Vlok, L.V.

Saluut!

Nademaal ek dit dienstig ag om 'n kommissie aan te stel om ondersoek in te stel na en aanbevelings te doen oor die aangeleenthede hieronder genoem;

So is dit dat ek, aangesien ek groot vertroue in u kennis, oordeel en bekwaamheid stel, u hierby tot lede van 'n kommissie magtig en benoem, en u, mnr. Gert Jeremias Kotzé, L.V., tot Voorsitter.

Die opdrag van die kommissie is om:

Voorstelle met betrekking tot die statutêre bepaling van die waarde van voordele wat ingevolge die bepalings van paragraaf (i) van die omskrywing van "bruto inkomste" in artikel 1 van die Inkomstebelastingwet, 1962 (Wet 58 van 1962), by bruto inkomste ingesluit moet

GOVERNMENT NOTICE

DEPARTMENT OF FINANCE

No. 1 4 January 1982

COMMISSION OF INQUIRY IN REGARD TO THE DETERMINATION, FOR INCOME TAX PURPOSES, OF THE VALUE OF BENEFITS (INCLUDING ALLOWANCES) ARISING FROM EMPLOYMENT OR THE HOLDING OF AN OFFICE AND TO RELATED MATTERS

It is hereby notified for general information that the State President has been pleased to issue the following notice:

Notice by the State President of the Republic of South Africa

To:

Mr Gert Jeremias Kotzé, M.P.
Mr George Shepstone Bartlett, M.P.
Mr Brian Bradford Goodall, M.P.
Mr Eli van der Merwe Louw, M.P.
Dr Georg Marais, M.P.
Mr Daniel Pieter Antonie Schutte, M.P.
Mr Harry Heinz Schwarz, M.P.
Mr Charles Henry Whellan Simkin, M.P.
Mr Karel David Swanepoel, M.P.
Mr Adriaan Johannes Vlok, M.P.

Greetings!

Whereas I deem it expedient to appoint a commission to inquire into and make recommendations on the matters mentioned hereinafter;

Now, therefore, by reason of the great trust I repose in your knowledge, judgment and ability, I hereby authorise and appoint you to be members, and you, Mr Gert Jeremias Kotzé, M.P., to be Chairman, of a commission.

The commission's terms of reference are to:

Consider and report on proposals with regard to the statutory determination of the value of benefits which must be included in gross income in terms of the provisions of paragraph (i) of the definition of "gross income"

word en verwante aangeleenthede soos vervat in die Konsepwetsontwerp wat in hierdie *Staatskoerant* gepubliseer is, te oorweeg en daaroor verslag te doen.

Die Kommissie sal bevoegdheid hê om getuienis af te neem en stukke te vorder en word opdrag gegee om sy verslag nie later nie as 22 Februarie 1982 in te dien.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Durban, op hede die Twee-en-twintigste dag van Desember Eenduisend Negehonderd Een-en-tagtig.

M. VILJOEN, Staatspresident.

Op las van die Staatspresident-in-rade:

O. P. F. HORWOOD.

Belanghebbende persone en instansies word versoek om teen nie later nie as 18 Januarie 1982 enige skriftelike kommentaar of versoeke om persoonlik getuienis voor die Kommissie af te lê *in tweevoud* aan die Sekretaris, Kommissie van Ondersoek insake die Bepaling, vir Belastingdoeleindes, van die Waarde van Voordele (met inbegrip van toelae) voortspruitend uit die Lewering van Diens of die Bekleding van 'n Amp en na Verwante Aangeleenthede, Posbus 661, Kaapstad, 8000, te rig.

in section 1 of the Income Tax Act, 1962 (Act 58 of 1962), and related matters as set out in the Draft Bill published in this *Government Gazette*.

The Commission will have powers to take evidence and to call for papers and is instructed to submit its report not later than 22 February 1982.

Given under my Hand and the Seal of the Republic of South Africa at Durban this Twenty-second day of December, One thousand Nine hundred and Eighty-one.

M. VILJOEN, State President.

By Order of the State President-in-Council:

O. P. F. HORWOOD.

Interested persons and bodies wishing to personally give evidence before the Commission are invited to submit by not later than 18 January 1982 any written representations or requests *in duplicate* to the Secretary, Commission of Inquiry in regard to the Determination of the Value of Benefits (including allowances) arising from Employment or the Holding of an Office and to Related Matters, P.O. Box 661, Cape Town, 8000.

PROKLAMASIE

van die Staatspresident van die Republiek van Suid-Afrika

No. 2, 1982

TOEPASSING VAN DIE KOMMISSIEWET, 1947, OP DIE KOMMISSIE VAN ONDERSOEK INSAKE DIE BEPALING, VIR INKOMSTEBELASTINGDOELEINDES, VAN DIE WAARDE VAN VOORDELE (MET INBEGRIP VAN TOELAE) VOORTSPRUITEND UIT DIE LEWERING VAN DIENS OF DIE BEKLEDING VAN 'N AMP EN NA VERWANTE AANGELEENTHEDE

Kragtens die bevoegdheid my verleen by artikel 1 van die Kommissiewet, 1947 (Wet 8 van 1947), verklaar ek hierby dat die bepalings van daardie Wet van toepassing is op die Kommissie van Ondersoek insake die Bepaling, vir Inkomstebelastingdoeleindes, van die Waarde van Voordele (met inbegrip van toelae) voortspruitend uit die Lewering van Diens of die Bekleding van 'n Amp en na Verwante Aangeleenthede.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Durban, op hede die Twee-en-twintigste dag van Desember Eenduisend Negehonderd Een-en-tagtig.

M. VILJOEN, Staatspresident.

Op las van die Staatspresident-in-rade:

O. P. F. HORWOOD.

PROCLAMATION

by the State President of the Republic of South Africa

No. 2, 1982

APPLICATION OF THE COMMISSIONS ACT, 1947, TO THE COMMISSION OF INQUIRY IN REGARD TO THE DETERMINATION, FOR INCOME TAX PURPOSES, OF THE VALUE OF BENEFITS (INCLUDING ALLOWANCES) ARISING FROM EMPLOYMENT OR THE HOLDING OF AN OFFICE AND TO RELATED MATTERS

Under the powers vested in me by section 1 of the Commissions Act, 1947 (Act 8 of 1947), I hereby declare that the provisions of that Act shall apply to the Commission of Inquiry in regard to the Determination, for Income Tax Purposes, of the Value of Benefits (including allowances) arising from Employment or the Holding of an Office and to Related Matters.

Given under my Hand and the Seal of the Republic of South Africa at Durban this Twenty-second day of December, One thousand Nine hundred and Eighty-one.

M. VILJOEN, State President.

By Order of the State President-in-Council:

O. P. F. HORWOOD.

WETSONTWERP

Tot wysiging van die Inkomstebelastingwet, 1962, om verdere voorsiening te maak vir die belasting van sekere voordele verkry uit diens; tot wysiging van die Konsolidasiewet op Finansie- en Finansiële Reëlingswette, 1977, om 'n vrystelling van inkomstebelasting ten opsigte van sekere behuisingsvoordele te herroep; tot wysiging van die Wet op Besoldiging van Regters, 1978, om 'n vrystelling van inkomstebelasting ten opsigte van sekere toelaes te skrap; en om vir bykomstige aangeleenthede voorsiening te maak

Ingedien deur die Minister van Finansies

Daar word bepaal deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:

BILL

To amend the Income Tax Act, 1962, so as to further provide for the taxation of certain benefits derived from employment; to amend the Finance and Financial Acts Consolidation Act, 1977, so as to repeal an exemption in respect of certain housing benefits; to amend the Judges' Remuneration Act, 1978, so as to delete an exemption from income tax in respect of certain allowances; and to provide for incidental matters.

Introduced by the Minister of Finance

Be it enacted by the State President and the House of Assembly of the Republic of South Africa, as follows:

Wysiging van artikel 1 van Wet 58 van 1962

1. Artikel 1 van die Inkomstebelastingwet, 1962 (Wet 58 van 1962), hieronder die Hoofwet genoem, word hierby gewysig—

(a) deur die volgende voorbehoudsbepaling by paragraaf (c) van die omskrywing van "bruto inkomste" by te voeg:

"Met dien verstande dat—

(i) die bepalings van hierdie paragraaf nie van toepassing is nie ten opsigte van 'n voordeel of bate ten opsigte waarvan die bepalings van paragraaf (*i*) van toepassing is;

(ii) 'n bedrag ontvang deur of toegeval aan of ten voordele van 'n persoon ten opsigte van dienste wat deur 'n ander persoon gelewer is of moet word, vir die doeleindes van hierdie omskrywing geag word ontvang te gewees het deur of toe te geval het aan bedoelde ander persoon;

(iii) behoudens die bepalings van paragraaf (iv) van hierdie voorbehoudsbepaling, 'n bedrag ontvang deur of toegeval aan 'n werknemer of die bekleër van 'n amp by wyse van 'n toelae of voorskot verleen deur sy prinsipaal (synde sy werkgewer of die owerheid, maatskappy, liggaam of ander instelling in verband waarmee bedoelde amp beklee word), sodat bedoelde toelae of voorskot geheel of gedeeltelik gebruik kan word vir die doeleindes van die bestryding van onkoste aangegaan of aangegaan te word by die onthaal van persone, vir die doeleindes van hierdie paragraaf geag word ontvang te gewees het deur of toe te geval het aan bedoelde werknemer of ampsbekleër, na gelang die geval, ten opsigte van dienste wat deur hom gelewer is of moet word, maar hierdie paragraaf is nie van toepassing nie ten opsigte van enige gedeelte van so 'n toelae of voorskot wat, volgens die Kommissaris se oortuiging, nie betrekking het op genoemde onkoste nie;

(iv) die bepalings van paragraaf (iii) van hierdie voorbehoudsbepaling nie van toepassing is nie ten opsigte van 'n bedrag ontvang deur of toegeval aan 'n werknemer of ampsbekleër in die mate waarin bedoelde bedrag 'n voorskot is vir of 'n terugbetaling is van onkoste werklik gedurende die jaar van aanslag deur die werknemer of ampsbekleër aangegaan of aangegaan te word by die onthaal, in opdrag van sy genoemde prinsipaal, van persone ten behoewe van bedoelde prinsipaal, mits die werknemer of ampsbekleër aan genoemde prinsipaal bewys gelewer het dat bedoelde onkoste soos voormeld aangegaan is en aan hom rekenskap gegee het van bedoelde onkoste;";

(b) deur paragraaf (*i*) van genoemde omskrywing deur die volgende paragraaf te vervang:

"(*i*) die kontantekwivalent, soos bereken ingevolge die bepalings van die Sewende Bylae, van die waarde gedurende die jaar van aanslag [van kwartiere of losies of huisvesting of] van enige [ander] voordeel of bate ten opsigte van diens of aan 'n ampsbekleër verleen, synde 'n belasbare voordeel soos omskryf in genoemde Bylae, [met inbegrip van] en 'n bedrag wat ingevolge artikel 8A by die belastingpligtige se inkomste ingereken moet word;".

Wysiging van artikel 8 van Wet 58 van 1962

2. (1) Artikel 8 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) (a) Soveel van enige bedrag wat deur 'n persoon betaal is as 'n toelae of voorskot aan 'n direkteur, bekleër van 'n amp, bestuurder, werknemer of ander persoon ten opsigte van [reis of onthaalkoste] die onkoste van enige reis vir besigheidsdoeleindes of van enige ander dienste of onkoste aangegaan uit hoofde van die bekleding van 'n amp (uitgesonderd 'n toelae of voorskot in die bruto inkomste

Amendment of section 1 of Act 58 of 1962

1. Section 1 of the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, is hereby amended—

(a) by the addition to paragraph (c) of the definition of "gross income" of the following proviso:

"Provided that—

(i) the provisions of this paragraph shall not apply in respect of any benefit or advantage in respect of which the provisions of paragraph (*i*) apply;

(ii) any amount received by or accruing to or for the benefit of any person in respect of services rendered or to be rendered by any other person shall for the purposes of this definition be deemed to have been received by or to have accrued to the said person;

(iii) subject to the provisions of paragraph (iv) of this proviso, any amount received by or accruing to any employee or the holder of any office by way of an allowance or advance granted by his principal (being his employer or the authority, company, body or other organization in relation to which such office is held) in order that such allowance or advance may in whole or in part be utilised for the purpose of defraying expenditure incurred or to be incurred in entertaining persons, shall for the purposes of this paragraph be deemed to have been received by or to have accrued to such employee or office holder, as the case may be, in respect of services rendered or to be rendered by him, but this paragraph shall not apply in respect of any portion of any such allowance or advance as the Commissioner is satisfied does not relate to the said expenditure;

(iv) the provisions of paragraph (iii) of this proviso shall not apply in respect of any amount received by or accruing to any employee or office holder to the extent to which such amount is an advance for, or a reimbursement of, expenditure actually incurred or to be incurred during the year of assessment by the employee or office holder on the instruction of his aforesaid principal in entertaining persons on behalf of such principal, provided the employee or office holder has produced proof to the said principal that such expenditure was incurred as aforesaid and has accounted to him for such expenditure;";

(b) by the substitution for paragraph (*i*) of the said definition of the following paragraph:

"(*i*) the cash equivalent, as determined under the provisions of the Seventh Schedule, of the value during the year of assessment [of any quarters or board or residence or] of any [other] benefit or advantage granted in respect of employment or to the holder of any office, being a taxable benefit as defined in the said Schedule, [including] and any amount required to be included in the taxpayer's income under section 8A;".

Amendment of section 8 of Act 58 of 1962

2. Section 8 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) (a) So much of any amount which has been paid by any person as an allowance or advance to a director, holder of any office, manager, employee or other person in respect of the expenses of any travelling [entertainment] on business or of any other service or any expenses incurred by reason of the holding of any office (excluding any allowance or advance included in the gross income of the recipient under the provisions of paragraph (iii) of the proviso

van die ontvanger ingesluit ingevolge die bepalings van paragraaf (iii) van die voorbehoudsbepaling by paragraaf (c) van die omskrywing van 'bruto inkomste' in artikel 1), as wat nie volgens die Kommissaris se oortuiging werklik deur die ontvanger aan sodanige reis [of onthaal] of by die verrigting van sodanige dienste of omrede die pligte verbonde aan sy amp bestee is nie, word geag deel van die belasbare inkomste van die ontvanger uit te maak.

(b) By die toepassing van paragraaf (a)—

(i) word 'n toelae of voorskot ten opsigte van reiskoste, in die mate waarin bedoelde toelae of voorskot deur die ontvanger bestee is aan private reise (met inbegrip van reise tussen sy woonplek en sy werk- of besigheidsplek of ander reise vir sy private of huishoudelike doeleindes onderneem) geag nie werklik aan reis vir besigheidsdoeleindes bestee te gewees het nie: Met dien verstande dat die gedeelte van bedoelde toelae of voorskot wat ten opsigte van die jaar van aanslag eindigende op 28 Februarie 1983 ingevolge hierdie paragraaf verreken staan te word as synde op private reis bestee te gewees het, 50 persent is van die volle bedrag vasgestel ingevolge hierdie paragraaf, voor die toepassing van hierdie voorbehoudsbepaling, as synde aldus bestee te gewees het;

(ii) behoudens die bepalings van subparagraaf (iii), waar bedoelde toelae of voorskot aan die ontvanger betaal is sodat dit gebruik kan word vir die bestryding van uitgawes ten opsigte van 'n motorvoertuig deur die ontvanger gebruik, word die ontvanger, tensy die teendeel blyk, geag gedurende die jaar van aanslag by die gebruik van bedoelde voertuig vir bedoelde private reise 'n bedrag te bestee het wat vasgestel word teen die skaal per kilometer wat die Minister van Finansies by kennisgewing in die *Staatskoerant* bepaal het vir die kategorie voertuig wat gebruik is, oor 'n afstand van 10 000 kilometers of sodanige korter afstand as wat, na tot bevrediging van die Kommissaris bewys word, werklik gedurende bedoelde jaar vir private reise afgelê is of, waar die voertuig gebruik is gedurende 'n tydperk binne bedoelde jaar van aanslag wat minder as die volle tydperk van bedoelde jaar is, oor 'n afstand wat in dieselfde verhouding tot 10 000 kilometers staan as die verhouding waarin die tydperk van gebruik tot 12 maande staan, of oor sodanige korter afstand wat aldus bewys word;

(iii) waar bedoelde toelae of voorskot gebaseer is op die werklike afstand wat deur die ontvanger afgelê is met die gebruik van 'n motorvoertuig op besigheid (behalwe die genoemde private reise), of waar bedoelde werklike afstand tot bevrediging van die Kommissaris bewys word, word die bedrag deur die ontvanger aan bedoelde besigheidsreise bestee, geag, tensy die teendeel blyk, 'n bedrag te wees wat oor bedoelde werklike afstand vasgestel is teen die skaal per kilometer wat die Minister van Finansies by kennisgewing in die *Staatskoerant* vir die kategorie voertuig wat gebruik is.

(c) Waar 'n toelae aan die bekleër van 'n amp of aan 'n werknemer gegee word vir onkoste aangegaan of wat aangegaan staan te word ten opsigte van persoonlike verblyf en toevallige uitgawes terwyl bedoelde ampsbekleër of werknemer van sy hoofkwartier afwesig is met die doel om die pligte van sy amp of diens te vervul en hy weens bedoelde afwesigheid verplig is om ten minste een nag weg van sy gewone woonplek deur te bring, word soveel van bedoelde toelae as wat nie 'n bedrag bereken teen R50 vir elke dag of gedeelte van 'n dag in die tydperk waartydens hy aldus afwesig is, te bowe gaan nie, vir die doeleindes van paragraaf (a) geag werklik deur hom bestee te gewees het ten opsigte van die genoemde onkoste: Met dien verstande dat die bepalings van hierdie paragraaf nie van toepassing is nie indien bedoelde ampsbekleër of werknemer bewys lewer dat die uitgawes aldus deur hom aangegaan die bedrag aldus bereken te bowe gaan.''.

to paragraph (c) of the definition of 'gross income' in section 1) as the Commissioner is not satisfied was actually expended by the recipient on such travelling (or entertainment) or in the performance of such service, or by reason of the duties attendant upon his office, shall be deemed to be part of the taxable income of the recipient.

(b) For the purposes of paragraph (a)—

(i) any allowance or advance in respect of transport expenses shall, to the extent to which such allowance or advance has been expended by the recipient on private travelling (including travelling between his place of residence and his place of employment or business or any other travelling done for his private or domestic purposes), be deemed not to have been actually expended on travelling on business: Provided that the portion of such allowance or advance which is in respect of the year of assessment ending on 28 February 1983 to be accounted for under this paragraph as having been expended on private travelling shall be 50 per cent of the full amount determined under this paragraph, before the application of this proviso, as having been so expended;

(ii) subject to the provisions of subparagraph (iii), where such allowance or advance has been paid to the recipient in order that it may be utilised for defraying expenditure in respect of any motor vehicle used by the recipient, the recipient shall, unless the contrary appears, be deemed to have expended during the year of assessment in using such vehicle for such private travelling an amount determined at the rate per kilometre fixed by the Minister of Finance by notice in the *Gazette* for the category of vehicle used on a distance of 10 000 kilometres or such shorter distance as is shown to the satisfaction of the Commissioner to have been actually covered during such year on private travelling or, where the vehicle has been used during a period in such year of assessment which is less than the full period of such year, on a distance which bears to 10 000 kilometres the same ratio as the period of use bears to 12 months, or on such shorter distance as is so shown;

(iii) where such allowance or advance is based on the actual distance travelled by the recipient in using a motor vehicle on business (excluding the said private travelling), or such actual distance is proved to the satisfaction of the Commissioner, the amount expended by the recipient on such business travelling shall, unless the contrary appears, be deemed to be an amount determined on such actual distance at the rate per kilometre fixed by the Minister of Finance by notice in the *Gazette* for the category of vehicle used.

(c) Where any allowance is given to the holder of any office or to any employee for expenses incurred or to be incurred in respect of personal subsistence and incidental costs while such office holder or employee is absent from his headquarters for the purposes of performing the duties of his office or employment and by reason of such absence he is obliged to spend at least one night away from his usual place of residence, so much of such allowance as does not exceed an amount calculated at the rate of R50 for each day or part of a day in the period during which he is so absent, shall be deemed for the purposes of paragraph (a) to have been actually expended by him in respect of the said expenses: Provided that the provisions of this paragraph shall not apply if such office holder or employee proves that the expenses so incurred by him exceed the amount so calculated.''.

Wysiging van artikel 8B van Wet 58 van 1962

3. Artikel 8B van die Hoofwet word hierby gewysig deur na paragraaf (b) van subartikel (3) die volgende paragraaf in te voeg:

"(c) ten opsigte van 'n bedrag betaal of 'n bate uitgekeer indien vanweë die betaling van bedoelde bedrag of die uitkering van bedoelde bate die aandeelhouer 'n belasbare voordeel verkry het soos in die Sewende Bylae beoog en die kontantekwivalent van bedoelde belasbare voordeel in die aandeelhouer se bruto inkomste ingesluit is ingevolge die bepalings van paragraaf (*i*) van die omskrywing van 'bruto inkomste' in artikel 1;"

Wysiging van artikel 9 van Wet 58 van 1962

4. Artikel 9 van die Hoofwet word hierby gewysig deur die volgende voorbehoudsbepaling by paragraaf (e) van subartikel (1) te voeg:

"Met dien verstande voorts dat die bepalings van hierdie paragraaf nie uitgelê word in die sin dat dit aanspreeklikheid vir belasting kragtens hierdie Wet oplê op 'n betaling gemaak aan iemand in diens van die Regering (soos hierin beoog) en wat buite die Republiek gestasioneer is by wyse van 'n toelae ter bestryding van onkoste deur so iemand in verband met sy ampspligte buite die Republiek aangegaan nie;".

Wysiging van artikel 10 van Wet 58 van 1962

5. Artikel 10 (1) van die Hoofwet word hierby gewysig—

(a) deur die volgende paragrawe na paragraaf (nA) in te voeg:

"(nB) 'n voordeel of bate wat aan 'n werknemer (soos in paragraaf 1 van die Sewende Bylae omskryf) toegeval het weens die feit dat sy werkgewer (soos in die genoemde paragraaf omskryf), as gevolg van die oorplasing van die werknemer vanaf een diensplek na 'n ander diensplek of die aanstelling van die werknemer as 'n werknemer van die werkgewer of die beëindiging van die werknemer se diens, die onkoste gedra het—

(i) van die vervoer van bedoelde werknemer, lede van sy huisgesin en die persoonlike goed en besittings van hom en die lede van sy huisgesin vanaf sy vorige woonplek na sy nuwe woonplek; of

(ii) wat deur die werknemer aangegaan is by sy intrek in permanente huisvesting by sy nuwe woonplek; of

(iii) van die huur van huisvesting in 'n hotel of elders vir die werknemer of lede van sy huisgesin gedurende die tydperk wat eindig 183 dae na sy oorplasing in werking getree het of na hy sy diens aanvaar het, na gelang van die geval, indien bedoelde huisvesting tydelik bywoon is hangende die verkryging van permanent huisvesting;

(nC) 'n voordeel of bate wat aan 'n werknemer toeval by wyse van 'n toevallige vergunning, bydrae of ander betaling deur sy werkgewer gemaak ten opsigte van die koste van die opvoeding van bedoelde werknemer se kind of kinders, indien die besoldiging deur bedoelde werknemer van sy werkgewer verkry gedurende die jaar van aanslag waarin bedoelde voordeel of bate aan die werknemer toeval R6 000 nie te bowe gaan nie en die totaal van die waardes (synde die bedrae wat by onstentenis van hierdie paragraaf in die werknemer se inkomste ingevolge hierdie Wet ingesluit sou gewees het) van alle bedoelde voordele of bates wat gedurende bedoelde jaar aan die werknemer toeval R500 nie te bowe gaan nie;

(nD) 50 persent van die belasbare gedeelte van 'n toelae of voorskot (behalwe 'n toelae of voorskot waarop die

Amendment of section 8B of Act 58 of 1962

3. Section 8B of the principal Act is hereby amended by the insertion after paragraph (b) of subsection (3) of the following paragraph:

"(c) in respect of any amount paid or any asset distributed by a company (excluding an amount paid to a shareholder of the company by way of a loan or advance, unless such loan or advance is made under a housing scheme applying generally to employees of such company), if by reason of the payment of such amount or the distribution of such asset the shareholder has derived any taxable benefit contemplated in the Seventh Schedule and the cash equivalent of such taxable benefit has been included in the shareholder's gross income under the provisions of paragraph (*i*) of the definition of 'gross income' in section 1.".

Amendment of section 9 of Act 58 of 1962

4. Section 9 (1) of the principal Act is hereby amended by the addition to paragraph (e) of the following proviso:

"Provided further that nothing in this paragraph shall be construed as imposing liability for taxation under this Act upon any payment made to any person who is employed by the Government (as herein contemplated) and is stationed outside the Republic, by way of an allowance for the purpose of meeting expenditure incurred by such person in connection with his official duties outside the Republic;".

Amendment of section 10 of Act 58 of 1962

5. Section 10 (1) of the principal Act is hereby amended—

(a) by the insertion after paragraph (nA) of the following paragraphs:

"(nB) any benefit or advantage accruing to any employee (as defined in paragraph 1 of the Seventh Schedule) by reason of the fact that his employer (as defined in the said paragraph) has, in consequence of the transfer of the employee from one place of employment to another place of employment or the appointment of the employee as an employee of the employer or the termination of the employee's employment, borne the expense—

(i) of transporting such employee, members of his household and the personal goods and possessions of himself and the members of his household from his previous place of residence to his new place of residence; or

(ii) incurred by the employee in settling in permanent residential accommodation at his new place of residence; or

(iii) of hiring residential accommodation in an hotel or elsewhere for the employee or members of his household during the period ending 183 days after his transfer took effect or after he took up his appointment, as the case may be, if such residential accommodation was occupied temporarily pending the obtaining of permanent residential accommodation;

(nC) any benefit or advantage accruing to any employee by way of an occasional grant, contribution or other payment made by his employer in respect of the expenses of educating such employee's child or children, if the remuneration derived by such employee from his employer during the year of assessment during which such benefit or advantage accrues to the employee does not exceed R6 000 and the aggregate of the values (being the amounts which would but for this paragraph be included in the employee's income under this Act) of all such benefits or advantages accruing to the employee during such year does not exceed R500;

(nD) 50 per cent of the taxable portion of any allowance or advance (other than any allowance or advance to

bepalings van paragraaf (iii) van die voorbehoudsbepaling by paragraaf (c) van die omskrywing van 'bruto inkomste' in artikel 1 van toepassing is) wat—

(i) ontvang word deur of toeval aan 'n werknemer of die bekleder van 'n amp gedurende die jaar van aanslag eindigende op 28 Februarie 1983 ter bestryding van onkoste gedurende daardie jaar aangegaan in verband met die diens van bedoelde werknemer of die bekleding van bedoelde amp, na gelang van die geval, en

(ii) indien bedoelde toelae of voorskot gedurende die jaar van aanslag eindigende op 28 Februarie 1982 ontvang sou gewees het of sou toegeval het ingevolge die bepalings van hierdie Wet of 'n ander wet nie aan belasting onderworpe sou gewees het nie,

bedoelde belasbare gedeelte synde die bedrag wat by ontstentenis van hierdie paragraaf ingevolge die bepalings van artikel 8 (1) (a) by die belasbare inkomste van bedoelde werknemer of ampsbekleër insluitbaar sou wees: Met dien verstande dat die vrystelling ingevolge hierdie paragraaf nie van toepassing is nie ten opsigte van enige gedeelte van bedoelde toelae of voorskot wat die Kommissaris oortuig is oortollig is met inagneming van soortgelyke toelaes wat deur die betrokke werkgewer of prinsipaal aan die belastingpligtige of ander persone toegestaan is gedurende die jaar van aanslag wat op of voor 28 Februarie 1983 geëindig het of eindig;''; en

(b) deur paragraaf (qA) deur die volgende paragraaf te vervang:

''(qA) soveel van enige bedrag ontvang deur of toegeval aan iemand as wat tot bevrediging van die Kommissaris bewys word 'n bona fide-studiebeurs te wees wat toegeken is ten einde so iemand in staat te stel of aan hom hulp te verleen om by 'n erkende opvoedkundige of navorsingsinrigting te studeer, maar uitgesonderd 'n beurs deur 'n werkgewer of 'n verwante inrigting (soos in paragraaf 1 van die Sewende Bylae omskryf) met betrekking tot die werkgewer, verleen ten bate van 'n familielid van 'n werknemer van daardie werkgewer anders as ingevolge 'n beursskema wat deur die Kommissaris vir die doeleindes van hierdie paragraaf goedgekeur is: Met dien verstande dat 'n skema nie aldus goedgekeur word nie tensy—

(i) die skema beheer word deur behoorlik omlynde reëls;

(ii) die reëls van die skema bepaal dat die Kommissaris in kennis gestel moet word van alle wysigings van die reëls;

(iii) die Kommissaris oortuig is dat die beurse ingevolge die skema volgens meriete toegeken word op aanbeveling van 'n liggaam van persone wat onpartydig optree;

(iv) die beurse ingevolge die skema toegeken word om studente in staat te stel om opvoedkundige inrigtings van 'n publieke aard, behalwe primêre of sekondêre skole, by te woon, en om studiekursusse deur genoemde liggaam gespesifiseer, te volg;

(v) die kinders van alle werknemers van die werkgewer, afhangende van skolastiese vermoë of enige objektiewe maatstaf wat meriete bepaal, vir enige beurse wat ingevolge die skema beskikbaar is, kan kwalifiseer;

(vi) geen beurs wat ingevolge die skema toegeken is, beëindig, herroep of teruggetrek kan word bloot omrede die feit dat die dienste van 'n werknemer wat familie van die beurshouer is, om die een of ander rede beëindig is; en

(vii) voorwaardes wat deur die Kommissaris opgelê is, nagekom is;''.

which the provisions of paragraph (iii) of the proviso to paragraph (c) of the definition of 'gross income' in section 1 apply) which—

(i) is received by or accrues to any employee or the holder of any office during the year of assessment ending on 28 February 1983 for the purpose of defraying expenditure incurred during that year in connection with the employment of such employee or the holding of such office, as the case may be, and

(ii) if such allowance or advance had been received or had accrued during the year of assessment ending on 28 February 1982, would, by virtue of the provisions of this Act or any other law, not have been subject to tax;

such taxable portion being the amount which but for this paragraph would be includable in the taxable income of such employee or office holder under the provisions of section 8 (1) (a): Provided that the exemption under this paragraph shall not apply in respect of any portion of such allowance or advance which the Commissioner is satisfied is excessive having regard to similar allowances granted by the employer or principal concerned to the taxpayer or to other persons during the years of assessment ended or ending on or before 28 February 1983;''; and

(b) by the substitution for paragraph (qA) of the following paragraph:

''(qA) so much of any amount received by or accrued to any person as is proved to the satisfaction of the Commissioner to be a *bona fide* bursary granted to enable or assist such person to study at a recognized educational or research institution, but excluding any bursary granted by any employer or any associated institution (as defined in paragraph 1 of the Seventh Schedule) in relation to the employer, for the benefit of a relative of any employee of that employer otherwise than under a bursary scheme approved by the Commissioner for the purposes of this paragraph: Provided that a scheme shall not be so approved unless—

(i) the scheme is governed by properly defined rules;

(ii) the rules of the scheme provide that the Commissioner shall be notified of all amendments of the rules;

(iii) the Commissioner is satisfied that the bursaries under the scheme are awarded on merit on the recommendation of a body of persons acting impartially;

(iv) the bursaries under the scheme are awarded to enable students to attend educational institutions of a public character, other than primary or secondary schools, and to follow courses of study specified by the said body;

(v) the children of all employees of the employer may, depending upon scholastic ability or any objective criterion determining merit, qualify for any of the bursaries that may be available in terms of the scheme;

(vi) no bursary awarded under the scheme may be terminated, cancelled or withdrawn merely by reason of the fact that the services of an employee to whom the bursar is related have for any reason terminated; and

(vii) any conditions imposed by the Commissioner have been complied with;''.

Wysiging van artikel 11 van Wet 58 van 1962

6. Artikel 11 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (u) deur die volgende paragraaf te vervang:

"(u) soveel van die onkoste (met inbegrip van klubsubskripsies) [maar hoogstens drie honderd rand] deur die belastingpligte gedurende die jaar van aanslag ten opsigte van onthaal aangegaan as wat na oortuiging van die Kommissaris regstreeks in verband met [sy] die belastingpligtige se bedryf aldus aangegaan is, en wat nie sulke onkoste is as wat in paragraaf (a) bedoel word nie: Met dien verstande dat—

(i) die aftrekking ingevolge hierdie paragraaf (behalwe subskripsies aan hoogstens twee klubs) beperk word tot 'n bedrag gelyk aan die mindere van R1 200 of 4 persent van die belasbare inkomste (soos vasgestel vóór enige aftrekking ingevolge hierdie paragraaf gemaak word) deur die belastingpligtige gedurende die jaar van aanslag uit die beoefening van 'n bedryf verkry;

(ii) geen aftrekking ingevolge hierdie paragraaf gemaak word nie ten opsigte van enige sodanige onkoste wat in verband met 'n diens, amp, professie, beroep of vak aangegaan word indien die belastingpligtige inkomste in die vorm van salaris, loon of dergelike besoldiging uit daardie diens of amp of die beoefening van daardie professie, beroep of vak verkry, tensy—

(aa) die Kommissaris oortuig is dat daardie diens, amp, professie, beroep of vak van so 'n aard is dat [die uitvoering van] die belastingpligtige se pligte [gehinder of ernstig belemmer sou word indien bedoelde onkoste nie aangegaan was nie] gereeld en noodsaaklikerwys die aangaan van bedoelde onkoste meebring; en

(bb) die belastingpligtige ten opsigte van bedoelde onkoste 'n vergoedende toelae ontvang wat ingevolge die bepalings van paragraaf (iii) van die voorbehoudsbepaling by paragraaf (c) van die omskrywing van 'bruto inkomste' in artikel 1 in sy bruto inkomste ingesluit is;

(iii) waar die belastingpligtige 'n vergoedende toelae in subparagraaf (bb) van paragraaf (ii) van hierdie voorbehoudsbepaling bedoel in die omstandighede in daardie paragraaf beoog, ontvang, bedoelde aftrekking nie die bedrag van die vergoedende toelae deur die belastingpligtige ten opsigte van bedoelde onkoste ontvang te bowe gaan nie;

(iv) geen aftrekking ingevolge hierdie paragraaf gemaak word nie ten opsigte van onkoste aan onthaal wat bestry word uit 'n vergoedende toelae met betrekking tot 'n diens, amp, beroep of vak in paragraaf (ii) van hierdie voorbehoudsbepaling bedoel, indien bedoelde onkoste ten volle of gedeeltelik as 'n aftrekking van die belastingpligtige se inkomste ingevolge paragraaf (uA) toegelaat is;"; en

(b) deur na paragraaf (u) die volgende paragraaf in te voeg;

"(uA) soveel van die onkoste (met inbegrip van klubsubskripsies) deur 'n werknemer of ampsbekleër gedurende die jaar van aanslag eindigende op 28 Februarie 1983 aangegaan ten opsigte van onthaal as wat na oortuiging van die Kommissaris regstreeks in verband met die belastingpligtige se diens of amp aldus aangegaan is, en bestry is uit 'n toelae of voorskot in paragraaf (iii) van die voorbehoudsbepaling by paragraaf (c) van die omskrywing van 'bruto inkomste' in artikel 1 bedoel: Met dien verstande dat—

(i) die aftrekking ingevolge hierdie paragraaf beperk word tot 'n bedrag gelyk aan 50 persent van soveel van enige soortgelyke toelaes of voorskotte gedurende die

Amendment of section 11 of Act 58 of 1962

6. Section 11 of the principal Act is hereby amended—

(a) by the substitution for paragraph (u) of the following paragraph:

"(u) so much of the expenditure (including club subscriptions) [but not exceeding three hundred rand] incurred by the taxpayer during the year of assessment in respect of entertainment as the Commissioner is satisfied was so incurred directly in connection with [his] the taxpayer's trade and which is not such expenditure as is referred to in paragraph (a): Provided that—

(i) the deduction under this paragraph (excluding subscriptions to no more than two clubs) shall be limited to an amount equal to the lesser of R1 200 or four per cent of the taxable income (as determined before any deduction is made under this paragraph) derived by the taxpayer from trade during the year of assessment;

(ii) no deduction shall be made under this paragraph in respect of any such expenditure as is incurred in connection with any employment, office, profession, calling or occupation if the taxpayer derives from such employment or office or from carrying on such profession, calling or occupation any income in the form of a salary, [or] wage or similar remuneration unless—

(aa) the Commissioner is satisfied that such employment, office, profession, calling or occupation is of such a nature that [the performance of] the taxpayer's duties [would be impeded or seriously hampered if such expenditure were not incurred] regularly and necessarily involve incurring such expenditure; and

(bb) the taxpayer receives in respect of such expenditure a reimbursive allowance which is included in his gross income under the provisions of paragraph (iii) of the proviso to paragraph (c) of the definition of 'gross income' in section 1;

(iii) where the taxpayer receives a reimbursive allowance referred to in subparagraph (bb) of paragraph (ii) of this proviso in the circumstances contemplated in that paragraph, such deduction shall not exceed the amount of the reimbursive allowance received by the taxpayer in respect of such expenditure;

(iv) no deduction shall be made under this paragraph in respect of expenditure on entertainment defrayed out of any reimbursive allowance relating to any employment, office, calling or occupation referred to in paragraph (ii) of this proviso, if such expenditure is incurred during the year ending on 28 February 1983 and such expenditure has in whole or in part been allowed as a deduction from the taxpayer's income under paragraph (uA);"; and

(b) by the insertion after paragraph (u) of the following paragraph:

"(uA) so much of the expenditure (including club subscriptions but excluding expenditure referred to in paragraph (a) or (b)) incurred by an employee or the holder of an office during the year of assessment ending on 28 February 1983 in respect of entertainment as the Commissioner is satisfied was so incurred directly in connection with the taxpayer's employment or office and was defrayed out of an allowance or advance referred to in paragraph (iii) of the proviso to paragraph (c) of the definition of 'gross income' in section 1: Provided that—

(i) the deduction under this paragraph shall be limited to an amount equal to 50 per cent of so much of any similar allowance and advance granted to the holder of

jaar van aanslag eindigende op 28 Februarie 1982 aan die bekleër van bedoelde diens of amp toegestaan as wat na oortuiging van die Kommissaris werklik gedurende daardie jaar aan onthaal bestee is;

(ii) geen aftrekking ingevolge hierdie paragraaf gemaak word nie indien 'n aftrekking ten opsigte van die genoemde onkoste ingevolge paragraaf (u) gemaak word;''.

Wysiging van artikel 23 van Wet 58 van 1962

7. Artikel 23 van die Hoofwet word hierby gewysig deur die volgende paragraaf by te voeg:

''(*i*) onkoste deur 'n belastingpligtige aangegaan ten opsigte van onthaal met betrekking tot 'n diens, professie, beroep, of vak van 'n persoon of 'n amp deur 'n persoon beklee ten opsigte waarvan die betrokke persoon inkomste in die vorm van 'n salaris of loon of dergelike besoldiging verkry, behalwe—

(i) sodanige onkoste aan onthaal as wat ingevolge die bepalings in artikel 11 (u) of (uA) afgetrek kan word; of

(ii) in die geval van 'n agent of verteenwoordiger wie se besoldiging normaalweg geheel of hoofsaaklik verkry word in die vorm van kommissie wat op verkope of omset gebaseer is, sodanige onkoste deur hom aangegaan aan onthaal as wat ingevolge die bepalings van artikel 11 (a) of (b) afgetrek kan word.''.

Herroeping van artikel 29 van Wet 58 van 1962

8. Artikel 29 van die Hoofwet word hierby herroep.

Wysiging van artikel 56 van Wet 58 van 1962

9. Artikel 56 van die Hoofwet word hierby gewysig deur paragraaf (k) van subartikel (1) deur die volgende paragraaf te vervang:

''(k) as 'n vrywillige toekenning of skenking waarvan die waarde ingevolge paragraaf (c), [of] (d) of (*i*) van die omskrywing van 'bruto inkomste' in artikel 1 by die bruto inkomste van die begiftigde ingesluit moet word;''.

Byvoeging van 7de Bylae by Wet 58 van 1962

10. Die Bylae by hierdie Wet word hierby by die Hoofwet as die Sewende Bylae daarvan gevoeg, en word geag deel van die Hoofwet te wees en word dienooreenkomstig uitgelê en toegepas.

Herroeping van artikel 61 van Wet 11 van 1977

11. Artikel 61 van die Konsolidasiewet op Finansie- en Finansiële Reëlingswette, 1977, word hierby herroep.

Wysiging van artikel 1 van Wet 91 van 1978

12. Artikel 1 van die Wet op Besoldiging van Regters, 1978, word hierby gewysig deur subartikel (2) te skrap.

Inwerkingtreding van sekere wysigings

13. Behalwe vir sover daarin anders bepaal word, of uit die samehang anders blyk, word die wysigings deur hierdie Wet aan die Hoofwet aangebring en die wysigings deur artikels 11 en 12 aangebring, geag in werking te getree het vanaf die begin van jare van aanslag wat op of na 28 Februarie 1983 eindig.

Kort titel

14. Hierdie Wet heet die Wysigingswet op Inkomstebelasting, 1982.

BYLAE

(Sewende Bylae by Wet 58 van 1962)

VOORDELE OF BATES VERKRY WEENS DIENS OF AMPSBEKLEDING

[Paragraaf (*i*) van die omskrywing van ''bruto inkomste'' in artikel 1 van hierdie Wet]

such employment or office during the year ended on 28 February 1982 as the Commissioner is satisfied was actually expended on entertainment during that year;

(ii) no deduction shall be made under this paragraph if a deduction in respect of the said expenditure is made under paragraph (u);''.

Amendment of section 23 of Act 58 of 1962

7. Section 23 of the principal Act is hereby amended by the addition of the following paragraph:

''(*i*) expenditure incurred by a taxpayer in respect of entertainment relating to any employment, profession, calling, or occupation of any person or any office held by any person in respect of which the person concerned derives income in the form of a salary or wage or similar remuneration, except—

(i) such expenditure on entertainment as may be deducted from the income of such person under the provisions of section 11 (u) or (uA); or

(ii) in the case of an agent or representative whose remuneration is normally derived wholly or mainly in the form of commissions based on sales or turnover, such expenditure on entertainment incurred by him as may be deducted under the provisions of section 11 (a) or (b).''.

Repeal of section 29 of Act 58 of 1962

8. Section 29 of the principal Act is hereby repealed.

Amendment of section 56 of Act 58 of 1962

9. Section 56 of the principal Act is hereby amended by the substitution for paragraph (k) of subsection (l) of the following paragraph:

''(k) as a voluntary award or donation the value of which is required to be included in the gross income of the donee in terms of paragraph (c), [or] (d) or (*i*) of the definition of 'gross income' in section 1;''.

Addition of 7th Schedule to Act 58 to 1962

10. The Schedule to this Act is hereby added to the principal Act as the Seventh Schedule thereto, and shall be deemed to be and shall be construed and applied as one with the principal Act.

Repeal of section 61 of Act 11 of 1977

11. Section 61 of the Finance and Financial Acts Consolidation Act, 1977, is hereby repealed.

Amendment of section 1 of Act 91 of 1978

12. Section 1 of the Judges' Remuneration Act, 1978, is hereby amended by the deletion of subsection (2).

Commencement of certain amendments

13. Save in so far as is otherwise provided therein, or the context otherwise indicates, the amendments effected to the principal Act by this Act and the amendments effected by sections 11 and 12, shall take effect as from the commencement of years of assessment ending on or after 28 February 1983.

Short title

14. This Act shall be called the Income Tax Amendment Act, 1982.

SCHEDULE

(Seventh Schedule to Act 58 of 1962)

BENEFITS OR ADVANTAGES DERIVED BY REASON OF EMPLOYMENT OR THE HOLDING OF ANY OFFICE

[(Paragraph (*i*) of the definition of ''gross income'' in section 1 of this Act]

Woordbepaling

1. (1) By die toepassing van hierdie Bylae, tensy uit die samehang anders blyk, beteken—

"amptelike rentekoers" 'n rentekoers van 8 persent per jaar, of 'n ander koers wat die Minister van Finansies van tyd tot tyd by kennisgewing in die *Staatskoerant* voorskryf;

"belasbare voordeel" 'n belasbare voordeel in paragraaf 2 beoog, hetsy die vergunning van bedoelde voordeel vrywillig of andersins is, maar uitgesonderd—

(a) 'n voordeel die bedrag of waarde waarvan ingevolge die bepalings van artikel 10 van hierdie Wet van normale belasting vrygestel is; of

(b) 'n voordeel deur 'n bystandsfonds voorsien ten opsigte van mediese, tandheelkundige en soortgelyke dienste, hospitaaldienste, verpleegdienste en medisyne; of

(c) 'n enkelbedragvoordeel betaalbaar deur 'n bystandsfonds, pensioenfonds of voorsorgfonds, synde 'n voordeel bedoel in die omskrywing van "bystandsfonds" in artikel 1 van hierdie Wet of in paragraaf (a) van die omskrywing van "pensioenfonds" in daardie artikel of in paragraaf (a) van die omskrywing van "voorsorgsfonds" in daardie artikel;

"diens" 'n amp of diens;

"lening" ook enige vorm van krediet, 'n lening wat ter vervanging van 'n ander lening aangewend word en enige reëling ingevolge waarvan 'n lening geskik, gewaarborg of hoe ook al vergemaklik word;

"maand" enigeen van die 12 dele waarin 'n kalenderjaar ingedeel is;

"vergoeding", met betrekking tot 'n verwysing in hierdie Bylae na 'n vergoeding deur 'n werknemer gegee, nie ook enige vergoeding in die vorm van dienste gelewer of wat gelewer moet word deur die werknemer nie;

"verwante inrigting", met betrekking tot 'n werkgewer—

(a) waar die werkgewer 'n maatskappy is, 'n ander maatskappy wat met die werkgewermaatskappy verbonde is weens die feit dat albei maatskappye in wese regstreeks of onregstreeks deur dieselfde persone bestuur of beheer word; of

(b) waar die werkgewer nie 'n maatskappy is nie, 'n maatskappy wat regstreeks of onregstreeks deur die werkgewer, of deur 'n vennootskap waarvan die werkgewer 'n lid is, bestuur of beheer word; of

(c) 'n fonds wat ten voordele van werknemers van die werkgewer ingestel is;

"werkgewer" iemand wat 'n werkgewer is soos in paragraaf 1 van die Vierde Bylae omskryf en ook 'n maatskappy;

"werknemer", met betrekking tot 'n werkgewer, iemand wat by die toepassing van die Vierde Bylae 'n werknemer met betrekking tot daardie werkgewer is, uitgesonderd iemand wat weens ouderdom, swak gesondheid of ander gebrek uit die diens van bedoelde werkgewer afgetree het, maar ook, met betrekking tot 'n maatskappy, 'n direkteur van daardie maatskappy en iemand wat voorheen in die diens van, of 'n direkteur van, bedoelde maatskappy was indien so iemand die enigste aandeelhouer of een van die hoofaandeelhouers in bedoelde maatskappy is of was.

(2) Indien die Minister van Finansies van voorneme is om kragtens die omskrywing van "amptelike rentekoers" in subparagraaf (1) 'n ander rentekoers as 8 persent per jaar voor te skryf, moet hy nie later nie as die aanvangsdatum van die jaar van aanslag ten opsigte waarvan so 'n ander koers moet geld, dit aldus voorskryf.

Definitions

1. (1) For the purposes of this Schedule, unless the context otherwise indicates—

"associated institution", in relation to any employer, means—

(a) where the employer is a company, any other company which is associated with the employer company by reason of the fact that both companies are managed or controlled directly or indirectly by substantially the same persons; or

(b) where the employer is not a company, any company which is managed or controlled directly or indirectly by the employer or by any partnership of which the employer is a member; or

(c) any fund established for the benefit of employees of the employer;

"consideration" as respects any reference in this Schedule to any consideration given by an employee, does not include any consideration in the form of services rendered or to be rendered by the employee;

"employee", in relation to any employer, means a person who is an employee in relation to such employer for the purposes of the Fourth Schedule, excluding any person who by reason of superannuation, ill-health or other infirmity has retired from the employ of such employer, but including, in relation to any company, any director of such company and any person who was previously employed by, or was a director of, such company if such person is or was the sole shareholder or one of the principal shareholders in such company;

"employer" means any person who is an employer as defined in paragraph 1 of the Fourth Schedule and includes any company;

"employment" means any office or employment;

"loan" includes any form of credit, any loan applied directly towards the replacement of any other loan and any arrangement in terms of which a loan is arranged, guaranteed or in any way facilitated;

"month" means any of the 12 portions into which any calendar year is divided;

"official rate of interest" means a rate of interest of 8 per cent per annum, or any other rate which the Minister of Finance may from time to time prescribe by notice in the *Gazette*;

"taxable benefit" means a taxable benefit contemplated in paragraph 2, whether the grant of such benefit is voluntary or otherwise, but excluding—

(a) any benefit the amount or value of which is exempt from normal tax under the provisions of section 10 of this Act; or

(b) any benefit provided by any benefit fund in respect of medical, dental and similar services, hospital services, nursing services and medicines; or

(c) any lump sum benefit payable by a benefit fund, pension fund or provident fund, being a benefit referred to in the definition of "benefit fund" in section 1 of this Act or in paragraph (a) of the definition of "pension fund" in that section or in paragraph (a) of the definition of "provident fund" in that section.

(2) If the Minister of Finance intends to prescribe under the definition of "official rate of interest" any rate other than eight per cent per annum, he shall so prescribe it not later than the date of commencement of any year of assessment in respect of which such other rate shall apply.

Belasbare voordele

2. By die toepassing van hierdie Bylae en van paragraaf (i) van die omskrywing van "bruto inkomste" in artikel 1 van hierdie Wet, word 'n belasbare voordeel geag deur 'n werkgewer aan sy werknemer verleen te gewees het ten opsigte van die werknemer se diens by die werkgewer, indien by wyse van 'n voordeel of bate van of uit hoofde van bedoelde diens of by wyse van 'n beloning vir dienste deur die werknemer aan die werkgewer gelewer of wat gelewer moet word—

(a) enige bate bestaande uit enige goed, kommoditeit, handelseffekte of eiendom van watter aard ook al (behalwe geld) deur die werknemer van die werkgewer of 'n verwante inrigting met betrekking tot die werkgewer of van iemand in ooreenkoms met die werkgewer verkry is, òf vir geen vergoeding nie òf vir 'n vergoeding deur die werknemer gegee wat minder is as die waarde van bedoelde bate soos vasgestel ingevolge paragraaf 5 (2): Met dien verstande dat die bepalings van hierdie subparagraaf nie van toepassing is nie ten opsigte van enige maaltyd, verversing, koepon, losies, brandstof, krag of water waarmee die werknemer voorsien is soos in subparagraaf (c) of (d) beoog, of ten opsigte van handelseffekte verkry deur die uitoefening deur die werknemer, soos in artikel 8A van hierdie Wet beoog, van 'n reg om handelseffekte te verkry; of

(b) daar aan die werknemer die reg verleen is om 'n bate (behalwe enige huisvesting of huishoudelike goed saam met bedoelde huisvesting voorsien) vir sy private of huishoudelike doeleindes te gebruik òf gratis òf vir 'n vergoeding deur die werknemer betaalbaar wat minder is as die waarde van bedoelde gebruik soos vasgestel ingevolge paragraaf 6 (2) in die geval van 'n bate behalwe 'n motorvoertuig of ingevolge paragraaf 7 (3) of (4) in die geval van 'n motorvoertuig; of

(c) die werknemer van enige maaltyd of verversing of koepon wat hom geregtig maak op enige maaltyd of verversing, voorsien is [behalwe enige losies of maaltye bedoel in item (d)], òf gratis òf vir 'n vergoeding wat minder is as die waarde van bedoelde maaltyd, verversing of koepon, na gelang van die geval, soos vasgestel ingevolge paragraaf 8 (2); of

(d) die werknemer van woonhuisvesting (hetsy gemeubileerd of ongemeubileerd, en met of sonder losies, maaltye, brandstof, krag of water) voorsien is òf gratis òf vir 'n huurvergoeding deur die werknemer betaalbaar wat minder is as die huurwaarde van bedoelde huisvesting soos vasgestel ingevolge die toepaslike bepalings van paragraaf 9 (3), (4) of (5); of

(e) enige diens [behalwe 'n diens waarop die bepalings van paragraaf 9 (4) (a) van toepassing is] ten koste van die werkgewer aan die werknemer (hetsy deur die werkgewer of deur enige ander persoon) gelewer is, bedoelde diens deur die werknemmer vir sy private of huishoudelike doeleindes gebruik is en geen vergoeding deur die werknemer aan die werkgewer ten opsigte van bedoelde diens gegee is nie, of, indien sodanige vergoeding gegee is, die bedrag daarvan minder is as die bedrag van die laagste reisgeld bedoel in item (a) van subparagraaf (1) van paragraaf 10, of die koste bedoel in item (b) van bedoelde subparagraaf, na gelang van die geval; of

(f) 'n lening (behalwe 'n lening wat ingevolge die bepalings van artikel 8B van hierdie Wet as 'n dividend behandel is) aan die werknemer verleen is, hetsy deur die werkgewer of deur 'n ander persoon volgens 'n ooreenkoms met die werkgewer of 'n verwante inrigting met betrekking tot die werkgewer, en òf geen rente deur die werknemer op daardie lening betaalbaar is nie òf rente daarop teen 'n koers laer as die amptelike rentekoers deur hom betaalbaar is; of

Taxable benefits

2. For the purposes of this Schedule and of paragraph (i) of the definition of "gross income" in section 1 of this Act, a taxable benefit shall be deemed to have been granted by an employer to his employee in respect of the employee's employment with the employer, if as a benefit or advantage of or by virtue of such employment or as a reward for services rendered or to be rendered by the employee to the employer—

(a) any asset consisting of any goods, commodity, marketable security or property of any nature (other than money) has been acquired by the employee from the employer or any associated institution in relation to the employer or from any person by arrangement with the employer, either for no consideration or for a consideration given by the employee which is less than the value of such asset, as determined under paragraph 5 (2): Provided that the provisions of this subparagraph shall not apply in respect of any meal, refreshment, voucher, board, fuel, power or water with which the employee has been provided as contemplated in subparagraph (c) or (d) or in respect of any marketable security acquired by the exercise by the employee, as contemplated in section 8A of this Act, of any right to acquire any marketable security; or

(b) the employee has been granted the right to use any asset (other than any residential accommodation or household goods supplied with such accommodation) for his private or domestic purposes either free of charge or for a consideration payable by the employee which is less than the value of such use, as determined under paragraph 6 (2) in the case of an asset other than a motor vehicle or under paragraph 7 (3) or (4) in the case of a motor vehicle; or

(c) the employee has been provided with any meal or refreshment or voucher entitling him to any meal or refreshment [other than any board or meals referred to in item (d)], either free of charge or for a consideration less than the value of such meal, refreshment or voucher, as the case may be, as determined under paragraph 8 (2); or

(d) the employee has been provided with residential accommodation (whether furnished or unfurnished and with or without board, meals, fuel, power or water) either free of charge or for a rental consideration payable by the employee which is less than the rental value of such accommodation as determined under the applicable provisions of paragraph 9 (3), (4) or (5); or

(e) any service [other than a service to which the provisions of paragraph 9 (4) (a) apply] has at the expense of the employer been rendered to the employee (whether by the employer or by some other person), such service has been utilised by the employee for his private or domestic purposes and no consideration has been given by the employee to the employer in respect of such service or, if any such consideration has been given, the amount thereof is less than the amount of the lowest fare referred to in item (a) of subparagraph (1) of paragraph 10, or the cost referred to in item (b) of the said subparagraph, as the case may be; or

(f) a loan (other than a loan treated as a dividend under the provisions of section 8B of this Act) has been granted to the employee, whether by the employer or by any other person by arrangement with the employer or any associated institution in relation to the employer, and either no interest is payable by the employee on such loan or interest is payable by him thereon at a rate lower than the official rate of interest; or

(g) die werkgewer ingevolge 'n huiseienaarskap- of behuisingskema waarin die werknemer 'n deelhebber is, 'n subsidie betaal het ten opsigte van die rentebedrae of kapitaalterugbetalings wat deur die werknemer betaalbaar is; of

(h) die werkgewer 'n bedrag betaal het wat deur die werknemer aan 'n derde party verskuldig is sonder om te vereis dat die werknemer die werkgewer vir die betaalde bedrag moet vergoed, of die werkgewer die werknemer van 'n verpligting om 'n bedrag verskuldig deur die werknemer aan die werkgewer te betaal, onthef het: Met dien verstande dat waar 'n skuld deur die werknemer aan die werkgewer verskuldig, by verjaring uitgewis is, die werkgewer geag word die werknemer van sy verpligting om die bedrag van bedoelde skuld te betaal, te onthef het indien die werkgewer die bedrag verskuldig kon verhaal het of die loop van die verjaring kon laat stuit het.

Vasstelling van kontantekwivalent van waarde van belasbare voordeel

3. (1) Die kontantekwivalent van die waarde van 'n belasbare voordeel word, by die toepassing van paragraaf (*i*) van die omskrywing van "bruto inkomste" in artikel 1 van hierdie Wet, deur die werkgewer deur wie die belasbare voordeel verleen is ooreenkomstig die bepalings van hierdie Bylae vasgestel.

(2) Die Kommissaris kan, indien bedoelde vasstelling vir hom onjuis blyk te wees, bedoelde kontantekwivalent hervasstel by die aanslaan van die aanspreeklikheid vir normale belasting van die werknemer aan wie bedoelde voordeel verleen is.

(3) Indien die betrokke werknemer ontevrede is met 'n vasstelling of voorgenome vasstelling deur sy werkgewer van die kontantekwivalent van die waarde van 'n belasbare voordeel wat in die besoldiging van die werknemer vir werknemersbelastingdoeleindes ingesluit is, kan die werknemer of die werkgewer die saak na die Kommissaris verwys en kan die Kommissaris, indien dit vir hom blyk dat die vasstelling of voorgenome vasstelling aangepas behoort te word, 'n opdrag aan die werkgewer gee aangaande die wyse waarop bedoelde vasstelling gemaak behoort te word en is die werkgewer geregtig om volgens bedoelde opdrag op te tree: Met dien verstande dat die bepalings van hierdie subparagraaf nie uitgelê word asof dit die Kommissaris belet om 'n hervasstelling van bedoelde kontantekwivalent ingevolge die bepalings van subparagraaf (2) te maak nie.

Belasbare voordele deur verwante inrigtings verleen

4. Waar 'n verwante inrigting met betrekking tot 'n werkgewer aan 'n werknemer van daardie werkgewer, vanweë die feit dat die werknemer in die diens van die werkgewer is, of as 'n voordeel of bate van bedoelde diens, of as 'n beloning vir dienste deur die werknemer aan die werkgewer gelewer of wat gelewer moet word, 'n voordeel of bate gegee het wat, indien bedoelde voordeel of bate regstreeks deur die werkgewer aan die werknemer onder die omstandighede beoog in paragraaf 2 gegee was, 'n belasbare voordeel sou uitgeemaak het, word bedoelde voordeel of bate by die toepassing van hierdie Wet geag 'n belasbare voordeel te wees wat deur die werkgewer aan die werknemer verleen is en word die kontantekwivalent van die waarde van bedoelde belasbare voordeel dienooreenkomstig vasgestel.

Verkryging van 'n bate teen minder as werklike waarde

5. (1) Waar 'n bate verkry is deur 'n werknemer soos beoog in paragraaf (a), is die kontantekwivalent van die waarde van die belasbare voordeel soveel van die waarde van bedoelde bate [soos vasgestel ingevolge subparagraaf (2) van hierdie paragraaf] as wat die waarde van enige vergoeding wat vir bedoelde bate deur die werknemer gegee is, te bowe gaan.

(g) the employer has, under any home ownership or housing scheme in which the employee is a participant, paid any subsidy in respect of the amounts of interest or capital repayments payable by such employee; or

(h) the employer has paid any amount owing by the employee to any third person, whether directly or indirectly, without requiring the employee to reimburse the employer for the amount paid or the employer has released the employee from an obligation to pay any amount owing by the employee to the employer: Provided that where any debt owing by the employee to the employer has been extinguished by prescription the employer shall be deemed to have released the employee from his obligation to pay the amount of such debt if the employer could have recovered the amount owing or caused the running of the prescription to be interrupted.

Determination of cash equivalent of value of taxable benefit

3. (1) The cash equivalent of the value of a taxable benefit shall, for the purposes of paragraph (*i*) of the definition of "gross income" in section 1 of this Act, be determined in accordance with the provisions of this Schedule by the employer by whom the taxable benefit has been granted.

(2) The Commissioner may, if such determination appears to him to be incorrect, re-determine such cash equivalent upon the assessment of the liability for normal tax of the employee to whom such taxable benefit has been granted.

(3) If the employee concerned is dissatisfied with any determination or proposed determination by his employer of the cash equivalent of the value of any taxable benefit included in the remuneration of the employee for employees tax purposes, the employee or the employer may refer the matter to the Commissioner and the Commissoner may, if it appears to him that the determination or proposed determination should be adjusted, issue a directive to the employer as to the manner in which such determination should be made and the employer shall be entitled to act upon such directive: Provided that nothing in this subparagraph contained shall be construed as preventing the Commissioner from making a re-determination of such cash equivalent under the provisions of subparagraph (2).

Taxable benefits granted by associated institutions

4. Where any associated institution in relation to any employer has given any employee of that employer, by reason of the fact that the employee is in the employment of the employer, or as a benefit or advantage of such employment or as a reward for services rendered or to be rendered by the employee to the employer any benefit or advantage which, if such benefit or advantage had been given to the employee directly by the employer in the circumstances contemplated in paragraph 2, would have constituted a taxable benefit, such benefit or advantage shall for the purposes of this Act be deemed to be a taxable benefit granted by the employer to the employee and the cash equivalent of the value of such taxable benefit shall be determined accordingly.

Acquisition of an asset at less than actual value

5. (1) Where an asset has been acquired by an employee as contemplated in paragraph 2 (a), the cash equivalent of the value of the taxable benefit shall be so much of the value of such asset [as determined under subparagraph (2) of this paragraph] as exceeds the value of any consideration given by the employee for such asset.

(2) Die waarde wat op bedoelde bate geplaas moet word, is die markwaarde daarvan op die tydstip waarop die bate deur die werknemer verkry word: Met dien verstande dat waar die betrokke bate roerende eiendom is en deur die werkgewer verkry is ten einde dit aan die werknemer af te staan, of die betrokke bate deur die werkgewer as handelsvoorraad gehou is, die waarde wat daarop geplaas moet word die koste daarvan vir die werkgewer is of, waar bedoelde bate as handelsvoorraad gehou was en die markwaarde daarvan minder as bedoelde koste was, bedoelde markwaarde.

(3) By die toepassing van hierdie paragraaf en van paragraaf 2 (a), waar 'n werknemer 'n bate soos beoog in paragraaf 2 (a) verkry het en sy reg om bedoelde bate aldus te verkry aan hom deur 'n ooreenkoms verleen word, word die werknemer geag die bate te verkry het op die datum waarop die ooreenkoms gesluit was: Met dien verstande dat waar die bate verkry was deur die uitoefening van 'n opsie om die bate te koop of andersins te verkry of deur die uitoefening van 'n reg van voorkoop, word die werknemer by genoemde toepassing geag die bate te verkry het op die datum waarop die opsie of reg van voorkoop uitgeoefen was.

(4) Geen waarde word ingevolge hierdie paragraaf geplaas nie op—

(a) 'n bate deur 'n werkgewer aan 'n werknemer geskenk as 'n toekenning vir dapperheid; of

(b) 'n bate deur 'n werkgewer aan 'n werknemer gegee omrede van veilige werk in 'n gevaarlike beroep of vir langdurige diens mits die koste vir die werkgewer van bedoelde bate nie R1 000 te bowe gaan nie.

Reg van gebruik van 'n bate (behalwe huisvesting of 'n motorvoertuig

6. (1) Waar daar aan 'n werknemer die reg van gebruik verleen is om 'n bate (behalwe huisvesting of 'n motorvoertuig) te gebruik soos in paragraaf 2 (b) beoog, is die kontantekwivalent van die waarde van die belasbare voordeel soveel van die waarde van die private of huishoudelike gebruik van bedoelde bate [soos vasgestel ingevolge subparagraaf (2) van hierdie paragraaf vir die tydperk van gebruik] as wat enige vergoeding deur die werknemer vir die gebruik van daardie bate gedurende bedoelde tydperk gegee, te bowe gaan.

(2) Die waarde wat op die private of huishoudelike gebruik van bedoelde bate geplaas moet word is—

(a) waar die bate deur die werkgewer as huurder ingevolge 'n huurkontrak of huurooreenkoms gehou word, die bedrag van die huurgeld deur die werkgewer betaalbaar ten opsigte van die tydperk waartydens die werknemer die gebruik van die bate het;

(b) waar die bate deur die werkgewer besit is, 'n bedrag bereken, vir die tydperk waartydens die werknemer die gebruik van die bate het, teen die koers van 15 persent per jaar op die koste vir die werkgewer van bedoelde bate.

(3) Vir die doeleindes van werknemersbelasting word 'n gepaste deel van bedoelde kontantekwivalent toegedeel vir elke tydperk gedurende die jaar van aanslag ten opsigte waarvan enige kontantbesoldiging deur die werkgewer aan die werknemer betaal word of betaalbaar word.

(4) Geen waarde word ingevolge hierdie paragraaf geplaas op die private of huishoudelike gebruik deur 'n werknemer van enige uitrusting of masjien wat die betrokke wekgewer sy werknemers oor die algemeen toelaat om van tyd tot tyd te gebruik nie.

(2) The value to be placed on such asset shall be the market value thereof at the time the asset is acquired by the employee: Provided that where the asset in question is movable property and was acquired by the employer in order to dispose of it to the employee or the asset in question was held by the employer as trading stock, the value to be placed thereon shall be the cost thereof to the employer or, where such asset was held as trading stock and the market value thereof was less than such cost, such market value.

(3) For the purposes of this paragraph and of paragraph 2 (a) where an employee has acquired an asset as contemplated in paragraph 2 (a) and his right so to acquire such asset is conferred upon him by an agreement, the employee shall be deemed to have acquired the asset on the date on which the agreement was concluded: Provided that where the asset was acquired by the exercise of an option to purchase or otherwise acquire the asset or by the exercise of a right of pre-emption, he shall for the said purposes be deemed to have acquired the asset on the date upon which the option or right of pre-emption was exercised.

(4) No value shall be placed under this paragraph on—

(a) any asset presented by an employer to an employee as an award for bravery; or

(b) any asset given by an employer to an employee by reason of safe working in a dangerous occupation or for long service provided the cost of such asset to the employer does not exceed R1 000.

Right of use of any asset (other than residential accommodation or any motor vehicle)

6. (1) Where an employee has been granted the right to use any asset (other than residential accommodation or any motor vehicle) as contemplated in paragraph 2 (b), the cash equivalent of the value of the taxable benefit shall be so much of the value of the private or domestic use of such asset [as determined under subparagraph (2) of this paragraph for the period of use] as exceeds any consideration given by the employee for the use of such asset during such period.

(2) The value to be placed on the private or domestic use of such asset shall be—

(a) where the asset is held by the employer as the lessee under a lease or hiring agreement, the amount of the rental payable by the employer in respect of the period during which the employee has the use of the asset; or

(b) where the asset is owned by the employer, an amount calculated at the rate of 15 per cent annum on the cost of such asset to the employer for the period during which the employee has the use of the asset.

(3) For employees tax purposes an appropriate portion of the said cash equivalent shall be apportioned to each period during the year of assessment in respect of which any cash remuneration is paid or becomes payable by the employer to the employee.

(4) No value shall be place under this paragraph on the private or domestic use by any employee of any equipment or machine which the employer concerned allows his employees in general to use from time to time.

Reg van gebruik van motorvoertuig

7. (1) By die toepassing van hierdie paragraaf, beteken "vasgestelde waarde" met betrekking tot 'n motorvoertuig—

(a) waar bedoelde motorvoertuig deur die werkgewer besit word, die oorspronklike koste vir hom daarvan (behalwe enige finansieringskoste, rente of verkoopbelasting deur hom betaalbaar ten opsigte van sy verkryging daarvan); of

(b) waar bedoelde motorvoertuig deur die werkgewer gehou is ingevolge 'n huurooreenkoms wat 'n bruikhuur is vir die doeleindes van die Verkoopbelastingwet, 1978 (Wet No. 103 van 1978), die kontantwaarde daarvan soos vasgestel ingevolge Bylae 4 by genoemde Wet; of

(c) in enige ander geval, die markwaarde van bedoelde motorvoertuig op die tydstip waarop die gebruik daarvan vir die eerste maal aan die werknemer verleen was.

(2) Waar die reg aan 'n werknemer verleen is om 'n motorvoertuig te gebruik soos in paragraaf 2 (b) beoog, is die kontantekwivalent van die waarde van die belasbare voordeel soveel van die waarde van die private gebruik van bedoelde voertuig (soos vasgestel ingevolge hierdie paragraaf ten opsigte van die tydperk van gebruik) as wat 'n vergoeding deur die werknemer aan die werkgewer gegee vir die gebruik van daardie voertuig gedurende bedoelde tydperk te bowe gaan.

(3) Behoudens die bepalings van subparagrawe (4) en (5), moet die waarde wat op die private gebruik van bedoelde voertuig geplaas staan te word vir elke maand of gedeelte van 'n maand waartydens die werknemer die gebruik van bedoelde voertuig het, vasgestel word en genoemde waarde is, met betrekking tot bedoelde maand of gedeelte van 'n maand, 'n bedrag ooreenkomstig die volgende skaal vasgestel:

Waar die vasgestelde waarde van bedoelde voertuig—	*Waarde van private gebruik vir elke maand of gedeelte van 'n maand*
R6 000 nie te bowe gaan nie	R 97
R6 000 te bowe gaan, maar nie R9 000 nie	R123
R9 000 te bowe gaan, maar nie R12 000 nie	R140
R12 000 te bowe gaan, maar nie R15 000 nie	R160
R15 000 te bowe gaan, maar nie R18 000 nie	R178
R18 000 te bowe gaan, maar nie R21 000 nie	R201
R21 000 te bowe gaan	R216

(4) Waar daar tot oortuiging van die Kommissaris bewys word dat akkurate aantekenings gehou word van die afstande wat met bedoelde voertuig vir private doeleindes gereis is (met inbegrip van reise tussen die werknemer se woonplek en werkplek) en dat bedoelde afstande minder is of waarskynlik minder sal wees as 10 000 kilometers per jaar, of dat 'n gedeelte van die koste van die instandhouding of bedryf van die voertuig vir die werknemer se private doel-eindes regstreeks deur die werknemer gedra word, kan die Kommissaris die waarde wat op die private of huishoudelike gebruik van die voertuig geplaas moet word, verminder na die bedrag wat onder die omstandighede van die geval vir hom billik en redelik blyk te wees.

(5) By die toepassing van hierdie paragraaf word die private gebruik deur 'n werknemer van 'n motorvoertuig geag geen waarde te hê nie indien—

(a) (i) die voertuig beskikbaar is vir, en in werklikheid gebruik word deur, enige ander werknemer van die werkgewer;

(ii) die private gebruik van die voertuig deur die betrokke werknemer van 'n toevallige aard is of bloot bykomstig tot die besigheidsgebruik daarvan is; en

(iii) die voertuig normaalweg nie by of naby die woning van die betrokke werknemer gehou word nie terwyl dit buite werksure nie in gebruik is nie; of

Right to use of motor vehicle

7. (1) For the purposes of this paragraph, "determined value", in relation to a motor vehicle, means—

(a) where such motor vehicle is owned by the employer, the original cost thereof to him (excluding any finance charge, interest or sales tax payable by him in respect of his acquisition thereof); or

(b) where such motor vehicle is held by the employer under a financial lease for the purposes of the Sales Tax Act, 1978 (Act 103 of 1978), the cash value thereof as determined under Schedule 4 to the said Act; or

(c) in any other case, the market value of such motor vehicle at the time when the employee was first granted the use thereof.

(2) Where an employee has been granted the right to use any motor vehicle as contemplated in paragraph 2 (b), the cash equivalent of the value of the taxable benefit shall be so much of the value of the private use of such vehicle (as determined under this paragraph in respect of the period of use) as exceeds any consideration given by the employee to the employer for the use of such vehicle during such period.

(3) Subject to the provisions of subparagraphs (4) and (5), the value to be placed on the private use of such vehicle shall be determined for each month or part of a month during which the employee has the use of such vehicle and the said value shall, as respects such month or part of a month, be an amount determined in accordance with the following scale:

Where the determined value of such vehicle—	*Value of private use for each month or part of a month*
	R
does not exceed R6 000	97
exceeds R6 000 but does not exceed R9 000	123
exceeds R9 000 but does not exceed R12 000	140
exceeds R12 000 but does not exceed R15 000	160
exceeds R15 000 but does not exceed R18 000	178
exceeds R18 000 but does not exceed R21 000	201
exceeds R21 000	216

(4) Where it is proved to the satisfaction of the Commissioner that accurate records of distances travelled in such vehicle for private purposes (including travelling between the employee's place of residence and his place of employment) are kept and that such distances are less or are likely to be less than 10 000 kilometres per annum or that part of the cost of maintaining or operating the vehicle for the employee's private purposes is borne directly by the employee, the Commissioner may reduce the value to be placed on the private or domestic use of the vehicle to such amount as appears to the Commissioner to be fair and reasonable in the circumstances of the case.

(5) For the purposes of this paragraph the private use by an employee of a motor vehicle shall be deemed to have no value, if—

(a) (i) the vehicle is available to and is in fact used by any other employee of the employer;

(ii) the private use of the vehicle by the employee concerned is of a casual nature or is merely incidental to its business use; and

(iii) the vehicle is not normally kept at or near the residence of the employee concerned when not in use outside of business hours; or

(b) die aard van die werknemer se pligte so is dat hy gereeld verplig is om die voertuig te gebruik vir die uitvoering van bedoelde pligte buite normale werksure en hy nie toegelaat word om bedoelde voertuig te gebruik vir private doeleindes nie behalwe om tussen sy woonplek en werkplek te reis.

Maaltye, verversings en maaltyd- en verversingskoepons

8. (1) Waar 'n werknemer voorsien is van enige maaltyd, verversing of koepon soos in paragraaf 2 (c) beoog, is die kontantekwivalent van die belasbare voordeel soveel van die waarde van bedoelde maaltyd, verversing of koepon [soos vasgestel ingevolge subparagraaf (2)] as wat 'n vergoeding deur die werknemer gegee ten opsigte van bedoelde maaltyd, verversing of koepon te bowe gaan.

(2) Die waarde wat op bedoelde maaltyd, verversing of koepon geplaas moet word, is die direkte koste vir die werkgewer van bedoelde maaltyd, verversing of koepon.

(3) Geen waarde word ingevolge hierdie paragraaf geplaas nie op—

(a) 'n maaltyd of verversing deur 'n werkgewer aan sy werknemer verskaf, in 'n kantien, kafeteria of eetkamer van die werkgewer wat deur die werkgewer gedryf word en wat geheel of hoofsaaklik deur sy werknemers ondersteun word, of op die sakeperseel van die werkgewer, indien die regstreekse koste vir die werkgewer van bedoelde maaltyd of verversing R2 nie te bowe gaan nie; of

(b) 'n maaltyd of verversing [behalwe 'n maaltyd of verversing bedoel in subparagraaf (3) (a)] deur 'n werknemer verkry deur middel van 'n koepon wat deur sy werkgewer gegee is en wat die werknemer geregtig maak om die maaltyd of verversing te geniet, indien bedoelde koepon—

(i) vir die gebruik van die werknemer alleen is;

(ii) slegs vir maaltye of verversings gebruik kan word; en die koste vir die werkgewer van enige bedoelde koepon of koepons aan enige werknemer gegee nie R2 in totaal vir enige besondere dag te bowe gaan nie.

Huisvesting

9 (1) By die toepassing van hierdie paragraaf beteken—

"besoldiging," met betrekking tot 'n werknemer, die totaal van die bedrae van besoldiging [soos vasgestel ooreenkomstig die omskrywing van "besoldiging" in paragraaf 1 van die Vierde Bylae, maar met begrip van bedrae in paragrawe (iv) en (vii) van daardie omskrywing bedoel] wat deur hom verkry is van sy werkgewer en enige maatskappye en fondse wat verwante inrigtings met betrekking tot die werkgewer is, maar uitgesonderd die waarde van 'n voordeel of belasbare voordeel uit die bewoning van huisvesting verkry;

"besoldigingsfaktor", met betrekking tot 'n jaar van aanslag waartydens 'n werknemer huisvesting bewoon het, die besoldiging deur hom verkry gedurende die jaar van aanslag wat eersgenoemde jaar van aanslag voorafgaan: Met dien verstande dat—

(i) waar gedurende 'n gedeelte van bedoelde voorafgaande jaar die werknemer nie in die diens van die werkgewer of 'n verwante inrigting met betrekking tot die werkgewer was nie, die besoldigingsfaktor met betrekking tot daardie werknemer geag 'n bedrag te wees wat tot die bedrag van sy besoldiging vir die gedeelte van bedoelde voorafgaande jaar waartydens hy in bedoelde diens was, in dieselfde verhouding staan as die verhouding waarin 365 dae tot die aantal dae in bedoelde laasgenoemde gedeelte staan;

(b) the nature of the employee's duties are such that he is regularly required to use the vehicle for the performance of such duties outside his normal hours of work, and he is not permitted to use such vehicle for private purposes other than travelling between his place of residence and his place of work.

Meals, refreshments and meal and refreshment vouchers

8. (1) Where an employee has been provided with any meal, refreshment or voucher as contemplated in paragraph 2 (c), the cash equivalent of the taxable benefit shall be so much of the value of such meal, refreshment or voucher [as determined under subparagraph (2) of this paragraph] as exceeds any consideration given by the employee in respect of such meal, refreshment or voucher.

(2) The value to be placed on such meal, refreshment or voucher shall be the direct cost to the employer of such meal, refreshment or voucher.

(3) No value shall be placed under this paragraph on—

(a) any meal or refreshment supplied by an employer to his employee in any canteen, cafeteria or dining room operated by or on behalf of the employer and patronised wholly or mainly by his employees or on the business premises of the employer, if the direct cost to the employer of such meal or refreshment does not exceed R2; or

(b) any meal or refreshment [other than a meal or refreshment referred to in subparagraph (3) (a)] obtained by an employee with a voucher given by his employer and entitling the employee to partake of the meal or refreshment, if such voucher—

(i) is for the use of the employee only;

(ii) may be used only for meals or refreshments; and the cost to the employer of any such voucher or vouchers given to any employee does not exceed R2 in the aggregate for any one day.

Residential accommodation

9. (1) For the purposes of this paragraph—

"remuneration", in relation to any employee, means the aggregate of the amounts of remuneration [as determined in accordance with the definition of "remuneration" in paragraph 1 of the Fourth Schedule but including any amounts referred to in paragraphs (iv) and (vii) of that definition] which have been derived by him from his employer and any companies and funds which are associated institutions in relation to the employer, but excluding the value of any benefit or taxable benefit derived from the occupation of residential accommodation;

"remuneration factor", in relation to a year of assessment during which an employee has occupied residential accommodation, means the remuneration derived by him during the year of assessment immediately preceding the first-mentioned year of assessment: Provided that—

(i) where during a portion of such preceding year the employee was not in the employment of the employer or any associated institution in relation to the employer, the remuneration factor shall as respects that employee be deemed to be an amount which bears to the amount of his remuneration for the portion of such preceding year during which he was in such employment the same ratio as the period of 365 days bears to the number of days in such last-mentioned portion;

(ii) waar gedurende die geheel van bedoelde voorafgaande jaar, die werknemer nie in die diens van die werkgewer of 'n verwante inrigting met betrekking tot die werkgewer was nie, die besoldigingsfaktor met betrekking tot daardie werknemer geag word 'n bedrag te wees wat tot die werknemer se besoldiging gedurende die eerste maand waartydens hy in die diens van die werkgewer was, in dieselfde verhouding staan as die verhouding waarin 365 dae tot die aantal dae waartydens hy in bedoelde diens was, staan.

(2) Die kontantekwivalent van die waarde van die belasbare voordeel verkry uit die bewoning van huisvesting soos in paragraaf 2 (d) beoog, is die huurwaarde van bedoelde huisvesting [soos vasgestel ingevolge subparagraaf (3), (4) of (5) van hierdie paragraaf ten opsigte van die jaar van aanslag] min enige huurvergoeding deur die werknemer gegee vir bedoelde huisvesting ten opsigte van bedoelde jaar, enige huurvergoeding deur hom gegee ten opsigte van huishoudelike goed wat saam met bedoelde huisvesting verskaf word en enige vordering teen die werknemer deur die werkgewer gemaak ten opsigte van krag of brandstof wat saam met die huisvesting verskaf word.

(3) Die huurwaarde wat op bedoelde huisvesting [behalwe huisvesting bedoel in subparagraaf (4)] vir 'n jaar van aanslag geplaas moet word, is 'n bedrag vasgestel ooreenkomstig die formule—

$$(A—B)\times\frac{C}{100}\times\frac{D}{12},$$

in welke formule—

(a) "A" soveel van die besoldigingsfaktor (soos vasgestel met betrekking tot die jaar van aanslag) as wat R60 000 nie te bowe gaan nie, voorstel;

(b) "B" 'n korting gelyk aan 'n bedrag van R18 000 voorstel: Met dien verstande dat waar—

(i) die werkgewer 'n private maatskappy is en die werknemer 'n direkteur van of aandeelhouer in bedoelde maatskappy is of 'n familielid van 'n direkteur van of aandeelhouer in bedoelde maatskappy is; of

(ii) die betrokke huisvesting deur die werknemer of 'n familielid van die werknemer besit is, genoemde korting na nul verminder moet word;

(c) "C" 'n grootheid van 15 voorstel: Met dien verstande dat waar die huisvesting uit 'n huis, woonstel of apartement van minstens vier vertrekke bestaan—

(i) "C" 'n grootheid van 16 voorstel indien—

(aa) bedoelde huisvesting ongemeubileerd is en krag of brandstof deur die werkgewer verskaf is; of

(bb) bedoelde huisvesting gemeubileerd is maar krag of brandstof nie verskaf word nie; of

(ii) "C" 'n grootheid van 17 voorstel indien bedoelde huisvesting gemeubileerd is en krag of brandstof deur die werkgewer verskaf word; en

(d) "D" die getal maande voorstel met betrekking tot 'n jaar van aanslag waartydens die werknemer op bewoning van bedoelde huisvesting geregtig was.

(4) Die huurwaarde wat op die tydelike bewoning van huisvesting vir doeleindes van 'n vakansie geplaas staan te word, is—

(a) waar bedoelde huisvesting deur die werkgewer gehuur is van 'n persoon wat nie 'n verwante inrigting met betrekking tot die werkgewer is nie, soveel van die huurgeld betaalbaar en enige bedrae vorderbaar ten opsigte van maaltye, ververs ings of enige dienste met betrekking tot bedoelde huisvesting as wat deur die werkgewer gedra is en wat in verband staan met die tydperk waartydens die huisvesting aldus bewoon was; of

(ii) where during the whole of such preceding year, the employee was not in the employment of the employer or of any associated institution in relation to the employer, the remuneration factor shall as respects that employee be deemed to be an amount which bears to the employee's remuneration during the first month during which he was in the employment of the employer the same ratio as 365 days bears to the number of days during which he was in such employment.

(2) The cash equivalent of the value of the taxable benefit derived from the occupation of residential accommodation as contemplated in paragraph 2 (d) shall be the rental value of such accommodation [as determined under subparagraph (3), (4) or (5) of this paragraph in respect of the year of assessment] less any rental consideration given by the employee for such accommodation in respect of such year, any rental consideration given by him in respect of household goods supplied with such accommodation and any charge made to the employee by the employer in respect of power or fuel provided with the accommodation.

(3) The rental value to be placed on such accommodation [other than accommodation referred to in subparagraph (4)] for any year of assessment shall be an amount determined in accordance with the formula—

$$(A—B)\times\frac{C}{100}\times\frac{D}{12},$$

in which formula—

(a) "A" represents so much of the remuneration factor (as determined in relation to the year of assessment) as does not exceed R60 000;

(b) "B" represents an abatement equal to an amount of R18 000: Provided that in any case where—

(i) the employer is a private company and the employee is a director of or shareholder in such company or is a relative of a director of or shareholder in such company; or

(ii) the accommodation in question is owned by the employee or a relative of the employee, the said abatement shall be reduced to zero;

(c) "C" represents a quantity of 15: Provided that where the accommodation consists of a house, flat or apartment consisting of at least four rooms—

(i) "C" represents a quantity of 16 if—

(aa) such accommodation is unfurnished and power or fuel is supplied by the employer; or

(bb) such accommodation is furnished but power and fuel are not supplied; or

(ii) "C" represents a quantity of 17 if such accommodation is furnished and power or fuel is supplied by the employer; and

(d) "D" represents the number of months in relation to a year of assessment during which the employee was entitled to occupation of such accommodation.

(4) The rental value to be placed on accommodation occupied temporarily for the purposes of a holiday shall be—

(a) where such accommodation is hired by the employer from a person other than an associated institution in relation to the employer, so much of the rental payable and any amounts chargeable in respect of meals, refreshments or any services relating to such accommodation as have been borne by the employer and are connected with the period during which the accommodation was so occupied; or

(b) in enige ander geval, 'n bedrag bereken teen 'n tarief van R20 per dag vir elke dag waartydens die huisvesting aldus bewoon was of teen die heersende tarief per dag waarteen bedoelde huisvesting normaalweg verhuur sou word aan 'n persoon wat nie 'n werknemer van die werkgewer of 'n verwante inrigting met betrekking tot die werkgewer is nie, watter tarief ook al die laagste is.

(5) Waar vanweë die ligging, aard of toestand van die huisvesting of enige ander faktor wat die waarde daarvan affekteer, die Kommissaris oortuig is dat die huurwaarde van bedoelde huisvesting minder is as die huurwaarde daarvan wat ingevolge subparagraaf (3) of (4) bepaalbaar is, kan hy bedoelde huurwaarde bepaal teen sodanige mindere bedrag as wat vir hom billik en redelik blyk te wees.

(6) Geen huurwaarde word ingevolge hierdie paragraaf geplaas op huisvesting weg van 'n werknemer se gewone woonplek deur sy werkgewer verskaf terwyl bedoelde werknemer van sy hoofkwartier vir die doeleindes van die uitvoering van sy dienspligte afwesig is nie.

(7) Vir die doeleindes van werknemersbelasting word 'n gepaste deel van die kontantekwivalent bedoel in subparagraaf (2) toegedeel aan elke tydperk gedurende die jaar van aanslag ten opsigte waarvan enige kontantbesoldiging deur die werkgewer aan die werknemer betaal is of betaalbaar word.

Gratis of goedkoop dienste

10. (1) Die kontantekwivalent van die waarde van 'n belasbare voordeel verkry uit die lewering van 'n diens aan 'n werknemer soos beoog in paragraaf 2 (e) is—

(a) in die geval van 'n reisfasiliteit verleen deur 'n werkgewer wat in die besigheid van die vervoer teen vergoeding van passasiers oor see of per lug betrokke is, om 'n werknemer of 'n familielid van bedoelde werknemer in staat te stel om na 'n bestemming buite die Republiek vir sy private of huishoudelike doeleindes te reis indien die laagste reisgeld betaalbaar deur 'n passasier wat van bedoelde fasiliteit gebruik maak (sou hy die volle reisgeld betaal het) op die tersaaklike tydstip ten opsigte van 'n bedoelde reis R250 te bowe gaan, 'n bedrag gelyk aan bedoelde laagste reisgeld min die bedrag van enige vergoeding wat deur die werknemer of sy familielid ten opsigte van bedoelde fasiliteit gegee is: Met dien verstande dat by die toepassing hiervan 'n heenreis en 'n retoerreis as een reis beskou word; of

(b) in die geval van die lewering van enige ander diens soos in genoemde paragraaf beoog, die koste vir die werkgewer om bedoelde diens te lewer of te laat lewer min die bedrag van enige vergoeding wat deur die werknemer ten opsigte van bedoelde diens gegee is.

(2) Geen waarde word ingevolge hierdie paragraaf geplaas nie op—

(a) 'n reisfasiliteit verleen deur 'n werkgewer wat in die besigheid van die vervoer teen vergoeding van passasiers op land, oor see of per lug betrokke is, om 'n werknemer in sy diens in staat te stel om na 'n bestemming in die Republiek te reis of oor land na 'n bestemming in 'n land aangrensend aan die Republiek te reis; of

(b) 'n vervoerdiens wat deur 'n werkgewer aan sy werknemers oor die algemeen gelewer word vir die vervoer van bedoelde werknemers van hulle woonplekke na hulle werkplek en vice versa; of

(c) toevallige dienste deur 'n werkgewer aan sy werknemer gelewer indien die koste vir die werkgewer om bedoelde dienste te lewer nie oor die geheel die som van R250 gedurende die jaar van aanslag te bowe gaan nie.

(b) in any other case, an amount calculated at the rate of R20 per day for each day during which the accommodation was so occupied or at the prevailing rate per day at which such accommodation would normally be let to any person who is not an employee of the employer or of any associated institution in relation to the employer, whichever rate is lower.

(5) Where, by reason of the situation, nature or condition of the accommodation or any other factor, the Commissioner is satisfied that the rental value of such accommodation is less than the rental value thereof determinable under subparagraph (3) or (4), he may determine such rental value at such lower amount as to him appears fair and reasonable.

(6) No rental value shall be placed under this paragraph on any accommodation away from an employee's usual place of residence provided by his employer while such employee is absent from his headquarters for the purposes of performing the duties of his employment.

(7) For employees tax purposes an appropriate portion of the cash equivalent referred to in subparagraph (2) shall be apportioned to each period during the year of assessment in respect of which any cash remuneration is paid or becomes payable by the employer to the employee.

Free or cheap services

10. (1) The cash equivalent of the value of any taxable benefit derived from the rendering of a service to any employee as contemplated in paragraph 2 (e) shall be—

(a) in the case of any travel facility granted by any employer who is engaged in the business of conveying passengers for reward by sea or by air to enable any employee or any relative of such employee to travel to any destination outside the Republic for his private or domestic purposes if the lowest fare payable by a passenger utilizing such facility (had he paid the full fare) at the relevant time in respect of any such journey exceeds R250, an amount equal to such lowest fare, less the amount of any consideration given by the employee or his relative in respect of such facility: Provided that for the purposes hereof a forward journey and a return journey shall be regarded as one journey; or

(b) in the case of the rendering of any other service as contemplated in the said paragraph, the cost to the employer in rendering such service or having such service rendered, less the amount of any consideration given by the employee in respect of such service.

(2) No value shall be placed under this paragraph on—

(a) any travel facility granted by any employer who is engaged in the business of conveying passengers for reward by land, sea or air to enable any employee in his employment to travel to any destination in the Republic or to travel overland to any destination in a country bordering on the Republic; or

(b) any transport service rendered by any employer to his employees in general for the conveyance of such employees from their homes to the place of their employment and *vice versa;* or

(c) occasional services rendered by any employer to his employee if the cost to the employer of rendering such services does not in the aggregate exceed the sum of R250 during the year of assessment.

Voordele ten opsigte van rente op lenings

11. (1) Behoudens die bepalings van paragraaf 14, is die kontantekwivalent van die waarde van die belasbare voordeel verkry as gevolg van die toekenning van 'n lening aan 'n werknemer onder die omstandighede beoog in paragraaf 2 (f) die bedrag aan rente wat op die bedrag verskuldig ten opsigte van die lening ten opsigte van die jaar van aanslag betaalbaar sou gewees het indien die werknemer verplig was om rente teen die amptelike rentekoers op bedoelde bedrag gedurende daardie jaar te betaal, min die bedrag aan rente (indien enige) wat deur die werknemer ten opsigte van die lening ten opsigte van bedoelde jaar werklik opgeloop is.

(2) Vir doeleindes van werknemersbelasting—

(a) word 'n gedeelte van genoemde kontantekwivalent geag aan die werknemer toe te geval het—

(i) waar rente op die betrokke lening by gereelde tussenpose deur die werknemer betaalbaar is, op elke datum gedurende die jaar van aanslag waarop rente aldus vir 'n deel van bedoelde jaar betaalbaar word;

(ii) waar rente op die betrokke lening by ongereelde tussenpose deur die werknemer betaalbaar is, of waar rente op die lening nie deur hom betaalbaar is nie, op die laaste dag van elke tydperk gedurende die jaar van aanslag ten opsigte waarvan enige kontantbesoldiging deur die werkgewer aan die werknemer betaalbaar word; en

(b) word genoemde gedeelte vasgestel deur rente te bereken teen die amptelike rentekoers vir die deel van die jaar in subparagraaf (2) (a) (i) bedoel of die tydperk in subparagraaf (2) (a) (ii) bedoel, na gelang van die geval en daarvan af te trek soveel van die bedrag aan rente (indien enige) deur hom op die lening betaalbaar as wat betrekking het op genoemde deel van 'n jaar of genoemde tydperk, na gelang van die geval.

(3) Met die toestemming van die Kommissaris kan 'n verskillende metode van berekening van genoemde kontantekwivalent of gedeeltes daarvan aangewend word indien die Kommissaris oortuig is dat bedoelde metode in wese dieselfde resultaat oplewer as die metodes soos in subparagrawe (1) en (2) bepaal.

(4) Geen waarde word ingevolge hierdie paragraaf geplaas nie op die belasbare voordeel verkry as gevolg van—

(a) die toekenning deur 'n werkgewer aan sy werknemer van 'n toevallige lening of lenings indien bedoelde lening of die totaal van bedoelde lenings op 'n betrokke tydstip die som van R3 000 nie te bowe gaan nie; of

(b) die toekenning deur 'n werkgewer aan sy werknemer van 'n lening vir die doeleindes om daardie werknemer in staat te stel om sy eie studies te bevorder.

(5) Waar 'n bedrag, synde die kontantekwivalent soos vasgestel ingevolge die bepalings van hierdie paragraaf, van die waarde van 'n belasbare voordeel deur 'n belastingpligtige verkry as gevolg van 'n lening aan hom toegestaan, in bedoelde belastingpligtige se belasbare inkomste in 'n jaar van aanslag ingesluit is, word bedoelde bedrag by die toepassing van artikel 11 (a) van hierdie Wet geag rente werklik deur hom in daardie jaar van aanslag ten opsigte van genoemde lening opgeloop te wees waar bedoelde bedrag, indien dit as rente werklik opgeloop was, deur die belastingpligtige by die voortbrenging van sy inkomste opgeloop sou gewees het.

Subsidies ten opsigte van leningsrente ingevolge huiseienaarskap- of behuisingskemas

12. Behoudens die bepallings van paragraaf 14, is die kontantekwivalent van die waarde van die belasbare voordeel bestaande uit 'n subsidie ten opsigte van die bedrae aan

Benefits in respect of interest on loans

11. (1) Subject to the provisions of paragraph 14 the cash equivalent of the value of the taxable benefit derived in consequence of the grant of a loan to an employee in the circumstances contemplated in paragraph 2 (f) shall be the amount of interest that would have been payable on the amount owing in respect of the loan in respect of the year of assessment if the employee had been obliged to pay interest on such amount during such year at the official rate of interest, less the amount of interest (if any) actually incurred by the employee in respect of the loan in respect of such year.

(2) For employees tax purposes—

(a) a portion of the said cash equivalent shall be deemed to have accrued to the employee—

(i) where interest on the loan in question becomes payable by the employee at regular intervals, on each date during the year of assessment on which interest becomes so payable for a portion of such year;

(ii) where interest on the loan in question becomes payable by the employee at irregular intervals or where interest on the loan is not payable by him, on the last day of each period during the year of assessment in respect of which any cash remuneration becomes payable by the employer to the employee; and

(b) the said portion shall be determined by calculating interest at the official rate of interest for the portion of the year referred to in subparagraph (2) (a) (i) or the period referred to in subparagraph (2) (a) (ii), as the case may be, and deducting therefrom so much of the amount of interest (if any) payable by him on the loan as relates to the said portion of a year or the said period, as the case may be.

(3) With the consent of the Commissioner a different method of calculation of the said cash equivalent or portions thereof may be employed if the Commisioner is satisfied that such method achieves substantially the same result as the methods provided in subparagraphs (1) and (2).

(4) No value shall be placed under this paragraph on the taxable benefit derived in consequence of—

(a) the grant by any employer to his employee of any casual loan or loans if such loan or the aggregate of such loans does not exceed the sum of R3 000 at any relevant time; or

(b) the grant by any employer to his employee of any loan for the purpose of enabling that employee to further his own studies.

(5) Where any amount, being the cash equivalent as determined under the provisions of this paragraph, of the value of a taxable benefit derived by any taxpayer in consequence of a loan granted to him, has been included in such taxpayer's taxable income in any year of assessment, such amount shall for the purposes of section 11 (a) of this Act be deemed to be interest actually incurred by him in that year of assessment in respect of the said loan where such amount, had it been actually incurred as interest, would have been incurred by the taxpayer in the production of his income.

Subsidies in respect of loan interest under home ownership or housing schemes

12. Subject to the provisions of paragraph 14 the cash equivalent of the value of the taxable benefit consisting of any subsidy in respect of the amounts of interest or capital

rente of kapitaalterugbetalings bedoel in paragraaf 2 (g) die bedrag van bedoelde subsidie: Met dien verstande dat waar die rentekoers betaalbaar op die lening die amptelike rentekoers te bowe gaan en die subsidie ingevolge 'n deur die Kommissaris goedgekeurde huiseienaarskap- of behuisingskema betaalbaar is, by die toepassing van hierdie paragraaf daar van die subsidie afgetrek word soveel daarvan as wat die Kommissaris oortuig is nie ingevolge bedoelde skema betaalbaar sou gewees het nie indien die rentekoers betaalbaar op die lening gelyk aan die amptelike rentekoers was.

Betaling van werknemer se skuld of ontheffing van werknemer van verpligting om 'n skuld te betaal

13. (1) Die kontantekwivalent van die waarde van die belasbare voordeel verkry vanweë die betaling deur 'n werkgewer van 'n bedrag onder die omstandighede in paragraaf 2 (h) beoog, is 'n bedrag gelyk aan bedoelde bedrag, en die kontantekwivalent van die voordeel aan 'n werknemer vanweë sy ontheffing van die verpligting om 'n verskuldigde bedrag te betaal, soos in genoemde paragraaf beoog, is 'n bedrag gelyk aan die bedrag wat verskuldig was.

(2) Geen waarde word ingevolge hierdie paragraaf geplaas nie op die waarde van enige belasbare voordeel verkry—

(a) vanweë die feit dat 'n werkgewer die koste gedra het van 'n telefoondiens aan sy werknemer gelewer by die werknemer se woonplek, indien die lewering van bedoelde diens deur die werkgewer vereis word omrede die werknemer, as gevolg van die aard van sy pligte, gedurende sy diensvrye ure ter beskikking moet wees of die telefoon benodig word vir die doeleindes van dienste deur die werknemer by sy woonplek aan sy werkgewer gelewer; of

(b) vanweë die feit dat 'n werkgewer sy werknemer onthef het van 'n verpligting om 'n bedrag te betaal deur die werknemer verskuldig ten opsigte van die koopprys of 'n gedeelte van die koopprys van aandele deur die werknemer verkry ingevolge 'n aandele-aansporingskema bedryf vir die voordeel van werknemers van daardie werkgewer ingevolge reëls wat vir die doeleindes hiervan deur die Kommissaris goedgekeur is indien die werknemer opgehou het om enige verdere belang in genoemde aandele te hê; of

(c) vanweë die feit dat 'n werkgewer subskripsies deur sy werknemer aan 'n professionele liggaam verskuldig, betaal het, indien lidmaatskap van bedoelde liggaam 'n voorwaarde van die werknemer se diens is; of

(d) vanweë die ontheffing deur 'n werkgewer van 'n verpligting om 'n bedrag deur die werknemer aan die werkgewer verskuldig, te betaal, indien bedoelde ontheffing na die afsterwe van die werknemer geskied tensy die werkgewer 'n private maatskappy is en die werknemer toe die bedrag verskuldig geword het of te eniger tyd daarna 'n aandeelhouer in daardie maatskappy was.

Spesiale aftrekking ten opsigte van die kontantekwivalent van sekere behuisingsvoordele

14. (1) 'n Kontantekwivalent vasgestel ingevolge paragraaf 11 ten opsigte van 'n belasbare voordeel deur 'n werknemer verkry as gevolg van die toekenning van 'n lening wat aangewend is vir die doeleindes van die verkryging, oprigting of uitbreiding van sy private woning of die kontantekwivalent vasgestel ingevolge paragraaf 12 ten opsigte van 'n leningsubsidie word verminder—

(a) met 90 persent van die kontantekwivalent waar die kontantekwivalent betrekking het op die jaar van aanslag wat op 28 Februarie 1983 eindig; of

(b) met 75 persent van die kontantekwivalent waar die kontantekwivalent betrekking het op die jaar van aanslag wat op 29 Februarie 1984 eindig; of

repayments referred to in paragraph 2 (g) shall be the amount of such subsidy: Provided that where the rate of interest payable on the loan exceeds the official rate of interest and the subsidy is payable under a home ownership or housing scheme approved by the Commissioner, there shall for the purposes of this paragraph be deducted from the subsidy so much thereof as the Commissioner is satisfied would not have been payable under such scheme had the rate of interest payable on the loan been equal to the official rate of interest.

Payment of employee's debt or release of employee from obligation to pay a debt

13. (1) The cash equivalent of the value of the taxable benefit derived by reason of the payment of any amount by an employer in the circumstances contemplated in paragraph 2 (h) shall be an amount equal to such amount and the cash equivalent of the benefit to an employee by reason of his release from the obligation to pay an amount owing, as contemplated in the said paragraph, shall be an amount equal to the amount that was owing.

(2) No value shall be placed under this paragraph on the value of any taxable benefit derived—

(a) by reason of the fact that an employer has borne the cost of a telephone service rendered to his employee at the employee's place of residence, if such service is required to be rendered by the employer because the employee, owing to the nature of his duties, has to be on call during his off-duty hours or the telephone is required for the purpose of services rendered by the employee to his employer at his place of residence; or

(b) by reason of the fact that an employer has released his employee from an obligation to pay any amount owing by the employee in respect of the purchase price or a portion of the purchase price of shares acquired by the employee under a share incentive scheme operated for the benefit of employees of that employer under rules approved by the Commissioner for the purposes hereof if the employee has ceased to have any interest in such shares; or

(c) by reason of the fact that an employer has paid subscriptions due by his employee to a professional body, if membership of such body is a condition of the employee's employment; or

(d) by reason of the release by an employer of an obligation to pay any amount owing by the employee to the employer, if such release is made after the death of the employee, unless the employer is a private company and the employee was at the time the amount became owing by him or at any time thereafter a shareholder in that company.

Special deduction in respect of the cash equivalent of certain housing benefits

14. (1) Any cash equivalent determined under paragraph 11 in respect of a taxable benefit derived by an employee in consequence of the granting of a loan utilised for the purposes of acquiring, erecting or extending his private residence or the cash equivalent determined under paragraph 12 in respect of any loan subsidy shall be reduced—

(a) by 90 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 28 February 1983; or

(b) by 75 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 29 February 1984; or

(c) met 60 persent van die kontantekwivalent waar die kontantekwivalent betrekking het op die jaar van aanslag wat op 28 Februarie 1985 eindig; of

(d) met 45 persent van die kontantekwivalent waar die kontantekwivalent betrekking het op die jaar van aanslag wat op 28 Februarie 1986 eindig; of

(e) met 30 persent van die kontantekwivalent waar die kontantekwivalent betrekking het op die jaar van aanslag wat op 28 Februarie 1987 eindig; of

(f) met 15 persent van die kontantekwivalent waar die kontantekwivalent betrekking het op die jaar van aanslag wat op 29 Februarie 1988 eindig;

en in so 'n geval is die bedrag wat ingevolge paragraaf (*i*) van die omskrywing van "bruto inkomste" in artikel 1 van hierdie Wet in die werknemer se bruto inkomste ingesluit moet word, genoemde kontantekwivalent soos ingevolge hierdie paragraaf verminder.

(2) Die bepalings van subparagraaf (1) is nie van toepassing ten opsigte van 'n leningsubsidie nie tensy bedoelde leningsubsidie betaalbaar is ingevolge die reëls van 'n skema wat voor 27 Julie 1979 in werking was en die Kommissaris oortuig is—

(a) dat die skema deur behoorlik omskrewe reëls beheer word; en

(b) dat die voordele daaronder verleen, nie te enigertyd beperk is tot direkteure of bestuurders van die werkgewer van die persone wat ingevolge die skema bevoordeel word nie, maar aan ander werknemers van die werkgewer beskikbaar en verleen was.

Aftrekking ten opsigte van die kontantekwivalent van sekere belasbare voordele verkry gedurende die jaar van aanslag eindigende op 28 Februarie 1983

15. (1) Behoudens die bepalings van subparagraaf (2), word die kontantekwivalent ingevolge hierdie Bylae vasgestel ten opsigte van 'n belasbare voordeel deur 'n werknemer gedurende die jaar van aanslag eindigende op 28 Februarie 1983 verkry, verminder met 50 persent van bedoelde kontantekwivalent, en in so 'n geval is die bedrag wat ingevolge paragraaf (*i*) van die omskrywing van "bruto inkomste" in artikel 1 van hierdie Wet in die werknemer se inkomste ingesluit staan te word die genoemde kontantekwivalent soos verminder ingevolge hierdie paragraaf.

(2) Die bepalings van subparagraaf (1) is nie van toepassing nie ten opsigte van—

(a) die kontantwaarde van 'n belasbare voordeel in paragraaf 14 bedoel; of

(b) soveel van die kontantwaarde van enige ander belasbare voordeel gedurende die genoemde jaar verkry as wat volgens die kommissaris se oortyging, met ingagneming van die omstandighede van die geval, aan die betrokke werknemer toegestaan was ter vervang van besoldiging wat normaalweg in kontant aan die werknemer betaalbaar sou gewees het of met die uitsluitlike of hoofdoel om die werknemer van 'n voordeel ingevolge hierdie paragraaf te voorsien.

(3) 'n Beslissing van die Kommissaris is by die aanslaan van die aanspreeklikheid vir normale belasting van die betrokke werknemer is aan beswaar en appèl onderhewig.

Voordele verleen aan familielede van werknemers en andere

16. (1) By die toepassing van hierdie Bylae en van paragraaf (*i*) van die omskrywing van "bruto inkomste" in artikel 1 van hierdie Wet, word 'n werknemer geag 'n belasbare voordeel ten opsigte van sy diens met 'n werkgewer verleen te gewees het indien as 'n voordeel of bate van of uit

(c) by 60 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 28 February 1985; or

(d) by 45 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 28 February 1986; or

(e) by 30 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 28 February 1987; or

(f) by 15 per cent of the cash equivalent where the cash equivalent relates to the year of assessment ending on 29 February 1988;

and in such case the amount to be included in the employee's gross income under paragraph (*i*) of the definition of "gross income" in section 1 of this Act shall be the said cash equivalent as reduced under this paragraph.

(2) The provisions of subparagraph (1) shall not apply in respect of any cash equivalent determined under paragraph 12 in respect of any loan subsidy unless such loan subsidy was payable under the rules of a scheme which was in operation prior to 27 July 1979 and the Commissioner is satisfied—

(a) that the scheme is governed by properly defined rules; and

(b) that the benefits granted thereunder have not at any time been restricted to directors or managers of the employer of the persons benefitting under the scheme but were available and granted to other employees of the employer.

Deduction in respect of the cash equivalent of certain taxable benefits derived during the year of assessment ending on 28 February 1983

15. (1) Subject to the provisions of subparagraph (2), the cash equivalent determined under this Schedule in respect of any taxable benefit derived by an employee during the year ending on 28 February 1983, shall be reduced by 50 per cent of such cash equivalent and in such case the amount to be included in the employee's gross income under paragraph (*i*) of the definition of "gross income" in section 1 of this Act shall be the said cash equivalent as reduced under this paragraph.

(2) The provisions of subparagraph (1) shall not apply in respect of—

(a) the cash value of any taxable benefit referred to in paragraph 14; or

(b) so much of the cash value of any other taxable benefit derived during the said year as the Commissioner, having regard to the circumstances of the case, is satisfied has been granted to the employee concerned in substitution for remuneration which would normally have been payable to the employee in cash or with the sole or main object of providing the employee with an advantage under this paragraph.

(3) Any decision of the Commissioner on assessment of the liability of the employee concerned for normal tax shall be subject to objection and appeal.

Benefits granted to relatives of employees and others

16. (1) For the purposes of this Schedule and of paragraph (*i*) of the definition of "gross income" in section 1 of this Act, an employee shall be deemed to have been granted a taxable benefit in respect of his employment with an

hoofde van die werknemer se diens met die werkgewer of as 'n beloning vir dienste gelewer of wat gelewer moet word deur die werknemer—

(a) die werkgewer 'n voordeel of bate (hetsy regstreeks of onregstreeks) aan 'n familielid van die werknemer verleen het; of

(b) iets deur die werkgewer gedoen is ingevolge 'n ooreenkoms, transaksie of reëling ten einde 'n voordeel of bate te verleen aan 'n persoon wat nie die werknemer is nie (hetsy regstreeks of onregstreeks);

en bedoelde voordeel of bate, indien dit regstreeks deur die werkgewer aan die werknemer verleen was, 'n belasbare voordeel beoog in paragraaf 2 sou uitgemaak het.

(2) Die bepalings van hierdie Bylae is van toepassing met betrekking tot die belasbare voordeel aldus geag verleen te gewees het asof die belasbare voordeel werklik aan die werknemer verleen was.

Sertifikate deur werkgewers

17. (1) Elke werkgewer moet binne 14 dae na die einde van enige jaar of tydperk van aanslag waartydens 'n werknemer van daardie werkgewer 'n belasbare voordeel geniet het wat deur die werkgewer verleen is, of in enige besondere geval, binne die verdere tydperk wat die Kommissaris goedkeur, aan bedoelde werknemer 'n sertifikaat verstrek wat die aard van bedoelde belasbare voordeel en die volle kontantekwivalent van die waarde daarvan gedurende bedoelde jaar of tydperk aantoon.

(2) Die bepalings van subparagraaf (1) is ook van toepassing ten opsigte van 'n belasbare voordeel bedoel in paragraaf 4 of 16.

(3) Bedoelde werkgewer moet binne genoemde tydperk van 14 dae of genoemde verdere tydperk 'n afskrif van bedoelde sertifikaat aan die Kommissaris verstrek.

(4) 'n Werkgewer wat versuim om aan die vereistes van hierdie paragraaf te voldoen, moet aan die Kommissaris 'n boete betaal gelykstaande met 10 persent van die kontantekwivalent van die waarde van die betrokke belasbare voordeel of, waar genoemde kontantekwivalent te laag opgegee is, van die bedrag waarmee die kontantekwivalent te laag opgegee is: Met dien verstande dat die Kommissaris, indien hy oortuig is dat bedoelde versuim nie te wyte is aan 'n bedoeling aan die kant van die werkgewer om sy verpligtinge ingevolge hierdie Wet te ontduik nie en nie bedoel is om die betrokke werknemer in staat te stel om bedoelde werknemer se verpligtinge ingevolge hierdie Wet te ontduik nie, die boete by hierdie subparagraaf opgelê geheel of ten dele kan kwytskeld.

(5) Bedoelde boete is belasbaar en verhaalbaar op die betrokke werkgewer asof dit 'n belasting is wat ingevolge hierdie Wet hefbaar is: Met dien verstande dat 'n weiering deur die Kommissaris om enige gedeelte van bedoelde boete kwyt te skeld aan beswaar en appèl onderworpe is.

(6) Die voorafgaande bepalings van hierdie paragraaf is nie van toepassing nie waar die kontantekwivalent van bedoelde belasbare voordeel besoldiging in die hande van die betrokke werknemer uitgemaak het waarvan werknemersbelasting deur die werkgewer afgetrek of teruggehou is en bedoelde kontantekwivalent ingesluit was in 'n werknemersbelastingsertifikaat wat ingevolge paragraaf 13 van die Vierde Bylae aan die werknemer verstrek was, behalwe in die mate dat bedoelde kontantekwivalent in bedoelde sertifikaat te laag opgegee is.

Jaarstate deur werkgewers

18. (1) Elke werkgewer moet nie later nie as 30 April van elke jaar of binne die tydperk eindigende na daardie datum wat die Kommissaris goedkeur, 'n staat aan die Kommissaris verstrek, in die vorm wat die Kommissaris voorskryf, aangaande die belasbare voordele deur die werknemers van

employer if as a benefit or advantage of or by virtue of the employee's employment with the employer or as a reward for services rendered or to be rendered by the employee—

(a) the employer has granted a benefit or advantage (whether directly or indirectly) to a relative of the employee; or

(b) anything is done by the employer under any agreement, transaction or arrangement so as to confer any benefit or advantage upon any person other than the employee (whether directly or indirectly);

and such benefit or advantage, if it had been granted directly by the employer to the employee, would have constituted a taxable benefit contemplated in paragraph 2.

(2) The provisions of this Schedule shall apply in relation to the taxable benefit so deemed to have been granted as though the taxable benefit had in fact been granted to the employee.

Certificates by employers

17. (1) Every employer shall, within 14 days after the end of any year or period of assessment during which an employee of that employer has enjoyed any taxable benefit granted by the employer, or, in any particular case, within such further period as the Commissioner may approve, deliver to such employee a certificate which shall show the nature of such taxable benefit and the full cash equivalent of the value thereof during such year or period.

(2) The provisions of subparagraph (1) shall also apply in respect of any taxable benefit referred to in paragraph 4 or 16.

(3) Such employer shall within the said period of 14 days or the said further period, deliver to the Commissioner a copy of such certificate.

(4) Any employer who fails to comply with the requirements of this paragraph shall pay to the Commissioner a penalty equal to 10 per cent of the cash equivalent of the value of the taxable benefit in question or where the said cash equivalent has been understated, of the amount by which the cash equivalent was understated: Provided that the Commissioner may, if he is satisfied that such failure was not due to any intention on the part of the employer to evade his obligations under this Act and was not designed to enable the employee concerned to evade such employee's obligations under this Act, remit the whole or any part of the penalty imposed under this subparagraph.

(5) Such penalty shall be assessable upon and recoverable from the employer concerned as though it were a tax chargeable under this Act: Provided that any refusal by the Commissioner to remit any part of such penalty shall be subject to objection and appeal.

(6) The preceding provisions of this paragraph shall not apply where the cash equivalent of such taxable benefit constituted remuneration in the hands of the employee concerned from which employees tax was deducted or withheld by the employer and such cash equivalent has been included in an employees tax certificate delivered to the employee in terms of paragraph 13 of the Fourth Schedule, except to the extent that such cash equivalent was understated in such certificate.

Annual statements by employers

18. (1) Every employer shall, not later than 30 April of each year or within such period ending after that date as the Commissioner may approve, furnish to the Commissioner a statement, in such form as the Commissioner may prescribe, as tot the taxable benefits enjoyed by the employees

daardie werkgewer geniet gedurende die tydperk van 12 maande eindigende op die laaste dag van Februarie van daardie jaar of wat sertifiseer dat geen sodanige voordele geniet is nie.

(2) Elke sodanige staat moet, in die geval van 'n maatskappy, deur 'n direkteur van die maatskappy as juis gesertifiseer word.

(3) Die bepalings van hierdie paragraaf tree op 1 Maart 1983 in werking.

Misdrywe

19. Iemand wat—

(a) 'n sertifikaat bedoel in paragraaf 17 (1) wat vals is, gee of uitreik of laat gee of uitreik of dit wetens besit of gebruik of laat gebruik; of

(b) aan die Kommissaris 'n staat bedoel in paragraaf 18 verstrek wat vals is;

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R400 of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sodanige boete sowel as sodanige gevangenisstraf.

Wysigings van hierdie Bylae

20. (1) Die Minister van Finansies kan by kennisgewing in die *Staatskoerant* die bepalings van hierdie Bylae wysig vir sover dit van toepassing is ten opsigte van 'n jaar van aanslag wat na die datum van bedoelde kennisgewing begin.

(2) 'n Wysiging ingevolge subparagraaf (1) aangebring wat van krag is onmiddellik voor die datum van afkondiging van die Parlementswet wat die skale van normale belasting vir genoemde jaar van aanslag vasstel, verval, tensy die Parlement anders bepaal, op daardie datum, en in so 'n geval hou dit op om vanaf daardie datum regsgeldigheid te hê.

REPUBLIEK VAN SUID-AFRIKA

VERKLARENDE MEMORANDUM OOR DIE WYSIGINGSWETSONTWERP OP INKOMSTEBELASTING, 1982

INLEIDING

Die Wetsontwerp voer wysigings in aan die Inkomstebelastingwet, 1962 (Wet 58 van 1962), hierna die Hoofwet genoem, om voorsiening te maak vir die belasting van sekere voordele verkry uit diens.

KLOUSULE 1

Omskrywings: Wysigings aan artikel 1 van die Hoofwet

Paragraaf (a) voeg 'n voorbehoudsbepaling by paragraaf (c) van die omskrywing van "bruto inkomste" by. Soos paragraaf (c) tans lees, sluit dit by 'n persoon se bruto inkomste " 'n bedrag, met inbegrip van 'n vrywillige toekenning, ontvang of toegeval ten opsigte van bewese dienste of van dienste wat nog bewys moet word", in. Die wysiging ingevoer by paragraaf (a) moet saamgelees word met die wysiging ingevoer by paragraaf (b) aangesien albei wysigings betrekking het op die belasting van voordele uit indiensneming. Die voorbehoudsbepaling bygevoeg by paragraaf (a) by genoemde paragraaf (c) word verdeel in vier paragrawe waarvan die bepalings, kortliks, soos volg is:

(i) Paragraaf (i) van die voorbehoudsbepaling bepaal dat bedoelde paragraaf (c) nie van toepassing sal wees nie ten opsigte van enige voordeel of bate ten opsigte waarvan die bepalings van paragraaf (*i*) [van die omskrywing van "bruto inkomste" soos gewysig by paragraaf (b)] van toepassing is. Paragraaf (c) sal steeds van toepassing bly om vorms van

of that employer during the period of 12 months ending on the last day of February of that year or certifying that no such benefits were enjoyed during such period.

(2) Every such statement shall, in the case of a company, be certified as correct by a director of such company.

(3) The provisions of this paragraph shall take effect on 1 March 1983.

Offences

19. Any person who—

(a) makes or issues or causes to be made or issued or knowingly possesses or uses or causes to be used any certificate referred to in paragraph 17 (1) which is false; or

(b) furnishes to the Commissioner a statement referred to in paragraph 18 which is false;

shall be guilty of an offence and liable on conviction to a fine not exceeding R400 or to inprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Amendments to this Schedule

20. (1) The Minister of Finance may by notice in the *Gazette* amend the provisions of this Schedule in so far as they may be applicable in respect of a year of assessment commencing after the date of such notice.

(2) Any amendment made in terms of subparagraph (1) which is in force immediately before the date of promulgation of the Act of Parliament fixing rates of normal tax for the said year of assessment shall, unless Parliament otherwise provides, lapse on that date, and in such case it shall as from that date cease to have the force of law.

REPUBLIC OF SOUTH AFRICA

EXPLANATORY MEMORANDUM ON THE INCOME TAX AMENDMENT BILL, 1982

INTRODUCTION

The Bill introduces amendments to the Income Tax Act, 1962 (Act 58 of 1962), hereinafter referred to as the principal Act, so as to provide for the taxation of certain benefits derived from employment.

CLAUSE 1

Definitions: Amendments to section 1 of the principal Act

Paragraph (a) adds a proviso to paragraph (c) of the definition of "gross income". Paragraph (c), as it now reads, includes in a person's gross income "any amount, including any voluntary award, received or accrued in respect of services rendered or to be rendered". The amendment introduced by paragraph (a) should be read with the amendment introduced by paragraph (b), as both amendments relate to the taxation of benefits of employment. The proviso added by paragraph (a) to the said paragraph (c) is divided into four paragraphs, the provisions of which are shortly as follows:

(i) Paragraph (i) of the proviso provides that the said paragraph (c) shall not apply in respect of any benefit or advantage in respect of which the provisions of paragraph (*i*) [of the definition of "gross income", as amended by paragraph (b)] apply. Paragraph (c) will continue to apply to

besoldiging waarvoor nie uitdruklik in paragraaf (*i*) voorsiening gemaak word nie waar sodanige besoldiging ontvang word deur of toeval aan 'n persoon, byvoorbeeld, salarisse, lone, kommissies en ander betalings vir dienste.

(ii) Paragraaf (ii) van die voorbehoudsbepaling maak voorsiening vir die insluiting in die inkomste van 'n persoon wat dienste lewer, van enige bedrag wat ontvang word deur of toeval aan 'n familielid van so 'n persoon ten opsigte van sodanige dienste. ("Familielid" word in artikel 1 van die Hoofwet omskryf). 'n Soortgelyke bepaling wat betrekking het op die belasbare voordele, waarvoor voorsiening gemaak word in paragraaf (*i*) van die omskrywing van "bruto inkomste", is ingesluit in paragraaf 16 van die Bylae van die Wetsontwerp (Sewende Bylae van die Hoofwet).

(iii) Paragraaf (iii) van die voorbehoudsbepaling bepaal in effek dat onthaaltoelaes betaal aan werknemers en ampsbekleërs in hul bruto inkomste ingesluit sal word. Hierdie bepaling moet saamgelees word met die wysigings ingevoer by klousules 2, 6 en 7 van die Wetsontwerp.

(iv) Paragraaf (iv) van die voorbehoudsbepaling bepaal dat paragraaf (iii) daarvan nie van toepassing sal wees nie ten opsigte van 'n voorskot of terugbetaling van onthaalkoste werklik aangegaan of aangegaan te word deur die werknemer of ampsbekleër in opdrag van sy werkgewer, mits bewys dat die uitgawes aangegaan is deur die werknemer of ampsbekleër voorgelê word en hy rekenskap van die uitgawes aan sy werkgewer gegee het.

Paragraaf (b) vervang paragraaf (*i*) van die omskrywing van "bruto inkomste" met 'n nuwe paragraaf. Daardie paragraaf het altyd voorsiening gemaak vir die insluiting in bruto inkomste van die waarde van voordele of bates verleen ten opsigte van diens of aan die bekleër van 'n amp. Die wysigings koppel die paragraaf met die Sewende Bylae van die Hoofwet (die Bylae van die Wetsontwerp) en bepaal dat die bedrae wat kragtens paragraaf (*i*) in bruto inkomste ingesluit staan te word, die kontantekwivalente van belasbare voordele sal wees wat binne die omskrywing van "belasbare voordeel" in die Sewende Bylae val. Hierdie wysiging moet saamgelees word met die Bylae van die Wetsontwerp (Sewende Bylae van die Hoofwet) ingevolge waarvan die verskillende belasbare voordele geïdentifiseer en reëls vir die bepaling van die waarde daarvan neergelê word.

KLOUSULE 2

Toelaes aan werknemers en andere om uitgawes te bestry: Wysiging van artikel 8 van die Hoofwet

Ingevolge die bestaande bepalings van artikel 8 (1) van die Hoofwet, word 'n toelae of voorskot betaal aan 'n direkteur, bestuurder, werknemer of ander persoon ten opsigte van reis, onthaal of enige ander diens, in die mate dat dit nie uitgegee is nie, geag inkomste van die ontvanger te wees. 'n Verwysing na 'n bekleër van 'n amp word ingevoeg om dit duidelik te stel dat bekleërs van openbare ampte binne die omvang van die artikel gebring word. Die artikel sal ook, as gevolg van die herroeping van artikel 29 van die Hoofwet by klousule 8 van die Wetsontwerp, van toepassing wees op toelaes betaal aan staatsamptenare en ander persone in die openbare sektor. Die verwysings na onthaal word geskrap en die onthaaltoelaes of -voorskotte wat ingevolge paragraaf (iii) van die voorbehoudsbepaling by paragraaf (c) van die omskrywing van "bruto inkomste" [kyk klousule 1 (a) van die Wetsontwerp] ten volle in die ontvanger se inkomste ingesluit moet word, word uitdruklik uit die omvang van artikel 8 (1) uitgesluit. Die bestaande bepalings van subartikel (1) van artikel 8 van die Hoofwet staan paragraaf (a) van daardie subartikel te word en twee verdere paragrawe, paragrawe (b) en (c), word by daardie subartikel gevoeg. Die bepalings van die nuwe paragrawe is, kortliks, soos volg:

forms of remuneration not specifically provided for in paragraph (*i*) where such remuneration is received by or accrues to a person, e.g. salaries, wages, commissions and other payments for services.

(ii) Paragraph (ii) of the proviso provides for the inclusion in the income of a person who renders services of any amount received by or accruing to a relative of such person in respect of such services. ("Relative" is defined in section 1 of the principal Act.) A similar provision, relating to the taxable benefits which are provided for in paragraph (*i*) of the definition of "gross income", is included in paragraph 16 of the Schedule to the Bill (Seventh Schedule to the principal Act).

(iii) Paragraph (iii) of the proviso provides in effect that entertainment allowances paid to employees and office holders are to be included in their gross incomes. This provision should be read with the amendments introduced by clauses 2, 6 and 7 of the Bill.

(iv) Paragraph (iv) of the proviso provides that paragraph (iii) of the proviso is not to apply in respect of an advance or reimbursement of entertainment expenses actually incurred or to be incurred by the employee or office holder on the instruction of his principal, provided proof that the expenditure was incurred is produced by the employee or office holder and he has accounted for the expenditure to his principal.

Paragraph (b) substitutes a new paragraph for paragraph (*i*) of the definition of "gross income". That paragraph has always provided for the inclusion in gross income of the value of benefits or advantages granted in respect of employment or to the holder of an office. The amendments link the paragraph with the Seventh Schedule to the principal Act (the Schedule to the Bill) and provide that the amounts to be included in gross income under paragraph (*i*) are to be the cash equivalent of taxable benefits falling within the definition of "taxable benefit" in the Seventh Schedule. This amendment should be read with the Schedule to the Bill (Seventh Schedule to the principal Act), in terms of which the various taxable benefits are identified and valuation rules are provided.

CLAUSE 2

Allowances to employees and others to meet expenses: Amendment to section 8 of the principal Act

In terms of the existing provisions of section 8 (1) of the principal Act and allowance or advance paid to a director, manager, employee or other person in respect of travelling, entertainment or any other service, is, to the extent that the allowance or advance is not spent, deemed to be income of the recipient. A reference to a holder of an office is inserted to make it clear that holders of public offices are brought within the scope of the section. The section will also, in consequence of the repeal of section 29 of the principal Act by clause 8 of the Bill, apply in respect of allowances paid to public servants and other persons in the public sector. The references to entertainment are deleted and the entertainment allowances or advances which are required to be included in full in the recipient's income in terms of paragraph (iii) of the proviso to paragraph (c) of the definition of "gross income" [see clause 1 (a) of the Bill] are specifically excluded from the scope of secion 8 (1).

The existing provisions of section (1) section 8 of the principal Act are to become paragraph (a) of that subsection and two further paragraphs, paragraphs (b) and (c), are added to that subsection. The provisions of the new paragraphs are shortly as follows:

(a) Paragraaf (b) (i) bepaal dat waar 'n toelae ten opsigte van vervoeruitgawes op private reise (met inbegrip van reise tussen sy woning en werks- of besigheidsplek uitgegee word, die toelae, in die mate waarin dit aldus uitgegee is, nie geag word as op sakereise uitgegee te wees nie.

(b) Paragraaf (b) (ii) bepaal dat waar 'n vervoertoelae verleen word vir die doel om aangewend te word vir die bestryding van uitgawes ten opsigte van 'n motorvoertuig, die ontvanger geag sal word 'n bedrag bereken deur die tarief per kilometer wat deur die Minister van Finansies by kennisgewing in die *Staatskoerant* neergelê is, toe te pas op 'n afstand van 10 000 kilometers of sodanige korter afstand as wat die ontvanger bewys hy werklik privaat gereis het, aan private reise te bestee het. Waar die ontvanger rekord gehou het van werklike uitgawes en afstande, word 'n berekening kragtens paragraaf (a) op die grondslag van werklike uitgawes nie deur paragraaf (b) (ii) uitgesluit nie.

(c) Paragraaf (b) (iii) bepaal dat waar 'n vervoertoelae ten opsigte van 'n motorvoertuig gegrond is op die werklike afstand wat vir sakedoeleindes gereis is of bewys gelewer word van die werklike afstand, staan die bedrag uitgegee bereken te word deur die toepaslike tarief per kilometer deur die Minister bepaal op die werklike afstand toe te pas. 'n Berekening gegrond op werklike uitgawes is nie uitgesluit nie indien bewys van sodanige uitgawes gelewer word.

Die bepalings van paragraaf (b) (ii) en (iii) het betrekking op die gebruik van 'n voertuig wat deur die werknemer besit of gehuur word en is bedoel om die betrokke werknemer of ampsbekleër naastenby op gelyke voet te plaas met die ampsbekleër of werknemer wat 'n voertuig gebruik wat aan die werkgewer behoort en geraak word deur die bepalings van paragraaf 7 van die Sewende Bylae van die Hoofwet (die Bylae van die Wetsontwerp).

(c) Paragraaf (c) bepaal dat 'n onderhoudstoelae wat nie R50 per dag te bowe gaan nie, verleen aan 'n ampsbekleër of werknemer vir uitgawes aangegaan ten opsigte van persoonlike akkommodasie, maaltye en toevallige onkoste terwyl hy ten einde sy pligte te vervul van sy hoofkwartier afwesig is (mits sodanige afwesigheid hom noodsaak om minstens een dag weg van sy gewone woonplek deur te bring) geag staan te word as werklik deur hom uitgegee te gewees het vir die doeleindes van artikel 8 (1) (a) van die Hoofwet. Hierdie bepaling sal van toepassing wees op werknemers en ampsbekleërs in beide die private en die openbare sektor. Indien die werknemer of ampsbekleër se uitgawes R50 per dag oorskry, kan by verstrekking van bewyse toegelaat word om sy werklike uitgawes af te trek.

KLOUSULE 3

Voorskotte of lenings aan aandeelhouers in private maatskappye: Wysiging van artikel 8B in die Hoofwet

Deur hierdie klousule word 'n nuwe paragraaf (c) by artikel 8B (3) van die Hoofwet ingevoeg wat bepaal dat waar 'n bedrag betaal of 'n bate gegee is deur 'n maatskappy aan sy aandeelhouer onder omstandighede waarvolgens 'n belasbare voordeel aan die betrokke aandeelhouer toeval en die kontantekwivalent van die belasbare voordeel kragtens paragraaf (*i*) van die omskrywing van "bruto inkomste" in die aandeelhouer se bruto inkomste ingesluit is, die betrokke bedrag of bate nie ook as 'n dividend ingevolge die bepalings van artikel 8B in die aandeelhouer se hande belas sal word nie.

KLOUSULE 4

Bedrae wat geag word uit bronne in die Republiek verkry te wees: Wysiging aan artikel 9 van die Hoofwet

Ingevolge die huidige bepalings van artikel 9 (1) (e) van die Hoofwet word die besoldiging van staatsamptenare wat in die buiteland gestasioneer is, geag uit 'n bron in die Republiek verkry te wees, en gevolglik word verseker dat daardie besoldiging aan normale belasting in die Republiek

(a) Paragraph (b) (i) provides that where an allowance in respect of transport expenses is expended on private travelling (including travelling between the recipient's place of residence and his place of employment or business) the allowance will, to the extent that it is so expended, not be regarded as having been spent on travelling on business.

(b) Paragraph (b) (ii) provides that where a transport allowance is granted for the purpose of being utilised to defrey expenditure in respect of a motor vehicle, the recipient is to be regarded as having spent on private travelling an amount determined by applying the rate per kilometre fixed by the Minister of Finance by notice in the *Gazette* to a distance of 10 000 kilometres or such shorter distance as the recipient shows he has actually travelled on private travelling. Where the recipient has kept records of actual expenditure and distances a calculation under paragraph (a) on the basis of the actual expenditure is not excluded by paragraph (b) (ii).

(c) Paragraph (b) (iii) provides that where a transport allowance in respect of a motor vehicle is based on the actual distance travelled on business or the actual distance is proved, the amount expended is to be determined by applying the appropriate rate per kilometre fixed by the Minister to the actual distance. A calculation based on actual expenditure is not excluded if such expenditure is proved.

The provisions of paragraph (b) (ii) and (iii) relate to the use of an employee-owned or leased vehicle and are designed to place the employee or office holder concerned approximately on a par with the office holder or employee who uses an employer-owned motor vehicle and is affected by the provisions of paragraph 7 of the Seventh Schedule to the principal Act (the Schedule to the Bill).

(d) Paragraph (c) provides that a subsistence allowance not exceeding R50 per day granted to an office holder or employee for expenses incurred in respect of personal accommodation, meals and incidental costs while he is absent from his headquarters for the purposes of performing his duties (such absence obliging him to spend at least one night away from his usual place of residence), is to be regarded as having been actually expended by him for the purposes of section 8 (1) (a) of the principal Act. This provision is to apply to employees and office holders in the private sector and those in the public sector. If the employee or office holder's expenditure exceeds R50 per day he may on production of proof be allowed to deduct his actual expenditure.

CLAUSE 3

Advances or loans to shareholders in private companies: Amendment of section 8B of the principal Act

This clause inserts in section 8B (3) of the principal Act a new paragraph (c), which provides that where an amount is paid or an asset is given by a company to its shareholder in circumstances in which a taxable benefit accrues to the shareholder concerned and the cash equivalent of the taxable benefit has been included in the shareholder's gross income under paragraph (*i*) of the definition of "gross income", the relevant amount or asset will not also be taxed as a dividend in the shareholder's hands under the provisions of section 8B.

CLAUSE 4

Amounts deemed to be derived from sources within the Republic:

Amendment to section 9 of the principal Act

The present provisions of section 9 (1) (e) of the principal Act deem the remuneration of public servants stationed outside the Republic to be derived from a source within the Republic, thus ensuring that such remuneration is subjected to normal tax. Representation and similar allowances paid

onderwerp word. Verteenwoordigers- en soortgelyke toelaes wat aan bedoelde persone betaal word ter bestryding van uitgawes aangegaan deur daardie persone by die uitoefening van hul pligte is tans ingevolge artikel 29 van die Hoofwet vrygestel van belasting. Ingevolge klousule 8 van die Wetsontwerp word die herroeping van artikel 29 voorgestel. Die wysiging voorgestel deur klousule 4 maak voorsiening vir die voortsetting van die vrystelling. Aangesien artikel 9 (1) (e) nie van toepassing is nie op werknemers in die private sektor wat permanent in die buiteland gestasioneer is en gevolglik nie in die Republiek op hul besoldiging of die toelaes met betrekking tot die uitoefening van hul pligte buite die Republiek belasbaar is nie, word slegs neutraliteit van behandeling met betrekking tot die toelaes deur die voorgestelde wysiging bewerkstellig. Staatsamptenare in die buiteland gestasioneer sal nog steeds in die Republiek op hul gewone besoldiging belasbaar wees, aangesien in terme van internasionale gebruik die reg om sodanige besoldiging te belas gereserveer is vir die land wat bedoelde amptenare emplojeer.

KLOUSULE 5

Vrystellings: Wysigings aan artikel 10 van die Hoofwet

Paragraaf (a) van hierdie klousule voeg in artikel 10 (1) van die Hoofwet paragrawe genommer (nB), (nC) en (nD) in. Ingevolge paragraaf (nB) sal 'n werknemer wat van een werkplek na 'n ander oorgeplaas word, of 'n persoon wat 'n aanstelling aanvaar as 'n werknemer of wat uit sy betrekking aftree, van normale belasting vrygestel wees ten opsigte van enige voordeel of bate wat aan hom toeval weens die feit dat sy werkgewer sy oorplasingskoste gedra het. Benewens die koste om die werknemer, lede van sy huishouding en sy besittings te vervoer, word voorsiening ook gemaak vir uitgawes deur hom aangegaan om hom in sy nuwe woonplek te vestig en vir tydelike huisvesting gehuur gedurende die tydperk van 183 dae eindigende nadat die werknemer se oorplasing van krag geword het of nadat hy sy aanstelling aanvaar het, na gelang van die geval. Die beoogde voordeel of bate mag verskillende vorms aanneem, byvoorbeeld, 'n regstreekse reëling deur die werkgewer met 'n vervoerkontrakteur of 'n kontanttoelae deur die werkgewer aan die werknemer. Indien die kontanttoelae nie ten volle deur die werknemer uitgegee word nie, word die bedrag wat nie uitgegee is nie geag inkomste in sy hande te wees. Paragraaf (nC) verleen 'n vrystelling ten opsigte van opvoedkundige toekennings deur werkgewers vir die voordeel van werknemers se kinders. Die vrystelling is van toepassing indien die betrokke werknemer nie by wyse van besoldiging meer as R6 000 in die jaar van aanslag verkry nie en indien die som van die waardes van die voordele wat ten opsigte van sy kinders ontvang word, nie R500 gedurende die jaar van aanslag te bowe gaan nie.

Paragraaf (nD). Sekere toelaes toegestaan aan werknemers en ampsbekleërs in die publieke sektor om hulle in staat te stel om uitgawes in verband met hul dienste of ampe te bestry is tans van belasting vrygestel. Soos die Wetsontwerp lees, sal die betrokke vrystellings wegval en behalwe in die geval van onthaaltoelaes [wat behandel sal word soos verduidelik in die gedeelte van hierdie Memorandum wat oor klousules 1 (a), 2, 6 en 7 van die Wetsontwerp handel] sal die toelaes ingevolge artikel 8 (1) (a) van die Hoofwet (soos gewysig deur klousule 2) belasbaar wees vir sover dit nie uitgegee is om kwalifiserende uitgawes te bestry nie. Daar word egter deur paragraaf (nD) in wese bepaal dat, wat slegs die jaar van aanslag eindigende op 28 Februarie 1983 betref, die vrystellings nog van toepassing sal wees met betrekking tot 50 persent van die gedeelte van die toelaes wat andersins aan belasting onderhewig sou wees. Die uitwerking van hierdie bepaling is soortgelyk aan die bepalings van paragraaf 15 van die Bylae by die Wetsontwerp ingevolge waarvan 'n soortgelyke infasering voorgestel word met betrekking tot die belasting van diensvoordele in

to such persons to meet expenditure incurred by such persons in performing their duties, e.g. in the case of diplomats, are at present exempt from tax in terms of section 29 of the principal Act. Clause 8 of the Bill proposes the repeal of section 29. The amendment proposed by clause 4, however, provides for the continuation of the exemption. As section 9 (1) (e) does not apply to employees in the private sector who are stationed permanently overseas and are thus not taxable in the Republic on their remuneration or allowances relating to their duties performed outside the Republic, the proposed amendment merely ensures neutrality of treatment as respects the allowances. Public servants stationed overseas will continue to be taxable in the Republic on their ordinary remuneration, as in terms of international usage the right to tax such remuneration is reserved to the country employing such public servants.

CLAUSE 5

Exemptions: Amendments to section 10 of the principal Act

Paragraph (a) of this clause inserts in section 10 (1) of the principal Act paragraphs numbered (nB), (nC) and (nD). In terms of paragraph (nB) an employee who is transferred from one place of employment to another or a person who takes up an appointment as an employee or who retires from his employment, will be exempt from normal tax in respect of any benefit or advantage accruing to him by reason of the fact that his employer has borne his transfer costs. Besides the cost of transporting the employee, members of his household and his possessions, provision is made for expenditure incurred by him in settling in his new place of residence and for temporary residential accommodation hired during the period of 183 days ending after the employee's transfer took effect or after he took up his appointment, as the case may be. The benefit or advantage contemplated may take various forms, e.g. a direct arrangement by the employer with a cartage contractor or a cash allowance by the employer to the employee. If the cash allowance is not spent by the employee in full the amount not spent is regarded as income in his hands. Paragraph (nC) provides an exemption in respect of educational grants by employers for the benefit of employees' children. The exemption applies if the employee concerned does not derive by way of remuneration more than R6 000 in the year of assessment and if the aggregate of the values of the benefits derived in respect of his children during the year does not exceed R500.

Paragraph (nD). At present certain allowances granted to employees or office holders in the public sector to enable them to defray expenditure incurred in connection with their employments or offices are exempt from tax. As the Bill reads the relevant exemptions will fall away and, except in the case of entertainment allowances [which are to be dealt with as explained in the portions of this Memorandum dealing with clauses 1 (a), 2, 6 and 7 of the Bill] the allowances will in terms of section 8 (1) (a) of the principal Act (as amended by clause 2) be taxable to the extent that they are not laid out in defraying qualifying expenditure.

Paragraph (nD), provides, however, in effect that as respects the year of assessment ending on 28 February 1983 only, the exemptions are to continue to apply in respect of 50 per cent of the portions of the allowances that would otherwise be subject to tax. This provision is similar in effect to the provisions of paragraph 15 of the Schedule to the Bill in terms of which a similar phasing-in is proposed in regard to the taxation of benefits of employment in general

die algemeen (behalwe sekere huisvestingsvoordele waarvoor spesiale voorsiening in paragraaf 14 van die Bylae gemaak word). Paragraaf (nD) sal nie op onthaaltoelaes van toepassing wees nie—voorsiening vir dié toelaes word gemaak in die nuwe paragraaf (uA) wat by artikel 11 van die Hoofwet deur klousule 6 (b) van die Wetsontwerp ingevoeg word. Kyk ook die voorbehoudsbepaling by artikel 8 (1) (b) (i), soos voorgestel deur klousule 2.

Paragraaf (b) van hierdie klousule verander die voorwaardes waaronder die bestaande vrystelling ingevolge artikel 10 (1) (qA) van die Hoofwet ten opsigte van beurse van toepassing sal wees in soverre dit beurse toegeken aan familielede van werknemers betref. Om vir die vrystelling te kwalifiseer moet 'n beurs toegeken aan enige sodanige familielid toegeken wees kragtens 'n beursskema wat deur die Kommissaris goedgekeur is en 'n beursskema mag nie goedgekeur word nie tensy aan sekere voorwaardes, soos in die wysiging uiteengesit, voldoen word. Behalwe formele vereistes betreffende reëls, moet die beurse volgens verdienste op aanbeveling van 'n liggaam wat onpartydig optree, toegeken word. Die lede van so 'n liggaam mag deur die werkgewer aangestel word en dit sal vir die werkgewer gerade wees om dit so te doen dat dit onpartydighede sal verseker. Die beurse moet nie vir primêre of sekondêre onderwys toegeken word nie. Die liggaam behoort die studiekursusse wat gevolg moet word, te spesifiseer. Die kinders van alle werknemers behoort in staat te wees om te kwalifiseer volgens skolastiese bekwaamheid of enige objektiewe maatstaf om meriete te bepaal. 'n Beurs moet nie opsegbaar wees bloot omdat die werknemer aan wie dit verbonde is, sy betrekking verlaat het nie.

KLOUSULE 6

Algemene aftrekkings toegelaat by die bepaling van belasbare inkomste:

Wysiging aan artikel 11 van die Hoofwet

Paragraaf (a) van hierdie klousule voer wysigings in aan artikel 11 (u) van die Hoofwet ingevolge waarvan die reëls met betrekking tot die aftrekking wat tot nog toe toelaatbaar was aan direkteure, professionele lui en sekere werknemers ten opsigte van onthaalkoste, soos volg verander staan te word:

(a) Die maksimum aftrekking staan verhoog te word vanaf R300 na 'n bedrag gelyk aan die minste van R1 200 of 4 persent van die belastingpligtige se belasbare inkomste uit 'n bedryf, soos bepaal voordat die aftrekking gemaak is. Waar die belastingpligtige klubsubskripsies betaal het vir onthaaldoeleindes, mag hy, bykomende by die bovermelde maksimum, ook die subskripsies wat hy op hierdie wyse aan nie meer nie as twee klubs betaal het, aftrek.

(b) In die geval van belastingpligtiges wat by wyse van lone, salarisse of soortgelyke besoldiging, besoldig word, sal die onthaaluitgawes as 'n aftrekking toegelaat word indien die pligte van die betrokke belastingpligtige gereeld en noodsaaklikerwyse die aangaan van sodanige uitgawes meebring en hy 'n vergoedende toelaag ten opsigte van sodanige uitgawes ontvang [d.i. een wat kragtens paragraaf (iii) van die voorbehoudsbepaling by paragraaf (c) van die omskrywing van "bruto inkomste" in sy bruto inkomste ingesluit is—kyk klousule 1 (a) van die Wetsontwerp]. Die toelaatbare aftrekking word, daarbenewens, beperk tot die bedrag van die vergoedende toelae.

Paragraaf (b) van hierdie klousule maak voorsiening vir 'n spesiale aftrekking ten opsigte van onthaaltoelaes wat voorheen aan werknemers of ampsbekleërs toegestaan is in bedrae wat hoër is as die maksimum aftrekking wat ingevolge artikel 11 (u) van die Hoofwet, soos gewysig deur paragraaf (a) van hierdie klousule, toelaatbaar is. Waar die werknemer of ampsbekleër 'n soortgelyke toelae gedurende die jaar eindigende op 28 Februarie 1982 geniet het, kan

(other than certain housing benefits specially provided for in paragraph 14 of the Schedule). Paragraph (nD) will not apply to entertainment allowances, such allowances being provided for in the proposed new paragraph (uA) introduced into section 11 of the principal Act by clause 6 (b) of the Bill. See also the proviso to section 8 (1) (b) (i), as proposed by clause 2.

Paragraph (b) of this clause modifies the conditions under which the existing exemption under section 10 (1) (qA) of the principal Act in respect of bursaries will apply in so far as bursaries granted to relatives of employees are concerned. To qualify for the exemption a bursary granted to any such relative must be granted under a scheme approved by the Commissioner and a bursary scheme may not be approved unless certain conditions are met, as set forth in the amendment. Apart from formal requirements as to rules the bursaries must be awarded on merit on the recommendation of a body of persons acting impartially. The members of such body may be appointed by the employer and the employer would be advised to do so in a manner designed to secure impartiality. The bursaries must not be awarded for primary or secondary education. The body should specify the courses of study to be followed. The children of all employees should be able to qualify, depending on scholastic ability or any objective criterion determining merit. A bursary must not be terminable because the employee to whom the bursar is related has left his employment.

CLAUSE 6

General deductions allowed in determination of taxable income:

Amendment to section 11 of the principal Act

Paragraph (a) of this clause introduces amendments to section 11 (u) of the principal Act in terms of which the rules relating to the deduction hitherto allowable to directors, professional people and certain employees in respect of entertainment expenses are to be altered as follows:

(a) The maximum deduction is to be increased from R300 to an amount equal to the lesser of R1 200 or 4 per cent of the taxpayer's taxable income from trade, as determined before making the deduction. Where the taxpayer has paid club subscriptions for the purposes of entertainment he may deduct the subscriptions he has made in this way to no more than two clubs, in addition to the maximum mentioned above.

(b) In the case of taxpayers whose remuneration is in the form of wages, salaries and similar remuneration, the entertainment expenditure is to be allowed as a deduction if the duties of the taxpayer concerned regularly and necessarily involve incurring such expenditure and he receives a reimbursive allowance in respect of such expenditure [i.e. one which is included in his gross income under paragraph (iii) of the proviso to paragraph (c) of the definition of "gross income"—see clause 1 (a) of the Bill]. The permissible deduction is, furthermore, restricted to the amount of the reimbursive allowance.

Paragraph (b) of this clause provides for a special deduction in respect of entertainment allowances previously granted to employees or office holders in excess of the maximum deduction permissible under section 11 (u) of the principal Act, as amended by paragraph (a) of this clause. Where the employee or office holder enjoyed a similar allowance during the year ending 28 February 1982 he may, in terms of the new paragraph (uA) introduced by paragraph

daar aan hom, ingevolge die nuwe paragraaf (uA) ingevoer deur paragraaf (b) van hierdie klousule, 'n aftrekking op inkomste toegestaan word vir die jaar eindigende op 28 Februarie 1983 wat gelyk is aan hoogstens 50 persent van die toelae vir eersbedoelde jaar. Om vir die aftrekking te kwalifiseer moet hy die Kommissaris oortuig dat die toelae werklik op onthaal uitgegee is. Geen aftrekking staan ingevolge paragraaf (uA) toegestaan te word nie indien 'n aftrekking ingevolge paragraaf (u) toegestaan is. Hierdie bepaling is, wat die uitwerking daarvan betref, soortgelyk aan die infaseringsbepalings van die nuwe paragraaf (nD) wat by artikel 10 (1) van die Hoofwet ingevoeg word deur klousule 5 (a) en van paragraaf 15 van die Bylae by die Wetsontwerp.

KLOUSULE 7

Aftrekkings van inkomste nie toegelaat nie:

Wysiging van artikel 23 van die Hoofwet

Artikel 23 van die Hoofwet bepaal dat sekere verliese en uitgawe-items nie van inkomste afgetrek mag word nie. Ingevolge die wysiging ingevoer by hierdie klousule staan die bepalings van artikel 23 ook van toepassing te wees op uitgawes ten opsigte van onthaal met betrekking tot enige diens, professie, roeping, beroep of amp ten opsigte waarvan die belastingpligtige inkomste in die vorm van 'n salaris of loon of soortgelyke besoldiging verkry, behalwe uitgawes wat aftrekbaar is kragtens artikel 11 (u) of (uA) van die Hoofwet—kyk klousule 6 van die Wetsontwerp—en, in die geval van 'n agent of verteenwoordiger wie se besoldiging normaalweg geheel of hoofsaaklik in die vorm van kommissies gegrond op verkope of omset verkry word, uitgawes wat kragtens artikel 11 (a) of (b) van die Hoofwet aftrekbaar is.

Hierdie wysiging behoort saamgelees te word met paragraaf (iii) van die voorbehoudsbepaling by paragraaf (c) van die omsrkywing van "bruto inkomste" bygevoeg by klousule 1 (a) van die Wetsontwerp.

KLOUSULE 8

Belasbare inkomste van staatsamptenare:

Herroeping van artikel 29 van die Hoofwet

Artikel 29 van die Hoofwet bepaal dat die belasbare inkomste wat ontvang word deur of toeval aan of ten gunste van enige persoon uit diens in die staatsdiens of spoorweg- en hawediens van die Republiek ten opsigte van sodanige diens enige betaling gemaak by wyse van toelae insluit, behalwe betalings gemaak om uitgawes aangegaan deur so 'n persoon in verband met sy ampspligte, te bestry. Vir die doeleindes van hierdie artikel word die bekleër van enige winsbetrekking onder die Republiek geag in die staatsdiens van die Republiek te wees.

Gelet op die omvattende wysigings wat ingevolge hierdie Wetsontwerp aan die Hoofwet aangebring word, welke wysigings daarop gemik is om, onder meer, eenvormige behandeling van ampsbekleërs en werknemers in beide die openbare en private sektore te verseker, verval die nodigheid van artikel 29 en word dit daarom herroep. Sover dit onderhoudstoelaes betref, behoort daar na die nuwe artikel 8 (1) (c) wat by klousule 2 in die Hoofwet ingevoer staan te word, verwys te word.

KLOUSULE 9

Belasting op geskenke: Vrystellings:

Wysiging van artikel 56 van die Hoofwet

Hierdie klousule wysig artikel 56 van die Hoofwet ten einde daardie skenkings wat 'n werkgewer aan 'n werknemer maak en wat kragtens die bepalings van die Sewende Bylae van die Hoofwet aan normale belasting onderhewig is, van belasting op geskenke vry te stel. Die wysiging is voortvloeiend uit die invoering in die Hoofwet van meer spesifieke bepalings met betrekking tot die belasting van voordele wat uit diens voortspruit.

(b) of this clause, be granted in respect of the year ending 28 February 1983 a deduction from income equal to not more than 50 per cent of the allowance for the first-mentioned year. To qualify for the deduction he must satisfy the Commissioner that the allowance was actually expended on entertainment. No deduction is to be made under paragraph (uA) if a deduction is made under paragraph (u). This provision is similar in effect to the phasing-in provisions of the new paragraph (nD) inserted in section 10 (1) of the principal Act by clause 5 (a) and of paragraph 15 of the Schedule to the Bill.

CLAUSE 7

Deductions from income not allowed:

Amendment of section 23 of the principal Act

Section 23 of the principal Act provides that certain losses and items of expenditure may not be deducted from income. In terms of the amendment introduced by this clause the provisions of section 23 are also to apply to expenditure in respect of entertainment relating to any employment, profession, calling, occupation or office in respect of which the taxpayer derives income in the form of a salary or wage or similar remuneration, except expenditure which is deductible under section 11 (u) or (uA) of the principal Act—see clause 6 of the Bill—and, in the case of an agent or representative whose remuneration is normally derived wholly or mainly in the form of commissions based on sales or turnover, expenditure which is deductible under section 11 (a) or (b) of the principal Act.

This amendment should be read with paragraph (iii) of the proviso to paragraph (c) of the definition of "gross income" added by clause 1 (a) of the Bill.

CLAUSE 8

Taxable income of public servants:

Repeal of section 29 of the principal Act

Section 29 of the principal Act provides that the taxable income received by or accrued to or in favour of any person from employment in the public service or the railway and harbour service of the Republic in respect of such employment shall include any payment made by way of allowance, except payments made to meet expenditure incurred by such person in connection with his official duties. For the purposes of this section the holder af any office of profit under the Republic is deemed to be in the public service of the Republic.

Having regard to the extensive amendments being made to the principal Act in terms of this Bill, which amendments are designed to ensure inter alia uniformity of treatment of office holders and employees in both the public and private sectors, the need for section 29 falls away and it is therefore being repealed. In so far as subsistence allowances are concerned reference should be made to the new section 8 (1) (c) which is to be introduced into the principal Act by clause 2.

CLAUSE 9

Donations tax: Exemptions:

Amendment of section 56 of the principal Act

This clause amends section 56 of the principal Act so as to exempt from donations tax those donations made by an employer to an employee which are subject to normal tax under the provisions of the Seventh Schedule to the principal Act.

The amendment is consequential upon the introduction into the principal Act of more specific provisions relating to the taxation of benefits arising from employement.

KLOUSULE 10

Voordele van diens: Byvoeging van Sewende Bylae by die Hoofwet

Hierdie klousule voeg 'n nuwe Bylae, die Sewende Bylae, by die Hoofwet. Daardie Bylae handel oor sekere voordele of bates van diens. Kyk ook klousule 1 (b).

KLOUSULE 11

Herroeping van artikel 61 van die Konsolidasiewet op Finansie- en Finansiële Wette, 1977 (Wet 11 van 1977)

Ingevolge die bovermelde bepaling in die Finansie- en Finansiële Wette Konsolidasiewet, 1977, was die behuisingsvoordele betaalbaar kragtens verskeie skemas aan werknemers in die openbare sektor van normale belasting vrygestel. Aangesien verskeie bepalings van hierdie Wetsontwerp uniforme reëls bepaal vir die belasting van die waarde van voordele verleen aan werknemers ten opsigte van hul diens, het dit nodig geword om hierdie besondere vrystelling te herroep.

KLOUSULE 12

Wysiging van artikel 1 van die Wet op Besoldiging van Regters, No. 91 van 1978

Deur hierdie klousule word skrapping van subartikel (2) van artikel 1 van bogenoemde Wet voorgestel, waarkragtens regters van die Hooggeregshof sekere belastingvrye toelaes ontvang.

KLOUSULE 13

Inwerkingtreding van wysigings

Die wysigings wat deur hierdie Wetsontwerp by die Hoofwet en sekere ander Wette ingevoer, sal, behalwe waar anders bepaal word of die samehang anders aandui, in werking tree vanaf die begin van jare van aanslag wat op of na 28 Februarie 1983 eindig.

KLOUSULE 14

Hierdie klousule skryf die korttitel van die Wet voor.

DIE BYLAE

(Sewende Bylae van die Hoofwet)

Die Bylae van die Wetsontwerp wat die Sewende Bylae van die Hoofwet sal wees, sal van toepassing wees vanaf die aanvang van die jaar van aanslag eindigende op 28 Februarie 1983, d.i., vanaf 1 Maart 1982. Die Bylae omskryf in wese die voordele of bates van diens of die bekleding van 'n amp wat vir doeleindes van paragraaf (*i*) van die omskrywing van "bruto inkomste" in artikel 1 van die Hoofwet (soos gewysig by klousule 1 (b) van die Wetsontwerp) om ag geneem moet word en skryf die waardes wat kragtens daardie paragraaf ten opsigte van sodanige voordele of bates in bruto inkomste ingesluit staan te word, voor. Sekere reëls word neergelê met betrekking tot die toepassing van die bepalings van die Bylae vir doeleindes van werknemersbelasting en bepalings betreffende die pligte van werkgewers word ingevoer. Dié bepalings, vir sover dit die pligte van werkgewers met betrekking tot die aftrekking of terughouding van werknemersbelasting raak, sal, egter, nie voor die datum van inwerkingtreding van die wysigende Wet van krag word nie.

PARAGRAAF 1

Omskrywings

Sekere uitdrukkings word vir doeleindes van die Bylae omskryf.

Die uitdrukking "amptelike rentekoers" word in paragrawe 11 en 12 gebesig. Dit is 'n maatstaf vir die bepaling van die kontantekwivalent van die waarde van rentevrye of lae-rentekoerslenings. Die voorgestelde koers is 8 persent.

CLAUSE 10

Benefits of employment: Addition of Seventh Schedule to the principal Act

This clause adds a new schedule, the Seventh Schedule, to the principal Act. That Schedule deals with certain benefits or advantages of employment. See also clause 1 (b).

CLAUSE 11

Repeal of section 61 of the Finance and Financial Acts Consolidation Act, 1977 (Act 11 of 1977)

In terms of the above-mentioned provision in the Finance and Financial Acts Consolidation Act, 1977, the housing benefits payable under various schemes to employees in the public sector were exempted from normal tax. Since various provisions contained in this Bill provide uniform rules for taxing the value of benefits granted to employees in respect of their employment, it has become necessary to repeal this particular exemption.

CLAUSE 12

Amendment of section 1 of the Judges' Remuneration Act, No. 91 of 1978

This clause proposes the deletion of subsection (2) of section 1 of the above-mentioned Act, in terms of which judges of the Supreme Court receive certain tax-free allowances.

CLAUSE 13

Commencement of amendments

The amendments introduced by the Bill to the principal Act and certain other Acts are, except where otherwise provided for or the context otherwise indicates, to take effect from the commencement of years of assessment ending on or after 28 February 1983.

CLAUSE 14

This clause prescribes the short title of the Act.

SCHEDULE

(Seventh Schedule to the principal Act)

The Schedule to the Bill, which is to be the Seventh Schedule to the principal Act, is to apply with effect from the commencement of the year of assessment ending on 28 February 1983, i.e. from 1 March 1982. In essence the Schedule defines the benefits or advantages attaching to employment or the holding of an office which are to be taken into account for the purposes of paragraph (*i*) of the definition of "gross income" in section 1 of the principal Act (as amended by clause 1 (b) of the Bill) and prescribes what values are to be included in gross income under that paragraph in respect of such benefits or advantages. Certain rules are provided in regard to the application of the provisions of the Schedule for employees tax purposes and provisions are introduced concerning the duties of employers. Those provisions, so far as they affect the duties of employees in regard to the deduction or withholding of employees tax will, however, not come into force before the date of promulgation of the amending Act.

PARAGRAPH 1

Definitions

Certain expressions are defined in this paragraph for the purposes of the Schedule.

The expression "associated institution" relates to situations where employees are remunerated by companies or funds which are associated with their employers, usually in addition to the remuneration paid directly by the employers.

Dit kan van tyd tot tyd deur die Minister van Finansies soos in die omskrywing bepaal, gevarieer word, maar die amptelike koers van toepassing ten opsigte van 'n jaar van aanslag mag nie gedurende daardie jaar gevarieer word nie.

Die omskrywing van "belasbare voordeel" saamgelees met paragraaf 2, identifiseer die voordele waarop 'n waarde, vir doeleindes van paragraaf (*i*) van die omskrywing van "bruto inkomste" in artikel 1 van die Hoofwet, geplaas moet word (kyk klousule 1 (a) van die Wetsontwerp). Die voordele waarmee kragtens die Bylae gehandel moet word, sluit enige voordeel uit waarvan die bedrag of waarde kragtens artikel 10 van die Hoofwet vrygestel is en mediese en soortgelyke voordele verleen deur 'n bystandsfonds. Voordele wat kragtens artikel 10 van die Wet vrygestel is, sluit dié in wat reeds kragtens artikel 10 (1) (mA), (n) en (nA) van die Hoofwet vrygestel is asook dié vermeld in die nuwe vrystellings in die paragrawe genommer (nB) en (nC) wat deur klousule 5 (a) van die Wetsontwerp ingevoer word.

Die uitdrukking "diens" word omskryf as enige amp of diens. "Amp" is nie sinoniem met "diens" nie en die bepalings van die Bylae sal van toepassing wees op bekleërs van ampte (byvoorbeeld direkteure van maatskappye) en op werknemers.

Die omskrywing van "lening" is selfverduidelikend. Hierdie omskrywing is hoofsaaklik ter sake vir doeleindes van paragrawe 2 (f) en 11.

Die omskrywing van "maand" word ingevoer om dit duidelik te maak dat 'n maand vanaf die eerste dag van 'n maand soos gewoonlik verstaan word, loop. Die woord word in paragrawe 7 (motorvoertuie) en 9 (huisvesting) gebesig.

Die omskrywing van "vergoeding" behoort saamgelees te word met daardie bepalings wat verwys na die gee van 'n vergoeding deur die werknemer, byvoorbeeld, ten opsigte van 'n bate verkry van sy werkgewer soos in paragraaf 2 (a) beoog. In so 'n geval staan enige vergoeding wat bestaan uit dienste gelewer deur die werknemer, buite rekening gelaat te word.

Die uitdrukking "verwante inrigting" het betrekking op situasies waar werknemers besoldig word deur maatskappye of fondse wat aan hul werkgewers verwant is, gewoonlik bykomend by die besoldiging wat regstreeks deur die werkgewers betaal word. Maatskappye in 'n groep wat wesentlik deur dieselfde persone beheer word, sal verwante inrigtings met betrekking tot mekaar wees. 'n Fonds (byvoorbeeld 'n pensioenfonds) sal 'n verwante inrigting met betrekking tot die werkgewer wees. Die bepalings van die Bylae wat regstreeks op verwante inrigtings betrekking het, is die omskrywing van "belasbare voordeel" (kyk hierbo), waar daar na 'n bystandsfonds verwys word, en paragrawe 4 en 9.

Die uitdrukkings "werknemer" en "werkgewer" het dieselfde betekenis as wat daardie uitdrukkings vir doeleindes van werknemersbelasting het, behalwe dat die uitdrukking "werkgewer" uitgebrei word om maatskappye in te sluit en die uitdrukking "werknemer" aangepas word om sekere afgetrede werknemers uit te sluit en direkteure van maatskappye en 'n afgetrede direkteur of werknemer van 'n maatskappy wat die enigste aandeelhouer of een van die vernaamste aandeelhouers in die maatskappy is, in te sluit. In baie, indien nie die meeste nie, gevalle sal pensioentrekkers wat voortgaan om voordele van die aard waarop die Bylae betrekking het, te geniet, nie daarop belasbaar wees nie. Sekere direkteure van maatskappye is nie vir doeleindes van werknemersbelasting werknemers nie. Aangesien sommige direkteure ook verskillende soorte voordele van hul maatskappye verkry, staan die bepalings van die Sewende Bylae ook in hul gevalle van toepassing te wees. Alle maatskappye sal verplig wees om verslag te doen van die belasbare voordele deur hulle verleen—kyk paragrawe 17 en 18—hetsy werknemersbelasting afgetrek of teruggehou is, al dan nie.

Companies in a group managed or controlled by substantially the same persons will be associated institutions in relation to each other. A fund (e.g. a pension fund) will be an associated institution in relation to the employer for whose employees' benefit the fund is established. A company controlled by an employer who is not a company or a partnership of which such employer is a member will be an associated institution in relation to the employer. The provisions of the Schedule relating directly to associated institutions are the definition of "taxable benefit" (see hereunder), where reference is made to a benefit fund, and paragraphs 4 and 9.

The definition of "consideration" should be read with those provisions referring to the giving of a consideration by an employee, e.g. in respect of an asset acquired from his employer as contemplated in paragraph 2 (a). In such a case any consideration consisting of services rendered by the employee is to be left out of account.

The expressions "employee" and "employer" have the same meaning as those expressions have for employees tax purposes except that the expression "employer" is expanded to include companies and the expression "employee" is modified to exclude certain retired employees and to include directors of companies and a retired director or employee of a company who is the sole shareholder or one of the principal shareholders in the company. In many if not most cases pensioners who continue to enjoy benefits of the kind provided for in the Schedule will not be taxable thereon. Certain directors of companies are not employees for employees tax purposes. As some directors also derive various kinds of benefits from their companies the provisions of the Seventh Schedule are to apply in their case too. All companies will be required to report the taxable benefits given by them—see paragraphs 17 and 18—whether or not employees tax is deducted or withheld.

The expression "employment" is defined to mean any office or employment. "Office" is not synonymous with "employment" and the provisions of the Schedule are to apply to holders of offices (e.g. holders of public offices and company directors) as well as to employees.

The definition of "loan" is self-explanatory. This definition is relevant mainly for the purposes of paragraphs 2 (f) and 11.

The definition of "month" is introduced to make it clear that a month runs from the first day of a month as ordinarily understood. The word is used in paragraphs 7 (motor vehicles) and 9 (accommodation).

The expression "official rate of interest" is used in paragraphs 11 and 12. It is a measure for determining the cash equivalent of the value of interest-free or low-interest loans. The rate proposed is 8 per cent. This may be varied by the Minister of Finance from time to time as provided in the definition, but the official rate applicable in respect of a year of assessment may not be varied during that year.

The definition of "taxable benefit" read with paragraph 2, identifies the benefits which have to be valued for the purposes of paragraph (*i*) of the definition of "gross income" in section 1 of the principal Act (see clause 1 (a) of the Bill). The benefits to be dealt with under the Schedule exclude any benefit the amount or value of which is exempt under section 10 of the principal Act and medical and similar benefits provided by a benefit fund. Benefits which are exempt under section 10 of the Act include those which are already exempt under section 10 (1) (mA), (n) and (nA) of the principal Act as well as those referred to in the new exemptions provided for in the paragraphs numbered (nB) and (nC) introduced by clause 5 (a) of the Bill.

PARAGRAAF 2

Hierdie paragraaf beskryf die omstandighede waaronder 'n belasbare voordeel beskou sal word as deur 'n werkgewer aan 'n werknemer verleen te gewees het. Die voordeel moet by wyse van 'n voordeel of bate van of uit hoofde van diens of by wyse van 'n vergoeding vir diens wat gelewer is of gelewer sal word, verleen word. Indien daar geen verband met indiensneming of dienste is nie, is die voordeel of bate, indien enige, nie 'n belasbare voordeel vir doeleindes van die Bylae nie. Byvoorbeeld, 'n rentevrye lening gegee aan 'n aandeelhouer van 'n maatskappy wat nie 'n werknemer van die maatskappy is nie en geen dienste aan die maatskappy lewer nie, sal nie tot 'n belasbare voordeel in sy hande kragtens paragraaf 2 (f) aanleiding gee nie. (Die toestaan van so 'n lening kan egter as 'n dividend beskou word in die omstandighede beoog in artikel 8B van die Hoofwet. In dié verband kyk klousule 3 van die Wetsontwerp). Indien die lening aan 'n direkteur gegee word, sal dit 'n feitesaak wees of daar enige belasbare voordeel in sy hande is en sal die beslissing afhang van die aard van sy pligte, die hoeveelheid tyd wat hy aan die maatskappy se sake wy, ens.

Die uitdrukking "werkgewer", "werknemer" en "diens" word gebesig in die sin van daardie uitdrukkings soos in paragraaf 1 omskryf. Sommige van die voordele uiteengesit in paragraaf 2, is tans, in die afwesigheid van 'n uitdruklike vrystelling, duidelik belasbaar uit hoofde van die bepalings van paragraaf (c) van die omskrywing van "bruto inkomste" in artikel 1 van die Hoofwet aangesien hulle bedrae ontvang deur of toegeval aan die betrokke werknemer is, byvoorbeeld, 'n kontantsubsidie ten opsigte van verbandrente [kyk paragraaf 2 (g)]. Deur sodanige voordele in paragraaf 2 op te noem, hou hulle op om kragtens bedoelde paragraaf (c) belasbaar te wees—kyk die voorbehoudsbepaling bygevoeg by paragraaf (c) by klousule 1 (a)—en sal hulle ingevolge die Wetsontwerp belasbaar wees kragtens paragraaf (*i*) van die omskrywing van "bruto inkomste" in die mate soos in die Bylae bepaal.

Die voorgestelde reëls in verband met die verskillende soorte voordele word kortliks hieronder onder die toepaslike opskrifte met betrekking tot paragrawe 5 tot 13 van die Bylae, behandel.

PARAGRAAF 3

Vasstelling van die kontantekwivalent van die waarde van 'n belasbare voordeel

Ingevolge paragraaf (*i*) van die omskrywing van "bruto inkomste" in artikel 1 van die Hoofwet (soos gewysig by klousule 1 (b) van die Wetsontwerp), is die bedrag wat by 'n werknemer se bruto inkomste ten opsigte van 'n belasbare voordeel omskryf in die Bylae ingesluit moet word, die kontantekwivalent van sodanige waarde. Pargraaf 3 bepaal dat die kontantekwivalent deur die werkgewer vasgestel moet word ooreenkomstig die bepalings van die Bylae en die reg word aan die Kommissaris verleen om 'n hervasstelling op aanslag te maak indien die werkgewer se vasstelling onjuis blyk te wees. Voorsiening word ook gemaak dat die Kommissaris 'n aanwysing vir doeleindes van werknemersbelasting mag uitreik indien dit vir hom voorkom asof die vasstelling of voorgenome vasstelling deur 'n werkgewer van die kontantekwivalent van die waarde van 'n belasbare voordeel aangepas behoort te word.

PARAGRAAF 4

Belasbare voordele verleen deur verwante inrigtings

Hierdie paragraaf behoort saamgelees te word met die omskrywing van "verwante inrigting" in paragraaf 1. 'n Tipiese situasie wat voor oë gestel word, is dié van 'n werknemer van 'n maatskappy in 'n groep maatskappye wat 'n voordeel of bate ontvang van 'n ander maatskappy in die groep, byvoorbeeld, 'n lae-rentekoerslening van 'n

PARAGRAPH 2

This paragraph describes the circumstances in which a taxable benefit is to be regarded as having been granted by an employer to an employee. The benefit must be given as a benefit or advantage of or by virtue of employment or as a reward for services rendered or to be rendered. If there is no link with employment or services the benefit or advantage, if any, is not a taxable benefit for the purposes of the Schedule. For example, an interest-free loan given to a shareholder of a private company who is not an employee of the company and does not render any services to the company will not give rise to a taxable benefit in his hands under paragraph 2 (f). (The granting of such a loan may, however, be treated as a dividend in the circumstances contemplated in section 8B of the principal Act. See clause 3 of the Bill in this regard). If the loan is given to a director it will be a question of fact whether there is a taxable benefit in his hands, the decision depending on the nature of his duties, the amount of time spent on the company's business etc.

The expressions "employer", "employee" and "employment" are used in the sense of those expressions as defined in paragraph 1. Some of the benefits detailed in paragraph 2 are at present, in the absence of a specific exemption, clearly taxable by virtue of the provisions of paragraph (c) of the definition of "gross income" in section 1 of the Act, as they constitute amounts received or accrued to the employee concerned, e.g. a cash subsidy in respect of bond interest [see paragraph 2 (g)]. By enumerating such benefits in paragraph 2 they cease to be taxable under the said paragraph (c)—see the proviso added to paragraph (c) by clause 1 (a)—and they will in terms of the Bill be taxable under paragraph (*i*) of the definition of "gross income", to the extent provided in the Schedule.

The proposed rules in regard to the various kinds of benefits are dealt with shortly hereunder under the appropriate headings relating to paragraphs 5 to 13 of the Schedule.

PARAGRAPH 3

Determination of the cash equivalent of the value of a taxable benefit

In terms of paragraph (*i*) of the definition of "gross income" in section 1 of the principal Act (as amended by clause 1 (b) of the Bill), the amount to be included in an employee's gross income in respect of a taxable benefit defined in the Schedule is the cash equivalent of such value.

Paragraph 3 provides that the cash equivalent is to be determined by the employer in accordance with the provisions of the Schedule and the Commissioner is given the right to make a re-determination on assessment if the employer's determination appears to be incorrect. Provision is also made for the Commissioner to issue a directive for employees tax purposes if it appears to him that a determination or proposed determination by an employer of the cash equivalent of the value of a taxable benefit should be adjusted.

PARAGRAPH 4

Taxable benefits granted by associated institutions

This paragraph should be read with the definition of "associated institution" in paragraph 1. A typical situation envisaged is that of an employee of a company in a group of companies who receives a benefit or advantage from another company in the group, e.g. a low-interest loan from a company in the group formed to provide housing loans to

maatskappy in die groep wat opgerig is om behuisingslenings aan werknemers van die groep te voorsien. In so 'n geval word die belasbare voordeel geag deur die werkgewer maatskappy verleen te wees. 'n Pensioen-, voorsorgs- of bystandsfonds opgerig vir die voordeel van die werknemers van 'n werkgewer, is ook verwante inrigtings met betrekking tot die werkgewer en waar so 'n fonds 'n belasbare voordeel van 'n soort beoog in die Bylae verleen sal die kontantekwivalent van die waarde daarvan vir inkomstebelastingdoeleindes by die besoldiging wat deur die werkgewer aan die werknemer betaalbaar is, ingesluit moet word.

Kontantvoordele in die vorm van jaargelde en enkelbedraguittredingvoordele is nie kragtens die Bylae belasbaar nie. Mediese voordele betaal deur 'n bystandsfonds wat 'n mediese bystandsfonds is, word deur die omskrywing van "belasbare voordeel" in paragraaf 1 uit die omvang van die bepalings van die Bylae uitgesluit.

PARAGRAAF 5

Verkryging van 'n bate teen minder as werklike waarde

Hierdie paragraaf behoort saamgelees te word met paragraaf 2 (a). Waar 'n bate deur 'n werknemer van sy werkgewer of van 'n verwante inrigting met betrekking tot die werkgewer of van enige persoon volgens ooreenkoms met die werkgewer, vir minder as die waarde daarvan verkry is, is daar 'n belasbare voordeel en is die kontantekwivalent van die waarde van die voordeel die verskil tussen die waarde van die bate en die vergoeding, as daar is, wat deur die werknemer vir die bate gegee is.

Die waarde wat op die bate geplaas moet word, is die markwaarde daarvan, maar waar die bate roerende eiendom is en dit deur die werkgewer verkry is met die doel om dit aan die werknemer te skenk of te vervreem, sal die waarde wat daarop geplaas moet word, die koste van die bate vir die werkgewer wees. Indien die bate handelsvoorraad van die werkgewer uitgemaak het, sal die waarde wat daarop geplaas moet word, sodanige koste of die markwaarde van die bate, wat ook al die laagste is, wees. Dit word beskou dat die voordeel verkry is op die datum waarop die goed verkry is. Daardie datum sal, indien die bate verkry word deur die uitoefening van 'n opsie of voorloopreg, die datum wees waarop die opsie of voorkoopreg uitgeoefen is [subparagraaf (3)]. Ingevolge subparagraaf (4) sal geen waarde geplaas word op 'n bate wat as 'n toekenning vir dapperheid gegee word nie. Daardie subparagraaf bepaal ook dat geen waarde geplaas sal word nie op 'n bate wat 'n werkgewer aan sy werknemer gee vir veilige werk in 'n gevaarlike beroep of vir lang diens nie, mits die koste van die bate vir die werkgewer nie R1 000 te bowe gaan nie.

PARAGRAAF 6

Gebruiksreg van 'n bate (behalwe huisvesting of 'n motorvoertuig)

Hierdie paragraaf moet saamgelees word met paragraaf 2 (b). In hierdie geval word die waarde van die private of huishoudelike gebruik van 'n bate waarna hierbo verwys is, bepaal en die kontantekwivalent van die waarde van die voordeel is die gebruikswaarde daarvan minus enige vergoeding gegee deur die werknemer vir die gebruik.

Die waarde van die private gebruik is die huurgeld betaal deur die werkgewer indien hy dit gehuur het of, indien hy dit besit het, 15 persent van die koste van die bate vir hom.

Vir doeleindes van werknemersbelasting sal 'n paslike gedeelte van die kontantwaarde toegedeel moet word aan elke betaaltydperk in die jaar van aanslag.

Geen waarde sal op die private of huishoudelike gebruik van enige toerusting of masjien wat die betrokke werkgewer sy werknemers in die algemeen toelaat om van tyd tot tyd te gebruik, geplaas hoef te word nie.

employees of the group. In such a case the taxable benefit is deemed to be granted by the employer company. A pension fund, provident fund or benefit fund established for the benefit of the employees of an employer are also associated institutions in relation to the employer and where such a fund provides a taxable benefit of a kind contemplated in the Schedule the cash equivalent of the value thereof will have to be included in the remuneration payable by the employer to the employee for income tax purposes.

Cash benefits in the form of annuities and lump sum retirement benefits are not taxable under the Schedule. Medical benefits paid by a benefit fund which is a medical aid fund are excluded from the provisions of the Schedule by the definition of "taxable benefit" in paragraph 1.

PARAGRAPH 5

Acquisition of an asset at undervalue

This paragraph should be read with paragraph 2 (a). Where an asset has been acquired by an employee from his employer or from an associated institution in relation to the employer or from any person by arrangement with the employer, at less than its value, there is a taxable benefit and the cash equivalent of the value of the benefit is the difference between the value of the asset and the consideration, if any, given by the employee for the asset.

The value to be placed on the asset is its market value, but where the asset is movable property and it was acquired by the employer in order to donate it or dispose of it to the employee the value to be placed thereon will be the cost of the asset to the employer. If the asset constituted trading stock of the employer the value to be placed on the asset will be such cost or the market value of the asset, whichever is lower. The benefit is regarded as having been derived on the date of the acquisition of the goods. That date will, if the asset is acquired by the exercise of an option or right of preemption, be the date on which the option or right of preemption is exercised [subparagraph (3)]. In terms of subparagraph (4) no value is to be placed on any asset presented as an award for bravery. That subparagraph also provides that no value is to be placed on an asset given by an employer to this employee for safe working in a dangerous occupation or for long service, provided the cost of the asset to the employer does not exceed R1 000.

PARAGRAPH 6

Right of use of any asset (other than residential accommodation or any motor vehicle)

This paragraph should be read with paragraph 2 (b). In this case the value of the private or domestic use of an asset referred to above is determined and the cash equivalent of the value of the benefit is the value of the use less any consideration given by the employee for the use.

The value of the private use is the rental paid by the employer for the asset if he hired it or, if he owned it, 15 per cent of the cost to him of the asset.

For employees tax purposes an appropriate part of the cash value will have to be apportioned to each pay period in the year of assessment.

No value will be required to be placed on the private or domestic use of any equipment or machine which the employer concerned allows his employees in general to use from time to time.

PARAGRAAF 7

Gebruiksreg van 'n motorvoertuig

Hierdie paragraaf moet saamgelees word met paragraaf 2 (b), ingevolge waarvan 'n belasbare voordeel verkry word deur 'n werknemer indien die werkgewer die reg aan hom verleen om 'n bate te gebruik. Paragraaf 7 is van toepassing waar die bate 'n motorvoertuig is.

Die waarde van die private gebruik van die voertuig word bepaal en die vergoeding, indien enige, deur die werknemer vir sodanige gebruik gegee, word afgetrek. Die verskil is die kontantekwivalent van die voordeel.

Die waarde van die private gebruik word bepaal vir elke maand of gedeelte van 'n maand waarin die werknemer die gebruik van die voertuig het, ooreenkomstig 'n neergelegde skaal. ("Maand" word omskryf in paragraaf 1). Die skaal (wat in subparagraaf (3) te vinde is) is gegrond op die jongste beskikbare syfers. Die kategorie waarin die voertuig val, sal van die "vasgestelde waarde" daarvan afhang. "Vasgestelde waarde" word in subparagraaf (1) omskryf. Die Minister van Finansies sal ingevolge paragraaf 19 die mag hê om die skaal van tyd tot tyd te wysig.

Die skaal is gegrond op die aanname dat die gemiddelde afstand wat privaat gereis word, soos konserwatief beraam, 10 000 kilometers per jaar is. Subparagraaf (4) maak voorsiening vir 'n afwyking van die skaal waar akkurate rekords gehou word en dit bewys kan word dat die afstand minder as 10 000 kilometers per jaar is of die onderhouds- of bedryfskoste van die voertuig vir private doeleindes deur die werknemer gedra word. In so 'n geval is die Kommissaris gemagtig om 'n billike en redelike beraming te aanvaar. Ingevolge subparagraaf (5) word die private gebruik deur 'n werknemer van sy werkgewer se voertuig geag geen waarde te hê nie onder sekere omstandighede, d.i., waar die voertuig ook deur ander werknemers gebruik word, die werknemer se gebruik toevallig of bloot bykomstig tot die besigheidsgebruik van die voertuig is en die voertuig nie normaalweg by of naby die werknemer se woning gehou word wanneer dit buite besigheidsure nie in gebruik is nie, of waar die werknemer weens die aard van sy pligte die voertuig buite normale werkure gebruik, en hy nie toegelaat word om die voertuig privaat te gebruik nie behalwe vir reise tussen sy woning en werkplek.

PARAGRAAF 8

Maaltye, verversings en maaltyd- en verversingskoepons

Hierdie paragraaf moet saamgelees word met paragraaf 2 (c) ingevolge waarvan 'n werknemer geag word 'n belasbare voordeel te verkry het indien sy werkgewer hom van maaltye, verversings of maaltydkoepons voorsien het.

Paragraaf 8 is nie van toepassing nie ten opsigte van maaltye verskaf saam met huisvesting, d.i., die soort huisvesting waarvoor in paragraaf 9 voorsiening gemaak word.

Die waarde van die maaltye of verversings is die regstreekse koste vir die werkgewer om sodanige maaltye of verversings te verskaf. In subparagraaf (3) word voorsiening gemaak vir 'n vrystelling ten opsigte van maaltye en verversings verskaf in 'n kantien, kafeteria of eetkamer of maaltydkoepons met 'n waarde van R2 of minder.

PARAGRAAF 9

Huisvesting

Ingevolge paragraaf 2 (d) staan gemeubileerde of ongemeubileerde huisvesting, met of sonder losies, maaltye, brandstof, krag of water, wanneer dit deur 'n werkgewer aan sy werknemer voorsien word, as 'n belasbare voordeel behandel te word.

PARAGRAPH 7

Right of use of motor vehicle

This paragraph should be read with paragraph 2 (b), in terms of which a taxable benefit is derived by an employee if the employer grants him the right to use and asset. Paragraph 7 applies where the asset is a motor vehicle.

The value of the private use of the vehicle is determined and the consideration, if any, given by the employee for such use is deducted. The difference is the cash equivalent of the value of the benefit.

The value of the private use is determined for each month or part of a month during which the employee has the use of the vehicle, in accordance with a scale laid down. ("Month" is defined in paragraph 1). The scale (which will be found in subparagraph (3)) is based on the latest figures available. The category into which a vehicle falls will depend upon its "determined value". "Determined value" is defined in subparagraph (1). The Minister of Finance is in terms of paragraph 19 to have the power to amend the scale from time to time.

The scale is based on the assumption that the average distance travelled privately, as conservatively estimated, is 10 000 kilometres per year. Subparagraph (4) provides for a departure from the scale where accurate records are kept and it can be shown that the distance is less than 10 000 kilometres per year or where part of the cost of maintaining or operating the vehicle for private purposes is borne by the employee. In such a case the Commissioner is empowered to accept a fair and reasonable estimate. In terms of subparagraph (5) the private use by an employee of his employer's vehicle is deemed to have no value in certain circumstances, i.e. where the vehicle is also used by other employees, the employee's use is casual or merely incidental to the business use of the vehicle and the vehicle is not normally kept at or near the employee's residence when not in use outside of business hours, or where the nature of the employee's duties are such that he is regularly required to use the vehicle outside normal hours of work, and he is not permitted to use the vehicle for private travelling other than travelling between his residence and place of work.

PARAGRAPH 8

Meals, refreshments and meal and refreshment vouchers

This paragraph should be read with paragraph 2 (c), in terms of which an employee is deemed to have derived a taxable benefit if his employer provides him with meals, refreshments or meal vouchers.

Paragraph 8 does not apply in respect of meals supplied with residential accommodation, i.e. the kind of accommodation provided for in paragraph 9.

The value of the meals or refreshments is the direct cost to the employer of providing such meals or refreshments.

In subparagraph (3) provision is made for an exemption in respect of canteen meals and refreshments and in respect of meal vouchers with a value of R2 or less.

PARAGRAPH 9

Residential accommodation

In terms of paragraph 2 (d) furnished or unfurnished residential accommodation, with or without food, meals, fuel, power or water, when provided by an employer to his employee, is to be treated as a taxable benefit.

Die huurwaarde van die huisvesting word bepaal en van die huurwaarde word enige huurvergoeding deur die werknemer vir die huisvesting betaal, afgetrek. Die oormaat is die kontantekwivalent van die belasbare voordeel.

Reëls vir die bepaling van die huurwaarde word in paragraaf 9 (3), (4) en (5) bepaal.

Die huurwaarde van huisvesting behalwe vakansiehuisvesting is bepaalbaar ooreenkomstig 'n wisselbare formule in paragraaf 9 (3) neergelê. Die "besoldigingsfaktor" (simbool A in die formule) word bepaal soos in die omskrywing van daardie uitdrukking in paragraaf 9 (1) aangedui. Waar die werknemer vir die volle jaar van aanslag wat die jaar van aanslag ten opsigte waarvan die huurwaarde bepaal moet word, in diens van die werkgewer gewees het, sal die besoldigingsfaktor die werknemer se besoldiging vir sodanige voorafgaande jaar, met inbegrip van besoldiging van maatskappye of fondse wat verwante inrigtings met betrekking tot die werkgewer is, maar uitgesluit die waarde van enige voordeel of belasbare voordeel verkry uit die bewoning van huisvesting [kyk die omskrywing van "besoldiging" in paragraaf 9 (1)] wees. Indien die werknemer vir slegs 'n gedeelte van die voorafgaande jaar in diens was, word die besoldigingsfaktor bepaal deur sy besoldiging (soos omskryf) proporsioneel te vermeerder ten einde 'n bedrag wat op 365 dae betrekking het, te verkry. Indien die werknemer nie gedurende die voorafgaande jaar in diens was nie, word die besoldigingsfaktor bepaal met verwysing na sy besoldiging (soos omskryf) vir die jaar van aanslag ten opsigte waarvan die huurwaarde bepaal moet word, vermeerder na 'n bedrag wat op 365 dae betrekking het. Indien die besoldigingsfaktor R60 000 te bowe gaan, sal die bedrag wat deur simbool A voorgestel word, R60 000 wees.

Van die bedrag voorgestel deur simbool A word 'n korting van R18 000 (simbool B in die formule) afgetrek. Die korting is nie aftrekbaar nie indien die werkgewer 'n private maatskappy is en die werknemer 'n aandeelhouer van sodanige maatskappy of 'n familielid van 'n aandeelhouer van sodanige maatskappy is, of waar die huisvesting deur die werknemer of 'n familielid van hom besit word.

Waar die tydperk van bewoning gedurende die jaar van aanslag 12 maande is, is die huurwaarde 'n persentasie van die bedrag (as daar is) wat oorbly nadat die korting afgetrek is. Die persentasie (wat deur simbool C voorgestel word in die formule) is grondliggend 15 persent en word, waar die huisvesting bestaan uit 'n huis, woonstel of kamerstel bestaande uit ten minste vier kamers, verhoog—

(a) na 16 persent indien—

(i) die huisvesting ongemeubileerd is en krag of brandstof deur die werkgewer verskaf word; of

(ii) die huisvesting gemeubileerd is, maar krag of brandstof nie verskaf word nie; of

(b) 17 persent indien die huisvesting gemeubileerd is en krag of brandstof verskaf word.

Waar die tydperk van bewoning minder as 12 maande is, word die huurwaarde, soos hierbo bepaal, pro rata verminder deur daardie waarde te vermeningvuldig met $\frac{D}{12}$ en D die aantal maande van bewoning voorstel.

Voorbeeld

'n Werknemer se besoldiging van sy wergewer en verwante inrigtings met betrekking tot sy werkgewer beloop R28 000 vir die jaar wat op 28 Februarie 1982 eindig. Hierdie bedrag sluit nie die waarde van 'n ongemeubileerde huis met vyf kamers wat met gratis elektriese krag deur sy werkgewer teen 'n huur van R50 per maand aan hom gegee word, in nie. Die belasbare voordeel van die huisvesting vir die volle jaar wat op 28 Februarie 1983 eindig, sal soos volg bepaal word:

The rental value of the accommodation is determined and from the rental value any rental consideration paid by the employee for the accommodation is deducted. The excess is the cash equivalent of the taxable benefit.

Rules for determining the rental value are provided in paragraph 9 (3), (4) and (5).

The rental value of residential accommodation other than holiday accommodation is determinable in accordance with a variable formula provided in paragraph 9 (3). The "remuneration factor" (symbol A in the formula) is determined as indicated in the definition of that expression in paragraph 9 (1). Where the employee was employed by the employer during the whole of the year of assessment preceding the year of assessment in respect of which the rental value is to be determined, the rental factor is to be the employee's remuneration for such preceding year, including remuneration from companies or funds which are associated institutions in relation to the employer but excluding the value of any benefit or taxable benefit derived from the occupation of residential accommodation [see the definition of "remuneration" in paragraph 9 (1)]. If the employee was employed for only a portion of the preceding year the rental factor is determined by grossing up his remuneration (as defined) for such portion of a year, so as to arrive at an amount relating to 365 days. If the employee was not employed during the preceding year the rental factor is determined with reference to his remuneration (as defined) for the year of assessment in respect of which the rental value is to be determined, grossed up to an amount relating to 365 days. If the remuneration factor exceeds R60 000, the amount represented by symbol A is to be taken as R60 000.

From the amount represented by symbol A is deducted an abatement of R18 000 (symbol B in the formula). The abatement is not deductible if the employer is a private company and the employee is a director or shareholder in such company or a relative of a director or shareholder in such company or the accommodation is owned by the employee or a relative of the employee.

Where the period of occupation during the year of assessment is 12 months, the rental value is a percentage of the amount (if any) remaining after the deduction of the abatement. The percentage (which is represented by the symbol C in the formula) is basically 15 per cent and is increased, where the accommodaton consists of a house, flat or apartment consisting of at least four rooms—

(a) to 16 per cent if—

(i) the accommodation is unfurnished and power or fuel is supplied by the employer; or

(ii) the accommodation is furnished but power or fuel is not supplied; or

(b) 17 per cent if the accommodation is furnished and power or fuel is supplied.

Where the period of occupation is less than 12 months the annual rental value, as determined above, is reduced pro rata by multiplying that value by $\frac{D}{12}$, D representing the number of months of occupation.

Example

An employee's remuneration from his employer and associated institutions in relation to his employer amounts to R28 000 for the year ending 28 February 1982. This amount excludes the value of an unfurnished house of five rooms given to him by his employer at a rental of R50 per month, with free electricity. The taxable benefit of the accommodation for the full year ending 28 February 1983 is to be determined as follows:

Besoldigingsfaktor (1982-besoldiging)	R28 000
Trek af: Korting	R18 000
Bedrag waarop persentasie bereken word	R10 000
16 persent van R12 000	R1 600
Trek af: Huurgeld betaal (12 × R50)	R600
Bedrag by 1983-inkomste ingesluit te word	R1 000

Indien die huis vir slegs ses maande van die jaar van aanslag bewoon word, is die bedrag wat by 1983-inkomste ingesluit sal word R500. Indien die huis gemeubileerd was, sou 'n bedrag van R100 by die bedrag van R1 000 getel gewees het of 'n bedrag van R50 by die bedrag van R500 getel gewees het.

In die meeste gevalle sal die bedrae wat ten opsigte van huisvesting by inkomste ingesluit moet word, vooruit aan die begin van 'n jaar van aanslag bepaalbaar wees.

Vakansiehuisvesting. In die geval van huisvesting wat tydelik vir die doeleindes van 'n vakansie bewoon word, is die huurwaarde wat daarop geplaas moet word, waar die huisvesting deur die werkgewer van 'n persoon wat nie 'n verwante inrigting met betrekking tot die werkgewer is nie, gehuur word, die huur wat deur die werkgewer vir die huisvesting betaal word en enige bedrae betaalbaar ten opsigte van maaltye, verversings of dienste met betrekking tot die huisvesting, insoverre as wat hierdie items deur die werkgewer gedra word en dit met die tydperk van bewoning deur die werknemer in verband staan. In enige ander geval sal die huurwaarde bereken word teen 'n koers van R20 per dag vir elke dag in die tydperk van bewoning of teen die heersende daaglikse koers waarteen die huisvesting normaalweg aan 'n persoon wat nie 'n werknemer van die werkgewer of van 'n verwante inrigting met betrekking tot die werkgewer is nie, verhuur sou word, watter koers ookal die laagste is. [Paragraaf 9 (4)].

Waar weens die ligging, aard of toestand van die huisvesting of enige ander faktor wat die waarde daarvan beïnvloed, die Kommissaris tevrede is dat die huurwaarde minder is as die waarde bepaal op die wyse hierbo uiteengesit, is die Kommissaris gemagtig om die huurwaarde te verminder [kyk paragraaf 9 (5)].

Ingevolge paragraaf 9 (6) sal geen huurwaarde geplaas word nie op enige huisvesting weg van 'n werknemer se gewone woonplek wat deur die werkgewer verskaf word terwyl die werknemer van sy hoofkwartier weg is met die doel om die pligte van sy diens uit te voer.

Vir doeleindes van werknemersbelasting sal 'n paslike gedeelte van die kontantekwivalent van die waarde van die belasbare voordeel verkry uit die bewoning van huisvesting aan elke tydperk gedurende die jaar van aanslag gedurende welke kontantbesoldiging deur die werkgewer aan die werknemer betaal of betaalbaar word, toegedeel word.

PARAGRAAF 10

Gratis of goedkoop dienste

Ingevolge paragraaf 2 (e) word 'n werknemer geag 'n belasbare voordeel te verkry het waar 'n diens teen die koste van die werkgewer aan die werknemer gelewer is (hetsy deur die werkgewer of 'n ander persoon as die werkgewer), sodanige diens deur die werknemer vir sy private of huishoudelike doeleindes aangewend is en die werknemer geen vergoeding of 'n vergoeding wat minder is as die waarde van sodanige diens soos kragtens paragraaf 10 (1) bepaal, ten opsigte van die diens aan die werkgewer gegee het. Ingevolge paragraaf 10 (1) sal die kontantekwivalent van die waarde van die voordeel die volgende wees:

(a) In die geval van 'n reisfasiliteit per lug of oor see wat aan 'n werknemer verleen is deur 'n werkgewer wat 'n onderneming bedryf in die loop waarvan passasiers oor see

Remuneration factor (1982 remuneration)	R28 000
Less abatement	R18 000
Amount on which percentage is calculated	R10 000
16 per cent of R10 000	R1 600
Less rental paid (12 × R50)	R600
Amount to be included in 1983 income	R1 000

If the house is occupied for only six months of the year of assessment the amount to be included in 1983 income is R500. If the house were furnished an amount of R100 would be added to the amount of R1 000 or an amount of R50 would be added to the amount of R500.

In most cases the amounts to be included in income in respect of residential accommodation will be determinable in advance at the commencement of a year of assessment.

Holiday accommodation. In the case of accommodation occupied temporarily for the purposes of a holiday, the rental value to be placed thereon is, where the accommodation is hired by the employer from a person other than an associated institution in relation to the employer, the rental payable by the employer for the accommodation and any amounts chargeable in respect of meals, refreshments or services relating to the accommodation, in so far as these items are borne by the employer and are relatable to the period of occupation by the employee. In any other case the rental value is to be calculated at the rate of R20 per day for each day in the period of occupation or at the prevailing rate per day at which the accommodation would normally be let to a person who is not an employee of the employer or of an associated institution in relation to the employer, whichever rate is lower. [Paragraph 9 (4)].

Where by reason of the situation, nature or condition of the accommodation or any factor affecting its value, the Commissioner is satisfied that the rental value is less than the value determined in the manner described above, the Commissioner is empowered to reduce the rental value [see paragraph 9 (5)].

In terms of paragraph 9 (6) no rental value is to be placed on any accommodation away from an employee's usual place of residence which is provided by the employer while the employee is absent from his headquarters for the purposes of performing the duties of his employment.

For employees tax purposes an appropriate portion of the cash equivalent of the value of the taxable benefit derived from the occupation of residential accommodation is to be apportioned to each period during the year of assessment during which cash remuneration is paid or becomes payable by the employer to the employee.

PARAGRAPH 10

Free or cheap services

In terms of paragraph 2 (e) an employee is deemed to have derived a taxable benefit where a service has at the expense of the employer been rendered to the employee (whether by the employer or by a person other than the employer), such service has been utilised by the employee for his private or domestic purposes and the employee has given no consideration or has given a consideration to the employer in respect of the service which is less than the value of such service as determined under paragraph 10 (1). In terms of paragraph 10 (1) the cash equivalent of the value of the benefit is to be as follows:

(a) In the case of a travel facility by air or by sea granted to an employee by an employer engaged in the business of carrying passengers by sea or by air, to enable the employee

of per lug vervoer word, ten einde die werknemer of sy familielid in staat te stel om na 'n bestemming buite die Republiek vir sy private of huishoudelike doeleindes te reis, sal die kontantekwivalent 'n bedrag wees gelyk aan die laagste reisgeld wat vir die reis betaalbaar is, minus enige vergoeding wat ten opsigte van die fasiliteit betaal is. Geen waarde sal op die fasiliteit geplaas word, indien die laagste reisgeld R250 of minder is nie. 'n Heenreis en 'n terugreis sal as een reis behandel word.

(b) In die geval van enige ander diens sal die kontantekwivalent van die waarde daarvan die koste vir die werkgewer om die diens te laat lewer, wees minus enige vergoeding deur die werknemer ten opsigte van die diens gegee.

Ingevolge paragraaf 10 (2) sal geen waarde geplaas word nie op—

(a) 'n reisfasiliteit verleen aan 'n werknemer deur 'n werkgewer wat 'n onderneming in die loop waarvan passasiers teen vergoeding op land of oor see of per lug vervoer word, waar die werknemer na 'n bestemming in die Republiek reis of oor land na 'n bestemming in 'n land wat aan die Republiek grens, reis;

(b) enige vervoerdiens gelewer deur 'n werkgewer aan sy werknemers in die algemeen vir die vervoer van sodanige werknemers vanaf hul woonplekke na hul werkplek en vice versa;

(c) toevallige dienste gelewer deur 'n werkgewer aan sy werknemer indien die koste vir die werkgewer om sodanige dienste te lewer in totaal nie R250 gedurende die jaar van aanslag te bowe gaan nie.

PARAGRAAF 11

Voordele ten opsigte van rente op lenings

Ingevolge paragraaf 2 (f) sal rente-vrye of lae-rentekoers lenings deur werkgewers aan werknemers verleen, belasbare voordele wees. Indien geen rente betaalbaar is nie of indien die betaalbare rente minder is as die amptelike rentekoers (8 persent word voorgestel), word 'n bedrag teen die amptelike rentekoers bereken as synde die rente wat op die lening betaalbaar sou gewees het en word die rente betaalbaar deur die werknemer daarvan afgetrek. Die verskil is die kontantekwivalent van die waarde van die voordeel.

Subparagraaf (2) maak voorsiening vir sake rakende werknemersbelasting. Dit is die bedoeling dat die aanspreeklikheid vir werknemersbelasting oor die jaar op 'n maandelikse, weeklikse of ander periodieke grondslag na gelang van die wyse waarop die werknemer besoldig word, versprei moet word. 'n Verskillende metode om die kontantekwivalent te bereken as dié wat in paragraaf 11 (2) en (3) neergelê word, mag met die toestemming van die Kommissaris gebruik word, indien wesentlik dieselfde resultaat verkry word. [Paragraaf 11 (3)].

Ingevolge paragraaf 11 (4) sal geen waarde geplaas word nie op die denkbeeldige rente toeskryfbaar aan toevallige lenings deur 'n werkgewer aan sy werknemer wat op enige tersaaklike tydstip nie R3 000 te bowe gaan nie of aan 'n lening deur 'n werkgewer aan sy werknemer om die werknemer in staat te stel om te studeer.

Die werknemer mag moontlik die lening gebruik het om inkomste voort te bring. In so 'n geval mag die denkbeeldige rente wat kragtens paragraaf 11 belas is, behandel word as rente aangegaan met betrekking tot sodanige inkomste, soos in paragraaf 11 (5) bepaal.

Paragraaf 14 maak voorsiening vir 'n infasering van die bedrae wat in inkomste ingesluit moet word by wyse van voordele wat kragtens paragraaf 11 ten opsigte van behuisingslenings vasgestel is.

or his relative to travel to a destination outside the Republic for his domestic or private purposes, the cash equivalent is to be an amount equal to the lowest fare payable for the journey less any consideration given in respect of the facility. No value is to be placed on the facility if the lowest fare is R250 or less. A forward journey and a return journey are to be treated as one journey.

(b) In the case of any other service the cash equivalent of the value thereof is to be the cost to the employer in having the service rendered less any consideration given by the employee in respect of the service.

In terms of paragraph 10 (2) no value is to be placed on—

(a) a travel facility granted to an employee by an employer who is engaged in the business of conveying passengers for reward by land, sea or air where the employee travels to a destination in the Republic or travels overland to a destination in a country bordering on the Republic;

(b) any transport service rendered by an employer to his employees in general for the conveyance of such employees from their homes to their place of employment and vice versa;

(c) occasional services rendered by an employer to his employee if the cost to the employer of rendering such services does not in the aggregate exceed R250 during the year of assessment.

PARAGRAPH 11

Benefits in respect of interest on loans

In terms of paragraph 2 (f) interest-free or low-interest loans granted by employers to employees are to be taxable benefits. If no interest is payable or if the interest payable is less than the official rate of interest (8 per cent is proposed) an amount is calculated at the official rate as representing the interest that would have been payable on the loan and the interest payable by the employee is deducted. The difference is the cash equivalent of the value of the benefit.

Subparagraph (2) makes provision for employees tax matters, it being the intention that the liability for employees tax should be spread during the year on a monthly, weekly or other periodic basis according to the manner in which the employee is remunerated. A different method than those laid down in paragraph 11 (2) and (3) for calculating the cash equivalent may, with the consent of the Commissioner, be adopted if substantially the same result is achieved [paragraph 11 (3)].

In terms of paragraph 11 (4) no value is to be placed on the notional interest attributable to casual loans by an employer to his employee which do not exceed R3 000 at any relevant time or to a loan by an employer to his employee to enable the employee to further his own studies.

The employee may, perhaps, have utilized the loan to produce income. In such case the notional interest taxed under paragraph 11 may be treated as interest incurred in relation to such income, as provided in paragraph 11 (5).

Paragraph 14 provides for a phasing-in of the amounts to be included in income by way of benefits determined under paragraph 11 in respect of housing loans.

PARAGRAAF 12

Subsidies ten opsigte van leningsrente ingevolge huiseienaarskap- of behuisingskemas

Subsidies gegee deur werkgewers aan werknemers ten opsigte van rente en terugbetalings van lenings kragtens huiseienaarskap- of behuisingskemas sal ingevolge paragraaf 2 (g) as belasbare voordele kragtens die Bylae behandel word.

Normaalweg is die kontantekwivalent van die voordeel die bedrag van die subsidie. Indien die rentekoers op die lening egter die amptelike rentekoers (8 persent) te bowe gaan sou die werknemer wat 'n subsidie ontvang, benadeel word teenoor die werknemer wat 'n laerentekoers lening geniet. Daar word gevolglik bepaal dat onder hierdie omstandighede 'n aftrekking gemaak moet word van 'n bedrag gelyk aan die subsidie wat nie betaal sou gewees het nie indien die rentekoers betaalbaar kragtens die lening gelyk aan die amptelike rentekoers was.

Ingevolge paragraaf 14 word 'n infasering bepaal ten opsigte van die bedrae wat by wyse van voordele vasgestel kragtens paragraaf 12 ten opsigte van subsidievoordele met betrekking tot lenings kragtens huiseienaarskap- of behuisingskemas in inkomste ingesluit moet word.

PARAGRAAF 13

Betaling van werknemer se skuld of ontheffing van werknemer van verpligting om skuld te betaal

Hierdie paragraaf behoort saamgelees te word met die bepalings van paragraaf 2 (h).

Waar 'n werkgewer 'n bedrag betaal wat 'n werknemer aan 'n derde persoon, hetsy regstreeks of onregstreeks, verskuldig is sonder om te vereis dat die werknemer hom vir die betaalde bedrag vergoed, word daardie bedrag beskou as 'n belasbare voordeel en die kontantekwivalent van die waarde daarvan sal die betaalde bedrag wees. Waar die werkgewer geld aan die werknemer geleen het en hom onthef van die verpligting om dit terug te betaal, sal die werknemer geag word 'n belasbare voordeel te verkry het en die kontantekwivalent van die waarde daarvan sal die bedrag van die skuld met inbegrip van enige rente wat daarop betaalbaar is, wees. Waar 'n werknemer die diens van 'n werkgewer verlaat het terwyl hy geld aan die werkgewer skuld en die werkgewer dan die skuld afskryf bloot omdat dit onverhaalbaar is, sal die bepalings van paragrawe 2 (h) en 13 nie van toepassing wees nie. Ingevolge die voorbehoudsbepaling by paragraaf 2 (h), sal 'n werkgewer wat toelaat dat 'n skuld deur sy werknemer verskuldig, verjaar, egter geag word die werknemer van die verpligting om die skuld te betaal, te onthef het indien die werkgewer deur stappe te doen om die skuld te vorder of om die verjaring te onderbreek, die verskuldigde bedrag kon ingevorder het of die verjaring kon onderbreek het.

Sekere vrystellings word in paragraaf 11 (2) bepaal ten opsigte van sekere telefoondienste wat deur 'n werkgewer vereis word, sekere verliese op aandele wat kragtens aandele-aansporingskemas vergoed word, sekere subskripsies deur 'n werkgewer betaal aan professionele liggame waaraan sy werknemers moet behoort en die voordeel verbonde aan die aflossing deur 'n werkgewer van 'n verpligting om 'n verskuldigde bedrag te betaal waar sodanige aflossing na die dood van die werknemer geskied (maar hierdie laaste vrystelling is nie van toepassing nie waar die werkgewer 'n private maatskappy is en die werknemer 'n aandeelhouer in daardie maatskappy was nie).

PARAGRAPH 12

Subsidies in respect of loan interest under home ownership or housing schemes

Subsidies given by employers to employees in respect of loan interest and repayments of loans under home ownership or housing schemes are in terms of paragraph 2 (g) to be treated as taxable benefits under the Schedule.

Normally the cash equivalent of the benefit is the amount of the subsidy. If, however, the rate of interest on the loan exceeds the official rate of interest (8 per cent) the employee receiving a subsidy would be at a disadvantage viz-à-vis the employer enjoying a low-interest loan. It is therefore provided that a deduction must in these circumstances be made equal to so much of the subsidy as would not have been payable if the rate of interest payable under the loan had been equal to the official rate.

In terms of paragraph 14 a phasing-in is provided in respect of the amounts to be included in income by way of benefits determined under paragraph 12 in respect of subsidy benefits relating to loans under home ownership or housing schemes.

PARAGRAPH 13

Payment of employee's debt or release of employee from obligation to pay a debt

This paragraph should be read with the provisions of paragraph 2 (h).

Where an employer pays an amount owing by the employee to a third person, whether directly or indirectly, without requiring the employee to reimburse him for the amount paid, that amount is regarded as being a taxable benefit and the cash equivalent of the value thereof will be the amount paid. Where the employer has lent money to the employee and releases him from the obligation to repay the money, the employee is to be regarded as having derived a taxable benefit and the cash equivalent of the value thereof is to be the amount of the debt, including any interest payable thereon. Where an employee has left the employ of an employer owing the employer money and the employer then writes off the debt merely because it is irrecoverable the provisions of paragraphs 2 (h) and 13 will not apply. In terms of the proviso to paragraph 2 (h), however, an employer who allows a debt due by his employee to become prescribed is to be deemed to have released the employee from the obligation to pay his debt if by taking action to recover the debt or to interrupt the prescription, the employer could have recovered the amount owing or have interrupted the prescription.

Certain exemptions are in effect provided in paragraph 11 (2) in respect of certain telephone services required by an employer, certain losses on shares made good under share incentive schemes, certain subscriptions paid by an employer to professional bodies to which his employees have to belong and the benefit relating to the release by an employer of an obligation to pay any amount owing where the release is made after the death of the employee (but this last exemption does not apply where the employer is a private company and the employee was a shareholder in that company).

PARAGRAAF 14

Spesiale aftrekking ten opsigte van die kontantekwivalent van sekere behuisingsvoordele

Ingevolge paragraaf 14 (1) staan die belasting van die kontantekwivalent van die belasbare voordeel van 'n rentevrye of lae-rentekoers lening, soos kragtens paragraaf 11 bepaal, ten opsigte van 'n lening wat aangewend is om die werknemer se private woning te verkry, op te rig of uit te brei, of die kontantekwivalent van die belasbare voordeel van 'n leningsubsidie, soos bepaal kragtens paragraaf 12, ingefaseer te word oor die 1983- tot 1985-jare van aanslag. Die kontantekwivalent sal verminder word na 'n persentasie daarvan gelyk aan—

10 persent vir die 1983 jaar van aanslag;
25 persent vir die 1984 jaar van aanslag;
40 persent vir die 1985 jaar van aanslag;
55 persent vir die 1986 jaar van aanslag;
70 persent vir die 1987 jaar van aanslag;
85 persent vir die 1988 jaar van aanslag;

Paragraaf 14 (2) beperk die werking van paragraaf 14 (1) sover dit die kontantekwivalent van leningsubsidies betref, tot subsidies betaalbaar kragtens skemas wat voor 27 Julie 1979 in werking was mits sodanige skemas deur behoorlik omskrewe reëls beheer word en die voordele daaronder nie tot direkteure of bestuurders beperk is nie, maar aan ander werknemers ook beskikbaar is.

PARAGRAAF 15

Vermindering ten opsigte van kontantekwivalent van sekere belasbare voordele gedurende die jaar van aanslag eindigende op 28 Februarie 1983 verkry

Kragtens hierdie paragraaf, wat slegs vir een jaar van aanslag (naamlik dié wat op 28 Februarie 1983 eindig) van toepassing sal wees, sal die kontantekwivalent van enige belasbare voordeel wat gedurende daardie jaar verkry word (behalwe die kontantekwivalent van behuisingsvoordele, wat ingevolge paragraaf 14 behandel word) met 50 persent verminder word. Ingevolge subparagraaf (2) (b) word die Kommissaris gemagtig om die vermindering te weier ten opsigte van oortollige voordele. Die vermindering geld slegs ten opsigte van belasbare voordele soos vir die doeleindes van die Bylae omskryf.

PARAGRAAF 16

Voordele verleen aan familielede van werknemers en andere

Ingevolge hierdie paragraaf word 'n voordeel of bate wat deur 'n werkgewer verleen word aan 'n familielid van 'n werknemer of aan 'n ander persoon deur ooreenkoms met die werknemer, geag 'n belasbare voordeel regstreeks aan die werknemer verleen, te wees, indien die verlening van die voordeel of bate verbind is aan die werknemer se diens of vir dienste gelewer of gelewer te word deur hom en die voordeel of bate, indien dit regstreeks aan die werknemer verleen gewees het, 'n belasbare voordeel beoog in paragraaf 2 sou gewees het.

Die bepalings van die Bylae sal van toepassing wees op so 'n geagde voordeel asof die belasbare voordeel inderdaad aan die werknemer verleen gewees het. Werkgewers sal verplig wees om die kontantekwivalent van die belasbare voordeel op dieselfde wyse as dié van 'n regstreekse voordeel te bepaal.

PARAGRAAF 17

Sertifikate deur werkgewers

Ingevolge paragraaf 3 is 'n werkgewer verplig om die kontantekwivalent van 'n belasbare voordeel verleen aan sy werknemer te bepaal. Paragraaf 16 bepaal dat die werkgewer binne 14 dae na die einde van die jaar, of binne

PARAGRAPH 14

Special deduction in respect of the cash equivalent of certain housing benefits

In terms of paragraph 14 (1) the taxation of the cash equivalent of the taxable benefit of an interest-free or low-interest loan, as determined under paragraph 11 in respect of a loan utilised for the purpose of acquiring, erecting or extending the employee's private residence, or the cash equivalent of the taxable benefit of a loan subsidy, as determined under paragraph 12, is to be phased in over the 1983–1988 years of assessment. The cash equivalent is to be reduced to a percentage thereof equal to—

10 per cent for the 1983 year of assessment;
25 per cent for the 1984 year of assessment;
40 per cent for the 1985 year of assessment;
55 per cent for the 1986 year of assessment;
70 per cent for the 1987 year of assessment;
85 per cent for the 1988 year of assessment.

Paragraph 14 (2) restricts the operation of paragraph 14 (1), so far as the cash equivalents of loan subsidies are concerned, to subsidies payable under schemes in operation prior to 27 July 1979, provided such schemes are governed by properly defined rules and the benefits thereunder are not restricted to directors or managers but are available to other employees.

PARAGRAPH 15

Reduction in respect of cash equivalent of certain taxable benefits derived during year of assessment ending on 28 February 1983

In terms of this paragraph, which is to be applicable for one year of assessment only, viz. that ending on 28 February 1983, the cash equivalent of any taxable benefit derived during that year (except the cash equivalent of housing benefits dealt with under paragraph 14) is to be reduced by 50 per cent. In terms of subparagraph (2) (b) the Commissioner is empowered to refuse the reduction in respect of excessive benefits. The reduction applies only to taxable benefits as defined for the purposes of the Schedule.

PARAGRAPH 16

Benefits granted to relatives of employees and others

In terms of this paragraph a benefit or advantage granted by an employer to a relative of an employee or to some other person by arrangement with the employee, is deemed to be a taxable benefit granted directly to the employee if the granting of the benefit or advantage is linked with the employee's employment or is for services rendered or to be rendered by him and the benefit or advantage, had it been granted directly to the employee, would have constituted a taxable benefit contemplated in paragraph 2.

The provisions of the Schedule are to apply to such deemed benefit as though the taxable benefit had in fact been granted to the employee. Employers will be required to determine the cash equivalent of the taxable benefit in the same way as that of a direct benefit.

PARAGRAPH 17

Certificates by employers

In terms of paragraph 3 an employer is required to determine the cash equivalent of a taxable benefit granted to his employee. Paragraph 16 provides that the employer shall, within 14 days after the end of the year, or within such

sodanige verdere tydperk as wat die Kommissaris mag goedkeur, 'n sertifikaat aan die werknemer moet verstrek wat die aard van die voordeel en die volle kontantekwivalent van die waarde daarvan gedurende die jaar van aanslag aandui. 'n Afskrif van sodanige sertifikaat sal aan die Kommissaris verstrek moet word.

Subparagraaf (4) stel voor dat 'n boete van 10 persent aan 'n werkgewer wat versuim om aan hierdie vereistes te voldoen, opgelê word. Die boete mag onder sekere omstandighede kwytgeskeld of verminder word.

Subparagraaf (5) bepaal dat die boete aangeslaan en ingevorder kan word asof dit 'n belasting is. Weiering deur die Kommissaris om die boete te verminder, sal aan beswaar en appèl onderhewig wees.

Hierdie bepalings is nie van toepassing nie waar 'n werknemersbelastingsertifikaat ingevolge paragraaf 13 van die Vierde Bylae aan die werknemer gegee is en sodanige volle kontantekwivalent in daardie sertifikaat ingesluit is. Die uitdrukking "werknemer", soos vir doeleindes van die Sewende Bylae gebesig, sluit 'n direkteur van 'n maatskappy in. Waar die direkteur nie 'n werknemer vir doeleindes van werknemersbelasting is nie, sal dit vir die werkgewermaatskappy nodig wees om 'n sertifikaat soos by paragraaf 17 vereis, aan die direkteur te gee. ("Werknemer" word vir doeleindes van die Sewende Bylae in paragraaf 1 van die Bylae omskryf).

PARAGRAAF 18

Jaarstate deur werkgewers

Ingevolge hierdie paragraaf sal van elke werkgewer (met inbegrip van elke maatskappy hetsy dit 'n werkgewer in die gewone sin van die woord is, al dan nie) vereis word om 'n staat met betrekking tot die belasbare voordele geniet deur die werkgewer se werknemers (met inbegrip van direkteure) of wat sertifiseer dat geen sodanige voordele geniet is nie, aan die Kommissaris te verstrek. Elke sodanige staat sal, waar die werkgewer 'n maatskappy is, deur 'n direkteur van die maatskappy as korrek gesertifiseer moet word.

PARAGRAAF 19

Misdrywe

Ingevolge hierdie paragraaf word misdrywe met betrekking tot vals sertifikate van die aard waarna in paragraaf 17 (1) verwys word en die verstrekking van vals state van die aard waarna in paragraaf verwys word, bepaal.

PARAGRAAF 20

Wysigings aan die Bylae

Ingevolge hierdie paragraaf sal die Minister van Finansies gemagtig word om deur kennisgewing in die *Staatskoerant* wysigings aan die Sewende Bylae aan te bring ten opsigte van 'n jaar van aanslag wat begin na die datum van sodanige kennisgewing. Sodanige wysigings sal verval na verloop van 'n bepaalde tydperk tensy hulle deur die Parlement bekragtig word.

further period as the Commissioner may approve, deliver to the employee a certificate showing the nature of the benefit and the full cash equivalent of the value thereof during the year of assessment. A copy of such certificate will have to be delivered to the Commissoner.

Subparagraph (4) proposes that a penalty of 10 per cent be imposed on an employer who fails to comply with these requirements. The penalty may in certain circumstances be remitted or reduced.

Subparagraph (5) provides that the penalty shall be assessable and recoverable as though it were a tax. A refusal by the Commissioner to reduce the penalty is to be subject to objection and appeal.

These provisions do not apply where the employee has been given an employee's tax certificate in terms of paragraph 13 of the Fourth Schedule and such full cash equivalent is included in that certificate. The term "employee", as used for the purposes of the Seventh Schedule, includes a director of a company. Where the director is not an employee for employees' tax purposes it will be necessary for the employer company to give the director a certificate as required by paragraph 17. ("Employee" is defined for the purposes of the Seventh Schedule in paragraph 1 of the Schedule).

PARAGRAPH 18

Annual statements by employers

In terms of this paragraph every employer (including every company whether it is an employer in the ordinary sense of the word or not) will be required annually to furnish to the Commissioner a statement as to the taxable benefits enjoyed by the employer's employees (including directors) or certifying that no such benefits were enjoyed. Each such statement will, where the employer is a company, have to be certified as correct by a director of the company.

PARAGRAPH 19

Offences

In terms of this paragraph offences are to be created in regard to false certificates of the kind referred to in paragraph 16 (1) and the furnishing of false statements of the kind referred to in paragraph 18.

PARAGRAPH 20

Amendments to the Schedule

In terms of this paragraph the Minister of Finance is to be empowered to make amendments to the Seventh Schedule, by notice in the *Government Gazette*, in respect of a year of assessment commencing after the date of such notice. Such amendments will lapse after a certain period unless confirmed by Parliament.

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